

NO. 14 OF 2003

THE PERSONS WITH DISABILITIES ACT

SUBSIDIARY LEGISLATION

List of Subsidiary Legislation

	<i>Page</i>
1. The Persons with Disabilities (Access to Employment, Services and Facilities) Regulations.....	3
2. The Persons with Disabilities (Cost, Care, Support and Maintenance) Regulations.....	11
3. The Persons with Disabilities (Registration) Regulations.....	17
4. The Persons with Disabilities (National Development Fund for Persons with Disabilities) (Conduct of Business and Affairs of the Board of Trustees) Regulations.....	25
5. The Persons with Disabilities (Income Tax Deductions and Exemptions) Order.....	31

**THE PERSONS WITH DISABILITIES (ACCESS TO
EMPLOYMENT, SERVICES AND FACILITIES) REGULATIONS**

ARRANGEMENT OF REGULATIONS

PART I – PRELIMINARY

Regulation

1. Citation
2. Interpretation

PART II – INFORMATION, EDUCATION AND COMMUNICATION

3. Government to undertake information, education and communication
4. Ministry responsible for education to integrate the rights of persons with disabilities into syllabuses
5. Education and dissemination to form part of health care
6. Research

PART III – ACCESS TO EMPLOYMENT, SERVICES AND FACILITIES

7. Support and relief
 8. Materials, articles and equipment
 9. Access to education
 10. Sports, recreation and social integration
 11. Promotion of employment of persons with disabilities
 12. Public service employment
 13. Public service vehicles
 14. Other road traffic facilities
 15. Facilities in public buildings
 16. Television programmes
 17. Newspapers and other print media
 18. Telephone services
-

THE PERSONS WITH DISABILITIES (ACCESS TO EMPLOYMENT, SERVICES AND FACILITIES) REGULATIONS

[Legal Notice 62 of 2009]

PART I – PRELIMINARY

1. Citation

These Regulations may be cited as the Persons with Disabilities (Access to Employment, Services and Facilities) Regulations.

2. Interpretation

In these Regulations, unless the context otherwise requires—

"Act" means the Persons with Disabilities Act (Cap. 133);

"Fund" means the National Development Fund for Persons with Disabilities;

"parent" includes adoptive and step-parent;

"public service vehicle" has the meaning assigned to it in the Traffic Act (Cap. 403);

"rights of persons with disabilities" means the rights of persons with disabilities set out under Part III of the Act.

PART II – INFORMATION, EDUCATION AND COMMUNICATION

3. Government to undertake information, education and communication

(1) The Government shall disseminate the provisions of the Act and shall promote public awareness about the rights of persons with disabilities, through a comprehensive nation-wide education and information campaign conducted by the Government through the relevant Ministries, departments, authorities and other agencies.

(2) The education and information campaign referred to in subregulation (1) shall focus on the family and shall be carried out in all schools and other institutions of learning, all prisons, remand homes and other places of confinement, amongst the disciplined forces, at all places of work and in all communities throughout Kenya.

(3) The Government shall provide training, sensitization and awareness programmes on the rights of persons with disabilities for community workers, social workers, media professionals, educators, decision makers, administrators and other concerned persons to enable them acquire skills for proper information, dissemination and education on the rights of persons with disabilities.

(4) In conducting the education and information campaigns referred to in this regulation, the Government shall ensure the involvement and participation of persons with disabilities and organizations of and for persons with disability.

(5) Every local authority in collaboration with civil society organizations and the Ministry, shall conduct education and information campaigns on the rights of persons with disabilities within its area of jurisdiction.

(6) The Council shall coordinate the activities provided for under these Regulations.

4. Ministry responsible for education to integrate the rights of persons with disabilities into syllabuses

The Ministry responsible for education shall integrate instruction on the rights of persons with disabilities in subjects taught in public and private schools at all levels of education, including informal and non-formal and indigenous learning systems.

5. Education and dissemination to form part of health care

(1) Education and information dissemination on the rights of persons with disabilities shall form part of health care services by healthcare providers.

[Subsidiary]

(2) For the purposes of subregulation (1), the Government shall provide training for healthcare providers to acquire skills for proper information dissemination and education on the rights of persons with disabilities.

6. Research

(1) The Council in collaboration with the relevant Government departments, research institutions, development partners and local authorities shall undertake, promote and sponsor research, in the following areas as they relate to persons with disabilities—

- (a) prevention of disability;
- (b) rehabilitation including community based rehabilitation;
- (c) development of assistive devices including their psycho-social aspects;
- (d) job identification for persons with disability;
- (e) on site modifications in offices and factories.

(2) The Council shall undertake research and baseline surveys to ensure availability of disaggregated data on persons with disability.

PART III – ACCESS TO EMPLOYMENT, SERVICES AND FACILITIES

7. Support and relief

(1) Subject to applicable Regulations relating to tax exemptions a person with disability may apply for and obtain support and relief for—

- (a) purchase and repair of personal technical auxiliary devices;
- (b) purchase and adaptation of personal vehicle and adaptation of a parking place;
- (c) tax relief for import or local purchase of a personal vehicle;
- (d) restructuring of the home;
- (e) escorts and interpreters for people with impaired sight and hearing.

(2) Subject to applicable Regulations the support referred to in subregulation (1) shall include—

- (a) support to the persons with disabilities for purchasing and repair of technical devices and equipment;
- (b) subsidies for specialized enterprises, cooperatives and workshops for persons with disabilities;
- (c) ensuring of accessible living and natural environment;
- (d) financing projects and programmes for vocational education and re-qualification of the persons with disabilities;
- (e) culture, sports and tourism;
- (f) financing of projects and programmes for rehabilitation and social integration;
- (g) support of the activities of the Fund.

(3) Persons with severe disabilities who cannot, alone or by the help of their relatives or other persons, meet their basic vital needs have the right to support.

