

**ABBOZZ TA' LIĠI  
msejjah**

*ATT sabiex jipprovi għall-possibilità ta' talbiet dwar azzjonijiet civili li jallegaw diskriminazzjoni minhabba diżabilità fir-rigward tal-Artikoli sostantivi tal-Konvenzjoni tal-Ġnus Magħquda dwar id-Drittijiet ta' Persuni b'Diżabilità, kif ukoll sabiex jipprovi għal materji oħra fir-rigward tal-implimentazzjoni ta' tali Konvenzjoni.*

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 l-Att tal-2021 dwar il-  
. Konvenzjoni dwar id-Drittijiet ta' Persuni b'Diżabilità. Titolu fil-qosor.

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

"DDI" tfisser id-Direttorat għall-Affarijiet dwar id-Diżabilità mwaqqaf kif stabbilit fl-artikolu 5;

"diżabilità" għandha tinftiehem skont dak stabbilit fl-Artikolu 1 tal-Konvenzjoni;

"drittijiet sostantivi tal-Konvenzjoni" tfisser dawk id-drittijiet kif elenkati fl-Artikoli 5 sa 30 (it-tnejn inklużi) tal-Konvenzjoni, liema Artikoli huma riprodotti fit-Tieni Skeda, u eżegwibbli skont id-Dikjarazzjoni u Riżervi magħmula mill-Gvern ta' Malta meta giet iffirmata l-Konvenzjoni fit-30 ta' Marzu 2007, kif emendata minn żmien għal żmien, u riprodotti fit-Tielet Skeda:

Iżda l-imsemmija drittijiet ma għandhomx jinftiehem li huma drittijiet u libertajiet fundamentali tal-individwu fit-termini tal-Kostituzzjoni jew Drittijiet tal-Bniedem u Libertajiet Fondamentali fit-termini tal-Att dwar il-Konvenzjoni Ewropea. Kap. 319.

"EMPOWER" tfisser il-mekkanizmu ta' parteċipazzjoni

għas-soċjetà ċivili imwaqqaf fi hdan id-DDI skont l-artikolu 6;

"Konvenzjoni" jew "UNCRC" tfisser il-Konvenzjoni tal-Ġnus Magħquda dwar id-Drittijiet ta' Persuni b'Diżabilità adottata mill-Assemblea Generali permezz tar-riżoluzzjoni 61/106 tat-13 Dicembru 2006 li dahlet fis-seħh fit-3 ta' Mejju 2008, li giet iffirmata mill-Gvern ta' Malta fit-30 ta' Marzu 2007 u rratifikata fl-10 ta' Ottubru 2012, li tinsab annessa mal-Ewwel Skeda;

"Kumitat tal-Ġnus Magħquda" tfisser il-Kumitat tal-Ġnus Magħquda dwar id-Drittijiet ta' Persuni b'Diżabilità stabbilit fit-termini tal-Artikolu 34 tal-Konvenzjoni;

"Mekkaniżmu Nazzjonali ta' Koordinazzjoni għall-Konvenzjoni UNCRC" tfisser il-mekkaniżmu nazzjonali ta' koordinazzjoni fi hdan il-Gvern kif stabbilit permezz tad-DDI skont l-artikolu 5;

"Ministru" tfisser il-Ministru responsabbli għad-diżabilità u għall-iżvilupp ta' dan is-settur, u tinkludi kull persuna debitament awtorizzata mill-istess Ministru sabiex taġixxi f'ismu minhabba att speċifiku taht dan l-Att;

"Panel għal Rimedju taht il-Konvenzjoni" tfisser il-Panel għal Rimedju taht il-Konvenzjoni mwaqqaf permezz tal-artikolu 33B tal-Att dwar Opportunitajiet Indaqs (Persuni b'Diżabilità);

Kap. 413.

"Protokoll Mhux Obbligatorju" tfisser il-Protokoll mhux Obbligatorju tal-Konvenzjoni, li l-Gvern ta' Malta ffirmat fit-30 ta' Marzu 2007 u rratifika fl-10 ta' Ottubru 2012."

(2) Għall-finijiet ta' dan l-Att, sabiex jiġu nterpretati d-drittijiet sostantivi tal-Konvenzjoni:

(i) it-tifsiriet misjuba fl-Artikolu 2 tal-Konvenzjoni, kif riprodott fl-Ewwel Skeda, għandha tapplika;

(ii) "diskriminazzjoni minhabba f'diżabilità", filwaqt illi għandu jkollha l-istess tifsira kif mogħtija lilha fl-Artikolu 2 tal-Konvenzjoni, għandha wkoll tinkludi, iżda ma għandhiex tkun limitata għal, dik il-gwida interpretattiva stabbilita fir-Raba' Skeda;

(iii) il-Kummenti Ġenerali maħruġa mill-Kumitat tal-Ġnus Magħquda għandhom ikunu nkluzi fil-Ħames Skeda, kif emendata minn żmien għal żmien, u għandha tikkostitwixxi gwida nterpretattiva meta jkunu qed jiġu nterpretati d-drittijiet

sostantivi tal-Konvenzjoni;

(iv) Il-Panel għal Rimedju taht il-Konvenzjoni, it-Tribunal ta' Revizjoni Amministrattiva u l-Qrati Ċivili għandhom, fit-tehd ta' kull deċiżjoni dwar kwalunkwe talba miġjuba quddiemhom, jipprevalixxu ruhhom minn margini ta' apprezzament illi jikkunsidra ċ-ċirkostanzi nazzjonali fi kwalunkwe żmien, fir-rigward tal-interpretazzjoni tad-drittijiet sostantivi tal-Konvenzjoni u l-applikazzjoni tagħhom.

"Proċeduri quddiem il-Panel għal Rimedju taht il-Konvenzjoni fir-rigward ta' talbiet dwar diskriminazzjoni minhabba f' dizabilità. Kap. 413.

**3. (1)** Kull persuna msemmija fl-artikolu 33B(4) tal-Att dwar Opportunitajiet Indaq (Persuni b'Dizabilità) illi tallega diskriminazzjoni minhabba dizabilità, fir-rigward ta' kwalunkwe wiehed mid-drittijiet sostantivi tal-Konvenzjoni, tista' tippreżenta petizzjoni quddiem il-Panel għal Rimedju taht il-Konvenzjoni fir-rigward tal-allegata diskriminazzjoni, sabiex tali Panel ikun jista' jezamina l-imsemmija petizzjoni u jiddeċiedi dwarha.

Proċeduri ċivili fir-rigward ta' diskriminazzjoni minhabba f' dizabilità. Kap. 413.

(2) Kull persuna jew entità msemmija fl-artikolu 33A u, jew 33B(4) tal-Att dwar Opportunitajiet Indaq (Persuni b'Dizabilità) illi tallega diskriminazzjoni minhabba dizabilità, fir-rigward ta' kwalunkwe wiehed mid-drittijiet sostantivi tal-Konvenzjoni, u meta r-rimedju pretiż fir-rigward ta' tali allegata diskriminazzjoni jkun jinkludi wkoll rimedju ta' natura pekunjarja, kemm jekk tali rimedju jkun mitlub flimkien ma' xi forma oħra ta' rimedju jew xort'oħra, jistgħu jipprevalixxu ruhhom minn azzjoni ċivili, fit-termini tal-artikolu 34 tal-Att dwar Opportunitajiet Indaq (Persuni b'Dizabilità).

Inkonsistenza ma' liġijiet oħra. Kap. 319. Kap. 413.

**4.** Meta xi liġi oħra, illi ma tkunx il-Kostituzzjoni, l-Att dwar il-Konvenzjoni Ewropea, l-Att dwar Opportunitajiet Indaq (Persuni b'Dizabilità) u l-Att dwar l-Unjoni Ewropea, tkun inkonsistenti ma' dan l-Att, dan l-Att għandu jipprevali meta tali inkonsistenza tirrigwardja d-drittijiet sostantivi tal-Konvenzjoni.

Kap. 460.

**5. (1)** Għandu jkun hemm Direttorat għall-Affarijiet dwar id-Dizabilità, li għandu jissejjaħ "DDI", u li għandu jirraporta lis-Segretarju Permanenti fil-Ministeru responsabbli għad-dizabilità u

Id-Direttorat għall-Affarijiet dwar id-Dizabilità (DDI).

għall-iżvilupp ta' dan is-settur.

(2) Id-DDI għandu jkun il-punt fokali nazzjonali għall-materji relatati mal-implimentazzjoni tal-Konvenzjoni, skont l-Artikolu 33(1) tal-Konvenzjoni.

(3) Id-DDI għandu wkoll jistabbilixxi fi hdan l-istrutturi tiegħu mekkaniżmu nazzjonali ta' koordinazzjoni fi hdan il-Gvern, li għandu jissejjaħ il-"Mekkaniżmu Nazzjonali ta' Koordinazzjoni għall-Konvenzjoni UNCRPD", sabiex jiffaċilita azzjoni meħtieġa in konnessjoni mal-Att, f'setturi differenti u f'livelli differenti, skont l-Artikolu 33(1) tal-Konvenzjoni.

(4) Id-DDI għandu inoltre jeżerċita l-funzjonijiet u d-dmirijiet tal-amministrazzjoni pubblika kif ġej:

(a) jidentifika, jistabbilixxi u jgedded il- politiki u l-istrateġiji nazzjonali kollha, inkluż il-Politika Nazzjonali dwar id-Drittijiet ta' Persuni b'Diżabilità' u l-Istrateġija Nazzjonali dwar id-Diżabilità, direttament jew indirettament relatati mal-affarijiet dwar id-diżabilità;

(b) iniedi inizjattivi fil-kamp tar-riċerka relatata mad-diżabilità, flimkien ma' stakeholders lokali u barranin;

(c) jigbor u jikkompila rispons u statistiċi meħtieġa għal rappurtar lil entitajiet lokali u nternazzjonali, li jikkonċernaw l-obbligi legali ta' Malta fil-qasam tad-diżabilità, u jikkordina jew jikkontribwixxi għal revizjonijiet kondotti minn tali entitajiet lokali u nternazzjonali;

(d) jinkoraġġixxi self-advocacy minn persuni b'diżabilità, inkluż permezz ta' skemi ta' taħriġ u empowerment, flimkien ma' inizjattivi ġenerali ta' promozzjoni fil-kamp tad-diżabilità, u jassisti fl-avvanz u fl-iżvilupp ta' inizjattivi għal dan il-għan, filwaqt illi jagħti sostenn lil inizjattivi eżistenti;

(e) jiżviluppa proġetti oħra mmirati lejn l-empowerment ta' persuni b'diżabilità, filwaqt illi jagħti sostenn lil, u jikkollabora fir-rigward ta' proġetti simili żviluppati u mħaddma minn entitajiet oħra;

(f) jikkollabora mal-istakeholders kollha rilevanti fil-qasam tal-għarfien dwar id-diżabilità, bil-għan aħhari illi jkun hemm aċċettazzjoni, inklużjoni u empowerment ta' persuni b'diżabilità;

(g) jirrappreżenta l-interessi ta' Malta f'livell tekniku, ġewwa fora permanenti u *ad hoc*, lokali u nternazzjonali, illi jkopru l-qasam tad-diżabilità, u altrimenti jżomm kuntatt dirett u kontinwu ma' entitajiet lokali u barranin illi jaħdmu fil-qasam tal-affarijiet dwar id-diżabilità;

(h) jaqdi kull funzjoni oħra anċillari jew inċidentali jew konsegwenzjali mal-materji stipulati fil-paragrafi (a) sa (g), jew li huma altrimenti neċessarji jew utli għall-funzjonament tas-settur Malti tad-diżabilità, jew kull funzjoni oħra illi l-Ministru jista', minn żmien għal żmien, jiddetermina.

6. Il-Ministru għandu, permezz ta' regolamenti, jipprovdi għat-twaqqif u l-operat kontinwu ta' EMPOWER, illi għandu jkun il-mekkaniżmu ta' parteċipazzjoni għas-soċjeta' ċivili fi hdan id-DDI, in segwitu tal-obbligi stabbiliti fl-Artikolu 4(3) tal-Konvenzjoni, minn żmien għal żmien, għal kull materja oħra neċessarja u utli għall-operat bla xkiel ta' EMPOWER.

Mekkaniżmu ta' parteċipazzjoni għas-soċjeta' ċivili.

7. Fl-Ewwel, it-Tieni, it-Tielet u l-Ħames Skedi, jekk ikun hemm xi kunflitt bejn il-verżjoni Ingliża u Maltija, għandha tipprevali l-verżjoni Ingliża.

Kunflitt bejn il-verżjonijiet fl-Iskedi.

8. Il-Ministru jista' jagħmel regolamenti sabiex jagħti effett lid-dispożizzjonijiet ta' dan l-Att, u għall-infurzar tagħhom.

Poteri tal-Ministru.

## L-EWWEL SKEDA

### [ARTIKOLU 2(2)(i)]

#### L-Artikolu 2 tal-Konvenzjoni tal-Ġnus Magħquda dwar id-Drittijiet ta' Persuni b'Diżabilità (UNCRPD)

#### Artikolu 2

#### Tifsiriet

Għall-għanijiet ta' din il-Konvenzjoni:

- "Komunikazzjoni" tinkludi lingwi, turija ta' testi, *Braille*, komunikazzjoni li tħoss, tipa kbira, multimedja aċċessibbli kif ukoll lingwi miktuba, awdjo, lingwa faċli, qarreja umani u forom awmentattivi u alternattivi, mezzi u formati ta' komunikazzjoni, inkluz informazzjoni aċċessibbli u teknoloġija tal-komunikazzjoni;

- "Lingwa" tinkludi lingwi mitkellma u bis-sinjali u forom oħra ta' lingwi mhux mitkellma;

- "Diskriminazzjoni minhabba diżabilità" tfisser kull

distinzjoni, esklużjoni jew restrizzjoni minħabba diżabilità li għandha l-għan jew l-effett li ttelef jew tħassar l-għarfien, it-tgawdija jew l-eżerċizzju, fuq bażi ugwali mal-oħrajn, tad-drittijiet umani u l-libertajiet fundamentali kollha fl-oqsma politiċi, ekonomiċi, soċjali, kulturali, ċivili jew xi qasam ieħor. Tinkludi kull forma ta' diskriminazzjoni, inkluż iċ-ċaħda ta' modifiki raġonevoli;

- "Modifiki raġonevoli" tfisser modifiki u tibdil neċessarju u xieraq li ma jimponux piż sproporzjonat jew mhux xieraq, fejn dan ikun meħtieġ f'każ partikolari, biex jassiguraw li persuna b'diżabilità tgawdi jew teżerċita fuq bażi ugwali mal-oħrajn id-drittijiet umani u l-libertajiet fundamentali kollha;

- "Disinn universali" tfisser disinn ta' prodotti, ambjenti, programmi u servizzi għall-użu ta' kulhadd, bl-aktar mod possibbli, mingħajr il-bzonn ta' tibdil jew disinn speċjalizzat. "Disinn universali" m'għandux jeskludi apparat assistiv għal gruppi partikolari ta' persuni b'diżabilità fejn dan ikun meħtieġ.

## IT-TIENI SKEDA

### [ARTIKOLU 2(1)]

#### Artikoli 5 sa 30 tal-Konvenzjoni tal-Ġnus Magħquda dwar id-Drittijiet ta' Persuni b'Diżabilità (UNCRPD)

#### Artikolu 5

#### Ugwaljanza u non-diskriminazzjoni

1. L-Istati Msieħba jagħrfu li kull persuna hi ugwali quddiem u skont il-liġi u huma intitolati mingħajr ebda diskriminazzjoni għal protezzjoni ugwali u benefiċċji ugwali tal-liġi.

2. L-Istati Msieħba għandhom jipprojbixxu kull diskriminazzjoni minħabba diżabilità u jiggarrantixxu lil persuni b'diżabilità protezzjoni legali ugwali u effettiva kontra d-diskriminazzjoni minħabba kull raġuni.

3. Biex tingħata promozzjoni lill-ugwaljanza u l-eliminazzjoni ta' diskriminazzjoni, l-Istati Msieħba għandhom jieħdu passi xierqa biex jassiguraw li l-modifika raġonevoli ssir.

