

SPECIAL ISSUE

Nairobi City County Gazette Supplement No. 24 (Acts No. 9)



REPUBLIC OF KENYA

**NAIROBI CITY COUNTY GAZETTE
SUPPLEMENT**

ACTS, 2015

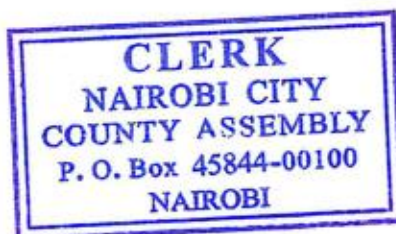
NAIROBI, 15th January, 2016

CONTENT

Act—

PAGE

The Nairobi City County Persons with Disabilities, 2015..... 1



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**THE NAIROBI CITY COUNTY PERSONS WITH
DISABILITIES ACT, 2015**

No. 9 of 2015

Date of Assent: 12th January, 2016

Date of Commencement: 25th January, 2016

ARRANGEMENT OF SECTIONS

Section

PART I—PRELIMINARY

- 1—Short title.
- 2—Interpretation.
- 3—Object and Purpose of the Act.

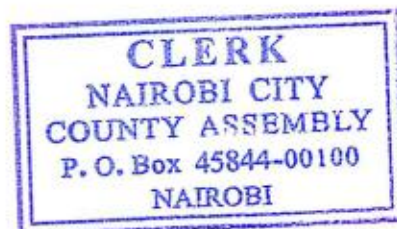
PART II—ESTABLISHMENT OF THE BOARD

- 4—Establishment of the Board.
- 5—Membership of the Board.
- 6—Tenure of office.
- 7—Chief executive officer.
- 8—Functions of the Board.

**PART III—RIGHTS AND PRIVILEGES OF
PERSONS WITH DISABILITIES**

Rights of Persons with Disabilities

- 9—Realisation of rights of persons with disabilities.
- 10—Right not to be discriminated in employment.
- 11—Discrimination by employers prohibited.
- 12—Records for job placement.
- 13—Right not to be discriminated in an educational institution.
- 14—Special and non-formal education.
- 15—Health of persons with disabilities.
- 16—Right to accessibility and mobility.
- 17—Adjustment Orders.
- 18—Denial of admission into premises, etc.



2015

Nairobi City County Persons with Disabilities

No. 9

**THE NAIROBI CITY COUNTY PERSONS WITH
DISABILITIES ACT, 2015**

AN ACT of Nairobi City County Assembly to provide for the rights and rehabilitation of persons with disabilities; to achieve equalization of opportunities for persons with disabilities; to establish the County Board for Persons with Disabilities; and for connected purposes

ENACTED by the Nairobi City County Assembly, as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Nairobi County Persons with Disabilities Act, 2015. Short title.

2. In this Act, unless the context otherwise requires— Interpretation.

“aged person” includes a person with a disability who has been forced into retirement from employment due to his disability;

“assistive devices and services” means implements, tools and specialized services (including the services of qualified interpreters for the deaf and qualified teachers for the blind) provided to persons with disabilities to assist them in education, employment or other activities;

“Board” means the Nairobi County Board for Persons with Disabilities established under section 4;

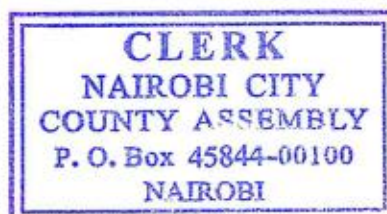
“county” means the Nairobi City County;

“county executive committee member” means the county executive committee member for the time being responsible for matters relating to persons with disabilities;

“county government” means the county government of the Nairobi City county;

“disability” includes any physical, sensory, mental, psychological or other impairment, condition or illness that has , or is perceived by significant sectors of the community to have, a substantial or long-term effect on an individual’s ability to carry out ordinary day to day activities;

“discriminate” means to accord different treatment to different persons solely or mainly as a result of their



representing persons with various categories of disabilities within the County;

- (b) two members appointed from a panel of names submitted to the county executive committee member by organizations for persons with disabilities subject to approval by the County Assembly;
- (c) Chief Officers or representatives not below the level of Director representing the Departments responsible for the following—
 - (i) culture and social services;
 - (ii) education;
 - (iii) labour; and
- (d) such other members as may be co-opted by the Board subject to approval by the County Assembly.

(2) The membership of the Board shall not exceed eleven persons, out of whom at least half of the members shall be persons with disabilities.

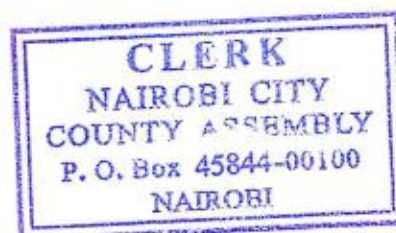
(3) The Board shall elect a member under subsection 1(a) as the Chairperson.

(4) The Board shall elect a member under subsection 1(b) as the Vice-Chairperson.

(5) The chairperson and the vice-chairperson shall be of the opposite gender.