(4) The extent of the support granted under this regulation the conditions and the order of granting them shall be determined by the Council in consultation with the Ministry for the time being responsible for matters relating to finance.

8. Materials, articles and equipment

A person who sells materials, articles and equipment designed for use by persons with disabilities shall be eligible to apply for such tax reliefs as may be determined by the Council and approved by the Cabinet Secretary.

9. Access to education

(1) The Fund shall provide financial assistance to universities, incentives to other institutions of higher learning, professional bodies and non-governmental research units or institutions, for undertaking research for special education, rehabilitation and manpower development.

(2) Every institution of education shall ensure that students with disabilities are reasonably accommodated within that institution.

(3) Every institution of education shall provide students with disabilities with the appropriate core service or services necessary to ensure equal access.

(4) The core services referred to in paragraph (3) shall include—

- (a) sign language;
- (b) oral and tactile interpreter services or other technological alternatives;
- (c) textbooks and other educational materials in alternative media, including, but not limited to, large print, braille, electronic format, and audio tape;
- (d) access to adaptive equipment including FM communicators, closed caption devices, amplified telephone receivers, closed circuit televisions, low-vision reading aids, player and recorders for 15/16 4-track tapes, photocopy machines able to use eleven-by-seventeen inch paper, braille devices, and computer enhancements;
- (e) release of syllabi, study guides, and other appropriate instructor-produced materials in advance of general distribution, and access beyond the regular classroom session to slides, films, overheads and other media and taping of lectures.

(5) An individual, firm, partnership or corporation that publishes or manufactures instructional materials for students attending any public or private institution of education, shall provide to the public or private institution of education, for use by students attending the institution, any instructional material in an electronic format mutually agreed upon by the publisher or manufacturer and the public or private institution of education.

(6) There shall be provided to learners with disabilities by every institution of higher learning, computer files or electronic versions of printed instructional materials; video materials that are captioned or accompanied by transcriptions of spoken text and audio materials accompanied by transcriptions.

(7) The supplemental materials referred to in subregulation (5) shall be provided to the public or private institution of education at no additional cost and in a timely manner, upon receipt of a written request.

(8) If an institution of education provides a student with a specialized format version of an instructional material, the medium must be copy-protected or the public or private institution of education shall take other reasonable precautions to ensure that students, if they so wish, only copy or distribute specialized format versions of instructional materials in accordance with copyright laws.

(9) Nothing in this regulation is to be construed to prohibit an institution of education from assisting a student with a print access disability through the use of an electronic version of instructional material gained through this regulation or by transcribing or translating or arranging for the transcription or translation of the instructional material into specialized formats that provide persons with print access disabilities the ability to have increased independent access to instructional materials.

(10) If such specialized format referred to in subregulation (8) is made, an institution of education may share the specialized format version of the instructional material with other students with print access disabilities for whom the institution of education is authorized to request electronic versions of instructional material.

(11) A specialized format version of instructional materials developed at one institution of education may be shared for use by a student at another institution of education in Kenya.

[Subsidiary]

(12) Nothing in this regulation shall be deemed to authorize any use of instructional materials that would constitute an infringement of copyright laws.

10. Sports, recreation and social integration

(1) The Government shall create conditions for equality of persons with disabilities with the other persons.

(2) The relevant Ministries shall ensure the optimum access and use of recreation, culture, sport and tourist events and services for persons with disabilities through—

- (a) determining and adapting such places for persons with disabilities;
- (b) providing free of charge specialized information for use of services, routes, architectural-transport and other alleviation at the places for public use, destined for recreation, culture and sport; and
- (c) ensuring adapted visual and sound translation of cultural, recreation, sport and other programmes and materials for persons with impaired sight and hearing.

(3) Relevant public bodies and local authorities, the sports federations, associations and clubs shall ensure the social integration of persons with disabilities through—

- (a) adapting sports facilities and bases for use in sports activities by persons with disabilities together with other persons;
- (b) providing specialized sport facilities and bases to persons with disabilities;
- (c) providing information about sports events for persons with disabilities promoting such events in media.

(4) Local authorities shall provide the necessary material base and the resources for the social contacts of persons with disabilities.

11. Promotion of employment of persons with disabilities

(1) Pursuant to section 13 of the Act, the Council request any employer to consider reserving at least five per cent, or such higher percentage as the employer may accept, of the employment positions of the employer, for persons with disabilities.

(2) The Council may recommend to the Cabinet Secretary responsible for matters relating to finance and subject to such conditions as the Cabinet Secretary may specify, for the Cabinet Secretary responsible for finance to prescribe tax waivers, tax credits and other privileges to be enjoyed by an employer who or which voluntarily accepts to reserve not less than five per cent of employment positions of such employer for persons with disability.

(3) The Council shall liaise with relevant public and private bodies and advise on suitable means of realizing the reservation of at least five per cent of all employment positions in the public and private sector for persons with disabilities.

12. Public service employment

(1) No public service establishment may dispense with, or reduce in rank, an employee merely on account of disability.

(2) Where an employee, after acquiring disability is not suitable for the post he or she was holding, such employee may be shifted to some other suitable post on the same pay scale and service benefits.

(3) Where it is not possible to adjust an employee against a post, such employee may be kept on a supernumerary post until a suitable post is available or he or she attains the age of superannuation, whichever is earlier.

(4) No promotion shall be denied to a person merely on the ground of his or her disability.

(5) The Council may, having regard to the type of work carried on in any establishment, by notification and subject to such conditions, if any, as may be specified in such notification, exempt any establishment from the provisions of this regulation.

13. Public service vehicles

The owners of public service vehicles shall from such date as the Cabinet Secretary may by notice in the *Gazette* appoint—

- (a) adapt rail compartments, buses, vessels and aircrafts in such a way as to permit easy access to persons with disabilities;
- (b) adapt toilets in rail compartments, vessels, aircrafts and waiting rooms in such a way as to permit wheel chair users and other persons with disabilities to use them conveniently.

