

MEMORANDUM

The purpose of the Bill is to amend the Persons with disabilities Act, 2006 (Act 715) to enhance its substantive provisions, give effect to the United Nations Convention on the Rights of Persons with Disabilities and for related matters connected therewith or incidental thereto.

Act 715 was enacted to provide a framework specifically for the protection of the rights of Persons with disabilities as enshrined in Article 29 of the Constitution, 1992. However, the implementation of Act 715 exposed the inadequate nature of the rights conferred therein compared to the rights conferred in the frameworks for disability rights protection in several other countries in the comity of nations. The rights of women and children with disability who are more particularly vulnerable to multiple discrimination and marginalization across the world have not been adequately catered for.

Other matters which are not dealt with by Act 715 include but are not limited to the following which are covered by the Convention:

- The right to life; situations of risk and humanitarian emergencies;
- Protecting the integrity of the person;
- Personal mobility; and
- Respect for home and the family.

In other words, the rights conferred are limited in depth compared to other progressive jurisdictions. This is evidently due to the fact that Act 715 was enacted prior in time to the adoption of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) on which is based the frameworks for disability rights protection in those other progressive jurisdictions. The global and international law context within which the Convention was agreed to can be gleaned principally from:

(a) the principles proclaimed in the Charter of the United Nations, the Universal Declaration of Human Rights and in all other International Covenants on Human Rights and equal opportunities, all of which recognize the inherent dignity and worth and the inalienable rights, without distinction of any kind, of all members of the human family as the foundation of freedom, justice and peace in the world;

(b) the global recognition of the universality, indivisibility, interdependence and interrelatedness of all human rights and fundamental freedoms and especially, the need for persons with disabilities to be guaranteed their full enjoyment without discrimination; and

(c) the fact that, despite these various instruments and undertakings, persons with disabilities continue to face barriers in their participation as equal members of society and violations of their human rights in all parts of the world, among others.

The UNCRPD was adopted by the United Nations on 13th December, 2006, and came into force on 3rd May, 2008, on receiving its 20th ratification.

Considering that Ghana signed the UNCRPD in March, 2007, and ratified it on 21st August 2012, it is both necessary and compelling for Ghana to amend the present enactment relating to disability in order to make same to conform to existing practice and norms of the international community on matters concerning the rights of persons with disabilities as particularly reflected in the UNCRPD. This is one sure way the country's ratification of the UNCRPD can be made useful to persons with disabilities.

Apart from these apparent inadequacies of the rights of persons with disabilities contained in Act 715, the offences and penal provisions in the Act are too weak to deter defaulters.

Enforcement agencies are also not sufficiently empowered to protect the rights of persons with disabilities.

It is for these reasons that this replacement Bill has been proposed. It is hoped that with the passage of the Bill, the amended legal framework will strengthen the appropriate structures already established under Act 715, and introduce support structures as well as proper rules to be applied to adequately protect the rights of persons with disabilities in Ghana. In this sense, the substance of Act 715 has generally been maintained in the Bill the provisions of which have been expanded and renumbered.

Part I which covers clauses 1 to 21, deals with the Human Rights of persons with disabilities.

Part I which covers clauses 1 to 21 provides for the rights of persons with disabilities under the Constitution and the Convention.

Clause 1 affirms the enjoyment by persons with disabilities of the fundamental and other human rights and freedoms enshrined in the Constitution and other relevant domestic, regional and international law.

Clause 2 deals with Equality and non-discrimination.

Clause 3 protects the Right to life in view of infanticide and ritual killing of persons with disabilities.

Clause 4 Prohibits cruel, inhuman and degrading treatment or punishment.

Clause 5 provides Protection from abuse, violence and exploitation.

Clause 6 guarantees the Right to privacy and clause 7 protects the Rights of the family.

Clause 8 guarantees the Right to liberty and security

Clause 9 provides for the Right to participation in political and public life.

Clause 10 protects Rights related to equal recognition before the law and access to Justice.

Clause 11 deals with the Right to freedom of movement and nationality, while clause 12 provides for freedom of expression and opinion, and access to information.

Clause 13 protects the rights of Women with disabilities and clause 14 guarantees the rights of Children with disabilities.

Clause 15 deals with Protection and safety in Situations of risk and humanitarian emergency.

Clause 16 prohibits Differential treatment in respect of residence while clause 17 deals with living conditions in specialized establishments.

Clause 18 provides for Access to public places and clause 19 deals with access to public services.

Clause 20 provides for personal mobility with regard to persons with disabilities.

Clause 21 deals with Offences and Penalty for contravention.

