

**ABBOZZ TA' LIĠI****imsejjah**

*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-2011 li Jemenda Diversi Liġijiet li jirrigwardaw il-Materji dwar id-Diżabilità. Titolu fil-qosor.

**TAQSIMA I**

**2.** Din it-taqsima temenda il-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-Taqsima 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, minħabba mard tal-moħħ, ma tistax tagħti xiehda" għandhom jidhlu l-kliem "persuna li, minħabba diżabilità mentali, ma tistax tagħti xiehda". 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 jidhlu l-kliem "hija minuri, jew mignuna, 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 infermità mentali jew raġunijiet oħra”.

Emenda tal-artikolu  
520 tal-Kodiċi.

**6.** Fis-subartikolu (1) tal-artikolu 520 tal-Kodiċi, minflok il-kliem “fil-każijiet ta’ bluha abitwali, ta’ mard tal-moħħ, ta’ ġenn, jew ta’ tberbiq” għandhom jidhlu l-kliem “fil-każijiet ta’ diżabilità mentali, ta’ ġenn, jew ta’ tberbiq”.

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’ diżabilità mentali”.

Emenda tal-artikolu  
523 tal-Kodiċi.

**8.** Minnufih wara s-subartikolu (3) tal-artikolu 523 tal-Kodiċi, għandu jżied dan is-subartikolu ġdid li ġej:

“(4) (a) Matul iż-zmien ta’ kariga tiegħu, il-kuratur għandu jipprezenta lill-qorti, rapport ta’ kull sena li jkun jiddeskrivi l-istat ta’ ċirkostanzi li jkollhom x’jaqsmu mal-kurazija fdata lilu u l-istat tall persuna interdetta jew inabilitata.

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

Emenda tal-artikolu  
606 tal-Kodiċi.

**9.** Fis-subartikolu (1) tal-artikolu 606 tal-Kodiċi, minflok il-kliem “jew tkun hekk marida jew imdaħħla fiż-żmien li tista’ tmut jew issir inkapaċi li tixhed” għandhom jidhlu l-kliem “jew tkun hekk fiżikament marida jew mentalment diżabbli jew imdaħħla fiż-żmien li tista’ tmut jew issir inkapaċi li tixhed”.

Emenda tal-artikolu  
747 tal-Kodiċi.

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

(a) fit-test Ingliz, minflok il-kliem “incapacitaitaion of lunatics, imbeciles or persons insane or prodigal” għandhom jidhlu l-kliem “incapactitation of persons with a mental disability 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’diżabilità mentali, mgienen jew berbieqa”.

**11.** 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 disability and any other person”; u

(b) fit-test Malti, minflok l-kliem “il-persuni furjużi jew moħħhom marid u kull persuna oħra” għandhom jidhlu l-kliem “il-persuni b’dizabilità mentali jew mgienen u kull persuna oħra”.

**12.** 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 skond il-liġi, jew ta’ persuni b’dizabilità mentali jew ta’ interdetti”. Emenda tal-artikolu 929 tal-Kodiċi.

## TAQSIMA II

**13.** Din it-Taqsima temenda il-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-Kodiċi Ċivili.  
Kap. 16.

**14.** L-artikolu 189 tal-Kodiċi għandu jiġi emendat kif ġej: Emenda tal-artikolu 189 tal-Kodiċi.

(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’dizabilità mentali jew persuna b’dizabilità fiżika li tagħmilha inkapaċi li tiegħu hsieb ħwejjigħa, jew li tkun ħalja”; u

(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’dizabilità mentali jew ħalja”.

**15.** L-artikolu 190 tal-Kodiċi għandu jiġi mħassar. Thassir tal-artikolu 190 tal-Kodiċi.

**16.** L-artikolu 597 tal-Kodiċi għandu jiġi emendat kif ġej: Emenda tal-artikolu 597 tal-Kodiċi.

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

(b) fil-paragrafu (d) tiegħu, minflok il-kliem “ma jkunux f’sensihom fiż-żmien tat-testment” għandhom jidhlu l-kliem “jkunu persuni b’dizabilità mentali fiż-żmien tat-testment”.

