

## **Nru. 10**

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27. 7. 99

### **MALTA**

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#### **KAMRA TAD-DEPUTATI**

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**ABBOZZ ta' Liġi mressaq mill-Onorevoli Lawrence Gonzi, M.P., Viċi Prim Ministru u Ministru għall-Politika Soċjali, u moqri għall-Ewwel darba fis-Seduta tat-3 ta' Diċembru, 1998.**

**ATT dwar Opportunitajiet Indaq (Persuni b'Diżabilità).**

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**RICHARD J. CAUCHI**

*Skrivan tal-Kamra tad-Deputati*

#### **HOUSE OF REPRESENTATIVES**

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**A BILL introduced by the Honourable Lawrence Gonzi, M.P., Deputy Prime Minister and Minister for Social Policy, and read the First time at the Sitting of the 3rd December, 1998.**

**Equal Opportunities (Persons with Disability) Act.**

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**RICHARD J. CAUCHI**

*Clerk of the House of Representatives*

## **ABBOZZ TA' LIĠI msejjah**

*ATT dwar Opportunitajiet Indaqs (Persuni b'Diżabilità).*

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

### TAQSIMA I

#### **Preliminari**

1. Dan l-Att jista' jissejjah l-Att ta' l-1998 dwar Opportunitajiet Indaqs għal Persuni b'Diżabilità, u għandu jibda jseħh f' dik id-data li l-Ministru responsabbli għall-harsien soċjali jista' b'avviż fil-Gazzetta jistabbilixxi u jistgħu jiġu hekk stabbiliti dati differenti għal dispożizzjonijiet differenti u għanijiet differenti ta' l-Att. Titolu fil-qosor u bidu fis-sehh.

2. F'dan l-Att, kemm-il darba r-rabta tal-kliem ma tehtiegħ Tifsir.  
xort'oħra -

“aġenzija ta' impieg” tfisser kull min jew kull korp li, sew jekk bi hlas sew le, jassisti lil persuni jsibu impieg jew xogħol iehor jew li jkun jassisti lil prinċipali jsibu impjegati jew haddiema, u tinkludi kull attività mwettqa f'Malta għar-reklutaġġ ta' persuni biex jiġu impjegati f'Malta jew barra minn Malta;

“akkomodazzjoni” tinkludi akkomodazzjoni residenzjali jew kummerċjali, u adattament strutturali jew bidliet f'bini eżistenti;

“awtorità edukattiva” tfisser korp jew persuna li jkunu qed jamministraw istituzzjoni edukattiva;

“dizabilità” tfisser nuqqas fiziku jew mentali li jillimita b’mod sostanzjali xi attività vitali maġġuri wahda jew iktar minn wahda ta’ dik il-persuna;

(Kap. 318)

“età pensjonabbli”, ghar-rigward ta’ persuna, tfisser kull età li matulha din il-persuna jkollha jedd għal pensjoni għal min jirtira skond id-dispożizzjonijiet ta’ l-Att dwar i-Sigurtà Soċjali;

“età ta’ skola obbligatorja”, ghar-rigward ta’ persuna, tfisser l-età meta dik il-persuna tkun sugġetta għad-dispożizzjonijiet ta’ l-Att dwar l-Edukazzjoni (Kap. 327) sal-limitu li dawn ikunu jirrelataw għal dik l-età;

“impieg” tfisser impieg b’kuntratt ta’ servizz;

“istituzzjoni edukattiva” tfisser kindergarten, skola, kulleġġ, università jew istituzzjoni oħra li fihom jiġu provduti edukazzjoni jew taħriġ;

“Kummissjoni” tfisser il-Kummissjoni Nazzjonali Persuni b’Dizabilità mwaqqfa skond ma hemm fl-artikolu 21 ta’ dan l-Att, u tinkludi lil kull uffiċjal tal-Kummissjoni minnha debitament awtorizzat biex jaġixxi f’isimha għal xi għan speċifiku jew kategorija ta’ għanijiet taħt dan l-Att;

“kuntratt ta’ servizz” tfisser ftehim ta’ impieg bejn żewġ persuni, jew bejn persuna u korp ta’ persuni, sew bil-miktub, bil-fomm jew mifhum, li bih l-impjegat ikollu obbligu li jaġħti servizzi lill-prinċipal għal għadd ta’ sighet stabbiliti, fuq bażi sew ta’ *full-time* jew ta’ *part-time*, sew temporanja, b’paga, salarju, rimunerazzjoni bi hlas jew kull benefiċċju jew privileġġ ieħor hekk kif kollha stabbiliti bla hsara għal-jedd li jkollu l-prinċipal li jikkontrolla, jissorvelja, imexxi u jiehu kull għamla ta’ azzjoni dixxiplinarja fuq l-impjegat skond kif dak iwettaq dmirijietu;

“membru tal-familja”, ghar-rigward ta’ individwu, tinkludi –

- (a) il-mara jew ir-raġel;
- (b) l-iben, il-bint, hu jew oħt, li jkollhom 18-il sena jew aktar; u
- (ċ) tutur legali jew kuratur, ta’ dak l-individwu;

“Ministru” tfisser il-Ministru responsabbli għall-harsien soċjali u l-iżvilupp ta’ dan il-qasam, u tinkludi kull persuna li tkun debitament awtorizzata mill-Ministru msemmi biex taġixxi f’ismu għal għan speċifiku jew kategorija ta’ għanijiet taht dan l-Att;

“nuqqas”, fil-kuntest ta’ diżabilità, tfisser kull telfien, restrizzjoni jew anormalità ta’ funzjoni psikoloġika, fiżjoloġika jew struttura anatomika;

“għajjnuna awżiljarja” tfisser kull mezz palljattiv (li jtaffi) jew terapewtiku, kull għajjnuna prostetika, jew kull mezz ieħor jew għajjnuna oħra li jistgħu jinhtieġu minn persuna b’ diżabilità b’ mod speċifiku minhabba f’ dik id-diżabilità;

“persuna b’ diżabilità kwalifikata” tfisser -

(a) għar-rigward ta’ xi impieg bħal dak imsemmi fit-Titolu I tat-Taqsima III ta’ dan l-Att, persuna b’ diżabilità li jkollha iktar mill-età ta’ skola obligatorja iżda li tkun ghadha ma lahqitx l-età pensjonabbli, u li, sew jekk ikollha sew jekk ma jkollhiex xi akkomodazzjoni skond it-Titolu msemmi qabel, tkun tista’ twettaq il-funzjonijiet essenzjali tal-kariga fl-impieg li jkollha jew li tapplika għaliha jew li jista’ jkollha jew li tista’ tapplika għaliha; u

(b) għar-rigward tal-provvediment ta’ oġġetti, facilitajiet jew servizzi kif imsemmi fit-Titolu 4 tat-Taqsima III ta’ dan l-Att, persuna b’ diżabilità li jkollha l-htigiet ta’ eliġibiltà essenzjali għall-provvediment ta’ dawk l-oġġetti, facilitajiet jew servizzi jew sabiex hija tippartecipa f’ dawk il-programmi jew attivitajiet bħalma jistgħu jiġu provduti minn xi persuna jew korp skond it-Taqsima qabel imsemmija ta’ dan l-Att.

## TAQSIMA II

### Tifsira ta’ Diskriminazzjoni minhabba f’ Diżabilità

3. (1) Persuna tkun qiegħda tiddiskrimina kontra persuna oħra minhabba f’ diżabilità f’ ċirkostanzi rilevanti għall-għanijiet ta’ xi dispożizzjoni ta’ dan l-Att jekk:

Diskriminazzjoni minhabba f’ diżabilità dovuta għal xi trattament inqas favorevoli.

(a) f’ ċirkostanzi li huma simili jew li m’ humiex materjalment differenti, hija tittratta jew tippromponi li tittratta persuna b’ diżabilità b’ mod inqas favorevoli milli tittratta jew kieku tittratta persuna li ma jkollhiex diżabilità bħal dik; jew

(b) hija tittratta jew tipproponi li tittratta persuna b'mod inqas favorevoli minhabba f'xi karatteristika li soltu jkollhom persuni li jkollhom dik id-diżabilità jew karatteristika misthajla li soltu tkun fuq persuni li jkollhom diżabilità bhal dik.

(2) Għall-ghanijiet tal-paragrafu (a) tas-subartikolu (1) ta' dan l-artikolu, il-fatt li l-persuna b'diżabilità tista' tehtieg akkomodazzjoni differenti u, jew, servizzi differenti, m'għandu f'ebda każ jitqies bhala li jkun qed jikkostitwixxi ċirkostanzi li huma materjalment differenti.

Diskriminazzjoni minhabba f'diżabilità dovuta għal xi nuqqas ta' konformita ma xi htieġa jew kondizzjoni.

**4.** Persuna tkun qieghda tiddiskrimina ma' persuna oħra minhabba f'diżabilità jekk dik il-persuna l-oħra tenhtieg li tikkonforma ma' xi htieġa jew kondizzjoni li magħha jikkonformaw jew ikunu jistgħu jikkonformaw il-maġġoranza ta' persuni li ma jkollhomx dik id-diżabilità, u

(a) li ma tkunx raġonevoli fiċ-ċirkostanzi tal-każ; u

(b) li magħha dik il-persuna l-oħra ma tkunx tikkonforma jew ma tkunx tista' tikkonforma.

Diskriminazzjoni minhabba f'diżabilità dovuta għal kull għajnuna awżiljarja.

**5.** Persuna tkun qieghda tiddiskrimina ma' persuna oħra minhabba f'diżabilità jekk hija tittratta, jew tipproponi li tittratta, lil dik il-persuna l-oħra b'mod inqas favorevoli milli tittratta jew kieku tittratta lil persuni oħrajn li ma jkollhomx dik id-diżabilità minhabba fil-fatt li dik il-persuna l-oħra tkun akkumpanjata bi jew ikollha għajnuna awżiljarja li tintuża minn dik il-persuna l-oħra jew minhabba f'kull haġa li jkollha x'taqsam ma' dak il-fatt, sew jekk tkun sew jekk ma tkunx il-prattika li tittratta b'mod hekk inqas favorevoli lil xi persuna li tkun akkumpanjata bi jew li jkollha xi għajnuna awżiljarja bhal dik.

Diskriminazzjoni minhabba f'diżabilità dovuta għal xi assistenza.

**6.** Persuna tkun qieghda tiddiskrimina ma' persuna oħra minhabba f'diżabilità jekk hija tittratta, jew tipproponi li tittratta, lil dik il-persuna l-oħra b'mod inqas favorevoli milli tittratta jew kieku tittratta lil persuni oħrajn li ma jkollhomx dik id-diżabilità minhabba fil-fatt li dik il-persuna l-oħra tkun akkumpanjata minn -

- (a) interpretu; jew
- (b) qarrej; jew
- (ċ) assistent; jew
- (d) persuna li tiehu hsiebha,

li jipprovdi servizzi ta' interpretazzjoni, qari jew servizzi oħra lil dik il-persuna l-oħra minhabba fid-diżabilità ta' dik il-persuna l-oħra jew minhabba f'kull haġa li jkollha x'taqsam ma' dak il-fatt, sew jekk tkun

sew jekk ma tkunx il-prattika li tittratta b'mod inqas favorevoli lil xi persuna li tkun akkumpanjata minn interpretu, qarrej, assistent jew persuna li tiehu hsieb, skond il-każ.

### TAQSIMA III

#### **Projbizzjoni ta' Diskriminazzjoni minhabba f'Dizabilità**

##### *Titolu I - Impieg*

7. (1) Ebda prinċipal ma jista jiddiskrimina minhabba <sup>Impieg.</sup> f'dizabilità kontra persuna b'dizabilità kwalifikata ghar-rigward ta' -

(a) proċeduri li jkollhom x'jaqsmu ma' applikazzjonijiet ghal impieg;

(b) l-ingaġġ, promozzjoni jew tkeċċija ta' impjegati;

(ċ) il-kumpens li jingħata lil impjegat;

(d) tahriġ f'xi okkupazzjoni; u

(e) kull patt, kondizzjoni u privileġġ iehor li ghandu x'jaqsam ma' impieg.

