

MALTA

ATT Nru. I ta' l-2003

ATT mahruġ b'liġi mill-Parlament ta' Malta.

ATT biex iġib 'il quddiem l-ugwaljanza għall-irġiel u n-nisa.

ACT No. I of 2003

AN ACT enacted by the Parliament of Malta.

AN ACT to promote equality for men and women.

Nagħti l-kunsens tiegħi.

(L.S.)

GUIDO DE MARCO
President

4 ta' Frar, 2003

ATT Nru. I ta' l-2003

ATT biex igħib 'il quddiem l-ugwaljanza għall-irġiel u n-nisa

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorita ta' l-istess, hareġ b'liġi dan li ġej:-

1. (1) It-titolu fil-qosor ta' dan l-Att hu Att ta' l-2003 dwar l-Ugwaljanza għall-Irġiel u n-Nisa. Titolu fil-qosor u bidu fis-sehh.

(2) Dan l-Att jibda jsehh f'dik id-data li l-Ministru responsabbli għall-politika soċjali jista' b'avviż fil-Gazzetta jistabbilixxi, u dati differenti jistgħu jiġu hekk stabbiliti għal disposizzjonijiet differenti jew għal għanijiet differenti ta' dan l-Att.

2. (1) F'dan l-Att, kemm-il darba r-rabta tal-kliem ma tkunx tehtieġ xort'ohra: Tifsir.

“diskriminazzjoni” tfisser diskriminazzjoni bbażata fuq is-sess, jew minhabba responsabbiltajiet li għib il-familja u tinkludi t-trattament ta' persuna b'mod anqas favorevoli mit-trattament mogħti jew li jista jkun mogħti lil persuna ohra għal raġunijiet ta' sess jew minhabba responsabbiltajiet li għib il-familja u “jiddiskrimina” jew “tiddiskrimina” għandha tiftiehem skond hekk;

“fastidju sesswali” tfisser l-attivitajiet illeġittimi elenkati fis-subartikolu (1) ta' l-artikolu 9;

“impieg” tfisser kull attivita bi qligh inkluż li l-persuna taħdem għal rasha u tinkludi l-promozzjoni u t-trasferiment għal xi kariga oħra, kif ukoll l-aċċess għal taħriġ vokazzjonali jew professjonali, għal kemm żmien idum l-impieg jew l-esekuzzjoni jew it-terminazzjoni tiegħu;

“Kummissarju” tfisser il-Kummissarju għall-promozzjoni ta’ l-ugwaljanza mahtur jew mahtura taħt l-artikolu 11 ta’ dan l-Att, u Kummissjoni tfisser il-Kummissjoni mwaqqfa taħt dak l-artikolu;

“Ministru” tfisser il-Ministru responsabbli għall-ugwaljanza;

“taħriġ vokazzjonali” tinkludi kull tip ta’ taħriġ vokazzjonali u taħriġ mill-ġdid.

(2) Għall-finijiet ta’ dan l-Att, kemm-il darba r-rabta tas-sens tat-test ma titlobx tifsira oħra, l-kliem “raġel” u “mara” jinkludu rġiel u nisa irrispettivament mill-età tagħhom.

(3) Għall-finijiet tas-subartikolu (1) ta’ dan l-artikolu jkun hemm diskriminazzjoni bbażata fuq is-sess jew minhabba responsabbiltajiet li ġġib il-familja meta:

(a) jinghata trattament anqas favorevoli, direttament jew indirettament, lill-irġiel u lin-nisa minhabba fis-sess jew minhabba responsabbiltajiet li ġġib il-familja tagħhom;

(b) mara tiġi ttrattata b’mod anqas favorevoli minhabba fi tqala li tkun teżisti jew li tista’ ssehħ jew it-twellid ta’ tarbija;

(c) l-irġiel u n-nisa jiġu ttrattati b’mod anqas favorevoli minhabba f’li jkunu ġenituri, r-responsabbiltajiet li ġġib il-familja jew għal xi raġuni oħra li jkollha x’taqsam mas-sess;

(d) trattament ibbażat fuq provvediment, kriterju jew Prattika li tqiegħed fi żvantaġġ proporzjon sostanzjalment oghla ta’ membri ta’ sess wiehed kemm-il darba dak il-provvediment, kriterju jew dik il-prattika ma jkunux xierqa u meħtieġa u jkunu jistgħu jiġu ġġustifikati permezz ta’ fatturi oġġettivi li ma jkollhomx x’jaqsmu mas-sess.

(4) Ebda haġa fis-subartikolu (2) ta’ dan l-artikolu m’għandha titqies bhala li tikkostitwixxi diskriminazzjoni sakemm dak it-trattament -

(a) jinghata sabiex in-nisa jkollhom protezzjoni speċjali matul it-twellid jew it-tqala tagħhom;

(b) ikun jikkostitwixxi miżuri ta' azzjoni pożittiva bil-ghan li tinkiseb ugwaljanza għall-irġiel u n-nisa.

(5) Dwar l-aċċess għall-impieg, trattament anqas favorevoli li jkun ibbazat fuq xi karatteristika li jkollha x'taqsam mas-sess m'għandux jikkostitwixxi diskriminazzjoni meta minhabba fl-attivitajiet okkupazzjonali partikolari involuti, jew fil-kuntest li fih dawn jitwettqu, dik il-karatteristika tkun tikkostitwixxi hteieġa okkupazzjonali ġenwina u meta dak it-trattament jibqa' fil-limiti ta' dak li jkun adatt u mehtieġ fiċ-ċirkostanzi:

Izda l-piż tal-prova għandu jkun fuq min jallega li hemm hteieġa okkupazzjonali ġenwina.

3. Ebda haġa f'dan l-Att m'għandha tiftiehem bhala li tolqot xi regola dwar il-prattika reliġjuża, l-aċċess għas-saċerdozju jew is-shubija f'xi ordni reliġjuż jew komunitajiet reliġjużi ohra. Skop ta' dan l-Att.

4. (1) Prinċipali ma jstgħux jiddiskriminaw, direttament jew indirettament, kontra persuna fl-arranġamenti li jsiru biex jiġi stabbilit jew meta jkun qed jiġi stabbilit min għandu jiġi offrut impieg jew fil-pattijiet u l-kondizzjonijiet li l-impieg jiġi offrut abbażi tagħhom jew fid-deċiżjoni dwar min għandu jkun mkeċċi mix-xogħol. Diskriminazzjoni fl-impieg.

(2) Minghajr preġudizzju għall-provvedimenti ta' l-artikolu 26 ta' l-Att dwar l-impiegi u r-Relazzjonijiet Industrijali, prinċipali jitqiesu wkoll li jkunu ddiskriminaw kontra persuna jekk dawk il-prinċipali – Att XXII ta' l-2002.

(a) imexxu x-xogħol, jagħtu promozzjonijiet, iqassmu l-hidma, joffru opportunitajiet ta' tahriġ jew xort'ohra jirrangaw il-kondizzjonijiet tax-xogħol hekk li impjegati jiġu assenjati status inqas favorevoli minn ohrajn minhabba fis-sess jew minhabba responsabbiltajiet li ġġib il-familja; jew

(b) jibdlu l-kondizzjonijiet tax-xogħol, jew il-pattijiet ta' impieg ta' impjegati għad-detriment ta' dawk l-impjegati wara li dawk l-impjegati jkunu invokaw xi dritt mogħti lilhom taħt dan l-Att jew ikunu talbu it-twettiq favur tagħhom ta' xi obbligazzjoni jew dmir taħt dan l-Att; jew

(ċ) jonqsu mill-obbligazzjoni li għandhom li jissopprimu l-fastidju sesswali kif provdut taħt is-subartikolu (2) ta' l-artikolu 9 ta' dan l-Att.

