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LAMU COUNTY ACTS, 2018

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THE LAMU COUNTY PERSONS WITH DISABILITIES ACT, 2018

No. 4 of 2018

Date of Assent: 2nd August, 2018

Date of Commencement: See Section 1

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**THE LAMU COUNTY PERSONS WITH
DISABILITIES ACT, 2018**

AN ACT of County Assembly of Lamu to provide for the rights and rehabilitation of persons with disabilities to achieve equalization of opportunities for persons with disabilities, to establish the County Disability Fund Committee; and for connected purposes.

ENACTED by the County Assembly of Lamu as follows: —

PART I—PRELIMINARY

1. This Act may be cited as the Lamu County Persons with Disability Act 2018 and will come into effect on such a date set by the County Executive Committee. Short title and Commencement

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

“Chief Officer” means Chief Officer in charge of the Department dealing with issues concerning people with disabilities;

“Committee” means the Lamu County Disability Fund Committee;

“Constitution” means the Constitution of Kenya, 2010;

“County Executive Committee Member” means county executive committee member in charge of the Department dealing with issues concerning people with disabilities established in accordance with Article 176 of the Constitution;

“Department” means the Department dealing with issues concerning people with disabilities;

“Director” means the director of the department dealing with issues concerning people with disabilities;

“Disability” includes any physical, sensory, mental, psychological or other impairment, condition or illness that has, or is perceived by significant sectors of the community to have, a substantial or long-term effect on an individual’s ability to carry out ordinary day to day activities;

“Disability Group” means a registered group with 70% of its members being people with disabilities;

“Fund” means the Lamu County Disability Fund;

“Government” means County Government of Lamu;

“Group” means groups of people with disabilities;

“Secretary” means the director/ assistant director/ head of the Department dealing with issues concerning people with disabilities.

3. The object and purpose of this Act is to provide for a legal framework for the establishment of guidelines that guide the Department dealing with issues concerning people with disabilities and it serves the following purposes—

Object and purpose of the Act

- (a) to promote enterprise development among people with disabilities;
- (b) to spur socio – economic development of people with disabilities;
- (c) to support training for small and medium enterprises to groups of people with disabilities;
- (d) to market products of small and medium enterprises for people with disabilities;
- (e) to integrate and mainstream disability across social development practices into strategies and programmes aligned to departmental mandates;
- (f) to promote the role of social development in service provision to people with disabilities;
- (g) to facilitate development and implementation of “Lamu County Disability Fund”; and
- (h) to serve as a guideline to service delivery to people with disabilities.

PART II—ESTABLISHMENT OF LAMU COUNTY DISABILITY FUND AND COMMITTEE

4. The Fund shall consist of—

Establishment of Lamu County Disability Fund

- (a) the monies allocated and appropriated by County Assembly of Lamu;

- (b) any grants, gifts, donations, loans or other endowments given to the Fund;
- (c) such funds as may vest in or accrue to the Fund in the course of administration of the Fund under this Act; and
- (d) monies from any other lawful sources accruing to the Fund.

5. The Fund shall be appropriated for the purpose of— Purpose of the Fund

- (a) providing access to capital and financial facilities to the small and medium enterprises owned by the people with disabilities;
- (b) providing access to capital and financial facilities to the civil societies comprised of the people with disabilities;
- (c) spurring socio-economic development of people with disabilities;
- (d) supporting people with disabilities' small and medium enterprises and civil societies to develop linkages with larger enterprises, national and international funding organizations;
- (e) marketing products of small and medium enterprises for the people with disabilities;
- (f) supporting entrepreneurship training for small and medium enterprises to groups benefitting from the Fund.

6. All monies received by the Fund shall be maintained in a separate bank account in the name of the Fund opened and administered in accordance with the provisions of the Public Finance Management Act, 2012 and regulations made under the Act. The bank account shall be managed by the following three mandatory signatories:- Opening of a Bank Account

- (a) Chief Officer in charge of the Department.
- (b) Chief Officer, Finance.
- (c) Secretary to the Lamu County Disability Fund Committee.

7. The Fund shall be disbursed in the following manner: Disbursement of
the Fund
- (a) the Fund shall be given out only once a year and within a specific period of the year;
 - (b) the Fund shall be issued to groups only, but special consideration shall be given to people with severe disabilities;
 - (c) the Fund shall not be used to fund community projects/groups or individuals who benefitted from the Fund in the previous year. This shall not apply to institutions of people with disabilities such as schools for disabled, and when there are no other applicants;
 - (d) ninety percent (90%) of the total fund for the year shall be for disbursement while only ten-percent (10%) shall be used for monitoring and evaluation and other administrative expenses;
 - (e) the Committee shall sit for a maximum of four sittings in a year to determine the eligible applicants;
 - (f) the list of successful applicants and minutes shall be kept and cheques issued to the successful applicants; and
 - (g) application form shall be collected from the Ward Administrator department's office, completed and returned to the same office for onward transmission to the committee.

8. (1) The Fund shall be given to the groups or individuals only upon application. The groups which will be eligible to receive the fund shall: - Eligibility criteria

- (a) forward an application letter attached with a duly completed Application Form directed to the secretary of the Committee specifying the activity for which the Funds will be utilized and the budget for the activity;
- (b) be registered with social services department and the registration certificate should be valid for that year;

- (c) have been in existence for not less than six (6) months;
 - (d) show evidence of regular meeting, avail minutes of three consecutive meetings;
 - (e) financial records and transactions of the enterprise requiring support;
 - (f) should have an operational bank account with a credible bank or banking institution;
 - (g) should have functional group by-laws and or constitution;
 - (h) should have acceptable group management records;
 - (i) should have sound financial management system;
 - (j) shall be required to sign an acknowledgement receipt with the committee upon receipt of the fund; and
 - (k) shall account for the fund within three months from the receipt of the fund.
- (2) The individuals who will be considered for the fund shall—
- (a) be the persons living with disabilities;
 - (b) have an operational bank account with a credible banking institution;
 - (c) have a PIN Certificate;
 - (d) be required to sign an acknowledgement receipt with the Committee upon receipt of the fund; and
 - (e) in case of inability of the applicant to meet (b), (c) and (d) above, his/her care giver shall be allowed to provide the aforementioned requirements on behalf of the applicant.

