

10 November 2016

Committee Secretary  
Senate Standing Committee on Community Affairs  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
By email: [community.affairs.sen@aph.gov.au](mailto:community.affairs.sen@aph.gov.au)

Dear Secretary,

Thank you for the opportunity to provide input into the *Social Services Legislation Amendment (Transition Mobility Allowance to the National Disability Insurance Scheme) Bill 2016 (Mobility Allowance Bill)*.

I write as an individual who has worked in the disability sector and who is familiar with the circumstances of many who are recipients and/or people who are eligible for the mobility allowance. I also write as an individual with lived experience of disability that brings first hand awareness of the additional structural and systemic barriers that must be overcome to work, participate in the community and maintain an adequate standard of living, with particular reference to Articles 7, 8 and 20 of the Declaration on the Rights of Disabled Persons (CRPD):<sup>1</sup>

7. Disabled persons have the right to economic and social security and to a decent level of living. They have the right, according to their capabilities, to secure and retain employment ***or to engage in a useful, productive and remunerative occupation*** and to join trade unions. [my italics added]

8. Disabled persons are entitled ***to have their special needs taken into consideration at all stages of economic and social planning***. [my italics added]

20. States Parties shall take effective measures to ensure personal mobility with the greatest possible independence for persons with disabilities, including by:

- a. Facilitating the personal mobility of persons with disabilities in the manner and at the time of their choice, and at affordable cost;

CRPD highlights that the majority of persons with disabilities live in conditions of poverty and calls for State signatories to recognise the critical need to address the negative impact of poverty on persons with disabilities. It is widely recognised by OECD nations as well as signatories to the CRPD that people with disabilities face increased barriers to employment and adequate standards of living; furthermore, that Australia ranks lowest of 27 OECD countries when it comes to poverty risk for people with disabilities compared to the general population.<sup>2</sup> Mechanisms that alleviate, minimise

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<sup>1</sup> [www.ohchr.org/EN/ProfessionalInterest/Pages/RightsOfDisabledPersons.aspx](http://www.ohchr.org/EN/ProfessionalInterest/Pages/RightsOfDisabledPersons.aspx)

<sup>2</sup> PWC report: Australia is ranked 27th out of 27 OECD countries when it comes to relative poverty risk for people with a disability:  
[www.aph.gov.au/About\\_Parliament/Parliamentary\\_Departments/Parliamentary\\_Library/FlagPost/2011/December/Disability\\_employment\\_in\\_Australia\\_and\\_the\\_OECD](http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/FlagPost/2011/December/Disability_employment_in_Australia_and_the_OECD)

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and reduce these disproportionate burdens by maintaining and seeking to improve the standard of living as well as eliminating discrimination are to be commended.<sup>3</sup>

The mobility allowance is one such piece of targeted legislation that both assists those in such circumstance to have a level of security of their standard of living and is a mechanism that is used to acknowledge the wider community's role in reducing discrimination by sharing the disproportionate burden those with disabilities otherwise face compared to the general population. The mobility allowance does this directly by providing a subsidy towards transport costs and eligibility for the Health Concession Card.

This submission:

1. demonstrates the significance of preserving volunteering and job search activities as activities that qualify a person for the Mobility Allowance;
2. highlights the significance of maintaining the 12-week continuation (grace) period;
3. highlights that the National Disability Insurance Scheme (NDIS) is not an equivalent replacement or necessarily a suitable or equivalent alternative to the mobility allowance, particularly, while it is still being rolled out;
4. highlights gaps in requirements for compatibility with the key human rights instrument CRPD that Australia has obligations under as a signatory State;
5. reflects on obligation to consult; and
6. provides recommendations for amendments to the mobility allowance.

I will draw on three case studies that are representative examples of people who currently have access to the mobility allowance to demonstrate the pivotal role this allowance plays for the small cohort out of the general population who receive the mobility allowance. To remove access for those currently eligible is a significant concern as it would be also at odds with Australia's obligations and good standing as a signatory to the CRPD.<sup>4</sup>

#### **Case A:** ■■■

■■■ has an auto immune disease that impacts mobility and uses a cane regularly but also has episodic exacerbations when she can not work. Episodes can result in periods of more than a month where it is not possible to work. She is self-employed and undertakes contract work as a way to minimise the impact on work commitments. She lives in an area where the NDIS will not be rolled out until 2019.