4. Mizuri speċifiċi li huma meħtieġa biex tiġi aċċellerata jew tintlaħaq l-ugwaljanza *de facto* għall-persuni b'diżabilità m'għandhomx jiġu kkunsidrati bħala diskriminazzjoni skont it-termini ta' din il-Konvenzjoni.

## **Artikolu 6**

### **Nisa b'dizabilità**

1. L-Istati Msieħba jagħrfu li nisa u bniet b'dizabilità huma soġġetti għal diskriminazzjoni multipla, u f'dan ir-rigward għandhom jieħdu miżuri li jassiguraw it-tgawdija sħiħa u ugwali minnhom tad-drittijiet umani u l-libertajiet fundamentali kollha.

2. L-Istati Msieħba għandhom jieħdu l-miżuri xierqa kollha biex jassiguraw l-iżvilupp sħiħ, l-avvanz u li n-nisa jingħataw poteri akbar, bil-għan li jiġu ggarantiti l-eżerċizzju u t-tgawdija tad-drittijiet umani u l-libertajiet fundamentali kollha li jinsabu f'din il-Konvenzjoni.

## **Artikolu 7**

### **Tfal b'dizabilità**

1. L-Istati Msieħba għandhom jieħdu l-miżuri kollha biex jassiguraw li tfal b'dizabilità jgawdu d-drittijiet umani u l-libertajiet fundamentali kollha fuq bażi ugwali ma' tfal oħra.

2. F'kull azzjoni li tikkoncerna lit-tfal, l-aħjar interess tat-tfal għandu jkun ta' kunsiderazzjoni primarja.

3. L-Istati Msieħba għandhom jassiguraw li t-tfal b'dizabilità jkollhom id-dritt li jesprimu l-opinjoni tagħhom b'mod ħieles fuq kull haġa li taffettwawhom, u li l-opinjoni tagħhom jingħataw konsiderazzjoni xierqa skont l-età u l-maturità tagħhom, fuq bażi ugwali ma' tfal oħra, u jingħataw assistenza skont l-età u d-dizabilità tagħhom biex huma jkunu jistgħu jgawdu minn dan id-dritt.

## **Artikolu 8**

### **Għarfien**

1. L-Istati Msieħba jaċċettaw li jadottaw miżuri immedjati, effettivi u xierqa:

(a) Li jkabbru l-għarfien mas-soċjetà kollha, inkluż fil-livell tal-familja, dwar il-persuni b'dizabilità, u li jrawmu rispett għad-drittijiet u d-dinjità tal-persuni b'dizabilità;

(b) Li jiġġieldu l-isterjotipi, il-preġudizzji u l-prattici li jagħmlu l-ħsara fil-konfront ta' persuni b'dizabilità, inkluż dawk ibbazati fuq sess u età, fl-oqsma kollha tal-ħajja;

(c) Li jippromwovu l-għarfien tal-kapaċitajiet u l-kontribuzzjonijiet ta' persuni b'dizabilità.

2. Miżuri għal dan il-għan jinkludu:

(a) Il-bidu u t-tmexxija ta' kampanji pubbliċi u effettivi ta' għarfien iddisinjati:

(i) Biex iwasslu li l-pubbliku jaċċetta d-drittijiet tal-peruni b'diżabilità;

(ii) Biex jippromwovu perċezzjonijiet pożittivi u għarfien soċjali akbar dwar il-persuni b'diżabilità;

(iii) Biex jippromwovu l-għarfien tal-ħiliet, il-merti u l-abilitajiet tal-persuni b'diżabilità, u l-kontribut tagħhom lejn il-post u s-suq tax-xogħol;

(b) Li jrawmu f'kull livell tas-sistema edukattiva inkluż it-tfal kollha sa minn età bikrija, attitudni ta' rispett lejn id-drittijiet tal-persuni b'diżabilità;

(c) Li jinkoraġġixxu kull qasam tal-midja biex juru lill-persuni b'diżabilità b'mod konsistenti mal-għanijiet ta' din il-Konvenzjoni;

(d) Li jippromwovu programmi ta' taħriġ dwar l-għarfien li jirrigwarda persuni b'diżabilità u d-drittijiet ta' persuni b'diżabilità.

## **Artikolu 9** **Aċċessibilità**

1. Biex jappoġġjaw persuni b'diżabilità jgħixu b'mod indipendenti u jipparteċipaw b'mod sħiħ f'kull aspett tal-ħajja, l-Istati Msieħba għandhom jieħdu miżuri xierqa li jassiguraw li persuni b'diżabilità jkollhom aċċess, fuq bażi ugwali mal-oħrajn, għall-ambjent fiżiku, it-trasport, l-informazzjoni u l-komunikazzjoni inkluż teknoloġiji u sistemi tal-informazzjoni u l-komunikazzjoni, u faċilitajiet u servizzi oħrajn miftuħa jew provduti lill-pubbliku, f'postijiet kemm urbani u kif ukoll rurali. Dawn il-miżuri, li għandhom jinkludu l-identifikazzjoni u l-eliminazzjoni ta' ostakoli għall-aċċessibilità, għandhom japplikaw, *inter alia*, għal:

(a) Bini, toroq, trasport u faċilitajiet oħra kemm ġewwa kif ukoll barra, inkluż skejjel, djar, faċilitajiet mediċi u postijiet tax-xogħol;

(b) Informazzjoni, komunikazzjoni u servizzi oħra, inkluż servizzi elettronici u servizzi ta' emerġenza.



2. L-Istati Msieħba għandhom jieħdu miżuri xierqa biex:

(a) Jiżviluppaw, ixerrdu u jimmonitorjaw l-implimentazzjoni ta' *standards* u linji gwida minimi għall-aċċessibilità ta' faċilitajiet u servizzi miftuħa jew provduti lill-pubbliku;

(b) Jassiguraw li entitajiet privati li joffru faċilitajiet u servizzi li huma miftuħa jew provduti lill-pubbliku jieħdu konsiderazzjoni tal-aspetti kollha ta' aċċessibilità għal persuni b'diżabilità;

(c) Jipprovdu taħriġ lil dawk involuti f'oqsma ta' aċċessibilità li jiffaċċjaw persuni b'diżabilità;

(d) Jipprovdu f'bini u faċilitajiet oħra miftuħa għall-pubbliku sinjali bil-*Braille* u forom faċli biex taqra u tifhem;

(e) Jipprovdu forom ta' assistenza u intermedjarji umani, inkluż gwidi, qarreja u interpreti professjonali tal-lingwa tas-sinjali, biex jiffaċilitaw l-aċċessibilità għal bini u faċilitajiet oħra miftuħa għall-pubbliku;

(f) Jipromwovu forom oħra xierqa ta' assistenza u appoġġ lil persuni b'diżabilità biex jiġi assigurat l-aċċess taġħhom għall-informazzjoni;

(g) Jipromwovu aċċess lil persuni b'diżabilità għal teknoloġiji u sistemi godda tal-informazzjoni u l-komunikazzjoni, inkluż l-Internet;

(h) Jipromwovu d-disinn, l-iżvilupp, il-produzzjoni u d-distribuzzjoni ta' teknoloġiji u sistemi ta' informazzjoni u komunikazzjoni aċċessibbli fi stadju bikri, sabiex dawn it-teknoloġiji u s-sistemi jsiru aċċessibbli bi spiża minima.

### **Artikolu 10 Dritt għall-hajja**

L-Istati Msieħba jaffermaw mill-ġdid li kull esseru uman għandu d-dritt intrinsiku għall-hajja u għandhom jieħdu l-miżuri kollha neċessarji biex jassiguraw it-tgawdija effettiva ta' dan id-dritt minn persuni b'diżabilità fuq bażi ugwali mal-oħrajn.

### **Artikolu 11 Sitwazzjonijiet ta' riskju u emergenzi umanitarji**

L-Istati Msieħba għandhom jieħdu, skont l-obbligi taġħhom taħt

id-dritt internazzjonali, inkluż id-dritt internazzjonali umanitarju u d-dritt internazzjonali dwar id-drittijiet umani, kull miżura neċessarja biex jassiguraw il-protezzjoni u s-sigurtà ta' persuni b'diżabilità f'sitwazzjonijiet ta' riskji, inkluż sitwazzjonijiet ta' konflitti armati, emerġenzi umanitarji u meta jkun hemm diżastri naturali.

## **Artikolu 12**

### **Gharfien ugwali quddiem il-ligi**

1. L-Istati Msieħba jafferaw mill-ġdid li persuni b'diżabilità għandhom id-dritt għall-għarfien kullimkien bħala persuni quddiem il-ligi.

2. L-Istati Msieħba għandhom jagħrfu li persuni b'diżabilità jgawdu mill-kapaċità legali fuq bażi ugwali mal-oħrajn f'kull aspett tal-ħajja.

3. L-Istati Msieħba għandhom jieħdu miżuri xierqa biex jipprovdu aċċess lil persuni b'diżabilità, bħal l-appoġġ li huma jista' jkollhom bżonn biex jeżerċitaw il-kapaċità legali tagħhom.

4. L-Istati Msieħba għandhom jassiguraw li kull miżura relatata mal-eżerċizzju tal-kapaċità legali tipprovdi salvagwardji xierqa u effettivi skont id-dritt internazzjonali dwar id-drittijiet umani biex ma jhallux isir abbuż. Dawn is-salvagwardji għandhom jassiguraw li miżuri relatati mal-eżerċizzju tal-kapaċità legali jirrispettaw id-drittijiet, ir-rieda u l-preferenzi tal-persuna, ikunu ħielsa minn konflitt ta' interess u influwenza mhux xierqa, huma proporzjonati u mfassla skont iċ-ċirkostanzi tal-persuna, japplikaw għall-iqsar żmien possibbli u huma soġġetti għal reviżjoni minn awtorità kompetenti, indipendenti u imparzjali jew entità ġuridika. Is-salvagwardji għandhom ikunu proporzjonati għall-grad li dawn jaffettwaw id-drittijiet u l-interessi tal-persuna.

5. Bla ħsara għad-dispożizzjonijiet ta' dan l-artikolu, l-Istati Msieħba għandhom jieħdu miżuri xierqa u effettivi biex jassiguraw id-dritt ugwali ta' persuni b'diżabilità li jkollhom u li jirtu proprjetà, li jikkontrollaw l-affarijiet finanzjarji tagħhom u li jkollhom aċċess indaqs biex jieħdu self mill-banek, *mortgages* u forom oħra ta' kreditu finanzjarju, u għandhom jassiguraw li persuni b'diżabilità ma jkunux imcaħħda b'mod arbitrarju mill-proprjetà tagħhom.

## **Artikolu 13**

### **Aċċess għall-ġustizzja**

1. L-Istati Msieħba għandhom jassiguraw aċċess effettiv għall-ġustizzja lil persuni b'diżabilità fuq bażi ugwali mal-oħrajn,

inkluż billi jkun hemm modifiki proċedurali u skont l-età, biex jiġi ffacilitat ir-rwol effettiv tagħhom bħala parteċipanti diretti u indiretti, inkluż li jaġixxu bħala xieħda, fil-proċeduri legali kollha, inkluż fl-istadji investigattivi u preliminari oħra.

2. Biex jgħinu sabiex jiġi assigurat l-aċċess effettiv għall-gustizzja minn persuni b'diżabilità, l-Istati Msieħba għandhom jippromwovu taħriġ xieraq lil dawk li jaħdmu fil-qasam tal-amministrazzjoni tal-gustizzja inkluż il-pulizija u l-ħaddiema fil-ħabsijiet.

#### **Artikolu 14**

##### **Libertà u sigurtà tal-persuna**

1. L-Istati Msieħba għandhom jassiguraw li persuni b'diżabilità, fuq bażi ugwali mal-oħrajn:

(a) igawdu d-dritt għal-libertà u s-sigurtà tal-persuna;

(b) ma jkunx hemm każda mil-libertà tagħhom b'mod illegali jew arbitrarju, u li kull każda tal-libertà tkun konformi mal-liġi, u li l-eżistenza ta' diżabilità m'għandha fl-ebda każ tiġġustifika ċ-każda tal-libertà.

2. L-Istati Msieħba għandhom jassiguraw li jekk persuni b'diżabilità jiġu mcaħħda mil-libertà tagħhom permezz ta' xi proċess, huma, fuq bażi ugwali mal-oħrajn, ikunu intitolati għal garanziji skont id-dritt internazzjonali dwar id-drittijiet umani u għandhom jiġu ttrattati b'mod konformi mal-obbjettivi u l-prinċipji ta' din il-Konvenzjoni, inkluż bil-provdiment ta' modifika ragonevoli.

#### **Artikolu 15**

##### **Ħelsien mit-tortura jew minn trattament jew kastig krudil, inuman jew degradanti**

1. Ħadd m'għandu jkun suġġett għal tortura jew trattament jew kastig krudil, inuman jew degradanti. B'mod partikolari, ħadd m'għandu jkun suġġett mingħajr il-kunsens ħieles tiegħu jew tagħha għal sperimentazzjoni medika jew xjentifika.

2. L-Istati Msieħba għandhom jieħdu l-miżuri effettivi legiżlattivi, amministrattivi, ġuridici u oħrajn biex ma jhallux li persuni b'diżabilità, fuq bażi ugwali mal-oħrajn, ikunu suġġetti għal tortura jew trattament jew kastig krudil, inuman jew degradanti.

## **Artikolu 16**

### **Helsien mill-esplorazzjoni, il-vjolenza u l-abbuż**

1. L-Istati Msieħba għandhom jieħdu kull miżura xierqa legiżlattiva, amministrattiva, soċjali, edukattiva u oħrajn biex jipproteġu lil persuni b'diżabilità kemm fid-dar kif ukoll barra mid-dar, minn kull forma ta' esplorazzjoni, vjolenza u abbuż, inkluż aspetti bbażati fuq is-sess tagħhom.

2. L-Istati Msieħba għandhom ukoll jieħdu miżuri xierqa biex jipprevjenu kull forma ta' esplorazzjoni, vjolenza u abbuż billi jassiguraw, *inter alia*, forom ta' assistenza u appoġġ lil persuni b'diżabilità, il-familji tagħhom u dawk li jieħdu hsiebhom u li dawn il-miżuri jkunu sensitivi għas-sess u l-età tagħhom, inkluż permezz tal-ġoti ta' informazzjoni u edukazzjoni kif tevita, tagħraf u tirrapporta każijiet ta' esplorazzjoni, vjolenza u abbuż. L-Istati Msieħba għandhom jassiguraw li s-servizzi ta' protezzjoni jkunu sensitivi għall-età, is-sess u d-diżabilità.

3. Biex jigi evitat li jkun hemm xi forma ta' esplorazzjoni, vjolenza u abbuż, l-Istati Msieħba għandhom jassiguraw li l-faċilitajiet u l-programmi ddisinjati biex iservu persuni b'diżabilità jkunu mmonitorjati b'mod effettiv minn awtoritajiet indipendenti.

4. L-Istati Msieħba għandhom jieħdu kull miżura xierqa biex jippromwovu l-fejqa, ir-riabilitazzjoni u l-integrazzjoni soċjali mill-ġdid ta' persuni b'diżabilità li jkunu vittmi ta' xi forma ta' esplorazzjoni, vjolenza jew abbuż, inkluż bil-provdiment ta' servizzi protettivi. Il-fejqa u l-integrazzjoni mill-ġdid għandhom isiru f'ambjent li jindokra s-saħħa, il-*welfare*, ir-rispett tal-persuna nnifisha, id-dinjità u l-awtonomija tal-persuna u jieħu konsiderazzjoni tal-bżonnijiet skont is-sess u l-età.

5. L-Istati Msieħba għandhom jagħmlu liġijiet u *policies* effettivi, inkluż dawk iffokati fuq in-nisa u t-tfal, biex jassiguraw li każijiet ta' esplorazzjoni, vjolenza u abbuż kontra persuni b'diżabilità jiġu identifikati, investigati u, meta xieraq, proċessati.

## **Artikolu 17**

### **Protezzjoni għall-integrità tal-persuna**

Kull persuna b'diżabilità għandha dritt għar-rispett tal-integrità fizika u mentali tagħha fuq bażi ugwali mal-oħrajn.

