



ZIMBABWE

ACT

To provide for the promotion and protection of the rights and freedoms of persons with disabilities in accordance with the Constitution of Zimbabwe and the United Nations Convention on the Rights of Persons with Disabilities; to provide for the establishment of a Board for Persons with Disabilities; to repeal the Disabled Persons Act [*Chapter 17:01*]; and to provide for matters connected with or incidental to the foregoing.

Preamble

WHEREAS the Constitution of Zimbabwe envisages an open and democratic society based on values that include recognition of the human dignity of every person, equality of all human beings, respect for the fundamental human rights and freedoms of every person including those of children;

AND WHEREAS section 22 of the Constitution imposes upon the State the following obligations in regard to persons with disabilities—

“(1) The State and all institutions and agencies of government at every level must recognise the rights of persons with physical or mental disabilities, in particular their right to be treated with respect and dignity.

(2) The State and all institutions and agencies of government at every level must, within the limits of the resources available to them, assist persons with physical or mental disabilities to achieve their full potential and to minimise the disadvantages suffered by them.

(3) In particular, the State and all institutions and agencies of government at every level must—

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- (a) develop programmes for the welfare of persons with physical or mental disabilities, especially work programmes consistent with their capabilities and acceptable to them or their legal representatives;
- (b) consider the specific requirements of persons with all forms of disability as one of the priorities in development plans;
- (c) encourage the use and development of forms of communication suitable for persons with physical or mental disabilities; and
- (d) foster social organisations aimed at improving the quality of life of persons with all forms of disability.

(4) The State must take appropriate measures to ensure that buildings and amenities to which the public has access are accessible to persons with disabilities.”;

AND WHEREAS section 83 of the Constitution imposes further obligations on the State in regard to those persons—

“The State must take appropriate measures, within the limits of the resources available to it, to ensure that persons with disabilities realise their full mental and physical potential, including measures—

- (a) to enable them to become self-reliant;
- (b) to enable them to live with their families and participate in social, creative or recreational activities;
- (c) to protect them from all forms of exploitation and abuse;
- (d) to give them access to medical, psychological and functional treatment;
- (e) to provide special facilities for their education; and
- (f) to provide State-funded education and training where they need it.”;

AND WHEREAS protection of the rights of persons with disabilities leads to a corresponding improvement in the lives of other sections of the community because it is neither desirable nor possible to protect their rights in isolation from their families and communities;

AND WHEREAS Zimbabwe is a State party to the United Nations Convention on the Rights of Persons with Disabilities which states that persons with disabilities are entitled to special care and assistance;

AND WHEREAS it is necessary to afford persons with disabilities protection and assistance so that they take their places within their communities, develop their personalities to the full and grow up in an environment and atmosphere of happiness, love and understanding:

NOW, THEREFORE, be it enacted by the Parliament and the President of Zimbabwe as follows:—

1 Short title

(1) This Act may be cited as the Persons with Disabilities Act [*Chapter :...*].

(2) This Act shall come into operation on a date to be fixed by the President by notice in the *Gazette*.

2 Interpretation

In this Act, unless the context otherwise requires—

“Board” means the National Disability Affairs Board established in terms of section 4;

- “communication” includes languages, display of text, Braille, tactile communication, large print, accessible multimedia as well as written, audio, plain-language, human-reader and augmentative and alternative modes, means and formats of communication, including accessible information and communication technology;
- “Constitution” means the Constitution of Zimbabwe;
- “Convention” means the United Nations Convention on the Rights of Persons with Disabilities of 2006;
- “disability” means an evolving concept involving the interaction between persons with impairments, on one hand, and attitudinal and environmental barriers, on the other hand, that may have the effect of hindering persons with impairments from fully and effectively participating in society on an equal basis with others;
- “Deaf community” means the distinct linguistic and cultural group of people who use Zimbabwean Sign Language as their first or preferred language, who have common values and who also have a common way of interacting with each other and with hearing people;
- “Director” means Director of Disability Affairs referred to in section 5;
- “disability mainstreaming” means the inclusion of persons with disabilities in all aspects of development and humanitarian efforts;
- “habilitation service” means health care services that help a person with disabilities keep, learn or improve skills and functioning for daily living;
- “language” includes spoken and sign language and other forms of non-spoken languages;
- “Minister” means the Minister of Public Service, Labour and Social Welfare or any other Minister to whom the President may, from time to time, assign the administration of this Act;
- “organisation for persons with disabilities” means any entity however formed or incorporated whose purpose is to provide any rehabilitation or habilitation services for persons with disabilities or to promote and protect the rights of such persons;
- “organisation of persons with disabilities” means any entity however formed or incorporated whose membership is exclusively or predominantly composed of persons with disabilities and whose purpose is the promotion and protection of the rights of its members, or to engage in any gainful pursuit for the benefit of its members or both;
- “person with disabilities” means any individual who has any long-term physical, mental, intellectual or sensory impairment which because of various environmental, attitudinal, social or legal barriers may hinder his or her full and effective participation in society and enjoyment and exercise of all human rights and fundamental freedoms on an equal basis with others;
- “reasonable accommodation” in relation to sections 16, 22, 25, 34 and 37 means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure that persons with disabilities enjoy or exercise on an equal basis with others all human rights and fundamental freedoms;
- “Register of Organisations of and for Persons with Disabilities” means the register established under section 11 in which organisations for persons with disabilities and organisations of persons with disabilities are recorded;
- “Register of Projects” means the register established under section 12;

“rehabilitation service” in relation to persons with disabilities, means any service designed to restore, improve or maximise such person’s optimal level of functioning, self-care, self-independence and quality of life and to minimise impairments, disabilities and dysfunction caused by a serious and persistent physical, mental, intellectual or sensory impairment;

“universal design” means the design of goods, products, environment, equipment, facilities, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialised design and includes assistive devices for particular groups of persons with disabilities where this is needed, and the term “universally designed” in relation to goods, products, environment, equipment, facilities, programmes and services, shall be construed accordingly.

(2) In interpreting the rights under this Act, due regard shall be paid to the provisions of sections 22 and 83 of the Constitution and Article 4(2) of the Convention.

PART II

BOARD FOR PERSONS WITH DISABILITIES

3 National Disability Affairs Board

(1) There is hereby established a board to be known as the National Disability Affairs Board which shall consist of—

- (a) ten members appointed by the Minister from a panel of names submitted to him or her by organisations or associations which he or she considers represent persons with disabilities; and
- (b) one member appointed by the Minister in consultation with the Minister responsible for local government; and
- (c) one member appointed by the Minister in consultation with the Minister responsible for health; and
- (d) one member appointed by the Minister in consultation with the Minister responsible for education; and
- (e) one member appointed by the Minister from a list of not fewer than three persons submitted by an association or organisation which the Minister, in consultation with the Minister responsible for the administration of the Labour Act [Chapter 28:01], considers represents employers in Zimbabwe; and
- (f) one member appointed by the Minister from a list of not fewer than three persons submitted by an association or organisation which the Minister, in consultation with the Minister responsible for the administration of the Labour Act [Chapter 28:01], considers represents trade unions in Zimbabwe; and
- (g) one member appointed by the Minister from among persons employed in his or her Ministry; and
- (h) the Director of Disability Affairs who shall be an *ex-officio* member of the Board;
- (i) a member or members co-opted by the Board after consultation with the Minister:

Provided that the membership of the Board shall not exceed twenty.

(2) If any organisation or association referred to in subsection (1) (b), (f) and (g) fails to submit a list of persons within a reasonable time after being called upon by the Minister to do so, the Minister may appoint as members in terms of the paragraph

concerned any person whom he or she considers will adequately represent the interests of the organisation or association which failed to submit the list.

(3) In appointing the members of the Board, the Minister shall pay due regard to the provisions of sections 17 and 18 of the Constitution.

(4) The Minister shall designate one member appointed in terms of subsection (1) to be the Chairperson of the Board and designate another member appointed in terms of the same provision to be the Vice Chairperson and in so doing the Minister shall ensure that such office bearers are of different gender.

(5) The term of office of a member of the Board shall be four (4) years and a member's appointment shall only be renewable once.

(6) The qualifications, terms and condition of service and vacation of office of members of the Board shall be as specified in the Schedule.

(7) At any meeting of the Board a majority of its members shall constitute a quorum.

(8) The Minister may assign persons employed in his or her Ministry to perform such secretarial and administrative functions in connection with the Board as may be necessary for the performance of its functions.