Rapport fuq il-proċeduri ta' impieg.

5. (1) Ikun id-dmir ta' prinċipali fuq talba ta' persuna li tallega li jkun sar fastidju sesswali jew diskriminazzjoni kontrihha, jew fuq talba li ssirilhom mill-Kummissarju li jaġixxu minhabba f'xi lment jew xort'ohra, li jipprovdu lil dik il-persuna jew lill-Kummissarju, skond il-każ u fi żmien għaxart ijiem tax-xogħol minn meta ssir dik it-talba, rapport fuq l-allegazzjoni li tkun saret jew il-proċeduri użati mill-prinċipali fil-kwistjoni allegata li tikkostitwixxi fastidju sesswali jew diskriminazzjoni bhal dik.

(2) Il-prinċipali ikollhom jedd għar-rifużjoni ta' dawk l-ispejjeż raġonevoli li jsiru minnhom biex jabbozza u jagħmel ir-rapport minghand il-persuna li titlob dak ir-rapport;

Izda dawk l-ispejjeż jistgħu jintalbu minghand il-persuna responsabbli għal fastidju sesswali jew diskriminazzjoni jekk jirriżulta li dak il-fastidju sesswali jew diskriminazzjoni fil-fatt ikun sehh.

Banek u istituzzjonijiet finanzjarji.

6. (1) Ebda bank jew istituzzjoni finanzjarja jew kumpannija ta' l-assigurazzjoni m'għandhom jiddiskriminaw kontra xi persuna fl-ghoti ta' xi faċilità dwar it-twaqqif, it-tagħmir jew l-inawgurazzjoni jew l-estensjoni ta' xi negozju jew l-inawgurazzjoni jew l-estensjoni ta' xi għamla ta' impieg ta' persuna għal rasha jew ta' l-assigurazzjoni ta' dak in-negozju jew ta' dik il-persuna.

(2) Ebda haġa fis-subartikolu (1) ta' dan l-artikolu m'għandha titqies li tikkostitwixxi diskriminazzjoni sakemm il-kondizzjonijiet li taħthom tiġi offruta jew miżmuma l-faċilità jew l-assigurazzjoni jkunu jirriflettu konsiderazzjonijiet ġenwini bbażati fuq ir-riskju finanzjarju fl-ghoti ta' dawk il-faċilitajiet jew ta' dik l-assigurazzjoni.

Parteċipazzjoni ta' konjuġi fl-attivitajiet ta' sieheb minnhom bhala persuna li tkun taħdem għal rasha.

7. (1) Il-konjuġi ta' haddiema li jaħdmu għal rashom li ma jkunux impjegati tagħhom jew shab magħhom, u li jipparteċipaw fl-attivitajiet tal-haddiema li jaħdmu għal rashom u li jwettqu l-istess hidmiet jew hidmiet anċillari bhal konjuġi tagħhom, ikollhom jedd jirċievu minghand il-konjuġi tagħhom kumpens xieraq għall-attività tagħhom li jkun daqsinsaw il-valur tal-kontribuzzjoni li huma jagħmlu.

(2) Id-disposizzjonijiet tas-subartikolu (1) ta' dan l-artikolu ma japplikawx meta tkun tissussisti bejn il-konjuġi sistema ta' Komunjonijoni ta' l-Akkwisti jew ta' Komunjonijoni tar-Residwi taħt amministrazzjoni separata.

Edukazzjoni u gwida vokazzjonali.

8. (1) Ebda stabbiliment edukattiv jew stabbiliment iehor li jagħti taħriġ jew gwida vokazzjonali ma jista' jiddiskrimina kontra xi hadd -

- (a) fl-attendenza ghal xi kors, tahriġ jew gwida vokazzjonali; jew
- (b) fl-ghoti ta' appoġġ edukattiv ghal studenti jew trainees; jew
- (ċ) fl-ghażla u fl-implimentazzjoni tal-kurrikula; jew
- (d) fil-valutazzjoni ta' kull hila jew konossenza ta' l-istudenti jew *trainees*.

(2) Jekk il-persuni responsabbli ghal tali stabbilimenti u entijiet jonqsu milli jwettqu l-obbligu li jkollhom li jissopprimu l-fastidju sesswali kif provdut taht is-subartikolu (2) ta' l-artikolu 9 ta' dan l-Att, tali nuqqas ikun għall-finijiet tas-subartikolu (1) ta' dan l-artikolu jikkostitwixxi diskriminazzjoni.

(3) Ikun id-dmir ta' stabbilimenti u entijiet edukattivi li jipprovdu tahriġ vokazzjonali, fil-parametri tal-kompetenza tagħhom li jiżguraw li l-kurrikula u l-kotba skolastiċi ma jkunux jippropagaw ebda diskriminazzjoni.

9. (1) Mingħajr preġudizzju għall-provvedimenti ta' l-artikolu 29 ta' l-Att dwar l-Impiegi u r-Relazzjonijiet Industrijali, persuni ma jistgħux jagħtu fastidju sesswali lil xi persuni ohra, jiġifieri:

Fastidju sesswali.

Att XXII ta' l-2002.

- (a) li jassoġġettaw lil persuni ohra jagħmlu xi att ta' intimità fiżika; jew
- (b) li jitolbu favuri sesswali mingħand persuni ohra; jew
- (ċ) li jassoġġettaw lil persuni ohra għall-ghemil ta' xi att jew it-twettieq ta' xi mġieba li jkollhom konnotazzjonijiet sesswali, inklużi kliem mitkellma, mossi jew l-ghemil, il-wiri jew iċ-ċirkolazzjoni ta' kliem miktuba, stampi jew xi materjal iehor, meta l-att, il-kliem jew l-imġieba ma jkunux joghġbu lill-persuni li jkunu indirizzati lejhom u jkunu jistgħu raġonevolment jitqiesu bhala li huma offensivi, umiljanti jew intimidatorji fir-rigward tal-persuni li jkunu diretti lejhom, jew
- (d) meta l-persuni hekk assoġġettati jew mitluba jiġu ttrattati b'mod anqas favorevoli minhabba f'li għax daww il-persuni jkunu ċahdu jew ċedew għal dak l-assoġġettament jew talba, jista' jkun raġonevolment antiċipat li daww il-persuni jkunu se jiġu ttrattati b'dak il-mod.

(2) (a) Persuni responsabbli għal xi post tax-xogħol, stabbiliment jew enti edukattivi li jipprovdi tahriġ jew gwida

vokazzjonali jew ghal xi stabbiliment fejn jiġu offruti oġġetti, servizzi jew faċilitajiet ta' akkomodazzjoni lill-pubbliku, m'għandhomx jippermettu lil persuni oħra li jkollhom jedd ikunu preżenti fi, jew li jagħmlu użu minn xi faċilità, oġġett jew servizz ipprovdut f'dak il-post, li jgarrbu fastidju sesswali f'dak il-post.

(b) Persuni li jkunu responsabbli kif hawn qabel imsemmi jistgħu jiddefendu ruhhom dwar dak li jkunu għamlu billi jgħibu prova li huma jkunu hadu dawk il-passi li jistgħu jkunu raġonevolment prattikabbli biex jipprevjenu dak il-fastidju sesswali.

