LAWS OF MALAYSIA

Act 685

PERSONS WITH DISABILITIES ACT 2008

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LAWS OF MALAYSIA

Act 685

PERSONS WITH DISABILITIES ACT 2008

An Act to provide for the registration, protection, rehabilitation, development and wellbeing of persons with disabilities, the establishment of the National Council for Persons with Disabilities, and for matters connected therewith.

[ ]

RECOGNIZING that disability is an evolving concept and that disability results from the interaction between persons with disabilities and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with persons without disabilities:

RECOGNIZING the valued existing and potential contributions made by persons with disabilities to the overall wellbeing and diversity of the community and society:

RECOGNIZING the importance of accessibility to the physical, social, economic and cultural environment, to health and education and to information and communication, in enabling persons with disabilities to fully and effectively participate in society:

RECOGNIZING that persons with disabilities are entitled to equal opportunity and protection and assistance in all circumstances and subject only to such limitations, restrictions and the protection of rights as provided by the Federal Constitution:

RECOGNIZING the importance of the co-operation between the Government and the private sector and non-governmental organization in ensuring the full and effective participation and inclusion of persons with disabilities in society:

NOW, THEREFORE, ENACTED by the Parliament of Malaysia as follows:

Part I

PRELIMINARY

Short title and commencement

1. (1) This Act may be cited as the Persons with Disabilities Act 2008.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette*, and the Minister may appoint different dates for the coming into operation of different provisions of this Act.

Interpretation

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

"language" includes spoken and sign languages, Malaysia Sign Language and other forms of non-spoken languages;

"Malaysia Sign Language" means the official sign language for the deaf in Malaysia;

"Register" means the Register of Persons with Disabilities kept and maintained under section 21;

"prescribed" means prescribed by regulations made under this Act;

"habilitation" refers to a process aimed at enabling persons who are born with disabilities to attain and maintain their full physical, mental, social and vocational ability and full inclusion and participation in all aspects of life;

"Department" means the Department for the Development of Persons with Disabilities responsible for the registration, protection, rehabilitation, development and wellbeing of persons with disabilities;

"Kad OKU" means the card issued under section 25;

"Government" means the Federal Government;

"Registrar General" and "Deputy Registrar General" means the Registrar General for Persons with Disabilities and Deputy Registrar General for Persons with Disabilities respectively appointed under paragraphs 20(1*)(a)* and *(b)*;

"communication" includes languages, display of text, Braille, tactile communication, large print, signal, 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;

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

"Minister" means the Minister charged with the responsibility for social welfare;

"persons with disabilities" include those who have long term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society;

"Social Welfare Officer" means any Social Welfare Officer in the Ministry responsible for social welfare and includes any Assistant Social Welfare Officer;

"Registrar" means the Registrar for Persons with Disabilities appointed under paragraph 20(1*)(c)*;

"private healthcare service provider" means the provider of a private healthcare facility under the Private Healthcare Facilities and Services Act 1998 [*Act 586*];

"reasonable accommodation" means necessary and appropriate modifications and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise of the quality of life and wellbeing on an equal basis with persons without disabilities;

"rehabilitation" refers to a process aimed at enabling persons with disabilities to attain and maintain their full physical, mental, social and vocational ability and full inclusion and participation in all aspects of life;

"universal design" means the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design and shall include assistive devices for particular groups of persons with disabilities where this is needed;

"private sector" refers to any person or body whether corporate or unincorporate other than the Government or State Government, agencies, bodies or organization of the Governments, but excludes any reference to non-governmental organization.

Part II

NATIONAL COUNCIL FOR PERSONS WITH DISABILITIES

National Council for Persons with Disabilities

3. (1) A body to be known as National Council for Persons with Disabilities shall be established for the purpose of this Act.

(2) The Council shall consist of the following members:

(a) the Minister who shall be the Chairman;

(b) the Secretary General of the Ministry responsible for social welfare, who shall be the Deputy Chairman;

(c) the Attorney General of Malaysia, or his representative;

(d) the Secretary General of the Ministry responsible for finance;

(e) the Secretary General of the Ministry responsible for transport;

(f) the Secretary General of the Ministry responsible for human resources;

(g) the Director General of Education;

(h) the Director General of Health;

(i) the Chairman of the Commercial Vehicle Licensing Board;

(j) not more than ten persons having appropriate experience, knowledge and expertise in problems and issues relating to persons with disabilities to be appointed by the Minister.