Under proposed changes, this person and people in similar circumstances would lose the mobility allowance and not have access to equivalent resources and further entrenches them in poverty.

#### **Case B:** ■■■

■■■ has ataxia and receives the DSP. He is undertaking part time study and volunteer work that are a combined total of at least 32 hours over a 4-week period. This is as a stepping stone to applying for suitable employment. His total hours currently vary between 8-15 hours a week due to study commitments, health fluctuations and medical commitments, also factors beyond his individual control. He lives in Melbourne where his rental costs are 50% of his DSP. The NDIS has not yet been rolled out in his area.

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<sup>3</sup> See CRPD Article 4 – General Obligations 1. c,d,e, 2. [www.un.org/disabilities/convention/conventionfull.shtml](http://www.un.org/disabilities/convention/conventionfull.shtml)

<sup>4</sup> Refer Appendix A for Convention on the Rights of Persons with Disabilities, with particular respect to Articles (either in part or in full): 3, 4, 5, 9, 19, 20, 25, 26, 27, 28, 29, 30 & 31.

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Under proposed changes, this person would lose the mobility allowance and not have access to equivalent resources and further entrenches him and others in similar circumstances in poverty.

**Case C:** ■■■

■■■ has MS. In addition to mobility limitations, a common complication for people with ms is exacerbation of symptoms with heat. She undertakes a mix of casual work, short term contracts and volunteering that is a total of 32 hours across a 4-week period. She undertakes volunteer hours for a small not-for-profit agency that is heavily dependent on volunteers to operate. She takes on additional volunteer when casual hours are not available. She receives a reduced DSP that varies dependent on the amount of paid work per fortnight. The NDIS has just come available in her area. She lives in the ACT.

Under proposed changes, this person would lose the mobility allowance and not have access to equivalent resources and entrenches her and others in similar circumstances in poverty.

**1. Significance of preserving volunteering and job search activities as activities that qualify a person for the Mobility Allowance**

Volunteering is a key and significant pathway to employment and has intrinsic value in the community as does temporary, casual and contract work. In many cases, for a person with a disability, periodic work and volunteer work is a key means of accommodating and managing their disability or chronic illness, especially where there are fluctuations in condition, while still contributing in meaningful ways, gaining professional development and maintaining crucial industry sector networks. Access to professional development, training, workplace practices and networks are significant in being a candidate for consideration of paid roles.

Under Articles 5 and 30 of the Convention on the Rights of Persons with Disabilities the State's obligations include:

**Article 5**

4. Specific measures which are necessary to accelerate or achieve de facto equality of persons with disabilities shall not be considered discrimination under the terms of the present Convention.

**Article 30**

2. States Parties shall take appropriate measures to enable persons with disabilities to have the opportunity to develop and utilize their creative, artistic and intellectual potential, not only for their own benefit, but also for the enrichment of society.

However, under the proposed amendments, people undertaking work in a volunteer capacity would lose eligibility to the mobility allowance. In doing so, this decelerates de facto measures towards equality and does not promote equality. Other CPRD Articles that have a bearing are: Article 9 – Accessibility, Part 1b and 2a and f; Article 19 – Inclusion in the Community; Article 28 - Standard of Living and Social Protection; and Article 29 - Access to Public and Personal Life.<sup>567</sup>

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<sup>5</sup> CRPD Article 29, B, Promote actively an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs, without discrimination and on an equal basis with others, and encourage their participation in public affairs, including:

- i. Participation in non-governmental organizations and associations concerned with the public and political life of the country, and in the activities and administration of political parties;

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## 2. Significance of maintaining a 12-week grace period

One of the difficulties, many people face, is an exacerbation of symptoms under certain circumstance beyond their control, such as lack of temperature modulation. This makes ongoing work especially challenging and in many cases not feasible during heatwaves and particular periods of the year that can frequently be for a period longer than 4 weeks.<sup>8</sup>

Similarly, study breaks between semesters are commonly for longer than 4 weeks.