(3) Persuni li jagħtu fastidju sesswali lil xi hadd ieħor ikunu hatja ta' reat kontra dan l-artikolu u jistgħu, mingħajr preġudizzju għal kull responsabbiltà ulterjuri taht kull liġi oħra, meta jinsabu hatja jehlu multa ta' mhux iżjed minn elf lira jew prigunerija għal mhux iżjed minn sitt xhur jew dik il-multa u prigunerija flimkien.

Riklam
diskriminatorju.
Att XXII ta' l-2002.

10. (1) Mingħajr preġudizzju għall-provvedimenti ta' l-artikolu 26 ta' l-Att dwar l-Impiegi u r-Relazzjonijiet Industrijali, persuni ma jistgħux jipubblikaw, jew jesponu jew iġieghlu li jiġi pubblikat jew espost xi riklam, jew, xort'oħra li jirreklamaw post battal għal xi impieg li jkun jiddiskrimina bejn min ikun qed ifittex ix-xogħol jew jitlob mingħand min ikun qed ifittex ix-xogħol informazzjoni li tkun tirrigwarda l-hajja privata tagħhom jew il-pjanijiet li jkollhom dwar it-tkabbir tal-familja tagħhom:

Izda d-disposizzjonijiet ta' dan is-subartikolu m'għandhomx japplikaw f'dawk il-każijiet fejn il-prinċipali jgħibu prova li x-xogħol li jkollu x'jaqsam ma' dak li jkun ġie reklammat ikun jista' biss isir minn persuna ta' xi sess speċifiku.

(2) Persuni ma jistgħux jipubblikaw jew jesponu jew iġieghlu li jiġi ppubblikat jew espost xi riklam li jkun jippromwovi d-diskriminazzjoni jew li jkun xort'oħra jiddiskrimina.

(3) Persuni li jiksru s-subartikolu (1) jew (2) ta' dan l-artikolu jkunu hatja ta' reat kontra dan l-artikolu u jistgħu, meta jinsabu hatja, jehlu l-pieni li hemm għall-kontravvenzjonijiet.

(4) Għall-finijiet tas-subartikolu (1) ta' dan l-artikolu, reklamar tinkludi t-tixrid ta' informazzjoni dwar il-post battal bil-fomm minn persuna għall-oħra.

Kummissjoni
Nazżjonali
għall-Promozzjoni
ta' l-Ugwaljanza
għall-Irġiel
u n-Nisa.

11. (1) Il-Prim Ministru għandu bil-parir tal-Ministru jahtar Kummissjoni li tkun magħrufa bhala l-Kummissjoni Nazżjonali għall-Promozzjoni ta' l-Ugwaljanza għall-Irġiel u n-Nisa (hawn iżjed 'il quddiem imsejja "il-Kummissjoni") komposta minn president li

jissejjah jew tissejjah il-Kummissarju għall-Promozzjoni ta' l-Ugwaljanza (hawn iżjed 'il quddiem imsejjah "il-Kummissarju") u sitt membri oħra, li mill-anqas tlieta minnhom ikunu nisa.

(2) Il-membri kollha tal-Kummissjoni jinhatru mill-Prim Ministru minn fost dawk il-persuni li jkun jidhiru li jkunu l-aktar adatti li jittrattaw kwistjonijiet ta' ugwaljanza għall-irġiel u nisa, u, jew, kwistjonijiet amministrattivi li jkollhom x'jaqsmu ma' dan.

(3) Il-membri tal-Kummissjoni għandhom jibqgħu fil-kariga għal żmien sentejn u jistgħu jergħu jiġu mahtura fi tmiem iż-żmien tal-kariga.

(4) Il-Prim Ministru jista' jtemm il-hatra ta' membri tal-Kummissjoni jekk ikun sodisfatt illi persuni:

(a) mingħajr il-kunsens tal-Kummissjoni jkunu naqsu milli jattendu għal laqgħat tal-Kummissjoni matul perjodu kontinwu ta' sitt xhur;

(b) jkunu ġew dikjarati falluti jew ikunu għamlu arrangament mal-kredituri tagħhom, jew ikunu insolventi jew ikunu instabu hatja ta' delitt volontarju kontra l-persuna; jew

(c) ma jkunux kapaċi jwettqu dmirijiethom.

(5) Il-*quorum* tal-Kummissjoni jkun ta' erba' membri, li persuna minnhom tkun il-Kummissarju.

(6) Il-validità tal-proċedimenti tal-Kummissjoni ma jintlaqtux b'xi vakanza fost il-membri tal-Kummissjoni jew b'xi difett fil-hatra ta' xi membru.

(7) Deċiżjonijiet tal-Kummissjoni għandhom jittiehdu bil-maġġoranza tal-voti tal-membri preżenti. Il-Kummissarju jkollu jew ikollha wkoll vot deċiżiv.

(8) Bla hsara għad-disposizzjonijiet ta' dan l-Att u tar-regolamenti magħmulin tahtu, il-Kummissjoni tista' tahtar sotto-komitati u, b'mod ġenerali, għandha tirregola l-proċeduri tagħha.

12. (1) Dawn il-funzjonijiet li ġejjin jappartjenu lill-Kummissarju, bl-ghajjnuna tal-Kummissjoni, jiġifieri:

Funzjonijiet u status tal-Kummissarju u tal-Kummissjoni.

(a) l-identifikazzjoni, li tiġi stabbilita u aġġornata kull politika li direttament jew indirettament ikollha x'taqsam ma' kwistjonijiet ta' ugwaljanza għall-irġiel u n-nisa;

(b) l-identifikazzjoni tal-htigiet ta' persuni li huma żvantaġġati minhabba fis-sess tagħhom u li jittiehdu dawk il-passi fis-setgħa tal-Kummissarju u jiġu proposti miżuri adatti biex jiġu indirizzati dawk il-htigiet bl-iktar mod estensiv possibbli;

(ċ) is-sorveljanza ta' l-implimentazzjoni ta' kull politika nazzjonali dwar il-promozzjoni ta' l-ugwaljanza għall-irġiel u n-nisa;

(d) il-koordinazzjoni bejn, u li tiġi żgurata l-koordinazzjoni meħtieġa bejn, dipartimenti tal-gvern u aġenziji oħra fl-implimentazzjoni ta' miżuri, servizzi jew inizjattivi proposti mill-Gvern jew mill-Kummissjoni minn żmien għal żmien;

(e) li jinżamm kuntatt dirett u kontinwu ma' korpi lokali u esteri li jaħdmu fil-kamp ta' kwistjonijiet ta' ugwaljanza, u ma' gruppi, aġenziji jew individwi oħra skond il-htieġa;

(f) li ssir hidma biex tinkiseb l-eliminazzjoni tad-diskriminazzjoni bejn l-irġiel u n-nisa;

(g) li jsiru investigazzjonijiet ġenerali bil-għan li jiġi stabbilit jekk id-disposizzjonijiet ta' dan l-Att ikunux qegħdin jiġu mharsa;

(h) li jiġu investigati lmenti ta' xorta iktar partikolari jew individwali sabiex ikun jista' jiġi stabbilit jekk id-disposizzjonijiet ta' dan l-Att ikunux qegħdin jinkisru fil-konfront ta' min ikun qed jagħmel l-ilment u, meta hekk jitqies adatt, li jagħmilha jew tagħmilha ta' medjatur dwar dawk l-ilmenti;

(i) l-indaġni u l-ghoti ta' pariri jew li jintlahqu konkluzjonijiet dwar kull haġa li jkollha x'taqsam ma' l-ugwaljanza bejn l-irġiel u n-nisa hekk kif jistgħu jiġu riferiti mill-Ministru;

(j) li tingħata assistenza, meta u skond ma jkun adatt, lil persuni li jkunu qegħdin ibatu minn xi diskriminazzjoni meta dawn jiġu biex jiksbu d-drittijiet tagħhom taht dan l-Att;

(k) is-sorveljanza tat-twettiq ta' dan l-Att, u meta jkun hekk meħtieġ, fuq talba tal-Ministru jew xort'oħra, li jiġu pprezentati proposti biex l-Att jiġi emendat jew sostitwit;

(1) it-tweġġ ta' kull funzjoni oħra li tista' tiġi assenjata b'dan l-Att jew b'kull Att ieħor jew dawk il-funzjonijiet l-oħra li jistgħu jiġu assenjati mill-Ministru.