14. Other road traffic facilities

The relevant Ministries, Departments of Government and local authorities shall, from such date as the Cabinet Secretary may by notice in the *Gazette* appoint, provide for the—

- (a) installation of auditory signals at red lights in the public roads for the benefit of persons who are visually impaired;
- (b) provision of kerb cuts and slopes to be made in pavements for the easy access of wheel chair users;
- (c) engraving on the surface of pedestrians crossings and the edges of railway platforms for persons who are visually impaired;
- (d) posting of appropriate symbols of disability;
- (e) posting of warning signals and symbols at appropriate places.

15. Facilities in public buildings

The relevant Ministries, Departments of Government and the local authorities shall, from such date as the Cabinet Secretary may by notice in the *Gazette*, appoint, ensure—

- (a) provision of suitable ramps in public buildings;
- (b) adaptation of all public toilets for wheel chair users and other persons with disability;
- (c) provision of Braille symbols and auditory signals in elevators or lifts;
- (d) provision of ramps in hospitals, health centres and other medical care and rehabilitation institutions.

16. Television programmes

(1) Public broadcasting stations shall, from such date as the Cabinet Secretary may by notice in the *Gazette* appoint, incorporate sign language in their television programmes.

(2) Private broadcasting stations shall endeavour to incorporate sign language in their television programs targeting the general public including news, talk shows, documentaries, and educational programmes.

17. Newspapers and other print media

Newspapers and such other print media as the Cabinet Secretary may specify shall, from such date as the Cabinet Secretary may by notice in the *Gazette*, appoint, make their publications available in electronic form.

18. Telephone services

Telephone service providers shall, from such date as the Cabinet Secretary may by notice in the *Gazette* appoint, ensure that telephone facilities and services, where necessary, incorporate assistive aids for persons with hearing, speech and visual disabilities.

**THE PERSONS WITH DISABILITIES (COST, CARE,
SUPPORT AND MAINTENANCE) REGULATIONS**

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation
 2. Interpretation
 3. Institutions for persons with severe disabilities
 4. Power of the Court to order maintenance of person with disability
 5. General institution for the persons with disabilities
 6. Funding of institutions
 7. Form of application
 8. Local authority to provide facilities for the care and maintenance of persons with disabilities
 9. Access to house loans
 10. Unemployment allowance
 11. Parents of person with disabilities
 12. Registered institutions to apply for assistance from the Council
-

THE PERSONS WITH DISABILITIES (COST, CARE, SUPPORT AND MAINTENANCE) REGULATIONS

[Legal Notice 63 of 2009]

1. Citation

These Regulations may be cited as the Persons with Disabilities (Cost, Care, Support and Maintenance) Regulations.

2. Interpretation

In these Regulations, unless the context otherwise requires—

"Act" means the Persons with Disabilities Act;

"Council" has the meaning assigned to it in the Act.

3. Institutions for persons with severe disabilities

(1) The Council shall promote the establishment and maintenance of institutions for persons with severe disabilities at such places as it thinks fit.

(2) The Council shall promote and advise in the development and implementation by local authorities, community based organizations and other stakeholders, of suitable community based rehabilitation and welfare programs for the inclusion, integration, maintenance, care and support of children and persons with disabilities, including offenders with disabilities who may at the material time be serving a probationary sentence and ex-prisoners, in the respective communities.

(3) To this end, training under community rehabilitation program shall include vocational and trade skills, independent living skills and capacity building of children and persons with disabilities for effective rehabilitation and inclusion of children and persons with disabilities in the community.

(4) Where the Council is of the opinion that any institution other than an institution established under subregulation (1) is fit for the rehabilitation of the persons with severe disabilities, the Council may recognize such institution as an institution for persons with severe disabilities for the purposes of this Regulation.

(5) No institution shall be recognized under this regulation unless such institution has complied with the requirements of these Regulations.

(6) A person with a disability to whom subsection (1) refers shall apply to the Council for consideration for admission in an institution with a view to his/her rehabilitation, care and maintenance for a period not exceeding 12 months, provided that the Council shall thereafter facilitate the implementation of community based care, support and maintenance of children and persons with severe disabilities in the community.

(7) The Council shall consider every application made in pursuance to this regulation and if it is satisfied—

- (a) that the applicant is a person with severe disabilities;
- (b) that owing to special circumstances, the local authority in which the applicant is ordinarily resident, cannot facilitate for the applicant's care and maintenance,

may recommend that the person with a disability be admitted into an institution for the persons with severe disabilities.

(8) In determining any case or application for admission of a person with severe disability in any institution established under this regulation, the Council shall at its own discretion consider the age, gender, economic status, family background, special needs and nature of disability of the applicant, and the suitability of the proposed institution.

(9) The Council may, by writing, delegate any of its powers under the provisions of this Act, in relation to any particular matters, or class of matters or to any particular place,

[Subsidiary]

area, district or region, so that the delegated powers may be exercised by the delegate with respect to the matters or class of matters specified in the place, area, district or region specified in the instrument of delegation.

(10) For the purposes of this section "person with severe disabilities" means a person who, in the opinion of a medical professional approved by the Council, has eighty per cent or more of one or more disabilities.

4. Power of the Court to order maintenance of person with disability

(1) Where it is established that any person has been guilty of wilful neglect to provide reasonable care and maintenance in respect of a person with a disability for whose care and maintenance the person is by or under any law responsible, the court may, on the application of either the person with a disability or the Council, order that the person makes monthly payments towards the maintenance of that person with a disability as the court may think just having regard to the means of the person.

(2) Without prejudice to the foregoing, the court may, in exercise of its discretion under this subregulation, reprimand, warn, or order the attachment of the assets of, the defaulting party and direct that the same be administered by any person or community based organization appointed by the court for the care and maintenance of the person with disability.