(6) In nominating or appointing persons as chairperson and members of the Board, the County Executive Committee member shall ensure that the process is carried out in an open and transparent manner and that—

- (a) the membership of the Board shall equitably represent the types of disabilities occurring in the county;
- (b) not more than two-thirds of the members are of the same gender;
- (c) the composition of the Board shall reflect the regional and ethnic diversity of the people of Kenya; and



time be assigned by the Board.

- (d) be appointed within 60 days after the new Board has been put in place or at the expiry of the tenure of the serving Chief Executive Officer.

8. (1) The functions of the Board shall be to—

Functions of the Board.

- (a) issue adjustment orders under the provisions of this Act;
- (b) formulate and develop measures and policies designed to—
 - (i) achieve equal opportunities for persons with disabilities by ensuring to the maximum extent possible that they obtain education and employment, and participate fully in sporting, recreational and cultural activities and are afforded full access to community and social services;
 - (ii) co-operate with the National Government during the national census to ensure that accurate figures of persons with disabilities are obtained in the County, for purposes of planning;
 - (iii) advise the County Executive Committee Member on the provisions of any national legislation or agreement relating to the welfare or rehabilitation of persons with disabilities and its benefits to the county;
 - (iv) recommend measures to prevent discrimination against persons with disabilities;
 - (v) put into operation schemes and projects for self-employment or regular or sheltered employment for the generation of income by persons with disabilities;
 - (vi) encourage and secure the rehabilitation of persons with disabilities within their own communities and social environment;
 - (vii) encourage and secure the establishment of vocational rehabilitation centres and other institutions and other services for the

CLERK

NAIROBI CITY

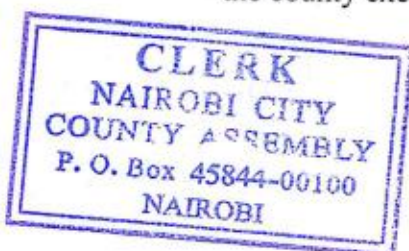
COUNTY ASSEMBLY

P. O. Box 45844-00100

NAIROBI

disabilities, including those controlled and managed by the County Government;

- (g) consult with the County Government in the formulation of suitable curricula for vocational rehabilitation centres and other training facilities for persons with disabilities;
 - (h) make provision for assistance to students with disabilities in the form of scholarships, loan programmes, fee subsidies and other similar forms of assistance in both public and private institutions;
 - (i) assess and report to the County Executive Committee Member on the welfare and rehabilitation of persons with disabilities and to advise on the relative priorities to be given to the implementation of those measures;
 - (j) consult with the County Government in the provision of suitable and affordable housing for persons with disabilities;
 - (k) generally to carry out measures for public information on the rights of persons with disabilities and the provisions of this Act;
 - (l) perform such other functions in relation to the welfare and rehabilitation of persons with disabilities as the Board may deem necessary; and
 - (m) perform such other functions as may be assigned to the Board under this or any other Act.
- (2) Without prejudice to the provisions of subsection (1), the Board shall have power to do all things that are necessary or convenient to be done for or in connection with the performance of its functions and in particular—
- (a) to conduct inquiries into any matter relating to the welfare and rehabilitation of persons with disabilities;
 - (b) to constitute committees consisting of its members, and where necessary to co-opt experts to serve on such committees with the approval of the county executive committee member;



- (b) the recruitment for employment;
- (c) the creation, classification or abolition of posts;
- (d) the determination or allocation of wages, salaries, pensions, accommodation, leave or other such benefits;
- (e) the choice of persons for posts, training, advancement, apprenticeships, transfer, promotion or retrenchment;
- (f) the provision of facilities related to or connected with employment; or
- (g) any other matter related to employment.

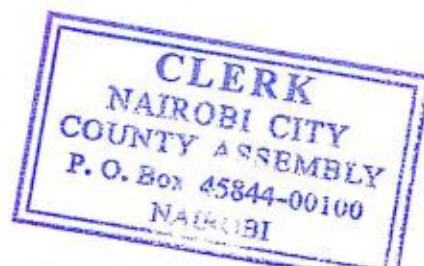
(2) Notwithstanding subsection (1), an employer shall be deemed not to have discriminated against a person with a disability if—

- (a) the act or omission alleged to constitute the discrimination was not wholly or mainly attributable to the disability of the said person;
- (b) the disability in question was a relevant consideration in relation to the particular requirements of the type of employment concerned; or
- (c) special facilities or modifications, whether physical, administrative or otherwise, are required at the work place to accommodate the person with a disability, which the employer cannot reasonably be expected to provide.

(3) A complaint by a person with a disability that his employer has discriminated against him in a way which is contrary to this Act may be presented to the Industrial Court through the appropriate trade union.

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

(5) An employer shall provide such facilities and effect such modifications, whether physical, administrative or otherwise, in the workplace as may reasonably be



- (f) availing field medical personnel to local health institutions for the benefit of persons with disabilities; and
- (g) prompt attendance by medical personnel to persons with disabilities.

16. (1) Persons with disabilities are entitled to a barrier-free and disability-friendly environment to enable them to have access to buildings, roads and other social amenities, and assistive devices and other equipment to promote their mobility.

