

African Union, African Regional Bodies

## The African Model Law on Disability

Legislation as at 11 October 2019

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African Union

# The African Model Law on Disability

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**Commenced***[This is the version of this document from 11 October 2019.]**[Note: The original publication document is not available and this content could not be verified.]***The Pan-African Parliament,**

**Considering** Article 17 of the Constitutive Act of the African Union, which establishes the Pan-African Parliament (PAP) to ensure the full participation of the people of Africa in the development and economic integration of the continent;

**Considering also** Article 3 of the Protocol to the Treaty Establishing the African Economic Community Relating to the Pan-African Parliament (PAP Protocol), and Rule 4 (a) of the Rules of Procedure of the Pan-African Parliament (PAP Rules), which empower the PAP to facilitate the implementation of policies, objectives and programmes of the African Union and to oversee their effective implementation;

**Considering further** Article 11(3), (7) of the PAP Protocol and Rule 4 (d), (e) of the PAP Rules, which Contribute to the harmonization and coordination of the legislative texts of The State in accordance with Article 11 (3) of the Protocol;

**Recalling** Article 66 of the African Charter on Human and Peoples' Rights which provides that special protocols or agreements, if necessary, may supplement the provisions of the African Charter;

**Recalling** also Article 18 (4) of the African Charter on Human and Peoples which provides for the right of persons with disabilities to special measures of protection in keeping with their physical or moral needs and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa;

**Recalling** further the principles on the inherent dignity and worth and the equal and inalienable rights of all members of the human family as the foundation of freedom, justice and peace in the world has enshrined in the Charter of the United Nations as well as the Constitutive Act of the African Union;

**Mindful** of the fact that the various international instruments including the United Nations Charter, the Universal Declaration of Human Rights, and the International Covenants on Human Rights, have proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind,

**Reaffirming** the characteristics of human rights and fundamental freedoms such as their universality, indivisibility, interdependence and interrelatedness as well as the need for persons with disabilities to be guaranteed of their full enjoyment without discrimination,

**Recalling** the protection laid down in the core international human rights instruments such as in the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention on the Rights of the Child, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;

**Recalling also** the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled (MVT) adopted by member states of the World Intellectual Property Organization (WIPO), in on June 27, 2013, which allows for copyright exceptions to facilitate the creation of accessible versions of books and other copyrighted works for visually impaired persons. This treaty sets a norm for countries ratifying the treaty to have a domestic copyright exception covering these activities, and allowing for the import and export of such materials;

**Recognizing** that disability is an evolving concept and that disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others;

**Recognizing** also the importance of the principles and policy guidelines contained in the international and continental Programmes such as the World Programme of Action concerning Disabled Persons, the 2002 AU Continental Plan of Action for the African Decade of Persons with Disabilities (CPOA), and the Second African Decade of Persons with Disabilities; as well as other existing legal and policy frameworks at the national and regional levels, including the SADC treaty, Protocol on Gender and Development, the SADC Charter of Fundamental and Social Rights, with the aim to further equalize opportunities for persons with disabilities;

**Recalling further** the AU's Agenda 2063 vision of "An integrated, prosperous and peaceful Africa, driven by its own citizens and representing a dynamic force in global arena.", in particular Aspiration 6 of an Africa whose development is people-driven, relying on the potential of African people, especially its women and youth, and caring for children;

**Concerned** that despite these various legal and policy instruments and undertakings, persons with disabilities continue to be discriminated, face barriers in their participation as equal members of society and violations of their human rights in all parts of the world,

**Recognizing** that risk of vulnerability of women and girls with disabilities raise greater concern, both within and outside the home, including violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation,

**Emphasizing** the need to mainstreaming disability issues as an integral part of relevant strategies and developmental programmes of sustainable development;

**Convinced** that the family is the natural and fundamental unit of society and is entitled to protection by society and the State, and that persons with disabilities and their family members should receive the necessary protection and assistance to enable families to contribute towards the full and equal enjoyment of the rights of persons with disabilities,

**Convinced** that a comprehensive and integral continental framework to promote and protect the rights and dignity of persons with disabilities will make a significant contribution to redressing the profound social disadvantage of persons with disabilities and promote their participation in the civil, political, economic, social and cultural spheres with equal opportunities, at both national and international levels;

**Hereby adopts the following African Model Law on Disability:**

## **Part I – Preliminary provisions**

### **Article 1 – Purpose**

The purpose of this Law is to provide a legal and institutional framework for the protection and promotion of the rights of persons with disabilities, in line with the existing international and regional legal and policy instruments.

### **Article 2 – Objectives**

The objectives of this Law shall be to:

- a. Provide basic principles to be observed by State and non-State institutions and actors in respect of persons with disability;
- b. Promote the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.
- c. Promote national policies, programmes and best practices that encourage the full participation of persons with disabilities in social and economic development;

- d. Encourage the creation or strengthening of national disability coordination bodies, and ensure effective representation of persons with disabilities and their organisations.

### Article 3 – Definitions

For the purpose of this Law:

**"Persons with Disabilities"** include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others."

**"African Charter"** means the African Charter on Human and Peoples' Rights adopted by the Heads of States and Government of the Organization of African Unity (OAU) in Banjul, Gambia, in June, 1981;

**"AU"** or **"Union"** means the African Union established by the Constitutive Act of the African Union adopted by the Heads of States and Government of the Organization of African Unity (OAU) in Lomé, Togo, in July, 2000;

**"Communication"** means languages, display of text, Braille, tactile communication, large print, accessible multimedia as well as written, audio, plain-language, human-reader and augmentative;

**"Alternative modes"** means any other formats of communication, including accessible information and communication technology;

**"Language"** includes spoken and signed languages and other forms of non-spoken languages.

**"Deaf culture"** means the way deaf people interact, it includes a set of social beliefs, behaviours, art, literary traditions, history, values, and shared institutions of communities that are influenced by deafness and which use sign languages as the main means of communication.