## **Artikolu 18**

### **Libertà tal-moviment u n-nazzjonalità**

1. L-Istati Msieħba għandhom jirrikonoxxu d-drittijiet ta' persuni b'diżabilità għal-libertà tal-moviment, għal-libertà li jagħzlu r-residenza tagħhom u għan-nazzjonalità, fuq bażi ugwali mal-oħrajn, inkluż billi jiġi assigurat li persuni b'diżabilità:

(a) Għandhom id-dritt li jakkwistaw u jibdlu n-nazzjonalità u ma jkunux imċaħħda min-nazzjonalità tagħhom b'mod arbitrarju jew fuq bażi ta' diżabilità;

(b) Ma jkunux imċaħħda, fuq bażi ta' diżabilità, mill-kapaċità' tagħhom li jiksbu, ikollhom u juzaw dokumentazzjoni dwar in-nazzjonalità tagħhom jew dokumentazzjoni oħra ta' identifikazzjoni, jew li juzaw proċessi rilevanti bħal ma huma proċeduri ta' immigrazzjoni, li jkunu meħtieġa biex jiffaċilitaw l-eżerċizzju tad-dritt għal-libertà tal-moviment;

(ċ) Huma ħielsa li jitolqu minn pajjiż, inkluż dak tagħhom;

(d) Ma jkunux imċaħħda, b'mod arbitrarju jew minħabba d-diżabilità, mid-dritt li jidhlu f'pajjiżhom stess.

2. Tfal f'diżabilità għandhom ikunu registrati immedjatement wara li jitwiellu u għandu jkollhom id-dritt mit-twelid għal isem, id-dritt li jakkwistaw nazzjonalità u, sa fejn hu possibbli, id-dritt li jkunu jafu min huma l-ġenituri tagħhom u li dawn jieħdu ħsiebhom.

### **Artikolu 19**

#### **Hajja indipendenti u l-inklużjoni fil-komunità**

L-Istati Msieħba għal din il-Konvenzjoni jagħrfu d-dritt ugwali li kull persuna b'diżabilità tgħix fil-komunità, b'għażliet ugwali daqs l-oħrajn, u għandhom jieħdu miżuri effettivi u xierqa biex jiffaċilitaw it-tgawdija sħiħa minn persuni b'diżabilità ta' dan id-dritt u l-inklużjoni u l-parteciġazzjoni sħiħa tagħhom fil-komunità, inkluż billi jiġu assigurati li:

(a) Persuni b'diżabilità jkollhom l-opportunità li jagħzlu l-post tar-residenza u fejn u ma' min jgħixu fuq bażi ugwali mal-oħrajn u li ma jkunux obbligati li jgħixu f'arrangament ta' għajxien partikolari;

(b) Persuni b'diżabilità jkollhom aċċess għal varjetà ta' servizzi fid-dar residenzjali u servizzi oħra ta' appoġġ fil-komunità, u li jipprevjenu l-iżolament u s-segregazzjoni mill-komunità;

(c) Servizzi u facilitajiet fil-komunità għall-pubbliku generali għandhom ikunu miftuħa fuq bażi ugwali għal persuni b'diżabilità u jirrispondu għall-bżonnijiet tagħhom.

## **Artikolu 20**

### **Mobilità personali**

L-Istati Msieħba għandhom jieħdu miżuri effettivi biex jassiguraw il-mobilità personali bl-indipendenza l-aktar possibbli tal-persuni b'diżabilità, inkluż billi:

(a) Jiffacilitaw il-mobilità personali ta' persuni b'diżabilità bil-mod u fil-hin tal-għażla tagħhom u bi prezz li jista' jintlaħaq;

(b) Jiffacilitaw l-aċċess għall-persuni b'diżabilità għal għajnuniet ta' mobilità, apparat u teknoloġiji assistivi ta' kwalità u forom ta' assistenza u intermedjarji umani, inkluż billi jkunu bi prezz li jista' jintlaħaq;

(c) Jipprovdu taħriġ dwar iliet ta' mobilità lil persuni b'diżabilità u lil haddiema speċjalizzati li jaħdmu ma' persuni b'diżabilità;

(d) Jinkoraġġixxu entitajiet li jiproduċu għajnuniet ta' mobilità, apparat u teknoloġiji assistivi li jieħdu f'konsiderazzjoni l-aspetti kollha ta' mobilità ta' persuni b'diżabilità.

## **Artikolu 21**

### **Libertà tal-espressjoni u l-opinjoni u l-aċċess għall-informazzjoni**

L-Istati Msieħba għandhom jieħdu kull miżura xierqa biex jassiguraw li persuni b'diżabilità jistgħu jeżerċitaw id-dritt għal-libertà tal-espressjoni u opinjoni, inkluż il-libertà li jfittxu, jirċievu u jagħtu informazzjoni u ideat fuq bażi ugwali mal-oħrajn u permezz ta' kull forma ta' komunikazzjoni tal-għażla tagħhom, kif imfisser fl-Artikolu 2 ta' din il-Konvenzjoni, inkluż billi:

(a) Jiprovdu informazzjoni maħsuba għall-pubbliku generali lil persuni b'diżabilità f'formati aċċessibbli u teknoloġiji xierqa għal diżabilitajiet differenti mingħajr dewmien u mingħajr spiża addizzjonali;

(b) Jaċċettaw u jiffacilitaw l-użu tal-lingwi tas-sinjali, *Braille*, komunikazzjoni awmentattiva u alternattiva, u kull mezz, mod jew format ieħor aċċessibbli ta' komunikazzjoni tal-għażla tagħhom minn persuni b'diżabilità meta jkollhom

laqgħat jew komunikazzjoni oħra uffiċjali;

(ċ) Ihegġu entitajiet privati li jipprovdu servizzi lill-pubbliku ġenerali, inkluż permezz tal-Internet, li jipprovdu informazzjoni u servizzi f'formati aċċessibbli u li jistgħu jintużaw minn persuni b'diżabilità;

(d) Jinkoraġġixu lil *media* tal-massa, inkluż dawk li jipprovdu l-informazzjoni permezz tal-Internet, biex jagħmlu s-servizzi tagħhom aċċessibbli għal persuni b'diżabilità;

(e) Jagħrfu u jippromwovu l-użu tal-lingwi tas-sinjali.

## Artikolu 22

### Rispett għall-privatezza

1. L-ebda persuna b'diżabilità, ikun fejn tkun il-post ta' residenza jew l-arrangament ta' għajxien tagħha, m'għandha tkun sugġetta għal interferenza b'mod arbitrarju jew illegali għall-privatezza, il-familja, id-dar jew il-korrispondenza jew tipi oħrajn ta' komunikazzjoni jew għal attakki illegali għall-unur u r-reputazzjoni tagħha. Persuni b'diżabilità għandhom id-dritt għall-protezzjoni tal-liġi kontra interferenzi jew attakki bħal dawn.

2. L-Istati Msieħba għandhom jipproteġu l-privatezza ta' informazzjoni personali u dwar is-saħħa u riabilitazzjoni ta' persuni b'diżabilità fuq bażi ugwali mal-oħrajn.

## Artikolu 23

### Rispett għad-dar u l-familja

1. L-Istati Msieħba għandhom jieħdu miżuri effettivi u xierqa biex jeliminaw diskriminazzjoni kontra persuni b'diżabilità f'kull haġa relatata maż-żwieġ, il-familja, li tkun genitur u r-relazzjonijiet, fuq bażi ugwali mal-oħrajn, sabiex jassiguraw li:

(a) Id-dritt li kull persuna b'diżabilità li għandha l-età li tista' tiżzewweġ u tiffirma familja fuq bażi ta' kunsens liberu u sħiħ mill-għarajjes li jixtiequ jagħmlu dan ikun rikonoxxut;

(b) Id-dritt li persuni b'diżabilità li jiddeċiedu b'mod hieles u responsabbli fuq in-numru ta' wlied u ż-żmien bejn wild u ieħor jew oħrajn tagħhom u li jkollhom aċċess għal informazzjoni xierqa skont l-età, għal edukazzjoni dwar ir-riproduzzjoni u l-ippjanar tal-familja, u li l-mezzi neċessarji li jassigurawhom li jeżerċitaw dawn id-drittijiet huma pprovdu ti;

(ċ) Persuni b'diżabilità, inklużi tfal, iżommu l-fertilità

tagħhom fuq bażi ugwali mal-ohrajn.

2. L-Istati Msieħba għandhom jassiguraw id-drittijiet u r-responsabilitajiet ta' persuni b'diżabilità fir-rigward ta' *guardianship*, *wardship*, *trusteeship*, adozzjoni ta' tfal u istituzzjonijiet simili, fejn dawn il-kunċetti jeżistu fil-leġislazzjoni nazzjonali; f'kull każ l-aħjar interess tat-tifel jew tifla għandu jkunu l-ogħla interess. L-Istati Msieħba għandhom joffru assistenza xierqa lill-persuni b'diżabilità biex ikunu jistgħu jerfgħu r-responsabilitajiet biex irabbu lil uliedhom.

3. L-Istati Msieħba għandhom jassiguraw li t-tfal b'diżabilità jkollhom drittijiet ugwali fir-rigward tal-ħajja tal-familja. Bil-għan li dawn id-drittijiet jiġu realizzati, u biex jipprevjenu l-ħabi, l-abbandon, in-negliġenża u s-segregazzjoni ta' tfal b'diżabilità, l-Istati Msieħba għandhom jipprovdu informazzjoni komprensiva u bikrija, servizzi u appoġġ lil tfal f'diżabilità u l-familji tagħhom.

4. L-Istati Msieħba għandhom jassiguraw li t-tfal ma għandhomx jiġu separati mill-ġenituri tagħhom kontra r-rieda tagħhom, hlief meta awtoritajiet kompetenti, bla ħsara għar-reviżjoni ġuridika, jiddeterminaw, skont il-liġijiet u l-proċeduri applikabbli, li separazzjoni bħal din hi neċessarja fl-aqwa interessi tat-tifel jew tifla. Fl-ebda każ it-tifel jew tifla m'għandu jew m'għandha jiġi jew tiġi separat jew separata a mill-ġenituri tiegħu jew tagħha minħabba d-diżabilità tiegħu jew tagħha jew ta' wieħed jew waħda jew taż-żewġ ġenituri.

5. L-Istati Msieħba għandhom, meta l-familja immedjata ma tistax tiegħu ħsieb tifel jew tifla b'diżabilità, jagħmlu kull sforz biex jipprovdi kura alternattiva fi ħdan il-familja wiesgħa tat-tifel jew tifla, u meta dan ma jirnexxi, fi ħdan il-komunità f'ambjent ta' familja.

## **Artikolu 24** **Edukazzjoni**

1. L-Istati Msieħba jagħrfu d-dritt tal-persuni b'diżabilità għall-edukazzjoni. Bil-għan li jintlaħaq dan id-dritt mingħajr diskriminazzjoni u fuq bażi ta' opportunitajiet indaqs, l-Istati Msieħba għandhom jassiguraw sistema edukattva inklużiva f'kull livell u edukazzjoni matul il-ħajja kollha mmirata biex jintlaħaq:

(a) L-iżvilupp sħiħ tal-potenzjal uman u s-sens ta' dinjità u ta' valur tal-persuna nnifsha, u t-tiżiż tar-rispett tad-drittijiet umani, il-libertajiet fundamentali u d-diversità umana;

(b) L-iżvilupp minn persuni b'diżabilità tal-personalità,



it-talenti u l-kreattività tagħhom, kif ukoll il-kapaċitajiet mentali u fiżiċi tagħhom, sal-massimu tal-potenzjal tagħhom;

(ċ) Jappoġġjaw persuni b'diżabilità biex jipparteċipaw b'mod effettiv f'soċjetà ħielsa.

2. Biex dan id-dritt jitwettaq, l-Istati Msieħba għandhom jassiguraw li:

(a) Persuni b'diżabilità ma jkunux esklużi mis-sistema edukattiva ġenerali minħabba d-diżabilità tagħhom, u li tfal b'diżabilità ma jkunux esklużi minn edukazzjoni primarja mingħajr ħlas u obbligatorja, jew minn edukazzjoni sekondarja, minħabba d-diżabilità tagħhom;

(b) Persuni b'diżabilità jistgħu jingħataw edukazzjoni inkluziva, ta' kwalità u mingħajr ħlas fil-livell primarju u sekondarju fuq bażi ugwali mal-oħrajn fil-komunitajiet fejn jgħixu;

(ċ) Modifiki raġonevoli skont il-bżonnijiet tal-individwu jiġu pprovduti;

(d) Persuni b'diżabilità jirċievu l-appoġġ meħtieġ, fi ħdan is-sistema edukattiva ġenerali, biex tiġi faċilitata l-edukazzjoni effettiva tagħhom;

(e) Miżuri ta' appoġġ effettivi u individwalizzati jiġu provduti f'ambjenti li jimmassimizzaw l-iżvilupp akkademiku u soċjali, konsistenti mal-għan ta' inkluzjoni sħiħa.

3. L-Istati Msieħba għandhom jappoġġjaw persuni b'diżabilità biex jingħataw it-tagħlim f'ħiliet ta' żvilupp soċjali u tal-għajxien, li jiffaċilitaw il-parteeċipazzjoni sħiħa u ugwali tagħhom fl-edukazzjoni u bħala membri tal-komunità. Għal dan il-għan, l-Istati Msieħba għandhom jieħdu miżuri xierqa, li jinkludu:

(a) Jiffaċilitaw it-tagħlim tal-*Braille*, kitba alternattiva, modi alternattivi u awmentattivi, mezzi u formati ta' komunikazzjoni u ħiliet ta' orjentazzjoni u mobilità, u li jiffaċilitaw appoġġ u *mentoring* minn sħabhom;

(b) Jiffaċilitaw it-tagħlim tal-lingwa tas-sinjali u l-promozzjoni ta' identità lingwistika tal-komunità tat-torox;

(ċ) Jassiguraw li l-edukazzjoni ta' persuni, b'mod partikolari tat-tfal li huma għomja, torox, u torox-għomja, tingħata bil-lingwi, il-modi u l-mezzi ta' komunikazzjoni l-aktar

xierqa għall-individwu, u f'ambjenti li jimmassimizzaw l-iżvilupp akkademiku u soċjali.

4. Biex jgħinu sabiex jassiguraw it-twertiq ta' dan id-dritt, l-Istati Msieħba għandhom jieħdu miżuri xierqa biex jimpjegaw għalliema, inkluż għalliema b'diżabilità, li huma kkwalifikati fil-lingwa tas-sinjali u, jew *Braille*, u li jharrġu professjonisti u *staff* li jaħdmu fil-livelli kollha tal-edukazzjoni. Dan it-taħriġ għandu jinkorpora għarfien dwar id-diżabilità u l-użu xieraq ta' modi awmentattivi u alternattivi, mezzi u forom ta' komunikazzjoni, sistemi u materjal edukattiv li jappoġġjaw persuni b'diżabilità.

5. L-Istati Msieħba għandhom jassiguraw li persuni b'diżabilità jistgħu jingħataw l-edukazzjoni terzjarja ġenerali, taħriġ vokazzjonali, edukazzjoni għall-adulti u taġħlim matul il-ħajja kollha mingħajr diskriminazzjoni u fuq bażi ugwali mal-oħrajn. Għal dan il-għan, l-Istati Msieħba għandhom jassiguraw li modifiki raġonevoli jiġi pprovduti lil persuni b'diżabilità.