4 Functions of Board

(1) The functions of the Board shall be—

(a) to formulate and develop measures and policies designed—

- (i) to achieve equal opportunities for persons with disabilities by ensuring, so far as possible, that they obtain education and employment, participate fully in sporting, recreation and cultural activities and are afforded full access to community and social services;
- (ii) to enable persons with disabilities, so far as possible, to lead independent lives;
- (iii) to give effect to any international treaty or agreement relating to the welfare or rehabilitation of persons with disabilities to which Zimbabwe is a party;
- (iv) to prevent discrimination against persons with disabilities resulting from or arising out of their disability;
- (v) to encourage and put into operation schemes and projects for the employment of or generation of income by persons with disabilities who are unable to secure employment elsewhere;
- (vi) to encourage and secure the rehabilitation of persons with disabilities within their own communities and social environment;
- (vii) to encourage and secure the establishment of vocational rehabilitation centres, social employment centres and other institutions and services for the welfare and rehabilitation of persons with disabilities;
- (viii) to co-ordinate services provided in Zimbabwe for the welfare and rehabilitation of persons with disabilities;
- (ix) to register—
 - A. persons with disabilities; and
 - B. institutions, associations and organizations, including those

controlled and managed by the State and local authorities, that provide services for the rehabilitation of persons with disabilities; and

- C. places at which services for the rehabilitation of persons with disabilities are provided;
- (x) to facilitate the provision of orthopaedic appliances and other equipment to persons with disabilities;
- (xi) to provide, so far as possible, all institutions, associations and organisations concerned with the welfare and rehabilitation of persons with disabilities, including institutions, associations and organisations controlled and managed by the State and local authorities, with access to available information and technical assistance;
- (xii) to provide, so far as possible, sponsor programmes to train skilled staff for the successful implementation of measures for the welfare and rehabilitation of persons with disabilities;
- (xiii) generally, to improve the social and economic status and condition of persons with disabilities and to advance their interests; and
- (b) to estimate, and report to the Minister on, the likely cost of proposed measures for the welfare and rehabilitation of persons with disabilities and to advise the Minister on the relative priorities to be given to the implementation of those measures; and
- (c) to keep measures for the welfare and rehabilitation of persons with disabilities under constant review and to reassess and evaluate those measures in the light of experience; and
- (d) to perform such other functions in relation to the welfare and rehabilitation of persons with disabilities as may be prescribed.

(2) Subject to subsection (3), 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) may conduct inquiries, including public inquiries, into any matter relating to the welfare and rehabilitation of persons with disabilities;
- (b) may appoint committees consisting of such persons, whether or not they are members of the Board, and on such terms and conditions, as the Board may determine;
- (c) may vest in or impose on any committee appointed in terms of paragraph (b) such of the functions of the Board as the Board, with the approval of the Minister, may determine;
- (d) may, on behalf of the State, engage or make other arrangements with any other person to carry out research for, or supply information or make submissions to, the Board on any matter relating to the welfare and rehabilitation of persons with disabilities.

(3) The Board shall not incur any expenditure on behalf of the State except with the approval of the Minister given with the concurrence of the Minister responsible for finance.

5 Director Disability Affairs

(1) The Department of Disability Affairs established in terms of the Disabled Persons Act [*Chapter 17:01*] shall continue to be in existence.

(2) There shall be a Director for Disability Affairs whose Office shall be a public office and form part of the Public Service.

(3) The functions of the Director shall be—

- (a) to formulate proposals for measures referred to in section 4(1)(a) for submission to the Board;
- (b) through liaison with the Ministries and local and other authorities involved, to secure the implementation of measures which have been recommended by the Board in terms of section 4(1)(a) and approved by the Minister;
- (c) to co-ordinate the activities of institutions, associations and organisations concerned with the welfare and rehabilitation of persons with disabilities;
- (d) to do such other things as may be prescribed by or in terms of this Act;
- (e) to act as the secretary to the Board;

(4) In the performance of his functions, the Director shall comply with any general directions or instructions that the Minister or the Board may give him or her.

6 Invited members

(1) The Board may invite persons to participate on a non-voting basis in one or more meetings of the Board if and when the need arises.

(2) A person invited under subsection (1) must be an expert or have special knowledge or experience to provide informed advice to the Board on any matter relating to persons with disabilities.

PART III

ADMINISTRATION

7 Strategic plans

(1) The Board shall—

- (a) formulate a five year strategic plan setting out the manner in which the Board proposes to perform its functions; and
- (b) review and revise the strategic plan on an annual basis.

(2) A strategic plan, or a revision of a strategic plan, shall have no effect until approved by the Minister.

(3) The first strategic plan shall be submitted to the Minister within six (6) months after the setting up of the Board and subsequent strategic plans must be submitted to the Minister within three (3) months of the preceding strategic plan or such longer or shorter time frame as the Minister may allow.

8 Reports of Board

(1) The Board shall submit an annual report, describing fully its operations and activities, to the Parliament through the Minister which report shall be submitted not later than the end of March in the year following the year to which the report relates.

(2) The report submitted in terms of subsection (1) shall include a copy of the following in relation to the Board—

- (a) a balance sheet; and
- (b) the income and expenditure account;
- (c) the annual report of the Auditors appointed in terms of section 14; and
- (d) a statement of capital expenditure reported upon by the Auditors showing

the general heads of such expenditure as compared with the figures provided for in the capital budget or supplementary capital budget approved for that financial year.

(3) The Minister may in regard to the Board's operations, undertakings and properties require that the Board to submit such other reports as the Minister sees fit.

(4) The report submitted in terms of subsection (1) and, with the leave of the Minister, any report submitted in terms of subsection (3) shall be laid before Parliament by the Minister within ten (10) days on which Parliament sits next after the Minister has received the reports.

(5) The reports submitted in terms of subsection (4) may provide for—

- (a) the nature and extent of any investigations undertaken by the Board in compliance with its mandate and a summary of its principal findings arising there from;
- (b) appropriate recommendations for legislative, executive, administrative and practical steps required to be taken to address the violation of rights of persons with disabilities and to promote those rights;
- (c) a comprehensive strategy for incorporating a disability perspective in planning, implementation, monitoring and evaluation of all Government programmes and policies;
- (d) any other work that the Board has undertaken during the period under review; or
- (e) any other matter or consideration it deems fit to bring to the attention of the Minister and Parliament.

(6) The Board shall publish every report referred to in subsection (1) laid before Parliament thirty days after the Minister is expected to have laid such report in terms of subsection (4).

9 Immunity

The Board, a committee established by the Board under the First Schedule, any member of the Board or a committee, the Director of Disability Affairs, a person invited to the Board under section 6 and a member of staff of the Board, shall not be held liable for any action, suit, proceeding, dispute or challenge in any court, tribunal or any other adjudicating body for or in respect of any act or omission done in good faith and or gross negligence in the exercise of his or her or its functions under this Act.

PART IV

REGISTRATION

10 Register of Organisations of and for Persons with Disabilities

(1) There is hereby established the Register of Organisations of and for Persons with Disabilities which shall be in the custody of the Board and administered by the Director of Disability Affairs in accordance with this section.

(2) Any organisation for persons with disabilities or organisation of persons with disabilities, wishing to receive any grant or other benefit from the State pursuant to the implementation of the National Plan of Action may on application to the Director of Disability Affairs in the prescribed form and manner and for the prescribed fee (if any), be recorded in the Register of Organisations.

(3) An organisation referred to in subsection (2) qualifies to be registered if it

satisfies the Director of Disability Affairs that—

- (a) it is in existence by furnishing proof of its formation or incorporation in the form of its constitution and—
 - (i) in the case of a common law association, a clause in its constitution establishing it as a corporate body, or in the case of any other association of a corporate character, a certificate of incorporation or registration or similar document under any law; and
 - (ii) the minutes of the meeting held by the organisation at which it was resolved for it to be registered; and
 - (b) the organisation is established to provide services to persons with disabilities for the purpose of implementing any projects which contribute to the wellbeing and development of persons with disabilities;
 - (c) it has been registered as a Private Voluntary Organisation under the Private Voluntary Organisation Act; and
 - (d) a list of the office bearers of the organisation, their addresses and occupations and written references in respect of each to show that they are fit and proper persons to be office bearers; and
 - (e) it has adequately disclosed the sources of its present or proposed funding; and
 - (f) it has furnished such additional information as may be prescribed or as the Board may reasonably require.
- (4) The Register must include, in relation to each organisation on the Register—
- (a) the organisation's registered name and registered contact address; and
 - (b) the manner of its formation or incorporation; and
 - (c) in the case of an organisation for persons with disabilities, the qualifications held by members of the organisation established to provide services to persons with disabilities; and
 - (d) a list of the members for the organisation; and
 - (e) any other information as may be prescribed or that the Board considers appropriate.

11 Register of projects

(1) The Director of Disability Affairs in consultation with the Board shall establish a register of projects qualifying for assistance under this Part implemented by organisations for and of persons with disabilities registered under this Part.