(2) Għall-għanijiet tas-subartikolu (1) ta' dan l-artikolu u mingħajr preġudizzju għall-ġeneralità tat-Taqsima II ta' dan l-Att, prinċipal jitqies li jkun qed jiddiskrimina minhabba f'dizabilità kontra persuna kif hemm imsemmi, jekk dak il-prinċipal mingħajr raġuni -

(a) jillimita, jissegrega jew jikklassifika lil dik il-persuna b'mod li dan itellef l-oportunitajiet jew il-grad ta' dik il-persuna; jew

(b) jipparteċipa f'xi kuntratt, jew arrangament iehor jew relazzjoni ohra, li t-twettiq tagħhom ikollu l-effett li jagħmel lil dik il-persuna suġġetta għal diskriminazzjoni; jew

(ċ) juża livelli, kriterji jew metodi ta' amministrazzjoni li jkollhom effett kuntarju għall-oportunitajiet, grad jew benefiċċji ta' dik il-persuna; jew

(d) jonqos milli jipprovdi bdil raġonevoli għad-dizabilità ta' dik il-persuna, hliet jekk il-prinċipal jista' jgħib prova li l-bdil mehtieg ser jippreġudika b'mod mhux xieraq, it-thaddim tas-sengha jew tan-negozju li dak il-prinċipal jiġġestixxi; jew

(e) jiċċad opportunitajiet ta' impieg lil dik il-persuna meta dik iċ-ċaħda tkun fondata fuq il-htieġa tal-prinċipal li jipprovdi bdil raġonevoli għad-dizabilita ta' dik il-persuna; jew

(f) juża livelli ta' kwalifika, provi dwar l-impieg, jew kriterji ta' għażla oħra li jaqtgħu 'l barra jew jistgħu jaqtgħu 'l barra lil xi persuna jew klassi ta' persuni li jkollhom xi diżabilita kemm-il darba l-prinċipal ma jgibx prova li l-livelli, provi jew kriterji ta' għażla oħra jkunu kwalifika jew htieġa essenzjali għall-kariga li tkun; jew

(g) jonqos milli jagħżel u jagħmel provi dwar xi impieg bil-mod l-iktar effettiv sabiex jiżgura li, meta ssir il-prova fuq dik il-persuna, u dik il-persuna tinzerta jkollha diżabilita li tnaqqas il-kapaċitajiet tagħha ta' kif thoss, tuża jdejha jew titkellem, ir-riżultati ta' dawk il-provi jkunu jirriflettu b'mod preċiż il-kapaċitajiet jew ix-xeħtiet ta' dik il-persuna.

(3) Meta prinċipal jeskludi minn xi impieg jew tkomplija ta' impieg lil xi persuna li jkollha l-kwalifiki li tingħata dak l-impieg jew li tkompli f'dak l-impieg jew xort'oħra jillimita l-opportunitajiet, grad jew benefiċċji ta' dik il-persuna minħabba fid-dizabilita ta' persuna oħra li magħha dik il-persuna tkun magħrufa jew suspetta li jkollha relazzjoni jew assoċjazzjoni, dik l-eskluzjoni jew limitazzjoni għandhom, għall-ghanijiet ta' dan l-artikolu, jitqiesu bħallikieku kienu diskriminazzjoni minħabba f'dizabilita kontra persuna bħalma hemm imsemmi fis-subartikolu (1) ta' dan l-artikolu.

(4) Għall-ghanijiet tal-paragrafu (d) tas-subartikolu (2) ta' dan l-artikolu, il-fatturi li għandhom jitqiesu sabiex jiġi stabbilit jekk tibdil ikunx se jippreġudika b'mod mhux xieraq it-thaddim ta' sengħa jew negozju ġestit mill-prinċipal għandhom ikunu jinkludu:-

(a) ix-xorta u n-nefqa tat-tibdil;

(b) ir-riżorsi finanzjarji totali tal-post tax-xogħol involuti fl-għemil tat-tibdil;

(c) l-għadd ta' impjegati fuq il-post tax-xogħol li jkunu jeħtieġu tibdil;

(d) l-effett fuq l-ispejjeż u r-riżorsi u l-impatt li t-tibdil meħtieġ se jkollu fuq it-thaddim tal-post tax-xogħol;

(e) ir-riżorsi finanzjarji totali tal-prinċipal;

(f) il-qies totali tan-negozju tal-prinċipal inkluż l-ghadd ta' impjegati, u l-ghadd u t-tip tal-postijiet tax-xogħol u fejn dawn ikunu jinsabu;

(g) it-tip ta' kull hidma li jagħmel il-prinċipal, inklużi l-ghamla, l-istruttura u l-funzjonijiet ta' dawk li jahdmu u x-xogħol li jagħmlu; u

(h) kemm ikunu jistgħu jingħataw flus minn fondi pubblici biex itaffu n-nefqa li ssir għal xi tibdil.

(5) Għall-ghanijiet ta' dan l-artikolu, il-frazi "jipprovdi tibdil raġonevoli" tinkludi -

(a) li faċilitajiet eżistenti li jintużaw mill-impjegati jsiru b' mod li jkunu faċilment aċċessibbli għal, u jkunu jistgħu jintużaw minn persuni li jkollhom diżabilitajiet; u

(b) ristrutturar ta' impiegi, it-tneđija ta' sistemi ta' xogħol *part-time* jew skeda ta' xogħol modifikata, it-tqassim mill-ġdid ta' karigi battala, l-akkwist jew il-modifika ta' tagħmir jew meżzi, l-aġġustament jew tibdil xieraq ta' eżamijiet jew materjal ta' taħriġ jew *policies*, il-provvediment ta' qarreja jew interpreti, u l-ghemil ta' kull tibdil ieħor simili għal persuna b' diżabilità.

8. (1) Salv kif hemm provdut fis-subartikoli (2) u (3) ta' dan l-artikolu, prinċipal m'għandux imexxi jew jesigi xi eżami mediku jew xort'ohra jitkixxef dwar min japplika għal xi impieg miegħu jew xi impjegat tiegħu dwar jekk min ikun applika jew l-impjegat tiegħu jkunx persuna b' diżabilità jew dwar ix-xorta jew il-gravità ta' dik l-inkapaċità hlief biex jaċċerta ruhu mill-kapaċità li jwettaq ċerti funzjonijiet li jkollhom x'jaqsmu max-xogħol tiegħu jew sabiex jagħraf xi tkun in-nefqa li se jkollu jagħmel fit-tibdiliet li jistgħu jenhtiegu b' riżultat ta' dik id-diżabilità.

Eżamijiet mediċi.

(2) Wara li ssir offerta ta' impieg lil min japplika sabiex dan jiġi impjegat u qabel ma dak l-impieg fil-fatt jibda jsehh, prinċipal jista' jipprovdi għall-ghemil ta' eżami mediku, jew jesigi li dan isir, jew inkella jagħmel l-offerta ta' dak l-impieg kondizzjonata mir-riżultati ta' dak l-eżami biss jekk kull min japplika għal din l-istess għamla ta' impieg ikunu wkoll suġġetti għal dak l-eżami.

(3) Meta jiġri li fil-fatt isir eżami bħal dak imsemmi fis-subartikolu (1) u (2) ta' dan l-artikolu, kull tagħrif li jinkiseb dwar il-kondizzjoni u l-istorja medika ta' min japplika dwar id-diżabilità li jkollu għandu -

- (a) jingabar u jibqa' jinżamm fuq formoli separati;
- (b) jinżammu f'files mediċi separati; u
- (ċ) jitqies bhala notament mediku konfidenzjali.

(4) Minkejja d-dispożizzjonijiet tas-subartikolu (3) ta' dan l-artikolu, jekk min japplika jiġi sussegwentement impjegat, ebda haġa m'ghandha żżomm lill-prinċipal tiegħu milli jgharraf, jekk iqis li jkun hekk xieraq, lil

(a) *supervisors* u *managers* fi hdan l-istess stabbiliment dwar kull restrizzjoni mehtieġa fuq ix-xogħol jew id-dmirijiet ta' dik il-persuna li tkun applikat u kull tibdil li jista' jinhtieg u,

(b) persunal li jagħti l-ewwel għajnuna u jiehu hsieb l-inkolumità ta' l-impjegati dwar kull kura ta' emergenza li tkun tista' tenhtieg dik il-persuna li tkun applikat minhabba fid-diżabilità tagħha jew dwar kull prekawzjoni speċjali li tista' tkun mehtieġa minhabba f' dik id-diżabilità.

(5) B'żieda mad-dispożizzjonijiet tas-subartikolu (1) ta' dan l-artikolu, iżda bla hsara għad-dispożizzjonijiet tas-subartikoli (3) u (4) ta' dan l-artikolu, prinċipal jista' jitlob li jsiru eżamijiet mediċi fuq bażi volontarji, inkluż il-ġbir ta' kull storja medika b'mod volontarju, li jkunu jagħmlu sehem minn programm ta' sahha għall-impjegati.

(6) Għall-ghanijiet ta' dan l-artikolu, kull eżami mediku bħalma hemm imsemmi fih għandu jinkludi kull eżami mediku u, jew, psikologiku li jista' jsir fiċ-ċirkostanzi tal-każ.

Trade Unions.

**9.** Organizzazzjoni registrata skond l-Att dwar Relazzjonijiet Industrijali (Kap. 266) jew kumitat tat-tmexxija jew membru tal-kumitat tat-tmexxija ta' organizzazzjoni registrata bhal dik ma jistgħux jiddiskriminaw kontra -

(a) persuna, minhabba fid-diżabilità ta' dik il-persuna jew id-diżabilità ta' xi wiehed mill-membri tal-familja ta' dik il-persuna -

(i) billi jiċhdu jew jonqsu milli jaċċettaw l-applikazzjoni tagħha għas-shubija; jew

(ii) fil-patti jew kondizzjonijiet li bihom dik l-organizzazzjoni tkun lesta li taċċetta l-applikazzjoni tagħha għas-shubija; u, jew

(b) membru ta' organizzazzjoni registrata bhal dik, minhabba fid-dizabilità ta' dak il-membru jew id-dizabilità ta' xi membru tal-familja ta' dak il-membru billi -

(i) jichadlu l-jedd ghal xi benefiċċju provdut mill-organizzazzjoni jew jillimitalu l-jedd tiegħu ghal dak il-benefiċċju; jew

(ii) inehhilo s-shubija mill-organizzazzjoni; jew jibdillu l-kundizzjonijiet ta' dik is-shubija.

**10.** (1) Aġenzija ta' l-impieg ma tistax tiddiskrimina kontra persuna minhabba fid-dizabilità tagħha jew id-dizabilità ta' xi wiehed mill-membri tal-familja tagħha: Aġenziji ta' l-impieg.

(a) billi tiċhad milli tipprovdi lil dik il-persuna xi servizz li l-aġenzija tagħti; jew

(b) fil-patti jew kondizzjonijiet li l-aġenzija toffri li tipprovdi lil dik il-persuna bis-servizzi tagħha; jew

(c) fil-mod kif l-aġenzija tipprovdi lil dik il-persuna xi servizz li tagħti.

(2) Għall-iskop ta' dan l-artikolu aġenzija ta' l-impieg ma għandhiex titqies li qed tiddiskrimina kontra persuna minhabba fid-dizabilità tagħha jekk, meta jkun ikkunsidrat it-tahriġ ta' dik il-persuna, il-kwalifiki u l-esperjenza rilevanti għax-xogħol li hija tkun qiegħda tfittex, u l-fatturi rilevanti l-oħra kollha li għandhom raġonevolment jitqiesu, dik il-persuna ma tkunx kapaċi, minhabba fid-dizabilità tagħha, li twettaq il-htigiet neċessarji tax-xogħol li tkun qed tfittex.