Under the proposed amendments a person studying or unable to work due to an exacerbation of symptoms would be forced to re-apply each time for the mobility allowance, where under current eligibility requirements and grace period they have security of living costs. This places undue and disproportionate burden, including additional costs, on the individual attempting to maintain work, whether paid or unpaid, or study or a combination of these activities in the community.

## 3. Proposed changes to mobility allowance eligibility

Proposed changes to eligibility for the mobility allowance include:

- changes to required threshold of hours from 32 hours per 4-week period to 60 hours or more per 4 week period;
- removal of eligibility for volunteering work; and
- change to definition to add requiring 'substantial assistance'.

Given the mobility allowance assists people to maintain work and participate in the community by subsidising transport costs, to then introduce these changes to eligibility also brings additional barriers and discrimination for all the typical example cases provided above. It introduces disincentives to work, paid or unpaid, and to study for those who a 15-hour week (or more) of paid work is not feasible or reliable. To do so is at odds with a State's obligations under the CRPD with particular regard to Articles 9, 19, 20, 27 Part 1. a, b and f:<sup>9</sup>

Article 27, Part 1:

- b. Protect the rights of persons with disabilities, on an equal basis with others, to just and favourable conditions of work, including equal opportunities and equal remuneration for work of equal value, safe and healthy working conditions,

f. Promote opportunities for self-employment, entrepreneurship, the development of cooperatives and starting one's own business;

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<sup>6</sup> CRPD Article 28 1. States Parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, .. and to the continuous improvement of living conditions, and **shall** take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability.

<sup>7</sup> Refer Appendix A: CRPD excerpts

<sup>8</sup> '...particularly heatwaves and bushfires, are increasing, and projections show a high level of agreement that we will continue to see these hazards become more extreme into the 21st century," says Associate Professor Seth Westra, Head of the Intelligent Water Decisions group at the University of Adelaide. ..' (8/11/2016)  
<http://www.gizmodo.com.au/2016/11/australias-deadly-heatwaves-are-only-getting-worse/>

<sup>9</sup> Refer Appendix A: CRPD excerpts

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#### 4. Access to NDIS plans not equivalent to access to mobility allowance

It is premature to consider the NDIS an equivalent replacement to the mobility allowance. In many areas the NDIS will not be available until 2019. Even when people are eligible to access the NDIS, the process is proving slow, complicated and far more onerous than access to the mobility allowance. It is laden with bureaucratic processes and requires the involvement of multiple additional parties such as planners and Local Area Coordinators. It is far more onerous than the current ongoing mobility allowance.

While the NDIS is still in a transitional period, it seems particularly premature to curtail access to the mobility allowance, especially as it will significantly impact the standard of living of people not yet on the NDIS (and who may not wish to enter into the NDIS for any number of reasons around their own autonomy as per CRPD Articles 3 and 20<sup>10</sup> that it be the person's choice). The NDIS is a different type of mechanism of supports and does not provide access to a Health Care Card that for many people with chronic illnesses is a more appropriate support than those provided under the NDIS.

Recently, the ACT suspended applications for new participants and there have been numerous problems with the online portal being inaccessible to such an extent that it has even recently been subject to scrutiny by Senate Estimates<sup>11, 12</sup>.

Until these matters are clearly resolved, it is not appropriate to change the eligibility for the mobility allowance as the NDIS is not a current equivalent. When the NDIS is fully rolled out, would be a more appropriate time to consider and research who remains on the mobility allowance and why. Any earlier is potential breach of obligations under the CRPD.

#### 5. Obligation to consult

Under CRPD Article 4 – General Obligations:

2. In the development and implementation of legislation and policies to implement the present Convention, and in other decision-making processes concerning issues relating to persons with disabilities, States Parties shall closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations.

People currently receiving mobility allowances have not been consulted or had input into this legislation. There was no notification to people currently receiving the allowance that submissions could be made or indeed that changes are proposed. There was no consultation with disability groups that represent this cohort on the impact of these changes.