Sostituzzjoni tal-artikolu 752 tal-Kodiċi.

**17.** Minflok l-artikolu 752 tal-Kodiċi għandu jidhlo dan li ġej:

“Sostituzzjoni fil-każ ta’ minuri, persuni b’dizabilità mentali.

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’dizabilità mentali jew miġnun, fil-beni biss li jkunu hallewlu, fil-każ li huwa jmut bid-dizabilità mentali jew miġnun, mingħajr tfal.

(3) F’kull sostituzzjoni msemmija 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 hliet is-sehem tal-beni, li minnu l-minuri, meta jsir ta’ l-età, inkella l-miġnun jew il-persuna b’dizabilità mentali, jekk fiż-żmien tal-mewt tiegħu jkun moħħu floku, jista’ jiddisponi.”.

Sostituzzjoni tal-artikolu 1034 tal-Kodiċi.

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

“Responsabbiltà ta’ min jiehu hsiieb ta’ minuri jew ta’ persuna b’dizabilità mentali.

1034. Kull persuna li tiegħu hsiieb ta’ minuri jew ta’ persuna b’dizabilità mentali, tkun responsabbli għall-hsara li jagħmel il-minuri jew persuna b’dizabilità mentali meta tonqos milli tiegħu l-hsiieb ta’ missier tajjeb tal-familja biex il-fatt ma jiġri.”.

Emenda tal-artikolu 1035 tal-Kodiċi.

**19.** Fl-artikolu 1035 tal-Kodiċi, minflok il-kelma “L-imġienen” għandhom jidhlu l-kliem “Persuni b’dizabilità mentali”.

**20.** Fl-artikolu 1036 tal-Kodiċi, minflok il-kliem “il-miġnun imsemmi fl-aħħar artikolu qabel dan” għandhom jidhlu l-kliem “il-persuni b’dizabilità mentali msemmija fl-aħħar artikolu qabel dan”.

Emenda tal-artikolu 1036 tal-Kodiċi.

**21.** Fl-artikolu 1241 tal-Kodiċi, minflok il-kliem “interdetti jew imġienen, bl-awtorizzazzjoni tal-qorti” għandhom jidhlu l-kliem “interdetti jew b’dizabilità mentali, bl-awtorizzazzjoni tal-qorti”.

Emenda tal-artikolu 1241 tal-Kodiċi.

### TAQSIMA III

**22.** Din it-Taqsima temenda l-Att dwar Opportunitajiet Indaqs għal Persuni b’Dizabilità, u għandha tinqara u tiftiehem haġa waħda ma’ l-Att dwar Opportunitajiet Indaqs għal Persuni b’Dizabilità, hawn iżjed ’l quddiem f’din it-Taqsima msejjaħ “l-Att prinċipali”.

Emenda tal-Kodiċi Att dwar Opportunitajiet Indaqs għal Persuni b’Dizabilità.  
Kap. 413.

**23.** 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 bżonnu f’każ partikolari, biex jiżgura li persuni b’dizabilità jkunu jistgħu jgawdu jew jeżerċitaw b’mod ugwali daqs oħrajn id-drittijiet tal-bniedem u l-libertajiet fundamentali kollha;”;

(ċ) minnufih wara t-tifsira ġdida “akkomodazzjoni raġonevoli”, għandha tidhol din it-tifsira ġdida li ġejja:

“ “apparat assistiv” tfisser kull mezz palljattiv (li jtaffi t-tbatija) jew terapewtiku, kull għajnuna prostetika, jew kull mezz jew apparat ieħor, inklużi animali mħarrġa, li jista’ jinhtieg minn persuna b’dizabilità b’mod speċifiku minhabba f’dik id-dizabilità;”;

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

“ “dizabilità” tfisser nuqqas fiziku, mentali, intellettuali jew sensorju għal żmien twil li flimkien ma’ ostakli diversi, jista’ jillimita lil persuna milli tippartecipa 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 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:

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

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

(h) it-tifsira “persuna b’dizabilità 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 “provvediment ta’ dawk l-oġġetti, faċilitajiet jew servizzi” għandhom jidhlu il-kliem “provvediment u l-użu ta’ dawk l-oġġetti, faċilitajiet jew servizzi”;

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

“ “proprjetà” tinkludi kull bini eżiżtenti u ġdid, u arei esterni bħalma huma toroq, bankini, passaġġi pubbliċi, ramliet u ġonna;”; u

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

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

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

Emenda tal-artikolu 5 tal-Att prinċipali.