(2) Mal-hatra li ssir mill-Prim Ministru ta' l-ewwel membri, il-Kummissjoni jkollha personalità ġuridika separata minn dik tal-Gvern u r-rappreżentanza ġuridika tagħha tkun tvesti fil-Kummissarju:

Izda l-Kummissjoni tista' tahtar lil xi membru tagħha wiehed jew aktar minn wiehed jew lil xi persuna oħra, biex jidhru f'isimha u għan-nom tagħha fi proċedimenti ġudizzjarji, u fuq kull att, kuntratt, ftehim jew dokument li jkun.

13. (1) Il-Kummissjoni tkun amministrata minn Direttur Eżekuttiv li jaġixxi jew taġixxi skond il-politika stabbilita mill-Kummissjoni u skond dawk l-istruzzjonijiet li jistgħu jingħataw mill-Kummissarju.

Haddiema tal-Kummissjoni.

(2) Id-Direttur Eżekuttiv jibqa' jew tibqa' fil-kariga taht dawk il-pattijiet u kondizzjonijiet li l-Kummissarju, bi ftehim mal-Ministru, jista' jew tista' tistabbilixxi. Meta d-Direttur Eżekuttiv ikun uffiċjal pubbliku issekondat mill-Gvern, ikollu jew ikollha d-dritt mat-tmiem li jibqa' jew tibqa' tkun issekondata li jerga' jew terga' lura għall-kariga ta' qabel mingħajr ebda telf ta' grad jew senjorità.

(3) Il-Kummissjoni tista', wara konsultazzjonijiet mal-Ministru u bla ħsara għall-approvazzjoni ta' dak il-Ministru dwar l-għadd, ir-rimunerazzjoni u l-pattijiet u l-kondizzjonijiet tagħhom ta' servizz, jahtar lil dawk l-uffiċjali li tqis li jkunu adatti.

(4) Il-Prim Ministru jista', fuq talba tal-Kummissjoni, minn żmien għal żmien jordna li uffiċjali pubbliċi jiġu assenjati sabiex jaqdu dmirijietom mal-Kummissjoni f'dik il-kapaċità u b'seħħ minn dik id-data li tista' tiġi speċifikata fl-ordni.

Assenjament ta' uffiċjali pubbliċi.

(5) Il-perjodu li matulu ordni bħalma hemm imsemmi qabel għandu jkun japplika għal xi uffiċjali speċifikati fih, għandu kemm-il darba l-uffiċjali ma jirtirawx mis-servizz pubbliku, jew xort' oħra jtemmu milli jkunu uffiċjali pubbliċi f'data li tiġi qabel, u fid-data speċifikata fl-ordni jew meta tiġri xi grajja minn dawn li ġejjin, jiġifieri -

(a) l-aċċettazzjoni minn dawk l-uffiċjali pubbliċi ta' offerta ta' impieg permanenti mal-Kummissjoni; jew

(b) ir-revoka mill-Prim Ministru ta' xi ordni minnu magħmula taht dan l-artikolu dwar dawk l-uffiċjali.

(6) Meta uffiċjali pubbliċi jiġu assenjati biex jaqdu dmirijiethom mal-Kummissjoni taht dan l-artikolu, dawk l-uffiċjali għandhom, filwaqt ta' dak iż-żmien li matulu dik l-ordni tkun issehh fir-rigward tagħhom, ikunu taht l-awtorità amministrattiva u l-kontroll tal-Kummissjoni, iżda għandhom għal kull fini u raġuni oħra jibqgħu jitqiesu li jkunu u jiġu ttrattati bhala uffiċjali pubbliċi u minghajr preġudizzju għall-ġeneralità ta' dak hawn qabel imsemmi dawk l-uffiċjali pubbliċi:

(a) m'għandhomx fil-perijodu li matulu kienu hekk assenjati-

(i) ikunu prekluzi milli japplikaw għal trasferiment f'xi dipartiment tal-Gvern skond il-pattijiet u l-kondizzjonijiet tas-servizz mehmuża mal-hatra taht il-Gvern li huma kellhom fid-data meta huma jkunu hekk ġew assenjati f'dik il-kariga; jew

(ii) ikunu impjegati b'mod li r-rimunerazzjoni u l-kondizzjonijiet ta' servizz tagħhom jkunu inqas favorevoli minn dawk li jkunu mehmuża mal-hatra taht il-Gvern li huma kellhom fid-data meta jkunu ġew hekk assenjati jew li setgħu intehmzu matul dak il-perijodu li kieku dawk l-uffiċjali ma jkunux ġew hekk assenjati; u

(b) ikollhom jedd li s-servizz tagħhom mal-Kummissjoni jitqiesu bhala servizz mal-Gvern għall-fini ta' kull pensjoni, gratwità jew benefiċċju taht l-Ordinanza dwar il-Pensjonijiet u l-Att dwar il-Pensjonijiet lil Nisa Romol u Tfal Iltiema ; u

(ċ) kull applikazzjoni li ssir taht subparagrafu (i) ta' paragrafu (a) ta' dan is-subartikolu, għandha titqies bl-istess mod bhallikieku l-applikanti ma jkunux ġew hekk assenjati.

(7) Il-Kummissjoni għandha thallas lill-Gvern dawk il-kontribuzzjonijiet li jistgħu minn żmien għal żmien jiġu stabbiliti mill-Ministru responsabbli għall-finanzi għar-rigward tan-nefqa ta' pensjonijiet u gratwitajiet li uffiċjali assenjati biex jaqdu dmirijiethom mal-Kummissjoni jaqilgħu, matul il-perijodu li fih huma jkunu ġew hekk assenjati.

14. (1) Il-finanzjament tal-Kummissjoni għandu jsir minn flejjes allokati lilha mill-Ministru minn flus ivvotati mill-Parlament għal attivitajiet taht il-Ministeru relattiv jew minn flus li jistgħu jinghatawliha jew jiġu allokati lilha minn sorsi oħra f'Malta jew barra minn Malta.

Kap. 93.
Kap. 58.

Finanzjar tal-
Kummissjoni.

(2) Mill-inqas xahrejn qabel tmiem is-sena finanzjarja tagħha l-Kummissjoni għandha tippreżenta lill-Ministru, pjan ta' hidma (inkluż pjan finanzjarju) li jkun ikopri l-attivitajiet proposti tal-Kummissjoni matul is-sena finanzjarja li jkun imiss matul is-sena finanzjarja li tiġi minnufih wara. Meta jiġi approvat mill-Ministru u mill-Ministru responsabbli għall-finanzi, dak il-pjan ta' attivita, jkun l-estimi approvat tal-Kummissjoni.