## Artikolu 25

### Is-saħħa

L-Istati Msieħba jagħrfu li persuni b'diżabilità g]andhom id-dritt g]at-tgawdija ta' *standard* l-aktar għoli possibbli ta' saħħa mingħajr diskriminazzjoni minħabba d-diżabilità. L-Istati Msieħba għandhom jieħdu l-miżuri xierqa biex jassiguraw l-aċċess tal-persuni b'diżabilità għal servizzi tas-saħħa li huma sensittivi għal kwistjonijiet bejn is-sessi, inkluż ir-riabilitazzjoni relatata mas-saħħa. B'mod partikolari, l-Istati Msieħba għandhom:

(a) Jipprovdu lill-persuni b'diżabilità kura dwar is-saħħa u programmi mingħajr ħlas jew bi ħlas li jista' jintlaħaq, li jkollhom l-istess firxa, kwalità u *standard* li huma pprovduti lil persuni oħra, inkluż fl-oqsma tas-saħħa sesswali u riproduttivi u progammi dwar saħħa pubblika bbażata fuq il-popolazzjoni;

(b) Jipprovdu dawk is-servizzi ta' saħħa meħtieġa minn persuni b'diżabilità speċifikament minħabba d-diżabilitajiet taġħhom, inkluż l-identifikazzjoni u interventi bikrija kif xieraq u servizzi ddisinjati li jimminimizzaw u jipprevjenu aktar diżabilitajiet, inkluż fost it-tfal u persuni anzjani;

(ċ) Jipprovdu dawn is-servizzi ta' saħħa viċin l-aktar possibbli tal-komunitajiet tal-persuni nfushom inkluż f'postijiet rurali;

(d) Jesiġu li professjonisti li jaħdmu fil-qasam tas-saħħa jipprovdu kura tal-istess kwalità lil persuni b'diżabilità bħal oħrajn, inkluż fuq bażi ta' kunsens ħieles u infurmat minn, *inter alia*, għarfien akbar tad-drittijiet umani, id-dinjità, l-awtonomija u l-bżonnijiet ta' persuni b'diżabilità permezz ta' taħriġ u l-promulgazzjoni ta' *standards* etiċi dwar il-kura tas-saħħa pubblika u privata;

(e) Jipprojbixxu diskriminazzjoni kontra persuni b'diżabilità fil-provdiment ta' assigurazzjoni dwar is-saħħa, u assigurazzjoni fuq il-ħajja meta din l-assigurazzjoni hi permessa mil-ligijiet nazzjonali, li għandhom ikunu pprovduti b'mod ġust u raġonevoli;

(f) Ma jippermettux iċ-ċaħda diskriminatorja ta' servizzi ta' saħħa jew ikel u xorb minħabba d-diżabilità.

## **Artikolu 26**

### **Abilitazzjoni u riabilitazzjoni**

1. L-Istati Msieħba għandhom jieħdu miżuri effettivi u xierqa, inkluż permezz ta' appoġġ mingħand sħabhom, biex jappoġġjaw persuni b'diżabilità li jkollhom u jzommu l-indipendenza massima, il-kapaċità sħiħa fizika, mentali, soċjali u vokazzjonali, u l-inklużjoni u l-partecipazzjoni sħiħa fl-aspetti kollha tal-ħajja. Għal dan il-ghan, l-Istati Msieħba għandhom jorganizzaw, isaħħu u jestendu s-servizzi u l-programmi komprensivi ta' abilitazzjoni u riabilitazzjoni, partikolarment fl-oqsma tas-saħħa, l-impjiegi, l-edukazzjoni u s-servizzi soċjali, b'tali mod li dawn is-servizzi u l-programmi jkunu:

(a) Jibdew mill-istadju l-aktar bikri possibbli, u jkunu bbażati fuq valutazzjoni multidixiplinari tal-bżonnijiet u l-kapaċitajiet tal-indivdu;

(b) Jappoġġjaw il-partecipazzjoni u l-inklużjoni fil-komunità u f'kull aspekt ieħor tas-socjeta', ikunu fuq bażi volontarja, u jkunu disponibbli għall-persuni b'diżabilità vicin l-aktar possibbli għall-komunitajiet tagħhom, inkluż f'postijiet rurali.

2. L-Istati Msieħba għandhom jippromwovu l-iżvilupp tat-taħriġ inizjali u kontinwu lill-professjonisti u l-*istaff* li jaħdmu f'servizzi ta' abilitazzjoni u riabilitazzjoni.

3. L-Istati Msieħba għandhom jippromwovu d-disponibilità, it-tagħrif u l-użu ta' apparat assistiv u teknoloġiji, iddisinjati għal

persuni b'diżabilità, kif dawn jirrelataw mal-abilitazzjoni u r-riabilitazzjoni.

### **Artikolu 27** **Xogħol u Impjieg**

1. L-Istati Msieħba jagħrfu d-dritt tal-persuni b'diżabilità għax-xogħol, fuq bażi ugwali mal-oħrajn; dan jinkludi d-dritt għall-opportunità li taqla' l-għajxien permezz ta' xogħol magħzul jew aċċettat b'mod hieles fis-suq tax-xogħol u ambjent tax-xogħol li hu miftuħ, inklużiv u aċċessibbli għal persuni b'diżabilità. L-Istati Msieħba għandhom jissalvagwardjaw u jippromwovu t-tweġġ tad-dritt għax-xogħol inkluż dawk li jkollhom diżabilità waqt il-kors tal-impjieg tagħhom, billi jittieħdu miżuri xierqa, inkluż permezz ta' leġislazzjoni, biex, *inter alia*:

(a) Jipprojbixxu diskriminazzjoni minħabba diżabilità fir-rigward ta' kull haġa li tikkonċerna kull forma ta' impjieg, inkluż il-kondizzjonijiet għal reklutaġġ, l-għoti tal-impjieg, ittkomplija tal-impjieg, l-avvanz fil-karriera u l-kondizzjonijiet tas-saħħa u s-sigurtà;

(b) Jipproteġu d-dritt ta' persuni b'diżabilità, fuq bażi ugwali mal-oħrajn, għal kundizzjonijiet ġusti u favorevoli ta' xogħol, inkluż opportunitajiet indaqs u hlas indaqs għal xogħol tal-istess valur, kundizzjoniet ta' xogħol siguri u b'saħħithom, inkluż il-protezzjoni minn fastidju, u rimedju għall-ilmenti;

(ċ) Jassiguraw li persuni b'diżabilità jkunu jistgħu jeżercitaw id-drittijiet relatati mad-dinja tax-xogħol u tat-*trade unions* fuq bażi ugwali mal-oħrajn;

(d) Jissapportjaw persuni b'diżabilità li jkollhom aċċess effettiv għal programmi ġenerali ta' gwida teknika u vokazzjonali, servizz ta' pjazzament u taħriġ vokazzjonali u kontinwu;

(e) Jippromwovu opportunitajiet ta' xogħol u avvanz fil-karriera lil persuni b'diżabilità fis-suq tax-xogħol, kif ukoll assistenza biex ifittxu, jiksbu u jzommu impjieg;

(f) Jippromwovu opportunitajiet għal impjieg għal rashom, għall-intraprenditorija, għall-iżvilupp tal-koperattivi u l-bidu ta' negozju tagħhom stess;

(g) Jimpjegaw persuni b'diżabilità fis-settur pubbliku;

(h) Jippromwovu l-impjieg ta' persuni b'diżabilità fis-

settur privat permzz ta' *policies* u miżuri xierqa li jistgħu jinkludu programmi ta' miżuri affermattivi, incentivi u miżuri oħrajn;

(i) Jassiguraw li l-modifiki raġonevoli jkunu pprovduti lil persuni b'diżabilità fuq il-post tax-xogħol;

(j) Jippromwovu l-akkwist minn persuni b'diżabilità ta' esperjenza fis-suq miftuħ tax-xogħol;

(k) Jippromwovu r-riabilitazzjoni vokazzjonali u professjonali, programmi li jgħinu biex iżzomm l-impjeg u li terga' lura għax-xogħol, għall-persuni b'diżabilità.

2. L-Istati Msieħba għandhom jassiguraw li persuni b'diżabilità ma jinżammux fi skjavitù jew servitù, u jkunu protetti, fuq bażi ugwali mal-oħrajn, minn xogħol sfurzat jew obbligatorju.

## Artikolu 28

### Livell ta' għajxien adegwat u protezzjoni soċjali

1. L-Istati Msieħba jagħrfu d-dritt li persuni b'diżabilità jkollhom livell ta' għajxien adegwat għalihom u għall-familji tagħhom inkluż ikel, ilbies, hwejjeġ u dar adegwata, u għal miljorament kontinwu tal-kundizzjonijiet tal-għajxien, u għandhom jieħdu miżuri adegwati li jissalvagwardjaw u jippromwovu r-realizzazzjoni ta' dan id-dritt mingħajr diskriminazzjoni minhabba d-diżabilità.

2. L-Istati Msieħba jagħrfu li l-persuni b'diżabilità għandhom dritt għal protezzjoni soċjali u tgawdija ta' dan id-dritt mingħajr diskriminazzjoni minhabba d-diżabilità, u għandhom jieħdu miżuri adegwati biex jissalvagwardjaw u jippromwovu t-twettiq ta' dan id-dritt, inkluż miżuri:

(a) Li jassiguraw aċċess ugwali minn persuni b'diżabilità għal servizzi ta' ilma nadif u li jassiguraw aċċess xieraq u bi hlas li jista' jintlaħaq għal servizzi, apparat u assistenza oħra relatati mal-bżonnijiet tad-diżabilità;

(b) Li jassiguraw aċċess minn persuni b'diżabilità, partikolarment nisa u bniet b'diżabilità, għal programmi ta' protezzjoni soċjali u programmi li jnaqqsu l-faqar;

(c) Li jassiguraw aċċess għall-persuni b'diżabilità u l-familji tagħhom li jgħixu f'sitwazzjonijiet ta' faqar, għall-assistenza mill-Istat għal spejjeż relatati mad-diżabilità inkluż taħrig, *counselling*, assistenza finanzarja u servizzi ta' serħan;

(d) Li jassiguraw aċċess minn persuni b'diżabilità għal programmi pubbliċi ta' djar;

(e) Li jassiguraw aċċess ugwali minn persuni b'diżabilità għall-benefiċċji u l-programmi tal-irtirar.

## **Artikolu 29**

### **Parteċipazzjoni fil-hajja pubblika u politika**

L-Istati Msieħba għandhom jiggarrantixxu li persuni b'diżabilità jkollhom drittijiet politiċi u l-opportunità li jgawduhom fuq bażi ugwali mal-oħrajn, u għandhom:

(a) Jassiguraw li persuni b'diżabilità jistgħu jipparteċipaw b'mod effettiv u sħiħ fil-hajja pubblika u politika fuq bażi ugwali mal-oħrajn, direttament jew permezz tar-rapprezentanti magħżula b'mod hieles, inkluż id-dritt u l-opportunità biex persuni b'diżabilità jivvutaw u jiġu eletti, billi *inter alia*:

(i) Jassiguraw li l-proċeduri, il-faċilitajiet u l-materjal tal-votazzjoni jkunu xierqa, aċċessibbli u faċli biex tifhimhom u tużahom;

(ii) Jipproteġu d-dritt li persuni b'diżabilità jivvutaw permezz ta' vot sigriet f'elezzjonijiet u referenda pubbliċi mingħajr intimidazzjoni, u li jkunu jistgħu jikkontestaw elezzjonijiet, effettivament ikollhom karigi u jeżerċitaw uffiċċji pubbliċi f'kull livell tal-gvern, jiffaċilitaw l-użu ta' teknoloġiji assistivi u ġodda fejn xieraq;

(iii) Jiggarrantixxu l-espressjoni hielsa tar-rieda ta' persuni b'diżabilità bhala elettori u għal dan il-għan, fejn meħtieġ, fuq talba tagħhom, iħallu li jkun hemm assistenza waqt il-votazzjoni ta' persuna tal-għażla tagħhom;

(b) Jippromwovu attivament ambjent li fih il-persuni b'diżabilità jistgħu jipparteċipaw b'mod effettiv u sħiħ f'attività pubblika, mingħajr diskriminazzjoni fuq bażi ugwali mal-oħrajn, u jinkoraġġixxu l-parteċipazzjoni tagħhom f'attivitajiet pubbliċi, inkluż:

(i) Parteċipazzjoni f'organizzazzjonijiet u assoċjazzjonijiet mhux governattivi li għandhom x'jaqsmu mal-ħajja pubblika u politika tal-pajjiż, u f'attivitajiet u l-amministrazzjoni ta' partiti politiċi;

(ii) Jiffurmaw u jingħaqdu ma' organizzazzjonijiet ta' persuni b'diżabilità biex jirrappreżentaw persuni b'diżabilità fil-livelli internazzjonali, nazzjonali, reġjonali u lokali.

### Artikolu 30

#### Parteċipazzjoni fil-ħajja kulturali, rikreazzjoni, divertiment u sport

1. L-Istati Msieħba jagħrfu d-dritt ta' persuni b'diżabilità li jieħdu sehem fuq bażi ugwali mal-oħrajn fil-ħajja kulturali, u għandhom jieħdu miżuri xierqa biex jassiguraw li persuni b'diżabilità:

(a) Igawdu l-aċċess għal materjal kulturali f'formati aċċessibbli;

(b) Igawdu programmi televiżivi, *films*, teatru u attivitajiet kulturali, f'formati aċċessibbli;

(ċ) Igawdu aċċess għal postijiet fejn isiru attivitajiet jew servizzi kulturali, bħal ma huma teatri, mużewijiet, ċinema, libreriji u servizzi turistiċi, u sa fejn hu possibbli, igawdu aċċess għal monumenti u siti ta' importanza kulturali u nazzjonali.

2. L-Istati Msieħba għandhom jieħdu miżuri xierqa li jgħinu persuni b'diżabilità biex ikollhom l-opportunità li jiżviluppaw u jutilizzaw il-kreattività, il-potenzjal artistiku u intellettuali tagħhom, mhux biss għall-beneficċju tagħom infushom, imma wkoll biex is-soċjetà tkun aktar rikka.

3. L-Istati Msieħba għandhom jieħdu l-miżuri xierqa kollha, skont id-dritt internazzjonali, biex jassiguraw li l-ligijiet li jipproteġu d-drittijiet dwar il-proprjetà intellettuali ma jikkostitwixxux ostakoli mhux raġonevoli u diskriminatorji biex persuni b'diżabilità jkollhom aċċess għal materjal kulturali.

4. Persuni b'diżabilità għandhom ikunu intitolati, fuq bażi ugwali mal-oħrajn, għall-għarfien u l-appoġġ tal-identità lingwistika u kulturali speċifika, inkluż il-lingwi tas-sinjali u l-kultura tat-torox.

5. Bil-għan li jgħinu persuni b'diżabilità jipparteċipaw, fuq bażi ugwali mal-oħrajn, f'attivitajiet ta' divertiment u sportivi, l-Istati Msieħba għandhom jieħdu miżuri xierqa:

(a) Biex jinkoraġġixxu u jippromwovu l-akbar parteċipazzjoni possibbli ta' persuni b'diżabilità f'attivitajiet sportivi dominanti f'kull livell;

(b) Biex jassiguraw li l-persuni b'diżabilità jkollhom l-opportunità jorganizzaw, jiżviluppaw u jipparteċipaw f'attivitajiet sportivi u ta' divertiment speċifiċi u, għal dan il-għan, jinkoraġġixxu l-proviment, fuq bażi ugwali mal-oħrajn, l-istruzzjoni, it-taħriġ u r-riżorsi xierqa;

(ċ) Biex jassiguraw li persuni b'diżabilità jkollhom aċċess għal postijiet fejn isiru attivitajiet sportivi, ta' divertiment u turistiċi;

(d) Biex jassiguraw li t-tfal b'diżabilità jkollhom aċċess ugwali ma' tfal oħra biex jipparteċipaw fil-logħob u attivitajiet rikreattivi u ta' divertiment u tal-isport, inkluż attivitajiet li jsiru fl-iskejjel;

(e) Biex jassiguraw li persuni b'diżabilità jkollhom aċċess għal servizzi minn dawk involuti fl-organizzazzjoni ta' attivitajiet rikreattivi, turistiċi, ta' divertiment u sportivi.

## **IT-TIELET SKEDA**

### **[ARTIKOLU 2(1)]**

#### **Dikjarazzjoni u Riżervi magħmula mir-Repubblika ta' Malta mal-iffirmar tal-Konvenzjoni tal-Ġnus Magħquda dwar id-Drittijiet ta' Persuni b'Diżabilità u l-Protokoll Mhux Obbligatorju tagħha**

*Dikjarazzjoni Interpretattiva li tkun saret waqt ir-ratifika:*

"[...] Għall-finijiet tal-Artikolu 25 tal-Konvenzjoni, Malta tagħmel l-istqarrija nterpretattiva li ġejja - Malta tifhem li l-frażi "Sahħa sesswali u riproduttiva" fl-Artikolu 25(a) tal-Konvenzjoni ma tikkostitwix l-għarfien ta' xi obbligu ġdid ta' Dritt Internazzjonali, ma tohloq ebda drittijiet ta' abort, ma tistax tiġi interpretata li tikkostitwixxi appoġġ, approvazzjoni, jew promozzjoni ta' abort. Malta tifhem ukoll li l-użu ta' din il-frażi hija maħsuba esklussivament biex tenfasizza l-punt li meta jiġi pprovduti s-servizzi tas-sahħa dawn huma provduti mingħajr diskriminazzjoni fuq bażi ta' diżabilità.

Il-leġislazzjoni mazzjonali ta' Malta tqis it-terminazzjoni tat-tqala permezz ta' abort indott bħala illegali."

*Riżervi li saru mar-ratifika:*



"[...] Għall-finijiet tal-Artikolu 29 (a) (i) u (iii) tal-Konvenzjoni, filwaqt li l-Gvern ta' Malta huwa impenjat bis-siġħ biex jiżgura l-partecipazzjoni effettiva u ssiġħ ta' persuni b'diżabilità fil-ħajja politika u pubblika, inkluż l-eżerċizzju tad-dritt tagħhom li jivvutaw b'vot sigriet f'elezzjoni jew referenda, u biex joħorġu għall-elezzjonijiet, Malta tagħmel ir-riżervi li ġejjin:

*Fir-rigward ta' (a)(i):*

Malta tirriżerva d-dritt li tkompli tapplika l-legislazzjoni elettoralali attwali tagħha f'dak li jirrigwarda proċedura ta' votazzjoni, faċilitajiet u materjal konċernat.

*Fir-rigward ta' (a)(iii):*

Malta tirriżerva d-dritt li tkompli tapplika l-legislazzjoni elettoralali attwali tagħha f'dak li jirrigwarda l-assistenza fil-proċedura tal-votazzjoni.

*Dikjarazzjoni interpretattiva u riżerva magħmula mal-firma:*

"(a) Għall-finijiet tal-Artikolu 25 tal-Konvenzjoni, Malta tagħmel l-istqarrija ta' interpretazzjoni li ġejja - Malta tifhem li l-frazi "saħħa sesswali u riproduttiva" fl-Art 25 (a) tal-Konvenzjoni ma tikkostitwixxi għarfien ta' xi obbligu ġdid taħt id-Dritt Internazzjonali, ma tohloq ebda drittijiet ta' abort, u ma tistax tiġi interpretata li tikkostitwixxi appoġġ, approvazzjoni jew promozzjoni tal-abort. Malta tifhem ukoll li l-użu ta' din il-frazi hija maħsuba esklussivament biex tenfasizza l-punt li meta jiġu pprovduti s-servizzi tas-saħħa, dawn jiġu pprovduti mingħajr diskriminazzjoni fuq bażi ta' diżabilità.

Il-legislazzjoni nazzjonali ta' Malta tikkunsidra t-terminazzjoni tat-tqala permezz tal-abort indott bħala illegali."

(b) Għall-finijiet tal-Artikolu 29 (a) (i) u (iii) tal-Konvenzjoni, il-Gvern ta' Malta huwa impenjat bis-siġħ biex jiżgura l-partecipazzjoni effettiva u ssiġħ ta' persuni b'diżabilità fil-ħajja politika u pubblika, inkluż l-eżerċizzju tad-dritt tagħhom li jivvutaw b'vot sigriet f'elezzjonijiet u referenda, u biex joħorġu għall-elezzjonijiet, Malta tagħmel ir-riżervi li ġejjin:

*Fir-rigward ta' (a)(i):*

F'dan l-istadju, Malta tirriżerva d-dritt li tkompli tapplika legislażzjoni elettoralali attwali tagħha fir-rigward ta' proċedura ta' votazzjoni, faċilitajiet u materjal.

*Fir-rigward ta' (a)(iii):*

Malta tirriżerva d-dritt li tkompli tkompli tapplika l-leġislazzjoni elettorali attwali tagħha fir-rigward ta' proċedura ta' votazzjoni, faċilitajiet u materjal.

**IR-RABA' SKEDA**  
**[ARTIKOLU 2(2)(ii)]**  
**Gwida Interpretattiva dwar Diskriminazzjoni minhabba**  
**f'Diżabilità**

F'din l-Iskeda, kemm-il darba r-rabta tal-kliem ma teħtieġx xort'ohra:

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

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

Kap. 318.

"età pensjonabbli", għar-rigward ta' persuna, tfisser kull età li matulha din il-persuna jkollha jedd għal pensjoni għal min jirtira skont id-dispożizzjonijiet tal-Att dwar is-Sigurtà Soċjali;

Kap. 327.

"età ta' skola obbligatorja", għar-rigward ta' persuna, tfisser l-età meta dik il-persuna tkun sugġetta għad-dispożizzjonijiet tal-Att dwar l-Edukazzjoni sal-limitu li dawn ikunu jirrelataw għal dik l-età;

Kap. 491.

"foster carer" għandu jkollha l-istess tifsira kif mogħtija lilha fl-Att dwar il-*Foster Care*;

"impieg" tfisser impieg b'kuntratt ta' servizz;

"istituzzjoni edukattiva" tfisser kindergarten, skola, kulleġġ, università jew istituzzjoni ohra li fihom jiġu provduti edukazzjoni jew taħriġ;

"kuntratt ta' servizz" tfisser ftehim ta' impieg bejn żewġ persuni, jew bejn persuna u korp ta' persuni, sew bil-miktub,

bil-fomm jew mifhum, li bih l-impjegat ikollu obbligu li jagħti servizzi lill-prinċipal għal għadd ta' sigħat stabbiliti, fuq bażi sew ta' *full-time* jew ta' *part-time*, sew temporanja, b'paga, salarju, rimunerazzjoni bi ħlas jew kull benefiċċju jew privileġġ ieħor hekk kif kollha stabbiliti bla ħsara għall-jedd li jkollu l-prinċipal li jikkontrolla, jissorvelja, imexxi u jieħu kull għamla ta' azzjoni dixxiplinarja fuq l-impjegat skont kif dak iwettaq dmirijietu;"membru tal-familja", għar-rigward ta' individwu, tinkludi:

- (a) il-ġenituri;
- (b) il-mara jew ir-raġel jew is-sieħeb jew is-sieħba;
- (ċ) l-iben, il-bint, ħu jew oħt, li jkollhom tmintax-il sena jew aktar; u
- (d) *foster carers*;
- (e) tutur legali jew kuratur, ta' dak l-individwu;

"minuri" tfisser dawk il-persuni li ma għalqux l-età maġġorenni kif imfisser fil-Kodiċi Ċivili;

Kap. 16.

"persuna b'diżabilità kwalifikata" tfisser:

(a) għar-rigward ta' xi impieg bħal dak imsemmi f'Sezzjoni B ta' din l-Iskeda, persuna b'diżabilità li jkollha iktar mill-età ta' skola obbligatorja iżda li tkun għadha ma laħqitx l-età pensjonabbli, u li, sew jekk ikollha sew jekk ma jkollhiex akkommodazzjoni raġonevoli skont is-Sezzjoni msemmija qabel, tkun tista' twettaq il-funzjonijiet essenzjali tal-kariga fl-impieg li jkollha jew li tapplika għaliha jew li jista' jkollha jew

(b) għar-rigward tal-provvediment u użu ta' oġġetti, faċilitajiet jew servizzi kif imsemmi f'Sezzjoni E ta' din l-Iskeda, persuna b'diżabilità li jkollha l-ħtiġiet ta' eliġibiltà essenzjali għall-provvediment u l-użu ta' dawk l-oġġetti, faċilitajiet jew servizzi jew sabiex hija tipparteċipa f'dawk il-programmi jew attivitajiet bħalma jistgħu jiġu provduti minn xi persuna jew korp skont it-Taqsima qabel imsemmija ta' din l-Iskeda;

"proprjetà" tinkludi kull bini eżistenti u ġdid, u arei esterni bħalma huma toroq, bankini, passaġġi pubbliċi, xtajtiet u ġonna;

"wild" tfisser minuri taht il-kura u l-kustodja ta' ġenituri naturali, addottivi jew taht il-kura ta' *foster carers*.

## A. ĠENERALI

Persuna tkun qiegħda tiddiskrimina ma' persuna oħra minħabba f'dizabilità jekk tali persuna:

(a) ixxejjel l-indipendenza tal-ħsieb, l-avvanz soċjali u ekonomiku, u l-integrazzjoni fis-soċjetà ta' dik il-persuna;

(b) iċċaħħad lil dik il-persuna l-oħra mill-protezzjoni u d-drittijiet li tagħti l-liġi;

(c) tonqos milli tagħti aċċess sħiħ lil persuna b'dizabilità għal dawk l-azzjonijiet kollha li tagħti l-liġi;

(d) tonqos milli tagħti informazzjoni dwar id-drittijiet tal-persuna l-oħra permezz ta' komunikazzjoni li l-persuna l-oħra tista' tifhem;

(e) tonqos milli toffri għajjnuna lill-persuna l-oħra fi proċeduri marbuta ma' investigazzjoni, għoti ta' xhieda, u proċeduri simili;

(f) xjentement tillimita jew b'xi mod ixxejjel it-gawdija ta' kwalunkwe dritt tal-persuna l-oħra li tkun akkwistat kemm *inter vivos* jew *causa mortis*;

(g) tirreferi għal persuna jew persuni, jew tindirizzahom b'lingwaġġ mhux rispettuż, kemm b'mod dirett, kif ukoll permezz ta' referenza fuq il-mezzi kollha ta' komunikazzjoni, fosthom iżda mhux biss ix-xandir, l-istampar u korrispondenza;

(h) f'ċirkostanzi li huma simili jew li m'humieq materjalment differenti, u b'akkomodazzjoni differenti u, jew, servizzi differenti li tista' teħtieġ il-persuna b'dizabilità f'ebda każ ma jitqiesu bħala li jkunu qed jikkostitwixxu tali ċirkostanzi, hija tittratta jew tipproponi li tittratta persuna b'dizabilità b'mod inqas favorevoli milli tittratta jew kieku tittratta persuna li ma jkollhiex dizabilità bħal dik;

(i) tittratta jew tipproponi li tittratta persuna b'mod inqas favorevoli minħabba f'xi karatteristika li soltu jkollhom persuni li jkollhom dik id-dizabilità jew karatteristika mistħajla li soltu tkun fuq persuni li jkollhom dizabilità bħal dik;

(j) tirrikjedi li dik il-persuna l-oħra tikkonforma ma' xi

ħtieġa jew kondizzjoni li magħha jikkonformaw jew ikunu jistgħu jikkonformaw il-maġġoranza ta' persuni li ma jkollhomx dik id-diżabilità, li ma tkunx raġonevoli fiċ-ċirkostanzi tal-każ, u li magħha dik il-persuna l-oħra ma tkunx tikkonforma jew ma tkunx tista' tikkonforma;

(k) tittratta, jew tipproponi li tittratta, lil dik il-persuna l-oħra b'mod inqas favorevoli milli tittratta jew kieku tittratta lil persuni oħrajn li ma jkollhomx dik id-diżabilità minħabba fil-fatt li dik il-persuna l-oħra tkun akkumpanjata bi jew ikollha mezz assistiv li jintuża minn dik il-persuna l-oħra jew minħabba f'kull haġa li jkollha x'taqsam ma' dak il-fatt, sew jekk tkun sew jekk ma tkunx il-prattika li tittratta b'mod hekk inqas favorevoli lil xi persuna li tkun akkumpanjata bi jew li jkollha xi mezz assistiv bħal dak;

(l) tivvittimizza lil xi persuna talli din tkun għamlet ilment lill-awtoritajiet leġittimi jew talli tkun bdiet jew ħadet sehem fi proċedimenti għal riżarciment abbażi tal-ksur allegat ta' xi dispożizzjoni ta' dan l-Att, jew talli tkun tat informazzjoni, kunfidenzjali jew mhix, lil awtorità stabbilita, rigward xi mgieba, attivitajiet jew prattici allegatament diskriminatorji;

(m) tassoġġetta lil dik il-persuna għal żvantaġġ partikolari b'xi provvedimenti, kriterju jew prattika apparentement newtrali;

(n) tonqos milli tagħmel pubbliku, b'mod effettiv, dawk l-oġġetti, faċilitajiet u servizzi provduti minnha lill-persuni b'diżabilità, biex telimina d-diskriminazzjoni projibita taħt dan l-Att;

(o) tittratta, jew tipproponi li tittratta, lil dik il-persuna l-oħra b'mod inqas favorevoli milli tittratta jew kieku tittratta lil persuni oħrajn li ma jkollhomx dik id-diżabilità minħabba fil-fatt li dik il-persuna l-oħra tkun akkumpanjata minn interpretu, qarrej, assistent jew persuna li tiegħu ħsiebha, b'tali persuna tipprovdi servizzi ta' interpretazzjoni, qari jew servizzi oħra lil dik il-persuna l-oħra minħabba fid-diżabilità ta' dik il-persuna l-oħra jew minħabba f'kull haġa li jkollha x'taqsam ma' dak il-fatt, sew jekk tkun sew jekk ma tkunx il-prattika li tittratta b'mod inqas favorevoli lil xi persuna li tkun akkumpanjata minn interpretu, qarrej, assistent jew persuna li tiegħu ħsieb, skont il-każ.

## **B. IMPJIEG**

Impjieg.

1. (1) Ebda prinċipal ma jista jiddiskrimina minhabba f'diżabilità kontra persuna b'diżabilità kwalifikata għar-rigward ta':

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

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

(ċ) il-kumpens li jingħata lil impjegat;

(d) taħriġ f'xi okkupazzjoni; u

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

(2) Għall-għanijiet tal-paragrafu (1) u mingħajr preġudizzju għall-ġeneralità ta' dan l-Att, prinċipal jitqies li jkun qed jiddiskrimina minhabba f'diżabilità kontra persuna kif hemm imsemmi, jekk dak il-prinċipal b'mod li mhux raġonevoli -

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

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

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

(d) jonqos milli jipprovdi akkomodazzjoni raġonevoli għad-diżabilità ta' dik il-persuna, hliet jekk il-prinċipal jista' jgħib prova li t-tibdil meħtieġ ser jippreġudika b'mod mhux xieraq, it-tħaddim tas-sengħa jew tan-negozju li dak il-prinċipal jiġġestixxi; jew

(e) jiċhad oportunitajiet ta' impieg lil dik il-persuna meta dik iċ-ċaħda tkun fondata fuq il-ħtieġa tal-prinċipal li jipprovdi akkomodazzjoni raġonevoli għad-diżabilità ta' dik il-persuna; jew

(f) juża livelli ta' kwalifika, provi dwar l-impieg, jew kriterji ta' għażla oħra li jaqtgħu 'l barra jew jistgħu jaqtgħu 'l barra lil xi persuna jew klassi ta' persuni li jkollhom xi diżabilità kemm-il darba l-prinċipal ma jgħibx prova li l-livelli,

provi jew kriterji ta' għażla oħra jkunu kwalifika jew hteġa essenzjali għall-kariga li tkun; jew

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

(3) Meta prinċipal jeskludi minn xi impieg jew tkomplija ta' impieg lil xi persuna li jkollha l-kwalifiki li tingħata dak l-impieg jew li tkompli f' dak l-impieg jew x ort'oħra jillimita l-opportunitajiet, grad jew benefiċċji ta' dik il-persuna minħabba fid-diżabilità ta' persuna oħra li magħha dik il-persuna tkun magħrufa jew suspetta li jkollha relazzjoni jew assoċjazzjoni, dik l-esklużjoni jew limitazzjoni għandhom, għall-għanijiet ta' din it-Taqsima, jitqiesu bħallikieku kienu diskriminazzjoni minħabba f'diżabilità kontra persuna bħalma hemm imsemmi fil-paragrafu (1).