- (2) No project shall qualify to be registered unless if the project is designed—
- (a) to assist persons with disabilities in any suitable manner; or
 - (b) to seek and attract national and appropriate international expertise; or
 - (c) to promote the production of material, mobility aids, assistive devices or any other equipment required by persons with disabilities to enhance their independent living; or
 - (d) to promote the enjoyment of human rights by persons with disabilities.

(3) Any organisation wishing to register its project shall apply to the Director of Disability Affairs in the prescribed form and manner and for the prescribed fee.

(4) The register of projects shall be in the custody of the Director of Disability Affairs.

PART V

ACCOUNTS AND FINANCE

12 Funds of Board

- (1) The funds of the Board shall consist of—
- (a) such moneys guaranteed and appropriated by an Act of Parliament for the—
 - (i) programmes of the Board;
 - (ii) salaries and allowances payable to and in respect of Members of the Board and salaries and allowances payable to and in respect of the Board's staff; and
 - (iii) recurrent administrative expenses of the Board;
 - (b) any other moneys that may be payable to the Board from moneys appropriated for the purpose by an Act of Parliament;
 - (c) any donations, grants or bequests made by any person or organisation or any government of any country to the Board:

Provided that the Board shall accept such donations, grants or bequests in consultation with the Minister;

- (d) any other moneys that vest in or accrue to the Board, whether in terms of this Act or otherwise including fines, civil penalties, fees or loans.

13 Accounts of Board and appointment of Internal Auditor

(1) The Board shall ensure that proper accounts and other records relating to such accounts are kept in respect of all the Board's activities, funds and property, including such particular accounts and records as provided for by the Public Finance Management Act [*Chapter 22:19*] (No. 11 of 2009).

(2) As soon as possible after the end of each financial year, the Board shall prepare and submit to the Minister a statement of accounts in respect of that financial year or in respect of such other period as provided for by the Public Finance Management Act [*Chapter 22:19*] (No. 11 of 2009).

(3) Section 80 of the Public Finance Management Act [*Chapter 22:19*] (No. 11 of 2009), shall apply, with such changes as may be necessary, to the appointment of an Internal Auditor to the Board in all respects as if the Board were a Ministry or a department of a Ministry.

(4) The Board shall apply its funds to the fulfilment of its functions and shall further observe public finance management principles established in terms of section 298 of the Constitution.

14 Audit

(1) The Board shall cause its books of accounts to be audited once a year.

(2) The accounts of the Board shall be audited by the Auditor-General, who for that purpose shall have the functions conferred on him or her by sections 7 and 8 of the Audit Office Act [*Chapter 22:18*] (No. 12 of 2009).

(3) Any person under the authority or supervision of the Board who refuses to provide the Auditor-General with an explanation or information required by him or her for the purposes of an audit or knowingly provides the Auditor-General with a false explanation or information, or an explanation or information that the person has no grounds for believing to be true, shall be guilty of an offence and liable to a fine not

exceeding level 6 or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

PART VI

RIGHTS OF PERSONS WITH DISABILITIES AND ENFORCEMENT OF SUCH RIGHTS

15 Scope of discrimination on basis of disability

(1) For the purposes of this Part, “discrimination on the basis of disability” means —

- (a) 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 human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field;
- (b) any denial of reasonable accommodation.

(2) Affirmative action laws, programmes and policies to promote equality for persons with disabilities shall not constitute discrimination on the basis of disability, as long as such laws, programmes and policies are proportionate to the aim of promoting equality for persons with disabilities.

16 Equality and non-discrimination

(1) All persons with disabilities are entitled to equality with others and non-discrimination.

(2) All persons with disabilities have a right to respect for their physical and mental integrity on an equal basis with others.

(3) The Minister shall take all necessary steps within the power and competence of his or her Ministry to ensure that the rights of all persons with disabilities mentioned in subsections (1) and (2) are realised, in particular the Minister shall —

- (a) endeavour to rectify any action inconsistent with subsection (2) on the part of a State actor by enlisting the assistance of registered organisations for and of persons with disabilities;
- (b) take all appropriate steps, such as sensitivity training for all State actors, that will promote and accelerate the equality of persons with disabilities in the society.

(4) The Board shall make appropriate recommendations for amendment of the laws and practices in order —

- (a) to promote equality of persons with disabilities;
- (b) to eliminate discrimination against persons with disabilities;
- (c) to make other people aware of the integrity and dignity of persons with disabilities.

17 Accessibility

(1) In expansion of section 22(4) of the Constitution, all persons with disabilities shall have the following rights —

- (a) reasonable access to all indoor and outdoor places, public transport and information;
- (b) access to the use of sign language, Braille or other appropriate means of communication;

- (c) reasonable access to necessary materials, substances and devices relating to the person's impairment;
- (d) entitlement to reasonable adaptation of buildings, infrastructure, vehicles, working arrangements, rules, practices or procedures, to enable their full participation in society and the effective realisation of their rights;
- (e) in the case of buildings and other facilities open to the public, access to information, signage and forms in Braille and in easy to read and understand modes;
- (f) access to forms of live assistance and intermediaries, including guides, readers and professional sign language interpreters, to facilitate accessibility to buildings and other facilities open to the public.

(2) The Minister shall take all necessary steps within the power and competence of his or her Ministry to ensure that accessibility for persons with disabilities mentioned in subsection (1) is realised.

(3) The Board shall make appropriate recommendations for the amendment of the relevant laws and practices for the purposes of enhancing accessibility for persons with disabilities specified in subsection (1).

18 Children with disabilities

(1) In all actions concerning children with disabilities, the best interests of such children shall be of primary consideration.

(2) Children with disabilities have the right to express their views freely on all matters affecting them, their views being given due weight in accordance with their age and maturity, on an equal basis with other children, and to be provided with disability and age-appropriate assistance to realise that right.

(3) The Minister shall take all necessary steps within the power and competence of his or her Ministry to ensure that—

- (a) children with disabilities are able to enjoy their rights on an equal basis with others;
- (b) parents of children with disabilities receive necessary support, capacitating and training for the protection, promotion and respecting of human rights of children with disabilities.

(4) The Board shall make appropriate recommendations of the relevant laws and practices to ensure that—

- (a) children with disabilities enjoy their rights on equal basis with others;
- (b) parents of children with disabilities receive necessary support, capacitation and training for the protection, promotion and respecting of human rights of children with disabilities.

19 Women and girls with disabilities

(1) The Minister shall take all necessary steps within the power and competence of his or her Ministry to eliminate every form of discrimination against women and girls with disabilities.

(2) The Minister shall take all necessary steps within the power and competence of his or her Ministry to ensure that women and girls with disabilities—

- (a) enjoy human rights on an equal basis with others;
- (b) are empowered to enable them to enjoy human rights on an equal basis with others.

(3) The Board shall make recommendations for the amendment of the relevant laws and practices to ensure that—

- (a) all forms of discrimination against women and girls with disabilities are eliminated;
- (b) women and girls with disabilities enjoy rights on an equal basis with others.

20 Persons with multiple impairments

(1) The Minister, on the advice of the Board, shall take all necessary steps within the power and competence of his or her Ministry—

- (a) to protect the rights of persons with multiple impairments;
- (b) to minimise disadvantages experienced by persons with multiple impairments;
- (c) to ensure that persons with multiple impairments enjoy human rights on an equal basis with others.

(2) The Board shall make appropriate recommendations for the amendment of the relevant laws and practices to ensure that persons with multiple impairments realise their rights in the manner specified in subsection (1).

21 Disaster and humanitarian emergencies

(1) In consultation with other appropriate Ministers, the Minister shall endeavour to ensure that all persons with disabilities, on an equal basis with others, have the right to—

- (a) reasonable accommodation with regard to the protection and safety in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters;
- (b) access to information in their preferred languages or accessible formats.

(2) The Board shall make appropriate recommendations for the amendment of the relevant laws and practices to ensure that persons with disabilities realise their rights in the manner specified in subsection (1).

22 Right of autonomy and equal recognition before the law

(1) It is hereby affirmed that all persons with disabilities have the right of autonomy to the full extent that they are able to exercise it.

(2) It is an aspect of the right of autonomy that—

- (a) persons with any severe impairment who are unable themselves to exercise that autonomy personally have the right to exercise it through someone else of their choice and at their direction;
- (b) persons with disabilities have the right to enjoy legal capacity on an equal basis with others in all aspects of life and special measures to promote such equality and to support access to justice for persons with disabilities shall not constitute discrimination on the basis of disability.

(3) All persons with disabilities shall be entitled to the support they may require to exercise their right to full legal capacity.