(3) The court shall have power from time to time by an order under this regulation to vary or discharge any previous order made in this regard.

(4) Where the court makes an order under subregulation (1) of this Regulation the court may, if it thinks fit, order that any person shall, to the satisfaction of the court, secure the monthly payments to a person with disability and may for that purpose give any directions it may consider necessary.

5. General institution for the persons with disabilities

(1) The Council may establish and maintain general institutions for persons with disabilities at such places as it may think fit.

(2) Without prejudice to the provisions of regulations 5 and 6, where a person with a disability has no person who can provide for his care and maintenance or where, owing to the special nature of his disability, such a person must be admitted in an institution for the person with a disabilities specially established to cater for such disability, the person may be admitted in an institution for persons with disabilities established under paragraph (1), or the Council may recommend admission into an institution which caters for the special disability as the case may be.

(3) A person with a disability to which subrule (1) refers, other than a person with a special disability as referred to in that subregulation, shall apply to the Council for consideration for admission in a general institution for person with a disabilities.

(4) The Council shall consider every application made in pursuance to this regulation and if it is satisfied—

- (a) that the applicant is a person with a disability within the meaning of the Act;
- (b) that the applicant has no person who may provide for his or her care and maintenance; and
- (c) that owing to special circumstances, the local authority in which the applicant is ordinarily resident, cannot facilitate for the applicant's care and maintenance,

may recommend that the person with a disability be admitted in a general institution for persons with disabilities.

(5) The Council may specify conditions for admission of persons with disabilities into a general institution for persons with disabilities established under this regulation.

(6) The Council may, by writing, delegate any of its powers under the provisions of this Act, in relation to any particular matters, or class of matters or to any particular place,

area, district or region, so that the delegated powers may be exercised by the delegate with respect to the matters or class of matters specified in the place, area, district or region specified in the instrument of delegation.

6. Funding of institutions

(1) Every institution established under regulations 1 and 6 shall be maintained in such manner and satisfy such conditions as may be specified by the Council.

(2) The funding of institutions referred to in subregulation (1) shall be subject to section 33 of the Act.

7. Form of application

(1) Where a person with a disability is unable to make application for admission into an institution of persons with disabilities under these Regulations, the application may be made by a designated officer of the Council to whom the application may be made or by any other person chosen by the person with a disability.

(2) The application referred to in paragraph (1) shall be in such form as may from time to time be specified by the Council.

8. Local authority to provide facilities for the care and maintenance of persons with disabilities

(1) Every local authority shall, either alone or in collaboration with any person or institution, establish, operate, manage and maintain facilities for the care and maintenance of persons with disabilities.

(2) At purchase or construction or basic repair of a dwelling house, a person with severe disabilities may be advanced credit of up to seventy-five per cent of the value of a standard living area.

(3) The extent of the standard referred to in subregulation (3), the conditions and the order for providing credit, shall be determined by the Council with the approval of the Cabinet Secretary.

9. Access to house loans

The Council shall, from the Fund established under the Act, facilitate access to residences for persons with severe disabilities.

10. Unemployment allowance

The Council shall, within the limits of its financial capacity by notification, frame a scheme for payment of an unemployment allowance to persons with severe disabilities registered with the Council for more than two years and who could not be placed in any gainful occupation.

11. Parents of person with disabilities

(1) The parents or guardian of a person with a disability who is under eighteen years of age and with severe disabilities which require specialized care shall be entitled to a monthly allowance of such amount as may be determined by the Council and approved by the Cabinet Secretary.

(2) The allowances referred to under subregulation (1) shall, unless the Council is satisfied that owing to the severity of the disability the circumstances of any particular case so warrant, terminate on the attainment by the person with disability of the age of eighteen years.

(3) Beyond the age of eighteen, the allowances payable under this regulation shall be paid directly to the person with disability and such person may be treated in his own right under the other regulations for Cost, Care and Maintenance, and the Council may recommend the person to whom such allowance may be made.

[Subsidiary]

(4) The parents of a person with severe disabilities shall not receive a monthly allowance if the persons under subregulation (1) are accommodated in an institution with full Government support.

12. Registered institutions to apply for assistance from the Council

(1) Any institution or organization referred to in section 33(2)(a) and (b) of the Act may, in such form as the Council may from time to time specify, apply to the Council for financial assistance in furtherance of the objects of such institutions.

(2) The Council shall, before considering any application under this regulation, ascertain that the institution is registered under the Act.

(3) Any contribution or funding given by the Council under this regulation shall be within the limits of the economic capacity of the Council.

THE PERSONS WITH DISABILITIES (REGISTRATION) REGULATIONS

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation
2. Interpretation
3. Application for registration
4. Fees
5. Applications by individuals
6. Application by institutions
7. Issue of certificate of registration
8. Duration, etc. of certificates of registration
9. Suspension or revocation of certificate of registration
10. Appeal
11. Registers
12. Offence to fraudulently obtain relief

SCHEDULES

SCHEDULE —

FORMS

THE PERSONS WITH DISABILITIES (REGISTRATION) REGULATIONS

[Legal Notice 64 of 2009]

1. Citation

These Regulations may be cited as the Persons with Disabilities (Registration) Regulations.

2. Interpretation

In these Regulations, unless the context otherwise requires—

"Act" means the Persons with Disabilities Act (Cap. 133);

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to persons with disabilities;

"Council" means the National Council for Persons with Disabilities.

3. Application for registration

(1) An application for registration under section 7(1)(c) of the Act shall be made to the Council in Form 1 set out in the Schedule.

(2) In addition to the information required to be furnished in the prescribed form the applicant shall furnish such further information and material as may be required by the Council for the proper evaluation of the application.

(3) Any person who provides false information under this regulation commits an offence and is liable on conviction to a fine not exceeding six thousand shillings or to imprisonment for a term of six months.