(3) Il-Kummissjoni għandha żżomm kontijiet kif imiss tad-dhul u l-hruġ tagħha u għandha tipprepara u tibgħat lill-Ministru dikjarazzjonijiet ta' kontijiet dwar kull wahda mis-snin finanzjarji tagħha. Kontijiet.

(4) Il-kontijiet tal-Kummissjoni għandhom jiġu verifikati minn awditur jew awdituri mahtura minnha bl-approvazzjoni tal-Ministru: Verifika.

Izda l-Ministru responsabbli għall-finanzi jista' jehtieg li l-kotba u r-records tal-Kummissjoni jiġu verifikati jew eżaminati mill-Awditur Generali li jkollu għal dak l-għan is-setgħa li jagħmel verifika fiżika jew kull verifika ohra, u jista' jitlob u jikseb dik l-informazzjoni, skond ma tista' tenhtieg.

(5) Is-sena finanzjarja tal-Kummissjoni tibda fl-1 ta' Jannar u tintemm fil-31 ta' Diċembru ta' kull sena:

Izda l-ewwel sena finanzjarja tal-Kummissjoni tibda mal-bidu fis-sehh ta' dan l-Att u ttemm fil-31 ta' Diċembru tas-sena li tiġi minnufih wara.

15. (1) Kemm jista' jkun prattikament malajr wara tmiem kull sena kalendarja, imma f'kull każ mhux aktar tard mill-31 ta' Marzu tas-sena li tiġi minnufih wara, l-Kummissjoni tista' tippreżenta lill-Ministru rapport ta' l-attivitajiet tagħha matul is-sena (liema rapport hawnhekk iżjed 'il quddiem f'dan l-artikolu jissejjah bhala "r-Rapport Annwali"). Rapport annwali.

(2) Kull Rapport Annwali għandu jinkludi fih rapport generali ta' l-iżviluppi matul il-perjodu li jkun jirrigwarda għal dawk li huma kwistjonijiet li jinkwadraw fil-funzjonijiet tal-Kummissjoni u għandhom ukoll jinkludu rapport fuq l-attivitajiet, inizjattivi, investigazzjonijiet u inizjattivi meħudin biex jissopprimu d-diskriminazzjoni u jippromwovu l-ugwaljanza bejn l-irġiel u n-nisa.

(3) Il-Ministru għandu, kemm jista' jkun prattikament malajr iżda f'kull każ mhux iktar tard minn xahrejn wara li dan jiġi

ppreżentat lilu mill-Kummissjoni, jara li kopja tar-Rapport Annwali flimkien ma' kopja tal-pjan korrenti ta' attività u finanzjarju tal-Kummissjoni jitqiegħed fuq il-Mejda tal-Kamra.

Eżenżjoni mit-Taxxa fuq l-*Income*, Kap. 123.

Ilmenti u investigazzjoni.

16. Il-Kummissjoni tkun eżenti minn kull obbligu ta' hlas ta' taxxa, dwar l-*income* tagħha, taħt l-Att dwar it-Taxxa fuq l-*Income*.

17. (1) Il-Kummissarju jista' jibda investigazzjonijiet minn jeddu dwar kull haġa li tinvolvi xi att jew ommissjoni li jkunu allegatament illeġittimi taħt id-disposizzjonijiet ta' dan l-Att.

(2) Il-Kummissarju jista' wkoll jibda investigazzjonijiet malli jirċievi lment bil-miktub minn persuni li jallegaw li jkunu l-vittma ta' xi att jew ommissjoni kontra d-disposizzjonijiet ta' dan l-Att.

(3) Jekk ikun jidher lill-Kummissarju li persuni li jkunu jixtiequ jagħmlu xi lment taħt l-artikolu (2) ta' dan l-artikolu jkollhom bżonn l-ghajnuna biex jifformulaw l-ilment, għandhom jittiehdu jew jiġu ordnati li jittiehdu mill-Kummissarju dawk il-passi raġonevoli li jistgħu jkunu meħtieġa biex jassistu lil dawk il-persuni jagħmlu l-ilment tagħhom.

Azzjoni li l-Kummissarju jiehu wara investigazzjoni.

18. (1) Wara li jagħmel jew tagħmel l-investigazzjoni l-Kummissarju jista' jew tista' -

(a) jiċċad jew tiċċad l-ilment, jew

(b) jiddeċiedi jew tiddeċiedi li l-ilment ikun ġie ppruvat u għaldaqshekk huwa għandu:

(i) meta l-azzjoni li jkun sar ilment dwarha tkun tikkostitwixxi reat, għandu jsir rapport lill-Kummissarju tal-Pulizija biex imexxi min-naħa tiegħu; jew

(ii) meta l-azzjoni li jkun sar ilment dwarha ma tkunx tikkostitwixxi reat, għandha tiġi interpellata l-persuna li kontriha jkun sar l-ilment sabiex tiġi rimedjata s-sitwazzjoni, u tagħmilha ta' medjatur bejn min jilmenta u dik il-persuna bil-għan li tiġi risolta l-kwistjoni;

(2) Ir-rizultanzi tal-Kummissarju taħt is-subartikolu (1) ma jkunux vinkolanti fuq min jilmenta u l-persuna li kontriha jkun indirizzat l-ilment kemm-il darba dawn ma jiddikjarawx b'mod espress u bil-miktub li huma hekk marbutin.

(3) Fir-rigward ta' investigazzjonijiet generali jew investigazzjonijiet li jsiru fuq ilmenti mill-Kummissarju, il-Ministru jista' jippreskrivi:-

(a) l-proċedura li biha l-Kummissarju jista' jitlob lil xi persuna tipprovdi dik l-informazzjoni li tista' tkun mehtieġa għall-investigazzjoni, kif ukoll iż-żmien sa meta u l-mod kif dik l-informazzjoni għandha tiġi pprovduta;

(b) il-proċeduri li għandhom jiġu segwiti meta persuna tonqos milli tipprovdi dik l-informazzjoni ċ-ċirkostanzi, li fihom wara investigazzjoni kif hawn qabel imsemmi, l-Kummissjoni tista' hi nnifisha tiehu azzjoni legali.

(4) Regolamenti taht is-subartikolu (3) jistghu jipprovdu, fil-każ ta' diskriminazzjoni allegata minn xi persuna kontra l-oħra, l-arrangamenti li bihom il-Kummissjoni tista' hi nnifisha tirreferi l-kwistjoni lill-qorti ċivili kompetenti jew lit-Tribunal Industrijali għal rimedju:

Izda ebda haġa f'dan is-subartikolu m'għandha tipprevjeni lil xi persuna li jkollha interess legali milli hi nnifisha tibda xi azzjoni għal rimedju jew meta xi azzjoni tkun ittiehdet mill-Kummissjoni, milli tintervjeni u ssir parti fil-kawża.

(5) Il-Kummissarju u kull membru ieħor tal-Kummissjoni jew xi membru tal-haddiema tal-Kummissjoni għandhom jittrattaw kull haġa li jsiru jafu biha matul xi investigazzjoni bhala konfidenzjali u m'għandhomx jiżvelawha kemm-il darba dak l-iżvelar ma jkunx mehtieġ matul xi prosekuzzjoni jew azzjoni għal rimedju taht dan l-Att.