**"Discrimination on the basis of disability"** 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 and people's rights in the political, economic, social, cultural, civil or any other field. Discrimination on the basis of disability shall include denial of reasonable accommodation;

**"Reasonable accommodation"** means 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;

**"Habilitation"** means inpatient or outpatient health care services such as physical therapy, occupational therapy, speech-language pathology, audiology that address the competencies and abilities needed for optimal functioning to in interaction with their environments: enable persons with disabilities to attain and maintain maximum independence, full physical, mental, social, and vocational ability, full inclusion and participation in all aspects of life;

**"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;

**"Legal capacity"** means the ability to hold rights and duties and to exercise those rights and duties;

**"Persons with disabilities"** include those who have physical, mental, psycho-social, intellectual, neurological, developmental or other sensory impairments which in interaction with environmental, attitudinal or other barriers hinder their full and effective participation in society on an equal basis with others;

**"Reasonable accommodation"** means necessary and appropriate modifications and adjustments 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 and people's rights;

**"Rehabilitation"** means inpatient or outpatient health care services such as physical therapy, occupational therapy, speech-language pathology and psychiatric rehabilitation services that help a person keep, restore or improve skills and functioning for daily living and skills related to communication that have been lost or impaired because a person was sick, injured or disabled.



**"Ritual killings"** means the killing of persons motivated by cultural, religious or superstitious beliefs that the use of a body or a body part has medicinal value, possesses supernatural powers and brings good luck, prosperity and protection to the killer.

**"Situations of risks"** means any situation that poses grave risk to the general population, including disasters and all forms of armed conflict

**"The State"** mean any The State of the African Union which have ratified or acceded to this Protocol and deposited the instruments of ratification or accession with the Chairperson of the African Union Commission;

**"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, and shall not exclude assistive devices for particular groups of persons with disabilities where this is needed;

**"Youth"** means every person between the ages of 15 and 35 years.

### **Article 4 – Principles for the protection of persons with disability**

The protection and promotion of the rights of people with disability is hereby guarantee in accordance with the following principles:

- a. Respect for inherent dignity, privacy, individual autonomy including the freedom to make one's own choices, and independence of persons;
- b. Equality, including between men and women with disabilities;
- c. Prohibition of all forms of discrimination;
- d. Full, effective, participatory and inclusive democracy;
- e. Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;
- f. Equality of opportunity;
- g. Accessibility;
- h. Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.
- i. Promotion of the best interest of the child;

### **Article 5 – Scope of application and primacy of the Law**

1. Save for the Constitution, this Model Law applies to the exclusion of any national conflicting or restrictive provision in any other legislation or regulation.
2. Nothing in this law may limit or otherwise restricts any other legislative requirement, privilege or right already provided for under existing international, regional and national laws.
3. Provisions of any existing law in conflict with this law shall, to the extent of the inconsistency, stand amended or repealed.

### **Article 6 – Interpretation**

- a. When interpreting this law, due consideration shall be given to the principles and purpose of this law, international and regional legal and policy instruments.
- b. In so doing, the rights enshrined herein, should be largely interpreted to provide a favourable interpretation for people with disabilities and restrict any adverse or restrictive interpretation.

## **Part II – Rights and welfare of persons with disabilities**

### **Article 7 – Right to human dignity**

1. Every person with disabilities has inherent dignity.
2. Every person has a duty to uphold the rights of persons with disabilities and to respect and safeguard the dignity of persons with disabilities.
3. The State shall take effective and appropriate measures to:
  - a. Promote and conduct educative campaigns to raise awareness of the inherent dignity of persons with disabilities;
  - b. Ensure that persons with disabilities have access to services, facilities and devices to enable them to live with dignity;
  - c. Protect and promote respect for the dignity of persons with disabilities, on an equal basis with others.

### **Article 8 – Right to life**

1. Every person with disabilities has the inherent right to life.
2. The State shall take all necessary measures to ensure the right to life of persons with disabilities and ensure the effective enjoyment of this right:
  - a. on an equal basis with others, provide protection and respect for the life of persons with disabilities; and
  - b. that persons with disabilities have access to devices, amenities and facilities to enable them to fully realize their right to life.

### **Article 9 – Right to equality and non-discrimination**

1. Every person with disability is:
  - a. Equal before the law in the social, cultural, economic, political, or any other field of life and is guaranteed to protection, benefit of the law and to effective legal protection against discrimination on all grounds;
  - b. Entitled to the full and equal enjoyment of the goods, services, facilities, or accommodations on an equal basis with others.
2. Special measures, including reasonable accommodation and support services which are necessary to accelerate or achieve equality and eliminate discrimination against persons with disabilities shall not be considered discrimination.
3. Discrimination against persons with disability by public and private entities at any levels of life is prohibited.
4. The State shall take all necessary and appropriate measures to;
  - a. Eliminate discrimination on the basis of disability;
  - b. Guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds;

- c. Ensure that appropriate and specific measures are provided to persons with disabilities in order to eliminate discrimination and such measures shall not be considered discrimination;
- d. to protect the parents, children, spouses, other family members closely related to the persons with disabilities, caregivers or intermediaries from discrimination on the basis of their affiliation with persons with disabilities.

### **Article 10 – Right to legal capacity**

1. Every person with disability has the right to recognition of legal capacity before the law and shall have the right to protection and benefit of the law on an equal basis with others.
2. Every person with disability is entitled to the support services he or she may require in exercising the right to legal capacity.
3. Every person with disability has equal right to own or inherit property, to control his or her own financial affairs and to have equal access to bank loans, mortgages and other forms of financial credit.
4. The State shall take all necessary measures to ensure that persons with disabilities have the equal right to:
  - a. Hold documents of identity and other documents that may enable them to exercise their right to legal capacity;
  - b. To control their own financial affairs and to have equal access to bank loans, mortgages and other forms of financial credit;
  - c. To own or inherit property and are not arbitrarily dispossessed of their property
5. Public institutions and private persons shall not violate or interfere with the right to exercise legal capacity by persons with disabilities.

### **Article 11 – Right to a nationality**

1. The State shall recognize the rights of persons with disabilities to a nationality, on an equal basis with others, including by ensuring that persons with disabilities:
  - a. Have the right to acquire and change a nationality and are not deprived of their nationality arbitrarily or on the basis of disability;
  - b. Are not deprived, on the basis of disability, of their ability to obtain, possess and utilize documentation of their nationality or other documentation of identification, or to utilize relevant processes such as immigration proceedings, that may be needed to facilitate exercise of the right to liberty of movement;
  - c. Are free to leave any country, including their own;
  - d. Are not deprived, arbitrarily or on the basis of disability, of the right to enter their own country.
2. Children with disabilities shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by their parents.