## *Titolu 2 - Edukazzjoni*

**11.** (1) Salv kif provdut fis-subartikoli (2) u (3) ta' dan l-artikolu, awtorità jew istituzzjoni edukattiva ma tistax tiddiskrimina kontra - Edukazzjoni.

(a) min japplika biex jiddaħhal bhala student minhabba f'xi dizabilità tiegħu jew xi dizabilità ta' xi wiehed mill-membri tal-familja tiegħu:

(i) billi tiċhadlu jew tonqos milli tilqa' l-applikazzjoni tiegħu ghal dak id-dhul, jew

(ii) fil-patti jew kondizzjonijiet li bihom dik l-awtorità jew istituzzjoni edukattiva tkun lesta li ddaħħlu bhala student; u, jew,

(b) student minhabba f'xi diżabilità tiegħu jew xi diżabilità ta' xi wiehed mill-membri tal-familja tiegħu billi -

(i) tiċhadlu l-jedd għal xi benefiċċju provdut minn dik l-awtorità jew istituzzjoni edukattiva jew tillimitalu l-jedd tiegħu għal dak il-benefiċċju; jew

(ii) tkeċċih mill-istituzzjoni edukattiva fejn huwa jkun qieghed jattendi.

(2) Meta awtorità jew istituzzjoni edukattiva jkunu ġew għal kollox jew pimarjament imwaqqfa għal studenti li jkollhom xi diżabilità partikolari jew speċifika, dik l-awtorità jew istituzzjoni edukattiva jistgħu jagħmlu restrizzjoni ta' dħul f'dik l-istituzzjoni biss għal persuni li jkollhom dik id-diżabilità partikolari jew speċifika u jiċhdu d-dħul lil persuni oħra li ma jkollhomx dik id-diżabilità partikolari jew speċifika iżda jkollhom diżabilità oħra.

(3) Meta d-dħul ta' persuna b'diżabilità bhala student f'istituzzjoni edukattiva jkun jenhtieg l-ghoti ta' servizzi jew faċilitajiet li ma jkunux mehtieġa minn studenti li ma jkollhomx diżabilità, l-awtorità jew istituzzjoni edukattiva involuta tista' tiċhad jew tonqos milli thalli li jsir id-dħul bhala student ta' dik il-persuna f'dik l-istituzzjoni edukattiva jekk dik l-awtorità jew istituzzjoni ġgib prova li d-dħul ta' dik il-persuna f'dik l-istituzzjoni jkun jehtieg servizzi jew faċilitajiet li l-ghoti tagħhom jimponi piż mhux ġustifikat fuq l-istituzzjoni jew awtorità edukattiva involuta.

### *Titolu 3 - Dħul*

Dħul ġewwa postijiet.

**12.** (1) Salv kif provdut fis-subartikolu (2) ta' dan l-artikolu, hadd ma jista' jiddiskrimina kontra persuna oħra minhabba fid-diżabilità ta' dik il-persuna l-oħra jew f'diżabilità ta' xi wiehed mill-membri tal-familja ta' dik il-persuna l-oħra:

(a) billi jiċhad milli jhalli lil dik il-persuna l-oħra milli tidhol ġewwa jew tuża xi post, jew xi faċilitajiet li jkunu jinsabu f'dak il-post, li l-pubbliku jew settur tal-pubbliku jkollhom jedd jew permess biex jidhlu fih jew jużawh (sew bi hlas sew le); jew

(b) fil-patti jew kondizzjonijiet li bihom dik il-persuna tkun lesta thalli lil dik il-persuna l-oħra li tidhol ġewwa, jew li tuża dak il-post jew dawk il-faċilitajiet; jew

(ċ) ghar-rigward ta' l-ghoti ta' mezzi ta' dhul f'dak il-post inkluż kull tibdil mehtieg f'dak il-post jew faċilitajiet sabiex id-dhul ikun possibbli;

(d) billi jġieghel lil dik il-persuna l-oħra li titlaq minn dak il-post jew li tieqaf milli tibqa' tuża dawk il-faċilitajiet jew li jagħmel restrizzjonijiet mhux ġustifikati b'kull mod li jkun fuq l-użu tagħhom.

(2) Meta -

(a) il-post jew faċilitajiet imsemmija qabel f'dan l-artikolu jkunu mfasslin jew mibnija b'tali mod li persuna b'diżabilità ma tkunx tista' tidhol fihom b'mod faċli; u

(b) it-tibdil li jsir f'dak il-post jew faċilitajiet jimponi piż mhux ġustifikat fuq kull min jista' jkun mehtieg li jipprovdi dak id-dhul,

ma jkunx kontra l-liġi li dik il-persuna tiddiskrimina kontra persuna b'diżabilità billi tiċhadlu d-dhul ġewwa, jew l-użu ta' xi post jew faċilitajiet bhal dawk imsemmija fil-paragrafu (a) tas-subartikolu (1) ta' dan l-artikolu jew li tiċhad li twettaq xi tibdil f'dak il-post jew faċilitajiet li kieku xort'oħra jagħmlu d-dhul ġewwa dak il-post jew f'dawk il-faċilitajiet possibbli għal persuna b'diżabilità.

*Titolu 4 – Għoti ta' Ogġetti, Faċilitajiet jew Servizzi*

13. (1) Salv kif provdut fis-subartikolu (3) ta' dan l-artikolu, ebda persuna b'diżabilità kwalifikat m'għandha, minhabba f'diżabilità, tkun eskluża milli tipparteċipa fi jew tiċċaħħad mill-benefiċċji tal-programmi jew attivitajiet ta' xi persuna jew korp ghar-rigward ta' l-ogġetti, faċilitajiet jew servizzi li dan l-artikolu japplika għalihom jew li ssir diskriminazzjoni kontrihom minn xi persuna jew korp li jkunu jipprovdu dawn l-ogġetti, faċilitajiet jew servizzi li l-persuna kwalifikata tkun qieghda tfittex li tikseb jew li tuża.

Għoti ta' ogġetti u servizzi lil persuni b'diżabilità kwalifikata.

(2) Dan l-artikolu japplika għall-ghoti (sew bi hlas sew le) ta' ogġetti, faċilitajiet u servizzi lill-pubbliku jew lil xi settur tal-pubbliku u jinkludi b'mod partikolari, iżda mingħajr preġudizzju għall-ġeneralità ta' dak imsemmi qabel -

- (a) id-dhul ġewwa u l-użu ta' kull post li fih jithallew jidhlu l-membri tal-pubbliku jew settur tal-pubbliku;
- (b) l-ghoti ta' jeddijiet dwar il-proprjetà u d-djar,
- (ċ) l-akkomodazzjoni f' lukanda, dar ta' allogġ jew stabbiliment simili;
- (d) faċilitajiet bankarji jew għal assigurazzjoni jew għal għotjiet, self, kreditu, jew finanzi;
- (e) parteċipazzjoni fi skemi okkupazzjonali u skemi ohra ta' pensjoni;
- (f) faċilitajiet edukattivi;
- (g) faċilitajiet għal divertiment, jew rikreazzjoni;
- (h) faċilitajiet għal trasport jew ivvjagġar fuq l-art, bil-bahar jew bl-ajru;
- (i) is-servizzi ta' xi professjoni jew sengħa, jew ta' xi awtorità lokali jew awtorità ohra pubblika;
- (j) is-shubija f' assoċjazzjonijiet, *clubs* jew organizzazzjonijiet ohra;
- (k) tgawdija ta' jeddijiet ċiviċi u twettiq ta' dmirijiet ċiviċi; u
- (l) dawk il-faċilitajiet u servizzi ohra li l-Ministru jista' jippreskrivi b' regolamenti li jsiru bis-sahha ta' dan l-Att.

(3) Id-dispożizzjonijiet tas-subartikoli (1) u (2) ta' dan l-artikolu m'għandhomx ikunu japplikaw meta t-tħaris ta' dawk id-dispożizzjonijiet li jkollhom x'jaqsmu ma' persuna b'diżabilità kwalifikata ma jkunx prattiku jew inkolumi u ma jkunx jista' jsir prattiku jew inkolumi permezz ta' bdil raġonevoli fir-regoli, prinċipji ta' eżekuzzjoni jew prattika, jew bit-tnehhija ta' ostakoli arkitettoniċi, ta' komunikazzjoni jew fit-trasport jew l-ghoti ta' kull għajnuna jew servizzi awżiljarji.

#### *Titolu 5 - Akkomodazzjoni*

Akkomodazzjoni.

**14.** (1) Salv kif provdut fis-subartikoli (2) u (3) ta' dan l-artikolu ebda persuna, sew jekk prinċipal sew jekk aġent, ma għandha tiddiskrimina kontra persuna ohra minhabba fid-diżabilità ta' dik il-

persuna l-oħra jew f'diżabilità ta' xi wiehed mill-membri tal-familja ta' dik il-persuna l-oħra -

(a) billi jiċhad applikazzjoni li ssir minn dik il-persuna l-oħra għall-akkomodazzjoni; jew

(b) fil-patti jew kondizzjonijiet li bihom tiġi offerta l-akkomodazzjoni lil dik il-persuna l-oħra; jew

(c) billi tiddiferixxi l-applikazzjoni ta' dik il-persuna l-oħra għall-akkomodazzjoni jew billi tagħti lil dik il-persuna l-oħra ordni ta' preċedenza inqas f'xi lista ta' applikanti għal dik l-akkomodazzjoni; jew

(d) billi tiċhad id-dhul lil dik il-persuna l-oħra, jew tillimita d-dhul ta' dik il-persuna l-oħra, għal kull benefiċċju li jkollu x'jaqsam ma' akkomodazzjoni okkupata minn dik il-persuna l-oħra; jew

(e) billi tkeċċi lil dik il-persuna l-oħra minn kull akkomodazzjoni li tkun okkupata minn dik il-persuna l-oħra; jew

(f) billi tikkondizzjona lil dik il-persuna l-oħra għal xi detriment iehor f'dak li għandu x'jaqsam ma' l-akkomodazzjoni okkupata minn dik il-persuna l-oħra; jew

(g) billi tiċhad milli thalli lil dik il-persuna l-oħra li tagħmel bdil raġonevoli f'akkomodazzjoni okkupata minn dik il-persuna l-oħra jekk -

(i) dik il-persuna l-oħra tkun qablet li treggà lura l-akkomodazzjoni bi spejjeż tagħha għall-kondizzjoni li kienet tinsab fiha qabel il-bdil malli hija titlaq mill-akkomodazzjoni, u x-xogħol mehtieg biex jergà jgħib lura l-akkomodazzjoni għall-kondizzjoni li kellha qabel il-bdil ikun fil-fatt Prattiku li jsir;

(ii) il-bdil ma jkunx jinvolvi l-bdil ta' postijiet oħra okkupati minn persuni oħra.

(2) Id-dispożizzjonijiet tas-subartikolu (1) ta' dan l-artikolu ma japplikawx jekk:-

(a) il-persuna li tipprovdi jew tipproponi li tipprovdi l-akkomodazzjoni jew qarib viċin ta' dik il-persuna, tkun toqgħod u tkun bi hsiebha tkompli toqgħod f'dak il-post; u

(b) l-akkomodazzjoni provduta f'dak il-post ma tkunx abitabbli minn iktar minn erba' persuni.

(3) Id-dispożizzjonijiet tas-subartikolu (1) ta' dan l-artikolu ma japplikawx ukoll jekk l-ghoti ta' akkomodazzjoni f'postijiet fejn ikunu jenhtiegu servizzi jew faċilitajiet speċjali mill-persuna b'diżabilità jkunu jimponu piż mhux ġustifikat fuq il-persuna li tkun qed tipprovdi jew tipproponi li tipprovdi l-akkomodazzjoni sew bhala prinċipal sew bhala aġent.

### *Titolu 6 - Eżenzjonijiet*

Diskriminazzjoni  
pożittiva

**15.** Ebda haġa taht dan l-Att m'għandha b'xi mod tinftehem bhala li tipprojbixxi xi għamla ta' azzjoni li tista' tittiehed fiċ-ċirkostanzi tal-każ minn xi persuna, awtorità jew istituzzjoni sabiex tiżgura li persuni li jkollhom diżabilità b'xi mod jew iehor jingħataw -

(a) opportunitajiet indaqs ma' persuni ohra li ma jkollhomx diżabilità; jew

(b) trattament speċjali li jkun konformi mal-htigiet speċjali tagħhom fl-ghoti ta' oġġetti, faċilitajiet, servizzi jew opportunitajiet sabiex jiġu sodisfatti dawk il-htigiet speċjali; jew

(ċ) għotjiet, benefiċċji jew programmi, sew diretti sew indiretti, sabiex jiġu sodisfatti l-htigiet speċjali tagħhom;

bil-ghan li dawk il-persuni jiġu integrati ma' persuni ohra li ma jkollhomx diżabilità fi hwejjeġ li jkollhom x'jaqsmu ma' impieg, edukazzjoni, akkomodazzjoni, l-ghoti ta' oġġetti, servizzi u faċilitajiet, l-amministrazzjoni ta' ligijiet u l-kapaċità tagħhom li jghixu hajja indipendenti fi hdan il-komunità kollha kemm hi.

Protezzjoni permezz  
ta' assigurazzjoni.

**16.** (1) Minkejja kull dispożizzjoni ohra ta' qabel ta' dan l-Att, persuna ma għandhiex titqies li qed tiddiskrimina kontra persuna ohra minhabba f'diżabilità ta' dik il-persuna l-ohra billi -

(a) tiċhad milli toffri lil dik il-persuna l-ohra dik il-protezzjoni permezz ta' assigurazzjoni bħalma hemm imsemmi fil-paragrafi (a) sa (d) tas-subartikolu (2) ta' dan l-artikolu; jew

(b) toffri lil dik il-persuna l-ohra patti jew kondizzjonijiet diskriminatorji li bihom dik il-protezzjoni permezz ta' assigurazzjoni hawn aktar kmieni imsemmija f'dan l-artikolu tkun tista' tinkiseb minnha;

kemm-il darba dik id-diskriminazzjoni tkun ibbazata fuq taghrif statistiku jew ta' attwarju li jkun raġonevoli li l-persuna l-ewwel imsemmija toqghod fuqu, jew, meta dak it-taghrif statistiku jew ta' attwarju ma jkunx disponibbli u ma jkunx jista' jinkiseb raġonevolment, dik id-diskriminazzjoni tkun wahda raġonevoli wara li jitqies kull fattur rilevanti iehor.

(2) Il-protezzjoni permezz ta' assigurazzjoni msemmija fis-subartikolu (1) ta' dan l-artikolu tkun xi wahda jew kull wahda minn dan li ġej:

(a) *annuity*; jew

(b) polza ta' assigurazzjoni fuq il-hajja; jew

(c) polza ta' assigurazzjoni kontra xi incident jew kull polza oħra ta' assigurazzjoni.

17. Ebda haġa magħmula bis-saħħa ta' dan l-Att m'għandha b'xi mod tinftehem bħala li tipprojbixxi lil xi persuna, awtorità jew istituzzjoni milli thares xi ordni jew deċizzjoni ta' qorti jew tribunal. Atti ma għmula b'awtorita.

18. Ebda haġa f'dan l-Att m'għandha b'xi mod tinftehem bħala li tipprojbixxi lil xi persuna, awtorità jew istituzzjoni milli tiddiskrimina kontra persuna minhabba fid-diżabilità tagħha jekk - Mard Infettiv.

(a) dik id-diżabilità tkun tikkonsisti f'marda infettiva jew li tittiehed; u

(b) id-diskriminazzjoni kif hawn aktar kmieni msemmija titqies mill-awtoritajiet tas-Saħħa bħala xi haġa li trid issir ta' bil-fors fl-interess tas-Saħħa Pubblika.

19. Id-dispożizzjonijiet ta' dan l-Att m'għandhomx jolqtu xi dispożizzjoni f'xi att filantropiku li jagħti benefiċċji filantropiċi, jew li jagħmilha possibbli li jinghataw benefiċċji filantropiċi, għal kollox jew f'parti minnhom biss, lil persuni b'diżabilità jew b'xi diżabilità partikolari. Eżenzjonijiet Għal Filantropija

#### TAQSIMA IV

#### Eżami li Jiddetermina x'Inhu Raġonevoli

20. (1) Għall-ghanijiet ta' dan l-Att, sabiex jiġi stabbilit x'inhu raġonevoli - Eżami li jiddetermina x'inhu raġonevoli

(a) f'kull bdil fir-regoli, principji ta' eżekuzzjoni jew kull Prattika; jew

(b) fit-tneħħija ta' ostakoli arkitettoniċi, ta' komunikazzjoni jew ta' trasport; jew

(ċ) fl-ġhoti ta' kull għajnuna awżiljarja jew servizzi,

għandu jitqies kemm dawk l-azzjonijiet ikunu jistgħu jitwettqu mingħajr ma jgħibu piż mhux ġustifikat.

(2) Il-fatturi li jitqiesu sabiex jiġi stabbilit jekk dawk l-azzjonijiet jistgħux jitwettqu mingħajr ma jgħibu piż mhux ġustifikat għandhom jinkludu –

(a) ix-xorta u n-nefqa ta' l-azzjonijiet involuti;

(b) ir-riżorsi finanzjarji totali tal-persuna, korp, awtorità jew istituzzjoni involuti u l-effett fuq l-ispejjeż u r-riżorsi jew l-impatt ta' dawk l-azzjonijiet fuq il-ħidmiet ta' dik il-persuna, korp, awtorità jew istituzzjoni; u

(ċ) id-disponibilità ta' għotjiet minn fondi pubbliċi biex minnhom jithallsu l-ispejjeż ta' dawk l-azzjonijiet.

## TAQSIMA V

### Kummissjoni Nazzjonali Persuni b'Diżabilità

Ħatra u Għamla tal-Kummissjoni Nazzjonali Persuni b'Diżabilità.

21. (1) Il-Prim Ministru għandu jahtar Kummissjoni, li tissejjaħ il-Kummissjoni Nazzjonali Persuni b'Diżabilità (hawnhekk iżjed 'il quddiem imsemmija "il-Kummissjoni") li tkun magħmula minn mhux inqas minn erbatax-il membru. Seba' membri jinhatru minn fost dawk il-persuni li l-Prim Ministru jkun jidhiru li l-aktar jirrapprezentaw lill-Ministeri responsabbli għall-Affarijiet tal-Familja, il-Ħarsien Soċjali, ix-Xogħol, is-Saħħa, l-Edukazzjoni, d-Djar u l-Ippjanar Ekonomiku. Seba' membri oħra jinhatru minn fost dawk il-persuni li, fil-fehma tal-Prim Ministru, ikunu l-aħjar jirrapprezentaw organizzazzjonijiet volontarji li jaħdmu fil-qasam tad-diżabilità.

(2) Mill-inqas nofs l-għadd totali tal-membri tal-Kummissjoni għandhom ikunu persuni b'diżabilità jew membri tal-familja ta' persuni b'diżabilità mentali.

(3) Il-Prim Ministru Għandu jahtar *Chairman* u Viċi *Chairman* minn fost il-membri tal-Kummissjoni, u wiehed minnhom ikun hu nnifsu persuna b'diżabilità jew assistant personali ta' persuna b'diżabilità mentali.

**22. Il-Kummissjoni għandha-**

(a) tidentifika, tistabbilixxi u taġġorna kull prinċipju ta' eżekuzzjoni nazzjonali li sew direttament sew indirettament ikollu x'jaqşam ma' affarijiet ta' diżabilità;

(b) tidentifika l-htigiet ta' persuni b'diżabilità, tal-familji tagħhom u ta' korpi volontarji li jkunu jaħdmu fil-qasam tad-diżabilità u tiegħu dawk it-passi kollha meħtieġa jew tipproponi miżuri xierqa sabiex kemm jista' jkun tipprovdi għal dawk il-htigiet;

(c) tiżgura li kull programm tal-Gvern li jkun jolqot l-affarijiet u l-interessi ta' persuni b'diżabilità, tal-familji tagħhom u ta' korpi volontarji li jkunu jaħdmu fil-qasam tad-diżabilità, jitwettaq skond il-prinċipji ta' eżekuzzjoni nazzjonali dwar affarijiet li jkollhom x'jaqšmu mad-diżabilità;

(d) tiżgura li jkun hemm il-ko-ordinazzjoni meħtieġa bejn id-dipartimenti u aġenziji kollha tal-Gvern fit-twertiq ta' miżuri, servizzi jew inizzjattivi li jiġu proposti mill-Gvern jew mill-Kummissjoni minn żmien għal żmien;

(e) iżżomm kuntatt dirett u kontinwu ma' korpi, lokali u barranin li jaħdmu fil-qasam tad-diżabilità, u ma' gruppi, aġenziji jew individwi oħra skond il-htieġa;

(f) tissorvelja l-għoti ta' servizzi offruti mill-Gvern jew l-aġenziji tiegħu jew minn kull persuna jew grupp ta' persuni oħra, meta l-klijenti ta' dawk is-servizzi jkunu persuni b'diżabilità;

(g) taħdem biex titneħħa kull diskriminazzjoni kontra persuni b'diżabilità;

(h) twettaq investigazzjonijiet ġenerali bil-għan li tistabbilixxi jekk id-dispożizzjonijiet ta' dan l-Att ikunux qegħdin jitharsu;

(i) tinvestiga dawk l-ilmenti li jistgħu isirulha dwar xi nuqqas ta' tharis ta' xi dispożizzjoni ta' dan l-Att f'xi każ individwali u, meta dan ikun jista' jsir, tikkoncilja għar-rigward ta' dawk l-ilmenti;

(j) tidhol fil-mertu ta' kwistjonijiet, u tiddeċiedi dwarhom, meta dawn jiġu lilha riferiti mill-Ministru;

(k) tipprovdi għajnuna, skond iċ-ċirkostanzi, inkluża għajnuna legali u finanzjarja lil persuni b'diżabilità fil-ksib ta' jeddijietom bis-saħha ta' dan l-Att;

(l) tibqa' tissorvelja t-thaddim ta' dan l-Att u, meta l-Kummissjoni jkun hekk jidhrilha jew hekk tinhtieg li taghmel mill-Ministru, tabbozza u tissottometti lill-Ministru proposti għal emendi fl-Att;

(m) teżamina ligijiet, u (meta l-Ministru hekk jitlobha li taghmel) tipproponi ligijiet, bil-ghan li taċċerta jekk il-ligijiet attwali jew proposti jkunux jew jistghux ikunu inkonsistenti ma' l-għanijiet ta' dan l-Att jew imorru kontrihom, u jwasslu rapport lill-Ministru dwar ir-riżultati ta' kull analiżi simili;

(n) tipprovdi dawk is-servizzi kollha li jistghu jinhtiegu jew jintalbu mill-Kummissjoni sabiex din tkun tista' tilhaq l-għanijiet tagħha.

Status legali tal-Kummissjoni.

**23.** (1) Malli l-Prim Ministru jahtar l-ewwel membri, il-Kummissjoni jkollha personalità ġuridika għaliha u r-rappreżentanza legali u ġuridika tagħha tiġi vestita fiċ-*Chairman* jew fil-*Viċi Chairman*, b'dan illi l-Kummissjoni tista' tahtar lil xi membru wiehed jew iktar jew lil xi funzjonarju jew impjegat wiehed jew iktar biex jidhru f'isimha u għaliha f'kull proċediment ġudizzjarju u fuq kull att, kuntratt, ftehim jew dokument iehor li jkun.

Żmien ta' kariga tal-membri tal-Kummissjoni.

**24.** (1) Kull membru tal-Kummissjoni jibqa' fil-kariga għal żmien sentejn u jista' jerga' jinhatar fi tmiem dak iz-żmien ta' kariga.

(2) Il-Prim Ministru jista' jtemm il-hatra ta' membru tal-Kummissjoni jekk ikun sodisfatt li -

(a) mingħajr il-kunsens tal-Kummissjoni, huwa naqas milli jattendi l-laqgħat tal-Kummissjoni matul żmien kontinwu ta' sitt xhur;

(b) ikun fallut, jew ikun għamel arrangament mal-kredituri tiegħu, jew ikun insolventi jew ikun instab hati ta' xi delitt volontarju kontra l-persuna;

(ċ) ma jkunx kapaċi jwettaq dmirijietu;

(d) jekk, billi jkun membru magħżul minhabba fl-istat rappreżentattiv tiegħu, huwa jtemm milli jibqa' jkollu dak l-istat rappreżentattiv.

**25.** (1) Il-*quorum* tal-Kummissjoni jkun ta' hames membri, li wiehed minnhom ikun iċ-*Chairman* jew il-Viċi *Chairman*.

Proċediment u xogħol tal-Kummissjoni.

(2) Il-validità ta' kull proċediment tal-Kummissjoni m'għandhiex tintlaqat b'xi vakanza fost il-membri tal-Kummissjoni jew b'xi difett fil-hatra ta' xi membru.

(3) Id-deċiżjonijiet tal-Kummissjoni jittiehdu b' maġġoranza tal-voti tal-membri preżenti. Iċ-*Chairman* jew, fin-nuqqas tiegħu, il-Viċi *Chairman*, ikollhom ukoll *casting vote*.

(4) Bla hsara għad-dispożizzjonijiet ta' dan l-Att u tar-regolamenti kollha magħmula bis-sahha tiegħu, il-Kummissjoni tista' tahtar sotto-kummissjonijiet u, b'mod ġenerali, tirregola l-proċedimenti tagħha nnifisha.

**26.** (1) Il-Kummissjoni għandha tiġi amministrata minn Direttur Eżekuttiv *full-time* li jokkupa l-kariga b'dawk il-patti u l-kondizzjonijiet li l-Kummissjoni, bi ftehim mal-Ministru, tista' tistabilixxi. Meta d-Direttur Eżekuttiv ikun uffiċjal pubbliku sekondat minn mal-Gvern, huwa jkollu l-jedd, malli jtemm milli jibqa' sekondat, illi jerġa' lura għall-post li kien jokkupa qabel mingħajr ma jitlef il-pożizzjoni jew l-anzjanità tiegħu.

Uffiċjali u impjegati tal-Kummissjoni.

(2) Il-Kummissjoni tista' tahtar, wara li tikkonsulta lill-Ministru, dawk l-uffiċjali li jidhrilha li għandu jkollha, skond l-approvazzjoni tal-Ministru għal dak li hu l-għadd u rimunerazzjoni u patti u kondizzjonijiet tas-servizz ohra.

**27.** (1) Il-Prim Ministru jista', fuq talba tal-Kummissjoni, minn żmien għal żmien jordna li xi uffiċjal pubbliku jkun allokat għal xogħol mal-Kummissjoni f'dik il-kariga u b'effett minn dik id-data li tista' tiġi speċifikata fl-ordni.

Allokazzjoni ta' uffiċjali pubblici għal xogħol mal-Kummissjoni.

(2) Il-perijodu li matulu ordni kif intqal qabel għandu japplika għal kull uffiċjal speċifikat fih, kemm-il darba l-uffiċjal ma jirtirax mis-servizz pubbliku, jew xort'ohra ma jtemmx qabel milli jzomm kariga, jew kemm-il darba ma tkunx speċifikata fl-ordni data differenti, għandu jtemm malli ssehh xi wahda mill-ġrajjet li ġejjin, jiġifieri -

(a) l-aċċettazzjoni minn dak l-uffiċjal ta' offerta ta' trasferiment għas-servizz ta', u impieg permanenti mal-Kummissjoni li ssir skond is-subartikolu (8) ta' dan l-artikolu; jew

(b) ir-revoka mill-Prim Ministru ta' xi ordni magħmul minnu taht dan l-artikolu dwar dak l-uffiċjal.

(3) Meta ordni dwar xi ufficjal kif imsemmi qabel ikun revokat mill-Prim Ministru, il-Prim Ministru jista', b'ordni iehor, jalloka lil dak l-ufficjal biex jaghmel xoghol mal-Kummissjoni, f'dik il-kariga u b'effett minn dik id-data li tista' tkun speċifikata fl-ordni l-iehor, u d-disposizzjonijiet tas-subartikolu (2) ta' dan l-artikolu ghandhom japplikaw sakemm idum isehh l-ordni l-iehor dwar dak l-ufficjal.

(4) Meta ufficjal pubbliku jkun allokat ghal xoghol mal-Kummissjoni skond xi wahda mid-disposizzjonijiet ta' dan l-artikolu, dak l-ufficjal ghandu, matul iz-zmien li fih l-ordni jkollu effett dwaru, ikun taht l-awtorita amministrattiva u l-kontroll tal-Kummissjoni, izda ghandu ghall-finijiet u effetti ohra jibqa', u jitqies u jigi trattat bhala ufficjal pubbliku.

(5) Bla hsara ghall-generalita ta' dak li msemmi qabel, ufficjal allokat ghal xoghol kif inghad qabel -

(a) m'ghandux matul iz-zmien li dwaru jkun hekk allokat -

(i) ikun prekluz milli japplika ghal trasferiment ghal Dipartiment tal-Gvern skond il-pattijiet u l-kondizzjonijiet ta' servizz annessi mal-hatra tieghu li kellu mal-Gvern fid-data li fiha jkun gie allokat ghal xoghol;

(ii) ikun hekk impjegat li r-rimunerazzjoni u l-kondizzjonijiet tas-servizz tieghu jkunu anqas vantaġġjuzi minn dawk annessi mal-hatra tieghu li kellu mal-Gvern fid-data li fiha jkun gie allokat ghal xoghol kif imsemmi qabel jew li kienu jkunu annessi ma' dik il-hatra, matul dak il-perijodu, kieku dak l-ufficjal ma kienx allokat ghal xoghol mal-Kummissjoni; u

(b) ikollu l-jedd li s-servizz tieghu mal-Kummissjoni jitqies bhala servizz mal-Gvern ghall-fini ta' kull pensjoni, gratifikazzjoni taht Ordinanza dwar il-Pensjonijiet u l-Att dwar il-Pensjonijiet lil Nisa Romol u Tfal Iltima, u ta' kull jedd jew privileġġ iehor li ghalih kien ikollu dritt, u suggett ghal kull responsabilita li ghalha kien ikun suggett, kieku mhux ghall-fatt li hu kien allokat ghal xoghol mal-Kummissjoni.

(6) Meta ssir applikazzjoni kif provdut fis-subparagrafu (i) tal-paragrafu (a) tas-subartikolu (5) ta' dan l-artikolu, din ghandha tinghata l-istess konsiderazzjoni bhallikieku l-applikant ma kienx allokat ghal xoghol mal-Kummissjoni.

(7) Il-Kummissjoni ghandha thallas lill-Gvern daww il-kontribuzzjonijiet li jistghu minn żmien għal żmien ikunu stabbiliti mill-Ministru responsabbli għall-Finanzi għal kemm jiswew il-pensjonijiet u l-gratifikazzjonijiet dovuti lil uffiċjal allokat għal xogħol mal-Kummissjoni kif imsemmi qabel matul il-perijodu li fih ikun hekk allokat.

(8) Il-Kummissjoni tista', bl-approvazzjoni tal-Prim Ministru, toffri lil kull uffiċjal pubbliku allokat għal xogħol mal-Kummissjoni taht is-subartikolu (2) ta' dan l-artikolu impieg permanenti mal-Kummissjoni b'rimunerazzjoni u b'pattijiet u kondizzjonijiet speċifikati fl-offerta.

(9) Kull uffiċjal li jaċċetta impieg permanenti mal-Kummissjoni li jkun offrut lilu taht dan l-artikolu għandu, għall-finijiet kollha jitqies li spiċċa mis-servizz tal-Gvern u li jkun dahal f'servizz mal-Kummissjoni fid-data ta' l-aċċettazzjoni tiegħu.

**28.** Mill-anqas xahrejn qabel tmiem is-sena finanzjarja tagħha, il-Kummissjoni għandha tissottometti lill-Ministru pjan ta' azzjoni (inkluż pjan finanzjarju) li jkun ikopri l-attivitajiet proposti tal-Kummissjoni matul is-sena finanzjarja li tkun tmiss. Jekk dak il-pjan ta' azzjoni u l-pjan finanzjarju jiġu approvati mill-Ministru kif ukoll mill-Ministru tal-Finanzi, dawn isiru l-estimi approvati tal-Kummissjoni.

Iffinanzjar tal-Kummissjoni.

**29.** (1) Il-Kummissjoni għandha żżomm kontijiet sew tad-dhul u l-hruġ tagħha u għandha thejji u tibghat lill-Ministru dikjarazzjonijiet li juru l-kontijiet tagħha għal kull sena finanzjarja.

Kontijiet u Verifika.

(2) Il-kontijiet tal-Kummissjoni għandhom jiġu ivverifikati minn awditur jew awdituri li jinhatru minnha u li jiġu approvati mill-Ministru:

Iżda l-Ministru responsabbli għall-Finanzi jista' jordna li l-kotba u kull dokumentazzjoni oħra tal-Kummissjoni jiġu vverifikati jew spezzjonati mid-Direttur tal-Verifika li għal dan l-ghan ikollu s-setgħa li jagħmel kull verifika materjali u verifika oħra, u jista' jitlob u jakkwista dak it-tagħrif li huwa jista' jqis li jkun xieraq.

(3) Is-sena finanzjarja tal-Kummissjoni tkun ta' tmax-il xahar li jintemmu fil-31 ta' Diċembru, b'dan illi l-ewwel sena finanzjarja tal-Kummissjoni għandha tibda fid-data li fiha dan l-Att jiġi fis-sehħ u tispicċa fil-31 ta' Diċembru tas-sena li tiġi immedjatament wara.

**30.** (1) Kemm jista' jkun malajr wara t-tmiem ta' kull sena kalendarja, iżda f'kull każ mhux aktar tard mill-31 ta' Marzu tas-sena li

Rapport Annwali.

tigi minnufih wara, il-Kummissjoni ghandha taghmel rapport lill-Ministru dwar l-attivitajiet taghha matul is-sena, hawn iżjed 'il quddiem imsejjah "Rapport Annwali".

(2) Kull Rapport Annwali ghandu jinkludi rapport ġenerali ta' kull żvilupp li jkun sehh matul il-perjodu li jkun jirreferi ghalih ghar-rigward ta' dawk l-affarijiet li jaqghu fl-ambitu tad-dmirijiet tal-Kummissjoni.

(3) Il-Ministru ghandu jara, kemm jista' jkun malajr iżda f'ebda każ iktar tard minn xahrejn wara li jasallu minghand il-Kummissjoni, li kopja ta' dak ir-rapport flimkien ma' kopji tal-pjan ta' azzjoni u tal-pjan finanzjarju korrenti tal-Kummissjoni, jitqieghdu fuq il-Mejda tal-Kamra tad-Deputati.

Eżenzjoni minn  
taxxa tad-dhul.

**31.** Il-Kummissjoni tkun eżenti mid-dover li thallas taxxa fuq id-dhul.

## TAQSIMA VI

### Ilmenti, Investigazzjonijiet u Twettiq

Ilmenti u  
investigazzjonijiet.

**32.** (1) Il-Kummissjoni tista' hi nnifisha tibda investigazzjonijiet dwar kull haġa li tkun tinvolvi att li allegatament jikser xi waħda mid-dispożizzjonijiet ta' dan l-Att.

(2) Il-Kummissjoni tista' wkoll tibda investigazzjonijiet wara li tkun irċeviet ilment bil-miktub li jkun jallega li xi persuna tkun ghamlet xi att li jikser xi waħda mid-dispożizzjonijiet ta' dan l-Att. Dak l-ilment ikun jista' jsir lill-Kummissjoni minn:

(a) kull min ihoss ruhu aggravat b'dak l-att; jew

(b) kull min ikun il-ġenitur, jew kuratur legali jew membru tal-familja ta' persuna b'diżabilità mentali.

(3) Jekk il-Kummissjoni jidhrilha li persuna tkun tixtieq taghmel ilment bis-saħha tas-subartikolu (2) ta' dan l-artikolu u li dik il-persuna tkun tehtieg l-ghajnuna biex tiffirma dak l-ilment bil-fomm u, jew, bil-miktub, ikun id-dmir tal-Kummissjoni li tiehu passi raġonevoli biex tipprovdi ghajnuna xierqa lil dik il-persuna.

Proċeduri  
investigattivi.

**33.** (1) Ghar-rigward ta' investigazzjonijiet ġenerali jew ta' investigazzjonijiet ta' ilmenti li l-Kummissjoni taghmel, il-Ministru ghandu permezz ta' regolamenti jippreskrivi -

(a) il-proċedura li biha l-Kummissjoni tista' ġġieghel persuna taghtiha xi taghrif kif ikun mehtieg' sabiex isiru l-investigazzjonijiet imsemmija qabel f'dan l-artikolu, u ż-żmien li fih, il-mod kif u l-ghamla li biha dak it-taghrif ghandu jinghata;

(b) il-proċeduri li jkollhom jiġu segwiti meta persuna tonqos milli taghti dak it-taghrif;

(ċ) iċ-ċirkostanzi li bihom, wara li jsiru dawk l-investigazzjonijiet imsemmija, il-Kummissjoni tkun tista' tiehu azzjoni legali xierqa.

(2) Kull regolament li jsir bis-sahha tas-subartikolu (1) ta' dan l-artikolu ghandu jippreskrivi, fil-każ ta' diskriminazzjoni allegata ta' persuna kontra persuna oħra, l-arrangamenti li bihom il-Kummissjoni tista' hi nnifisha tirriferixxi l-kwistjoni lill-Prim' Awla tal-Qorti ċivili:

Iżda ebda riferiment simili m'ghandu jzomm lil xi individwu li jkollu interess legali milli jressaq pretenzjoni ta' diskriminazzjoni bhala l-mertu ta' azzjoni, inkluza azzjoni ghad-danni quddiem dik il-Qorti.

**34.** Meta ssir pretenzjoni minn persuna li jkollha interess legali Proċedimenti ċivili. fi kwistjoni, sew jekk din issir personalment kif ukoll jekk issir permezz tar-rappreżentant legali tiegħu jew tagħha, li xi persuna oħra tkun wettqet xi att illegali ta' diskriminazzjoni kontrieh jew kontrieha skond kif hemm provdut taht dan l-Att, din ghandha tiġi trattata b'azzjoni ċivili l-istess bhalma tiġi trattata kull pretenzjoni oħra ghad-danni; u d-danni li jinghataw minhabba f'att illegali ta' diskriminazzjoni jistgħu ukoll jinkludu kumpens għal danni morali sew jekk dawn jinkludu sew ma jinkludux kumpens taht xi kap iehor, sa massimu ta' mitejn lira hekk kif il-qorti tista' tiddikjara.

## TAQSIMA VII

### Mixellanji

**35.** (1) Il-Ministru jista' jagħmel regolamenti b'mod ġenerali Regolamenti. sabiex jagħti seħh lid-dispożizzjonijiet ta' dan l-Att, u t-twettiq tiegħu, u b'mod partikolari, iżda mingħajr preġudizzju għall-ġeneralità ta' dak imsemmi qabel:-

(a) sabiex jipprovdi dwar kull haġa li tenhtieg' jew li tkun awtorizzata b'dan l-Att li tiġi provduta; u, jew,

(b) għall-eżenzjoni ta' kull persuna, jew kategorija ta' persuni jew korp, minn xi htiega tat-Taqsima III ta' dan l-Att hekk

kif jiġi speċifikat fir-regolamenti msemmija qabel; iżda kull eżenzjoni bħal dik għandha tiġi biss iddikjarata mill-Ministru wara konsultazzjoni mal-Kummissjoni, b'dan illi dik l-eżenzjoni għandha tkun għal perijodu ta' żmien speċifiku li jista' jiġġedded mill-Ministru wara konsultazzjoni mal-Kummissjoni.

(2) Kull regolament magħmul bis-saħħa ta' dan l-artikolu jista' jispeċifika żminijiet ta' eżenzjoni differenti għar-rigward ta':-

- (a) l-ghoti ta' oġġetti, faċilitajiet jew servizzi differenti;
- (b) persuni jew korpi differenti; jew
- (ċ) kategoriji ta' persuni jew korpi differenti.

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### **Għanijiet u Raġunijiet**

L-ghan ta' dan l-Abbozz hu sabiex jipprovdi għall-projbizzjoni ta' diskriminazzjoni kontra persuni b'diżabilità minhabba fid-diżabilità tagħhom u għat-twaqqif tal-Kummissjoni Nazzjonali Persuni b'Diżabilità u dwar hwejjeġ ohra li għandhom x'jaqsmu ma' dan.

**A BILL  
entitled**

*Equal Opportunities (Persons with Disability) Act.*

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 :-

PART I

**Preliminary**

1. This Act may be cited as the Equal Opportunities (Persons with Disability) Act 1999 and shall come into force on such date as the Minister responsible for Social Welfare Policy may by notice in the Gazette establish and different dates may be so established for different provisions and different purposes thereof.

Short title  
and  
commencement

2. In this Act, unless the context otherwise requires -

Interpretation

“accommodation” includes residential or business accommodation, and structural adaptation or modifications to existing buildings;

“Auxiliary aid” means any palliative or therapeutic device, any prosthetic aid, or any other device or aid that may be required by a person with a disability specifically because of that disability;

“Commission” means the National Commission Persons with Disability established in terms of section 21 of this Act, and includes any officer of the Commission duly authorised by it to act on its behalf for a specific purpose or class of purposes under this Act;

“compulsory school age”, in relation to a person means the age at which such person is subject to the provisions of the Education Act (Chap 327) insofar as these relate to such age;

“contract of service” means an agreement of employment between two persons, or between one person and an association of persons, whether written, oral or implied, whereby the employee shall be under an obligation to render to the employer services for definite hours, be it on a full-time, part-time or temporary basis, at a specified wage, salary, remuneration in kind or any other benefit or privilege, subject to the right of the employer to exercise control, supervision, direction, and any form of disciplinary action, as may be allowed by law, over the employee as to the method of performance of his duties;

“disability” means, a physical or mental impairment that substantially limits one or more of the major life activities of a person;

“educational authority” means a body or person administering an educational institution;

“educational institution” means a kindergarten, school, college, university or other institution at which education or training is provided;

“employment” means work under a contract of service;

“employment agency” means any person who, or association of persons that, whether for payment or not, assists persons to find employment or other work or assists employers to find employees or workers, and includes any activity carried out in Malta for the recruitment of persons for employment in Malta or outside Malta;

“Family member”, in relation to an individual, includes

- (a) the spouse;
- (b) a son, daughter, brother or sister aged eighteen (18) years or over; and
- (c) a legal guardian or curator of such individual;

“impairment” in the context of disability, means any loss, restriction or abnormality of psychological, physiological, or anatomical structure or function;

“Minister” means the Minister responsible for social policy and its development, and includes any person duly authorised by the said Minister to act on his behalf for a specific purpose or class of purposes under this Act;

“pensionable age”, in relation to a person, means any age during which such person is entitled to a pension in respect of retirement under the provisions of the Social Security Act (Cap 318);

“qualified person with a disability” means -

(a) in relation to any employment as is referred to in Title 1 of Part III of this Act, a person with a disability who is over compulsory school age but has not yet reached pensionable age, and who, with or without any accommodation in accordance with the afore-mentioned Title, can perform the essential functions of the employment position that he holds or applies for or can hold or apply for; and

(b) in relation to the provision of goods, facilities or services as are referred to in Title 4 of Part III of this Act, a person with a disability who meets the essential eligibility requirements for the provision of such goods, facilities or services or for participation in such programmes or activities as may be provided by any person or body in terms of the afore-mentioned Part of this Act.

## PART II

### Disability Discrimination

3. (1) A person shall be discriminating against another person on the grounds of disability in any circumstances relevant for the purposes of any provision of this Act, if :

Disability  
discrimination  
because of less  
favourable  
treatment

(a) in circumstances which are similar or are not materially different, he treats or proposes to treat a person who has a disability less favourably than he treats or would treat a person who does not have such a disability; or

(b) he treats or proposes to treat a person less favourably on the basis of a characteristic that appertains generally to persons who have such a disability or a presumed characteristic that is generally imputed to persons who have such a disability.

(2) For the purposes of paragraph (a) of subsection (1) of this section, the fact that different accommodation and, or, services may be required by the person with a disability shall in no case be deemed as constituting circumstances which are materially different.

Disability discrimination because of non-compliance with requirement or condition

4. A person shall be discriminating against another person on the grounds of disability if such other person is required to comply with a requirement or condition with which the majority of persons who do not have the disability comply or are able to comply; and

(a) which is unreasonable in the circumstances of the case; and

(b) with which such other person does not comply or is unable to comply.

Disability discrimination because of auxiliary aids.

5. A person shall be discriminating against another person on the grounds of disability if he treats or proposes to treat such other person less favourably than he treats or would treat others who do not have such a disability because of the fact that such other person is accompanied by or possesses an auxiliary aid that is used by such other person or because of any matter related to that fact, whether or not it is the practice to treat in such less favourable manner any person who is accompanied by or is in possession of such an auxiliary aid.

Disability discrimination because of assistance.

6. A person shall be discriminating against another person on the grounds of disability if he treats or proposes to treat such other person less favourably than he treats or would treat others who do not have such a disability because of the fact that such other person is accompanied by -

(a) an interpreter; or

(b) a reader; or

(c) an assistant; or

(d) a carer;

who provides interpretative, reading or other services to such other person because of the disability of such other person or because of any matter related to that fact, whether or not it is the practice to treat less favourably any person who is accompanied by an interpreter, a reader, an assistant or a carer, as the case may be.

**PART III****Prohibition of Disability Discrimination***Title 1 - Employment*

7. (1) No employer shall discriminate on the grounds of <sup>Employment</sup> disability against a qualified person with a disability in regard to-

- (a) procedures relative to applications for employment;
- (b) the hiring, promotion or dismissal of employees;
- (c) employee compensation;
- (d) job training; and

(e) any other terms, conditions and privileges related to employment

(2) For the purposes of subsection (1) of this section and without prejudice to the generality of Part II of this Act, an employer shall be considered to discriminate on the grounds of disability against a person as is referred to therein, if such employer -

(a) limits, segregates or classifies such a person in a way that adversely affects the opportunities or status of such a person ;  
or

(b) participates in any contract, or other arrangement or relationship, the implementation of which has the effect of subjecting such a person to discrimination; or

(c) uses standards, criteria or methods of administration that have an adverse effect on the opportunities, status or benefits of such a person; or

(d) fails to make reasonable accommodation for the disability of such a person, unless the employer can prove that the required accommodation would unduly prejudice the operation of the trade or business run by such employer; or

(e) denies employment opportunities to such a person where such denial is based on the need of the employer to make reasonable accommodation for the disability of such a person; or

(f) uses qualification standards, employment tests, or other selection criteria that screen out or tend to screen out a person or a class of persons with a disability unless the employer can prove that the standards, tests or other selection criteria are an essential qualification or requirement for the position in question; or

(g) fails to select and to administer tests concerning employment in the manner most effective to ensure that, when the test is administered to such a person and such person happens to have a disability that impairs sensory, manual or speaking skills, the results of such tests accurately reflect the skills or aptitudes of such a person.

