

Zambia

Persons with Disabilities Act, 1996

Chapter 65

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Persons with Disabilities Act, 1996

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Zambia

Persons with Disabilities Act, 1996

Chapter 65

Published

Commenced on 12 December 1996

[This is the version of this document at 31 December 1996.]

An Act to establish the Zambia Agency for Persons with Disabilities; to define the functions of the Agency; to establish Management Boards; to establish the National Trust Fund; and to provide for matters connected with or incidental to the foregoing.

Part I – Preliminary

1. Short title and commencement

This Act may be cited as the Persons with Disabilities Act, and shall come into force on such date as the Minister may, by statutory order, appoint.

2. Interpretation

In this Act, unless the context otherwise requires—

"**Agency**" means the Zambia Agency for persons with Disabilities established under section three;

"**appointed date**" means the date appointed by the Minister under section one;

"**association**" means an association registered under section fourteen;

"**Board**" means a management Board established under section eight;

"**Council**" means the Zambia Council for the Handicapped established under the repealed Act;

[Cap. 551 of the old edition]

"**Director**" means the Director of the Board appointed under section twelve;

"**Director-General**" means the person appointed Director General of the Agency under section seven;

"**disability**" means any restriction resulting from an impairment or inability to perform any activity in the manner or within the range considered normal for a human being, and would or would not entail the use of supportive or therapeutic devices and auxiliary aids, interpreters, white cane, reading assistants, hearing aids, guide dogs or any other trained animals trained for that purpose;

"**Fund**" means the National Trust Fund established under paragraph 9 of the Schedule;

"**institution**" means an institution registered under section fifteen;

"**person with disability**" means a person with a physical, mental or sensory disability, including a visual, hearing or speech functional disability;

"**rehabilitation**" means the process through which disabled persons can partially or fully restore their physical, mental sensory, or social functional abilities;

"**secretary**" means a person appointed secretary under section seven and twelve;

"**white cane**" means a special walking stick used as a guide by a visually impaired person;

"**repealed Act**" means the Handicapped Persons Act.

Part II – The Zambia Agency for Persons with Disabilities

3. Establishment of Agency

- (1) There is hereby established the Zambia Agency for Persons with Disabilities which shall be 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 Schedule shall apply to the Agency.

4. Restriction on execution against property of Agency

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

5. Composition of Agency

- (1) The Agency shall consist of the following members:
 - (a) eight representatives of associations of, or for persons with disabilities;
 - (b) a representative of the ministry responsible for science and technology;
 - (c) a representative of the ministry responsible for community development and social welfare;
 - (d) a representative of the Zambia Chambers of Commerce and Industry;
 - (e) a representative of the ministry responsible for finance;
 - (f) a representative of the ministry responsible for education;
 - (g) a representative of the ministry responsible for health;
 - (h) a representative of the Attorney-General; and
 - (i) two members appointed by the Minister.
- (2) The members referred to in subsection (1) shall be appointed by the Minister.

6. Functions of Agency

The functions of the Agency shall be to—

- (a) plan, promote and administer services for all categories of persons with disabilities;
- (b) keep statistical records relating to incidences and causes of disabilities, which may be used for the planning, promotion, administration and evaluation of services for persons with disabilities;
- (c) keep a register of persons with disabilities;
- (d) provide rehabilitation, training, and welfare services to persons with disabilities;
- (e) promote research into general rehabilitation programmes for persons with disabilities;
- (f) promote public awareness relating to the prevention of disabilities and the care of persons with disabilities;
- (g) co-operate with ministries and other organisations in the provision of preventive, educational, training, employment and rehabilitation and other welfare services for persons with disabilities;

- (h) co-ordinate rehabilitation and welfare services provided to persons with disabilities by ministries, and voluntary associations;
- (i) monitor and supervise the provision of services to persons with disabilities;
- (j) promote, directly and indirectly, the development of human resources in the prevention of disabilities and in the provision of rehabilitative, education, training and the general welfare of persons with disabilities;
- (k) advise the Minister on matters relating to the social and economic development and the general well-being of persons with disabilities; and
- (l) do all such things as are incidental to or conducive to the attainment of the functions of the Agency.