### **Article 12 – Freedom of expression and opinion**

1. Every person with a disability has the right to freedom of expression and opinion including the freedom to seek, receive and impart information and ideas through all forms of communication of their choice.
2. Public and private institutions shall put in place adequate mechanisms to ensure that persons with disabilities can exercise their freedom of expression and opinion, on an equal basis with others.

### **Article 13 – Association and assembly**

1. Every person with disabilities has the right to freedom of association and to peacefully assemble.
2. The State has a duty to recognise and facilitate the right of persons with disabilities to associate and assemble in all spheres of life, including by promoting an environment that enables persons with disabilities to:
  - a. Form and participate in the activities of organisations of persons with disabilities at national, regional and international levels;
  - b. To build relationships and networks at national, regional and international levels;
  - c. Form and participate in the activities of nongovernmental organisations and other associations;
  - d. Effectively advocate for their rights and inclusion in society;
  - e. Gain and enhance capacities, knowledge and skills for effectively articulating and engaging in issues of disability, including through direct collaboration with organisations for persons with disabilities and academic institutions and other organisations;
  - f. Be actively consulted and involved in the development and implementation of all legislation, policies, programmes and budgets that impact persons with disabilities.

### **Article 14 – Access to information**

1. Every person with a disability has the right to access to information.
2. The State, public and private institutions have a duty to put in place mechanisms to facilitate access to information by persons with disabilities, on an equal basis with others, including by:
  - a. Recognising and encouraging the use of braille, sign languages and deaf culture;
  - b. Ensuring that persons with visual impairments or with other print disabilities have effective access to published works including by using information and communication technologies;
  - c. Providing information intended for the general public as well as information required for official communications to persons with disabilities in accessible formats and technologies appropriate to different kinds of disabilities in a timely manner, and without additional cost to persons with disabilities;
  - d. Requiring private entities that provide services to the public, including through print and electronic media, to provide information and services in accessible and usable formats for persons with disabilities.
3. The State shall promote the use of technology and artificial intelligence to assist persons with disabilities for purposes of improving their wellbeing including access to adequate banking facilities.
4. The State shall facilitate access to books and other copyrighted works to for visually impaired persons through copyright exceptions copyright exceptions for the visually impaired and libraries for the blind.
5. Any copyright laws imposing restrictions on the import or export of books and other copyright works for the visually impaired to be imported and exported are hereby repealed.

## **Article 15 – Right to liberty and security of person**

1. Every person with a disability has the right to liberty and security of person which includes, but is not limited, to:
  - a. not be deprived of freedom arbitrarily or without just cause;
  - b. be free from all forms of violence, abuse and exploitation from either public or private sources;
  - c. not be treated or punished in a cruel, inhuman or degrading way;
  - d. not be forcibly confined or otherwise concealed by any person or institution;
  - e. security in and control over their body;
  - f. not be subjected to medical or scientific experiments without their informed consent.
2. The State shall;
  - a. take appropriate measures to prevent deprivation of liberty to persons with disabilities by;
    - i. prosecuting perpetrators in the event of such deprivation, and
    - ii. providing effective remedies for the victims.
  - b. In the case of lawful deprivation of liberty, ensure that persons with disabilities are on an equal basis with others and are entitled to guarantees in accordance with international human rights law and the objects and principles of the Protocol and the Convention on the Rights of persons with Disabilities
3. In no instance will the deprivation of liberty and security of a person be justifiably due to the existence or perceived existence of a disability.

## **Article 16 – Freedom from torture or cruel, inhuman or degrading treatment or punishment**

1. Every person with a disability shall have the right to be free from torture or cruel, inhuman or degrading treatment or punishment.
2. The State, State institutions and private persons shall ensure that persons with disabilities, on an equal basis with others:
  - a. Are not subjected to torture or cruel, inhuman or degrading treatment or punishment;
  - b. Are not subjected without their free, prior and informed consent to medical or scientific experimentation or intervention;
  - c. Are not subjected to sterilization or any other invasive procedure without their free, prior and informed consent;
  - d. Are protected, both within and outside the home, from all forms of exploitation, violence and abuse.
3. The State shall take appropriate measures to prosecute perpetrators of torture or cruel, inhuman or degrading treatment or punishment against persons with disability and to provide effective remedies for the victims.

## Article 17 – The Right to privacy

1. Every person with disabilities has the right to privacy irrespective of his or her place of residence or living arrangements and shall not be subjected to arbitrary or unlawful interference of his or her privacy, family, home or correspondence or other types of communication or to unlawful attacks on his or her honour and reputation.
2. The State, public and private institutions shall uphold duty to put in place mechanisms with disabilities have the right to the protection of the law against interference or attacks against their right to privacy.
3. The State shall protect the privacy of personal, health and rehabilitation information of persons with disabilities on an equal basis with others.
4. Every public and private institution shall protect confidential information relating to personal health, habilitation and rehabilitation services for persons with disabilities with dignity and such information shall not be shared without express authority of the person with disability concerned.

## Article 18 – Right to vote, stand for elections and make political choices

1. The State shall guarantee to persons with disabilities the right to vote, the right to stand for elections, the right to make political choices, and the opportunity to enjoy them on an equal basis with others.
2. The State shall also ensure that persons with disabilities can 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:
  - i. Ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use;
  - ii. Protecting the right of persons with disabilities to vote by secret ballot in elections and public referendums 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;
  - iii. 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.
3. The State shall promote 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 organizations and associations concerned with the public and political life of the country, and in the activities and administration of political organizations parties;
  - ii. Forming and joining organizations of persons with disabilities to represent persons with disabilities at international, national, regional and local levels.
4. To that end, the State shall:
  - a. Develop effective mechanisms for the full and efficient inclusion participation of members with disabilities in all levels of government institutions including parliaments, national assemblies, executive and judiciary with consideration of gender equality,
  - b. Put in place mechanisms for promotion, training, and awareness raising that helps motivate people with disabilities to participate in the political process and share their experiences with other members of the community.

