



A SIMPLIFIED VERSION OF DISABILITY RIGHTS IN GHANA



CHRI

COMMONWEALTH HUMAN RIGHTS INITIATIVE

COMMONWEALTH HUMAN RIGHTS INITIATIVE AFRICA

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The Simplified Version of Disability Rights in Ghana

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FOREWORD

Approximately 10% of Ghana's 20 million citizens are persons with disability. Although their rights are guaranteed both by Ghana's Constitution and by international conventions, in reality these provisions have offered them very little actual protection against discrimination. For example, in 2000, 80.2% of the general population in Ghana was employed. However, only 69% of persons with disability had a job. Therefore, *The Simplified Version of Disability Rights in Ghana* is a timely and welcome publication.

This book consolidates and simplifies the essential legislation relating to disability. The book is divided into two parts. The first part contains the Simplified Version of the Persons with Disability Act, which was passed by the Ghanaian Parliament in 2006. The second part comprises the Simplified Version of the International Legal Framework relating to persons with disability.

The Persons with Disability Act itself contains more than 60 sections. The sections discuss topics which range from the "Rights of Persons with Disability" to the "Establishment and Functions of National Council on Persons with Disability" and the "Administrative and Financial Provisions". In addition to this, there are numerous international instruments which protect the rights of persons with disability. These laws are long, complex and could easily confuse the general population.

This book aims to simplify the legislation so that more people may understand it. It is hoped that by improving the general public's understanding of the law and by increasing awareness, more people will begin to demand the rights to which they are legally entitled. Hopefully, the information given in this book will also enable organizations which represent persons with disability to use their advocacy more effectively to monitor the progress of national and international legislation. Above all, this book aims to improve the discriminatory situation currently being faced by persons with disability.

Sam Okudzeto
Chair, CHRI's International Advisory Commission

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SIMPLIFIED VERSION OF THE PERSONS WITH DISABILITY ACT, 2006

In 2006 Parliament implemented the '**Persons with Disability Act**', which aims to provide a legal framework for persons with disability in Ghana.

By passing the Act Ghana seeks to do the following:

- i. Fulfil a constitutional obligation of enacting laws to protect and promote the rights of people with disabilities
- ii. Fulfil Ghana's international obligations

1. What are the Contents of the Act?

It is made up of 61 clauses which are grouped into the following sections:

- i. Rights of persons with disability
- ii. Employment of persons with disability
- iii. Education of persons with disability
- iv. Transportation
- v. Health-care facilities
- vi. Miscellaneous provisions
- vii. Establishment and functions of National Council on Persons with Disability
- viii. Administrative and Financial provisions

2. What is the purpose of the Act?

It is to provide for persons with disability, establish a National Council on Persons with Disability and to provide for other related matters.

3. What rights of a person with disability are protected under the Act?

The right to a family life and right to participate in social, creative or recreational activities; the prohibition of differential treatment for residential purposes, the right to the same living conditions as persons without disability when persons with disability are placed in special institutions; no exploitation, abuse, discrimination or disrespect to persons with disability, appropriate facilities when involved in court proceedings; and access to public places.

4. Do other people have responsibilities?

Yes. Owners of places to which the public have access and persons who provide service to the public are responsible for ensuring that persons with disability may also access the public places and the public services provided.

Anyone who fails to respect the above rights of persons with disability commits a criminal offence and will be fined fifty penalty units or a term of imprisonment which is not more than three months.

**5. Can persons with disability be employed?
Under what circumstances?**

Yes, they can.

The Ministry of Manpower and Employment has the responsibility of securing employment for persons with disability through the Public Employment Centre.

If the name of a person with disability remains on the job search list for more than two years, the Ministry shall give the person appropriate training, provide that person with necessary working tools and assist the person to access loan capital to start a business.

If the person who has been given the tools sells them then he/she is guilty of a criminal offence.

Employers may not discriminate against any prospective or current employee on the grounds of disability unless the disability will affect the relevant employment.

Will the employers of persons with disability be affected? How?

- i. The Government will grant them annual tax rebates of the taxable income of the person with disability.
- ii. Tools and appropriate facilities will be provided to the persons with disability.

- iii. The person with disability shall not be posted or transferred to a section which is not suited for him/her.
- iv. The Government may give special incentives to persons with disability engaged in business and also to business organizations that employ persons with disability.
- v. If a person suffers a disability as a result of employment, the employer is under an obligation to re-train or deploy the person to another section of the workplace which is more suited to the person's disability and should give that person any relief that he/she is entitled to under the Workmen's Compensation Law, 1987 (PNDCL 187)

6. What are Rehabilitation Centers?

Rehabilitation Centers shall be established by the Ministry in regions and, as far as possible, in districts for persons with disability. These shall offer guidance, counseling and appropriate training for persons with disability. The Ministry shall also provide them with the staff necessary for the training.