(3) The members of the Council appointed under subsection (2) may be paid such allowances as the Minister may determine.

(4) A member of the Council appointed under paragraph (2)*(j)*, unless he sooner resigns or vacates his office or his appointment is sooner revoked, shall hold office for a term not exceeding two years and is eligible for reappointment for a term not exceeding two consecutive terms.

Alternate members

4. (1) The Minister may appoint a person to be an alternate member in respect of each member appointed under paragraphs 3(2)*(d)*, *(e)* and *(f)* to attend, in place of that member, meetings of the Council if that member is for any reason unable to attend.

(2) When attending meetings of the Council, an alternate member shall for all purposes be deemed to be a member of the Council.

(3) An alternate member shall, unless he sooner resigns his membership or his appointment is sooner revoked, cease to be an alternate member when the member in respect of whom he is an alternate member ceases to be a member of the Council.

Revocation of appointment

5. The Minister shall revoke the appointment of a member of the Council appointed under paragraph 3(2)*(j)*—

(a) if his conduct, whether in connection with his duties as a member of the Council or otherwise, has been such as to bring discredit on the Council;

(b) if there has been proved against him, or he has been convicted on, a charge in respect of—

(i) an offence involving fraud, dishonesty or moral turpitude;

(ii) an offence under a law relating to corruption; or

(iii) any other offence punishable with imprisonment;

(c) if he becomes a bankrupt; or

(d) if he becomes of unsound mind or is otherwise incapable of discharging his duties.

Cessation of membership

6. A member of the Council appointed under paragraph 3(2)*(j)* shall cease to be a member—

(a) if he is absent from three consecutive meetings of the Council without leave of the Chairman;

(b) if his appointment is revoked;

(c) if he dies; or

(d) if he resigns his office by giving one month notice in writing to the Minister.

Meetings of Council

7. (1) The Council shall meet at least three times a year for the performance of its functions at such time and place as the Chairman may determine.

(2) Eleven members shall form the quorum of a meeting of the Council.

(3) The Chairman shall preside over all its meetings.

(4) If the Chairman is unable for any reason to preside any meeting of the Council, the meeting shall be presided by the Deputy Chairman.

(5) The Council may invite any person to attend any meeting or deliberation of the Council for the purpose of advising it on any matter under discussion, but that person shall not be entitled to vote at the meeting.

(6) At any meeting of the Council, the Chairman shall have a deliberative vote and shall, in the event of an equality of votes, have a casting vote.

(7) Any person invited under subsection (5) may be paid such allowance as the Minister may determine.

(8) Subject to the provisions of this Act, the Council may make regulations for regulating its meetings and proceedings.

Secretary to the Council

8. The Director General of Social Welfare shall be the Secretary to the Council.

Functions of the Council

9. (1) The functions of the Council shall be as follows:

(a) to oversee the implementation of the national policy and national plan of action relating to persons with disabilities;

(b) to make recommendations to the Government on all aspects of persons with disabilities including matters relating to the support, care, protection, rehabilitation, development and wellbeing of persons with disabilities;

(c) to co-ordinate and monitor the implementation of the national policy and national plan of action relating to persons with disabilities with relevant ministries, government agencies, bodies or organizations and the private sector;

(d) to monitor and evaluate the impact of policies, programmes and activities designed to achieve full and effective participation of persons with disabilities and in doing so may enter into such arrangement with relevant ministries, government agencies, bodies or organizations and the private sector as it deems necessary;

(e) to review the activities of all ministries, government agencies, bodies or organizations and the private sector that are involved in the implementation of the national policy and national plan of action relating to persons with disabilities;

(f) to recommend to the Government changes to the existing law as well as to propose new law in order to secure full and effective participation in society of persons with disabilities, including to facilitate accessibility;

(g) to develop programmes and strategies aiming at educating the society and to raise awareness throughout society, including at the family level, regarding persons with disabilities including their capabilities and contributions in order to promote positive perception and greater social awareness and to foster respect for the rights and dignity towards persons with disabilities;

(h) to adopt effective and appropriate measures to promote recognition of the skills, merits and abilities of persons with disabilities, and of their contributions to the workplace and the labour market;

(i) 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;

(j) to advise the Government on the issues of disabilities including developments at the international level;

(k) to collect and collate data and information, and undertake and promote research relating to persons with disabilities;

(l) to promote the development of initial and continuing training for professionals and staff working in habilitation and rehabilitation services;

(m) to promote employment opportunities and career advancement for persons with disabilities in the labour market, as well as assistance in finding or obtaining employment on equal basis with persons without disabilities; and

(n) to perform any other functions as directed by the Minister for the proper implementation of this Act.

(3) The Council shall have all such powers as may be necessary for, or in connection with, or incidental to, the performance of its functions under this Act.

Council to be assisted by the Department

10. The Council shall be assisted by the Department in the performance of its functions and the exercise of its powers under this Act.

Establishment of committees

11. (1) The Council may establish such committees as it deems necessary or expedient to assist it in the performance of its functions and the exercise of its powers under this Act.

(2) A committee established under subsection (1)—

(a) shall be chaired by any member of the Council specified under paragraphs 3(2)*(b)* to *(i)*;

(b) shall conform to and act in accordance with any direction given to it by the Council; and

(c) may determine its own procedure.

(3) Members of the committees established under subsection (1) may be appointed from amongst members of the Council or such other persons as the Council thinks fit.

(4) Except for members of the committee appointed from amongst members of the Council, any other persons appointed as members of the committees may be paid such allowance as the Minister may determine.

(5) A member of a committee shall hold office for such a term as may be specified in his letter of appointment and is eligible for reappointment.

(6) The Council may revoke the appointment of any member of a committee without assigning any reason for the revocation.

(7) A member of a committee may, at any time, resign by giving notice in writing to the chairman of the committee.

(8) The Council may, at any time, discontinue or alter the constitution of a committee.

(9) A committee shall hold its meetings at such times and places as the chairman of the committee may determine.

(10) A committee may invite any person to attend any meeting of the committee for the purpose of advising it on any matter under discussion but that person shall not be entitled to vote at the meeting.

(11) Any person invited under subsection (10) may be paid such allowance as the Minister may determine.

Delegation of functions and powers

12. (1) The Council may, subject to such conditions, limitations or restrictions as it deems fit to impose, delegate any of its functions and powers, except the power to make regulations under section 43, to—

(a) the Chairman of the Council;

(b) any member of the Council appointed under paragraph 3(2)*(b)* to *(i)*; and

(c) a committee established under section 11.

(2) Any person or committee delegated with such functions and powers shall conform and have regard to all conditions and restrictions imposed by the Council and all requirements, procedures and matters specified by the Council.

(3) Any function or power delegated under this section shall be performed and exercised in the name and on behalf of the Council.

(4) The delegation under this section shall not preclude the Council itself from performing or exercising at any time any of the delegated functions and powers.

Council to recommend changes to law

13. (1) In performing its functions under this Act, it shall be the responsibility of the Council to recommend to the Government changes required to be made to any law or to propose the provision of new law in order to secure full and effective participation in society of persons with disabilities, including to facilitate accessibility or any other matter as it deems necessary or expedient.

(2) For the purposes of making any recommendation under subsection (1), the Council—

(a) shall consult the relevant ministries, government agencies, bodies or organizations; or

(b) may consult the private sector or any non-governmental organization as it deems necessary or expedient to do so.

(3) In formulating its recommendation or proposal under subsection (1), the Council shall have regard to such policies, information and other considerations received during the consultation pursuant to subsection (2) that appear to it to be relevant.

Responsibility of the Government

14. The responsibility and obligation to be discharged by the Government under this Act shall be in furtherance of its policy relating to persons with disabilities and shall be so discharged—

(a) by taking into consideration the available financial and human resources and such other factors as may be relevant; and

(b) in compliance with the provisions of the Federal Constitution and other written laws as may be relevant.

Responsibility of relevant ministries, *etc*.

15. It shall be the responsibility and obligation of every relevant ministries, government agencies or bodies or organizations—

(a) to co-operate with and assist the Council in the performance by the Council of its functions under this Act;

(b) to give due consideration to the national policy and national plan of action of the Government relating to persons with disabilities; and

(c) to undertake steps, measures or actions required to be taken by it in such form or manner as may be provided for under any other written law or otherwise relating to persons with disabilities.

Responsibility of the private sector and non-governmental organization

16. It shall be the responsibility and obligation of the private sector and non-governmental organization—

(a) to co-operate with and assist the Council in the performance by the Council of its functions under this Act;

(b) to give due consideration to the national policy and national plan of action of the Government relating to persons with disabilities; and

(c) to undertake steps, measures or actions required to be taken by it in such form or manner as may be provided for under any other written law or otherwise relating to pesons with disabilities.

Follow up

17. (1) The Council may require the relevant ministries, government agencies or bodies or organizations to submit reports to the Council on steps, measures and actions required to be undertaken by them in complying with the provisions of this Act at such intervals as the Council may specify.

(2) It shall be the duty of the relevant ministries, government agencies or bodies or organizations referred to in subsection (1) to submit full reports regarding the progress of steps, measures or actions undertaken by them and such report shall be given until the conclusion thereof.

(3) The Council may require the relevant ministries, government agencies or bodies or organizations to provide explanation if the Council is of the opinion that the progress of steps, measures or actions is inadequate or unsatisfactory.

Funds

18. The Government shall allocate the Council with adequate funds annually to enable the Council to perform its functions under this Act.

Annual reports

19. The Council shall furnish to the Minister, and such public authority as may be directed by the Minister an annual report of all its activities during the year to which the report relates.

PART III

APPOINTMENT OF REGISTRAR GENERAL, *ETC*., AND REGISTRATION OF PERSONS WITH DISABILITIES

Appointment and duties of Registrar General and Registrar

20. (1) The Minister shall for the purposes of this Act appoint—

(a) a Social Welfare Officer in charge of the Department as Registrar General;

(b) a Social Welfare Officer from the Department as Deputy Registrar General;

(c) a Social Welfare Officer from the Department as a Registrar for each State and Federal Territory; and

(d) such number of Assistant Registrars for any district or area as the Minister may determine.

(2) The Registrar General shall be under the general direction and supervision of the Director General of Social Welfare and the Registrar General shall exercise general control and supervision over all matters relating to the registration of persons with disabilities under this Act.

(3) The Deputy Registrar General, Registrar and Assistant Registrars shall be under the general direction and supervision of the Registrar General.

(4) The Registrar General shall have the powers and exercise the functions conferred on him by this Act, and in his absence, such powers and functions may be had or exercised by the Deputy Registrar General.

(5) Subject to the direction, control and supervision of the Registrar General, the Deputy Registrar General or Registrar may exercise all the powers and functions conferred on the Registrar General by or under this Act.

(6) Subject to the direction, control and supervision of the Registrar, an Assistant Registrar shall assist the Registrar in the exercise of his powers and the performance of his functions in the area of which he is appointed.

(7) Appointment of the Registrar General, Deputy Registrar General**,** Registrar and Assistant Registrar under this section shall be published in the *Gazette*.

Register of Persons with Disabilities

21. (1) Every Registrar shall keep and maintain a Register of Persons with Disabilities.

(2) The Minister may make regulations for the keeping and maintenance of Register of Persons with Disabilities and such regulations may include provisions to authorize the Registrar or Assistant Registrar to update the Register by making changes to the particulars of the persons with disabilities or to delete the names of persons with disabilities who have died or ceased to be persons with disabilities.

Application for registration

22. (1) Application for registration as persons with disabilities shall be made to the Council.

(2) The Minister may make regulations for the registration of persons with disabilities and for all matters incidental thereto.

(3) Without prejudice to the generality of subsection (2), the regulations may—

(a) prescribe the procedure to be followed in making an application for registration;

(b) prescribe who may be registered as persons with disabilities and who ceases to be registered as persons with disabilities; and

(c) prescribe the manner of issuance and cancellation of Kad OKU.

Power of Registrar to call for additional document or information

23. (1) The Registrar may, in relation to any application made under section 22, call for such additional document or information to be supplied by the applicant within the period to be specified by the Registrar.

(2) Where a person making an application fails to supply the additional document or information called for within the specified period or such other period as may be extended by the Registrar, the application is deemed to have been withdrawn without prejudice, however to a fresh application being made.

Registration and refusal to register

24. (1) After considering an application under section 22 and any additional document or information supplied pursuant to section 23, if any, the Registrar shall—

(a) register a person to be a person with disability if he is satisfied that the person who is the subject of the application is a person with disability; or

(b) refuse to register a person as a person with disability if he is satisfied that the person is not a person with disability.

(2) A person aggrieved by the decision of the Registrar under paragraph 1*(b)* may appeal to the Minister and the decision of the Minister shall be final.

Issuance of Kad OKU

25. (1) The Registrar shall issue a person who is registered as a person with disability a Kad OKU.

(2) A Kad OKU issued under subsection (1) shall, unless proved to have been cancelled, be conclusive evidence for all purposes that the person has been duly registered as a person with disability under this Act.

(3) The Kad OKU shall be surrendered to the Registrar when a person ceases to be a person with disability.

Part IV

PROMOTION AND DEVELOPMENT OF THE QUALITY OF LIFE AND WELLBEING OF PERSONS WITH DISABILITIES

Chapter I

Accessibility

Access to public facilities, amenities and services and buildings

26. (1) Persons with disabilities shall have the right to access to and use of, public facilities, amenities, services and buildings open or provided to the public on equal basis with persons without disabilities, but subject to the existence or emergence of such situations that may endanger the safety of persons with disabilities.

(2) For the purposes of subsection (1), the Government and the providers of such public facilities, amenities, services and buildings shall give appropriate consideration and take necessary measures to ensure that such public facilities, amenities, services and buildings and the improvement of the equipment related thereto conform to universal design in order to facilitate their access and use by persons with disabilities.

Access to public transport facilities

27. (1) Persons with disabilities shall have the right to access to and use of public transport facilities, amenities and services open

or provided to the public on equal basis with persons without disabilities.

(2) For the purposes of subsection (1), the Government and the providers of such public transport facilities, amenities and services shall give appropriate consideration and take necessary measures to ensure that such facilities, amenities and services conform to universal design in order to facilitate their access and use by persons with disabilities.

Access to education

28. (1) Persons with disabilities shall not be excluded from the general education system on the basis of disabilities, and children with disabilities shall not be excluded from pre-school, primary, secondary and higher education, on equal basis with persons or children without disabilities, including vocational training and lifelong learning.

(2) The Government and private educational providers shall, in order to enable persons and children with disabilities to pursue education, provide reasonable accommodation suitable with the requirements of persons and children with disabilities in terms of, among others, infrastructure, equipment and teaching materials, teaching methods, curricula and other forms of support that meet the diverse needs of persons or children with disabilities.

(3) The Government and private educational providers shall take appropriate steps and measures to enable persons and children with disabilities to learn life and social development skills in order to facilitate their full and equal participation in education including the following:

(a) to facilitate 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) to facilitate the learning of Malaysia Sign Language and the promotion of the linguistics identity of the deaf community; and

(c) to ensure that the education of persons, and in particular children, who are blind, deaf or deaf-blind is delivered in

the most appropriate languages and modes and means of communication for the individual, and in environments which maximize academic and social development.

Access to employment

29. (1) Persons with disabilities shall have the right to access to employment on equal basis with persons without disabilities.

(2) The employer shall protect the rights of persons with disabilities, on equal basis with persons without disabilities, to just and favourable conditions of work, including equal opportunities and equal remuneration for work of equal value, safe and healthy working conditions, protection from harassment and the redress of grievances.

(3) The employer shall in performing their social obligation endeavour to promote stable employment for persons with disabilities by properly evaluating their abilities, providing suitable places of employment and conducting proper employment management.

(4) The Council shall, in order to promote employment of persons with disabilities in the private sector, formulate appropriate policies and measures which may include affirmative action programmes and other measures.

(5) The Council shall promote opportunities for training for persons with disabilities in the labour market as well as opportunities for self employment, entrepreneurship, the development of cooperatives, starting one's own business and creating opportunities to work from home.

(6) For the purposes of this section, "employer" includes the Government.

Access to information, communication and technology

30. (1) Persons with disabilities shall have the right to access to information, communication and technology on equal basis with persons without disabilities.

(2) The Government and the provider of information, communication and technology shall in order to enable persons with disabilities to have such access, provide the information, communication and technology in accessible formats and technologies appropriate to different kind of disabilities in a timely manner and without additional cost.

(3) The Government and the private sector shall accept and facilitate the use of Malaysia Sign Language, Braille, augmentative and alternative communication, and all other accessible means, modes and formats of communication of their choice by persons with disabilities in official transactions.

Access to cultural life

31. (1) Persons with disabilities shall have the right to access to cultural life on an equal basis with persons without disabilities.

(2) Persons with disabilities shall have the right to enjoy access—

(a) to cultural materials in accessible formats;

(b) to television programmes, films, theatre and other cultural activities, in accessible formats; and

(c) to places for cultural performances or services such as theatres, museums, cinemas, libraries and tourism services, and, as far as possible, to monuments and sites of national cultural importance.

(3) The Council shall take appropriate measures to enable persons with disabilities to have the opportunities to develop and utilize their creative, artistic and intellectual potential, not only for their own benefit, but also for the enrichment of society.

(4) Persons with disabilities shall be entitled on equal basis with persons without disabilities to recognition and support of their specific cultural and linguistic identity, including Malaysia Sign Language and deaf culture.

Access to recreation, leisure and sport

32. (1) Persons with disabilities shall have the right to participate in recreational, leisure and sporting activities on an equal basis with persons without disabilities but subject to the existence or emergence of such situations that may endanger the safety of persons with disabilities.

(2) The Council shall take appropriate measures—

(a) to encourage and promote the participation, to the fullest extent possible, of persons with disabilities in mainstream sporting activities at all levels;

(b) to ensure that persons with disabilities have an opportunity to organise, develop and participate in disability specific sporting and recreational activities and, to this end, encourage the provision, on an equal basis with persons without disabilities, of appropriate instruction, training and resources;

(c) to ensure that persons with disabilities have access to sporting, recreational and tourism venues;

(d) to ensure that children with disabilities have equal access with other children without disabilities to participation in play, recreation and leisure and sporting activities, including those activities in the school system; and

(e) to ensure that persons with disabilities have access to services from those involved in the organization of recreational, leisure, sporting activities and tourism.

Chapter 2

Habilitation and rehabilitation

Habilitation and rehabilitation

33. (1) The Council, the private healthcare service provider and non-governmental organization shall take effective and appropriate measures 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.

(2) For the purposes of subsection (1), the Council, the private healthcare service provider and non-governmental organization shall organize, 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 begin at the earliest possible stage and are based on the multidisciplinary assessment of individual needs and strengths.

(3) The Council, the private healthcare service provider and non-governmental organization shall promote the availability, knowledge, and use of assistive devices and technologies designed for persons with disabilities as they relate to habilitation and rehabilitation.

(4) The Council, the private sector and non-governmental organization shall take appropriate measures to promote and strengthen community-based rehabilitation programme to provide early intervention, rehabilitation and training for persons with disabilities in their own community through active community participation.

In-home, residential and other community support services

34. The Council, the private sector and non-governmental organization shall take appropriate measures to encourage and promote the provision of a range of in-home, residential and other community support services to prevent isolation or segregation of persons with disabilities from the community.

Chapter 3

Health

Access to health

35. (1) Persons with disabilities shall have the right to the enjoyment of health on an equal basis with persons without disabilities.

(2) The Council, the private sector and non-governmental organization shall take appropriate measures to ensure persons with disabilities have access to health services, including health related rehabilitation, that are gender sensitive.

Prevention of further occurrence of disabilities

36. (1) The Government and the private healthcare service provider shall make available essential health services to persons with disabilities which shall include the following:

(a) prevention of further occurrence of disabilities, immunization, nutrition, environmental protection and preservation and genetic counselling; and

(b) early detection of disabilities and timely intervention to arrest disabilities and treatment for rehabilitation.

(2) In taking measures to prevent further occurrence of disabilities, the Government shall—

(a) undertake or cause to be undertaken surveys, investigations and research concerning the cause of occurrence of such disabilities; and

(b) sponsor or cause to be sponsored awareness campaigns and disseminate or cause to be disseminated information on causes of disabilities and the preventive measures to be adopted and on general hygiene, health and sanitation.

Availability of health personnel

37. (1) Any private sector and non-governmental organization providing institutional care for persons with disabilities shall have in its employment speech therapist, physiotherapist and occupational therapist, or such health personnel as the Minister may deem necessary after taking into account the requirements and capabilities of such private institution, frequency of services and such other factors as may be relevant.

(2) For the purposes of subsection (1), such private institution—

(a) registered under the Care Centres Act 1993 [*Act 506*], shall within six months of the coming into operation of this Act submit to the Council the number of such personnel in their employment; or

(b) applying to be registered under the Care Centres Act 1993 shall on and after the coming into operation of this Act,

before commencing operation, submit to the Council the number of such personnel in their employment.

(3) Notwithstanding subsection (1), the Minister may exempt any private sector or non-governmental organization providing institutional care for persons with disabilities, as he deems fit and necessary, from having in-house health personnel in their employment and instead may allow periodic visit of such health personnel to such private institution.

Chapter 4

Protection of persons with severe disabilities

Lifelong protection and social support system

38. (1) The Government shall provide the necessary lifelong protection and social support system including ensuring that the welfare of persons with severe disabilities remain unaffected after the death of their parents or their caregivers in order to enable the persons with severe disabilities to lead a better quality of life.

(2) Any non-governmental organization intending to provide or providing institutional care for persons with severe disabilities or the caregivers for persons with severe disabilities may make an application for an incentive for providing such care to the Council in such form and manner as may be prescribed.

(3) The Council may, if it is satisfied that the application of the non-governmental organization or caregivers referred to in subsection (2) should be considered, grant such incentive as it deems appropriate with the approval of the Minister responsible for finance.

Meaning of "persons with severe disabilities"

39. For the purposes of this Chapter, "persons with severe disabilities" means a person suffering from one or more disabilities who is dependent on others for basic daily living activities.

Access to assistance

40. (1) Persons with disabilities shall have the right to have assistance on equal basis and recognition with persons without disabilities in situations of risk and humanitarian emergencies, including armed conflict and the occurrence of natural disaster.

(2) The Government shall take all necessary measures to ensure persons with disabilities to have the right of assistance in situations of risk and humanitarian emergencies by way of legal as well as administrative mechanism.

Part V

GENERAL

Protection against suit and legal proceedings

41. No action, suit, prosecution or other proceedings shall lie or be brought, instituted or maintained in any court against—

(a) the Government;

(b) the Minister;

(c) the Council;

(d) any member of the Council or any member of a committee; or

(e) any other person lawfully acting on behalf of the Council,

in respect of any act, neglect or default done or committed by him or it in good faith or any omission omitted by him or it in good faith in such capacity.

Public Authorities Protection Act 1948

42. The Public Authorities Protection Act 1948 [*Act 198*] shall apply to any action, suit, prosecution or proceedings against

the Government, Council or any member of the Council, any member of a committee or agent of the Council in respect of any act, neglect or default done or omitted by it or him in such capacity.

Power to make regulations

43. (1) The Minister may make regulations as appear to him to be necessary and expedient to carry out the provisions of this Act.

(2) Without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations for all or any of the following purposes:

(a) to regulate the management of institutions established for persons with disabilities;

(b) to regulate the management of institutions established for persons with severe disabilities;

(c) to process and regulate the registration of persons with disabilities and such matter relating or incidental thereto;

(d) to prescribe any other matter required or permitted to be prescribed under this Act; and

(e) to provide for any other matter which the Minister deems expedient or necessary for the purposes of this Act.

Things done in anticipation of the enactment of this Act

44. All acts and things done on behalf of the Government or the Council in preparation for or in anticipation of the enactment of this Act and any expenditure incurred in relation thereto shall be deemed to have been authorized under this Act, provided that the acts and things done are consistent with the general intention and purposes of this Act; and all rights and obligations acquired or incurred as a result of the doing of those acts or things including any expenditure incurred in relation thereto shall on the coming into operation of this Act be deemed to be the rights and obligations of the Government or the Council.

Savings and transitional

45. (1) Any person who immediately before the coming into operation of this Act is registered as a person with disability with the Department of Social Welfare shall, on the coming into operation of this Act, be deemed to be a person with disability registered under this Act.

(2) Any person with disability to whom an identification card has been issued by the Department of Social Welfare immediately before the coming into operation of this Act shall be issued a Kad OKU under this Act.

(3) All registers relating to registration of persons with disabilities kept and maintained by the Department of Social Welfare immediately before the coming into operation of this Act shall, on the coming into operation of this Act, be deemed to be registers kept and maintained under this Act and shall be deemed to form part of the Register of Persons with Disabilities.

Prevention of anomalies

46. (1) The Minister may, by order, make such modifications in the provisions of this Act as may appear to him to be necessary or expedient for the purpose of removing any difficulty occasioned by the coming into operation of this Act only as regard to the performance of the functions and the exercise of the powers by the Council.

(2) The Minister shall not exercise the powers conferred by this section after the expiration of two years from the date of coming into operation of this Act.

(3) In this section, "modifications" means amendments, additions, deletions and substitutions of any provision of this Act.

DICETAK OLEH
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