## Article 19 – Right to work

1. Every person with disabilities has the right to work, on an equal basis with others; this includes;
  - a. The right to decent work with just and favourable conditions;
  - b. The right to the opportunity to gain a living by work freely chosen or accepted in a labour market and;
  - c. Work environment that is open, inclusive and accessible to persons with disabilities;
  - d. protection against unemployment;
  - e. protection against exploitation.
2. All public and private institutions shall reserve a quota for persons with disabilities, which shall be proportional to the ratio of persons with disabilities in relation to the active population.
3. Failure to adhere to the applicable quota shall give rise to a penalty imposed on the employer, payable to the State, the funds of which will be directed towards development programs for persons living with disabilities.
4. The State and employers in the public and private sector shall safeguard and promote the realization of the right to work, including for those who acquire a disability during the course of employment, by taking appropriate steps, including through:
  - a. Prohibition of discrimination on the basis of disability with regard to all matters concerning all forms of employment, including conditions of recruitment, hiring and employment, continuance of employment, career advancement and safe and healthy working conditions;
  - b. Protection of the rights of persons with disabilities, on an equal basis with others, to just and favorable 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. Recognition the social and cultural value of the work of persons with disabilities;
  - d. Ensuring that persons with disabilities are able to exercise their labor and trade union rights on an equal basis with others;
  - e. Enabling persons with disabilities to have effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training;
  - f. Promoting employment opportunities and career advancement for persons with disabilities in the labor market, as well as assistance in finding, obtaining, maintaining and returning to employment;
  - g. Promoting opportunities for self-employment, entrepreneurship, the development of cooperatives starting one's own business and to access financial services;
  - h. Employing persons with disabilities in the public sector including by reserving and enforcing minimum job-quotas for employees with disabilities;
  - i. Encouraging the employment of persons with disabilities in the private sector through appropriate policies and measures, which may include affirmative action programmes, tax incentives and other measures;
  - j. Ensuring that reasonable accommodation is provided to persons with disabilities in the workplace;
  - k. Ensuring that employees with disabilities or those who become disabled are not unfairly dismissed from employment on the basis of their disability;
  - l. Promoting the acquisition by persons with disabilities of work experience in the open labour market;

- m. Ensuring that the principle of equal pay for equal work is not used to undermine the right to work for persons with disabilities;
- n. Promoting vocational and professional rehabilitation, job retention and return-to-work programmes for persons with disabilities;
- o. Ensuring that persons with disabilities are not held in slavery or in servitude, and are protected, on an equal basis with others, from forced or compulsory labour.

## **Article 20 – Right to education**

1. Every person with a disability shall have the right to free education, including free skills development in the professional area of their interest.
2. Proper and adequate facilities shall be available in public and private schools and centres of learning to assist and accommodate persons with disabilities. These facilities shall include appropriate infrastructure, tools and equipment for use by persons with disabilities.
2. The State shall guarantee to persons with disabilities, by taking reasonable, appropriate and effective measures, free and inclusive education and skills training system at all levels, and lifelong learning, on an equal basis with others, including by:
  - a. Ensuring that persons with disabilities can access free, quality and compulsory basic and secondary education;
  - b. Ensuring that persons with disabilities are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others, including by ensuring the literacy of persons with disabilities above compulsory school age;
  - c. Ensuring reasonable accommodation of the individual's requirements is provided, and that persons with disabilities receive the support required to facilitate their effective education;
  - d. Providing reasonable, progressive and effective individualised support measures in environments that maximise academic and social development, consistent with the goal of full inclusion;
  - e. Ensuring appropriate schooling choices are available to persons with disabilities who may prefer to learn in particular environments;
  - f. Ensuring that persons with disabilities learn life and social development skills to facilitate their full and equal participation in education and to participate effectively in a free society. To this end, The State shall take appropriate measures, including:
    - i. Facilitating the learning of Braille, alternative script, augmentative and alternative modes, means and formats of communication and orientation and mobility skills, and facilitating peer support and mentoring;
    - ii. Facilitating the learning of sign language and the promotion of the linguistic identity of the deaf community;
    - iii. Ensuring that the education of persons, and in particular children, who are blind, deaf or deafblind, is delivered in the most appropriate languages and modes and means of communication for the individual, and in environments which maximize academic and social development.
  - g. Ensuring that multi-disciplinary assessments are undertaken to determine appropriate reasonable accommodation and support measures for learners with disabilities, early intervention, regular assessments and certification for learners are undertaken regardless of their disabilities;
  - h. Ensuring educational institutions are equipped with the teaching aids, materials and equipment to support the education of students with disabilities and their specific needs;



- i. Employing teachers, including teachers with disabilities, who are qualified in sign language and/or Braille, and to train professionals and staff who work at all levels of education. Such training shall incorporate disability awareness and the use of appropriate augmentative and alternative modes, means and formats of communication, educational techniques and materials to support persons with disabilities;
  - j. Facilitating respect, recognition, promotion, preservation and development of sign languages;
  - k. Ensuring that persons with disabilities are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others.
3. The education of persons with disabilities shall be directed to:
  - a. The full development of human potential, sense of dignity and self-worth;
  - b. The development by persons with disabilities of their personality, talents, skills, professionalism and creativity, as well as their mental and physical abilities, to their fullest potential;
  - c. Educating persons with disabilities in a manner that promotes their participation and inclusion in society;
  - d. The preservation and strengthening of positive African values.

### **Article 21 – Living independently and being included in the community**

1. Every person with a disability has the right to live in the community with choices on an equal basis with others.
2. The State shall facilitate full enjoyment by persons with disabilities of the right to live and fully participate in the community on an equal basis with others, including by ensuring that:
  - a. Persons with disabilities have the opportunity to choose their place of residence and where and with whom they live, on an equal basis with others and are not obliged to live in a particular living arrangement;
  - b. Persons with disabilities who require intensive support and their families, have adequate and appropriate facilities and services, including caregivers and respite services;
  - c. Persons with disabilities have access to a range of in-home, residential and other community support services necessary to support living and inclusion in the community;
  - d. Community-based rehabilitation services are provided in ways that enhance the participation and inclusion of persons with disabilities in the community;
  - e. Community living centres organised or established by persons with disabilities are supported to provide training, peer support, personal assistance services and other services to persons with disabilities;
  - f. Community services and facilities for the general population, including health, transportation, housing, water, social and educational services, are available on an equal basis to persons with disabilities and are responsive to their needs.

### **Article 22 – Right to adequate standard of living**

1. Persons with disabilities have the right to an adequate standard of living for themselves and their families, including adequate food, access to safe drinking water, housing, sanitation and clothing, to the continuous improvement of living conditions and to social protection.

2. The State shall facilitate full enjoyment by persons with disabilities of this right, on the basis of equality, including by:
  - a. Ensuring that persons with disabilities shall access appropriate and affordable services, devices and other assistance for disability-related needs, including accessible housing and other social amenities, mobility aids and caregivers;
  - b. Ensuring access by persons with disabilities to social protection programmes;
  - c. Putting financial measures in place to cover disability-related expenses, including through the use of tax exemptions or concessions, cash-transfers, duty waivers and other subsidies;
  - d. Facilitating provision of assistance, including interpreters, guides, auxiliary and augmentative supporters and caregivers, while respecting the rights, will and preferences of persons with disabilities.
3. The States shall put in place appropriate and effective mechanisms which provide adequate support and assistance to care givers of persons with disabilities. These mechanisms shall include social grants as a means of supporting care givers and families headed by persons with disability.

### **Article 23 – Right to health**

1. Every person with a disability shall have the right to free health care and the highest attainable standard of health.
2. Persons with disabilities shall access to health services, including sexual and reproductive health, on an equal basis with others as follows:
  - a. Persons with disabilities enjoy the same range, quality and standard of health care and programmes as provided to other persons;
  - b. All health services are provided on the basis of free, prior and informed consent;
  - c. These health services are provided as close as possible to people's own communities, including in rural areas;
  - d. Health-care services are provided using accessible formats and that communication between service providers and persons with disabilities is effective;
  - e. Awareness is raised on the human rights, dignity, autonomy and needs of persons with disabilities through training and the promulgation of ethical standards for public and private healthcare;
  - f. Persons with disabilities are provided with support in making health decisions, when needed;
  - g. Health campaigns include disability specific needs, but in a manner, which does not stigmatise persons with disabilities, and designing services to minimise and prevent further disability;
  - h. The training of health-care providers shall take account of the disability specific needs and rights of persons with disabilities and ensure that formal and informal health services do not violate the rights of persons with disabilities;
  - i. Provision is made for those health services needed by persons with disabilities specifically because of their disabilities or health services designed to minimise or prevent further disability, the provision of medicines including pain relieving drugs;
  - j. Discrimination against persons with disabilities by providers of health services or providers of insurance is prohibited.
  - k. Allocate a percentage of health budget to persons with disabilities
3. Subject to subsection (4), no employer shall discriminate against any person with disability in relation to:
  - a. The advertisement of employment; or

- b. The recruitment for employment; or
  - c. The creation, classification or abolition of jobs or posts; or
  - d. The determination or allocation of wages, salaries, pensions, accommodation, leave or other such benefits; or
  - e. The choice of persons for jobs or posts, training, advancement, apprenticeships, transfer, promotion or retrenchment; or
  - f. The provision of facilities related to or connected with employment; or
  - g. Any other matter related to employment.
4. An employer shall not be deemed to have discriminated against a person with disability in terms of subsection (3) if:
- a. The act or omission alleged to constitute the discrimination was not wholly or mainly attributable to the disability of the disabled person; or
  - b. The disability in question was a relevant consideration in relation to the specific requirements of the employment concerned; or
  - c. Special facilities or modifications, whether physical or administrative or otherwise, are required at the workplace to accommodate the person with disability, which the employer cannot reasonably be expected to provide.

### **Article 24 – Personal mobility**

1. The State shall take effective measures to ensure personal mobility with the greatest possible independence for persons with disabilities, including by:
  - a. Facilitating the personal mobility of persons with disabilities in the manner and at the time of their choice, and at affordable cost;
  - b. Facilitating access by persons with disabilities to quality mobility aids, devices, assistive technologies and forms of live assistance and intermediaries, including by making them available at affordable cost;
  - c. Providing training in mobility skills to persons with disabilities and to specialist staff working with persons with disabilities;
  - d. Encouraging entities that produce mobility aids, devices and assistive technologies to take into account all aspects of mobility for persons with disabilities.

### **Article 25 – Sports, recreation, social and cultural activities**

1. Every person with a disability has the right to participate in sports, recreation, social and cultural activities.
2. The State shall take effective and appropriate policy, legislative, budgetary, administrative and other measures to ensure this right, based on equality, including through:
  - a. Ensuring that persons with disabilities have access to sports, recreational and cultural services and facilities, including access to stadia and other sporting facilities, theatres, monuments, entertainment establishments, libraries museums and other historical sites;

4Encouraging and promoting the participation, to the fullest extent possible, of persons with disabilities in mainstream sporting activities at all levels;

- b. Raising awareness by identifying and eradicating any stigmatizing and discriminating policy and practices within the government itself with regard to sports;
- c. Facilitating persons with disabilities to have the opportunity to develop and utilize their creative, artistic and intellectual potential, not only for their own benefit, but also for the enrichment of society;
- d. Promoting disability-specific sporting and recreational activities and ensuring provision of appropriate infrastructure;
- e. Facilitating funding, research and other measures aimed at promoting the participation of persons with disabilities both in disability-specific and mainstream sporting and recreational activities;
- f. Ensuring 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;
- a. Facilitating access to audio, video, print and media technologies and services including theatre, television, film and other cultural performances and activities;

*[Please note: numbering as in original.]*

- b. Discouraging negative representations and stereotyping of persons with disabilities in both traditional and modern cultural activities and through the media;
- c. Ensuring, in accordance with international law, that laws protecting intellectual property rights do not constitute an unreasonable or discriminatory barrier to access by persons with disabilities to cultural materials;
- d. Encouraging and supporting creativity and talent among persons with disabilities for their own and the society's benefit;
- e. Putting in place measures to mitigate barriers that encumber access to cultural materials in accessible formats;
- f. Recognising and supporting the cultural and linguistic identities of persons with disabilities, including deaf-blind and deaf culture, and sign languages.
- g. Engaging the media to support the promotion of disability rights

## **Article 26 – Duties of persons with disabilities**

1. Persons with disabilities have duties on an equal basis with other person as elaborated in the African Charter on Human and Peoples Rights.
2. The State shall:
  - a. Recognise that persons with disabilities have the duties aforementioned in paragraph 1 above; and
  - b. Ensure that persons with disabilities are rendered the forms of assistance and support, including reasonable accommodations, which they may require in performance of such duties.

