

**THE PERSONS WITH DISABILITIES ACCESS TO EQUAL JOB
OPPORTUNITIES ORDINANCE 2014.**

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A BILL FOR AN ORDINANCE

ENTITLED

**THE MBARARA DISTRICT PERSONS WITH DISABILITIES ACCESS TO
EQUAL JOB OPPORTUNITIES ORDINANCE 2014**

An ordinance to ensure that persons with disabilities access equal job opportunities in the District of Mbarara and to provide for other matters connected therewith.

Date of assent:

Date of Commencement:

BE IT ORDAINED by the Council of the District of Mbarara as follows: -

1. Commencement.

This Ordinance shall come into force on a date appointed by the District Local Government Council by declaration.

2. Short title.

An ordinance to provide for access to equal job opportunities to persons with disabilities.

3. Interpretation

In this ordinance the following words and phrases shall have the definition assigned to them in this section:

‘Auxiliary aids and services’ include qualified readers, interpreters and guides, taped texts, audio visual and pictorial recording; braille equipment, large print and brailled materials; tactile equipment, orthopedic appliance and other devices and services that support PWDs to participate effectively in all aspects of life;

‘Communication’ includes languages, display of text, braille, tactile communication, large print, accessible multimedia as well as written, audio, plain language, human-reader and augmentative and alternative modes, means and formats of communication, including accessible information and communication technology;

‘Discrimination on the basis of disability’ means any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal

basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including denial of reasonable accommodation;

‘District Local Government Council’ means the District Council of Mbarara.

‘Language’ includes spoken and signed languages and other forms of non spoken languages;

‘Lower Administrative Units’ means Village, Parish and County Councils.

‘Person with disabilities’ include persons who have long-term physical, mental, intellectual or sensory impairment which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others;

‘PWDs’ means Persons with Disabilities.

‘Reasonable accommodation’ means necessary and appropriate modification 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 on an equal basis with others of all human rights and fundamental freedoms;

‘Subordinate Local Government Council’ means Sub-County Local Government Councils within the District of Mbarara.

‘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. **‘Universal design’** shall not exclude assistive devices for particular groups of persons with disabilities where this is needed.

4. Objects of the Ordinance.

The objects of this Ordinance are –

- (a) To ensure that people with disabilities have access to equal job opportunities with other persons without disability.
- (b) To promote equal job opportunities for persons with disabilities.

- (c) To ensure that all organs and agencies of the District Local Government Council and all Subordinate Local Government Councils and Administrative Units and all persons, natural and legal, respect, uphold, promote and protect the fundamental and other human rights and freedoms of persons with disabilities with regard to job opportunities.
- (d) To alienate all forms of discrimination against persons with disabilities in matters of job opportunities.
- (e) To promote dignity and equal opportunities to persons with disabilities in matters of job opportunities generally.
- (f) To ensure the participation of persons with disabilities in all aspects of life as equal citizens in the District.

5. Determination of Disability.

Where it is necessary, for purposes of this Ordinance to determine whether a person is in fact a person with a disability this determination may be undertaken with the assistance of a medical doctor with relevant expertise, provided that in addition this medical opinion, all relevant factors will be taken into account, and in particular, the whole range or barriers which may hinder that person's full and effective participation in society on an equal basis with others.

6. Disability Fund.

- (1) Upon the coming into force of this Ordinance, the District Local Government Council and all Subordinate Local Government Councils and Administrative Units shall establish a fund to be known as the Disability Fund, to be charged on the Treasury of the relevant Council or administrative unit as the case may be.
- (2) The Secretary responsible for Disability Fund shall ensure that the Disability fund shall be used exclusively for the welfare of persons with disabilities which shall include but shall not be limited to, supporting the provision of services to persons with disabilities including education, health, care, social assistance and protection and ensuring accessibility for persons with disabilities.
- (3) The Disability Fund shall be established without prejudice to the general protection and provision for persons with disabilities, on an equal basis with others, in the relevant budget.

7. Consultation with Persons with Disabilities.

Without prejudice to any specific duties to consult any officials, persons or entities in this Ordinance, any person or entity charged with

implementing any provision of this Ordinance or developing any plans or regulations hereunder will at all times closely consult with and actively involve persons with disabilities, including children with disabilities through their representative organizations.

8. Prohibition of Discrimination in employment.

- (1) A person shall not discriminate against a qualified person on ground of that person's actual or perceived disability in regard to any job application procedures, hiring, promotion, employee compensation, job training and other terms, conditions, and privileges of employment.
- (2) For the purposes of subsection (1) the following shall constitute acts of discrimination –
 - (i) limiting, segregating or classifying a job applicant with disabilities in such a manner that adversely affects his or her work opportunities;
 - (ii) Using qualification standards, employment tests or other selection criteria that screen out or tend to screen out persons with disabilities.
 - (iii) Utilizing standards, criteria or methods of administration showing the effect of discrimination on the basis of disability or perpetuating the discrimination of others who are subject to common administrative control;
 - (iv) Providing less payment, remuneration or fringe benefits, to a qualified employee with disabilities, than the amount to a non-disabled person performing the same work;
 - (v) Favouring a non-disabled employee over a qualified employee with disabilities with respect to promotion, training opportunities, study and scholarship grants, solely on account of the latter's disability;
 - (vi) Re-assigning or transferring a qualified employee with disabilities from a job or position he or she can perform to one which he or she cannot perform because of his or her disability.
 - (vii) Not making reasonable accommodations to a qualified individual with a disability who is an applicant or employee, unless such employer can demonstrate that the accommodation would impose an undue hardship on the operation of the business.