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<sup>10</sup> Please refer Appendix A – CRPD excerpts

<sup>11</sup> Community Affairs Legislation Committee, 20/10/2016, Estimates

[http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22committees%2Festimate%2F109dc0b1-918d-4f09-9b3d-ddf75248a079%2F0003%22?utm\\_source=Advokit+subscribers&utm\\_campaign=9aa500bcac-November+-+Advokit&utm\\_medium=email&utm\\_term=0\\_12b262c7d5-9aa500bcac-496904437](http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22committees%2Festimate%2F109dc0b1-918d-4f09-9b3d-ddf75248a079%2F0003%22?utm_source=Advokit+subscribers&utm_campaign=9aa500bcac-November+-+Advokit&utm_medium=email&utm_term=0_12b262c7d5-9aa500bcac-496904437)

<sup>12</sup> 'NDIS service providers still frustrated by 'clunky, painful' online system', *Canberra Times*, 15/10/2016

<http://www.canberratimes.com.au/act-news/ndis-service-providers-still-frustrated-by-clunky-painful-online-system-20161007-grxps6.html>

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## 6. Proposed amendments in this Bill are not compatible with key human rights instruments that Australia has obligations under as a signatory State

In its current form the proposed legislation would result in the State - despite being a signatory that agrees to monitor and evaluate for such conditions - being in breach of the following Articles (in whole or in part) of the CPRD:<sup>13</sup>

Article 4.– General obligations, Parts 1&2
Article 5 – Non-discrimination Parts 3 &4
Article 9 – Accessibility parts 1 &2
Article 19 – Inclusion in the community
Article 20 – Personal mobility
Article 25- Health
Article 26 – Habilitation, Part 1b
Article 27 – Employment, Parts 1 a, b & f
Article 28 – Standard of living and social protection
Article 29 – Participation in public life, parts Bi &ii
Article 30 – Participation in cultural life, part 2
Article 31 – Statistics and data collection, Part 1

This Bill needs to engage article 28 of the *Convention of the Rights of Persons with Disabilities*, which recognises the right to an adequate standard of living and social protection for those with disability. The current proposal does not. Supplementary allowances are recognised in the CRPD as contributing towards maintenance of standard of living. Article 23 of the CRPD is unambiguous in stating the right to be ‘supplemented, if necessary, by other means of social protection’.

To implement the current proposed amendments would be to fail to recognise that mobility allowance is a targeted supplementary payment that reflects acknowledgement by the Australian people of the disproportionate burden people with a disability that impacts mobility face in order to overcome substantial additional hurdles to engaging in the community that people without mobility limitations do not encounter and do so to maintain an adequate standard of living. Standard of living is more than being able to work to pay for shelter, food and warmth.<sup>14</sup>

Further, Articles 29 and 30 of CPRD state that this includes a right to participate in public space and in cultural actions.

The CRPD requires States to recognise the barriers that persons with disabilities may face in realising their rights. The principles of the present CRPD<sup>15</sup> include:

### Article 3 – General Principles

- a. a. Respect for inherent dignity, individual autonomy including the freedom to make one’s own choices, and independence of persons;
- b. Non-discrimination;
- c. Full and effective participation and inclusion in society;
  
- E. Equality of opportunity;

<sup>13</sup> <http://www.un.org/disabilities/convention/conventionfull.shtml> and Appendix A - CRPD excerpts

<sup>14</sup> <https://www.humanrights.gov.au/right-adequate-standard-living-including-food-water-and-housing>

<sup>15</sup> <http://www.un.org/disabilities/convention/conventionfull.shtml>

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## F. Accessibility;

This Bill is not currently compatible with human rights because it does limits access to social security and it does not advance the protection of the rights of people with disability in Australia so as to be consistent with the *Convention of the Rights of Persons with Disabilities*, with particular reference to general principles a., b., c., e., and f. This is because:

- not all people currently receiving the mobility allowance engage in the workforce at the levels this amendment demands;
- not all people who are currently eligible to access the mobility allowance are able to transition to the NDIS ahead of these proposed changes or even necessarily after the NDIS rollout completes in 2020;
- respect for people's autonomy to decide whether they wish to transition to the convoluted, onerous and bureaucratic NDIS format that requires months before plans are approved and engaging additional parties; and
- many people who currently receive the mobility allowance do so because it allows them a way to make a meaningful contribution in the community as well as contribute to their standard of living. Often this is less than 15 hours a week and does not have an equivalent paid position available as an option.