## **Article 27 – Right to family**

1. Every person with a disability has a right to marry and form a family with their full, prior and informed consent.

2. The State shall take all necessary and appropriate measures to eliminate discrimination against persons with disabilities including negative stereotypes in all matters with regard to family, marriage, parenthood, guardianship, adoption and relationships, on an equal basis with others, in order to ensure that:
  - a. Persons with disabilities may decide on the number and spacing of their children, and have access to family planning, and sexual and reproductive health education and services;
  - b. Persons with disabilities, including children, retain their fertility on an equal basis with others;
  - c. Persons with disabilities have the right to keep their children and not be deprived of their children on account of their disability.
3. The State shall:
  - a. grant adequate financial support including social grants to families headed by persons with disabilities;
  - b. Promote adequate psychological and moral support to care givers, parents and relatives of persons with disabilities.
  - c. Ensure in no case shall a child be separated from parents on the basis of a disability of either the child or one or both of the parents;
  - d. Ensure the rights and responsibilities of persons with disabilities, with regard to guardianship, wardship, trusteeship, adoption of children or similar institutions, where these concepts exist in national legislation; in all cases the best interests of the child shall be paramount;
  - e. Ensure that a child shall not be separated from his or her parents against their will, except when competent authorities, subject to judicial review, determine in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child;
  - f. Provide appropriate assistance to persons with disabilities in the performance of their child-rearing responsibilities;
  - g. Undertake to provide early and comprehensive information, services and support to children with disabilities and their families to:
    - i. ensure that children with disabilities have equal rights with respect to family life and
    - ii. to prevent concealment, abandonment, neglect and segregation of children with disabilities.
  - h. Undertake every effort to provide alternative care within the wider family, and failing that, within the community in a family setting, in instances where the immediate family is unable to care for a child with disabilities.

### **Article 28 – Access to justice**

1. The State shall take measures to ensure that persons with disabilities have access to justice on an equal basis with others, including through:
  - a. The provision of procedural, age and gender-appropriate accommodations, in order to facilitate their effective roles as participants in all legal proceedings;
  - b. Ensuring that customary law processes are inclusive and should not be used to deny persons with disabilities their right to access appropriate and effective justice;
  - c. Ensuring that all law enforcement and justice personnel shall be trained at all levels to effectively engage with and ensure the rights of persons with disabilities are recognised and implemented without discrimination;
  - d. Ensuring that legal assistance including legal aid to persons with disabilities.

## Part III – State obligations

### Article 29 – Respect & ensure the respect

1. The State undertakes to respect by all public and private institutions and individuals within its territory and subject to its jurisdiction the rights recognized in the present law, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
2. Where not already provided for by existing legislative or other measures, each the State undertakes to take the necessary steps, in accordance with the Constitution and with the provisions of the present law, to adopt such measures as may be necessary to give effect to the rights recognized in the present law.
3. The State undertakes:
  - a. To ensure that any person including persons with disabilities whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity
  - b. To ensure that any person including persons with disabilities claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;
  - c. To ensure that the competent authorities shall enforce such remedies when granted.

### Article 30 – Promotion, popularization and awareness raising on disability

The State undertakes to:

1. Develop programmes to promote full, inclusive, and accessible education for persons with disabilities, eradicate vulnerability through empowerment, education, establish and/or strengthen national focal point for the coordination and mainstreaming of disability issues in the State and establish monitoring mechanisms to ensure people with disability benefit from the rights enshrined under international, regional and national instruments
2. Raise awareness on the rights of people with disabilities, to promote their inclusion, adopt and implement relevant laws/policies and strategies to remove barriers that hinder or discriminate against the participation of persons with disabilities in society
3. Formulate or reformulate policies and national programmes, including on poverty alleviation, greater awareness, gender equality, conscientiousness of communities and governments relating to disability amongst persons with disabilities and their families to encourage their full participation in social and economic development
4. Create or reinforce national disability coordination focal points, committees, and ensure effective representation of persons with disabilities and their organisations;
5. Promote and encourage positive attitudes towards children, youth, women and adults with disabilities and their families, and implement measures to ensure their access to rehabilitation, education, training and employment, as well as to cultural and sports activities and access to the physical environment
6. Prevent disability by promoting peace, mainstreaming disability on the social, economic and political agendas of African government, ratify and implement the CRDP and its Optional Protocol, ratify the African Disability Protocol and implement all AU and UN human rights instruments to promote and monitor the rights of persons with disabilities.
7. Establish a mechanism/award to recognise prominent disability rights defenders and advocates.

8. Establish a fund tracing mechanism for the budget on disability.

### **Article 31: Protection from abuse and harmful traditional practices**

The State shall develop mechanisms limiting, prohibiting and criminalising harmful traditional practices, including witchcraft accusation, and other abnormal attitude such as pity, shame, stigma, exclusion, marginalization, discrimination targeting persons with disability, especially women and girls. These mechanisms should include engagement with traditional leaders.

### **Article 32 – Situations of risk and humanitarian emergencies**

1. The State shall take specific measures to ensure the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict, forced-displacements, humanitarian emergencies and natural disasters;
2. The State shall ensure that persons with disabilities are consulted and participate in all aspects of planning, implementation and monitoring of pre and post-conflict reconstruction and rehabilitation

### **Article 33: Care & support**

1. The State shall put in place effective mechanisms, including programmes and policies to provide incentives and other credits facilities to family members or organisations who provide assistance to persons with disabilities.
2. The State shall identify, strengthen and promote traditional support systems to enhance the ability of families and communities to care for people with disabilities.
3. The State shall promote provisions and culture of preferential treatment in service delivery for persons with disabilities.