4. Fees

(1) Subject to this regulation, no fee may be charged in respect of an application made under regulation 3.

(2) A fee of fifty shillings shall be payable for the issue of a duplicate copy of the certificate of registration if the original is defaced, damaged or lost and the duplicate copy so issued shall bear the words "DUPLICATE COPY".

5. Applications by individuals

(1) A person with a disability may apply to have his or her name and particulars entered in the register of persons with disabilities.

(2) An applicant under subregulation (1) may be required to attend such interview, medical examination and other assessment as the Council may consider necessary.

(3) Where the person with disability is a minor or is otherwise incapacitated or the extent or nature of the disability is such that personal application for registration by him or her is not possible, his or her guardian, custodian or caretaker, as the case may be, may submit the application for registration on behalf of the person with disability.

(4) The Council may, notwithstanding that no application has been made by a person under subregulations (1) or (3), on the application of any other person or on its own motion, if satisfied that it is in the best interests of a person with disability to be registered, and after affording the person with disability and any other interested or affected person an opportunity to be heard, register such person in the register of persons with disabilities.

(5) A person who is aggrieved by the decision of the Council to register him or her under subregulation (4) may apply to the High Court for an order to remove to the High Court and quash such decision.

6. Application by institutions

(1) Every institution applying to have its name entered in the register shall specify, in its application—

Persons With Disabilities

[Subsidiary]

- (a) the registered name and address of the institution;
- (b) the number of employees in the institution;
- (c) the number of persons with disabilities in the institution;
- (d) the name, address and nature of disability of each person with disability in the institution or under its jurisdiction;
- (e) the nature or description of any employment which the persons with disabilities under its care may be engaged in.

(2) The Council may require a representative of an applicant under this regulation to attend an interview and may visit and inspect the offices or premises of the applicant.

(3) The Council may notwithstanding that no application has been made by an institution under subregulations (1), on the application of any other person or on its own motion, if satisfied that it is in the best interests of persons with disability so to do, and after affording the institution and any other interested or affected person an opportunity to be heard, register such institution.

(4) The Council may visit and inspect the offices or premises of any organization or institution that holds itself out as being an organization of or for persons with disabilities, notwithstanding that the organization is not registered under these Regulations.

7. Issue of certificate of registration

(1) The Council shall consider an application made under regulation 4, and may make such enquiries as it may consider necessary and, where it is satisfied that the applicant has complied with the requirements of these Regulations, it shall register the applicant and issue a certificate of registration which shall be in Form 2 set out in the Schedule.

(2) If the Council is not satisfied as to the particulars provided by the applicant, it may, after providing an opportunity to the applicant to be heard, reject the application for registration of the applicant, and shall inform the applicant in writing of such rejection and the reasons for the rejection.

8. Duration, etc. of certificates of registration

(1) A certificate of registration issued under these Regulations shall, unless earlier suspended or revoked, be in force for a period of five years from the date of issue, and may thereafter be renewed for periods not exceeding five years at any one time.

(2) If an application for renewal is made before the expiration of the period of validity of the certificate of registration the certificate shall remain in force until the application is approved; except that where the application for renewal is made after the expiration of the period of validity of the certificate of registration the application shall be considered as a fresh application and the provisions of regulations 6 and 7 shall apply accordingly.

9. Suspension or revocation of certificate of registration

(1) The Council may, on the application of any person or on its own motion, revoke a certificate of registration issued under these Regulations or suspend it for such period as the Council may determine.

(2) The powers conferred by paragraph (1) shall not be exercised by the Council in respect of any certificate of registration except on one or more of the following grounds—

- (a) that the matters stated in the application on which the certificate of registration was granted were false or incomplete in a material particular;
- (b) that a provision of the certificate of registration has to a material extent been contravened by the holder of the certificate;
- (c) that any condition existing at the time of the application and on the basis of which the certificate of registration was granted has materially changed; or
- (d) that new information has been discovered by the Council which renders the applicant unregistrable under the Act.

(3) On the revocation of a certificate in respect of an institution, the Council may make such orders, for the safety and welfare of any person, as it may consider necessary and may direct that any person with disability who is resident in such institution on the date of such revocation, shall be—

- (a) restored to the custody of his or her parent, spouse or lawful guardian as the case may be; or
- (b) transferred to any other institution specified by the Council.

10. Appeal

(1) Any person who is aggrieved by a decision or order of the Council refusing to grant a certificate or revoking or suspending a certificate may, within thirty days from the date of the Order, appeal to the Cabinet Secretary against such decision or order.

(2) The decision of the Cabinet Secretary on an appeal under subregulation (1) shall be final.

(3) Where an appeal lies to the Cabinet Secretary under these Regulations against the order of the Council, the order of the Council shall, unless the Council or the Cabinet Secretary otherwise determines, come into effect—

- (a) where no appeal has been lodged, immediately on the expiry of the period prescribed for the filing of an appeal; or
- (b) where an appeal has been lodged, but the order of revocation has been upheld, from the date of the order on appeal.

11. Registers

(1) The Council shall establish and maintain separate registers for—

- (a) persons with disabilities;
- (b) institutions, associations and organizations of and for persons with disability, including those controlled and managed by the government and local authorities, that provide services for the rehabilitation and welfare of persons with disabilities;
- (c) places at which services for the rehabilitation of persons with disabilities are provided; and
- (d) persons with disabilities whose condition requires constant medical attention for the purposes of availing subsidized medical services.

(2) The Council may, at any time, delete the name of a person from the register where it is satisfied that—

- (a) the name of the person has been entered by misrepresentation or through fraudulent means; or
- (b) the person, if an individual, has ceased to be a person with a disability, or has died; or
- (c) the person, if not an individual, has by law ceased to exist and shall inform the person concerned accordingly.