(4) Every person providing support referred to in subsection (2)(a) shall—

- (a) respect the will and preferences of the individual benefiting from the support measures;

- (b) ensure that the support must not constitute any restriction to the individual's legal capacity.

(5) All persons with disabilities who are of sound mind are entitled, on an equal basis with others, to—

- (a) own or inherit property;
- (b) control their own financial affairs;
- (c) have equal access to bank loans, mortgages and other forms of financial credit.

(6) The Minister shall take all necessary steps within the power and competence of his or her Ministry to ensure that persons with disabilities enjoy their rights in the manner specified in this section.

(7) The Board shall make appropriate recommendations for the amendment of the relevant laws and practices to ensure that persons with disabilities enjoy their rights in the manner specified in this section.

23 Access to justice

(1) The Minister shall, in consultation with the Minister responsible for Justice, take all necessary steps within the power and competence of his or her Ministry to ensure that—

- (a) all persons with disabilities have the right to the provision of procedural and age-appropriate accommodations to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages;
- (b) persons with mental or intellectual impairments—
 - (i) are enabled themselves to make their own decisions to the extent they are able to; and
 - (ii) who are not capable of making their own decisions are afforded the necessary support so that such decisions are made on their behalf as are in their best interest;
- (c) appropriate measures in court proceedings for witnesses with multiple impairments shall be available for persons with disabilities;
- (d) all indigent persons with disabilities have access to free or affordable legal assistance in all legal proceedings on an equal basis with other indigent persons;
- (e) judicial officers, prosecutors, police officers, prison officers, lawyers and other actors in the justice delivery sector receive appropriate training of handling cases for persons with disabilities.

(2) Procedural and age-appropriate accommodations referred to in subsection

(1)(a) may include any one or more of the following—

- (a) enabling accompaniment during investigation or testimony by a chosen support person;
- (b) utilisation of alternative and augmentative communication, such as pictures and communication boards, to enable the person to fully communicate;
- (c) investigations performed by those who have experience and expertise in communicating with persons with disabilities, instead of by a standard police investigator;
- (d) utilisation of experts to remove misinformation regarding the impairment that may hinder courts from accepting the testimony, and assist in

understanding the witness' way of communication;

- (e) in the case of a person with hearing or speech impairment, the right to a sign language interpreter from the point of arrest, detention, trial and imprisonment;
- (f) assistance in court in formulating questions so that they are understood by the witness and children taking into account the children's evolving capacity;
- (g) the possibility of testifying without official attire, or in camera (in private) through video links or in the judge's chambers, without detracting from the weight and validity of the testimony;
- (h) sufficient time for giving testimony and appropriate breaks during proceedings;
- (i) provision of information about the proceedings in preferred language, form of communication or child-friendly formats;
- (j) establishing court procedures to enable a process for requesting accommodations;
- (k) any other measure that the Minister, in consultation with the Minister responsible for Justice, considers expedient and convenient to persons with disabilities in their attempt to access justice as witnesses, accused persons, plaintiffs, defendants, applicants, respondents, court officials or any other capacity.

(3) The Board shall make appropriate recommendations for the amendment of the relevant laws and practices to ensure that persons with disabilities are entitled to the right of accessing justice.

24 Liberty and security of person

- (1) All persons with disabilities have the right—
 - (a) not to be deprived of their personal liberty on the basis of the existence of an impairment or disability except in cases allowed by law;
 - (b) to reasonable accommodation if kept in custody; and
 - (c) to the protection of any applicable national and international legal measures to ameliorate the conditions of custody for persons with disabilities.

(2) The Minister in consultation with the Minister of Justice and other relevant Ministers shall take all necessary steps within the power and competence of his or her Ministry to ensure that all persons with disabilities enjoy the rights specified in subsection (1).

(3) The Board shall make appropriate recommendations for the amendment of the relevant laws and practices in order to enhance the enjoyment of the right to liberty by persons with disabilities in a manner consistent with this section.

25 Freedom from torture or cruel, inhuman or degrading treatment or punishment

- (1) The Minister shall take all necessary steps within the power and competence of his or her Ministry to ensure that—
 - (a) all persons with disabilities are entitled to freedom from torture or cruel, inhuman or degrading treatment or punishment;
 - (b) all persons with disabilities shall not be subjected, without consent of the concerned person, to medical or scientific experimentation;

- (c) measures are put in place to prevent persons with disabilities from being subjected to torture or cruel, inhuman or degrading treatment or punishment.

(2) The Board shall make appropriate recommendations for the amendment of the relevant laws and practices to ensure that persons with disabilities are protected from torture or cruel, inhuman or degrading treatment or punishment.

26 Freedom from exploitation, violence and abuse

(1) The Minister shall take all necessary steps within the power and competence of his or her Ministry to ensure that all persons with disabilities who are —

- (a) within and outside the home, have the right to be protected from all forms of exploitation, violence and abuse, including gender-based violence;
- (b) victims of any form of exploitation, violence or abuse shall have the right to accessible protective services which foster the health, welfare, self-respect, dignity and autonomy of such persons taking into account gender and age specific needs;
- (c) victims of any form of exploitation, violence or abuse shall have the right to have the exploitation, violence or abuse investigated by the appropriate authorities, and where relevant, prosecuted.

(2) The Board shall make appropriate recommendations for the amendment of the relevant laws and practices to ensure that persons with disabilities enjoy the freedom from exploitation, violence and abuse.

27 Liberty of movement and nationality

(1) The Minister shall take all necessary steps within the power and competence of his or her Ministry to ensure that all persons with disabilities have the right to liberty of movement, to freedom to choose their residence and to a nationality, on an equal basis with others, including —

- (a) the right to acquire and change a nationality and the right not to be deprived of their nationality arbitrarily or on the basis of impairment or disability;
- (b) the right not to be deprived, on the basis of impairment or disability, of their ability to obtain, possess and utilise documentation of their nationality or other documentation of identification, or to utilise relevant processes such as immigration proceedings, that may be needed to facilitate exercise of the right to liberty of movement;
- (c) the right to leave Zimbabwe unless prevented from doing so by a lawful act or order;
- (d) the right not to be deprived, arbitrarily or on the basis of impairment or disability, of the right to enter Zimbabwe;
- (e) the right of children with disabilities to be registered immediately after birth and to 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.

(2) The Board shall make appropriate recommendations for the amendment of the relevant laws and practices to ensure that persons with disabilities enjoy their liberty of movement and nationality.

28 Living independently and being included in community

(1) The Minister shall take all necessary steps within the power and competence of his or her Ministry to ensure that all persons with disabilities —

- (a) have the right to live in the community, with choices equal to others, and to full enjoyment of this right and of their full inclusion and participation in the community, including—
 - (i) the right to be given the opportunity to choose their place of residence and where and with whom they live on an equal basis with others;
 - (ii) the right not to be obliged to live in a particular living arrangement except in cases equally applicable to enabled persons allowed by the law;
- (b) have the right to access a range of in-home, residential and other community support services, including personal assistance necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community;
- (c) have the right to community services and facilities which are available for the general population on an equal basis and in a way that is responsive to their needs.

(2) The Board shall make appropriate recommendations for the amendment of the relevant laws and practices to facilitate the independent living and inclusion of persons with disabilities in the community.

29 Personal mobility

(1) The Minister shall take all necessary steps within the power and competence of his or her Ministry to ensure that all persons with disabilities enjoy the right to personal mobility and the greatest possible independence in that regard, including—

- (a) implementing any national or local programme to facilitate personal mobility of persons with disabilities in a manner that is cost effective;
- (b) 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) the progressive provision of personal assistants to persons with disabilities;
- (d) training in mobility skills to persons with disabilities and specialist staff to work with persons with disabilities.

(2) The Board shall make appropriate recommendations for the amendment of the relevant laws and practices to promote personal mobility of persons with disabilities.

30 Freedom of expression and opinion and access to information

(1) The Minister shall take all necessary steps within the power and competence of his or her Ministry to ensure that all persons with disabilities have the right to exercise the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis with others and through all languages or forms of communication of their choice, including—

- (a) information intended for the general public in accessible formats and technologies appropriate to different kinds of impairments in a timely manner and without additional cost;
- (b) the use of sign languages, Braille, augmentative and alternative communication, and all other accessible means, modes and formats of communication of their choice in official interactions;
- (c) the right to the use of sign language.

(2) The Board shall make appropriate recommendations for the amendment of the relevant laws and practices to promote the enjoyment of freedom of expression

and access to information by persons with disabilities.

31 Respect for privacy

(1) The Minister shall take all necessary steps within the power and competence of his or her Ministry to ensure that—

- (a) no person with disabilities, regardless of place of residence or living arrangements, shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence or other types of communication or to unlawful attacks on his or her honour and reputation;
- (b) all persons with disabilities have the right to the protection of the law against such interference or attacks;
- (c) there are adequate protection measures for the privacy of personal, health and rehabilitation information of persons with disabilities on an equal basis with others.