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

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

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

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

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

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

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

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

(h) kemm ikunu jistgħu jingħataw flus minn fondi

pubbliċi biex itaffu n-nefqa li ssir għal xi tibdil.

(5) Għall-għanijiet ta' din it-Taqsima, il-frazi "jipprovdi akkommodazzjoni raġonevoli" tinkludi:

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

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

(c) gwida għall-karriera ta' kwalità u vokazzjonali, liema gwida għandha tkun mingħajr hlas għall-persuna b'diżabilità.

Eżamijiet  
mediċi.

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

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

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

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



(4) Minkejja d-dispożizzjonijiet tal-paragrafu (3), jekk min japplika jiġi sussegwentement impjegat, ebda haġa m'għandha żżomm lill-prinċipal tiegħu milli jgħarraf, jekk iqis li jkun hekk xieraq, lil

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

(b) persunal li jagħti l-ewwel għajjnuna u jieħu h̄sieb l-inkolumità tal-impjegati dwar kull kura ta' emergenza li tkun tista' tenħtieġ dik il-persuna li tkun applikat minħabba fid-dizabilità tagħha jew dwar kull prekawzjoni speċjali li tista' tkun meħtieġa minħabba f'dik id-dizabilità.

(5) B'żieda mad-dispożizzjonijiet tal-paragrafu (1), iżda bla h̄sara għad-dispożizzjonijiet tal-paragrafi (3) u (4), prinċipal jista' jitlob li jsiru eżamijiet mediċi fuq bażi volontarji, inkluż il-ġbir ta' kull storja medika b'mod volontarju, li jkunu jagħmlu sehem minn programm ta' saħħa għall-impjegati.

(6) Għall-għanijiet ta' din it-Taqsima, kull eżami mediku bħalma hemm imsemmi fih għandu jinkludi kull eżami mediku u, jew, psikologiku li jista' jsir fiċ-ċirkostanzi tal-każ.

**3.** Organizzazzjoni registrata skont l-Att dwar l-Impiegi u r-Relazzjonijiet Industrijali jew kumitat tat-tmexxija jew membru tal-kumitat tat-tmexxija ta' organizzazzjoni registrata bħal dik ma jistgħux jiddiskriminaw kontra:

Trade Unions.

(a) persuna, minħabba fid-dizabilità ta' dik il-persuna jew id-dizabilità ta' xi wieħed mill-membri tal-familja ta' dik il-persuna:

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

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

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

(i) jiċhadlu l-jedd għal xi benefiċċju provdut mill-organizzazzjoni jew jillimitalu l-jedd tiegħu għal

dak il-benefiċċju; jew

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

Aġenzija tal-impieg.

4. (1) Aġenzija tal-impieg ma tistax tiddiskrimina kontra persuna minħabba fid-diżabilità tagħha jew id-diżabilità ta' xi wieħed mill-membri tal-familja tagħha -

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

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

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

(2) Għall-iskop ta' din it-Taqsima aġenzija tal-impieg ma għandhiex titqies li qed tiddiskrimina kontra persuna minħabba fid-diżabilità tagħha jekk, meta jkun ikkunsidrat it-taħriġ ta' dik il-persuna, il-kwalifiki u l-esperjenza rilevanti għax-xogħol li hija tkun qiegħda tfittex, u l-fatturi rilevanti l-oħra kollha li għandhom raġonevolment jitqiesu, dik il-persuna ma tkunx kapaci, minħabba fid-diżabilità tagħha, li twettaq il-ħtiġiet neċessarji tax-xogħol li tkun qed tfittex.

## Ċ. EDUKAZZJONI

(1) Salv kif provdut fil-paragrafi (2) u (3), u mingħajr preġudizzju għall-ġeneralità ta' dan l-Att, awtorità jew istituzzjoni edukattiva ma tistax tiddiskrimina kontra -

(a) min japplika biex jiddaħhal bħala student minħabba f'xi diżabilità tiegħu jew xi diżabilità ta' xi wieħed mill-membri tal-familja tiegħu -

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

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

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

(i) tiċhadlu l-jedd għal xi benefiċċju, faċilità jew

servizz provdut minn dik l-awtorità jew istituzzjoni edukattiva jew tillimitalu l-jedd tiegħu għal dak il-benefiċċju; jew

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

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

(3) Meta d-dħul, jew it-tkomplija ta' parteċipazzjoni, ta' persuna b'diżabilità bħala student f'istituzzjoni edukattiva jkun jenħtieġ l-għoti ta' servizzi jew faċilitajiet li ma jkunux meħtieġa minn studenti li ma jkollhomx diżabilità, l-awtorità jew istituzzjoni edukattiva involuta tista' tiċhad jew tonqos milli tħalli li jsir id- dħul, jew it-tkomplija ta' parteċipazzjoni, bħala student ta' dik il- persuna f'dik l-istituzzjoni edukattiva jekk dik l-awtorità jew istituzzjoni ġgib prova li d-dħul, jew it-tkomplija ta' parteċipazzjoni, ta' dik il-persuna f'dik l-istituzzjoni jkun jeħtieġ servizzi jew faċilitajiet li l-għoti tagħhom jimponi piż mhux ġustifikat fuq l- istituzzjoni jew awtorità edukattiva involuta.

#### **D. AĊĊESS GĦALL-PROPRJETÀ**

(1) Salv kif provdut fil-paragrafu (2), u mingħajr preġudizzju għall-ġeneralità ta' dan l-Att, hadd ma jista' jiddiskrimina kontra persuna oħra minhabba fid-diżabilità ta' dik il-persuna l-oħra jew f'diżabilità ta' xi wieħed mill-membri tal-familja ta' dik il-persuna l-oħra:

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

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

(ċ) għar-rigward tal-għoti ta' mezzi ta' dħul f'dik il-proprjetà inkluż kull tibdil meħtieġ f'dik il-proprjetà jew

faċilitajiet sabiex id-dhul ikun possibbli; jew

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

(2) Meta:

(a) dik il-proprjeta jew faċilitajiet imsemmija qabel f'din it-Taqsima 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-proprjeta 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 proprjeta jew faċilitajiet bħal dawk imsemmija fil-paragrafu (1)(a) jew li tiċhad li tagħmel xi tibdil f'dik il-proprjeta jew faċilitajiet li kieku xort'oħra jagħmlu d-dhul ġewwa dik il-proprjeta jew f'dawk il-faċilitajiet possibbli għal persuna b'diżabilità.

## **E. GHOTI TA' OĠĠETTI, FAĊILITAJIET JEW SERVIZZI**

(1) Salv kif provdut fil-paragrafu (3), u mingħajr preġudizzju għall-ġeneralità ta' dan l-Att, ebda persuna b'diżabilità kwalifikata m'għandha, minhabba f'diżabilità, tkun eskluża milli tipparteċipa fi jew tiċċaħhad mill-benefiċċji tal-programmi jew attivitajiet ta' xi persuna jew korp għar-rigward tal-oġġetti, faċilitajiet jew servizzi li din it-Taqsima japplika għalihom jew li ssir diskriminazzjoni kontrihom minn xi persuna jew korp li jkunu jipprovdu dawn l-oġġetti, faċilitajiet jew servizzi li l-persuna kwalifikata tkun qieghda tfittex li tikseb jew li tuza.

(2) Din it-Taqsima tapplika għall-ġhoti (sew bi hlas sew le) ta' oġġetti, faċilitajiet u servizzi lill-pubbliku jew lil xi settur tal-pubbliku u jinkludi b'mod partikolari, iżda mingħajr preġudizzju għall-ġeneralità ta' dak imsemmi qabel:

(a) id-dhul ġewwa u l-użu ta' kull post li fih jithallew jidhlu l-membri tal-pubbliku jew settur tal-pubbliku;

(b) l-ġhoti ta' jeddijiet dwar il-proprjeta u d-djar;

(c) l-akkomodazzjoni f'lukanda, dar ta' allogġ jew stabbiliment simili;

(d) faċilitajiet bankarji jew għal assigurazzjoni jew għal għotjiet, self, kreditu, jew finanzi;

(e) parteċipazzjoni fi skemi okkupazzjonali u skemi oħra ta' pensjoni;

(f) faċilitajiet edukattivi;

(g) faċilitajiet għal divertiment, *sports* jew rikreazzjoni;

(h) faċilitajiet għal trasport jew ivvjaġġar fuq l-art, bil-baħar jew bl-ajru;

(i) is-servizzi ta' xi professjoni jew sengħa, jew ta' xi awtorità lokali jew awtorità oħra pubblika;

(j) is-sħubija f'assoċjazzjonijiet, *clubs* jew organizzazzjonijiet oħra;

(k) tgawdija ta' jeddijiet ċiviċi u twettiq ta' dmirijiet ċiviċi; u

(l) dawk il-faċilitajiet u servizzi oħra li l-Ministru jista' jippreskrivi b'regolamenti li jsiru bis-saħħa ta' dan l-Att.

(3) Id-dispożizzjonijiet tal-paragrafi (1) u (2) m'għandhomx ikunu japplikaw meta t-tħaris ta' dawk id-dispożizzjonijiet li jkollhom x'jaqsmu ma' persuna b'diżabilità kwalifikata ma jkunx prattiku jew inkolumi u ma jkunx jista' jsir prattiku jew inkolumi permezz ta' bdil raġonevoli fir-regoli, principji ta' eżekuzzjoni jew prattika, jew bit-tneħħija ta' o stakoli arkitettoniċi, ta' komunikazzjoni jew fit-trasport jew l-għoti ta' kull għajnuna jew servizzi awżiljarji.

## F. SAĦĦA

(1) Persuna tkun qiegħda tiddiskrimina ma' persuna oħra minhabba f'diżabilità jekk lil dik il-persuna tirrifjuta li tagħti servizz ta' saħħa tal-istess *standard*, kundizzjonijiet, ukoll finanzjarji, tal-firxa u ta' kwalità daqs dak ipprovdut lil persuni oħra, inkluż u mhux biss f'dak li għandu x'jaqsm ma' saħħa sesswali u riproduttiva.

Dan jinkludi wkoll, iżda mhux limitat, għar-rifjut li jiġu amministrati ikel jew fluwidi lil persuna b'diżabilità minhabba fid-diżabilità.

(2) Persuna b'diżabilità għandha dritt ukoll għal dawk is-servizzi ta' saħħa meħtieġa minn persuni b'diżabilità speċifikament minhabba fid-diżabilità tagħhom, inkluz:

(a) l-identifikazzjoni u interventi bikrija kif xieraq;

(b) assessjar li jirrifletti l-htigiet attwali u l-kundizzjoni ta' saħħitha; u

(c) servizzi ta' rijabilitazzjoni u abilitazzjoni ddisinjati li jimminimizzaw u jipprevenu aktar diżabilitajiet:

b'dan li l-Istat għandu joffri kull sostenn skont il-każ.

## **G. AKKOMODAZZJONI**

(1) Salv kif provdut fil-paragrafi (2) u (3), u mingħajr preġudizzju għall-ġeneralità ta' dan l-Att, ebda persuna m'għandha tiddiskrimina ma' persuna oħra minhabba fid-diżabilità ta' dik il-persuna l-oħra jew f'diżabilità ta' xi wieħed mill-membri tal-familja ta' dik il-persuna l-oħra -

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

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

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

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

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

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

(g) billi tiċċad milli tħalli lil dik il-persuna l-oħra li tagħmel tibdil f'akkomodazzjoni okkupata minn dik il-

persuna l-oħra jekk -

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

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

(2) Id-dispożizzjonijiet tal-paragrafu (1) ma japplikawx jekk:

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

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

(3) Id-dispożizzjonijiet tal-paragrafu (1) ma japplikawx ukoll jekk l-għoti ta' akkomodazzjoni fi proprjetajiet fejn ikunu jinħtieġu servizzi jew faċilitajiet partikolari mill-persuna b'diżabilità ma jkunx raġonevoli fiċ-ċirkostanzi tal-każ.

## H. EŻENZJONIJIET

1. Ebda haġa taht dan l-Att m'għandha b'xi mod tinftiehem bħala li tippobjixxi xi għamla ta' azzjoni li tista' tittiehed fiċ-ċirkostanzi tal-każ minn xi persuna, awtorità jew istituzzjoni sabiex tiżgura l i persuni l i jkollhom diżabilità b'xi mod jew ieħor jingħataw -

Diskriminazzjoni Pożittiva.

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

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

(ċ) għotjiet, benefiċċji jew programmi, sew diretti sew indiretti, sabiex jiġu sodisfatti l-ħtiġiet partikolari tagħhom, bil-għan li dawk il-persuni jiġu integrati ma' persuni oħra li ma jkollhomx diżabilità fi hwejj eġ li jkollhom x'jaqsmu ma' impieg, edukazzjoni, akkomodazzjoni, l-għoti u l-użu ta' oġġetti, servizzi u faċilitajiet, l-amministrazzjoni ta' liġijiet u l-

kapacità tagħhom li jgħixu hajja indipendenti fi hdan il-komunità kollha kemm hi.

Eżenzjonijiet  
għal  
Filantropija.

2. Id-dispożizzjonijiet ta' dan l-Att ma' għandhomx jolqtu xi dispożizzjoni f'xi att filantropiku li jagħti benefiċċji filantropiċi, jew li jagħmilha possibbli li jingħataw benefiċċji filantropiċi, għal kolloxx jew f'parti minnhom biss, lil persuni b'diżabilità jew b'xi diżabilità partikolari.

**IL-HAMES SKEDA**  
**[ARTIKOLU 2(2)(iii)]**

**Kummenti Ġenerali mahruġa mill-Kumitat tal-Ġnus Magħquda**  
**dwar id-Drittijiet ta' Persuni b'Diżabilità**

**A. KUMMENT ĠENERALI Nru. 1**

Artikolu 12: Għarfien ugwali quddiem il-liġi

Dokument numru CRPD/C/GC/1 fis-Sistema ta' Dokumenti Uffiċjali tal-Ġnus Magħquda (ODS), kif emendat minn żmien għal żmien, għandu japplika *mutatis mutandis*.

**B. KUMMENT ĠENERALI Nru. 2**

Artikolu 9: Aċċessibilità

Dokument numru CRPD/C/GC/2 fis-Sistema ta' Dokumenti Uffiċjali tal-Ġnus Magħquda (ODS), kif emendat minn żmien għal żmien, għandu japplika *mutatis mutandis*.

**Ċ. KUMMENT ĠENERALI Nru. 3**

Artikolu 6: Nisa u bniet b'diżabilità

Dokument numru CRPD/C/GC/3 fis-Sistema ta' Dokumenti Uffiċjali tal-Ġnus Magħquda (ODS), kif emendat minn żmien għal żmien, għandu japplika *mutatis mutandis*.

**D. KUMMENT ĠENERALI Nru. 4**

Artikolu 24: Dritt għall-edukazzjoni inklussiva

Dokument numru CRPD/C/GC/4 fis-Sistema ta' Dokumenti Uffiċjali tal-Ġnus Magħquda (ODS), kif emendat minn żmien għal żmien, għandu japplika *mutatis mutandis*.

**E. KUMMENT ĠENERALI Nru. 5**



### Artikolu 19: Dritt għall-ħajja indipendenti

Dokument numru CRPD/C/GC/5 fis-Sistema ta' Dokumenti Uffiċjali tal-Ġnus Magħquda (ODS), kif emendat minn żmien għal żmien, għandu japplika *mutatis mutandis*.

### **F. KUMMENT ĠENERALI Nru. 6**

Artikolu 5: Ugwaljanza u non-diskriminazzjoni Dokument numru CRPD/C/GC/6 fis-Sistema ta' Dokumenti Uffiċjali tal-Ġnus Magħquda (ODS), kif emendat minn żmien għal żmien, għandu japplika *mutatis mutandis*.

### **G. KUMMENT ĠENERALI Nru. 7**

Artikoli 4(3) u 33(3): Parteċipazzjoni ta' persuni b'diżabilità fl-implimentazzjoni u l-moniteragg tal-Konvenzjoni

Dokument numru CRPD/C/GC/7 fis-Sistema ta' Dokumenti Uffiċjali tal-Ġnus Magħquda (ODS), kif emendat minn żmien għal żmien, għandu japplika *mutatis mutandis*.

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## **Għanijiet u Raġunijiet**

L-għanijiet u r-raġunijiet ta' dan l-Abbozz ta' Liġi huma sabiex jipprovdi għall-possibilità ta' talbiet dwar azzjonijiet ċivili li jallegaw diskriminazzjoni minħabba f'diżabilità fir-rigward tal-Artikoli sostantivi tal-Konvenzjoni tal-Ġnus Magħquda dwar id-Drittijiet ta' Persuni b'Diżabilità, kif ukoll sabiex jipprovdi għal materji oħra fir-rigward tal-implimentazzjoni ta' tali Konvenzjoni.

## **A BILL entitled**

*AN ACT to make provision for the possibility of claims alleging*

*discrimination on the basis of disability in respect of the substantive Articles of the United Nations Convention on the Rights of Persons with Disabilities, as well as to provide for other matters in respect of the implementation of the said Convention.*

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:-

Short title.                   **1.**    The short title of this Act is the United Nations Convention on the Rights of Persons with Disabilities Act, 2021.

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

      "Convention" or "UNCRPD" shall mean the United Nations Convention on the Rights of Persons with Disabilities adopted by the General Assembly by its resolution 61/106 of 13 December 2006 that entered into force on 3 May 2008, and which the Government of Malta signed on 30 March 2007 and ratified on 10 October 2012;

      "DDI" shall mean the Directorate for Disability Issues established in accordance with article 5;

      "disability" shall be construed within the meaning of Article 1 of the Convention;

      "EMPOWER" shall mean the civil society participation mechanism established within DDI in accordance with article 6;

      "Minister" means the Minister responsible for disability and the development of this sector, and includes any person duly authorised by the said Minister to act in his name under this Act;

      "Optional Protocol" shall mean the Optional Protocol to the Convention, which the Government of Malta signed on 30 March 2007 and ratified on 10 October 2012;

"substantive Convention rights" shall mean those rights as set out in Articles 5 to 30 (both inclusive) of the Convention, which Articles are reproduced in the Second Schedule, and are enforceable subject to the Declaration and Reservations made by the Government of Malta on the signing of the Convention on 30 March 2007, as amended from time to time, and reproduced in the Third Schedule:

Provided that the substantive Convention rights shall not be understood to mean fundamental rights and freedoms in terms of the Constitution, or Human Rights and Fundamental Freedoms in terms of the European Convention Act;

Cap. 319.

"UNCRPD Committee" shall mean the United Nations Committee on the Rights of Persons with Disabilities established under Article 34 of the Convention;

"UNCRPD National Coordination Mechanism" shall mean the national coordination mechanism within Government as established by DDI in accordance with article 5;

"UNCRPD Redress Panel" shall mean the UNCRPD Redress Panel established in terms of article 33B of the Equal Opportunities (Persons with Disability) Act."

Cap. 413.

(2) For the purposes of this Act, in interpreting the substantive Convention rights:

(i) the definitions contained in Article 2 of the Convention, as reproduced in the First Schedule, shall be applicable;

(ii) "discrimination on the basis of disability", while having the same meaning as assigned to it in Article 2 of the Convention, shall also include, but not be limited to, the interpretative guidance set out in the Fourth Schedule;

(iii) the General Comments issued by the UNCRPD Committee shall be included in the Fifth Schedule, as amended from time to time, and shall constitute interpretative guidance when interpreting the substantive Convention rights;

(iv) the UNCRPD Redress Panel, the Administrative Review Tribunal and the Civil Courts shall, in determining any decision on any claim brought before them, avail themselves of a margin of appreciation that considers the national circumstances at any point in time, in relation to the interpretation of the substantive Convention rights and their

application.

Claims of discrimination based on disability proceedings before the UNCRPD Redress Panel. Cap. 413.

**3.** (1) Any person indicated in article 33B(4) of the Equal Opportunities (Persons with Disability) Act who alleges discrimination on the basis of disability, in respect of any of the substantive Convention rights, may submit a petition to the UNCRPD Redress Panel, in respect of the claim of alleged discrimination, in order that such Panel could examine the said petition and decide upon it.

Civil proceedings in respect of a claim based upon discrimination due to disability.

(2) Any person or entity indicated in article 33A and, or 33B(4) of the Equal Opportunities (Persons with Disability) Act that alleges discrimination on the basis of disability, in respect of any of the substantive Convention rights, and when the remedy sought in respect of said alleged discrimination also includes a remedy of a pecuniary nature, whether said remedy is sought in conjunction with any other form of remedy or otherwise, can avail themselves of a civil action, in terms of article 34 of the Equal Opportunities (Persons with Disability) Act.

Cap. 413.

Inconsistency with other laws. Cap. 319. Cap. 413. Cap. 460.

**4.** When another law, not being the Constitution, the European Convention Act, the Equal Opportunities (Persons with Disability) Act or the European Union Act is inconsistent with this Act, this Act shall prevail when such inconsistency regards the substantive Convention rights.

Directorate for Disability Issues (DDI).

**5.** (1) There shall be a Directorate for Disability Issues, that shall be referred to as "DDI", which shall report to the Permanent Secretary within the Ministry responsible for disability and the development of this sector.

(2) DDI shall be the national focal point for matters related to the implementation of the Convention, within the meaning of Article 33(1) of the Convention.

(3) DDI shall also establish within its structures a national coordination mechanism within Government, which shall be referred to as the "UNCRPD National Coordination Mechanism", to facilitate necessary action in connection with the Act, in different sectors and at different levels, within the meaning of Article 33(1) of the Convention.

(4) DDI shall furthermore carry out functions and duties of the public administration in the following manner:

(a) identify, establish and update all national policies and strategies, including the National Policy on the Rights of Persons with Disability and the National Disability Strategy,

directly or indirectly related to disability issues;

(b) undertake efforts in the field of disability-related research, together with local and foreign stakeholders;

(c) compile and collate necessary feedback and statistics required for reporting to national and international entities, concerning Malta's legal obligations in the field of disability, and coordinate or contribute towards any reviews conducted by the said national and international entities;

(d) encourage self-advocacy by persons with disability, including through training and empowerment schemes, alongside general disability advocacy, and assist with the advancement and development of initiatives towards this end, while supporting existing initiatives;

(e) develop other projects geared towards the empowerment of persons with disability, while supporting and collaborating with similar projects developed and operated by other entities;

(f) collaborate with all relevant stakeholders in the field of awareness-raising, with the goal of acceptance, inclusion and empowerment of persons with disability;

(g) represent Malta's interests at the technical level, at local and international, permanent and *ad hoc* fora covering the field of disability, and otherwise keep direct and continuous contact with local and foreign bodies working in the field of disability issues;

(h) carry out any other functions as may be ancillary, incidental or consequential to the matters stipulated in paragraphs (a) to (g), or otherwise necessary or conducive to the functioning of the Maltese disability sector, or any other functions as the Minister may determine, from time to time.

6. The Minister shall, by means of regulations, provide for the setting up and continued operation of EMPOWER, which shall be the civil society participation mechanism within DDI, in furtherance of the obligations set forth in Article 4(3) of the Convention, and for all other matters as are necessary and conducive from time to time for the smooth functioning of EMPOWER.

Civil society participation mechanism.

7. In the First, Second, Third, and Fifth Schedules, if there is any conflict between the English and Maltese versions, the English version shall prevail.

Conflict between versions in Schedules.

Powers of the  
Minister.

**8.** The Minister may make regulations to give effect to the provisions of this Act, and the enforcement thereof.

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**FIRST SCHEDULE**

**[ARTICLE 2(2)(i)]**

**Article 2 of the United Nations Convention on the Rights of Persons  
with Disabilities (UNCRPD)**

**Article 2  
Definitions**

For the purposes of the present Convention:

- "Communication" includes languages, display of text, Braille, tactile communication, large print, accessible multimedia as well as written, audio, plain-language, human-reader and augmentative and alternative modes, means and formats of communication, including accessible information and communication technology;
- "Language" includes spoken and signed languages and other forms of non spoken languages;
- "Discrimination on the basis of disability" means any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including denial of reasonable accommodation;
- "Reasonable accommodation" means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms;
- "Universal design" means the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design. "Universal design" shall not exclude assistive devices for particular groups of persons with disabilities where this is needed.

**SECOND SCHEDULE****[ARTICLE 2(1)]****Articles 5 to 30 of the United Nations Convention on the Rights of  
Persons with Disabilities (UNCRPD)****Article 5****Equality and non-discrimination**

1. States Parties recognize that all persons are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law.

2. States Parties shall prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds.

3. In order to promote equality and eliminate discrimination, States Parties shall take all appropriate steps to ensure that reasonable accommodation is provided.

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

**Article 6****Women with disabilities**

1. States Parties recognize that women and girls with disabilities are subject to multiple discrimination, and in this regard shall take measures to ensure the full and equal enjoyment by them of all human rights and fundamental freedoms.

2. States Parties shall take all appropriate measures to ensure the full development, advancement and empowerment of women, for the purpose of guaranteeing them the exercise and enjoyment of the human rights and fundamental freedoms set out in the present Convention.

**Article 7****Children with disabilities**

1. States Parties shall take all necessary measures to ensure the full enjoyment by children with disabilities of all human rights and fundamental freedoms on an equal basis with other children.

2. In all actions concerning children with disabilities, the best interests of the child shall be a primary consideration.

3. States Parties shall ensure that children with disabilities have the right to express their views freely on all matters affecting them, their views being given due weight in accordance with their age and maturity, on an equal basis with other children, and to be provided with disability and age-appropriate assistance to realize that right.

### **Article 8** **Awareness-raising**

1. States Parties undertake to adopt immediate, effective and appropriate measures:

(a) To raise awareness throughout society, including at the family level, regarding persons with disabilities, and to foster respect for the rights and dignity of persons with disabilities;

(b) To combat stereotypes, prejudices and harmful practices relating to persons with disabilities, including those based on sex and age, in all areas of life;

(c) To promote awareness of the capabilities and contributions of persons with disabilities.

2. Measures to this end include:

(a) Initiating and maintaining effective public awareness campaigns designed:

(i) To nurture receptiveness to the rights of persons with disabilities;

(ii) To promote positive perceptions and greater social awareness towards persons with disabilities;

(iii) To promote recognition of the skills, merits and abilities of persons with disabilities, and of their contributions to the workplace and the labour market;

(b) Fostering at all levels of the education system, including in all children from an early age, an attitude of respect for the rights of persons with disabilities;

(c) Encouraging all organs of the media to portray persons with disabilities in a manner consistent with the purpose of the present Convention;



(d) Promoting awareness-training programmes regarding persons with disabilities and the rights of persons with disabilities.

## **Article 9** **Accessibility**

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

(a) Buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces;

(b) Information, communications and other services, including electronic services and emergency services.

2. States Parties shall also take appropriate measures to:

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

(b) Ensure that private entities that offer facilities and services which are open or provided to the public take into account all aspects of accessibility for persons with disabilities;

(c) Provide training for stakeholders on accessibility issues facing persons with disabilities;

(d) Provide in buildings and other facilities open to the public signage in Braille and in easy to read and understand forms;

(e) Provide forms of live assistance and intermediaries, including guides, readers and professional sign language interpreters, to facilitate accessibility to buildings and other facilities open to the public;

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

(g) Promote access for persons with disabilities to new information and communications technologies and systems, including the Internet;

(h) Promote the design, development, production and distribution of accessible information and communications technologies and systems at an early stage, so that these technologies and systems become accessible at minimum cost.

## **Article 10**

### **Right to life**

States Parties reaffirm that every human being has the inherent right to life and shall take all necessary measures to ensure its effective enjoyment by persons with disabilities on an equal basis with others.

## **Article 11**

### **Situations of risk and humanitarian emergencies**

States Parties shall take, in accordance with their obligations under international law, including international humanitarian law and international human rights law, all necessary measures to ensure the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters.

## **Article 12**

### **Equal recognition before the law**

1. States Parties reaffirm that persons with disabilities have the right to recognition everywhere as persons before the law.

2. States Parties shall recognize that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life.

3. States Parties shall take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity.

4. States Parties shall ensure that all measures that relate to the exercise of legal capacity provide for appropriate and effective

safeguards to prevent abuse in accordance with international human rights law. Such safeguards shall ensure that measures relating to the exercise of legal capacity respect the rights, will and preferences of the person, are free of conflict of interest and undue influence, are proportional and tailored to the person's circumstances, apply for the shortest time possible and are subject to regular review by a competent, independent and impartial authority or judicial body. The safeguards shall be proportional to the degree to which such measures affect the person's rights and interests.

5. Subject to the provisions of this article, States Parties shall take all appropriate and effective measures to ensure the equal right of persons with disabilities to own or inherit property, to control their own financial affairs and to have equal access to bank loans, mortgages and other forms of financial credit, and shall ensure that persons with disabilities are not arbitrarily deprived of their property.

### **Article 13**

#### **Access to justice**

1. States Parties shall ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants, including as witnesses, in all legal proceedings, including at investigative and other preliminary stages

2. In order to help to ensure effective access to justice for persons with disabilities, States Parties shall promote appropriate training for those working in the field of administration of justice, including police and prison staff.

### **Article 14**

#### **Liberty and security of the person**

1. States Parties shall ensure that persons with disabilities, on an equal basis with others:

(a) Enjoy the right to liberty and security of person;

(b) Are not deprived of their liberty unlawfully or arbitrarily, and that any deprivation of liberty is in conformity with the law, and that the existence of a disability shall in no case justify a deprivation of liberty.

2. States Parties shall ensure that if persons with disabilities are deprived of their liberty through any process, they are, on an equal

basis with others, entitled to guarantees in accordance with international human rights law and shall be treated in compliance with the objectives and principles of this Convention, including by provision of reasonable accommodation.

### **Article 15**

#### **Freedom from torture or cruel, inhuman or degrading treatment or punishment**

1. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his or her free consent to medical or scientific experimentation.

2. States Parties shall take all effective legislative, administrative, judicial or other measures to prevent persons with disabilities, on an equal basis with others, from being subjected to torture or cruel, inhuman or degrading treatment or punishment.

### **Article 16**

#### **Freedom from exploitation, violence and abuse**

1. States Parties shall take all appropriate legislative, administrative, social, educational and other measures to protect persons with disabilities, both within and outside the home, from all forms of exploitation, violence and abuse, including their gender-based aspects.

2. States Parties shall also take all appropriate measures to prevent all forms of exploitation, violence and abuse by ensuring, *inter alia*, appropriate forms of gender and age-sensitive assistance and support for persons with disabilities and their families and caregivers, including through the provision of information and education on how to avoid, recognize and report instances of exploitation, violence and abuse. States Parties shall ensure that protection services are age, gender and disability-sensitive.

3. In order to prevent the occurrence of all forms of exploitation, violence and abuse, States Parties shall ensure that all facilities and programmes designed to serve persons with disabilities are effectively monitored by independent authorities.

4. States Parties shall take all appropriate measures to promote the physical, cognitive and psychological recovery, rehabilitation and social reintegration of persons with disabilities who become victims of any form of exploitation, violence or abuse, including through the provision of protection services. Such recovery

and reintegration shall take place in an environment that fosters the health, welfare, self-respect, dignity and autonomy of the person and takes into account gender and age-specific needs.

5. States Parties shall put in place effective legislation and policies, including women and child-focused legislation and policies, to ensure that instances of exploitation, violence and abuse against persons with disabilities are identified, investigated and, where appropriate, prosecuted.

### **Article 17**

#### **Protecting the integrity of the person**

Every person with disabilities has a right to respect for his or her physical and mental integrity on an equal basis with others.

### **Article 18**

#### **Liberty of movement and nationality**

1. States Parties shall recognize the rights of persons with disabilities to liberty of movement, to freedom to choose their residence and to a nationality, on an equal basis with others, including by ensuring that persons with disabilities:

(a) Have the right to acquire and change a nationality and are not deprived of their nationality arbitrarily or on the basis of disability;

(b) Are not deprived, on the basis of disability, of their ability to obtain, possess and utilize documentation of their nationality or other documentation of identification, or to utilize relevant processes such as immigration proceedings, that may be needed to facilitate exercise of the right to liberty of movement;

(c) Are free to leave any country, including their own;

(d) Are not deprived, arbitrarily or on the basis of disability, of the right to enter their own country.