(3) Notwithstanding anything in these Regulations, the Council may on the application of a person with disability remove the name of a person from the register of persons with disabilities if it is satisfied that there are sufficient reasons to do so.

12. Offence to fraudulently obtain relief

(1) Any persons who fraudulently—

- (a) obtains or applies or attempts to apply to obtain registration under these Regulations; or
- (b) gives or omits to give any material information which he or she is required to give under these Regulations,

Persons With Disabilities

[Subsidiary]

commits an offence and is liable on conviction to a fine of six thousand shillings or to imprisonment for a period of six months, or to both such fine and imprisonment.

(2) Any person who, being responsible for the management of an organization of or for persons with disability that is required to be registered under these Regulations, wilfully fails or refuses to apply for such registration, commits an offence and is liable upon conviction to a fine of six thousand shillings or to imprisonment for a period of six months, or to both such fine and imprisonment.

SCHEDULE

FORMS

FORM 1 (r. 3)
THE PERSONS WITH DISABILITIES (REGISTRATION) REGULATIONS
APPLICATION FOR REGISTRATION
(To be submitted in duplicate)
CONFIDENTIAL

PART I

The Director For Official Use Only
National Council for Individual/Institution
Persons Application No.
with Disabilities Date received
NAIROBI

- (a) Name of applicant
Marital status
Date of Birth
Physical address
Postal address
Telephone No Fax No.
E-mail address Website
(b) If applicant is not the same as the person with a disability, please state:
Name of person with disability
Date of Birth
Marital status
Physical address
Postal address
Telephone No. Fax No.
E-mail address
Relationship with applicant (attach evidence)
(a) Type of disability
(b) Brief description of disability
(a) Employment history of person with disability
(b) Present employer if any
(c) Other source(s) of income

PART II

(To be completed by institutions)

- (a) Registered name of Institution
- (b) Address of the institution
- (c) Number of employees in the institution
- (d) Number of persons with disabilities in the institution
- (e) Nature or description of services provided for persons with disabilities
.....

Names, addresses and nature of disability of persons with disabilities for whom the institution is providing or has provided services (attach additional sheets of paper if necessary)

DECLARATION

I, the undersigned hereby declare that all the information contained in this application is correct to the best of my knowledge and belief.

Name:

(Designation) :

Signature:

Date:

FORM 2 _____ (r. 7(1))

REPUBLIC OF KENYA
THE PERSONS WITH DISABILITIES (REGISTRATION) REGULATIONS
CERTIFICATE OF REGISTRATION OF PERSON WITH DISABILITY/
INSTITUTION/PLACE OF OR FOR PERSONS WITH DISABILITY
Reg. Number

It is hereby certified that the person/institution/place as described hereunder has been registered as a person with disability/institution/place of or for persons with disabilities.

- 1. Name of person/institution/place:
- 2. Sex
- 3. Physical Address:
- 4. Postal Address
- 5. Nature of Disability
- 6. Date of registration:

This certificate expires on the day of 20.....

Issued Day of

Signature:.....
Director, National Council for Persons
with Disabilities.

Signature:

**THE PERSONS WITH DISABILITIES (NATIONAL DEVELOPMENT
FUND FOR PERSONS WITH DISABILITIES) (CONDUCT OF BUSINESS
AND AFFAIRS OF THE BOARD OF TRUSTEES) REGULATIONS**

ARRANGEMENT OF REGULATIONS

Regulation

1. Citation
 2. Interpretation
 3. Appointment of members and tenure of office
 4. Vacation of office
 5. Meetings
 6. Committees of the Board
 7. Disclosure of interest
 8. Remuneration of Board members
 9. Secretary of the Board
 10. Staff of the Board
 11. Delegation by the Board
 12. Independence of the Board
 13. Protection from personal liability
 14. Common seal
 15. Contracts and instruments
-

**THE PERSONS WITH DISABILITIES (NATIONAL DEVELOPMENT
FUND FOR PERSONS WITH DISABILITIES) (CONDUCT OF BUSINESS
AND AFFAIRS OF THE BOARD OF TRUSTEES) REGULATIONS**

[Legal Notice 124 of 2009]

1. Citation

These Regulations may be cited as the Persons with Disabilities (National Development Fund for Persons with Disabilities) (Conduct of Business and Affairs of the Board of Trustees) Regulations.

2. Interpretation

In these Regulations, unless the context otherwise requires—

"Act" means the Persons with Disabilities Act (Cap. 133);

"Board" means the Board of Trustees of the Fund;

3. Appointment of members and tenure of office

(1) The Cabinet Secretary shall by notice in the *Gazette* notify the appointment of members of the Board.

(2) Subject to the Act, no person who is a member of the Council may be appointed to the Board.

(3) The Chairperson or a member of the Board other than *ex officio* members shall, subject to the provisions of this regulations, hold office for a period of three years, on such terms and conditions, subject to the Trustees Act and other laws governing trustees, as may be specified by the Council in the instrument of appointment, but shall be eligible for re-appointment for one further term.

4. Vacation of office

A member other than an *ex officio* member may—

- (a) at any time resign from office by notice in writing to the Cabinet Secretary;
- (b) be removed from office by the Cabinet Secretary on recommendation of the Board if the member—
 - (i) has been absent from three consecutive meetings of the Board without its permission;
 - (ii) is convicted of a criminal offence and sentenced to imprisonment without the option of a fine;
 - (iii) is incapacitated by prolonged physical or mental illness for a period exceeding six months;
 - (iv) is otherwise unable or unfit to discharge his functions.

5. Meetings

(1) The Board shall, at its first meeting, elect a Chairperson and a vice-Chairperson from amongst its members and shall thereupon forward the names of the persons so elected to the Cabinet Secretary for gazettelement.

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

(3) Notwithstanding paragraph (2), the Chairperson may, and upon requisition in writing by at least five members shall, convene a special meeting of the Board at any time for the transaction of the business of the Board.