7. What are the legal provisions on Education for persons with disability?

It is mandatory for parents or guardians of children with disability to send them to school. If a parent does not send such a child to school he/she is guilty of a criminal offence.

The Ministry of Education shall by a legislative instrument provide schools or institutions in every region of Ghana with the necessary equipment and facilities in order to enable persons with disability to benefit from them.

The Government has agreed to provide free education for persons with disability and to establish special schools if such persons are unable to enroll in the formal schools.

8. What are the other responsibilities?

Where persons with disabilities complete basic education and are not able to further their education, the Ministry shall provide such persons with the appropriate training.

Heads of educational institutions and those responsible for admitting students into school cannot refuse to give admission to a person with disability unless the person with disability has been assessed to be a person who needs to be placed in a special school.

Failure to admit constitutes a criminal offence under the Act.

Is there special education in technical, vocational and teacher training institutions for persons with disability?

The Minister of Education shall also designate public technical, vocational and teacher training institutions in each region. These institutions will include in their curricula sign language and Braille writing and reading.

Public libraries shall, as far as practicable, be fitted with facilities to enable persons with disability to use the library.

9. How are the transportation needs for persons with disability addressed?

The Ministries for rail, air and road transport and, where appropriate, the Ministry of Local Government are supposed to ensure that the needs of persons with disability are factored into the design, construction and operation of the transport network.

Persons with disability can import vehicles which are adapted for their use. Such vehicles imported with the recommendations of the Minister and approval of the Minister of Finance will be exempt from import duty and any other import tax. However, the vehicle cannot be re-exported.

If a person without disability would like to import a vehicle which is adapted for persons with disability, she/he may only do so with the approval of the Minister.

Motorists have to stop for persons with disability who are pedestrians at pedestrian crossings or other appropriately designated points for crossing.

District Assemblies or operators of parking lots have to demarcate special parking spaces for the exclusive use of persons with disability.

10. Can a person with disability own a driver's license?

The law is not very clear on who can apply for a driving license. It says that persons who have a hearing disability may own a driving license if they pass a driving test and satisfy VELD conditions.

At ports, harbours and the airport, the Aviation and Port Authorities will provide facilities that will help persons with disabilities to move around the port.

Airlines operating in Ghana have to set up special desks to check-in persons with disability before every flight.

At least two seats shall be reserved for persons with disability on commercial buses. However, if the bus gets full and the reserved seats are not occupied by persons with disability, the bookman or loading driver can fill the seats with other passengers.

Anyone who does not stop for a person with disability at a pedestrian crossing, or does not reserve seats for persons with disability on a commercial vehicle commits a criminal offence.

11. What are the legal provisions on healthcare and facilities for persons with disability?

The Ministry of Health is responsible for providing free general and specialist medical care, rehabilitative operation treatment and appropriate assistive devices for persons with disability.

Disability related issues shall be incorporated into the curricula of training institutions for health professionals. This is so that they can develop resources to provide specialized rehabilitation services for persons with disability.

The Ministry of Health will collaborate with the Ministries of Education and Social Welfare to periodically screen children in order to detect and prevent disability. They shall also include education on disability in health care programs.

The Ministry of Health in collaboration with District Assemblies and the Ministry of Social Welfare, will establish and operate health assessment and resource centres in each district. These centers will aim to provide early diagnostic medical attention to mothers and infants to determine the existence or onset of disability.

12. Law enforcement and disability

When a person with disability is arrested, detained, tried or confined by law enforcement agencies, his/her disability will be taken into consideration.

Law enforcement agencies shall incorporate the study of disability and disability related issues into their curricula.

13. What other matters does the Act address?

- i. tax exemptions will be given to manufacturers of technical aides or appliances for persons with disability;
- ii. persons with disability shall not be called derogatory names;
- iii. adequate facilities will also be provided to facilitate the involvement of persons with disability in sports and cultural activities;
- iv. when national, regional or district programs are organized, provision and facilities have to be made available for the participation of persons with disability in the activity.

14. What structures will be set up to implement and enforce the Law? What will the objectives of these new structures be?

The National Council on Persons with Disability

it will aim to propose policies which will enable persons with disability to participate in the development of Ghana.

- Regional and District Offices of the Council:
these offices will perform the functions of the Council in the regions and districts in which they are based.
- Appointment of an Executive Secretary for the Council:
the Executive Secretary will be responsible for the day to day administration of the Council.

15. How much time do the public have to make the changes implemented by this Act?

The owner or occupier of an existing building to which the public have access shall make that building accessible to persons with disability within 10 years of the commencement of this Act.

16. Who is a person with disability in Ghana?

A person with a physical, mental or sensory impairment including a visual, hearing or speech functional disability, which gives rise to physical, cultural or social barriers that substantially, limits one or more of the major life activities of that individual.