Those most impacted detrimentally by these proposed amendments are those who the allowance is most pivotal for maintaining security of living standards. People currently eligible who are in the most tenuous situations for employment because it is casual or contract; of fluctuations in their disability fluctuates, because they do a mix of paid and unpaid work are those most likely to have their human rights infringed under the proposed changes and their standard of living adversely impacts, as they would become ineligible for the mobility allowance.

## Recommendations

1. Legislation be independently re-assessed for consistency with Australia's obligations under CRPD;
2. No changes be made to the mobility allowance while the NDIS is still being rolled out;
3. Collection of appropriate information, including statistical and research data;<sup>16</sup>
4. Respect autonomy of people, as per the CRPD, to choose whether NDIS or mobility allowance is a more suitable mechanism to help them reduce barriers to participation and inclusion in public life; and respect for the diversity of disabilities, including the diverse ways in which a person's mobility can be impacted;
5. No changes until Investigation of impact on people currently receiving mobility allowance to ensure it is not detrimental to security of living standards or ability to participate in community and public life and to ensure it will not result in increased discrimination;
6. The highly targeted nature of this allowance be recognised as a significant instrument that helps counter discriminatory systemic instruments that are otherwise barriers to work, study and contribution in public life;
7. That any changes be proportionate for the cohort that they most impact and not bring undue hardship, especially when or if it would disproportionately impact a vulnerable cohort compared to the impact on the general populous of maintaining its current conditions;

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<sup>16</sup> State obligations under CRPD Article 31. Also refer Appendix A,

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8. Reduce the threshold hours undertaking paid or unpaid employment, study or job search activities for eligibility to 16-hours per 4-week period;
9. Maintain the 12-week grace period;
10. Ensure all those who receive a transport supplement continue to be eligible for a HCC automatically;
11. People receiving mobility allowance and relevant disability organisations, such as the Chronic Illness Alliance, AFDO and MS Australia, be consulted for their expertise and knowledge regarding the likely impact of proposed changes;
12. Article 3 of CPRD be recognised in the legislation regarding respect for choice and control of people with disability and that not all people who are currently eligible for the mobility allowance will wish to nor may be able to transition to the NDIS and that not honouring this would be a breach of the CPRD;
13. Increase focus on changing market conditions that are barriers to participation in the workforce by improving accountability in the private sector to reducing these barriers as a more effective mechanism to increase employment pathways for those with disabilities;<sup>17</sup> and
14. Focus on systemic conditions that are barriers to participation in the workforce and that government can regulate to reduce or minimise the impact of, such as flexible working conditions, with protection of conditions rather than introduction of punitive targeting of individuals where factors are beyond their control.

Thank you for taking the time to consider this submission and to examine the impact of the proposed amendments of this Bill to ensure they are neither detrimental to those currently eligible for the mobility allowance, or to Australia's good standing with regarding its obligations under the CPRD.

If you have any queries about the important role the mobility allowance has played as a mechanism to those with disabilities that impact on mobility being able to contribute and participate in the community with a disability, I welcome the opportunity to provide further input.

Yours sincerely,

## **Appendix A – CRPD excerpts**

Re:

- Preamble
- Article 3 – General principles
- Article 4 Parts 1&2 – General obligations,
- Article 5 Parts 3 &4 – Non-discrimination
- Article 9 parts 1 &2 – Accessibility

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<sup>17</sup> PWC OECD report Disability employment in Australia and the OECD  
[www.aph.gov.au/About\\_Parliament/Parliamentary\\_Departments/Parliamentary\\_Library/FlagPost/2011/December/Disability\\_employment\\_in\\_Australia\\_and\\_the\\_OECD](http://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/FlagPost/2011/December/Disability_employment_in_Australia_and_the_OECD)



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- Article 19 – Inclusion in the community
- Article 20 – Personal mobility
- Article 25 - Health
- Article 26 – Habilitation, Part 1b
- Article 27 – Employment, Parts 1 a, b & f
- Article 28 – Standard of living and social protection
- Article 29 – Participation in public life, parts Bi & ii
- Article 30 – Participation in cultural life, part 2
- Article 31 – Statistics and data collection, Part 1