19. (1) Minghajr preġudizzju għall-provvedimenti ta' l-artikolu 30 ta' l-Att dwar l-Impiegi u r-Relazzjonijiet Industrijali, kull min jallega li persuna tkun għamlet xi att fil-konfront tiegħu jew tagħha, li taht xi waħda mid-disposizzjonijiet ta' dan l-Att ikun kontra l-liġi, jkollu jew ikollha dritt ta' azzjoni quddiem il-qorti kompetenti ta' ġurisdizzjoni ċivili fejn jitlob jew titlob lill-qorti tordna lill-konvenut jiddeżisti mill-attijiet tiegħu jew tagħha kontra l-liġi u, meta dan ikun japplika, tordna li jsir il-hlas ta' kumpens għal dik il-hsara li jkun ġarrab jew tkun ġarrbet minhabba f'dak l-att kontra l-liġi.

Proċedimenti ċivili.
Att XXII ta' l-2002.

(2) Fi proċedimenti taht is-subartikolu (1) ta' dan l-artikolu ikun biżżejjed li l-attur iġib jew iġġib prova ta' trattament b'mod anqas favorevoli minhabba fis-sess tiegħu jew tagħha jew minhabba responsabbiltajiet li ġġib il-familja u l-oneru jkun fuq il-konvenut li

jgħib jew iġġib prova li dak it-trattament anqas favorevoli kien ġustifikat skond id-disposizzjonijiet ta' dan l-Att.

Setgħa ta' għemil ta' regolamenti.

20. (1) Il-Ministru jista' jagħmel regolamenti b'mod ġenerali sabiex jagħti seħħ lid-disposizzjonijiet ta' dan l-Att, u l-infurzar tiegħu, u b'mod partikolari, imma mingħajr preġudizzju għall-ġeneralità ta' dak hawn qabel imsemmi:-

(a) biex jiġi pprovdut dwar kull kwistjoni li tkun meħtieġa jew awtorizzata bl-Att li tiġi preskritta; u

(b) biex jipprovdi għal kull haġa relatata mal-ugwaljanza għall-irġiel u n-nisa; u

(ċ) għall-eżenzjoni ta' xi persuna, jew klassi ta' persuni jew korp, mill-htigiet ta' l-artikolu 4 (1) ta' dan l-Att sakemm dan ikun jirrigwarda l-artikolu 4 (1) paragrafu (a) u (b), l-artikolu 5 u l-artikolu 10 ta' dan l-Att skond ma jista' jiġi speċifikat fir-regolamenti hawn qabel imsemmija; iżda xi eżenzjoni bhal dik tista' biss tiġi preskritta mill-Ministru wara konsultazzjoni mal-Kummissjoni u sakemm dik l-eżenzjoni tkun għal perjodu ta' żmien speċifikat li jista' jiġġedded mill-Ministru wara konsultazzjoni mal-Kummissjoni.

Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 858 tas-27 ta' Jannar, 2003.

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Skrivan tal-Kamra tad-Deputati

MALTA

ATT Nru. I ta' l-2003

ATT mahruġ b'ligi mill-Parlament ta' Malta.

ATT biex iġib 'il quddiem l-ugwaljanza għall-irġiel u n-nisa.

ACT No. I of 2003

AN ACT enacted by the Parliament of Malta.

AN ACT to promote equality for men and women.

I assent.

(L.S.)

GUIDO DE MARCO
President

4th February, 2003

ACT No. I of 2003

AN ACT to promote equality for men and women

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:-

1. (1) The short title of this Act is the Equality for Men and Women Act, 2003. Short title and commencement.

(2) This Act shall come into force on such date as the Minister responsible for social policy may by notice in the Gazette appoint and different dates may be so appointed for different purposes or provisions of the Act.

2. (1) In this Act, unless the context otherwise requires: Interpretation.

“Commissioner” means the Commissioner for the promotion of equality appointed under article 11 of this Act, and Commission means the Commission established under the said article;

“discrimination” means discrimination based on sex or because of family responsibilities and includes the treatment of a person in a less favourable manner than other person has been or would be treated on the grounds of sex or because of family responsibilities and “discriminate” shall be construed accordingly;

“employment” means any gainful activity including self-employment and includes promotion and transfer to another post, as well as access to vocational or professional training, the duration of the employment or its extension or termination;

“Minister” means the Minister responsible for equality;

“sexual harassment” means the unlawful activities listed in subarticle (1) of article 9;

“vocational training” includes all forms of vocational training and retraining.

(2) For the purposes of this Act, and unless the context otherwise requires, the terms “man” and “woman” include males and females irrespective of their age.

(3) For the purposes of subarticle (1) of this article discrimination based on sex or because of family responsibilities is:

(a) the giving of less favourable treatment, directly or indirectly, to men and women on the basis of their sex or because of family responsibilities;

(b) treating a woman less favourably for reasons of actual or potential pregnancy or childbirth;

(c) treating men and women less favourably on the basis of parenthood, family responsibility or for some other reason related to sex;

(d) any treatment based on a provision, criterion or practice which disadvantages a substantially higher proportion of members of one sex unless that provision, criterion or practice is appropriate and necessary and can be justified by objective factors unrelated to sex.

(4) Nothing in subarticle (2) of this article shall be deemed to constitute discrimination in so far as such treatment -

(a) is given to grant special protection to women during childbirth or pregnancy;

(b) constitutes measures of positive action for the purpose of achieving substantive equality for men and women.

(5) In relation to access to employment, a less favourable treatment which is based on a characteristic related to sex shall not constitute discrimination where by reason of the particular occupational activities concerned, or of the context in which they are carried out,

such a characteristic constitutes a genuine occupational requirement and where such treatment remains within the limits of what is appropriate and necessary in the circumstances:

Provided that the burden of proof shall lie on the person who alleges that there is a genuine occupational requirement.

3. Nothing in this Act shall be construed as affecting any rule relating to religious practice, access to priesthood or membership in any religious order or other religious communities.

Scope of this Act.

4. (1) It shall be unlawful for employers to discriminate, directly or indirectly, against a person in the arrangements made to determine or in determining who should be offered employment or in the terms and conditions on which the employment is offered or in the determination of who should be dismissed from employment.

Discrimination in employment.

(2) Without prejudice to the provisions of article 26 of the Employment and Industrial Relations Act, employers shall also be deemed to have discriminated against a person if such employers –

Act XXII of 2002.

(a) manage the work, give promotions, distribute tasks, offer training opportunities or otherwise arrange the working conditions in a manner that employees are assigned a less favourable status than others on the basis of sex or because of family responsibilities; or

(b) alter the working conditions, or the terms of employment of employees to the detriment of such employees after such employees have invoked any right accorded to him under this Act or claimed the performance in his favour of any obligation or duty under this Act; or

(c) neglect their obligation to suppress sexual harassment as provided under subarticle (2) of article 9 of this Act.

5. (1) It shall be the duty of employers upon the request of any person claiming to have been sexually harassed or discriminated against, or upon a request made by the Commissioner acting upon a complaint or otherwise, to provide such person or the Commissioner, as the case may be, within ten working days of such a request with a report on the allegation made or the procedures used by the employers in the matter alleged to constitute such sexual harassment or discrimination.

Report on employment procedures.

(2) The employers shall be entitled to claim from the person requesting the report, reimbursement of such reasonable expenses incurred in drawing up and making the report:

Provided that such expenses may be recovered from the person responsible for such sexual harassment or discrimination if it is found that such sexual harassment or discrimination did in fact take place.

Banks and financial institutions.

6. (1) No bank or financial institution or insurance company shall discriminate against any person in the grant of any facility in respect of the establishment, equipment or in the launching or extension of any business or the launching or extension of any form of self employment or the insurance of that business or the person in self employment.