- (viii) Denying employment opportunities to a job applicant or employee who is an otherwise qualified individual with a disability, if such denial is based on the employer's need to make reasonable accommodation for the employee or applicant.
 - (ix) Failing to select or administer in the most effective manner, employment tests which accurately reflect the skills, and attitude of an applicant or employee with disabilities; and
 - (x) Excluding person with disabilities from membership in labour unions or similar organizations.
- (3) In the context of this Section, "reasonable accommodation" includes but is not limited to:-
- (i) Making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and
 - (ii) Job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for persons with disabilities as per the individual's need.
- (4) In the context of this Section, "undue hardship" means an action requiring significant difficulty or expense when considered in light of the following factors:-
- (i) The nature and cost of the accommodation needed.
 - (ii) The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such accommodation upon the operation of the facility.
 - (iii) The overall financial resources of the employer; the overall size of the business entity with respect to the number of its employees' the number, type, and location of its facilities; and
 - (iv) The type of operation or operations of the entity, including the composition, structure and functions of the workforce of such entity; the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the covered entity.

9. Employment of persons with disabilities

1. Persons with disabilities have the right to practice their professions and to carry on any lawful occupation, trade or business of their choice.
2. The state and all persons shall promote and support the empowerment of persons with disabilities, including those who acquire disability during the course of their employment, to work on an equal basis with others and to earn a living by work through a quota system of employment.
3. The secretary responsible for labour shall, in consultation with the employers' organizations, determine the quota of persons with disabilities workforce for employers, and shall by statutory instrument publish the agreed quota.
4. Notwithstanding the foregoing subsection, the quota of persons with disabilities workforce for employers shall at all times not be less than 5% for private employers and 10% for the public service.
5. Each employer shall –
 - (i) Where appropriate in any job advertisement, indicate that persons with disabilities would be considered;
 - (ii) Be required to carry out any appropriate modification in their work premises to facilitate the employment of persons with disabilities.
 - (iii) Claim tax exemption on any costs incurred as a result of the modifications carried out under paragraph (b) and
 - (iv) Each year by the end of the month in June, submit to the secretary, returns of employment of persons with disabilities.
6. The Secretary responsible for labour shall, at the end of each financial year, report to the District Council and Sub-county Council as the case may be the status of employment of persons with disabilities in the relevant Council.

10. Discriminative medical examination

- (1) An employer shall not conduct any test of examination to establish whether an Applicant is a person with a disability or as to the nature or severity of the person's disability.

- (2) The Provisions of Sub-Section (1) shall not prevent an employer from making pre-employment inquiries into the ability of an applicant to perform job related functions.

11. Discrimination against employees

- (1) An employer shall not discriminate against any employee on ground that the employee
- (a) Opposes acts or practices discriminating against persons with disabilities; or
 - (b) Testified, assisted or participated in an investigation, proceedings or hearing of a case against discrimination of a person with a disability.

12. Access to work premises

It shall be the duty of the employer to ensure that the physical and other features of the premises occupied by an employee do not place an employee with a disability at a disadvantage.

13. Tax reduction

Private employers who employ ten or more persons with disabilities either as regular employees, apprentice or learner on full time basis shall be entitled to tax deduction of fifteen percent of all payable tax upon proof to the Uganda Revenue Authority.

14. Void contracts.

Any contract of employment or other agreement is void if the contract: -

- (a) Requires a person to do anything prohibited under this Ordinance;
- (b) Excludes or limits the operation of any provision of this Ordinance or
- (c) Prevents any person from lodging a Complaint under this Ordinance.

15. Offences and Penalties

- (1) Unless otherwise provided, a person who contravenes any provision of this Ordinance commits an offence and shall be liable on conviction to a fine not exceeding one hundred currency points.
- (2) A person who knowingly aids another person to commit an offence under sub-section (1) shall on conviction be deemed to have committed the offence.

(3) For the avoidance of doubt any person who commits an offence under sub-section (1) which offence is an offence and is punishable under any other law, that person may be punished under the other law.

(4) A currency point represents the amount in Uganda Shillings prescribed in the Schedule to this Ordinance.

16. Burden of Proof in Discrimination Cases

Where a person with disability establishes, before a Court or other competent authority, facts from which it may be presumed that they have suffered direct or indirect discrimination, it shall be for the respondent to prove that such person has not in fact been discriminated against.

Schedule.

One currency point is equivalent to Twenty thousand Uganda Shillings.