[Subsidiary]

(4) Unless three quarters of the total members of the Board otherwise agree, at least fourteen days' written notice of every meeting of the Board shall be given to every member of the Board.

(5) The quorum for the conduct of the business of the Board shall be more than half of the total members including the Chairperson or the person presiding.

(6) The Chairperson or in his absence, the vice-Chairperson, shall preside at every meeting of the Board but the members present shall elect one of their number to preside whenever the Chairperson and vice-Chairperson are absent, and the person so elected shall have all the powers of the Chairperson with respect to that meeting and the business transacted thereat.

(7) Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of the votes of the members present and voting, and in case of an equality of votes, the Chairperson or the person presiding shall have a casting vote.

(8) Subject to paragraph (5), no proceedings of the Board shall be invalid by reason only of a vacancy among the members thereof.

(9) Subject to the provisions of these Regulations, the Board may determine its own procedure and the procedure for any committee of the Board and for the attendance of other persons at its meetings and may make standing orders in respect thereof.

6. Committees of the Board

(1) The Board may establish such committees as it may deem appropriate to perform such functions and responsibilities as it may determine.

(2) The Board shall appoint the Chairperson of a committee established under paragraph (1) from amongst its members.

(3) The Board may where it deems appropriate, co-opt any person to attend the deliberations of any of its committees.

(4) All decisions by the committees appointed under paragraph (1) shall be ratified by the Board.

7. Disclosure of interest

(1) A member who has an interest in any contract, or other matter, present at a meeting shall at the meeting and as soon as reasonably practicable after the commencement, disclose the fact thereof and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter.

(2) A disclosure of interest made under paragraph (1) shall be recorded in the minutes of the meeting at which it is made.

(3) A member of the Board who contravenes paragraph (1) commits an offence and is liable to a fine not exceeding six thousand shillings or to imprisonment for a term of six months, or to both.

8. Remuneration of Board members

The Board shall pay its members such remuneration, fees or allowances for expenses as it may determine in consultation with the Cabinet Secretary for the time being responsible for matters relating to finance.

9. Secretary of the Board

The Director of the Council shall be the secretary to the Board and shall subject to the directions of the Board, be responsible for the day to day management of the affairs and staff of the Board.

10. Staff of the Board

The Board may appoint such officers and other staff as are necessary for the proper discharge of its functions under the Act, upon such terms and conditions of service as it may determine.

11. Delegation by the Board

The Board may, by resolution either generally or in any particular case, delegate to any committee or to any member, officer, employee or agent of the Board, the exercise of any of the powers or the performance of any of the functions or duties of the Board under this Act or under any other written law.

12. Independence of the Board

(1) The Council shall respect the need for the operational independence of the Board and shall not seek to unduly control or direct the Board in the discharge of its functions.

(2) Notwithstanding paragraph (1), the Board shall prepare and submit to the Council an annual report on the discharge of its functions in each year.

13. Protection from personal liability

(1) No act or omission by any member of the Board or by any officer, employee, agent or servant of the Board shall, if the act or omission was done *bona fide* for the purposes of executing a function, power or duty under the Act render such member, officer, employee, agent or servant personally liable to any action, claim or demand whatsoever.

(2) The provisions of paragraph (1) shall not relieve the Board of the liability to pay compensation to any person for any injury to him, his property or to any of his interests caused by the exercise of any power conferred by the Act or by failure, whether wholly or partially, of any works.

14. Common seal

(1) The common seal of the Board shall be kept in such custody as the Board may direct and shall not be used except on the order of the Board.

(2) The affixing of the common seal of the Board shall be authenticated by the signature of the Chairperson and the secretary to the Board and any document not required by law to be made under seal and all decisions of the Board may be authenticated by the signatures of both the Chairperson and the secretary to the Board.

(3) Notwithstanding the provisions of paragraph (2) the Board shall, in the absence of either the Chairperson or the secretary to the Board in a particular matter, nominate one member to authenticate the seal on behalf of either the Chairperson or the secretary to the Board.

(4) The common seal of the Board when affixed to a document and duly authenticated shall be judicially and officially noticed and unless and until the contrary is proved, any necessary order or authorization by the Board under this regulation shall be presumed to have been duly given.

15. Contracts and instruments

Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal may be entered into or executed on behalf of the Board by any person generally or specially authorized by the Board for that purpose.

**THE PERSONS WITH DISABILITIES (INCOME
TAX DEDUCTIONS AND EXEMPTIONS) ORDER**

ARRANGEMENT OF PARAGRAPHS

Paragraph

1. Citation
2. Interpretation
3. Eligibility for tax exemption
4. Application for tax exemption
5. Deductions from total income
6. Determination of application for exemption
7. Appeals
8. Validity of tax exemption certificate
9. Change of circumstances
10. Revocation of tax exemption certificate
11. Offences

SCHEDULES

SCHEDULE —

FORMS

THE PERSONS WITH DISABILITIES (INCOME TAX DEDUCTIONS AND EXEMPTIONS) ORDER

[Legal Notice 36 of 2010]

1. Citation

This Order may be cited as the Persons with Disabilities (Income Tax Deductions and Exemptions) Order.

2. Interpretation

In this Order, unless the context otherwise requires—

"Act" means the Persons with Disabilities Act (Cap. 133);

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to finance;

"Commissioner" shall have the meaning assigned to it under section 2 of the Income Tax Act (Cap. 470);

"Council" means the National Council for Persons with Disabilities established under section 3 of the Act;

"total income" shall have the meaning assigned to it under section 2 of the Income Tax Act (Cap. 470).

3. Eligibility for tax exemption

A person with disability shall not be eligible to apply for tax exemption unless he or she is registered with the Council.

4. Application for tax exemption

(1) A person with disability may apply for exemption from income tax to the Commissioner through the Council in Form 1 set out in the Schedule.