(2) Nothing in subarticle (1) of this article shall be deemed to constitute discrimination in so far as the conditions under which the facility or the insurance cover is offered or withheld reflect genuine considerations based on the financial risk in the grant of such facilities or of such insurance cover.

Participation of spouses in the activities of a self employed partner.

7. (1) Spouses of self employed workers not being employees or partners, who participate in the activities of the self employed workers and perform the same or ancillary tasks as their spouse shall be entitled to receive from their spouse a fair compensation for their activity commensurate to the value of their contribution.

(2) The provisions of subarticle (1) of this article shall not apply where the system of Community of Acquests or Community of the Residue under separate administration subsists between the spouses.

Education and vocational guidance.

8. (1) It shall be unlawful for any educational establishment or for any other entity providing vocational training or guidance to discriminate against any person in -

(a) the access to any course, vocational training or guidance;
or

(b) the award of educational support for students or trainees;
or

(c) in the selection and implementation of the curricula; or

(d) in the assessment of the skills or knowledge of the students or trainees.

(2) Failure by the persons responsible for such establishments and entities to fulfil their obligation to suppress sexual harassment as provided under subarticle (2) of article 9 of this Act shall for the purposes of subarticle (1) of this article constitute discrimination.

(3) It shall be the duty of educational establishments and entities providing vocational training, within the limits of their competence to ensure that curricula and textbooks do not propagate discrimination.

9. (1) Without prejudice to the provisions of article 29 of the Employment and Industrial Relations Act, it shall be unlawful for any person to sexually harass other persons, that is to say:

Sexual harassment.
Act XXII of 2002.

(a) to subject other persons to an act of physical intimacy; or

(b) to request sexual favours from other persons; or

(c) to subject other persons to any act or conduct with sexual connotations, including spoken words, gestures or the production, display or circulation of any written words, pictures or other material, where the act, words or conduct is unwelcome to the persons to whom they are directed and could reasonably be regarded as offensive, humiliating or intimidating to the persons to whom they are directed; or

(d) the persons so subjected or requested are treated less favourably by reason of such persons' rejection of or submission to such subjection or request, it could reasonably be anticipated that such persons would be so treated.

(2) (a) Persons responsible for any work place, educational establishment or entity providing vocational training or guidance or for any establishment at which goods, services or accommodation facilities are offered to the public, shall not permit other persons who have a right to be present in, or to avail themselves of any facility, goods or service provided at that place, to suffer sexual harassment at that place.

(b) It shall be a defence for persons responsible as aforesaid to prove that they took such steps as are reasonably practicable to prevent such sexual harassment.

(3) Persons who sexually harass other persons shall be guilty of an offence against this article and shall, without prejudice to any greater liability under any other law, be liable on conviction to a fine (*multa*) of not more than one thousand liri or to imprisonment of not more than six months or to both such fine and imprisonment.

10. (1) Without prejudice to the provisions of article 26 of the Employment and Industrial Relations Act, it shall be unlawful for persons to publish or display or cause to be published or displayed any advertisement, or, otherwise to advertise a vacancy for employment which discriminates between job seekers or to request from job seekers information concerning their private life or family plans:

Discriminatory advertisement.
Act XXII of 2002.

Provided that the provisions of this subarticle shall not apply in such cases where employers prove that the work in connection with the situation advertised can only be performed by a person of a specific sex.

(2) It shall not be lawful for persons to publish or display or cause to be published or displayed any advertisement which promotes discrimination or which otherwise discriminate.

(3) Persons who act in breach of subarticle (1) or (2) of this article shall be guilty of an offence against this article and shall, on conviction, be liable to the penalties established for contraventions.

(4) For the purposes of subarticle (1) of this article, advertising includes disseminating information about the vacancy by word of mouth from person to person.

National
Commission
for the Promotion of
Equality for Men
and Women.

11. (1) The Prime Minister shall upon the advice of the Minister appoint a Commission to be called the National Commission for the Promotion of Equality for Men and Women (hereinafter referred to as “the Commission”) composed of a chairperson who shall be called the Commissioner for the Promotion of Equality (hereinafter referred to as “the Commissioner”) and six other members, at least three of whom shall be women.

(2) All the members of the Commission shall be appointed by the Prime Minister from among such persons appearing to him to be best suited to deal with issues of equality for men and women, and, or, administrative issues connected therewith.

(3) Every member of the Commission shall hold office for a term of two years and may be reappointed at the end of their term of office.

(4) The Prime Minister may terminate the appointment of members of the Commission if he is satisfied that:

(a) without the consent of the Commission the members failed to attend the meetings of the Commission during a continuous period of six months;

(b) the members are undischarged bankrupt persons, or have made an arrangement with their creditors, or are insolvent or have been found guilty of any voluntary crime against the person; or

(c) the members are incapable of carrying out their duties.

(5) The quorum of the Commission shall be of four members, one of whom shall be the Commissioner.

(6) The validity of any proceedings of the Commission shall not be affected by any vacancy among the members of the Commission or by any defect in the appointment of any member.

(7) Decisions of the Commission shall be taken by the majority of the votes of the members present. The Commissioner shall also have a casting vote.

(8) Subject to the provisions of this Act and of any regulation made thereunder, the Commission may appoint sub-committees and, in general, shall regulate its own proceedings.

12. (1) The Commissioner, with the assistance of the Commission, shall have the following functions, that is to say:

Functions and status
of Commissioner
and of Commission.

(a) to identify, establish and update all policies directly or indirectly related to issues of equality for men and women;

(b) to identify the needs of persons who are disadvantaged by reasons of their sex and to take such steps within its power and to propose appropriate measures in order to cater for such needs in the widest manner possible;

(c) to monitor the implementation of national policies with respect to the promotion of equality for men and women;

(d) to liaise between, and ensure the necessary co-ordination between, government departments and other agencies in the implementation of measures, services or initiatives proposed by Government or the Commission from time to time;

(e) to keep direct and continuous contact with local and foreign bodies working in the field of equality issues, and with other groups, agencies or individuals as the need arises;

(f) to work towards the elimination of discrimination between men and women;

(g) to carry out general investigations with a view to determine whether the provisions of this Act are being complied with;

(h) to investigate complaints of a more particular or individual character to determine whether the provisions of this Act are being contravened with respect to the complainant and, where deemed appropriate, to mediate with regard to such complaints;

(i) to inquire into and advise or make determinations on any matter relating to equality between men and women as may be referred to it by the Minister;

(j) to provide assistance, where and as appropriate, to persons suffering from discrimination in enforcing their rights under this Act;

(k) to keep under review the working of this Act, and where deemed required, at the request of the Minister or otherwise, submit proposals for its amendment or substitution;

(l) to perform such other function as may be assigned by this or any other Act or such other functions as may be assigned by the Minister.

(2) On the appointment by the Prime Minister of the first members, the Commission shall have a legal personality separate from that of the Government and its judicial representation shall vest in the Commissioner:

Provided that the Commission may appoint any one or more of its members or any other person, to appear in its name and on its behalf in any judicial proceedings, and on any act, contract, agreement or document whatsoever.

Personnel of
the Commission.

13. (1) The Commission shall be administered by an Executive Director who shall act in accordance with such policies established by the Commission and such instructions as may be given to him by the Commissioner.

(2) The Executive Director shall hold office under such terms and conditions as the Commissioner, with the concurrence of the Minister, may establish. Where the Executive Director is a public officer seconded from the Government, such person shall have the right on the termination of the secondment to revert to the former post without loss of rank or seniority.

(3) The Commission may, after consultations with the Minister and subject to the approval of such Minister as to their number, remuneration and terms and conditions of service, appoint such officers as it deems fit.