(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 għajjnuna awżiljarja” għandhom jidhlu l-kliem “tkun akkumpanjata bi jew ikollha apparat assistiv” u minflok il-kliem “li jkollha xi għajjnuna awżiljarja bħal dik” għandhom jidhlu l-kliem “li jkollha xi apparat assistiv bħal dak”;

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

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

Iżda 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 teħel 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 proċedimenti għal rizarċiment abbażi tal-ksur allegat ta’ xi diżpożizzjoni ta’

dan l-Att, jew talli tkun tat informazzjoni, kunfidenzjali jew mix, lil awtorità regolatorja stabbilita, rigward xi mġieba, attivitajiet jew prattici allegatament diskriminatorji.

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

(5) Persuna tkun qiegħda tiddiskrimina kontra persuna oħra minħabba f'dizabilità jekk tonqos milli tagħmel pubbliku, b'mod effettiv, dawk l-oġġetti, faċilitajiet u servizzi provvduti minnha lill-persuni b'dizabilità, biex telimina d-diskriminazzjoni projibita taħt dan l-Att."

Emenda tal-artikolu 7 tal-Att prinċipali.

**25.** 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, fil-test Malti, minflok il-kliem "jonqos milli jipprovdi bdil raġonevoli" għandhom jidhlu l-kliem "jonqos milli jipprovdi akkommodazzjoni raġonevoli", u minflok il-kliem "ħlief jekk il-prinċipal jista' jgħib prova li l-bdil meħtieġ ser jippreġudika b'mod mhux xieraq, it-tħaddim" għandhom jidhlu l-kliem "ħlief 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-dizabilità ta' dik il-persuna" għandhom jidhlu l-kliem "il-ħtieġa tal-prinċipal li jipprovdi akkommodazzjoni raġonevoli għad-dizabilità ta' dik il-persuna";

(b) it-test Inġliż 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

(ċ) 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 “any necessary alterations that may be required”.

**26.** 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.

Emenda tal-artikolu  
11 tal-Att prinċipali.

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

(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 ittkomplija ta’ parteċipazzjoni,” kull fejn dawn jinsabu.

Emenda tal-artikolu  
12 tal-Att prinċipali.

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

(a) minflok in-notat marginali tiegħu, għandhom jidhlu l-kliem “Dhul gewwa 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-faċilitajiet” għandhom jidhlu l-kliem “dik il-proprjetà jew dawk il-faċilitajiet”;

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

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

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

“(2) Meta -

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

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

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

**29.** 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’dizabilità 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’dizabilità 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”;

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

Emenda tal-artikolu  
14 tal-Att prinċipali.

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

(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-proprjetà”; u

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

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

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

**31.** L-artikolu 15 tal-Att prinċipali għandu jiġi emendat kif ġej: Emenda tal-artikolu 15 tal-Att prinċipali.

(a) fit-test Inġliż, 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”.

**32.** 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, akkwist ta’ servizzi, faċilitajiet jew apparat assistiv, għandu jitqies jekk dawk l-azzjonijiet ikunux jistgħu jitwettqu mingħajr ma jġibu piż mhux ġustifikat.”.

**33.** 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.”

(ii) minflok il-kliem “Seba’ membri oħra jinħatru minn fost dawk il-persuni li, fil-fehma tal-Prim Ministru, ikunu l-aħjar jirrapprezentaw organizzazzjonijiet volontarji li jaħdmu fil-qasam tad-disabilità.” għandhom jidhlu l-kliem “Seba’ membri oħra jinħatru minn fost organizzazzjonijiet volontarji li jaħdmu fil-qasam tad-disabilità u għandhom ikunu ndividwi li, fil-fehma tal-

Prim Ministru, ikunu l-aħjar li jirrapreżentaw il-persuni b'diżabilità u l-familji tagħhom.”