(2) The Board shall make appropriate recommendations for the amendment of the relevant laws and practices to ensure that persons with disabilities enjoy the right to privacy on an equal basis with others.

32 Respect for home and family

(1) The Minister shall take all necessary steps within the power and competence of his or her Ministry to ensure that all persons with disabilities have the right to freedom from discrimination in all matters relating to marriage, family, parenthood and relationships, on an equal basis with others, so as to ensure that—

- (a) the right of all persons with disabilities who are of marriageable age to marry and to found a family on the basis of free and full consent of the intending spouses is recognised;
- (b) the rights of persons with disabilities to decide freely and responsibly on the number and spacing of their children and to have access to age-appropriate information, reproductive and family planning education are recognised, and the means necessary to enable them to exercise these rights are provided;
- (c) persons with disabilities, including children, retain their fertility on an equal basis with others;
- (d) in cases of the rights and responsibilities of persons with disabilities, with regard to guardianship, custody, maintenance or adoption of children the best interests of the child shall be paramount;
- (e) no child must be separated from his or her parents or guardians against the child's will, except in accordance with the relevant law in force and only on the ground that such separation is necessary for the best interests of the child;
- (f) no child must be separated from their parents or guardians on the basis of an impairment of either the child or one or both of the parents or guardians.

(2) Children with disabilities have equal rights with respect to family life and in realising these rights, and to prevent concealment, abandonment, neglect and segregation of children with disabilities, the Minister shall ensure that there is adequate provision of early and comprehensive information, services and support to children with disabilities and their families.

(3) The Board shall make appropriate recommendations for the amendment of the relevant laws and practices to ensure that persons with disabilities enjoy the rights specified in subsections (1) and (2).

33 Education

(1) The Minister shall take all necessary steps within the power and competence of his or her Ministry to ensure that all persons with disabilities—

- (a) have the right to education in their preferred language and communication;
- (b) have a right to education without discrimination and on the basis of equal opportunity, and such education shall be inclusive and lifelong;
- (c) are not excluded from the general education system, including tertiary education on the basis of impairment or disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, or from tertiary education on the basis of impairment or disability;
- (d) can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live;
- (e) are entitled to reasonable accommodation measures based on individual's requirements;
- (f) receive the support required, within the general education system, to facilitate their effective education;
- (g) receive effective individualised support measures in the environment that maximises academic and social development, consistent with the goal of full inclusion.

(2) The Minister shall take all necessary steps within the power and competence of his or her Ministry to ensure that the right to education for persons with disabilities shall promote—

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

(3) The Minister shall take all necessary steps within the power and competence of his or her Ministry to ensure that persons with disabilities have the right to learn life and social development skills to facilitate their full and equal participation in education and as members of the community including—

- (a) 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;
- (b) the learning of sign language and the promotion of the linguistic identity of the deaf community;
- (c) ensuring that the education of persons, and in particular children, who are blind, deaf or dumb, is delivered in the most appropriate languages and modes and means of communication for the individual, and in the environment which maximises academic and social development;
- (d) the right to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others;

- (e) the right to reasonable accommodation while pursuing education.

(4) The Minister, acting in consultation with the Minister responsible for Primary and Secondary Education and the Minister responsible for Higher and Tertiary Education, shall take all necessary steps within the power and competence of his or her Ministry to ensure that all persons with disabilities enjoy the right to education at all levels as provided for in this section.

(5) The Board shall make recommendations for the amendment of the relevant laws and practices to ensure that persons with disabilities enjoy the right to education in the manner specified in this section.

34 Health

(1) The Minister shall take all necessary steps within the power and competence of his or her Ministry to ensure that all persons with disabilities—

- (a) have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability;
- (b) have the right to the same range, quality and standard of free or affordable health care and programmes, including in the area of sexual and reproductive health and population-based public health programmes;
- (c) have the right to appropriate health services including early identification and intervention as appropriate, and services designed to minimise and prevent further impairments, including among children and older persons;
- (d) have the right to health services as close as possible to their own communities, including in rural areas;
- (e) have the right to health care of the same quality as is given to others, including on the basis of free and informed consent, patient autonomy and medical and nursing ethics;
- (f) shall enjoy freedom from discrimination in the provision of health insurance which shall be provided in a fair and reasonable manner;
- (g) have the right to freedom from discrimination, denial of health care or health services or of food and fluids on the basis of disability;
- (h) in particular, persons with albinism shall be entitled to the necessary support;
- (i) shall be entitled to health services which shall be provided to persons with disabilities in languages and forms of communication appropriate for persons with disabilities.

(2) The Minister, acting in consultation with the Minister responsible for Health, shall take all reasonable steps to ensure that all persons with disabilities enjoy the right to health as provided for in this section.

(3) The Board shall make appropriate recommendations for the amendment of the relevant laws and practices to ensure that persons with disabilities enjoy the right to health in the manner specified in this section.

35 Habilitation and rehabilitation

(1) The Minister shall take all necessary steps within the power and competence of his or her Ministry—

- (a) to enable persons with disabilities to attain and maintain maximum independence, full physical, mental, social and vocational ability, and full inclusion and participation in all aspects of life;

- (b) to organise, strengthen and extend comprehensive habilitation and rehabilitation services and programmes, particularly in the areas of health, employment, education and social services, in such a way that these services and programmes —
 - (i) begin at the earliest possible stage and are based on the multidisciplinary assessment of individual needs and strengths;
 - (ii) support participation and inclusion in the community and all aspects of society are voluntary and are available to persons with disabilities as close as possible to their own communities including in rural areas;
- (c) to promote the development of initial and continuing training for professionals and staff working in the habilitation and rehabilitation services;
- (d) to promote the availability, knowledge and use of assistive devices and technologies designed for persons with disabilities as they relate to habilitation and rehabilitation.

(2) The Board shall make appropriate recommendations for the amendment of the relevant laws and practices to promote access to habilitation and rehabilitation services and programmes by persons with disabilities.

36 Work and employment

(1) The Minister shall take all necessary steps within the power and competence of his or her Ministry to ensure that all persons with disabilities —

- (a) have the right to work, on an equal basis with others and this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to all persons with disabilities;
- (b) have the right to be free from 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;
- (c) have the right on an equal basis with others, to just and favourable conditions of work, including equal opportunities and equal remuneration for work of equal value, safe working conditions, including protection from harassment and the redress of grievances;
- (d) have the right to exercise their labour and trade union rights on an equal basis with others;
- (e) have the right to have effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training;
- (f) shall be protected from servitude, and are protected, on an equal basis with others, from forced or compulsory labour.

(2) Programmes policies and laws shall not be discriminatory if they are proportionate to the objects and rights set out in this section and if they are intended —

- (a) to promote employment opportunities and career advancement for persons with disabilities in the labour market, as well as assistance in finding, obtaining, maintaining and returning to employment;
- (b) to promote opportunities for self-employment, entrepreneurship, the development of cooperatives and starting one's own business;
- (c) to employ persons with disabilities in the public sector;

- (d) to promote the employment of persons with disabilities in the public, private and other sectors through appropriate policies and measures, which may include affirmative action programmes, incentives and other measures;
- (e) to ensure that reasonable accommodation is provided to persons with disabilities in the workplace;
- (f) to promote the acquisition by persons with disabilities of work experience in the open labour market;
- (g) to promote vocational and professional rehabilitation, job retention and return-to-work programmes for persons with disabilities.

(3) Two years after this Act has become law, government institutions and parastatals, with a minimum number of fifty (50) employees, shall ensure that two (2) *per centum* of its total workforce shall be persons with disabilities:

Provided that the Board shall, before the expiry of two years, require government institutions and parastatals to submit to it a proposed plan of how they shall comply with the provisions of this subsection.

(4) For purposes of calculating two (2) *per centum* referred to in subsection (3), number of persons with disabilities that the government institutions and parastatals must have employed shall be rounded upwards to the nearest whole number.

(5) Government institutions and parastatals who employ more persons with disabilities that exceeds the quota of two (2) *per centum* referred to in subsection (3) shall be entitled to benefit from any programme of the Board funded partly or wholly by monies from the Disability Fund to assist them to make the necessary accommodation to employ persons with disabilities.

(6) Private corporates shall be awarded with a tax credit of fifty United States dollars (US\$50) equivalent of Zimbabwe local currency per month, per employee with disabilities, up to a maximum of \$US2 500 per year of assessment.

(7) The Board shall make appropriate recommendations for the amendment of the relevant laws and practices to ensure that persons with disabilities enjoy the right to work and employment.