### **Article 34: Accessibility**

1. Persons with disabilities shall live independently and participate fully in all aspects of life, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas.
2. The State shall adopt measures, which shall include the identification and elimination of obstacles and barriers to accessibility, particularly such measures shall apply to, inter alia:
  - a. Buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces, take into account population diversities as well as rural and urban settings;
  - b. Information, communications and other services, including electronic services, emergency services, sign languages and tactile interpretation services, braille, audio and quality and affordable mobility aids, assistive devices or technologies and forms of live assistance and intermediaries;
  - c. The modification of all public and private inaccessible infrastructures and the universal design of all new infrastructure.
3. The State shall also take appropriate measures to develop, promulgate and monitor the implementation of minimum standards and guidelines for the accessibility of facilities and services open or provided to the public

### **Article 35 – Habilitation and rehabilitation**

1. The State shall ensure that persons with disabilities have access to comprehensive habilitation and rehabilitation services and programs to obtain maximum independence and full participation in all aspects of life, including
  - a. Taking effective and appropriate measures, including peer support, to enable persons with disabilities to attain and maintain maximum independence, full physical, mental, social and vocational ability
  - b. Organising, increasing access to appropriate, suitable and affordable assistive devices and extending comprehensive habilitation and rehabilitation services and programmes, particularly in the areas of health, employment, education and social services;
  - c. Supporting the design, development, distribution and servicing of local production equipment and assistive devices for persons with disabilities adapted to local conditions;
  - d. Developing, adopting and implementing standards, including regulations, policies and programmes to strengthen habilitation and rehabilitation services for persons with disabilities;

### **Article 36 – Statistics, data and other surveys**

1. The State shall ensure that continuous data gathering on the causes and prevalence of disabilities, the types of disabilities, disaggregated regarding gender and age, participation of women, children, youth and with disabilities in education, health care, labour market, vocational skills training are available.
2. The collection, analysis and processing of statistical data relating to disability shall be in accordance with the Pan-African Parliament's Methodology, which can be adapted to the country specificities.
3. The State shall:
  - a. Establish inter-ministerial epidemiological surveillance system on disabilities to gather evidence for consideration by National Disability Councils, policy bodies and relevant Government Ministries;
  - b. Provide indicators on disabilities in national census questionnaires and other national surveys;
  - c. Stimulate research and conduct surveys to collate disability data from health, education, and tertiary and labour statistics regularly and publish regular reports on the situation of disability and persons with disabilities in the country.

### **Article 37 – Cooperation**

1. The State recognizes the importance of cooperation and shall ensure to promote cooperate at the international, continental, sub-regional and bilateral levels on, inter alia:
  - a. Capacity-building on issues of persons with disabilities, including in research and access to scientific and technical knowledge, technical, human and financial resources by facilitating access to and sharing of accessible and assistive technologies, and through the transfer of technologies, sharing and exchange of information, experience, training programmes and good practices to support implementation and realization of the purpose and objectives of this law;
  - b. Partnership with relevant international and regional organizations and civil society, in particular organizations of persons with disabilities.
2. The State shall ensure development programmes and institutions for cooperation are inclusive of and accessible to persons with disabilities and support the implementation of this Model Law



3. The State shall support the African Union Commission to set up an Advisory Council on Disability as an ad hoc mechanism to facilitate the implementation and follow up of the continental policies and plans on disability.
4. The State shall ensure disability mainstreaming in all African Union monitoring mechanisms including the African Peer Review Mechanism
5. The State shall ensure that development financing is inclusive of disabilities programmes.
6. The provisions of this article are without prejudice to the obligations of each State Party to fulfil its obligations under the present law

### **Article 38 – Partnership with Civil Society Organisation, and Organisations of Persons with Disabilities**

1. Civil society and Disabled People’s Organisations must enjoy governmental support for the development and strengthening of their role in the planning and implementation of public policies and programmes.
2. The State shall:
  - a. Establish and resource a national Civil Society Organisation/Disabled People’s Organisation fund for the promotion and establishment of active Disabled People’s Organisations at local, national and regional levels in order to support persons with disabilities empowerment;
  - b. Promote and facilitate the establishment of National Federations of Disabled Persons Organizations and the representation of persons with disabilities in all decision-making structures;

## **Part IV – Gender, aging and disability**

### **Article 39 – Women with disabilities**

The State shall commit to:

1. Achieve full participation and equal rights for women with disabilities by raising public awareness, developing programmes to address the needs of women with disabilities and promoting the inclusion of women with disabilities in all mainstream women’s organizations and programs.
2. Eradicate vulnerability through empowerment, education and awareness of women with disabilities, especially focusing on rural women through the adoption of relevant laws policies and strategies to remove barriers that hinder or discriminate against the participation of women with disabilities in society.
3. Mainstream the needs and interests of women and in particular those with disabilities as provided for under international and regional instruments such as the Protocol to the African Charter on the Rights on Women
4. Provide effective remedies on sexual violence and ensure access to sexual and reproductive health services for women with disabilities.
5. Ensure the active participation and visibility of women with disabilities in activities related to the celebration of women’s day

### **Article 40 – Older persons with disabilities**

The State shall:

1. Recognise the fundamental rights of older persons with disabilities and commit to abolish all forms of discrimination based on age, increased access by older persons with disabilities to their rights, security and fundamental freedoms as provided for under the international and regional instruments including the

Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa, the United Nations Convention of the Rights of People with Disabilities

2. Provide resources for the implementation of the provisions of the Protocol to the African Charter on the Rights of Older Persons in Africa, the Convention on the Rights of Persons with Disabilities and other international instruments for the benefit of older persons with disabilities

### **Article 41 – Children with disabilities**

The State must:

1. Ensure full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children.
2. Adopt mechanisms to ensure effective access to education including early childhood development, healthcare services and specialized medical facilities
3. Develop programmes, strategies, policies and laws to remove barriers that hinder and or discriminate against the participation of children with disabilities in society and recognise specific needs of children with disabilities and their care givers in line with international and regional instruments including the African Charter on the Rights and Welfare of the Child;
4. Ensure the active participation and visibility of women with disabilities in activities related to the celebration of children's day

### **Article 42 – Youth with disabilities**

The State shall:

1. Develop effective mechanisms to ensure full participation and equal rights for youth with disabilities in training, sports, culture, science and technology,
2. Eradicate vulnerability through empowerment, awareness, access to education, information, credit facilities and labour market by youth with disabilities, especially those in rural areas;
3. Ensure the active participation of youth with disabilities in the celebration of Youth Day.

