



AN OVERVIEW OF THE DISCRIMINATION AGAINST PERSONS WITH DISABILITIES (PROHIBITION) ACT, 2018

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Who is a Person with Disability?

According to the Discrimination Against Persons With Disabilities (Prohibition) Act, 2018 [“the Act”], disability is defined as a long-term physical, mental, intellectual, or sensory impairment that when combined with other barriers, prevents full and effective participation in society on an equal basis with others¹.

What are the Figures on Persons with Disability Saying?

According to the World Health Organization's [“WHO”] World Disability Report 2011, approximately 15% of Nigeria's population, or approximately 25 million people, are disabled. WHO also estimates that 1.3 billion people, or one in every six people worldwide, are disabled. And that disabled people are more likely to die 20 years earlier than those who are not disabled².

The WHO also reports that persons with disabilities are twice as likely as the general population to develop conditions such as depression, asthma, diabetes, stroke, obesity, or poor oral health. Access to healthcare facilities are also 6 times more difficult for people with

disabilities. Accessing affordable transportation is 15 times more difficult for people with disabilities than for people without disabilities. Such are the realities the disabled person is confronted with daily³.

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The Discrimination Against Persons with Disabilities (Prohibition) Act of 2018

Prior to President Muhammed Buhari's assent, the Discrimination Against Persons With Disabilities (Prohibition) Act, which criminalizes discrimination against persons with disabilities, lingered in the National Assembly for 18 years. The Act was however signed into law in January 2019, effectively prohibiting discrimination on the basis of one's physical, mental or sensory impairment.

The Act also provides for a 5-year transition period (from the date of enactment) to allow for the modification of public structures/services to



meet the unique needs of people with disabilities; other provisions are intended for immediate implementation.

The Act basically is aimed at providing for the full integration of people with disabilities into society. It establishes the National Commission for Persons with Disabilities (the Commission) and saddles the Commission with overseeing the education, health care, social, economic, and civil rights of persons with Disabilities.

BELOW ARE THE KEY HIGHLIGHTS OF THE DISCRIMINATION AGAINST PERSONS WITH DISABILITIES (PROHIBITION) ACT, 2018

Part I- Prohibition of Discrimination and Awareness Programmes

Section 1 of the Act prohibits discrimination against a person on the basis of his or her disability. Specifically, the section provides that a body corporate that discriminates on the basis of disability is liable to a N1,000,000 fine, while an individual faces a N100,000 fine, a six-month imprisonment term, or both. The section further clarifies that a civil action may also be brought by the person who has been discriminated against,

as the Act prohibits discrimination in its entirety and under any circumstances.

Part II – Accessibility of Physical Structure

Section 6 of the Act provides for a five-year transition period during which all public buildings or structures, whether immovable or not, MUST be modified and made accessible to people with disabilities, including those in wheelchairs. Hence by 2024, it will be punishable where a public building or structure is not modified and made accessible to people with disabilities.

Section 7 of the Act outlines the process for erecting public structures in accordance with a building code that includes accessibility features for people with disabilities, including those in wheelchairs.

Section 8 of the Act states that persons with disabilities may also seek redress in court by notifying the relevant authority of the state of inaccessibility. The section also states that corporate bodies that fail to comply may be fined N10,000 in damages for each day of non-compliance. This is slightly different for individuals, as they face N5,000 in damages for

each day of default, a six-month imprisonment term, or both.

Part III – Road Transportation

Section 10 of the Act requires government providers to install lifts, ramps, and other accessibility aids to improve the accessibility of their vehicles, parks, and bus stops to persons with disabilities. The same is applicable to all transport service providers. The section also provides that a person/organization/corporate body in charge of a public parking lot who fails to provide reserved parking spaces for people with disabilities is liable to pay N1,000 per day of default.

Section 10 also states that a person who does not have a disability commits an offence if he or she parks in a reserved space and faces a N5,000 fine if convicted. Furthermore, if convicted, a person who intentionally obstructs the reserved space faces a N5,000 fine.

Part V – Liberty, Rights to Education, Health and First Consideration in Queues, Accommodation and in Emergencies

Section 17 guarantees a disabled person the right to an education free of discrimination. It also

guarantees a disabled person free education up to the secondary level and requires the National Commission for Persons with Disabilities to provide educational assistive devices.

Section 21 requires the government to provide people with disabilities with free and non-discriminatory access to adequate health care. It also provides free medical and health services to people with mental disabilities in all public institutions.

According to Section 22, a Person with Disabilities must obtain a Permanent Certificate of Disability from the National Commission for Persons with Disabilities. However, a doctor may issue a temporary certificate of disability with the Commission's approval if the doctor suspects disability while treating a person who was not previously disabled. However, if this disability continues for more than 180 days, the Commission, on the doctor's recommendation, shall issue a Permanent State of Disability Certificate.

Persons with disabilities are also expected to be given first priority on queues and consideration when free housing is provided by schools, service providers, the government, and organizations, according to sections 26 and 27.



Part VI- Opportunity for Employment and Participation in Politics and Public Life

Section 28 guarantees a person with a disability the right to work and earn a living in a labor market/work environment free of employment barriers. Persons and companies who violate this provision face nominal damages of at least N250,000 payable to the affected person (when committed by an individual) or N500,000 when committed by a company.

Part VII- Establishment of the National Commission for Persons with Disabilities

Section 31 establishes a National Commission for Persons with Disabilities, which reports to the President. The Commission's headquarters will be in the Federal Capital Territory (FCT).

CONCLUSION:

Under the Act, the protection of disabled people's rights is an all-encompassing endeavour. It is not limited to the mobility of persons with disability, but also includes access to buildings, transportation, employment, liberty, right to education, health, first consideration in queues, accommodation, an opportunity for employment, participation in politics and public life, amongst others.

The Act has also imposed a continuing obligation on individuals, businesses, and the government to provide facilities for people with disabilities, with violators subject to civil and criminal prosecution.

END NOTES

¹ See Section 57

² World Health Organization. (n.d.). Disability. World Health Organization. Retrieved February 28, 2023, from <https://www.who.int/news-room/fact-sheets/detail/disability-and-health>

³ Ibid



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