(3) Whenever an employer excludes from any employment or continuation of employment a person who is qualified to take up such employment or to continue in such employment or otherwise limits in any way the opportunities, status or benefits of such a person because of the disability of another person with whom such person is known or believed to have a relationship or association, such exclusion or limitation shall, for the purposes of this section, be deemed as if it were a discrimination on the grounds of disability against a person as is referred to in subsection (1) of this section.

(4) For the purposes of paragraph (d) of subsection (2) of this section, the factors to be considered in determining whether an accommodation would unduly prejudice the operation of the trade or business run by the employer shall include:-

(a) the nature and cost of the accommodation;

(b) the overall financial resources of the workplace involved in the making of the accommodation;

(c) the number of employees at the workplace requiring accommodation;

(d) the effect on expenses and resources and the impact of the required accommodation upon the operation of the workplace;

(e) the overall financial resources of the employer;

(f) the overall size of the business of the employer including the number of employees, and the number, type and location of its workplaces:

(g) the type of operation or operations of the employer, including the composition, structure and functions of the workforce; and

(h) the availability of financial assistance from public funds to defray the expense of any accommodation.

(5) For the purposes of this section, the term “make reasonable accommodation” includes:-

(a) making existing facilities used by employees readily accessible to and usable by persons with disabilities; and

(b) restructuring jobs, instituting part-time or modified work schedules, reassigning vacant positions, acquiring or modifying equipment or devices, appropriately adjusting or modifying examinations, training materials or policies, providing qualified readers or interpreters, and making any other similar accommodation for a person with a disability.

8. (1) Save as provided for in subsections (2) and (3) of this section, an employer shall not conduct or require any medical examination or otherwise make any enquiries of an applicant for employment or of any of his employees as to whether such applicant or employee is a person with a disability or as to the nature or severity of such disability except to ascertain the ability of the applicant to perform job-related functions or to identify the cost involved in any adaptations that may be required as a result of such disability. Medical examinations

(2) After an offer of employment has been made to an applicant for employment and, prior to the commencement of such employment, an employer may conduct or require a medical examination or make the offer of such employment conditional on the results of such examination if all applicants for this same kind of employment are made subject to such an examination.

(3) Whenever an examination as is referred to in subsections (1) and (2) of this section is in fact conducted, any information obtained regarding the medical condition and history of the applicant in relation to his disability shall be-

- (a) collected and maintained on separate forms;
- (b) kept in separate medical files; and
- (c) treated as a confidential medical record.

(4) Notwithstanding the provisions of subsection (3) of this section, if such applicant is subsequently employed, nothing shall preclude his employer from informing, if he so deems fit,-

(a) supervisors and managers within the same establishment regarding any necessary restrictions on the work or duties of such applicant and any necessary accommodations that may be required; and

(b) first aid and safety personnel regarding any emergency treatment that might be required by such applicant because of his disability or regarding any special precautions that might need to be taken because of the said disability.

(5) Further to the provisions of subsection (1) of this section, but subject to the provisions of subsections (3) and (4) of this section, an employer may also conduct voluntary medical examinations, including the compilation of voluntary medical histories, which form part of a health programme for employees.

(6) For the purposes of this section, any medical examination as is referred to therein shall include any medical and, or, psychological assessment that may be necessary in the circumstances of the case.

Trade Unions.

**9.** It shall be unlawful for a registered organisation under the Industrial Relations Act, (Chap 266) or for the committee of management or a member of the committee of management of such a registered organisation, to discriminate against-

(a) a person, on the grounds of the disability of such person or a disability of any of the family members of such person -

(i) by refusing or failing to accept his application for membership; or

(ii) in the terms or conditions on which such organisation is prepared to accept his application for membership; and, or

(b) a member of such registered organisation, on the grounds of the disability of such member or a disability of any of his family member by-

(i) denying him access to any benefit provided by the organisation or limiting his access to such benefit; or

(ii) depriving him of membership of the organisation; or varying the terms of such membership.

**10.** (1) It shall be unlawful for an employment agency to discriminate against a person on the grounds of his disability or a disability of any of his family members : Employment Agencies.

(a) by refusing to provide such person with any of its services; or

(b) in the terms or conditions it offers to provide such person with any of its services; or

(c) in the manner in which it provides such person with any of its services.

(2) For the purposes of this section, an employment agency shall not be deemed to discriminate against a person on the grounds of his disability, if, taking into account his training, qualifications and experience relevant to the work sought, and all other relevant factors that it finds reasonable to take into account, such person would, because of his disability, be unable to carry out the inherent requirements of the work sought.

### *Title 2 - Education*

**11.** (1) Save as provided for in subsections (2) and (3) of this section, it shall be unlawful for an educational authority or institution to discriminate against- Education.

(a) an applicant for admission as a student on the grounds of his disability or a disability of any of his family members:

(i) by refusing or failing to accept his application for such admission, or

(ii) in the terms or conditions on which such educational authority or institution is prepared to admit him as a student; and, or,

(b) a student on the grounds of his disability or disability of any of his family members by-

(i) denying him access, or limiting his access, to any benefit provided by such educational authority or institution; or

(ii) expelling him from the educational institution he is attending.

(2) Where an educational authority or institution has been wholly or primarily established for students who have a particular or a specific disability, such educational authority or institution may restrict admission to such an institution to persons who only have that particular or specific disability and refuse admission to other persons who do not have that particular or specific disability but another disability.

(3) Where the admission of a person with a disability as a student in an educational institution would necessitate the procurement of services or facilities that are not required by students who do not have a disability, the educational authority or institution concerned may refuse or fail to accept the admission as a student of such a person in that educational institution if such authority or institution proves that the admission of such person in such institution would require services or facilities the provision of which would impose unjustifiable hardship on the educational institution or authority concerned.

### *Title 3 - Access*

#### **Access to Premises.**

**12.** (1) Save as provided for in subsection (2) of this section, it shall be unlawful for any person to discriminate against another person on the grounds of the disability of such other person or a disability of any of the his family members:

(a) by refusing to allow such other person access to, or the use of any premises, or of any facilities within such premises, that the public or a section of the public is entitled or allowed to enter or use (whether on payment or not); or

(b) in the terms or conditions on which such person is prepared to allow such other person access to, or the use of any such premises or facilities; or

(c) in relation to the provision of means of access to such premises including any necessary alterations to such premises or facilities so as to make such access possible; or

(d) by requiring such other person to leave such premises or to cease to use such facilities or to unjustifiably restrict in any way such use.

(2) Where -

(a) such premises or facilities as aforesaid in this section are designed or constructed in such a way as to render them inaccessible to a person with a disability; and

(b) any alteration of such premises or facilities would impose unjustifiable hardship on whoever is required to provide such an access;

then it shall not be unlawful for such a person to discriminate against a person with a disability by refusing him such access to or use of any premises or facilities as are referred in paragraph (a) of subsection (1) of this section or to refuse to carry out any alterations to such premises or facilities that would otherwise render such premises or facilities accessible to a person with a disability.

*Title 4 - Provision of Goods,  
Facilities or Services.*

13. (1) Save as provided for in subsection (3) of this section, no qualified person with a disability shall, on the grounds of disability, be excluded from participation in or be denied the benefits of the programmes or activities of any person or body in relation to the goods, facilities or services to which this section applies or be discriminated against by any person or body providing such goods, facilities or services which the qualified person seeks to obtain or use.

Provision of goods and services to qualified persons with a disability.

(2) This section applies to the provision (whether on payment or not) of goods, facilities and services to the public or any section of the public and includes in particular, but without prejudice to the generality of the foregoing :-

(a) access to and use of any place which members of the public or a section of the public are permitted to enter;

(b) the provision of property rights and of housing;

(c) accommodation in a hotel, boarding house or similar establishment;

(d) facilities by way of banking, insurance or for grants, loans, credit or finance;

(e) participation in occupational and other pension schemes;

- (f) facilities for education;
- (g) facilities for entertainment or recreation;
- (h) facilities for transport or travel by land, sea or air;
- (i) the services of any profession or trade, or of any local or other public authority;
- (j) membership of associations, clubs or other organisations;
- (k) enjoyment of civic rights and performance of civic duties; and
- (l) such other facilities and services as the Minister may prescribe by regulations made under this Act.

(3) The provisions of subsections (1) and (2) of this section shall not apply where compliance with such provisions in relation to a qualified person with a disability would be impracticable or unsafe and could not be made practicable and safe by reasonable modification to rules, policies or practices, or the removal of architectural, communication or transport barriers or the provision of auxiliary aids or services.

*Title 5 - Accommodation*

Accommodation.

**14.** (1) Save as provided for in subsections (2) and (3) of this section no person, whether as principal or agent, shall discriminate against another person on the grounds of the disability of such other person or a disability of any of the his family members -

- (a) by refusing the application of such other person for accommodation; or
- (b) in the terms or conditions on which the accommodation is offered to such other person; or
- (c) by deferring the application of such other person for accommodation or by according to such other person a lower order of precedence in any list of applicants for that accommodation; or
- (d) by denying such other person access, or limiting the access of such other person, to any benefit associated with accommodation occupied by such other person: or

(e) by evicting such other person from any accommodation that is occupied by such other person: or

(f) by subjecting such other person to any other detriment in relation to accommodation occupied by such other person: or

(g) by refusing to permit such other person to make reasonable alterations to accommodation occupied by such other person if-

(i) such other person has undertaken to restore at his own expense the accommodation to its condition before alteration on leaving the accommodation and the action required to restore the accommodation to its condition before alteration, is, in fact, practicable;

(ii) the alteration does not involve the alteration of premises occupied by other persons.

(2) The provisions of subsection (1) of this section shall not apply if-

(a) the person who provides or proposes to provide the accommodation or a near relative of that person, resides and intends to continue to reside on those premises; and

(b) the accommodation provided in those premises could cater for no more than 4 persons.

(3) The provisions of subsection (1) of this section shall also not apply if the provision of accommodation in premises where special services or facilities would be required by the person with a disability would impose unjustifiable hardship on the person providing or proposing to provide the accommodation whether as principal or agent.

### *Title 6 - Exemptions*

**15.** Nothing under this Act shall in any way be constructed as prohibiting any form of action that may be taken in the circumstances of the case by any person, authority or institution to ensure that persons who have a disability are in one way or another-

Positive  
Discrimination

(a) granted equal opportunities with other person who do not have a disability; or

(b) accorded special treatment commensurate with their special needs in the provision of goods, facilities, services or opportunities in order to meet such special needs; or

(c) allowed grants, benefits or programmes, whether direct or indirect, to meet their special needs;

with a view to the integration of such persons with other persons who do not have a disability in matters related to employment, education, accommodation, the provision of goods, services and facilities, the administration of laws and their capacity to lead an independent life within the community as a whole.

Insurance.  
Coverage

**16.** (1) Notwithstanding any of the foregoing provisions of this Act, a person shall not be deemed to discriminate against another person on the grounds of disability of such other person by -

(a) refusing to offer to such other person such insurance coverage as is referred to in paragraphs (a) to (d) of subsection (2) of this section; or

(b) offering to such other person discriminatory terms or conditions on which such insurance coverage as aforesaid in this section may be obtained by him;

provided such action is based upon actuarial or statistical data on which it is reasonable for the first-mentioned person to rely, or, whenever no such actuarial or statistical data is available and cannot reasonably be obtained, such action is reasonable having regard to any other relevant factors.