(4) The Prime Minister may, at the request of the Commission, from time to time direct that any public officers shall be detailed for duty with the Commission in such capacity and with effect from such date as may be specified in the direction. Detailing of public officers.

(5) The period during which a direction as aforesaid shall apply to any officers specified therein, shall unless the officers retire from the public service, or otherwise cease to be public officers at an earlier date, and on the date specified in the direction or on the happening of any of the following events, that is to say -

(a) the acceptance by such public officers of an offer of permanent employment with the Commission; or

(b) the revocation by the Prime Minister of any direction made by him under this section in relation to such officers.

(6) Where a public officer is detailed for duty with the Commission under this article, such officer shall, during the time the direction has effect in relation to him, be under the administrative authority and control of the Commission, but shall for all other intents and purposes remain and be considered and treated as a public officer and without prejudice to the generality of the aforesaid such public officer:

(a) shall not during the time while he was so detailed -

(i) be precluded from applying for transfer to a department of the Government in accordance with the terms and conditions of service attached to the appointment under the Government held by the officer at the date on which such officer was detailed for duty; or

(ii) be so employed that his remuneration and conditions of service are less favourable than those which are attached to the appointment under the Government held by such officer at the date the officer was so detailed or which would have become attached during the said period had such officer not been so detailed; and

(b) shall be entitled to have the service with the Commission considered as service with the Government for the purpose of any pension, gratuity or benefit under the Pensions Ordinance and the Widows and Orphans' Pension Act ; and Cap. 93.
Cap. 58.

(c) any application made under subparagraph (i) of paragraph (a) above, shall be given the same consideration as if the applicant had not been so detailed.

(7) The Commission shall pay to the Government such contributions as may from time to time be determined by the Minister responsible for finance in respect of the cost of pensions and gratuities earned by an officer detailed for duty with the Commission during the period in which the officer was so detailed.

Funding of the Commission.

14. (1) The Commission shall be funded out of funds allocated to it by the Minister out of funds voted by Parliament for activities under the Ministry or out of funds that may be donated or allocated to it from other sources in Malta or abroad.

(2) At least two months prior to the end of its financial year the Commission shall submit to the Minister, a business plan (including a financial plan) covering the proposed activities of the Commission during the following financial year. When approved by the Minister and by the Minister responsible for finance, such business plan, shall be the approved budget of the Commission.

Accounts.

(3) The Commission shall keep proper accounts of its income and expenditure and shall prepare and send to the Minister statements of accounts in relation to each of its financial years.

Audit.

(4) The accounts of the Commission shall be audited by an auditor or auditors appointed by it with the approval of the Minister:

Provided that the Minister responsible for finance may require the books and records of the Commission to be audited or examined by the Auditor General who for the purpose shall have power to carry out such physical checking or other verifications, and may demand and acquire such information, as may be necessary.

(5) The financial year of the Commission shall commence on the 1st January and shall end on the 31st December of each year:

Provided that the first financial year of the Commission shall begin on the coming into force of this Act and end on the 31st December of the next following year.

Annual report.

15. (1) As soon as practicable after the end of every calendar year, but in any case not later than the 31st day of March of the following year, the Commission may submit to the Minister a report of its activities during the year (such report hereinafter in this section referred to as an “Annual Report”).

(2) Each Annual Report shall include a general report of developments during the period to which it relates in respect of matters falling within the functions of the Commission and shall also include a report on the activities, initiatives, investigations and initiatives undertaken to suppress discrimination and to promote equality for men and women.

(3) The Minister shall, as soon as practicable but in any case not later than two months after its submission to him by the Commission, cause a copy of the Annual Report together with a copy of the then current business and financial plan of the Commission to be laid on the Table of the House.

16. The Commission shall be exempt from any liability to pay tax, in respect of its income, under the Income Tax Act.

Exemption for
Income Tax,
Cap 123.

17. (1) The Commissioner may initiate investigations on any matter involving an act or omission that is allegedly unlawful under the provisions of this Act.

Complaints and
investigation.

(2) The Commissioner may also initiate investigations on the receipt of a complaint in writing by persons who claim to be the victims of an act or omission contrary to the provisions of this Act.

(3) If it appears to the Commissioner that persons who wish to make a complaint under subarticle (2) of this article require assistance to formulate the complaint, the Commissioner shall take or order the taking of such reasonable steps as may be necessary to assist such persons in making the complaint.

18. (1) After carrying out an investigation the Commissioner may -

Action by the
Commissioner
following an
investigation.

(a) dismiss the complaint, or

(b) find that the complaint is proved and thereupon, shall:

(i) where the action complained of constitutes an offence, make a report to the Commissioner of Police for action on his part; or

(ii) where the action complained of does not constitute an offence, call upon the person against whom the complaint is directed to redress the situation, and mediate between the complainant and such person to settle the matter;

(2) The findings of the Commissioner under subarticle (1) shall not be binding on the complainant and the person against whom the complaint is directed unless they expressly declare in writing to be so bound.

(3) In respect of general investigations or of investigations upon complaints by the Commissioner, the Minister may prescribe:-

(a) the procedure whereby the Commissioner may require any person to furnish such information as may be necessary for the investigation, as well as the time within which and the manner in which such information is to be furnished;

(b) the procedures to be followed where a person fails to supply such information the circumstances, in which following an investigation as aforesaid, the Commission may itself take legal action.

(4) Regulations under subarticle (3) may provide, in the case of an alleged discrimination by one person against another, the arrangements whereby the Commission may itself refer the matter to the competent civil court or to the Industrial Tribunal for redress:

Provided that nothing in this subarticle shall prevent any person having a legal interest from himself taking action for redress or where action has been taken by the Commission, from joining in and becoming a party to the suit.

(5) The Commissioner and every other member of the Commission or any member of the staff of the Commission shall treat any matter coming to their knowledge in the course of an investigation as confidential and shall not disclose the same unless such disclosure is necessary in the course of a prosecution or an action for redress under this Act.

Civil
proceedings.
Act XXII of 2002.

19. (1) Without prejudice to the provisions of article 30 of the Employment and Industrial Relations Act, a person who alleges that any other person has committed in his or her regard any act which under any of the provisions of this Act is unlawful, shall have a right of action before the competent court of civil jurisdiction requesting the court to order the defendant to desist from such unlawful acts and, where applicable, to order the payment of compensation for such damage suffered through such unlawful act.

(2) In any proceedings under subarticle (1) of this article it shall be sufficient for the plaintiff to prove that he or she has been treated less favourably on the basis of sex or because of family responsibilities

and it shall be incumbent on the defendant to prove that such less favourable treatment was justified in accordance with the provisions of this Act.

20. (1) The Minister may make regulations generally for giving effect to the provisions of this act, and the enforcement thereof, and in particular, but without prejudice to the generality of the foregoing:- Power to make regulations.

(a) for providing for any matter which is required or authorised by the Act to be prescribed; and

(b) for providing for any matter relating to equality between men and women; and

(c) for the exemption of any person, or class of persons or body, from the requirements of article 4 (1) of this Act in so far as it relates to article 4 (1) paragraphs (a) and (b), article 5 and article 10 of this Act as may be specified in the aforesaid regulations; provided that any such exemption shall only be prescribed by the Minister after consultation with the Commission and provided that such exemption shall be for a specified period of time which can be renewed by the Minister after consultation with the Commission.

Passed by the House of Representatives at Sitting No. 858 of the 27th January, 2003.

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives