

Nagħti l-kunsens tiegħi.

(L.S.)

GEORGE ABELA
President

30 ta' Marzu, 2012

ATT Nru. II tal-2012

ATT biex jemenda diversi liġijiet li għandhom x'jaqsmu ma' Materji dwar id-Diżabilità.

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

1. It-titolu fil-qosor ta' dan l-Att huwa Att tal-2012 li Jemenda Diversi Liġijiet li jirrigwardaw il-Materji dwar id-Diżabilità. Titolu fil-qosor.

TAQSIMA I

2. Din it-taqsimha temenda l-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, u għandha tinqara u tiftiehem haġa waħda mal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili, hawn iżjed 'il quddiem f'din it-Taqsimha msejjaħ "il-Kodiċi". Emenda tal-Kodiċi ta' Organizzazzjoni u Proċedura Ċivili. Kap. 12.

3. Fl-ewwel proviso mas-subartikolu (1) tal-artikolu 187 tal-Kodiċi, minflok il-kliem "persuna li, minhabba diżabilità mentali, ma tistax tagħti xhieda ta' dik in-notifika" għandhom jidhru l-kliem "persuna li, fil-ħin tan-notifika, għandha diżordni mentali jew kundizzjoni oħra, li tagħmilha inkapaċi li tagħti xhieda ta' dik in-notifika". Emenda tal-artikolu 187 tal-Kodiċi.

4. Fit-test Malti tal-artikolu 491 tal-Kodiċi, minflok il-kliem "hija minuri, jew moħħha marid, jew interdetta" għandhom jidhru l-kliem "hija minuri, jew miġnuna, jew interdetta". Emenda tal-artikolu 491 tal-Kodiċi.

Emenda tal-artikolu
519 tal-Kodiċi.

5. Fit-test Malti tas-subartikolu (2) tal-artikolu 519 tal-Kodiċi, minflok il-kliem “gejja minn mard tal-moħħ jew raġunijiet oħra” għandhom jidhlu l-kliem “gejja minn ġenn jew raġunijiet oħra”.

Emenda tal-artikolu
520 tal-Kodiċi.

6. L-artikolu 520 tal-Kodiċi għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, minflok il-kliem “fil-każijiet ta’ bluha abitwali, ta’ mard tal-moħħ, ta’ ġenn, jew ta’ tberbiq”, għandhom jidhlu l-kliem “fil-każijiet ta’ diżordni mentali jew kundizzjoni oħra, li tagħmel persuna inkapaċi li tiegħu ħsieb hwejjigħa, ta’ ġenn, jew ta’ tberbiq”; u

(b) minnufih wara s-subartikolu (3) tiegħu, għandu jidhol dan is-subartikolu ġdid li ġej:

“(4) Għall-finijiet ta’ dan it-Titolu, u għall-finijiet tal-provvedimenti tal-artikoli 187, 747, 781 u 929 ta’ dan il-Kodiċi:

(a) “kundizzjoni oħra”, meta wżata fil-kuntest ta’ kundizzjoni li tagħmel persuna inkapaċi li tiegħu ħsieb hwejjigħa, tfisser nuqqas fiżiku, mentali, intellettuali jew sensorju għal żmien twil li flimkien ma’ ostakli diversi, jista’ jillimita lil persuna milli tipparteċipa b’mod sħiħ u effettiv fis-socjetà b’mod ugwali daqs l-oħrajn; u

(b) “diżordni mentali” għandu jkollha t-tifsira mogħtija lilha fl-Att dwar is-Saħħa Mentali:

Iżda kull referenza f’dawn it-tifsiriet għal “diżabilità tal-moħħ” jew “żvilupp imwaqqaf jew mhux komplet tal-moħħ” m’għandhiex tinftiehem li tfisser diżordni mentali għall-finijiet ta’ dan it-Titolu u dawk il-provvedimenti.”.

Emenda tal-artikolu
521 tal-Kodiċi.

7. Fil-paragrafu (d) tal-artikolu 521 tal-Kodiċi, minflok il-kliem “f’każ ta’ bluha jew ta’ mard ieħor tal-moħħ” għandhom jidhlu l-kliem “f’każ ta’ diżordni mentali jew kundizzjoni oħra, li tagħmel persuna inkapaċi li tiegħu ħsieb hwejjigħa.”.

Emenda tal-artikolu
523 tal-Kodiċi.

8. L-artikolu 523 tal-Kodiċi għandu jiġi emendat kif ġej:

(a) minnufih wara s-subartikolu (1) tiegħu, għandu jidhol dan il-paragrafu ġdid li ġej:

“Kuratur għandu jinħatar għal żmien ta’ mhux iktar minn tliet snin. Din il-ħatra tista’ tiġġedded, meta l-qorti tikkunsidra hekk xieraq, wara li tkun evalwat ir-rapporti mogħtija mill-kuratur skont is-subartikolu (4).”; u

(b) minnufih wara s-subartikolu (3) tiegħu, għandu jżidded dan is-subartikolu ġdid li ġej:

“(4) (a) Matul iż-żmien ta’ kariga tiegħu, il-kuratur għandu jippreżenta lill-qorti rapport maħluf ta’ kull sena li jiddikjara ċ-ċirkostanzi li jkollhom x’jaqsmu mal-kurazija fdata lilu u l-istat ġenerali tal-persuna interdetta jew inabilitata, u għandu wkoll jikkonforma ruħu ma’ dmirijiet oħra ta’ kuraturi hekk kif jista’ jiġi provdut skont il-ħtiġiet ta’ xi liġi oħra.

(b) Il-qorti, wara li tkun rat ir-rapport, għandha tisma’ lill-kuratur u lil kull persuna oħra li jidhrilha xierqa sabiex tiżgura l-benesseri tal-persuna interdetta jew inabilitata u t-twettiq tad-drittijiet u d-dmirijiet tal-kuratur.”.

9. Il-paragrafu (b) tas-subartikolu (2) tal-artikolu 747 tal-Kodiċi għandu jiġi emendat kif ġej:

Emenda tal-artikolu
747 tal-Kodiċi.

(a) fit-test Ingliż, minflok il-kliem “incapacitaitaion of lunatics, imbeciles or persons insane or prodigal” għandhom jidhlu l-kliem “incapacitation of persons with a mental disorder or other condition, which renders them incapable of managing their own affairs, or persons insane or prodigal”; u

(b) fit-test Malti, minflok il-kliem “inabilitazzjoni ta’ persuni furjużi, imbecilli, moħħhom marid jew berbieqa” għandhom jidhlu l-kliem “inabilitazzjoni ta’ persuni b’diżordni mentali jew kundizzjoni oħra, li tagħmilhom inkapaċi li jieħdu ħsieb hwejjigħom, imġienen jew berbieqa”.

10. Il-paragrafu (b) tal-artikolu 781 tal-Kodiċi għandu jiġi emendat kif ġej:

Emenda tal-artikolu
781 tal-Kodiċi.

(a) fit-test Ingliż, minflok il-kliem “a lunatic or insane person, and any other person” għandhom jidhlu l-kliem “an insane person, a person with a mental disorder or other condition, which renders him incapable of managing his own affairs, and any other person”; u

(b) fit-test Malti, minflok il-kliem “il-persuni furjużi jew moħħhom marid u kull persuna oħra” għandhom jidhlu l-kliem “il-persuni b’diżordni mentali jew kundizzjoni oħra, li tagħmilhom inkapaċi li jieħdu ħsieb ħwejjigħom, jew imġienen, u kull persuna oħra”.

Emenda tal-artikolu 929 tal-Kodiċi.

11. Fil-paragrafu (a) tal-artikolu 929 tal-Kodiċi, minflok il-kliem “li ma jkunux rappreżentati skond il-liġi, jew ta’ boloh jew ta’ interdetti” għandhom jidhlu l-kliem “li ma jkunux rappreżentati skont il-liġi, jew ta’ persuni b’diżordni mentali jew kundizzjoni oħra, li tagħmilhom inkapaċi li jieħdu ħsieb ħwejjigħom, jew ta’ interdetti”.

TAQSIMA II

Emenda tal-Kodiċi Ċivili.

Kap. 16.

12. Din it-Taqsima temenda l-Kodiċi Ċivili u għandha tinqara u tiftiehem haġa waħda mal-Kodiċi Ċivili, hawn iżjed ‘il quddiem f’din it-Taqsima msejjaħ “il-Kodiċi”.