### **Preamble**

e. Recognizing that disability is an evolving concept and that disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others,

j Recognizing the need to promote and protect the human rights of all persons with disabilities, including those who require more intensive support,

k Concerned 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,

m Recognizing the valued existing and potential contributions made by persons with disabilities to the overall well-being and diversity of their communities, and that the promotion of the full enjoyment by persons with disabilities of their human rights and fundamental freedoms and of full participation by persons with disabilities will result in their enhanced sense of belonging and in significant advances in the human, social and economic development of society and the eradication of poverty,

n Recognizing the importance for persons with disabilities of their individual autonomy and independence, including the freedom to make their own choices,

o. Considering that persons with disabilities should have the opportunity to be actively involved in decision-making processes about policies and programmes, including those directly concerning them,

t. Highlighting the fact that the majority of persons with disabilities live in conditions of poverty, and in this regard recognizing the critical need to address the negative impact of poverty on persons with disabilities,

v. 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 enjoy all human rights and fundamental freedoms,

**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;

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### **Article 3 – General Principles**

The principles of the present Convention shall be:

- a. Respect for inherent dignity, individual autonomy including the freedom to make one's own choices, and independence of persons;
- b. Non-discrimination;
- c. Full and effective participation and inclusion in society;
- d. Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;
- e. Equality of opportunity;
- f. Accessibility;
- g. Equality between men and women;
- h. Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

### **Article 4 – General Obligations**

1.
  - c. to take into account the protection and promotion of the human rights of persons with disabilities in all policies and programmes;
  - d. To refrain from engaging in any act or practice that is inconsistent with the present Convention and to ensure that public authorities and institutions act in conformity with the present Convention;
  - e. To take all appropriate measures to eliminate discrimination on the basis of disability by any person, organization or private enterprise;
2. In the development and implementation of legislation and policies to implement the present Convention, and in other decision-making processes concerning issues relating to persons with disabilities, States Parties shall closely consult with and actively involve persons with disabilities, including children with disabilities, through their representative organizations.

### **Article 5 - Equality and non-discrimination**

3. In order to promote equality and eliminate discrimination, States Parties shall take all appropriate steps to ensure that reasonable accommodation is provided.
4. Specific measures which are necessary to accelerate or achieve de facto equality of persons with disabilities shall not be considered discrimination under the terms of the present Convention.

### **Article 9 - Accessibility**

1. To enable persons with disabilities to live independently and participate fully in all aspects of life, States Parties shall take appropriate measures to ensure to persons with disabilities access, on an equal basis with others, to the physical environment, to transportation, to information and communications, including information and communications technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas. These measures, which shall include the identification and elimination of obstacles and barriers to accessibility, shall apply to, inter alia:

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- a. Buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces;
- b. Information, communications and other services, including electronic services and emergency services.

2. States Parties shall also take appropriate measures to:

- a. Develop, promulgate and monitor the implementation of minimum standards and guidelines for the accessibility of facilities and services open or provided to the public;

F Promote other appropriate forms of assistance and support to persons with disabilities to ensure their access to information;

### **Article 19 - Living independently and being included in the community**

States Parties to this Convention recognize the equal right of all persons with disabilities to live in the community, with choices equal to others, and shall take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right and their full inclusion and participation in the community, including by ensuring that:

- a. Persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement;
- b. Persons with disabilities have access to a range of in-home, residential and other community support services, including personal assistance necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community;
- c. Community services and facilities for the general population are available on an equal basis to persons with disabilities and are responsive to their needs.