SIMPLIFIED VERSION OF THE INTERNATIONAL LEGAL FRAMEWORK

Some international conventions also protect the rights of persons with disabilities. Some of these conventions are listed below:

- **The African Charter on the Rights and Welfare of the Child.**

This Charter gives handicapped children the right to protection and assistance from the State in order to ensure his/her dignity, development and integration into the community.

It also obliges States to use their available resources to allow persons with disability to access public highways, buildings and other places which the disabled may legitimately want to have access to.

- **The African Charter on Human and People's Rights.**

This Charter states that persons with disability shall "have the right to special measures of protection in keeping with their physical or moral needs."

- **World Programme of Action concerning Disabled Persons.**

The main objectives of the WPA are to enhance disability prevention, rehabilitation and equalization of opportunities.

The WPA highlights the fact that issues concerning persons with disability should not be treated in isolation, but within the context of normal community services.

Member States are urged to assist organizations of persons with disability in coordinating the representation of the interests of persons with disability. They are also encouraged to provide channels for these organizations to influence government policies in all areas that may concern persons with disability.

Member States are also encouraged to approach disability from a human rights perspective. The United Nations Commission on Human Rights is called upon to ensure that all persons with disability are free to exercise their human rights.

- **Tallinn Guidelines for Action on Human Resources Development in the Field of Disability.**

The Tallinn Guidelines prioritizes the development of the human resources of disabled persons, with specific reference to "education and training, employment and science and technology."

The Guidelines emphasize the fact that persons with disability should be involved in decision-making processes "as equal partners" and are entitled to the same rights and responsibilities as other members of society.

- **Declaration on the Rights of Mentally Retarded Persons.**

This Declaration gives persons with mental disability, to the maximum degree of feasibility, "the same rights as other human beings."

It is recognized that persons with mental disability have a right to proper medical care, economic security and protection from exploitation, abuse and degrading treatment.

The Declaration also states that "Whenever possible, the mentally retarded person should live with his own family or with foster parents".

- **Declaration on the Rights of Disabled Persons.**

This Declaration states that "disabled persons have the inherent right to respect for their human dignity" and they have the "same civil and political rights as other human beings".

Further, they shall be able to benefit from legal aid when such aid proves indispensable for the protection of themselves and their property.

The Declaration also recognizes that organizations of persons with disability may be consulted in all matters relating to the rights of persons with disability.

- **Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care.**

The Principles give information on the fundamental freedoms and basic rights of persons with mental disability, the provision of mental health care and the treatment of involuntary patients and criminal offenders.

According to the Principles, everyone has the right to the best available mental health care.

- **Standard Rules on the Equalization of Opportunities for Persons with Disabilities.**

The rules are divided into 4 sections: preconditions for equal participation, target areas for equal participation, implementation measures and monitoring mechanism.

Some of the issues which the rules tackle are awareness-raising, rehabilitation, support services, accessibility, education and employment. There are also rules relating to income maintenance, family life and policy-making.

- **ILO Convention concerning Vocational Rehabilitation and Employment (Disabled Persons).**

The Convention obliges each Member to implement and periodically review a national policy on vocational rehabilitation and employment of disabled persons.

This policy should aim to promote employment opportunities for disabled persons and it shall be based on the principle of equal opportunity.

The representative organizations of employers and workers shall be consulted on the implementation of the policy.

Members of the Convention shall also take measures to enable disabled persons to secure, retain and advance in employment. Measures should also be taken to establish and develop vocational rehabilitation and employment services for disabled persons in rural areas and remote communities.

- **General Comment No. 5 by the Committee on Economic, Social and Cultural Rights.**

In the General Comment No. 5, the Committee recognizes that women with disabilities often suffer double discrimination as a result of their sex and disability. Therefore, the Committee urges State parties to address this situation, with priority being

given to the implementation of economic, social and cultural rights programmes.

The Committee also advises States to actively support the integration of persons with disabilities into the labour market, where disability should not be used as an excuse for creating low standards of labour protection or for paying below minimum wages.

The Committee highlights the need for social security and income maintenance schemes for persons with disability and for those who undertake the care of persons with disability.

State parties are also encouraged to ensure that all persons with disabilities are allowed to practice their right to marry and have a family of their own.



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The plight of minority groups within the population often needs to be reinforced through legislation to ensure real equality. One of these groups, persons with disability, are often denied access to the same public services and utilities as the able-bodied majority. The Persons with Disability Act 2006 sets out provisions that will for the first time seek to redress the balance by making changes to areas including education, healthcare, transport, and employment regulations. The Act includes legal obligations placed upon persons without disabilities concerning issues such as public access. In order to ensure that the Act is effective, this booklet offers a simplified version of the law and explains how persons with disability should enforce their legal rights.



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