(2) The insurance coverage referred to in subsection (1) of this section shall be any one or all of the following:

(a) an annuity; or

(b) a life insurance policy; or

(c) a policy of insurance against accident or any other policy of insurance.

Acts done under  
Authority.

**17.** Nothing under this Act shall in any way be construed as prohibiting any person, authority or institution from complying with an order or award of a court or tribunal.

**18.** Nothing under this Act shall in any way be construed as prohibiting any person, authority or institution from discriminating against a person on the grounds of his disability if - Infectious diseases.

(a) such disability constitutes an infectious or a contagious disease; and

(b) discrimination as aforesaid is considered by the health authorities as imperative in the interests of public health.

**19.** The provisions of this Act shall not affect any provision in a charitable instrument that confers charitable benefits, or enables charitable benefits to be conferred, wholly or in part on persons who have a disability or a particular disability. Exemption for Charities.

## PART IV

### Test of Reasonableness

**20.** (1) For the purposes of this Act, in determining the reasonableness of - Test of Reasonableness

(a) any modification to rules, policies or practices; or

(b) the removal of architectural, communication or transport barriers; or

(c) the provision of auxiliary aids or services; ,

regard shall be had as to whether such actions could be undertaken without unjustifiable hardship.

(2) The factors to be considered in determining whether such actions could be undertaken without unjustifiable hardship shall include -

(a) the nature and cost of the actions in question;

(b) the overall financial resources of the person, body, authority or institution concerned and the effect on expenses and resources or the impact of such actions upon the operations of such person, body, authority or institution; and

(c) the availability of grants from public funds to defray the expense of the said actions.

## PART V

**The National Commission Persons with Disability**

Appointment and  
Composition of the  
National  
Commission  
Persons  
with  
Disability

**21.** (1) The Prime Minister shall appoint a Commission, called the National Commission Persons with Disability (hereinafter referred to as the "Commission") composed of not less than fourteen members. Seven of the members shall be appointed from amongst such persons appearing to the Prime Minister to best represent the Ministries responsible for Social Policy, Labour, Health, Education, Housing and Economic Planning. Another seven of the members shall be appointed from among such persons who, in the opinion of the Prime Minister, best represent voluntary organisations working in the field of disability issues.

(2) At least one half of the total number of the members of the Commission shall themselves be persons with a physical disability or family members of persons with a mental disability.

(3) The Prime Minister shall appoint a Chairman and a Deputy Chairman from amongst the members of the Commission one of whom shall himself be a person with a disability or a family member of a person with a mental disability.

Functions of  
the  
Commission.

**22.** The Commission shall : -

(a) identify, establish and update all national policies directly or indirectly related to disability issues;

(b) identify the needs of persons with disabilities, their families and voluntary bodies working in the field of disability issues and to take all necessary steps or propose appropriate measures in order to cater for such needs as much as possible;

(c) ensure that all government programmes concerning the affairs and interests of persons with disabilities, their families and voluntary bodies working in the field of disability issues, are implemented in accordance with national policies for disability issues;

(d) ensure the necessary co-ordination between all government departments and agencies in implementing measures, services or initiatives proposed by government or proposed by the Commission from time to time;

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

(f) monitor the provision of services offered by government or its agencies or by any other person or group of persons, where the clients of such services are persons with disability;

(g) work towards the elimination of discrimination against people with disabilities;

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

(i) investigate such complaints as may be made to them of failure to comply with any provision of this Act in an individual case and, where it seems appropriate, conciliate in relation to such complaints;

(j) inquire into, and make determinations on, matters referred to it by the Minister;

(k) provide, where and as appropriate, assistance, including legal and financial assistance, to persons with disabilities in enforcing their rights under this Act;

(l) keep under review the working of this Act and, when deemed fit by the Commission or so required by the Minister, draw up and submit to the Minister proposals for amendments to same;

(m) examine enactments, and (when requested to do so by the Minister) propose enactments, for the purpose of ascertaining whether the enactments or proposed enactments are or would be, inconsistent with or contrary to the objects of this Act, and to report to the Minister the results of any such examination;

(n) provide all such services that may be necessary or required for the Commission to attain its objectives.

23. On the appointment by the Prime Minister of the first members, the Commission shall have its own legal personality and its legal and judicial representation shall vest in the Chairman or the Deputy Chairman; provided that the Commission may appoint any one or more of its members or any one or more of its officers or employees, to appear in its name and on its behalf in any judicial proceedings and on any act, contract, agreement or other document whatsoever.

Legal Status of the  
Commission

**24.** (1) Every member of the Commission shall hold office for a term of two years and may be re-appointed at the end of his term of office.

(2) The Prime Minister may terminate the appointment of a Commission member if he is satisfied that-

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

(b) he is an undischarged bankrupt, or has made an arrangement with his creditors, or is insolvent or has been found guilty of any voluntary crime against a person;

(c) he is incapable of carrying out his duties;

(d) if, being a member chosen on the basis of his representative status, he ceases to retain such representative status.

**25.** (1) The quorum of the Commission shall be of five members, one of whom shall be the Chairman or the Deputy Chairman.

(2) 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.

(3) Decisions of the Commission shall be taken by majority of the votes of the members present. The Chairman or, in his absence, the Deputy Chairman, shall also have a casting vote.

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

**26.** (1) The Commission shall be administered by a full time Executive Director who shall hold office under such terms and conditions as the Commission, with the concurrence of the Minister, may establish. Where the Executive Director is a public officer seconded from the government, he shall have the right, on the termination of his secondment, to revert to his former post without loss of rank or seniority.

(2) The Commission may, after consultation with the Minister, appoint such officers as it may think fit, subject to the approval of the Minister as to numbers and as to remuneration and other terms and conditions of service.

(3) The Commission shall deal with all documents and other information in its possession or under its control, or otherwise coming to its notice, concerning persons with disability, and all matters and things relating to such persons, as confidential and the obligation of confidentiality imposed upon the Commission shall extend to all the members of the Commission, the Executive Director and to all the officials and servants of the Commission.

27. (1) The Prime Minister may, at the request of the Commission, from time to time direct that any public officer 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 for duty with the Commission.

(2) The period during which a direction as aforesaid shall apply to any officer specified therein shall, unless the officer retires from the public service, or otherwise ceases to hold office at an earlier date, or a different date is specified in the direction, end on the happening of any of the following events, that is to say -

(a) the acceptance by such officer of an offer of transfer to the service of, and permanent employment with the Commission made in pursuance of subsection (8) of this section; or

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

(3) Where a direction as aforesaid is revoked by the Prime Minister in relation to any officer, the Prime Minister may, by further direction, detail such officer for duty with the Commission in such capacity and with effect from such date as may be specified in the further direction, and the provisions of subsection (2) of this section shall thereupon apply to the period of duration of such further direction in relation to such officer.

(4) When a public officer is detailed for duty with the Commission under any of the provisions of this section, 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 he shall for other intents and purposes remain, and be considered and treated as, a public officer.

(5) Without prejudice to the generality of the foregoing, a public officer detailed for duty as aforesaid -

(a) shall not during the time while such officer is so detailed -

(i) be precluded from applying for a 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 him at the date on which he 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 him at the date he was detailed for duty as aforesaid or which would have become attached to such appointment, during the said period, had such officer not been detailed for duty with the Commission; and

(b) shall be entitled to have his 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 of any other right or privilege to which he would be entitled, and shall be liable to any liability to which he would be liable, but for the fact that he is detailed for duty with the Commission.

(6) Where an application is made as provided in subparagraph (i) of paragraph (a) of subsection (5) of this section, the same consideration shall be given thereto as if the applicant had not been detailed for duty with the Commission.

(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 as aforesaid during the period in which he is so detailed.

(8) The Commission may, with the approval of the Prime Minister, offer to any public officer detailed for duty with the Commission under subsection (2) of this section permanent employment with the Commission at a remuneration and on terms and conditions specified in the offer.

(9) Every officer who accepts permanent employment with the Commission offered to him under this section shall, for all purposes be deemed to have ceased to be in the service of the Government and to have entered into service with the Commission on the date of his acceptance.

**28.** 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. If approved by the Minister and by the Minister of Finance, such business plan, shall be the approved budget of the Commission.

Financing of  
the Commission.

**29.** (1) The Commission shall keep proper accounts of their income and expenditure and shall prepare and send to the Minister statements of account in relation to each financial year of the Commission.

Accounts and  
Audit.

(2) The accounts of the Commission shall be audited by an auditor or auditors to be appointed by it and approved by the Minister :

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

(3) The financial year of the Commission shall be the twelve months ending on the 31st of December, provided that the first financial year of the Commission shall commence on the date of the coming into force of this Act and shall end on the 31st day of December of the following year.

**30.** (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 shall submit to the Minister a report on its activities during the year, hereinafter referred to as an "Annual Report".

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 scope of the duties of the Commission.

(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 such report together with copies of the current Commission business plan and the financial plan, to be laid before the House of Representatives.

**31.** The Commission shall be exempt from any liability for the payment of income tax.

Exemption from tax  
and duties.

PART VI

**Complaints, Investigations and Enforcement**

Complaints and  
Investigations.

**32.** (1) The Commission may itself initiate investigations on any matter involving an act that is allegedly unlawful under any of the provisions of this Act.

(2) The Commission may also initiate investigations on the receipt of a complaint in writing alleging that a person has committed an act that is unlawful under any of the provisions of this Act. Such complaint may be lodged with the Commission by:

(a) any person aggrieved by the act; or,

(b) any person who is the parent, or legal curator or family member of a person with a mental disability.

(3) If it appears to the Commission that a person wishes to make a complaint under subsection (2) of this section and that person requires assistance to formulate the complaint orally and, or, in writing, it shall be the duty of the Commission to take reasonable steps to provide appropriate assistance to that person.

Investigation  
procedures.

**33.** (1) In respect of general investigations or investigations of complaints undertaken by the Commission, the Minister shall prescribe by regulations:-

(a) the procedure whereby the Commission may require a person to furnish any information as is necessary for the investigations aforesaid in this section, and the time, manner, and form in which such information is to be furnished;

(b) the procedures to be followed where a person fails to supply such information;

(c) the circumstances in which, following these investigations aforesaid, the Commission may take appropriate legal action.

(2) Any Regulations made under sub-section (1) of this section shall prescribe, in the case of an alleged discrimination by one person against another, the arrangements whereby the Commission may itself refer the matter to the First Hall of the Civil Court :

Provided that no such referral shall prevent an individual having a legal interest from making a claim of discrimination the subject of an action, including an action for damages before the said Court.-

34. A claim by any person having a legal interest in the matter, made personally or through his or her legal representative, that another person has committed an unlawful act of discrimination against him or her as provided for under this Act shall be subject to civil action in like manner as any other claim for damages; and any damages in respect of an unlawful act of discrimination may include compensation for injury to feelings whether or not they include compensation under any other head, up to a maximum of two hundred Liri as the court may declare. Civil Proceedings.

## PART VII

### Miscellaneous

35. (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 :- Regulations.

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

(b) for the exemption of any person, or class of persons or body, from any of the requirements of Part III of this Act as may be specified in the aforesaid regulations; provided that any such exemption shall only be declared 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.

(2) Any Regulations made by virtue of this section may specify different periods of exemption in relation to :-

- (a) the provision of different goods, facilities or services;
- (b) different persons or bodies; or
- (c) different classes of persons or bodies.

### Objects and Reasons

The Object of this Bill is to provide for the prohibition of discrimination against disabled persons on the ground of their disability and for the setting of the National Commission Persons with Disability and for other matters related thereto.