9. There is established the Lamu County Disability Fund Committee for better management of the Fund.

10. The Committee shall consist of—

Establishment of
Lamu County
Disability Fund
Committee
Composition of the
Committee

- (a) Chief Officer in charge of the Department as the chairperson;
- (b) Chief Officer in-charge for Finance or his appointed representative as a member;
- (c) Director of the Department as the Secretary who shall be an ex-officio member; and
- (d) three persons representing persons with disabilities who shall be appointed by the County Executive Committee Member.
- (e) the three persons should be persons with disabilities one from each Constituency in the County and one female from disability group.

11. The Committee shall—

Functions of the
Committee

- (a) receive and vet all applications from the wards through the ward administrators;
- (b) allocate the amount of Fund that is to be disbursed to applicants;
- (c) monitor the utilization of the funds provided;
- (d) maintain minutes of the meetings held;
- (e) keep records of the Fund per ward issued to the applicants;
- (f) disburse funds only in accordance to this Act;
- (g) ensure equity in the distribution of the Fund; and
- (h) guide the ward administrators to display the list of beneficiaries at their respective offices for transparency and accountability.

PART III—DISABILITY MAINSTREAMING AND EMPOWERMENT

12. The Department shall collect or facilitate the collection of data of the population of people with disabilities and the nature of their disabilities. The department shall also facilitate the establishment of resource centers at the community level where people with disabilities can get information, training, recreation and counseling on employment creation and other aspects of life.

Data collection,
disability
mainstreaming and
empowerment

13. The Department shall facilitate different trainings to people with disabilities with an aim of mainstreaming them. The trainings shall serve the following objectives: Training

- (a) to equip people with disabilities with entrepreneurship skills.
- (b) to educate the people with disabilities on group dynamics and group sustainability.
- (c) to create awareness to people with disabilities on the 30% government tender rule.
- (d) to assist people with disabilities in group formation and company registration
- (e) to equip people with disabilities with other skills deemed necessary.

14. In sports and recreation, the County government shall— Sports and recreation

- (a) improve accessibility to recreation and sporting facilities by persons with disabilities;
- (b) in collaboration with other stakeholders, provide disability friendly sports equipment and facilities; and
- (c) ensure that persons with disabilities are represented in committees and bodies that make decisions on sports.

15. (1) The empowerment programmes under this Act shall be financed by the Department from funds which consist of— Financing disability empowerment programmes

- (a) the monies allocated and appropriated by the County Assembly of Lamu;
- (b) any grants, gifts, donations, or other endowments given to the Department for such purposes;
- (c) monies from any other lawful sources mobilized by the Department; and
- (d) monies received by the Department as a result of partnerships and collaboration with other governmental and non-governmental organizations.

(2) The empowerment programmes under section (14) shall be financed by the Department of Sports from the monies which consist of:

- (a) the monies allocated and appropriated by County Assembly of Lamu;
- (b) any grants, gifts, donations, or other endowments given to the Department of Sports for such purposes;
- (c) monies from any other lawful sources mobilized by the Department of Sports; and
- (d) monies received by the Department of Sports as a result of partnerships and collaboration with other governmental and non-governmental organizations.

PART IV— PRIVILEGES OF PEOPLE LIVING WITH DISABILITIES

16. People with disabilities shall enjoy the following privileges:

Exemption from
income taxes

- (a) all persons with disabilities may apply to the County Executive Committee Member responsible for finance for exemption from county taxes and levies;
- (b) the County Executive Committee Member responsible for finance shall, in consultation with the Department, assess all applications received under subsection (a) and make such order thereon, if any, as he deems fit, exempting the applicant wholly, or to the extent provided by the order, from county taxes or other levies specified therein, and any such order shall, notwithstanding the provisions of any other Act, have effect according to its terms.
- (c) the County Executive Committee Member will liaise with other departments to ensure they are compliant with the national legislations on persons with disabilities and recognize their rights as enshrined in the Constitution of Kenya 2010.

17. The County Executive Committee Member for Finance may liaise with the departments responsible for matters relating to credit unions, cooperatives and other

Promotion of
access to credit

lending institutions to put in place measures to encourage the extension by such institutions of credit to persons with disabilities

PART V—PENALTIES

18. (1) A person is guilty of an offence if the Penalties
person—

- (a) fails to comply with an order issued under this Act;
- (b) discriminates against a person with disability contrary to this Act; or
- (c) discriminates against a person with a disability on the ground of any ethnic, communal or cultural custom or practice.

(2) A person who is convicted of an offence under subsection (1) is liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding six months or to both.

(3) A person found guilty of an offence under this section may in addition to the penalty imposed by the court be ordered to pay the person injured by the offence such sums of money in compensation as the court may deem appropriate.

PART VI—REGULATIONS

19. The County Executive Committee Member may Regulations
make regulations that are necessary or desirable for the proper conduct of the business of the Committee and without prejudice to the generality of the foregoing, make regulations regarding the following —

- (a) Monitoring and evaluation;
- (b) Conduct of committee meetings;
- (c) Performance reporting;