PART II on Skills development and employment spans clauses 22 to 33.

Clause 22 provides for employment through public and private employment centres while clause 23 deals with the Promotion of employment of persons with disabilities.

Clause 24 deals with the Provision of tools and facilities by employers while Clause 25 provides for the posting, transfer and redeployment of person with disability

Clause 26 has provisions for appropriate training for the unemployed person with disability and clause 27 Protects against discrimination in employment.

Clause 28 protects against Discriminative medical examination while clause 29 provides for void contracts.

Clause 30 protects against advertisements implying discrimination and Clause 31 provides for Labour and Trade Union Rights.

Clause 32 and Clause 33 provide for rehabilitation centres and Community based rehabilitation respectively.

PART III Education of persons with disabilities consists of clauses 34 to 41.

Clause 34 provides for Inclusive education of a child with disability while clause 35 deals with special, non-formal and/or adult education.

Clause 36 calls for facilities and equipment in educational institutions.

Clause 37 concerns free education and special schools and clause 38 deals with appropriate training for basic school graduates.

Clause 39 prohibits refusal of admission into institutions on account of disability while clause 40 provides for special education in technical, vocational and teacher training institutions and clause 41 seeks to make library facilities accessible and available to persons with disabilities.

PART IV concerning Transportation covers clauses 42 to 48.

Clause 42 seeks to integrate the needs of persons with disabilities into the transportation network and clause 43 has provisions concerning the importation of non-conventional vehicles for the use of persons with disabilities.

Clause 44 provides for a person with disability as pedestrian while clause 45 seeks to reserve parking places for persons with disabilities.

Clause 46 provides for the ownership of driving licence by persons with hearing disabilities, clause 47 requires Facilities at port terminals and clause 48 calls for Reserve seats on commercial vehicles.

PART V which consists of clauses 49 to 53 deals with health-care and facilities.

Clause 49 guarantees medical treatment for persons with disabilities while clause 50 and clause 51 require disability related issues to form part of the Training of health professionals and health programmes respectively.

Clause 52 requires periodic screening of children and clause 53 provides for the establishment of assessment centres.

PART VI on MISCELLANEOUS PROVISIONS spans clauses 54 to 62.

Clause 54 and clause 55 contain mandatory requirements in respect of television programmes and telephone services respectively.

Clause 56 has provisions on Access to sporting events, festivals, recreational and cultural activities, while clause 57 provides for Universal design of goods and services.

Clause 58 guarantees the right to supportive services and clause 59 requires Consultation with Persons with Disabilities.

Clause 60 deals with Determination of Disability, clause 61 lays down the Burden of Proof in Discrimination Cases and clause 62 contains general provisions concerning exceptions, incentives and deductions.

PART VII which covers clauses 63 to 79 deals with establishment and functions of the National Council on Persons with disabilities.

Clause 63 establishes the National Council on Persons with disabilities and clause 64 sets out the object and functions of the Council.

Clause 65 has stipulations concerning the Governing body of the Council and clause 66 prescribes the tenure of office of members.

Clause 67 provides for Meetings of the Board and clause 68 requires disclosure of interest by a Board member.

Clause 69 deals with the Appointment of Committees and clause 70 provides for Allowances of members.

Clause 71 requires the establishment of Regional and district offices of the Council and clause 72 provides for the keeping of a Register of persons with disabilities and institutions, organisations and associations which provide rehabilitation, services or support for persons with disabilities.

While clause 73 provides for Executive Secretary, clause 74 sets out Functions of the Executive Secretary, clause 75 deals with Appointment of other staff and clause 76 contains stipulations regarding delegation of power of appointment.

Clause 77 makes provision for Funds of the Council, clause 78 deals with Accounts and audit and clause 79 requires an Annual report and other reports.

Clause 80 establishes a National Fund for Persons with Disabilities, clause 81 sets out the Object(s) of the Fund, clause 82 lists sources of

money for the Fund and clause 83 requires opening of Bank accounts for the Fund.

Clause 84 lists Trustees to manage the Fund, clause 85 sets out Functions of the Fund's Board of Trustees, clause 86 deals with Exemption from tax, clause 87 provides for Accounts, audit and annual reports of the Fund and clause 88 affirms the continuing and primary obligation of the State notwithstanding the establishment of the Fund.

Clause 89 concerns Application of this Bill, clause 90 provides for Regulations, clause 91 requires Publication of International Conventions relating to persons with disabilities, clause 92 provides the Interpretation of terms and phrases, while clause 93 and clause 94 deal with modification of existing law, repeal, savings and transitional provisions respectively.