37 Adequate standard of living and social protection

(1) The Minister shall take all necessary steps within the power and competence of his or her Ministry to ensure that all persons with disabilities have the right to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of living conditions and in particular the right to an adequate standard of living and social protection includes—

- (a) access to clean water;
- (b) access by persons with disabilities, in particular women and girls with disabilities and older persons with disabilities, to social protection programmes and poverty reduction programmes;
- (c) access by persons with disabilities and their families living in situations of poverty to assistance from the State with disability related expenses, including adequate training, counselling, financial assistance and respite care;
- (d) access by persons with disabilities to public housing programmes;
- (e) equal access by persons with disabilities to retirement benefits and programmes.

(2) The Board shall make appropriate recommendations for the amendment of the relevant laws and practices to ensure that persons with disabilities enjoy the right to an adequate standard of living and social protection.

38 Participation in political and public life

(1) The Minister shall take all necessary steps within the power and competence of his or her Ministry to ensure that all persons with disabilities have the right to 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.

(2) The Minister shall, in consultation with other appropriate Ministers endeavour to take necessary steps to ensure that at least one (1) member of every decision making body of the State and of every entity controlled by the State having at least five (5) members shall be a person with a disability, to the end that every such body shall be compliant with this subsection no later than five (5) years after commencement of this Act.

(3) In implementation of subsection (2) the President may —

- (a) in the case of entities that are not independent, issue policy directions to the relevant Ministers responsible for the administration of the public entities referred to in subsection (2) to comply with the requisite percentage specified by the Minister;
- (b) in the case of independent entities, issue policy directions to the relevant Board responsible for the administration of the public entities referred to in subsection (2) to comply with the requisite percentage specified by the Minister;
- (c) request for further particulars from the Minister before issuing policy directions;
- (d) request for representations from the Minister or Board, as the case may be, responsible for the administration of the public entity concerned.

(4) The Board shall make appropriate recommendations for the amendment of the relevant laws and practices to enhance the participation of persons with disabilities in political and public life.

39 Participation in cultural life, recreation, leisure and sport

(1) The Minister shall take all necessary steps within the power and competence of his or her Ministry to ensure that all persons with disabilities have the right to take part on an equal basis with others in cultural life, and shall take all appropriate measures to ensure that persons with disabilities —

- (a) enjoy access to cultural materials in accessible formats;
- (b) enjoy access to television programmes, films, theatre and other cultural activities, in accessible formats; and
- (c) enjoy access to places for cultural performances or services, such as theatres, museums, cinemas, libraries and tourism services, and, as far as possible, enjoy access to monuments and sites of national cultural importance.

(2) The Minister shall take all necessary steps within the power and competence of his or her Ministry to ensure that all persons with disabilities —

- (a) have the right to have the opportunity to develop and utilise their creative, artistic and intellectual potential, not only for their own benefit, but also for the enrichment of society;

- (b) have the right on an equal basis with others, to recognition and support of their specific cultural and linguistic identity, including sign languages, deaf culture and deaf blind mode of communication;
- (c) shall have the opportunity —
 - (i) to participate, to the fullest extent possible, of persons with disabilities in mainstream sporting activities at all levels;
 - (ii) to have an opportunity to organise, develop and participate in disability specific sporting and recreational activities on an equal basis with others, and to have access to appropriate instruction, training and resources;
 - (iii) to ensure access to sporting, recreational and tourism venues;
 - (iv) where children have disabilities, to have equal access with other children to participation in play, recreation and leisure and sporting activities, including those activities in the school system;
 - (v) to have access to services from those involved in the organisation of recreational, tourism, leisure and sporting activities.

(3) The Board shall make appropriate recommendations for the amendment of the relevant laws and practices to enhance the participation of persons with disabilities in cultural life, recreation, leisure and sport.

40 Awareness raising

(1) The Minister shall take all necessary steps within the power and competence of his or her Ministry —

- (a) to raise awareness throughout society, including at the family level, regarding persons with disabilities and foster respect for the rights and dignity of persons with disabilities;
- (b) to combat stereotypes, prejudices and harmful practices relating to persons with disabilities including those based on sex and age in all areas of life;
- (c) to promote awareness of the capabilities and contributions of persons with disabilities;
- (d) to foster at all levels of the education system, including in all children from an early age, an attitude of respect for the rights of persons with disabilities;
- (e) to encourage the media to portray persons with disabilities in a manner consistent with the Constitution, this Act and the Convention;
- (f) to promote awareness training programmes regarding persons with disabilities and the rights of persons with disabilities;
- (g) to disseminate awareness and knowledge of this Act and the Convention throughout society;
- (h) to ensure that persons with disabilities are educated on their rights.

(2) The Board shall make appropriate recommendations for the amendment of the relevant laws and practices to enhance awareness raising in a manner consistent with this section.

41 Adjustment orders by Board

- (1) This section shall apply to any —
 - (a) premises 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; and
- (c) including premises owned or services or amenities provided by any statutory corporation or local authority.

(2) Where the Board considers that any premises, services or amenities referred to in subsection (1) 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 service or amenity concerned an adjustment order—

- (a) setting out—
 - (i) a full description of the premises, service or amenity concerned; and
 - (ii) the grounds upon which the Board considers that the premises, service or amenity is inaccessible to persons with disabilities; and
- (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, service or amenity 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 in terms of subsection (2) the Board shall serve notice upon the person concerned—

- (a) specifying the grounds upon which the adjustment order is to be issued and the nature of the action which the Board considers necessary to rectify the situation which has given rise to the proposed order; and
- (b) stipulating the maximum period that the Board considers reasonable for the implementation of the action it proposes to order; and
- (c) calling upon the person concerned, if he wishes to make representations, to make them to the Board within thirty (30) days from the date of the service of the notice.

(4) After considering any representations made in terms of subsection (3), the Board may issue, or refrain from or defer issuing, an adjustment order.

(5) A person upon whom an adjustment order is served in terms of subsection (2) may, within thirty (30) days of the service of the adjustment order, appeal to the High Court against such order on the ground that—

- (a) the person concerned cannot reasonably be expected to bear the whole or any part of the expense required in implementing the adjustment order; or
- (b) the period stipulated for implementing the adjustment order is unreasonable; or
- (c) the nature of the action required to be taken in terms of the adjustment order is, in the circumstances of the case, unreasonable; or
- (d) adequate access to the premises, service or amenity concerned may be secured without recourse to the action required by the adjustment order or on any other ground.

(6) Upon hearing an appeal in terms of subsection (5) the High Court may—

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

(7) Any person who contravenes an adjustment which has been served on him in terms of this section and with which it is his duty to comply shall be guilty of an offence and liable to a fine not exceeding level 7 or imprisonment for a period not exceeding one (1) year or to both such fine and such imprisonment.

42 Adjustment order by High Court

(1) Any person referred to in subsection (2) may by action in the High Court seek an adjustment order against any person responsible for any premises, services or amenities referred to in section 42(1) in the same circumstances and in the same terms as the Board is empowered to make such an order under section 42.

(2) An action under subsection 1 may be instituted by—

- (a) any person with disability or any organisation representing persons with disabilities; or
- (b) subject to sections 23 and 24, any person acting on behalf of another person who cannot act for himself or herself;
- (c) any member acting as a member, or in the interest, of a group or class of persons;
- (d) any person acting in the public interest;
- (e) the Zimbabwe Human Rights Board.

43 Inspectors

(1) The Minister shall designate certain members of the Ministry to be inspectors for purposes of enforcing the provisions of the Act.

(2) In designating staff members of the Ministry as Inspectors, the Minister shall issue each Inspector a certificate.

(3) In order to monitor and enforce compliance with this Act and, subject to the conditions of his or her appointment, an inspector may—

- (a) enter any premises; and
 - (b) question any persons employed on the premises; and
 - (c) inspect, make copies of and take extracts from or remove any books, records or other documents;
- connected with or related to the practice of the person investigated and report to the Council:

Provided that an investigator shall not enter any premises without the consent of the owner or occupier unless there are reasonable grounds for believing that the entry is necessary for the prevention, investigation or detection of an offence.

(4) An inspector must immediately before entering premises or workplace in accordance with this section—

- (a) identify himself or herself and demand admission to the premises or workplace;
- (b) notify the person in control of the premises or workplace of the purpose of the entry, unless there are reasonable grounds to believe that such notification might defeat the purpose of the search; and
- (c) on request of the person in charge of such premises or workplace, produce the certificate referred to in subsection (2) to that person.

(5) An inspector entering any premises or workplace referred to in subsection (4) may be accompanied by an interpreter, police officer or both.