7. Director-General and other staff

- (1) There shall be a Director-General who shall be the Chief Executive officer of the Agency and who shall subject to the control of the Agency, be responsible for the day to day administration of the Agency.
- (2) The Director-General shall be appointed by the Minister for a three year term of office and shall be eligible for re-appointment.
- (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 of 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 III – Management Boards

8. Establishment of Boards

- (1) The Minister may, by statutory instrument, establish a Board for any institution.
- (2) Any Board established under the repealed Act shall continue in existence as if established under this Act.
- (3) 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.
- (4) The Minister shall, by statutory instrument, provide for the composition of each Board.
- (5) The provisions of the Schedule shall apply to the Boards with the necessary modifications.

9. Restriction on execution against property of management Boards

Notwithstanding anything contrary contained in any written law, where any judgement 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 the Director shall cause to be paid out of the revenue of the Board such amounts as may, by the judgement or order, be awarded against the Board to the person entitled thereto.

10. Composition of Board

The Minister shall appoint members of each Board, by statutory instrument.

11. Functions of Boards

- (1) The functions of a Board shall be to—
 - (a) administer the affairs of any institution established under this Act;
 - (b) provide rehabilitation, training and welfare services to persons with disabilities; and
 - (c) do all such things as are necessary to promote the well-being of persons with disabilities.
- (2) The Board may, by directions in writing and subject to such conditions as it thinks fit, delegate to any member, committee or the Director any of its functions under this Act.
- (3) The Minister may, by statutory instrument, require a Board to carry out such other functions as he may specify.
- (4) The Minister may give to the Board such general or specific directions with respect to the discharge of its functions as he may consider necessary and the Board shall give effect to such directions.
- (5) The 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.

12. Director and other staff

- (1) There shall be a Director appointed by the Board who shall be the Chief Executive officer of the Board and who shall subject to the control of the Board, be responsible for the day to day administration of the Board.
- (2) The Director shall be appointed for a three year renewable term of office.
- (3) The Director shall attend meetings of the Board and may address such meetings, but shall have no vote.
- (4) The Director shall be the secretary to the Board.
- (5) The Board 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 – Registration

13. Registration of persons with disabilities

- (1) Every person with a disability shall apply for registration in the prescribed form to the Agency through the principal officer of a local authority, social welfare officer, central statistics officer, school headmaster or an officer in charge of a health centre.
- (2) The Agency shall register persons with disabilities.
- (3) The Agency shall keep a register of persons with disabilities registered under subsection (2).

14. Registration of associations

- (1) An Association shall apply to the Director-General in the prescribed form.
- (2) The Agency shall register any association of, or for persons with disabilities approved by the Zambia Federation for the Disabled.

- (3) An Association referred to in subsection (2) shall have not less than fifty persons with a disability as members to qualify for registration.
- (4) The Agency shall keep a register of associations referred to in subsection (2).
- (5) An application by an association shall state—
 - (a) the name and address of the association; and
 - (b) the designation and address of its officers and the members of the Executive Committee or other body in control of its affairs.
- (6) An association shall submit, together with its application, a copy of the Constitution or Rules that govern that association.

15. Registration of institution

- (1) An institution shall apply to the Agency for registration in the prescribed form.
- (2) The Agency shall register institutions that provide services to persons with disabilities.
- (3) The Agency shall keep a register of institutions referred to in subsection (1).
- (3) 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 that institution and the age group;
 - (c) regulate the kind of equipment to be acquired and maintained by the institution;
 - (d) set the qualifications and experience of persons employed by institutions;
 - (e) set the code of conduct of institutions and associations 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.

[Please note: numbering as in original.]

Part V – Inspection

16. Inspection of institutions

- (1) The Director-General shall appoint inspectors to inspect institutions.
- (2) The Director-General shall issue an identity card to each inspector.

17. Powers of inspector

- (1) An inspector shall have power, on production of the identity card issued to him under section sixteen to inspect the institution to ensure that the provisions under this Act are being complied with.
- (2) In inspecting the facilities referred to in subsection (1) the inspectors shall ensure that adequate arrangements for the general welfare, education, training, rehabilitation, health, employment and records kept are in accordance with the provisions of this Act.
- (3) Any person who obstructs an inspector appointed under section sixteen in the exercise of his duty under this Part shall be guilty of an offence and shall be liable upon conviction to a fine not

exceeding five thousand penalty units or to imprisonment for a term not exceeding three months or to both.