(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'diżabilità jew membri tal-familja ta' persuni b'diżabilità li ma jkunx jistgħu jirrapreżentaw lilhom infushom:

Iżda, meta jkun possibbli, għandu jkun hemm rappreżentanza bilanċjata ta' nisa u rġiel u ta' persuni b'tipi differenti ta' diżabilità.” u

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

Emenda tal-artikolu  
22 tal-Att prinċipali.

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

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

(q) tagħmel konsapevoli u tkattar ir-rispett ta' persuni għad-drittijiet u d-dinjità ta' persuni b'diżabilità, tegħleb sterjotipi, preġudizzi u prattiċi dannużi fir-rigward ta' persuni b'diżabilità, li jkunu jinkludu dawk li għandhom x'jaqsmu mal-ġeneru u l-età tal-persuna, f'kull qasam tal-ħajja;

(r) tagħmel konsapevoli lil persuni 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.”

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

Zjieda ta' l-artikolu 33A ġdid mal-Att prinċipali.

“Proċedimenti mibdija minn terzi.

33A. Kull assoċjazzjoni, organizzazzjoni jew entità legali oħra li jkollhom interess legittimu li jiżguraw li d-diżpożizzjonijiet ta' dan l-Att jiġu mħarsa, tista' tibda, għan-nom ta' jew b'sostettn 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-Prim'Awla tal-Qorti Ċivili.”.

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

Emenda tal-artikolu 34 tal-Att prinċipali.

(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 pretenzjoni oħra għad-danni” għandhom jidhlu l-kliem “b'azzjoni ċivili li tista' tinkludi wkoll pretenzjoni għad-danni”; u

(ċ) minflok il-kliem “sa massimu ta' erba' mija u ħamsa 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 ħames mitt euro (2,500), hekk kif il-qorti tista' tiddikjara.”.

**37.** Minnufih wara l-artikolu 34 tal-Att prinċipali, għandu jiżdied 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 minħabba 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.

**38.** 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 jidhiru 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”.

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

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

“Il-Ministru jista’ jispeċifika... 36. Il-Ministru, b’avviż fil-Gazzetta, jista’ 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’Dizabilità u ta’ kull Protokoll Opzjonali relattiv kif ratifikat minn Malta.

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## Għanijiet u Raġunijiet

L-għanijiet ta’ dan l-Abbozz ta’ Liġi huma biex jiġi promulgat Att biex jemenda diversi liġijiet li għandhom x’jaqsmu ma’ materji dwar id-Dizabilità. Dan sabiex ikun possibbli għal Malta li ttrattifika l-Konvenzjoni tal-Ġnus Maqgħuda dwar id-Drittijiet ta’ Persuni b’Dizabilità. Dan l-abbozz għandu wkoll l-għan aktar wiesgħa li jkompli jissahħaħ il-qafas leġislattiv sod li japplika għal persuni b’dizabilità sabiex dan isir aktar relevanti għas-sitwazzjoni li jinsabu fiha llum il-persuni b’dizabilità.



**A BILL  
entitled**

*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, 2011. 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” there shall be substituted the words “any person who, on account of a mental disability, is unable to give evidence”. 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.** In sub-article (1) of article 520 of the Code, for the words “persons who are habitual idiots, insane, frenzied or prodigal” there shall be substituted the words “persons who have a mental disability or who are insane or prodigal”.

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 the case of a mental disability”.

Amendment of article 523 of the Code.

**8.** Immediately after sub-article (3) of article 523 of the Code, there shall be added the following new sub-article:

“(4) (a) During the term of his appointment, the curator shall submit a yearly report to the court describing the state of circumstances relating to his curatorship and the state of the person interdicted or incapacitated.

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

Amendment of article 606 of the Code.

**9.** In sub-article (1) of article 606 of the Code, for the words “or is so infirm or advanced in years that he might die or become unable to give his evidence” there shall be substituted the words “or is so physically infirm, mentally disabled or advanced in years that he might die or become unable to give his evidence”.

Amendment of article 747 of the Code.

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

(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 disability 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’ diżabilità mentali, mgienen jew berbieqa”.

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

(a) in the English text, for the words “a lunatic or an insane person, and any other person” there shall be substituted the words “an insane person, a person with a mental disability and any other person”; and

(b) in the Maltese text thereof for the words “il-persuni furjużi jew moħħhom marid u kull persuna oħra” there shall be substituted the words “il-persuni b’ diżabilità mentali jew mgienen u kull persuna oħra”.

**12.** 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 disability or person interdicted”. Amendment of article 929 of the Code.

## PART II

**13.** 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 the Civil Code.  
Cap. 16.

**14.** Article 189 of the Code shall be amended as follows: Amendment of article 189 of the Code.

(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 disability or a person with a physical disability which renders him incapable of managing his own affairs, or who is prodigal”; and

(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 disability or is prodigal.”

**15.** Article 190 of the Code shall be deleted. Deletion of article 190 of the Code.

Amendment of article  
597 of the Code.

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

(a) in the Maltese text of paragraph (c) thereof, for the words “l-interdetti minħabba mard tal-moħħ” there shall be substituted the words “l-interdetti minħabba ġenn”; 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 disability at the time of the will”.

Substitution of article  
752 of the Code.

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

“Substitution  
in the case of  
minors,  
persons with  
a mental  
disability 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 disability 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 disability 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, the insane person or person with a mental disability, if of sound mind at the time of his death, could dispose of.”.

Substitution of article  
1034 of the Code.

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

“Liability of  
person having  
charge of  
minor or  
person with  
a mental  
disability.

1034. Any person having the charge of a minor or of a person with a mental disability shall be liable for any damage caused by such minor or person with a mental disability, if he fails to exercise the care of a *bonus paterfamilias* in order to prevent the act.”.

**19.** In article 1035 of the Code, for the words “Persons of unsound mind” there shall be substituted the words “Persons with a mental disability”. Amendment of article 1035 of the Code.

**20.** 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 disability referred to in the last preceding article.”. Amendment of article 1036 of the Code.

**21.** 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 disability, with the authority of the court”. Amendment of article 1241 of the Code.

### PART III

**22.** 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.

**23.** 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 definition new definition “alteration” there shall be added the following new definition:

“ “assistive apparatus means any palliative or therapeutic device, any prosthetic apparatus, or any other device or apparatus, 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 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 such goods, facilities or services” there shall be substituted the words “provision and use of such good, 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; ”; and

(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.

**24.** 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 apparatus” and for the words “is in possession of such auxiliary aid” there shall be added the words “is in possession of such assistive apparatus”; 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.

**25.** 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 akkommodazzjoni 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”.

Amendment of article  
8 of the principal Act.

**26.** 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  
11 of the principal  
Act.

**27.** Article 11 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), 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.

**28.** 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.”

**29.** 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.

**30.** 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.”.

**31.** Article 15 of the principal Act shall be amended as follows: Amendment of article 15 of the principal Act.

(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”.

**32.** 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 procurement of services, facilities or assistive apparatus, regard shall be had as to whether such actions could be undertaken without unjustifiable hardship.”;

**33.** 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 “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.” there shall be substituted the words “Another seven of the members shall be appointed from among voluntary

organisations working in the field of disability issues, and shall be individuals who, in the opinion of the Prime Minister, best represent persons with disabilities and their families.”;

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

“(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:

Provided that, where possible, there shall be a balanced representation of women and men and of persons with different types of disability.”; 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.

**34.** 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.”.

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

Addition of new article 33A to the principal Act.

“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 Civil Court, First Hall.”.

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

Amendment of article 34 of the principal Act.

(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 “in like manner as any other claim for damages” there shall be substituted the words “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”.

**37.** 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.”.

**38.** 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”.

Addition of new article 36 to the principal Act.

**39.** 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.”.

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## Objects and Reasons

The objects of this Bill are to make provision for the enactment of an amendment Act in order to enable the United Nations Convention on the Rights of Persons with Disability and with the wider scope of further improving upon the strong legislative framework applicable to persons with a disability with a view to enhancing its relevance to the realities currently faced by persons with a disability.