## **Part V – Implementation, coordination and monitoring**

### **Article 43 – Establishment of a National Coordination Body for Persons with Disabilities**

1. There is hereby established a council to be known as the National Council for Persons with Disabilities.
2. The Council shall be a body corporate with perpetual succession and a common seal and shall in its corporate name be capable of suing and being sued, and acquiring, holding and disposing of movable and immovable property.
3. The Council shall be responsible for:
  - a. oversee, coordinate and mainstreaming disability issues or review and make reports after considering input from Organisations of persons with disabilities to the Prime Minister on progress made in the implementation of this Law.
  - b. Develop of a National Policy and Plan of Action on Disability with specific targets, timeframes and means of monitoring and evaluation;
  - c. Undertake a review and formulate proposals for updating of legislations on the rights of persons with disabilities and ensure their rights are consistent with and included in National Constitutions;

- d. Make proposals on the national budget to support policies and programmes of work to promote the rights and inclusion of persons with disabilities;
  - e. Propose, monitor and promote adherence to the national the quota for access by persons with disabilities to work in the public and private sector;
  - f. Manage a trust fund to be established by the Government and Donors to support the implementation of disability rights.
4. The Council shall consist of the following members appointed by the Prime Minister/Head of Cabinet:
- (a) Not more than three persons nominated in a manner approved by the Prime Minister, by organisations representing persons with various categories of disabilities;
  - (b) Three members appointed from a panel of names submitted to the Primer Minister by organizations for persons with disabilities;
  - (c) Eight members representing the Ministries responsible for the following:
    - (i) culture and social services;
    - (ii) justice and human rights;
    - (iii) health;
    - (iv) education;
    - (v) economic planning;
    - (vi) gender;
    - (vii) transport; and
    - (viii) labour;

Provided that—

- (i) The membership of the Council shall not exceed fifteen persons, out of whom at least three members shall be persons with disabilities;
  - (ii) The members nominated under paragraph (a) shall equitably represent the types of disabilities occurring in the country; and
  - (iii) At least one of the members of the Council shall be from a rural-based organization.
5. The Members of the Council shall designate amongst themselves a Bureau consisting of the chairman, vice-chairman and Rapporteur.
6. The Members of the Council shall hold office for a period not exceeding three years and shall be eligible for re-appointment for a further term not exceeding two years.
7. The Council shall adopt its develop its Rules of Procedure to be approved by the Prime Minister.

#### **Article 44 – Adjustment orders and discrimination**

1. This Article shall apply to:
  - (a) Any premises to which members of the public are ordinarily admitted whether on payment of a fee or otherwise; and
  - (b) any services or amenities ordinarily provided to members of the public.
2. Without prejudice to the provisions of section 22, if the Council considers that any premises, services or amenities are inaccessible to persons with disabilities by reason of any structural, physical, administrative

- or other impediment to such access, the Council may, subject to this section, serve upon the owner of the premises or the provider of the services or amenities concerned an adjustment order:
- a. setting out:
    - i. A full description of the premises, services or amenities concerned; and
    - ii. the grounds upon which the Council considers that the premises, services or amenities are inaccessible to persons with disabilities;
  - b. requiring the owner or provider concerned to undertake at his own expense such action as may be specified in order to secure reasonable access by persons with disabilities to the premises, services or amenities concerned; and
  - c. stipulating the period within which the action referred to in paragraph (b) shall be commenced and completed.
3. Before serving an order under subsection (2) the Council shall serve notice upon the person concerned:
- a. specifying the ground upon which the adjustment order is to be issued and the nature of the action which the Council considers necessary to rectify the situation which has given rise to the proposed order;
  - b. stipulating the maximum period that the Council considers reasonable for the implementation of the action it proposes to order; and
  - c. calling upon the person or institution concerned, if he wishes to do so, to make representations to the Council within thirty days from the date of the service of the notice.

## **Article 45 – Offences and penalties**

### **1. Failure to comply with adjustment Order**

Without prejudice to other applicable provisions of the Criminal Law, a person is guilty of an offence if he fails to comply with an adjustment order served under Article 42.

### **2. Violation of the rights of persons with disability**

A person that contravenes any Articles under Part II or discriminates against a person with disability guilty of an offence.

### **3. Concealment of persons with disabilities**

No parent, guardian or next of kin shall conceal any person with a disability in such a manner as to deny such a person the opportunities and services available under this Act. A person who contravenes this subsection is guilty of an offence and is liable on conviction.

### **4. Negligence by doctor**

Any person who, being a doctor or other medical practitioner, negligently causes a disability to a patient is guilty of an offence and is liable on conviction to a fine not exceeding the equivalent of one hundred thousand USD dollars or to imprisonment for a term not exceeding one year, or to both such fine and imprisonment.

The Court may order a doctor convicted under this section to pay to the patient such sums of money in compensation as it may deem appropriate.

### **5. Giving false information to get benefits extended to persons with disabilities**

A person is guilty of an offence if he knowingly gives false information to the Council for the purpose of being registered or for the purpose of acquiring any privilege due to persons so registered.

## 6. General penalty

Any person found guilty of an offence under this Act for which no penalty is expressly provided shall be liable to a fine not exceeding the equivalent of five hundred or imprisonment for a term not exceeding one year, or both such fine and imprisonment.

3. A person found guilty of an offence under this section may in addition to the penalty imposed by the Court be ordered to pay the person injured by the offence such sums of money in compensation as the Court may deem appropriate.

*[Please note: numbering as in original.]*

4. A person or persons who commit(s) a crime against a person or persons with disabilities shall upon conviction receive the maximum sentence..

## Article 46 – Regulations

The Cabinet may, by statutory instruments, make regulations to prescribe anything required under this Act and for the effective implementation of the provisions of this Act.

## Part VI – General provisions

### Article 47 – Safeguard clause

1. No provision in this Model Law shall be interpreted as derogating from the principles and values contained in other relevant instruments for the realisation of the rights of Persons with Disabilities in Africa.
2. In the event of a contradiction between two or more provisions of this Model Law, the interpretation which favours the rights of Persons with Disabilities and protects their legitimate interests shall prevail.

### Article 48 – Amendment and revision

1. Any State Party may submit proposal(s) to the Pan-African Parliament for the amendment or revision of this Model Law
2. Proposals for amendment or revision submitted and adopted by the Pan-African Parliament shall be transmitted to the Assembly at least six months before the meeting at which it shall be considered for adoption.
3. Amendments or revisions shall be adopted by the Assembly by consensus or, failing which, by a two-thirds majority.

### Article 49 – Entry into force

This Law shall enter into force at such time as the State or the Minister responsible shall determine.

### Article 50 – Authentic texts

1. This Model Law is drawn up in all four (4) African Union original texts, namely Arabic, English, French and Portuguese languages. All four (4) texts being equally authentic.
2. This Model Law shall also be trampled in sign language.

IN WITNESS WHEREOF the undersigned, being duly authorized to that effect, has adopted the African Union Model Disability Law.

**Adopted in Midrand, South Africa,  
on 11 October 2019.**