(2) The exemption under subparagraph (1) shall apply to the first one hundred and fifty thousand shillings of the total income per month.

(3) The Council shall establish a committee, whose members shall include a medical doctor, for the purposes of vetting applications for tax exemption.

(4) The Council shall after vetting an application for tax exemption, give a recommendation in Form 2 set out in the Schedule to the Commissioner.

5. Deductions from total income

(1) In addition to deductions allowed under the Income Tax Act (Cap. 470), and subject to the satisfaction of the Commissioner, expenses incurred in respect of the following shall be considered when determining the total income—

- (a) non-reimbursed amounts paid by a person with disability for treatment or admission in a hospital, nursing home or any other health facility;
- (b) non-reimbursed amounts paid by a person with disability for prescription drugs for that person's use;
- (c) non-reimbursed amounts paid by a person with disability for goods and services that allow the person with disability to receive home care or personal care; or
- (d) cost of disability related assisting devices:

Provided that the total deduction allowed under subparagraph (1) shall not exceed fifty thousand shillings per month.

(2) For the purposes of subparagraph (1)—

[Subsidiary]

- (a) "home care" includes medical treatment, physical therapy, occupational therapy, speech and language therapy, and home based and personal care;
- (b) "personal care" includes assistance in the preparation or serving of meals, getting dressed, feeding, taking medication, personal hygiene and training in activities that relate to daily living skills.

6. Determination of application for exemption

(1) The Commissioner shall within thirty days of receipt of a recommendation from the Council under paragraph 4(4) determine the application for tax exemption.

(2) The Commissioner may request for any other information that he may consider necessary to facilitate the determination of an application, including requiring the applicant to appear before him for an interview.

(3) Where the exemption is granted, the Commissioner shall issue a tax exemption certificate to the applicant.

(4) Where the exemption is not granted, the Commissioner shall, within thirty days of receipt of the application, notify the applicant of the denial in writing.

7. Appeals

An applicant may appeal to the Cabinet Secretary through the Council against the decision of the Commissioner made under paragraph 6(4), within thirty days of receiving the notification of the decision.

8. Validity of tax exemption certificate

A tax exemption certificate issued by the Commissioner under paragraph 6 shall be valid for three years.

9. Change of circumstances

An eligible person shall, within sixty days of experiencing any change in his or her status that materially affects his eligibility for tax exemption, notify the Commissioner of the change.

10. Revocation of tax exemption certificate

The Commissioner shall revoke a tax exemption certificate issued under paragraph 6 if he is satisfied that—

- (a) the status of the applicant has significantly changed in a manner that affects his or her eligibility status for the tax exemption; or
- (b) the applicant omitted material information at the time of making the application that if such information was submitted it could have affected his or her eligibility for tax exemption.

11. Offences

Any person who fraudulently—

- (a) obtains or applies or attempts to apply to obtain an income tax deduction or exemption; or
- (b) gives or omits to give any material information which he or she is required to give under these Regulations,

commits an offence, and is liable to a fine not exceeding ten thousand shillings or imprisonment for a term not exceeding one year, or both such fine and imprisonment.

SCHEDULE

FORMS

Form 1

(r. 4(1))

THE PERSONS WITH DISABILITIES
(INCOME TAX DEDUCTIONS AND EXEMPTIONS) REGULATIONS
APPLICATION FOR INCOME TAX EXEMPTION
(To be submitted in duplicate)

CONFIDENTIAL

PART I

The Director *For Official Use Only*
National Council for Application No.
Persons with Disabilities Date received

NAIROBI

1. (a)

Name of applicant
Sex
Date of Birth
Marital Status
PIN Number
Physical Address
Registration Number
Postal Address
Telephone No
Fax No.
E-mail address
Website

(b)

If applicant is not the same as the person with a disability, please state the following particulars of the person with disability in respect of whom the application is made:
Name
Sex
Marital status
PIN Number
Date of Birth

[Subsidiary]

2. (a) Marital status
 Registration Number
 Postal address
 Telephone No.
 Fax No.
 E-mail address
 Website
 Relationship with applicant (attach evidence)
 Income Tax exemption is sought in respect of salary/ self employment income/property/ other (please specify in detail)

(b) If Income Tax exemption is sought in respect of salary please give the following information:
 Name and address of employer
 Employment Number
 Gross salary (please attach most recent pay slip)
 List other benefits (if any) provided by the employer (e.g. car, telephone

(c) If tax exemption is sought in respect of self-employment income please give the following information:...
 Nature of self-employment

[Subsidiary]

(d)

(Specify in detail and attach evidence).....

Physical address of place of self-employment

Annual income (attach all relevant evidence)

If tax exemption is sought in respect of property income please give the following information:

Full particulars of property or properties (registered owner, land reference number, physical location (attach evidence)

Approximate value of each property (please attach most recent pay)

Tax assessed or demanded

DECLARATION

I, the undersigned hereby declare that all the information contained in this application is correct to the best of my knowledge and belief.

Name

Signature

Date

Form 2

(r. 4 (4))

THE PERSONS WITH DISABILITIES ACT

(Cap. 133)

THE PERSONS WITH DISABILITIES (INCOME TAX DEDUCTIONS AND EXEMPTIONS) REGULATIONS

CERTIFICATE OF RECOMMENDATION FOR INCOME TAX EXEMPTION FOR PERSON WITH DISABILITY

Recommendation Number

Persons With Disabilities

[Subsidiary]

It is hereby certified that the person described hereunder who is registered as a person with disability (Registration Number) has been recommended for income tax exemption in respect of salary/self employment income/property/ other income

1. Name of person

2. Sex

3. Marital status

4. PIN Number

5. Physical Address

6. Postal Address

7. Recommendation for income exemption (please specify) in detail)

This certificate expires on the day of 20.....

Issued this day of

Signature

Director, National Council for Persons with Disabilities