### **Article 20 - Personal mobility**

States Parties shall take effective measures to ensure personal mobility with the greatest possible independence for persons with disabilities, including by:

- c. Facilitating the personal mobility of persons with disabilities in the manner and at the time of their choice, and at affordable cost;

### **Article 25**

States Parties recognize that persons with disabilities have the right to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability. States Parties shall take all appropriate measures to ensure access for persons with disabilities to health services that are gender-sensitive, including health-related rehabilitation. In particular, States Parties shall:

- a. Provide persons with disabilities with the same range, quality and standard of free or affordable health care and programmes as provided to other persons, including in the area of sexual and reproductive health and population-based public health programmes;
- b. Provide those health services needed by persons with disabilities specifically because of their disabilities, including early identification and intervention as appropriate, and

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- services designed to minimize and prevent further disabilities, including among children and older persons;
- c. Provide these health services as close as possible to people's own communities, including in rural areas;
  - d. Require health professionals to provide care of the same quality to persons with disabilities as to others, including on the basis of free and informed consent by, inter alia, raising awareness of the human rights, dignity, autonomy and needs of persons with disabilities through training and the promulgation of ethical standards for public and private health care;
  - e. Prohibit discrimination against persons with disabilities in the provision of health insurance, and life insurance where such insurance is permitted by national law, which shall be provided in a fair and reasonable manner;
  - f. Prevent discriminatory denial of health care or health services or food and fluids on the basis of disability.

#### **Article 26 - Habilitation and rehabilitation**

1. States Parties shall take effective and appropriate measures, including through peer support, 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. To that end, States Parties 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:**

- a. Begin at the earliest possible stage, and are based on the multidisciplinary assessment of individual needs and strengths;
- b. Support participation and inclusion in the community and all aspects of society, are voluntary, and are available to persons with disabilities as close as possible to their own communities, including in rural areas.**

#### **Article 27 - Work and employment**

1. States Parties recognize the right of persons with disabilities to work, on an equal basis with others; this includes the right to the opportunity to gain a living by work freely chosen or accepted in a labour market and work environment that is open, inclusive and accessible to persons with disabilities. States Parties shall safeguard and promote the realization of the right to work, including for those who acquire a disability during the course of employment, by taking appropriate steps, including through legislation, to, inter alia:

- a. Prohibit discrimination on the basis of disability with regard to all matters concerning all forms of employment, including conditions of recruitment, hiring and employment, continuance of employment, career advancement and safe and healthy working conditions;
- b. Protect the rights of persons with disabilities, on an equal basis with others, to just and favourable conditions of work, including equal opportunities and equal remuneration for work of equal value, safe and healthy working conditions,
- f. Promote opportunities for self-employment, entrepreneurship, the development of cooperatives and starting one's own business;

Parliamentary submission to Senate Committee re: *Social Services Legislation Amendment (Transition Mobility Allowance to the National Disability Insurance Scheme) Bill 2016 (Mobility Allowance Bill)*.

### **Article 28 - Adequate standard of living and social protection**

1. States Parties recognize the right of persons with disabilities to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, **and to the continuous improvement of living conditions, and shall take appropriate steps to safeguard and promote the realization of this right without discrimination on the basis of disability.**

2. States Parties recognize the right of persons with disabilities to social protection and to the enjoyment of that right without discrimination on the basis of disability, and shall take appropriate steps to safeguard and promote the realization of this right, including measures:

- a. To ensure equal access by persons with disabilities to clean water services, and to ensure access to appropriate and affordable services, devices and other assistance for disability-related needs;
- b. To ensure access by persons with disabilities, in particular women and girls with disabilities and older persons with disabilities, to social protection programmes and **poverty reduction programmes;**
- c. **To ensure access by persons with disabilities and their families living in situations of poverty to assistance from the State with disability-related expenses,** including adequate training, counselling, **financial assistance** and respite care;

### **Article 29 - Participation in political and public life**

States Parties shall guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others, and shall undertake to

B, Promote actively an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs, without discrimination and on an equal basis with others, and encourage their participation in public affairs, including:

- i. Participation in non-governmental organizations and associations concerned with the public and political life of the country, and in the activities and administration of political parties;
- ii. Forming and joining organizations of persons with disabilities to represent persons with disabilities at international, national, regional and local levels.

### **Article 30 - Participation in cultural life, recreation, leisure and sport**

2. States Parties shall take appropriate measures to enable persons with disabilities to have the opportunity to develop and utilize their creative, artistic and intellectual potential, **not only for their own benefit, but also for the enrichment of society.**

### **Article 31 - Statistics and data collection**

1. States Parties undertake to collect appropriate information, including statistical and research data, to enable them to formulate and implement policies to give effect to the present Convention.

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