18. Duty of inspector to report to Director-General

- (1) Each inspector shall furnish the Director-General with such reports and other information relating to matters referred to in section nineteen as the Director-General may direct.
- (2) The Director-General shall forward the reports and other information referred to in subsection (1) to the Minister.

Part VI – Discrimination on grounds of disability

19. Discrimination on grounds of disability

- (1) for the purposes of this Part,
"discrimination" means—
 - (a) treating a person with a disability less favourably from a person without a disability;
 - (b) treating a person with a disability less favourably from another person with a disability;
 - (c) requiring a person with a disability to comply with a requirement or condition which persons without a disability may have an advantage over; or
 - (d) not providing different services or conditions required for that disability.

20. Discrimination in employment

An employer shall not treat a person with a disability differently from a person without a disability when—

- (a) advertising for employment;
- (b) recruiting persons for employment;
- (c) offering terms or conditions of employment;
- (d) considering promotion, transferring or training such persons; or
- (e) providing any other benefits related to employment.

21. Discrimination in learning institutions

A learning institution shall be guilty of discriminating against person with a disability if that institution—

- (a) refuses or fails to accept, to admit such person on the grounds of his disability;
- (b) gives terms or conditions on which it is prepared to admit such a person because of his disability;
- (c) denies or limits any person with a disability access to any benefit provided by that learning institution;
- (d) expels that student or pupil on the grounds of his disability; or
- (e) discriminates against the person in any other way on grounds of that person's disability.

22. Facilities for special schools

Any person who establishes a special school for persons with disabilities shall provide adequate facilities for them.

23. Special fund for repair of aids and appliances

- (1) An institution of learning admitting persons with disabilities shall establish and maintain a special fund for the repair, servicing and purchase of technical aids and appliances for persons with disabilities.
- (2) Parliament shall make provision for and provide the funds referred to in subsection (1).
- (3) The Minister may make regulations for the administration of the funds provided under subsection (2).

24. Tax rebate

- (1) Any person registered under this Act, who employs at least three persons with a disability shall be entitled to a tax rebate at a rate to be determined by statutory instrument by the Minister responsible for finance.
- (2) A person who provides services under section twenty-two and twenty-six shall be entitled to the tax rebate determined under subsection (1).

25. Adjustment orders

- (1) This section shall apply to any—
 - (a) premises constructed before the commencement of this Act 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 before the commencement of this Act.

[Cap. 475 of the 1972 edition]
- (2) The Agency may issue an adjustment order to any person it considers that his premises, amenities or services referred to in subsection (1) are not accessible to persons with a disability.
- (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 Agency considers that the premises, service or amenity is inaccessible to disabled persons;
 - (c) the requirement that the owner shall at his own expense take action as may be specified to make it accessible to disabled persons; and
 - (d) the period within which the action referred to in paragraph (c) shall be commenced and completed.
- (4) Before serving an order the Agency shall serve notice upon the person 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 Agency considers necessary to rectify the situation which has given rise to the proposed order;
 - (b) the maximum period that the Agency considers reasonable for the implementation of the action it proposes to order; and
 - (c) that the owner may make representations to the Agency if he so wishes within thirty days from the date of the service of the notice.

- (5) A person who provides the amenities or services under this section shall be entitled to a tax rebate as provided for under section twenty-four.

26. Premises and amenities to be accessible to persons with a disability

On the commencement of this Act, any plans for any premises or amenities approved, after the commencement of this Act, under the Town and Country Planning Act, shall provide facilities that are accessible to persons with a disability.

[Cap. 283]

Part VII – Miscellaneous

27. Vesting of assets and transfer of liabilities

On the appointed date, there shall vest in, and be owned by the Agency without further assurance, all property, rights, liabilities and obligations which immediately before the appointed date, were the property, rights, liabilities and obligations of the Council.

28. Registration of property to be transferred

- (1) Whenever under this Act any property, right, liabilities or obligations of the Council 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.
- (2) The proper officer referred to in subsection (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 the 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 Part.

29. Legal proceedings

Any legal proceedings or application pending before any authority before the commencement of this Act by or against the Council in relation to the assets transferred to the Agency, may be continued by or against the Agency.

30. Transfer of staff

- (1) The Minister may, by statutory instrument, approve arrangements under which all or some of the public officers in any institution shall be transferred to the Agency.
- (2) Where a person is transferred in accordance with the arrangements made under subsection (1), his terms and conditions with the Agency shall be no less favourable than those enjoyed while, in the public service or any institution and for the purposes of determining his rights to or eligibility for any pension, gratuity, leave or other benefits, his previous service with the public service or the Council shall be treated as service with the Agency.

31. Secondment to another Board

- (1) A Board may, upon receiving a request from another Board to second an officer to that Board for such period and on such terms and conditions as may be agreed between the Board and the Board requesting the secondment.

- (2) A Board may, in accordance with the regulations issued by the Minister, make arrangements with the Ministry responsible for community development and social welfare for the secondment to the Board of any officer.

32. General Penalty

Any person who contravenes any provision of this Act for which no specific penalty is provided shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding five thousand penalty units or to imprisonment for a term not exceeding three years or to both.

33. Regulations

The Minister may, by statutory instrument, make regulations for the better carrying out of the provisions of this Act.

34. Repeal of Cap. 551 of the old edition

The Handicapped Persons Act is hereby repealed.

Schedule (Sections 3 and 8)

Part I – Administration

1. Seal of Agency

- (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 contract 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.

2. Tenure of office of member

- (1) Subject to the other provisions of this Act, a member shall hold office for a period of three years from the date of appointment and may be re-appointed for a like period.
- (2) A member may resign by giving one month's notice in writing to the Secretary.

3. Removal of member

Notwithstanding paragraph 3, the Agency may, at any time, with the approval of the Minister remove a person from the office of member—

- (a) if that person has been absent from three consecutive meetings of the Agency and that absence was in the opinion of the Agency without reasonable excuse; or

- (b) if the Agency is satisfied that the continuance of that person in the office of member will be prejudicial to the interest of disabled persons.

4. Filling of casual vacancy

- (1) 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.

5. Proceedings of Agency

- (1) Subject to the other provisions of this Act, the Agency may regulate its own procedure.
- (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 the Chairperson or the Vice-Chairperson and three other members.
- (5) There shall preside at any meeting of the Council—
 - (a) the Chairperson; or
 - (b) in the absence of 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 his deliberative vote.
- (7) Where a member is for any reasonable cause unable to attend any meeting of the Agency, he may, in writing, nominate another person from the same organisation to attend such meeting in his stead and such person shall be deemed to be a member for the purpose of such meeting.
- (8) The Agency may invite any person, whose presence in its opinion is 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.

6. Committees of Agency

- (1) The Agency may, for the purpose of performing its functions under this Act, establish committees and delegate to any such committee such of its functions as it thinks fit.
- (2) The Agency may appoint as members of a committee established under subsection (1), persons who are or are not members of the Agency and such person 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 subsection (1), may regulate its own procedure.

7. Disclosure of interest

- (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'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, unless the Agency otherwise directs, take part in any consideration or discussion of, or vote on, any question touching such matter.
- (2) A disclosure of interest made under this section shall be recorded in the minutes of the meeting at which it is made.

8. Prohibition of publication of or disclosure of information to unauthorised persons

- (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 his duties, the contents of any documents, communication or information whatsoever, which relates to, and which has come to his knowledge in the course of his duties under this Act.
- (2) Any person who contravenes the provisions of subparagraph (1) shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding five hundred penalty units or to imprisonment for a term not exceeding three years, or to both.
- (3) If any person having any information which to his knowledge has been published or disclosed in contravention of sub-paragraph (1) unlawfully publishes or communicates any such information to any other person, he shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding five hundred penalty units or to imprisonment for a term not exceeding three months or to both.

Part II – Financial provisions

9. Funds of Agency

- (1) The funds of the Agency shall consist of such moneys as may—
 - (a) be appropriated by Parliament for the purposes of the Agency;
 - (b) be paid to the Agency by way of fees, levy, 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;
 - (c) in accordance with the 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 it does not immediately require for the performance of its functions.
- (5) The Agency may use the funds referred to in subsection (4) to establish a Fund 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 welfare of persons with disabilities: and
 - (d) do any other things necessary to carry out the objects of the Fund.
- (6) The provisions of paragraph 11 and 12 shall apply to the Fund.

10. Financial year

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

11. Accounts

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

12.

- (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 thereto—
 - (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.