(6) An inspector who enters and inspects any premises under this section must conduct the entry and inspection with strict regard for decency and order, and with regard to each person's right to dignity, freedom, security and privacy.

(7) An inspector who removes anything from premises or workplace being searched must—

- (a) issue a receipt for it to the owner or person in control of the premises or workplace, as the case may be; and
- (b) return it as soon as practicable after it has served the purpose for which it was removed.

(8) Any person who fails to co-operate and furnish assistance to an inspector as contemplated in subsection (3) shall be guilty of an offence and liable to a fine not exceeding level 6 or to imprisonment for a period not exceeding one (1) year or to both such fine and such imprisonment.

PART VII

ASSISTANCE FUND FOR PERSONS WITH DISABILITIES

44 Establishment of Assistance Fund for Persons with Disabilities

(1) There is hereby established a Fund to be known as the Assistance Fund for Persons with Disabilities.

(2) The Minister and the Board shall respectively be the trustee and the administrator of the Fund.

(3) The Board shall administer the Fund subject to any directions given to it by the Minister

(4) The administration of the Fund shall be conducted on its behalf by the Director of the Board subject to any directions given to him or her by the Board.

45 Income of Fund

The Fund shall consist of—

- (a) moneys appropriated for the purpose of the Fund by Parliament; and
- (b) any gifts or grants made to the Fund by any person or authority or by the government of any country; and
- (c) any interest derived from or increase in any assets of the Fund in any form whatsoever; and
- (d) any other moneys to which the Fund may be lawfully entitled.

46 Object of Fund

Subject to this Act, the object to which the Fund is to be applied shall be the promotion of the rights of persons with disabilities.

47 Application of Fund

(1) In order to give effect to the object of the Fund, the Fund shall give grants for the purpose of any one or more of the following—

- (a) establishing, running and maintenance of vocational training centres for persons with disabilities;
- (b) facilitating manpower development with a view to providing persons with disabilities with academic, technical, vocational or other skills or

any other training necessary to equip them for employment or gainful occupation;

- (c) facilitating physical, mental or social rehabilitation of persons with disabilities;
- (d) assisting persons with disabilities involved in income-generating projects, whether as individuals or as members of groups, associations or co-operative societies;
- (e) subsidising assistive devices and technologies for persons with disabilities;
- (f) for scholarships to persons with disabilities as part of a collective scholarship scheme;
- (g) for schemes for training and certifying personal assistants of persons with disabilities;
- (h) facilitating programmes of persons with disabilities for the registered organisations for persons with disabilities and organisations of persons with disabilities.

(2) A portion of the monies of the Fund may be applied towards the expenses of administering the Fund but such portion shall not exceed two point five (2.5) *per centum* of the projected revenue of the Fund for the financial year in question.

48 Holding of Fund

(1) All moneys received on behalf of the Fund shall be paid into a banking account and no moneys shall be withdrawn there from except by means of cheques or transfer signed by such persons as are authorised in that behalf by the Board.

(2) Moneys of the Fund not immediately required for the purpose of the Fund may be invested in such manner as the Board, in consultation with the Minister, may determine.

49 Part VII to apply to Disability Fund

Part VII shall apply with necessary changes to the Disability Fund in relation to the keeping of accounts and auditing of the Fund.

PART VIII

MISCELLANEOUS PROVISIONS

50 Power of Minister to issue directives

(1) The Minister may give the Board such general directions relating to the policy the Board is to observe in the exercise of its functions as the Minister considers to be necessary in the national interest, which policy directions must—

- (a) not be inconsistent with any provision of this Act; and
- (b) be issued in good faith, apply prospectively and not retrospectively, and be of general applicability; in particular the policy directions—
 - (i) must not be issued in relation to any particular application or appeal pending before the Board and must not apply so as to influence or direct the Board on the outcome of any particular application, appeal or other matter that is being considered by the Board immediately before the directions are issued; or
 - (ii) must not prejudice the application of the rules of natural justice by the Board in the exercise of its quasi-judicial functions;

- (c) clearly delimit the scope of their application and must otherwise not be vague or ambiguous in their terms;
- (d) clearly express the national interest at stake;
- (e) must be clear (whether expressly or by necessary implication) that they apply or are in force for a fixed or indefinite period, or that they expire on the happening of any event.

51 Seal of Board

(1) The Board shall have for use as occasion may require, a seal of such design as may be prescribed by the Minister.

(2) The seal of the Board shall be kept in the custody of the Director of Disability Affairs.

52 Reviews or decision

(1) Any person who is dissatisfied by the decision of the Board or the Director for the Department of Disability Affairs, may, within thirty days, appeal to the Minister in writing.

(2) Upon receiving the appeal in terms of subsection (1), the Minister shall, within ten (10) days after receiving all the information which he or she may request pursuant to the appeal noted, communicate in writing his or her decision to the appellant.

(3) Any person who is dissatisfied by the Minister's decision shall, within thirty days, appeal to the High Court.

(4) A person who is aggrieved by the decision of the Minister under subsection (3), may refer the matter for review by the High Court, whereupon it may —

- (a) uphold the decision of the Minister; or
- (b) overturn the decision of the (with or without directions on how to proceed with the application) on any one or more of the following grounds —
 - (i) allowing extraneous or irrelevant considerations to affect the decision; or
 - (ii) failure to take into account relevant considerations in arriving at the decision; or
 - (iii) any material mistake of fact or law that tainted the decision; or
 - (v) gross but unwilful irregularity in the proceedings or the decision of any person involved in making or contributing to the decision; or
 - (vi) interest in the cause, bias, malice or corruption on the part of any person involved in making or contributing to the decision;

or

- (c) where there is a substantive factual dispute that cannot be resolved by the High Court on the evidence before it, or where the matter had previously been referred by the High Court to the Minister for investigation and report but the High Court is not satisfied with the report for any reason, refer the matter to the Minister with a direction to investigate the matter further and make a further report and recommendations to the Court (on the basis of which report the Court may then proceed in terms of paragraph (a) or (b)).

53 Regulations

(1) The Minister, after consultation with the Board, may make regulations prescribing matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Regulations referred to in subsection (1) may provide for—

- (a) the establishment of inclusive workshops for the training and employment of persons with disabilities;
- (b) the manner in which registers established in terms of this Act may be kept;
- (c) the manner in which impairment may be assessed to determine level of support needs for persons with disabilities;

(3) Regulations referred to in subsection (1) may provide for—

- (a) fines which shall not exceed level six (6) or imprisonment for a period not exceeding one (1) year or both;
- (b) civil penalties which shall not exceed level six, which may accrue on daily basis up to maximum of one hundred and eighty days;

for the contravention of the regulations.

54 Repeal

The Disabled Persons Act [*Chapter 17:01*] is hereby repealed.

55 Savings

Notwithstanding the repeal of the Disabled Persons Act [*Chapter 17:01*], anything made, done or commenced under that Act which, on the date of commencement of this Act had or was capable of having force or effect shall, on or after that date, continue to have or to be capable of acquiring, as the case may be, the same force or effect as if it had been made, done or commenced under this Act.

SCHEDULE ((Section 3(6))

CONDITIONS FOR BOARD

Appointment of members of Board

1. In the appointment of members of the Board in terms of this Act, the Minister shall observe the provisions of sections 17 and 18 of the Constitution.

Terms of office and conditions of service of members

2. (1) A member shall hold office for a term of four years which may be renewable for one additional term only.

(2) Subject to paragraph 9 a member shall hold office on such terms and conditions as the Minister may fix.

(3) A member shall vacate his or her office on expiry of the period for which the Member has been appointed.

(4) The term of office of the Members may be renewable subject to section 340 of the Constitution.

Disqualification for appointment as member

3. (1) The Minister shall not appoint a person as a member and no person shall be qualified to hold office as a member if he or she—

- (a) is not a citizen of Zimbabwe or ordinarily resident in Zimbabwe; or

- (b) is married to a person who is engaged in any activity connected with any business, if in the opinion of the Minister such financial interest or activity is likely to interfere with the impartial discharge by that person of his or her duties as a member; or
- (c) has, in terms of a law in force in any country—
 - (i) been adjudged or otherwise declared insolvent or bankrupt and has not been rehabilitated or discharged; or
 - (ii) made an assignment to, or arrangement or composition with, his or her creditors which has not been rescinded or set aside;
- (d) has, within the period of five years immediately preceding the date of his or her proposed appointment, been convicted—
 - (i) in Zimbabwe, of an offence; or
 - (ii) outside Zimbabwe, in respect of conduct which if committed in Zimbabwe would constitute an offence; and sentenced to a term of imprisonment imposed without the option of a fine, whether or not any portion has been suspended, and has not received a free pardon.