Emenda tal-artikolu 189 tal-Kodiċi.

13. L-artikolu 189 tal-Kodiċi għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu, minflok il-kliem “li tkun imbecilli jew xort’oħra moħħha marid, jew ħalja” għandhom jidhlu l-kliem “li tkun persuna b’diżordni mentali jew kundizzjoni oħra, li tagħmilha inkapaċi li tieħu ħsieb ħwejjigħa, jew li tkun miġnuna jew ħalja”;

(b) fis-subartikolu (3) tiegħu, minflok il-kliem “lill-persuna fi stat ta’ bluha jew ta’ mard tal-moħħ, jew ħalja” għandhom jidhlu l-kliem “lill-persuna b’diżordni mentali jew kundizzjoni oħra, li tagħmilha inkapaċi li tieħu ħsieb ħwejjigħa, jew miġnuna jew ħalja”; u

(ċ) minnufih wara s-subartikolu (3) tiegħu, għandu jidhol dan is-subartikolu ġdid li ġej:

“(4) Għall-finijiet ta’ dan it-Titolu, u għall-finijiet tal-provedimenti tal-artikoli 597, 752, 1034, 1035, 1036 u 1241 ta’ dan il-Kodiċi:

(a) “kundizzjoni oħra”, meta wżata fil-kuntest ta’ kundizzjoni li tagħmel persuna inkapaċi li tieħu ħsieb ħwejjigħa, tfisser nuqqas fiżiku, mentali, intellettuali jew sensorju għal żmien twil li flimkien ma’ ostakli diversi, jista’ jillimita lil

persuna milli tipparteċipa b’mod sħiħ u effettiv fis-socjetà b’mod ugwali daqs l-oħrajn; u

(b) “dizordni mentali” għandu jkollha t-tifsira mogħtija lilha fl-Att dwar is-Saħħa Mentali:

Izda kull referenza f’dawn it-tifsiriet għal “dizabilità tal-moħħ” jew “żvilupp imwaqqaf jew mhux komplet tal-moħħ” m’għandhiex tinftiehem li tfisser dizordni mentali għall-finijiet ta’ dan it-Titolu u dawk il-provvedimenti.”.

14. L-artikolu 190 tal-Kodiċi għandu jiġi mħassar.

Thassir tal-artikolu 190 tal-Kodiċi.

15. L-artikolu 597 tal-Kodiċi għandu jiġi emendat kif ġej:

Emenda tal-artikolu 597 tal-Kodiċi.

(a) fil-paragrafu (ċ) tiegħu, minflok il-kliem “l-interdetti minħabba mard tal-moħħ” għandhom jidhlu l-kliem “l-interdetti minħabba ġenn jew minħabba dizordni mentali”; u

(b) fil-paragrafu (d) tiegħu, minflok il-kliem “ma jkunux f’sensihom fiż-żmien tat-testment” għandhom jidhlu l-kliem “jkunu persuni b’dizordni mentali jew kundizzjoni oħra, li tagħmilhom inkapaċi li jieħdu ħsieb hwejjigħom fil-ħin li jsir it-testment”.

16. Minflok l-artikolu 752 tal-Kodiċi għandu jidhol dan li ġej:

Sostituzzjoni tal-artikolu 752 tal-Kodiċi.

“Sostituzzjoni fil-każ ta’ minuri, persuni b’dizordni mentali jew kundizzjoni oħra, li tagħmilhom inkapaċi li jieħdu ħsieb hwejjigħom, jew imġienen.

752. (1) Il-missier, l-omm, l-axxendenti l-oħra, iz-zijiet irġiel u nisa, l-aħwa bniet u subien, jistgħu jissostitwixxu persuna oħra minflok wieħed minuri fil-każ li dan imut mingħajr tfal, qabel ma jagħlaq tmintax-il sena, iżda biss għal dawk il-beni li għalihom il-minuri jkun ġie istitwit werriet jew maħtur legatarju.

(2) Il-persuni hawn fuq imsemmija jistgħu wkoll jissostitwixxu terza persuna minflok persuna b’dizordni mentali jew kundizzjoni oħra, li tagħmilha inkapaċi li tiegħu ħsieb hwejjigħa, jew miġnun, fil-beni biss li jkunu ħallewlu, fil-każ li huwa jmut bid-dizordni mentali jew kundizzjoni oħra, waqt li jkun għadu inkapaċi li jieħu ħsieb hwejġu, jew miġnun, mingħajr tfal.

(3) F'kull sostituzzjoni msemmjia f'dan l-artikolu, jekk issir mill-missier, mill-omm jew minn axxendent ieħor li mingħandu l-werriet istitwit jew il-legatarju għandu jedd għal parti mis-sehem riżervat, ma jistax jiġi mdaħħal flief is-sehem tal-beni, li minnu l-minuri, meta jsir ta' l-età, inkella l-miġnun jew il-persuna b'diżordni mentali jew kundizzjoni oħra, jekk fiż-żmien tal-mewt tiegħu jkun moħħu floku, jista' jiddisponi.”.

Sostituzzjoni tal-artikolu 1034 tal-Kodiċi.

17. Minflok l-artikolu 1034 tal-Kodiċi għandu jidhlo dan li ġej:

“Responsabbiltà ta' min jiehu hsieb ta' minuri, jew ta' persuna b'diżordni mentali jew kundizzjoni oħra, li tagħmilha inkapaċi li tiegħu hsieb hwejjigħa.

1034. Kull persuna li tiegħu hsieb ta' minuri, jew ta' persuna b'diżordni mentali jew kundizzjoni oħra, li tagħmilha inkapaċi li tiegħu hsieb hwejjigħa, tkun responsabbli għall-ħsara li jagħmel dak il-minuri jew dik il-persuna meta tonqos milli tiegħu l-hsieb ta' missier tajjed tal-familja biex il-fatt ma jiġrix.”.

Emenda tal-artikolu 1035 tal-Kodiċi.

18. Fl-artikolu 1035 tal-Kodiċi, minflok il-kelma “L-imġienen” għandhom jidhlu l-kliem “Persuni b'diżordni mentali jew kundizzjoni oħra, li tagħmilhom inkapaċi li jieħdu hsieb hwejjigħom,”.

Emenda tal-artikolu 1036 tal-Kodiċi.

19. Fl-artikolu 1036 tal-Kodiċi, minflok il-kliem “il-miġnun imsemmi fl-aħħar artikolu qabel dan” għandhom jidhlu l-kliem “il-persuni b'diżordni mentali jew kundizzjoni oħra msemmjia fl-aħħar artikolu qabel dan”.

Emenda tal-artikolu 1241 tal-Kodiċi.

20. Fl-artikolu 1241 tal-Kodiċi, minflok il-kliem “interdetti jew imġienen, bl-awtorizzazzjoni tal-qorti” għandhom jidhlu l-kliem “interdetti, jew b'diżordni mentali jew kundizzjoni oħra, li tagħmilhom inkapaċi li jieħdu hsieb hwejjigħom, bl-awtorizzazzjoni tal-qorti”.

TAQSIMA III

Emenda tal-Att dwar Opportunitajiet Indaqgħal Persuni b'Diżabbiltà.

Kap. 413.

21. Din it-Taqsima temenda l-Att dwar Opportunitajiet Indaqgħal Persuni b'Diżabbiltà, u għandha tinqara u tiftiehem haġa waħda ma' l-Att dwar Opportunitajiet Indaqgħal Persuni b'Diżabbiltà, hawn iżjed 'l quddiem f'din it-Taqsima msejjaħ “l-Att prinċipali”.

22. L-artikolu 2 tal-Att prinċipali għandu jiġi emendat kif
 ġej: Emenda tal-artikolu 2
 tal-Att prinċipali.

(a) minflok it-tifsira “akkomodazzjoni” għandu
 jidhol dan li ġej:

“ “akkomodazzjoni” tinkludi akkomodazzjoni
 residenzjali jew kummerċjali;”;

(b) minnufuh wara t-tifsira “akkomodazzjoni”,
 għandha tidhol din it-tifsira ġdida li ġejja:

“ “akkomodazzjoni raġonevoli” tfisser tibdil li ma
 jimponix piż sproporzjonat jew mhux ġustifikat, meta
 jkun hemm bżonn f’każ partikolari, biex jiżgura li
 persuni b’diżabilità jkunu jistgħu jgawdu jew jeżerċitaw
 b’mod ugwali daqs oħrajn id-drittijiet tal-bniedem u
 l-libertajiet fundamentali kollha;”;

(ċ) minnufih wara t-tifsira “membru tal-familja”,
 għandha tidhol din it-tifsira ġdida li ġejja:

“ “mezz assistiv” tinkludi kull mezz paljattiv (li
 jtaffi t-tbatija) jew terapewtiku, kull għajnuna prostetika,
 jew kull mezz jew apparat ieħor, inklużi annimali
 mħarrġa, li jista’ jinħtieġ minn persuna b’diżabilità
 b’mod speċifiku minhabba f’dik id-diżabilità;”;

(d) minflok it-tifsira “diżabilità” għandha tidhol din it-
 tifsira ġdida li ġejja:

“ “diżabilità” tfisser nuqqas fiżiku, mentali,
 intellettwali jew sensorju għal żmien twil li flimkien
 ma’ ostakli diversi, jista’ jillimita lil persuna milli
 tipparteċipa b’mod sħiħ u effettiv fis-socjetà b’mod
 ugwali daqs l-oħrajn;”;

(e) minnufih wara t-tifsira “età ta’ skola obligatorja”,
 għandha tidhol din it-tifsira ġdida li ġejja:

“ “fastidju” tfisser meta persuna tiġi assoġġettata
 għal xi att, rikjesta jew għemil li ma jkunux mixtieqa,
 inklużi kliem mitkellma, mossi jew l-għemil, il-wiri
 jew iċ-ċirkolazzjoni b’kull mezz ta’ kliem miktub,
 stampi jew kull materjal ieħor li jista’ raġevonalment

jitqies li jkun offensiv, umiljanti, ostili, degradanti jew intimidatorju fir-rigward ta' dik il-persuna;”;

(f) minnufih wara t-tifsira “nuqqas”, għandha tidhol din it-tifsira l-ġdida li ġejja:

Kap. 492.

“ “organizzazzjoni volontarja” għandu jkolla l-istess tifsira mogħtija lilha bl-artikolu 2 tal-Att dwar l-Organizzazzjonijiet Volontarji;”;

(g) it-tifsira “għajnuna awżiljarja” għandha tiġi mħassra;

(h) it-tifsira “persuna b'diżabilità kwalifikata” għandha tiġi emendata kif ġej:

(i) fil-paragrafu (a) tagħha, minflok il-kliem “sew jekk ikollha sew jekk ma jkollhiex xi akkommodazzjoni” għandhom jidhlu l-kliem “sew jekk ikollha sew jekk ma jkollhiex akkommodazzjoni raġonevoli”; u

(ii) fil-paragrafu (b) tagħha, minflok il-kliem “tal-provvediment ta' oġġetti, faċilitajiet” għandhom jidhru l-kliem “tal-provvediment u l-użu ta' oġġetti, faċilitajiet” u minflok il-kliem “provvediment ta' dawk l-oġġetti, faċilitajiet jew servizzi” għandhom jidhru l-kliem “provvediment u l-użu ta' dawk l-oġġetti, faċilitajiet jew servizzi”.

(i) minnufih wara t-tifsira “persuna b'diżabilità kwalifikata”, għandha tidhol din it-tifsira ġdida li ġejja:

“ “proprjeta” tinkludi kull bini eżistenti u ġdid, u arei esterni bħalma huma toroq, bankini, passaġġi pubbliċi, xtajtiet u gonna;”;

(j) minnufih wara t-tifsira ġdida ta' “proprjeta”, għandha tidhol din it-tifsira ġdida li ġejja:

“ “tibdil” tfisser modifiki u aġġustamenti li jkunu meħtieġa u xierqa.”.

Emenda tal-artikolu 5 tal-Att prinċipali.

23. L-artikolu 5 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) l-artikolu 5 kollu għandu jiġi enumerat mill-ġdid bħala s-subartikolu (1) tiegħu;

(b) fis-subartikolu (1) tiegħu kif enumerat mill-ġdid, minflok il-kliem “tkun akkumpanjata bi jew ikollha għajnuna awżiljarja” għandhom jidhlu l-kliem “tkun akkumpanjata bi jew ikollha mezz assistiv” u minflok il-kliem “li jkollha xi għajnuna awżiljarja bħal dik” għandhom jidhlu l-kliem “li jkollha xi mezz assistiv bħal dak”;

(ċ) minnufuh wara s-subartikolu (1) tiegħu kif enumerat mill-ġdid, għandhom jidhlu dawn is-subartikoli godda li ġejjin:

“(2) Persuna tkun qiegħda tiddiskrimina kontra persuna oħra minhabba f’dizabilità meta tassoġġetta lil dik il-persuna l-oħra għal fastidju f’xi ċirkostanza rilevanti għall-finijiet ta’ kull diżpożizzjoni ta’ dan l-Att:

Izda kull persuna li tagħti fastidju lil xi hadd ieħor kif imsemmi f’dan is-subartikolu tkun hatja ta’ reat kontra dan l-artikolu u tista’, mingħajr preġudizzju għal kull responsabbiltà ulterjuri taht kull liġi oħra, meta tinsab hatja tehel multa ta’ mhux iżjed minn elfejn u ħames mitt euro (2,500) jew prigunerija għal mhux iżjed minn sitt xhur jew dik il-multu u prigunerija flimkien.

(3) Hadd ma jista’ jivvittimizza lil xi persuna talli din tkun għamlet ilment lill-awtoritajiet legittimi jew talli tkun bdiet jew hadet sehem fi procedimenti għal rizarċiment abbażi tal-ksur allegat ta’ xi diżpożizzjoni ta’ dan l-Att, jew talli tkun tat informazzjoni, kunfidenzjali jew mhix, lil awtorità regolatorja stabbilita, rigward xi mġieba, attivitajiet jew prattiċi allegatament diskriminatorji.

(4) Persuna tkun qiegħda tiddiskrimina kontra persuna oħra minhabba f’dizabilità jekk tassoġġetta lil dik il-persuna għal żvantaġġ partikolari b’xi provvedimenti, kriterju jew prattika apparentement newtrali.

(5) Persuna tkun qiegħda tiddiskrimina kontra persuna oħra minhabba f’dizabilità jekk tonqos milli tagħmel pubbliku, b’mod effettiv, dawk l-oġġetti,

faċilitajiet u servizzi provvduti minnha lill-persuni b'diżabilità, biex telimina d-diskriminazzjoni projibita taħt dan l-Att.”

Emenda tal-artikolu 7
tal-Att prinċipali.

24. L-artikolu 7 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) is-subartikolu (2) tiegħu għandu jiġi emendat kif ġej:

(i) fil-paragrafu (d) tiegħu, minflok il-kliem “jonqos milli jipprovdi bdil raġonevoli” għandhom jidhlu l-kliem “jonqos milli jipprovdi akkomodazzjoni raġonevoli”, u minflok il-kliem “hlief jekk il-prinċipal jista’ jgħib prova li l-bdil meħtieġ ser jippreġudika b’mod mhux xieraq, it-tħaddim” għandhom jidhlu l-kliem “hlief jekk il-prinċipal jista’ jgħib prova li t-tibdil meħtieġ ser jippreġudika b’mod mhux xieraq, it-tħaddim”; u

(ii) fil-paragrafu (e) tiegħu, minflok il-kliem “il-ħtieġa tal-prinċipal li jipprovdi bdil raġonevoli għad-diżabilità ta’ dik il-persuna” għandhom jidhlu l-kliem “il-ħtieġa tal-prinċipal li jipprovdi akkomodazzjoni raġonevoli għad-diżabilità ta’ dik il-persuna”;

(b) it-test Ingliż tas-subartikolu (4) tiegħu għandu jiġi emendat kif ġej:

(i) minflok il-kliem “determining whether an accommodation would unduly prejudice the operation of the trade” għandhom jidhlu l-kliem “determining whether any alterations would unduly prejudice the operation of the trade”;

(ii) fil-paragrafu (a) tiegħu, minflok il-kliem “cost of the accommodation” għandhom jidhlu l-kliem “cost of the alterations”;

(iii) fil-paragrafu (b) tiegħu, minflok il-kliem “making of the accommodation” għandhom jidhlu l-kliem “making of the alterations”;

(iv) fil-paragrafu (ċ) tiegħu, minflok il-kliem “the workplace requiring accommodation” għandhom jidhlu l-kliem “the workplace requiring alterations”;

(v) fil-paragrafu (d) tiegħu, minflok il-kliem “impact of the required accommodation” għandhom jidhlu l-kliem “impact of the the required alterations”; u

(vi) fil-paragrafu (h) tiegħu, minflok il-kliem “to defray the expense of any accommodation” għandhom jidhlu l-kliem “to defray the expense of any alterations”; u

(c) is-subartikolu (5) tiegħu għandu jiġi emendat kif ġej:

(i) minflok il-kliem “Għall-għanijiet ta’ dan l-artikolu, il-frazi “jipprovdi tibdil raġonevoli” tinkludi - ” għandhom jidhlu l-kliem “Għall-għanijiet ta’ dan l-artikolu, u mingħajr preġudizzju għall-ġeneralità ta’ l-artikolu 2 ta’ dan l-Att, il-frazi “jipprovdi akkommodazzjoni raġonevoli” tinkludi - ”; u

(ii) fit-test Inġliż tal-paragrafu (b) tiegħu, minflok il-kliem “similar accommodation for a person with disability” għandhom jidhlu l-kliem “similar alterations for a person with a disability”.

25. Fit-test Inġliż tal-paragrafu (a) tas-subartikolu (4) tal-artikolu 8 tal-Att prinċipali, minflok il-kliem “any necessary accommodation that may be required” għandhom jidhlu l-kliem “any alterations that may be required”.

Emenda tal-artikolu 8 tal-Att prinċipali.

26. L-artikolu 11 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 11 tal-Att prinċipali.

(a) is-subartikolu (1) tiegħu għandu jiġi emendat kif ġej:

(i) minflok il-kliem “fis-subartikoli (2) u (3) ta’ dan l-artikolu, awtorità jew istituzzjoni” għandhom jidhlu l-kliem “fis-subartikoli (2) u (3), u mingħajr preġudizzju għall-ġeneralità tat-Taqsima II ta’ dan l-Att, awtorità jew istituzzjoni”; u

(ii) fis-subparagrafu (1) tal-paragrafu (b) tiegħu, minflok il-kliem “benefiċċju provdut minn dik l-awtorità jew istituzzjoni edukattiva” għandhom jidhlu l-kliem “benefiċċju, faċilità jew servizz provdut minn dik

l-awtorità jew istituzzjoni edukattiva”;

(b) fis-subartikolu (3) tiegħu, minnufih wara l-kliem “d-dhul” jew “id-dhul” għandhom jidhlu l-kliem “,jew it-komplija ta’ parteċipazzjoni,” kull fejn dawn jinsabu.

Emenda tal-artikolu
12 tal-Att prinċipali.

27. L-artikolu 12 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) minflok in-notat marginali tiegħu, għandhom jidhlu l-kliem “Dhul ġewwa proprjetà,”;

(b) is-subartikolu (1) tiegħu għandu jiġi emendat kif ġej:

(i) minflok il-kliem “fis-subartikolu (2) ta’ dan l-artikolu, hadd ma jista” għandhom jidhlu l-kliem “fis-subartikolu (2), u mingħajr preġudizzju għall-ġeneralità tat-Taqsima II ta’ dan l-Att, hadd ma jista”;

(ii) fil-paragrafu (a) tiegħu, minflok il-kliem “tuża xi post” għandhom jidhlu il-kliem “tuża xi proprjetà” u fit-test Inġliż biss, minflok il-kliem “a article of the public” għandhom jidhlu l-kliem “a sector of the public”;

(iii) fil-paragrafu (b) tiegħu, minflok il-kliem “dak il-post jew dawk il-facilitajiet” għandhom jidhlu l-kliem “dik il-proprjetà jew dawk il-facilitajiet”;

(iv) fil-paragrafu (ċ) tiegħu, minflok il-kliem “mezzi ta’ dhul f’dak il-post” għandhom jidhlu l-kliem “mezzi ta’ dhul f’dik il-proprjetà” u minflok il-kliem “kull tibdil meħtieġ f’dak il-post” għandhom jidhlu l-kliem “kull tibdil meħtieġ f’dik il-proprjetà”; u

(v) fil-paragrafu (d) tiegħu, minflok il-kliem “li jitlaq minn dak il-post” għandhom jidhlu l-kliem “li jitlaq minn dik il-proprjetà”.

(ċ) minflok is-subartikolu (2) tiegħu għandu jidhlo dan is-subartikolu ġdid li ġej:

“(2) Meta -

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

(b) it-tibdil li jsir f'dik il-proprjetà jew faċilitajiet ma' jkunx raġonevoli fiċ-ċirkostanzi tal-każ,

għaldaqstant dik il-persuna tista' tiċhad persuna b'diżabilità dak id-dhul ġewwa, jew l-użu ta' xi proprjetà jew faċilitajiet bħal dawk imsemmija fil-paragrafu (a) tas-subartikolu (1) jew li tiċhad li tagħmel xi tibdil f'dik il-proprjetà jew faċilitajiet li kieku xort'oħra jagħmlu d-dhul ġewwa dak il-proprjetà jew f'dawk il-faċilitajiet possibbli għal persuna b'diżabilità.”.

28. L-artikolu 13 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 13 tal-Att prinċipali.

(a) fis-subartikolu (1) tiegħu, minflok il-kliem “fis-subartikolu (3) ta' dan l-artikolu, ebda persuna b'diżabilità kwalifikata m'għandha” għandhom jidhlu l-kliem “fis-subartikolu (3) ta' dan l-artikolu, u mingħajr preġudizzju għall-ġeneralità tat-Taqsima II ta' dan l-Att, ebda persuna b'diżabilità kwalifikata m'għandha”;

(b) it-test Inġliż tas-subartikolu (2) tiegħu għandu jiġi emendat kif ġej:

(i) minflok il-kliem “any article of the public” għandhom jidhlu l-kliem “any sector of the public”; u

(ii) fil-paragrafu (a) tiegħu, minflok il-kliem “a article of the public”, għandhom jidhlu l-kliem “a sector of the public”;

(c) fit-test Inġliż tas-subartikolu (3) tiegħu, minflok il-kliem “reasonable modification to rules” għandhom jidhlu l-kliem “reasonable changes to rules”.

29. L-artikolu 14 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu 14 tal-Att prinċipali.

(a) is-subartikolu (1) tiegħu għandu jiġi emendat kif ġej:

(i) minflok il-kliem “fis-subartikoli (2) u (3) ta’ dan l-artikolu, ebda persuna, sew jekk prinċipal, sew jekk aġent, ma għandha tiddiskrimina” għandhom jidhlu l-kliem “fis-subartikoli (2) u (3) ta’ dan l-artikolu, u mingħajr preġudizzju għall-ġeneralità tat-Taqsima II ta’ dan l-Att, ebda persuna m’għandha tiddiskrimina”; u

(ii) fil-paragrafu (g) tiegħu, minflok il-kliem tagħmel bdil raġonevoli f’akkommodazzjoni” għandhom jidhlu l-kliem “tagħmel tibdil f’akkommodazzjoni”, u fis-subparagrafu (ii), minflok il-kliem “l-bdil ta’ postijiet oħra okkupati” għandhom jidhlu l-kliem “l-bdil ta’ proprjetajiet oħra okkupati”;

(b) is-subartikolu (2) tiegħu għandu jiġi emendat kif ġej:

(i) fil-paragrafu (a) tiegħu, minflok il-kliem “toqgħod f’dak il-post” għandhom jidhlu l-kliem “toqgħod f’dik il-proprjeta”; u

(ii) fil-paragrafu (b) tiegħu, minflok il-kliem “provduta f’dak il-post” għandhom jidhlu l-kliem “provduta f’dik il-proprjeta”; u

(c) minflok is-subartikolu (3) tiegħu għandu jidhol li ġej:

“(3) Id-dispożizzjonijiet tas-subartikolu (1) ma japplikawx ukoll jekk l-għoti ta’ akkommodazzjoni fi proprjetajiet fejn ikunu jinħtiegu servizzi jew faċilitajiet speċjali mill-persuna b’dizabilità ma’ jkunx raġonevoli fiċ-ċirkostanzi tal-każ.”.

Emenda tal-artikolu
15 tal-Att prinċipali.

30. L-artikolu 15 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fit-test Ingliż, minflok il-kliem “to be constructed as prohibiting” għandhom jidhlu l-kliem “to be construed as prohibiting”; u

(b) minflok il-kliem “l-għoti ta’ oġġetti” għandhom jidhlu l-kliem “l-għoti u l-użu ta’ oġġetti”.

31. Is-subartikolu (1) tal-artikolu 20 tal-Att prinċipali għandu jiġi sostitwit b'dan is-subartikolu ġdid li ġej:

Emenda tal-artikolu
20 tal-Att prinċipali.

“(1) Għall-għanijiet ta’ dan l-Att, sabiex tiġi stabbilita r-raġonevolezza ta’ kull azzjoni li għandha ssir minn persuna skond id-dispożizzjonijiet ta’ dan l-Att, inkluż kull tibdil, bdil u, jew, għoti ta’ servizzi, facilitajiet jew mezz assistiv, għandu jitqies jekk dawk l-azzjonijiet ikunux jistgħu jitwettqu mingħajr ma jgħibu piż mhux ġustifikat.”.

32. L-artikolu 21 tal-Att prinċipali għandu jiġi emendat kif ġej:

Emenda tal-artikolu
21 tal-Att prinċipali.

(a) is-subartikolu (1) tiegħu għandu jiġi emendat kif ġej:

(i) minflok il-kliem “d-Djar u l-Ippjanar Ekonomiku.” għandhom jidhlu l-kliem “d-Djar u l-Ippjanar Ekonomiku, kif ukoll xi Ministeri oħra lil huwa jqis rilevanti.”; u

(ii) minflok il-kliem “fil-qasam tad-dizabilità.” għandhom jidhlu l-kliem “fil-qasam tad-dizabilità, wara konsultazzjoni ma’ dawk l-organizzazzjonijiet volontarji.”;

(b) minflok is-subartikolu (2) tiegħu għandu jidhol dan li ġej:

“(2) Mill-inqas nofs l-għadd totali tal-membri tal-Kummissjoni għandhom ikunu persuni b’dizabilità jew membri tal-familja ta’ persuni b’dizabilità li ma jkunux jistgħu jirrapreżentaw lilhom infushom. Dawk il-membri għandhom jirrapreżentaw tipi differenti ta’ dizabilità:

Iżda, meta jkun possibbli, għandu jkun hemm rappreżentanza bilanċjata ta’ nisa u rġiel.”; u

(c) fis-subartikolu (3) tiegħu, minflok il-kliem “membru tal-familja ta’ persuna b’dizabilità mentali” għandhom jidhlu l-kliem “membru tal-familja ta’ persuna b’dizabilità li ma tkunx tista’ tirrapreżenta lilha nfisha”.

Emenda tal-artikolu
22 tal-Att prinċipali.

33. Minnufih wara l-paragrafu (o) tal-artikolu 22 tal-Att prinċipali, għandhom jiżdiedu dawn il-paragrafi l-ġodda li ġejjin:

“(p) is-setgħa li tiegħu kull azzjoni adatta, li tkun tinkludi miżuri amministrattivi proporzjonati u azzjoni ġudizzjarja, sabiex telimina d-diskriminazzjoni fuq il-bażi ta’ diżabilità kif imfissra f’dan l-Att; u sabiex tagħmel azzjoni ġudizzjarja kif imsemmi l-Kummissjoni għandha titqies f’kull każ li għandha l-interess ġuridiku meħtieġ biex tagħmel dik l-azzjoni f’isimha;

(q) tqajjem kuxjenza u trawwem ir-rispett lejn id-drittijiet u d-dinjità ta’ persuni b’diżabilità, tegħleb sterjotipi, preġudizzji u prattiċi dannużi fir-rigward ta’ persuni b’diżabilità, li jkunu jinkludu dawk bażati fuq il-ġeneru u l-età tal-persuna, f’kull qasam tal-ħajja;

(r) tqajjem kuxjenza dwar il-kapaċitajiet u l-kontribuzzjonijiet li jagħmlu persuni b’diżabilità; u

(s) tippovdi l-mekkanizmu indipendenti sabiex tippromwovi, tippoteġi u tissorvelja l-implimentazzjoni tal-Konvenzjoni tal-Ġnus Maqgħuda dwar id-Drittijiet ta’ Persuni b’Diżabilità u ta’ kull Protokoll Opzjonali relattiv kif irratifikat minn Malta.”.

Żjeda ta’ l-artikolu
33A ġdid mal-Att
prinċipali.

34. Minnufih wara l-artikolu 33 tal-Att prinċipali, għandu jiżdied dan l-artikolu l-ġdid li ġej:

“Proċedimenti
mibdija minn
terzi.

33A. Kull assoċjazzjoni, organizzazzjoni jew entità legali oħra li jkollhom interess leġittimu li jiżguraw li d-dispożizzjonijiet ta’ dan l-Att jiġu mħarsa, tista’ tibda, għan-nom ta’ jew b’sostenn tal-persuna li jkun sar att illegali u diskriminatorju taħt dan l-Att fil-konfront tagħha, bl-approvazzjoni tal-istess persuna, proċedimenti għal rimedju quddiem il-Qorti kompetenti.”.

Emenda tal-artikolu
34 tal-Att prinċipali.

35. L-artikolu 34 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) minflok il-kliem “diskriminazzjoni kontrih jew kontrieha” għandhom jidhlu l-kliem “diskriminazzjoni kontrih jew kontriha”;

(b) minflok il-kliem “għandha tiġi trattata b’azzjoni ċivili l-istess bħalma tiġi trattata kull pretensjoni oħra għad-danni” għandhom jidhlu l-kliem “għandha ssir b’azzjoni ċivili li tista’ tinkludi talba għad-danni”; u

(ċ) minflok il-kliem “sa massimu ta’ erba’ mija u hamsa u sittin euro u sebgħa u tmenin ċenteżmu (465.87), hekk kif il-qorti tista’ tiddikjara.” għandhom jidhlu l-kliem “ta’ mhux iżjed minn elfejn u hames mitt euro (2,500), hekk kif il-qorti tista’ tiddikjara.”.

36. Minnufih wara l-artikolu 34 tal-Att prinċipali, għandu jżied dan l-artikolu l-ġdid li ġej:

Zjieda ta’ artikolu 34A ġdid mal-Att prinċipali.

“Il-Konvenut għandu juri li ma kienx hemm ksur tal-Att.

34A. Meta ssir azzjoni ġudizzjarja, li ma tkunx proċedura kriminali, għal rimedju taħt dan l-Att minhabba f’xi att illegali ta’ diskriminazzjoni, il-persuna li tkun bdiet dawk il-provvedimenti tistabbilixxi quddiem il-Qorti l-fatti li minnhom jista’ jitqies li tkun saret diskriminazzjoni, għandu jkun il-konvenut li jgħib prova li ma kien hemm ebda ksur tad-dispożizzjonijiet ta’ dan l-Att.

37. L-artikolu 35 tal-Att għandu jiġi emendat kif ġej:

Emenda tal-artikolu 35 tal-Att prinċipali.

(a) is-subartikolu (2) tiegħu għandu jiġi enumerat mill-ġdid bħala s-subartikolu (3) tiegħu;

(b) minnufih wara s-subartikolu (1) tiegħu, għandu jidhol dan is-subartikolu ġdid li ġej:

“(2) Il-Ministru jista’ ukoll jagħmel regolamenti kif jidhirlu xierqa għall-implimentazzjoni tad-dispożizzjonijiet ta’ kull trattat internazzjonali li għandu x’jaqsam ma’ persuni b’dizabilità li Malta tkun taderixxi għalih.”; u

(ċ) fil-paragrafu (a) tas-subartikolu (3) tiegħu kif enumerat mill-ġdid, minflok il-kliem “l-għoti ta’ oġġetti” għandhom jidhlu l-kliem “l-għoti u l-użu ta’ oġġetti”.

38. Minnufih wara l-artikolu 35 tal-Att prinċipali, għandu jżied dan l-artikolu l-ġdid li ġej:

Zjieda ta’ l-artikolu 36 ġdid mal-Att prinċipali.

“Il-Ministru jista’ jispeċifika punt fokali.

36. Il-Ministru, b’avviż fil-Gazzetta, jista’

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jispeċifika lill-Awtorità Kompetenti li tkun il-punt fokali għal kull haġa li għandha x'taqsam mal-implimentazzjoni tal-Konvenzjoni tal-Ġnus Maqgħuda dwar id-Drittijiet ta' Persuni b'Diżabilità u ta' kull Protokoll Opzjonali relattiv kif ratifikat minn Malta.

Mgħoddi mill-Kamra tad-Deputati fis-Seduta Nru. 460 tas-26 ta' Marzu, 2012.

MICHAEL FRENDO
Speaker

Raymond Scicluna
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

GEORGE ABELA
President

30th March, 2012

ACT No. II of 2012*An Act to amend various laws related to Disability*

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

1. (1) The short title of this Act is the Various Laws (Disability Matters) (Amendment) Act, 2012. Short title.

PART I

2. This Part amends the Code of Organization and Civil Procedure and it shall be read and construed as one with the Code of Organization and Civil Procedure, hereinafter in this Part referred to as “the Code”. Amendment of the Code of Organization and Civil Procedure. Cap. 12.

3. In the first proviso to sub-article (1) of article 187 of the Code for the words “any person who, on account of infirmity of mind, is unable to give evidence of such service” there shall be substituted the words “any person who, at the time of the service, has a mental disorder or other condition, which renders him incapable of giving evidence of such service”. Amendment of article 187 of the Code.

4. In the Maltese text of article 491 of the Code, for the words “hija minuri, jew moħħha marid, jew interdetta” there Amendment of article 491 of the Code.

shall be substituted the words “hija minuri, jew mignuna, jew interdetta”.

Amendment of article
519 of the Code.

5. In the Maltese text of sub-article (2) of article 519 of the Code, for the words “l-inkapaċità ġejja minn mard tal-moħħ jew raġunijiet oħra” there shall be substituted the words “l-inkapaċità ġejja minn ġenn jew raġunijiet oħra”.

Amendment of article
520 of the Code.

6. Article 520 of the Code shall be amended as follows:

(a) in sub-article (1) thereof, for the words ““persons who are habitual idiots, insane, frenzied or prodigal”, there shall be substituted the words “persons who have a mental disorder or other condition, which renders them incapable of managing their own affairs, or who are insane or prodigal”; and

(b) immediately after sub-article (3) thereof, there shall be added the following new sub-article:

“(4) For the purposes of this Title, and for the purposes of the provisions of articles 187, 747, 781 and 929 of this Code:

(a) “other condition”, where used in the context of a condition that renders a person incapable of managing his own affairs, means a long-term physical, mental, intellectual or sensory impairment which in interaction with various barriers may hinder one’s full and effective participation in society on an equal basis with others; and

(b) “mental disorder” shall have the meaning assigned to it in the Mental Health Act:

Provided that any reference in such definitions to “disability of mind” or “arrested or incomplete development of mind” shall not be construed to mean a mental disorder for the purposes of this Title and of such provisions.”.

Amendment of article
521 of the Code.

7. In paragraph (d) of article 521 of the Code, for the words “in case of idiocy or other mental infirmity” there shall be substituted the words “in case of a mental disorder or other

condition, which renders a person incapable of managing his own affairs”.

8. Article 523 of the Code shall be amended as follows:

Amendment of article
523 of the Code.

(a) immediately after sub-article (1) thereof, there shall be added the following new paragraph:

“A curator shall be appointed for a period not exceeding three years. Such appointment can be renewed, where the court considers it so appropriate, after evaluating the reports submitted by the curator in accordance with sub-article (4)”; and

(b) immediately after sub-article (3) thereof, there shall be added the following new sub-article:

“(4) (a) During the term of his appointment, the curator shall submit a yearly sworn report to the court declaring the circumstances relating to his curatorship and the general state of the person interdicted or incapacitated, and shall also comply with the other duties of curators as may be provided in accordance with the requirements of any other law.

(b) The court, after taking cognizance of the report, shall hear the curator and any other person it may deem fit to ensure the well-being of the person interdicted or incapacitated and the fulfilment of the rights and duties of the curator.”.

9. Paragraph (b) of sub-article (2) of article 747 of the Code shall be amended as follows:

Amendment of article
747 of the Code.

(a) in the English text, for the words “incapacitation of lunatics, imbeciles or persons insane or prodigal” there shall be substituted the words “incapacitation of persons with a mental disorder or other condition, which renders them incapable of managing their own affairs, or persons insane or prodigal”; and

(b) in the Maltese text, for the words “inabilitazzjoni ta’ persuni furjużi, imbecilli, moħħhom marid jew berbieqa” there shall be substituted the words “inabilitazzjoni ta’ persuni

b'dizordni mentali jew kundizzjoni oħra, li tagħmilhom inkapaċi li jieħdu ħsieb hwejjighom, imġienen jew berbieqa”.

Amendment of article 781 of the Code.

10. Paragraph (b) of article 781 of the Code shall be amended as follows:

(a) in the English text, for the words “a lunatic or insane person, and any other person” there shall be substituted the words “an insane person, a person with a mental disorder or other condition, which renders him incapable of managing his own affairs, and any other person”; and

(b) in the Maltese text, for the words “il-persuni furjużi jew moħħhom marid u kull persuna oħra” there shall be substituted the words “il-persuni b'dizordni mentali jew kundizzjoni oħra, li tagħmilhom inkapaċi li jieħdu ħsieb hwejjighom, jew imġienen, u kull persuna oħra”.

Amendment of article 929 of the Code.

11. In paragraph (a) of article 929 of the Code, for the words “not legally represented or imbecile or person interdicted” there shall be substituted the words “not legally represented, or person with a mental disorder or other condition, which renders him incapable of managing his own affairs, or person interdicted”.

PART II

Amendment of the Civil Code.
Cap. 16.

12. This Part amends the Civil Code, and it shall be read and construed as one with the Civil Code, hereinafter in this part referred to as “the Code”.

Amendment of article 189 of the Code.

13. Article 189 of the Code shall be amended as follows:

(a) in sub-article (1) thereof, for the words “who is in a state of imbecility or other mental infirmity or is prodigal” there shall be substituted the words “who is a person with a mental disorder or other condition, which renders him incapable of managing his own affairs, or who is insane or prodigal”;

(b) in sub-article (3) thereof, for the words “person who is imbecile, mentally infirm, or prodigal” there shall be substituted the words “person who has a mental disorder or other condition, which renders him incapable of managing his own affairs, or is insane or prodigal.” and

(c) immediately after sub-article (3) thereof, there shall be added the following new sub-article:

“(4) For the purposes of this Title, and for the purposes of the provisions of articles 597, 752, 1034, 1035, 1036 and 1241 of this Code:

(a) “other condition”, where used in the context of a condition that renders a person incapable of managing his own affairs, means a long-term physical, mental, intellectual or sensory impairment which in interaction with various barriers may hinder one’s full and effective participation in society on an equal basis with others; and

(b) “mental disorder” shall have the meaning assigned to it in the Mental Health Act:

Provided that any reference in such definitions to “disability of mind” or “arrested or incomplete development of mind” shall not be construed to mean a mental disorder for the purposes of this Title and such provisions.”.

14. Article 190 of the Code shall be deleted.

Deletion of article 190 of the Code.

15. Article 597 of the Code shall be amended as follows:

Amendment of article 597 of the Code.

(a) in paragraph (c) thereof, for the words “interdicted on the ground of insanity” there shall be substituted the words “interdicted on the ground of insanity or of mental disorder”; and

(b) in paragraph (d) thereof, for the words “are not of sound mind at the time of the will” there shall be substituted “are persons with a mental disorder or other condition, which renders them incapable of managing their own affairs at the time of the will”.

16. For article 752 of the Code, there shall be substituted the following:

Substitution of article 752 of the Code.

“Substitution in the case of minors, of persons with a mental disorder or other condition, which renders them incapable of managing their own affairs, or insane persons.

752. (1) It shall be lawful for the father, the mother, the other ascendants, the uncle or aunt, brother or sister, to substitute a third party in the place of a minor in the event of the latter dying without issue,

before attaining the age of eighteen years, but only with regard to the property in which such minor shall have been instituted heir or appointed legatee.

(2) It shall also be lawful for any of the said persons to substitute a third party in the place of any person with a mental disorder or other condition, which renders him incapable of managing his own affairs or insane person, in regard to such property only as they shall have devised to him, in the event of his dying with the mental disorder or other condition, whilst still incapable of managing his own affairs, or in a state of insanity, without issue.

(3) Any substitution referred to in this article, if made by the father, the mother or any other ascendant by whom a share of the reserved portion is due to the heir-institute or legatee, may only include such portion of the property as the minor, on attaining majority, or the insane person, or person with a mental disorder or other condition, if of sound mind at the time of his death, could dispose of.”.

Substitution of article 1034 of the Code.

17. For article 1034 of the Code, there shall be substituted the following:

“Liability of person having charge of minor, or person with a mental disorder or other condition, which renders him incapable of managing his own affairs.

1034. Any person having the charge of a minor, or of a person with a mental disorder or other condition, which renders him incapable of managing his own affairs, shall be liable for any damage caused by such minor or such person, if he fails to exercise the care of a *bonus paterfamilias* in order to prevent the act.”.

Amendment of article 1035 of the Code.

18. In article 1035 of the Code, for the words “Persons of unsound mind” there shall be substituted the words “Persons with a mental disorder or other condition, which renders them incapable of managing their own affairs.”.

Amendment of article 1036 of the Code.

19. In article 1036 of the Code, for the words “the person of unsound mind referred to in the last preceding article.” there shall be substituted the words “the person with a mental disorder or other condition referred to in the last preceding article.”.

20. In article 1241 of the Code, for the words “interdicted or of unsound mind, with the authority of the court” there shall be substituted the words “interdicted, or have a mental disorder or other condition, which renders them incapable of managing their own affairs, with the authority of the court”.

Amendment of article 1241 of the Code.

PART III

21. This Part amends the Equal Opportunities (Persons with Disability) Act, and it shall be read and construed as one with the Equal Opportunities (Persons with Disability) Act, hereinafter in this Part referred to as “the principal Act”.

Amendment of the Equal Opportunities (Persons with Disability) Act. Cap. 413.

22. Article 2 of the principal Act shall be amended as follows:

Amendment of article 2 of the principal Act.

(a) for the definition “accommodation”, there shall be substituted the following:

“ “accommodation” includes residential or business accommodation;”;

(b) immediately after the definition “accommodation” there shall be added the following new definition:

“ “alteration” means necessary and appropriate modifications and adjustments;”;

(c) the definition “auxiliary aid” shall be deleted;

(d) immediately after the new definition “alteration” there shall be added the following new definition:

“ “assistive means” includes any palliative or therapeutic device, any prosthetic apparatus, or any other apparatus or means, including trained animals, that may be required by a person with a disability specifically because of that disability;”.

(e) for the definition “disability”, there shall be substituted the following new definition:

“ “disability” means a long-term physical, mental, intellectual or sensory impairment which in interaction with various barriers may hinder one’s full and effective participation in society on an equal basis with others;”;

(f) immediately after the definition “family member” there shall be added the following new definition:

“ “harassment” means subjecting a person to any unwelcome act, request, conduct, including spoken words, gestures or the production, display or circulation by any means of written words, pictures or other material which could reasonably be regarded as offensive, humiliating, hostile, degrading or intimidating to such person;”;

(g) immediately after the definition “pensionable age” there shall be added the following new definition:

“ “property” includes all existing and new buildings and outdoor areas such as streets, pavements, public paths, beaches and gardens;”;

(h) the definition “qualified person with a disability” shall be amended as follows:

(i) in paragraph (a) thereof, for the words “with or without any accommodation” there shall be substituted the words “with or without any reasonable accommodation”; and

(ii) in paragraph (b) thereof, for the words “provision of goods, facilities” there shall be substituted the words “provision and use of goods, facilities” and for the words “provision of such goods, facilities or services” there shall be substituted the words “provision and use of such goods, facilities or services”;

(i) immediately after the definition “qualified person with a disability” there shall be added the following new definition:

“ “reasonable accommodation” means alterations not imposing a disproportionate or unjustifiable burden, where needed in a particular case, to ensure to persons with disability the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms;”;

(j) immediately after the new definition “reasonable

accommodation” there shall be added the following new definition:

“ “voluntary organisation” shall have the same meaning assigned to it by article 2 of the Voluntary Organisations Act.”. Cap. 492.

23. Article 5 of the principal Act shall be amended as follows: Amendment of article 5 of the principal Act.

(a) the whole article 5 shall be re-numbered as sub-article (1) thereof;

(b) in sub-article (1) thereof as renumbered, for the words “is accompanied by or possesses an auxiliary aid” there shall be substituted the words “is accompanied by or possesses any assistive means” and for the words “is in possession of such auxiliary aid” there shall be added the words “is in possession of such assistive means”; and

(c) immediately after sub-article (1) thereof as re-numbered, there shall be added the following new sub-articles:

“(2) A person shall be discriminating against another person on the grounds of disability if he subjects such other person to harassment in any circumstances relevant for the purposes of any provision of this Act:

Provided that any person who harasses another person as provided in this sub-article shall be guilty of an offence against this article and shall, without prejudice to any greater liability under any other law, be liable on conviction to a fine (*multa*) of not more than two thousand and five hundred euro (2,500) or to imprisonment for not more than six months or to both such fine and imprisonment.

(3) It shall not be lawful to victimise any person for having made a complaint to the lawful authorities or for having initiated or participated in the proceedings for redress on grounds of an alleged breach of any of the provisions of this Act, or for having disclosed any information, confidential or otherwise, to a lawful authority regarding alleged discriminatory behaviour, activities or practices.

(4) A person shall be discriminating against another person on the grounds of disability if he subjects such other person to a particular disadvantage through an apparently neutral provision, criterion or practice.

(5) A person shall be discriminating against another person on the grounds of disability if he fails to publicise, in an effective manner, those goods, facilities and services provided by him to persons with disability, in order to eliminate discrimination prohibited under this Act.”.

Amendment of
article 7 of the
principal Act.

24. Article 7 of the principal Act shall be amended as follows:

(a) sub-article (2) thereof shall be amended as follows:

(i) in paragraph (d) thereof, in the Maltese text thereof, for the words “jonqos milli jipprovdi bdil raġonevoli” there shall be substituted the words “jonqos milli jipprovdi akkomodazzjoni raġonevoli” and for the words “unless the employer can prove that the required accommodation would unduly prejudice the operation” there shall be substituted the words “ unless the employer can prove that the required alterations would unduly prejudice the operation”; and

(ii) in paragraph (e) thereof, for the words “the need of the employer to make reasonable accommodation for the disability of such a person” there shall be substituted the words “the need of the employer to make alterations for the disability of such a person”;

(b) the English text of sub-article (4) thereof shall be amended as follows:

(i) for the words “determining whether an accommodation would unduly prejudice the operation of the trade” there shall be substituted the words “determining whether any alterations would unduly prejudice the operation of the trade;

(ii) in paragraph (a) thereof, for the words “cost of the accommodation” there shall be substituted the words “cost of the alterations”;

(iii) in paragraph (b) thereof, for the words “making of the accommodation” there shall be substituted the words “making of the alterations”;

(iv) in paragraph (c) thereof, for the words “the workplace requiring accommodation” there shall be substituted the words “the workplace requiring alterations”;

(v) in paragraph (d) thereof, for the words “impact of the required accommodation” there shall be substituted the words “impact of the the required alterations”; and

(vi) in paragraph (h) thereof, for the words “to defray the expense of any accommodation” there shall be substituted the words “to defray the expense of any alterations”; and

(c) sub-article (5) thereof, shall be amended as follows:

(i) for the words “For the purposes of this article, the term “make reasonable accommodation” includes - ” there shall be substituted the words “For the purposes of this article, and without prejudice to the generality of article 2 of this Act, the term “make reasonable accommodation” includes - ”; and

(ii) in the English text of paragraph (b) thereof, for the words “similar accommodation for a person with a disability” there shall be substituted the words “similar alterations for a person with a disability”.

25. In paragraph (a) of sub-article (4) of article 8 of the principal Act, for the words “any necessary accommodations that may be required” there shall be substituted the words “any alterations that may be required”.

Amendment of article 8 of the principal Act.

26. Article 11 of the principal Act shall be amended as follows:

Amendment of article 11 of the principal Act.

(a) sub-article (1) thereof shall be amended as follows:

(i) for the words “in sub-articles (2) and (3), it

shall be unlawful” there shall be substituted the words “in sub-articles (2) and (3), and without prejudice to the generality of Part II of this Act, it shall be unlawful”; and

(ii) in sub-paragraph (i) of paragraph (b) thereof, for the words “benefit provided by such educational authority” there shall be substituted the words “benefit, facility or service provided by such educational authority”; and

(b) in sub-article (3) thereof for the word “admission” there shall be substituted the words “admission or continued participation” wherever this occurs.

Amendment of article
12 of the principal
Act.

27. Article 12 of the principal Act shall be amended as follows:

(a) for the marginal note thereof, there shall be substituted the words “Access to property.”;

(b) sub-article (1) thereof shall be amended as follows:

(i) for the words “in sub-article (2), it shall be unlawful” there shall be substituted the words “in sub-article (2), and without prejudice to the generality of Part II of this Act, it shall be unlawful”;

(ii) in paragraph (a) thereof, for the words “use of any premises” there shall be substituted the words “use of any property”, and in the English text for the words “a article of the public,” there shall be substituted the words “a sector of the public”;

(iii) in paragraph (b) thereof, for the words “such premises or facilities” there shall be substituted the words “such property or facilities”;

(iv) in paragraph (c) thereof, for the words “means of access to such premises” there shall be substituted the words “means of access to such property”, and for the words “any necessary alterations to such premises” there shall be substituted the words “any alterations to such property”; and

(v) in paragraph (d) thereof, for the words “to leave such premises” there shall be substituted the words “to leave such property”; and

(c) for sub-article (2) thereof there shall be substituted the following:

“(2) Where –

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

(b) the alteration of such property or facilities would be unreasonable in the circumstances,

then such a person may refuse a person with disability such access to or use of any property or facilities as are referred in paragraph (a) of sub-article (1) or refuse to carry out any alterations to such property or facilities that would otherwise render such property or facilities accessible to a person with a disability.”

28. Article 13 of the principal Act shall be amended as follows:

Amendment of article 13 of the principal Act.

(a) in sub-article (1) thereof, for the words “in sub-article (3), no qualified person with a disability shall” there shall be substituted the words “in sub-article (3), and without prejudice to the generality of Part II of this Act, no qualified person with a disability shall”;

(b) the English text of sub-article (2) shall be amended as follows:

(i) for the words “any article of the public” there shall be substituted the words “any sector of the public”; and

(ii) in the English text of paragraph (a) thereof, for the words “a section of the public,” there shall be substituted the words “a sector of the public”; and

(c) in sub-article (3) thereof, for the words “reasonable modification to rules” there shall be substituted the words “reasonable changes to rules”.

Amendment of article
14 of the principal
Act.

29. Article 14 of the principal Act shall be amended as follows:

(a) sub-article (1) thereof shall be amended as follows:

(i) for the words “in sub-articles (2) and (3) article no person, whether as principal or agent, shall discriminate” there shall be substituted the words “in sub-articles (2) and (3), and without prejudice to the generality of Part II of this Act, no person shall discriminate”; and

(ii) in paragraph (g) thereof, for the words “to make reasonable alterations to accommodation” there shall be substituted the words “to make alterations to accomodation”, and in sub-paragraph (ii) thereof, for the words “the alteration of premises occupied” there shall be substituted the words “the alteration of property occupied”;

(b) sub-article (2) thereof shall be amended as follows:

(i) in paragraph (a) thereof, for the words “reside on those premises” there shall be substituted the words “reside in that property”; and

(ii) in paragraph (b) thereof, for the words “provided in those premises” there shall be substituted the words “provided in that property”; and

(c) for sub-article (3) thereof, there shall be substituted the following:

“(3) The provisions of sub-article (1) shall also not apply if the provision of accommodation in properties where special the services or facilities that would be required by the person with a disability would be unreasonable in the circumstances.”.

Amendment of article
15 of the principal
Act.

30. Article 15 of the principal Act shall be amended as follows:

(a) in the English text, for the word “be constructed as prohibiting” there shall be substituted the words “be construed as prohibiting”; and

(b) for the words “the provision of goods” there shall be substituted the words “the provision and use of goods”.

31. Sub-article (1) of Article 20 of the principal Act shall be substituted by the following:

Amendment of article 20 of the principal Act.

“(1) For the purposes of this Act, in determining the reasonableness of any action to be undertaken by any person in the fulfilment of the provisions of this Act, including any alteration, change, and, or provision of services, facilities or assistive means, regard shall be had as to whether such actions could be undertaken without unjustifiable hardship.”;

32. Article 21 of the principal Act shall be amended as follows

Amendment of article 21 of the principal Act.

(a) sub-article (1) thereof shall be amended as follows:

(i) for the words “Housing and Economic Planning.” there shall be substituted the words “Housing and Economic Planning, as well as any other Ministries that he may deem relevant.”; and

(ii) for the words “in the field of disability issues.” there shall be substituted the words “in the field of disability issues, after consultation with such voluntary organisations.”;

(b) for sub-article (2) thereof, there shall be substituted the following new paragraph:

“(2) At least one half of the total number of the members of the Commission shall themselves be persons with a disability or family members of persons with a disability who cannot represent themselves. Such members shall be representative of different types of disability:

Provided that, where possible, there shall be a balanced representation of women and men.”; and

(c) in sub-article (3) thereof, for the words “family member of a person with a mental disability” there shall be substituted the words “family member of a person with a disability who cannot represent himself”.

Amendment of article 22 of the principal Act.

33. Immediately after paragraph (o) of article 22 of the principal Act, there shall be added the following new paragraphs:

“(p) have the power to take any appropriate action, including proportionate administrative measures and judicial action, to eliminate discrimination on the basis of disability as defined in this Act; and for the purpose of pursuing any judicial action as aforesaid the Commission shall in all cases be deemed to have the necessary judicial interest to pursue such action in its own name;

(q) raise awareness and foster respect for the rights and dignity of persons with disabilities, to combat stereotypes, prejudices and harmful practices relating to persons with disabilities, including those based on gender and age, in all areas of life;

(r) raise awareness about the capabilities and contributions of persons with disabilities; and

(s) provide the independent mechanism to promote, protect and monitor the implementation of the United Nations Convention on the Rights of Persons with Disability and any of its Optional Protocols as ratified by Malta.”.

Addition of new article 33A to the principal Act.

34. Immediately after article 33 of the principal Act, there shall be added the following new article:

“Proceedings instituted by third parties.

33A. Any association, organisation or any legal entity which has a legitimate interest in ensuring that the provisions of this Act are complied with, may institute, on behalf or in support of the person against whom an unlawful act of discrimination has been committed under this Act, with his or her approval, proceedings for redress before the competent Court.”.

Amendment of article 34 of the principal Act.

35. Article 34 of the principal Act shall be amended as follows:

(a) in the Maltese text thereof, for the words

“diskriminazzjoni kontrih jew kontrieha” there shall be substituted the words “diskriminazzjoni kontrih jew kontriha”;

(b) for the words “shall be subject to civil action in like manner as any other claim for damages” there shall be substituted the words “shall be made by means of a civil action and may include a claim for damages”; and

(c) for the words “up to a maximum of four hundred and sixty-five euro and eighty-seven cents (465.87) as the court may declare” there shall be substituted the words “two thousand and five hundred euro (2,500), as the court may declare”.

36. Immediately after article 34 of the principal Act there shall be added the following new article:

Addition of new article 34A to the principal Act.

“Defendant to prove that there has been no breach of Act.

34A. Where, in any judicial proceedings, other than criminal proceedings, taken in terms of this Act for redress following an unlawful act of discrimination, the person commencing the proceedings establishes before the Court facts from which it may be presumed that there has been discrimination, it shall be for the defendant to prove that there has been no breach of the provisions of this Act.”.

37. Article 35 of the principal Act shall be amended as follows:

Amendment of article 35 of the principal Act.

(a) sub-article (2) thereof shall be renumbered as sub-article (3) thereof;

(b) immediately after sub-article (1) thereof, there shall be inserted the following new sub-article:

“(2) The Minister may also make regulations as he may deem appropriate for the implementation of the provisions of any international treaty relating to persons with disability, to which Malta is a party.”; and

(c) in paragraph (a) of sub-article (3) as renumbered for the words “the provision of different goods” there shall be substituted the words “the provision and use of different goods”.

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Addition of new article 36 to the principal Act.

38. Immediately after article 35 of the principal Act there shall be added the following new article:

“Power of Minister to designate focal point. 36. The Minister may designate by means of notice in the Gazette the Competent Authority to act as the focal point for matters related to the implementation of the United Nations Convention on the Rights of Persons with Disability and any of its Optional Protocols as may be ratified by Malta.”.

Passed by the House of Representatives at Sitting No. 460 of 26th March, 2012.

MICHAEL FRENDU
Speaker

Raymond Scicluna
Clerk to the House of Representatives