Right to accessibility and mobility.

(2) A proprietor of a public building or public service vehicle shall adapt it to suit persons with disabilities in such manner as may be specified by the Board.

(3) All proprietors of public buildings shall comply with subsection (2) within five years after this section comes into operation while operators of public service vehicles shall comply with subsection (2) within two years after this section comes into operation.

(4) Right to information relating to persons with disabilities.

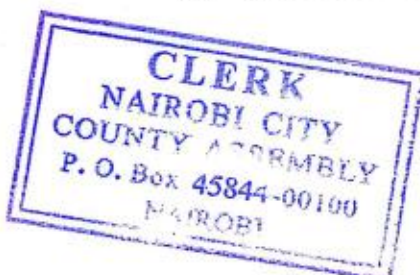
17. (1) This section shall apply to—

Adjustment orders

- (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 19, if the Board considers that any premises, service or amenities are inaccessible to persons with disabilities by reason of any structural, physical, administrative or other impediment to such access, the Board may, subject to this section, serve upon the owner of the premises or the provider of the services or amenities and 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 Board considers that



circumstances of the case, unreasonable; or

- (d) adequate access to the premises, services or amenities concerned may be secured without recourse to the action required by the adjustment order

(6) Upon hearing an appeal upon sub-section(5) the court may—

- (a) confirm, vary or set aside the adjustment order appealed against; and
- (b) make such order as to costs of the appeal as it finds necessary.

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

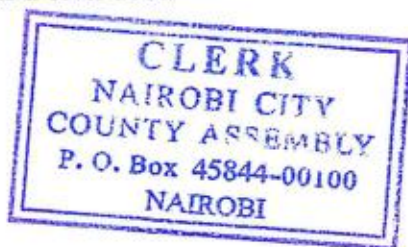
Denial of admission into premises, etc.

- (a) admission into any premises to which members of the public are ordinarily admitted; or
- (b) the provision of any services or amenities to which members of the public are entitled, unless such denial is motivated by a genuine concern for the safety of such person.

(2) The proprietor of premises referred to in subsection (1) (a) shall not have the right, on the ground of a person's disability alone, to reserve the right of admission to his premises against such a person.

(3) A person with a disability who is denied admission into any premises or the provision of any service or amenity contrary to subsection (1) shall be deemed to have suffered an injury and shall have the right to recover damages in any court of competent jurisdiction.

(4) Without prejudice to subsection (3), damages awarded under that subsection shall be recoverable summarily as a civil debt.



disabilities shall, within twelve months after this section comes into operation, apply in the prescribed manner to the Board for registration.

22. The rights set out under this part are in addition to, and do not derogate in any way with the rights set out under Article 54 of the Constitution.

Non-derogation

PART VI—MISCELLANEOUS PROVISIONS

23. (1) A person commits an offence if the person—

Failure to obey an adjustment order and discrimination.

- (a) fails to comply with an adjustment order issued under this Act;
- (b) discriminates against a person with disability contrary to this Act; or
- (c) on the ground of any ethnic, communal, cultural or religious custom or practice, discriminates against a person with a disability.

(2) A person who is convicted of an offence under subsection (1) is liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

(3) A person convicted 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.

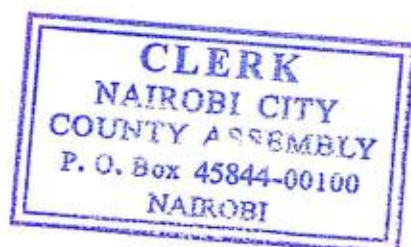
24. (1) No parent, guardian or next of kin shall conceal any person with a disability in such a manner as to deny such a person the rights set out under this Act or any other law.

Concealment of persons with disabilities.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

25. (1) 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 one hundred thousand shillings or to imprisonment for a term not exceeding one year, or to both

Negligence by doctor



SCHEDULE

(s. 5(7))

PROVISIONS ON THE BOARD

1. A member of the Board may—

- a. resign his office by notice in writing to the County Executive Committee Member; or
- b. be removed by the County Executive Committee Member by notice in writing if he or she—
 - (i) is subject to a vote calling for his removal by a two-thirds majority of all members of the Board;
 - (ii) has been absent from five consecutive meetings of the Board without permission of the chairperson;
 - (iii) is so incapacitated by prolonged physical or mental illness as to be unable to attend to and perform his duties;
 - (iv) is an undischarged bankrupt;
 - (v) is convicted by a Court of an offence punishable by a term of imprisonment; or
 - (vi) is otherwise unable or unfit to discharge his functions.

2. Where the office of a member becomes vacant the vacancy may with the approval of the county executive committee member be filled through the majority vote of the members for the remainder of the term.

3. The Board shall pay to its members such remuneration as the county executive committee member may approve.

4. The Board shall meet not less than four times in every year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

5. A meeting of the Board shall be held on such date and at such time as the Board shall decide, or in the absence of such a decision if the chairperson decides that a meeting is necessary, on a date and at a time determined by the chairperson.