(2) A person who is—

- (a) a member of Parliament; or
- (b) a member of two or more other statutory bodies;

shall not be appointed as a member, nor shall he or she be qualified to hold office as a member.

(3) For the purpose of subparagraph (2)(b)—

- (a) a person who is appointed to a council, board or other authority which is a statutory body or which is responsible for the administration of the affairs of a statutory body, shall be regarded as a member of that statutory body;
- (b) “statutory body” means—
 - (i) any Board established by the Constitution; or
 - (ii) any body corporate established-directly by or under an Act for special purposes specified in that Act, the membership of which consists wholly or mainly of persons appointed by the President, Vice President, a Minister or a statutory body or by a Board established by the Constitution.”.

Vacation of office by member

4. A member shall vacate his or her office and the member’s office shall become vacant—

- (a) one month after the date upon which he or she gives notice in writing to the Minister of his or her intention to resign or on the expiry of such other period of notice as the member and the Minister may agree; or
- (b) on the date he or she begins to serve a sentence of imprisonment imposed in Zimbabwe without the option of a fine—
 - (i) in Zimbabwe, in respect of an offence; or
 - (ii) outside Zimbabwe, in respect of conduct which if committed in Zimbabwe, would constitute an offence; or
- (c) if he or she becomes disqualified in terms of paragraph 3(1)(a) to (d) to hold office as a member; or

if he or she is required in terms of paragraph 4A to vacate his or her office.

Dismissal or suspension of members

5. (1) The Minister may require a member to vacate his or her office if the member—

- (a) has been guilty of any conduct that renders him or her unsuitable as a member; or has failed to comply with the conditions of his or her office fixed by the Minister in terms of paragraph 2(2); or
- (b) is mentally or physically incapable of efficiently carrying out his or her functions as a member.

(2) The Minister, on the recommendation of the Board, may require a member to vacate his or her office if the member has been absent without the permission of the Board from two consecutive meetings of the Board of which he or she was given at least seven days' notice and there was no just cause for the member's absence.

(3) The Minister may suspend a member—

- (a) whom he or she suspects on reasonable grounds of having been guilty of conduct referred to in subparagraph (1)(a); or
- (b) against whom criminal proceedings have been instituted for an offence in respect of which a sentence of imprisonment without the option of a fine may be imposed; and while that member is so suspended he or she shall not carry out any functions as a member.”.

Filling of vacancies of Board

6. Subject to this Act, on the death of, or vacation of office by a member, the Minister shall appoint a qualified person to fill the vacancy:

Provided that if as a result of the vacancy, the number of members falls below the minimum number specified in paragraph 8, the Minister shall fill the vacancy as soon as is practically possible.

Chairperson and Vice-Chairperson of Board

7. (1) The Vice-Chairperson of the Board shall perform the Chairperson's functions whenever the Chairperson is, for any reason, unable to perform them.

(2) The Chairperson or Vice-Chairperson of the Board may at any time resign his or her office as such by one month's notice in writing to the Minister.

(3) Whenever the office of Chairperson of the Board falls vacant, the Minister shall fill the vacancy within three months.

(4) Whenever the office of Vice-Chairperson of the Board falls vacant, the Minister shall fill the vacancy within three weeks.

Meetings and procedure of Board

8. (1) The Board shall hold its first meeting on such date and at such place as the Minister may fix, being not more than three months after the fixed date, and thereafter the Board shall meet for the dispatch of business as often as is necessary or expedient and, subject to this paragraph, may adjourn, close and otherwise regulate its meetings and procedure as it thinks fit.

(2) The Chairperson of the Board may at any time convene a special meeting of the Board.

(3) The Chairperson shall send written notice of any special meeting convened in terms of subparagraph (2) to each member not later than seven days before the meeting and shall specify the business for which the meeting has been convened:

Provided that if, in the opinion of the Chairperson, as the case may be, the urgency of the business for which the meeting is to be convened so requires, notice of not less than forty-eight hours may be given.

(4) No business shall be discussed at a special meeting convened in terms of subparagraph (2) other than—

- (a) such business as may be determined by the Chairperson of the Board, where the Chairperson of the Board has convened the meeting in terms of subparagraph (2); or
- (b) the business specified in the request for the meeting, where the Chairperson of the Board has convened the meeting in terms of subparagraph (3).

(5) The Chairperson or, in his or her absence, the Vice-Chairperson shall preside at all meetings of the Board:

Provided that, if the Chairperson and the Vice-Chairperson are both absent from a meeting of the Board, the members present may elect one of their number to preside at that meeting as Chairperson.

(6) For any meeting of the Board, nine members shall form a quorum.

(7) All acts, matters or things authorised or required to be done by the Board may be decided by a majority vote at a meeting of the Board at which a quorum is present.

(8) Subject to subparagraph (9), at all meetings of the Board each member present shall have one vote on each question before the Board and, in the event of an equality of votes, the Chairperson shall have a casting vote in addition to a deliberative vote.

(9) Any proposal circulated among all Members and agreed to in writing by a majority of all members shall have the same effect as a resolution passed at a duly constituted meeting of the Board and shall being incorporated in the minutes of the next succeeding meeting of the Board:

Provided that, if a member requires that such proposal be placed before a meeting of the Board, this subparagraph shall not apply to such proposal.

Committees of Board

9. (1) For the better exercise of its functions, the Board may establish one or more committees in which it may vest any of its functions as it considers appropriate:

Provided that the vesting of a function in a committee shall not prevent the Board from itself exercising that function, and the Board may amend or rescind any decision of the committee in the exercise of that function.

(2) The Board may appoint to a committee persons other than members.

(3) The Chairperson of the Board or of a committee may at any reasonable time and place convene a meeting of that committee.

(4) The procedure of each committee shall be as fixed from time to time by the Board.

(5) Subject to this paragraph, paragraph 8(2), (3), (4), (5), (7), (8) and (9) shall apply, with any necessary changes, to committees and their members as they apply to the Board and its members.

(6) The quorum for any committee of the Board shall be at least half the members of that committee.

Remuneration and expenses of Members

10. (1) Members shall be paid—

- (a) such remuneration, if any, as the Minister, may from time to time fix; and
- (b) such allowances, if any, as the Minister in consultation with the Minister responsible for Finance, may from time to time fix to meet any reasonable expenses incurred by members in connection with the business of the Board.

(2) The salary, allowances and other benefits payable to a member shall not be reduced during his or her tenure of office.

Members to disclose certain connections and interests

11. (1) In this paragraph—

“relative”, in relation to a member, means the member’s spouse, child, parent, brother or sister.

(2) Subject to subparagraph (3)—

- (a) if a member—
 - (i) knowingly acquires or holds a direct or indirect pecuniary interest in any matter that is under consideration by the Board; or
 - (ii) owns any property or has a right in property or a direct or indirect pecuniary interest in a company or association of persons which results in the member’s private interests coming or appearing to come into conflict with his or her functions as a member; or
 - (iii) knows or has reason to believe that a relative of his or hers—
 - A. has acquired or holds a direct or indirect pecuniary interest in any matter that is under consideration by the Board; or
 - B. owns any property or has a right in property or a direct or indirect pecuniary interest in a company or association of persons which results in the member’s private interests coming or appearing to come into conflict with his or her functions as a member;

or

- (b) if for any reason the private interests of a member come into conflict with his or her functions as a member;

the Member shall forthwith disclose the fact to the Board.

(3) A member referred to in subparagraph (2) shall take no part in the consideration or discussion of, or vote on, any question before the Board which relates to any contract, right, immovable property or interest referred to in that subparagraph.

(4) Any member who knowingly and without lawful cause contravenes subparagraph (2) or (3) shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

Validity of decisions and acts of Board

12. No decision or act of the Board or act done under the authority of the Board shall be invalid on the grounds that—

- (a) the Board consisted of fewer than the minimum number of persons specified in paragraph 8(6); or

- (b) a disqualified person acted as a member at the time the decision was taken or act was done or authorised:

Provided that the Board shall ratify any such decision or action as soon as possible after it becomes aware that the decision or action was taken in the circumstances described in subparagraph (a) or (b).

Minutes of proceedings of Board

13. (1) The Board shall cause minutes of all proceedings of and decisions taken at every meeting of the Board to be entered in books kept for the purpose.

(2) Any minutes referred to in subparagraph (1) which purport to be signed by the person presiding at the meeting to which the minutes relate or by the person presiding at the next following meeting of the Board or the committee concerned, as the case may be, shall be accepted for all purposes as *prima facie* evidence of the proceedings of and decisions taken at the meeting concerned.

Execution of contracts and instruments by Board

14. Any agreement, contract or instrument approved by the Board may be entered into or executed on behalf of the Board by any persons generally or specially authorised by the Board for that purpose.