2. Children with disabilities shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by their parents.

## **Article 19**

### **Living independently and being included in the community**

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

(a) Persons with disabilities have the opportunity to choose their place of residence and where and with whom they live on an equal basis with others and are not obliged to live in a particular living arrangement;

(b) Persons with disabilities have access to a range of in-home, residential and other community support services, including personal assistance necessary to support living and inclusion in the community, and to prevent isolation or segregation from the community;

(c) Community services and facilities for the general population are available on an equal basis to persons with disabilities and are responsive to their needs.

## **Article 20**

### **Personal mobility**

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

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

(b) Facilitating access by persons with disabilities to quality mobility aids, devices, assistive technologies and forms of live assistance and intermediaries, including by making them available at affordable cost;

(c) Providing training in mobility skills to persons with disabilities and to specialist staff working with persons with disabilities;

(d) Encouraging entities that produce mobility aids, devices and assistive technologies to take into account all aspects of mobility for persons with disabilities.

## **Article 21**

### **Freedom of expression and opinion, and access to information**

States Parties shall take all appropriate measures to ensure that persons with disabilities can exercise the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice, as defined in Article 2 of the present Convention, including by:

- (a) Providing information intended for the general public to persons with disabilities in accessible formats and technologies appropriate to different kinds of disabilities in a timely manner and without additional cost;
- (b) Accepting and facilitating the use of sign languages, Braille, augmentative and alternative communication, and all other accessible means, modes and formats of communication of their choice by persons with disabilities in official interactions;
- (c) Urging private entities that provide services to the general public, including through the Internet, to provide information and services in accessible and usable formats for persons with disabilities;
- (d) Encouraging the mass media, including providers of information through the Internet, to make their services accessible to persons with disabilities;
- (e) Recognizing and promoting the use of sign languages.

## **Article 22**

### **Respect for privacy**

1. No person with disabilities, regardless of place of residence or living arrangements, shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence or other types of communication or to unlawful attacks on his or her honour and reputation. Persons with disabilities have the right to the protection of the law against such interference or attacks.

2. States Parties shall protect the privacy of personal, health and rehabilitation information of persons with disabilities on an equal basis with others.

**Article 23**  
**Respect for home and the family**

1. States Parties shall take effective and appropriate measures to eliminate discrimination against persons with disabilities in all matters relating to marriage, family, parenthood and relationships, on an equal basis with others, so as to ensure that:

(a) The right of all persons with disabilities who are of marriageable age to marry and to found a family on the basis of free and full consent of the intending spouses is recognized;

(b) The rights of persons with disabilities to decide freely and responsibly on the number and spacing of their children and to have access to age-appropriate information, reproductive and family planning education are recognized, and the means necessary to enable them to exercise these rights are provided;

(c) Persons with disabilities, including children, retain their fertility on an equal basis with others.

2. States Parties shall ensure the rights and responsibilities of persons with disabilities, with regard to guardianship, wardship, trusteeship, adoption of children or similar institutions, where these concepts exist in national legislation; in all cases the best interests of the child shall be paramount. States Parties shall render appropriate assistance to persons with disabilities in the performance of their child-rearing responsibilities.

3. States Parties shall ensure that children with disabilities have equal rights with respect to family life. With a view to realizing these rights, and to prevent concealment, abandonment, neglect and segregation of children with disabilities, States Parties shall undertake to provide early and comprehensive information, services and support to children with disabilities and their families.

4. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. In no case shall a child be separated from parents on the basis of a disability of either the child or one or both of the parents.

5. States Parties shall, where the immediate family is unable to care for a child with disabilities, undertake every effort to provide



alternative care within the wider family, and failing that, within the community in a family setting.

## **Article 24**

### **Education**

1. States Parties recognize the right of persons with disabilities to education. With a view to realizing this right without discrimination and on the basis of equal opportunity, States Parties shall ensure an inclusive education system at all levels and life long learning directed to:

(a) The full development of human potential and sense of dignity and self-worth, and the strengthening of respect for human rights, fundamental freedoms and human diversity;

(b) The development by persons with disabilities of their personality, talents and creativity, as well as their mental and physical abilities, to their fullest potential;

(c) Enabling persons with disabilities to participate effectively in a free society.

2. In realizing this right, States Parties shall ensure that:

(a) Persons with disabilities are not excluded from the general education system on the basis of disability, and that children with disabilities are not excluded from free and compulsory primary education, or from secondary education, on the basis of disability;

(b) Persons with disabilities can access an inclusive, quality and free primary education and secondary education on an equal basis with others in the communities in which they live;

(c) Reasonable accommodation of the individual's requirements is provided;

(d) Persons with disabilities receive the support required, within the general education system, to facilitate their effective education;

(e) Effective individualized support measures are provided in environments that maximize academic and social development, consistent with the goal of full inclusion.

3. States Parties shall enable persons with disabilities to learn

life and social development skills to facilitate their full and equal participation in education and as members of the community. To this end, States Parties shall take appropriate measures, including:

(a) Facilitating the learning of Braille, alternative script, augmentative and alternative modes, means and formats of communication and orientation and mobility skills, and facilitating peer support and mentoring;

(b) Facilitating the learning of sign language and the promotion of the linguistic identity of the deaf community;

(c) Ensuring that the education of persons, and in particular children, who are blind, deaf or deaf blind, is delivered in the most appropriate languages and modes and means of communication for the individual, and in environments which maximize academic and social development.

4. In order to help ensure the realization of this right, States Parties shall take appropriate measures to employ teachers, including teachers with disabilities, who are qualified in sign language and/or Braille, and to train professionals and staff who work at all levels of education. Such training shall incorporate disability awareness and the use of appropriate augmentative and alternative modes, means and formats of communication, educational techniques and materials to support persons with disabilities.

5. States Parties shall ensure that persons with disabilities are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others. To this end, States Parties shall ensure that reasonable accommodation is provided to persons with disabilities.

## **Article 25**

### **Health**

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

(a) Provide persons with disabilities with the same range, quality and standard of free or affordable health care and programmes as provided to other persons, including in the area

of sexual and reproductive health and population-based public health programmes;

(b) Provide those health services needed by persons with disabilities specifically because of their disabilities, including early identification and intervention as appropriate, and services designed to minimize and prevent further disabilities, including among children and older persons;

(c) Provide these health services as close as possible to people's own communities, including in rural areas;

(d) Require health professionals to provide care of the same quality to persons with disabilities as to others, including on the basis of free and informed consent by, *inter alia*, raising awareness of the human rights, dignity, autonomy and needs of persons with disabilities through training and the promulgation of ethical standards for public and private health care;

(e) Prohibit discrimination against persons with disabilities in the provision of health insurance, and life insurance where such insurance is permitted by national law, which shall be provided in a fair and reasonable manner;

(f) Prevent discriminatory denial of health care or health services or food and fluids on the basis of disability.

## **Article 26**

### **Habilitation and rehabilitation**

1. States Parties shall take effective and appropriate measures, including through peer support, to enable persons with disabilities to attain and maintain maximum independence, full physical, mental, social and vocational ability, and full inclusion and participation in all aspects of life. To that end, States Parties shall organize, strengthen and extend comprehensive habilitation and rehabilitation services and programmes, particularly in the areas of health, employment, education and social services, in such a way that these services and programmes:

(a) Begin at the earliest possible stage, and are based on the multidisciplinary assessment of individual needs and strengths;

(b) Support participation and inclusion in the community and all aspects of society, are voluntary, and are available to persons with disabilities as close as possible to their

own communities, including in rural areas.

2. States Parties shall promote the development of initial and continuing training for professionals and staff working in habilitation and rehabilitation services.

3. States Parties shall promote the availability, knowledge and use of assistive devices and technologies, designed for persons with disabilities, as they relate to habilitation and rehabilitation.

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

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

(a) Prohibit discrimination on the basis of disability with regard to all matters concerning all forms of employment, including conditions of recruitment, hiring and employment, continuance of employment, career advancement and safe and healthy working conditions;

(b) Protect the rights of persons with disabilities, on an equal basis with others, to just and favourable conditions of work, including equal opportunities and equal remuneration for work of equal value, safe and healthy working conditions, including protection from harassment, and the redress of grievances;

(c) Ensure that persons with disabilities are able to exercise their labour and trade union rights on an equal basis with others;

(d) Enable persons with disabilities to have effective access to general technical and vocational guidance programmes, placement services and vocational and continuing training;

(e) Promote employment opportunities and career advancement for persons with disabilities in the labour market,

as well as assistance in finding, obtaining, maintaining and returning to employment;

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

(g) Employ persons with disabilities in the public sector;

(h) Promote the employment of persons with disabilities in the private sector through appropriate policies and measures, which may include affirmative action programmes, incentives and other measures;

(i) Ensure that reasonable accommodation is provided to persons with disabilities in the workplace;

(j) Promote the acquisition by persons with disabilities of work experience in the open labour market;

(k) Promote vocational and professional rehabilitation, job retention and return-to-work programmes for persons with disabilities.

2. States Parties shall ensure that persons with disabilities are not held in slavery or in servitude, and are protected, on an equal basis with others, from forced or compulsory labour.

### **Article 28**

#### **Adequate standard of living and social protection**

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

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

(a) To ensure equal access by persons with disabilities to clean water services, and to ensure access to appropriate and affordable services, devices and other assistance for disability-

related needs;

(b) To ensure access by persons with disabilities, in particular women and girls with disabilities and older persons with disabilities, to social protection programmes and poverty reduction programmes;

(c) To ensure access by persons with disabilities and their families living in situations of poverty to assistance from the State with disability-related expenses, including adequate training, counselling, financial assistance and respite care;

(d) To ensure access by persons with disabilities to public housing programmes;

(e) To ensure equal access by persons with disabilities to retirement benefits and programmes.

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

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

(a) Ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, directly or through freely chosen representatives, including the right and opportunity for persons with disabilities to vote and be elected, *inter alia*, by:

(i) Ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use;

(ii) Protecting the right of persons with disabilities to vote by secret ballot in elections and public referendums without intimidation, and to stand for elections, to effectively hold office and perform all public functions at all levels of government, facilitating the use of assistive and new technologies where appropriate;

(iii) Guaranteeing the free expression of the will of persons with disabilities as electors and to this end, where necessary, at their request, allowing assistance in voting by a person of their own choice;

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

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

(ii) Forming and joining organizations of persons with disabilities to represent persons with disabilities at international, national, regional and local levels.

### **Article 30**

#### **Participation in cultural life, recreation, leisure and sport**

1. States Parties recognize the right of persons with disabilities to take part on an equal basis with others in cultural life, and shall take all appropriate measures to ensure that persons with disabilities:

(a) Enjoy access to cultural materials in accessible formats;

(b) Enjoy access to television programmes, films, theatre and other cultural activities, in accessible formats;

(c) Enjoy access to places for cultural performances or services, such as theatres, museums, cinemas, libraries and tourism services, and, as far as possible, enjoy access to monuments and sites of national cultural importance.

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

3. States Parties shall take all appropriate steps, in accordance with international law, to ensure that laws protecting intellectual property rights do not constitute an unreasonable or discriminatory barrier to access by persons with disabilities to cultural materials.

4. Persons with disabilities shall be entitled, on an equal basis with others, to recognition and support of their specific cultural and linguistic identity, including sign languages and deaf culture.

5. With a view to enabling persons with disabilities to participate on an equal basis with others in recreational, leisure and sporting activities, States Parties shall take appropriate measures:

(a) To encourage and promote the participation, to the fullest extent possible, of persons with disabilities in mainstream sporting activities at all levels;

(b) To ensure that persons with disabilities have an opportunity to organize, develop and participate in disability-specific sporting and recreational activities and, to this end, encourage the provision, on an equal basis with others, of appropriate instruction, training and resources;

(c) To ensure that persons with disabilities have access to sporting, recreational and tourism venues;

(d) To ensure that children with disabilities have equal access with other children to participation in play, recreation and leisure and sporting activities, including those activities in the school system;

(e) To ensure that persons with disabilities have access to services from those involved in the organization of recreational, tourism, leisure and sporting activities.

### **THIRD SCHEDULE**

#### **[ARTICLE 2(1)]**

#### **Declaration and Reservations made by the Republic of Malta upon the signing of the Convention on the Rights of Persons with Disabilities and its Optional Protocol**

*Interpretative statement made upon ratification:*

"[...] Pursuant to Article 25 of the Convention, Malta makes the following Interpretative Statement - Malta understands that the phrase "sexual and reproductive health" in Art 25(a) of the Convention does not constitute recognition of any new international law obligation, does not create any abortion rights, and cannot be interpreted to constitute support, endorsement, or promotion of abortion. Malta further understands that the use of this phrase is intended exclusively to underline the point that where health services are provided, they are provided without discrimination on the basis of disability.

Malta's national legislation considers the termination of pregnancy through induced abortion as illegal."



*Reservations made upon ratification:*

"[...] Pursuant to Article 29(a)(i) and (iii) of the Convention, while the Government of Malta is fully committed to ensure the effective and full participation of persons with disabilities in political and public life, including the exercise of their right to vote by secret ballot in elections and referenda, and to stand for elections, Malta makes the following reservations:

*With regard to (a)(i):*

Malta reserves the right to continue to apply its current electoral legislation in so far as voting procedures, facilities and materials are concerned.

*With regard to (a)(iii):*

Malta reserves the right to continue to apply its current electoral legislation in so far as assistance in voting procedures is concerned."

*Interpretative statement and reservation made upon signature:*

"(a) Pursuant to Article 25 of the Convention, Malta makes the following Interpretative Statement - Malta understands that the phrase "sexual and reproductive health" in Art 25 (a) of the Convention does not constitute recognition of any new international law obligation, does not create any abortion rights, and cannot be interpreted to constitute support, endorsement, or promotion of abortion. Malta further understands that the use of this phrase is intended exclusively to underline the point that where health services are provided, they are provided without discrimination on the basis of disability.

Malta's national legislation, considers the termination of pregnancy through induced abortion as illegal.

(b) Pursuant to Article 29(a)(i) and (iii) of the Convention, while the Government of Malta is fully committed to ensure the effective and full participation of persons with disabilities in political and public life, including the exercise of their right to vote by secret ballot in elections and referenda, and to stand for elections, Malta makes the following reservations:

*With regard to (a)(i):*

At this stage, Malta reserves the right to continue to apply its current electoral legislation in so far as voting procedures, facilities and materials are concerned.

*With regard to (a)(iii):*

Malta reserves the right to continue to apply its current electoral legislation in so far as assistance in voting procedures is concerned."

#### **FOURTH SCHEDULE**

##### **[ARTICLE 2(2)(ii)]**

#### **Interpretative Guidance on Discrimination on the basis of Disability**

In this Schedule, unless the context otherwise requires:

"child" means a minor under the care and custody of the natural or adoptive parents, or under the care of foster carers;

"compulsory school age", in relation to a person means the age at which such person is subject to the provisions of the Education Act insofar as these relate to such age;

Cap. 327.

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

"educational authority" means a body or person administering an educational institution;

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

"employment" means work under a contract of service;

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

"family member", in relation to an individual, includes -  
(a) the parents; (b) the spouse or the partner; (c) a son, daughter, brother or sister aged eighteen years or over; (d) foster carers,

and; (e) a legal tutor or curator, of that individual;

"foster carer" shall have the same definition as provided for under the Foster Care Act; Cap. 491.

"minor" means those persons who have not attained the age of majority as defined under the Civil Code; Cap. 16.

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

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

"qualified person with a disability" means:

(a) in relation to any employment as is referred to in Section B of this Schedule, a person with a disability who is over compulsory school age but has not yet reached pensionable age, and who, with or without any reasonable accommodation in accordance with the aforementioned section, can perform the essential functions of the employment position that he holds or applies for or can hold or apply for; and

(b) in relation to the provision and use of goods, facilities or services as are referred to in Section E of this Schedule, a person with a disability who meets the essential eligibility requirements for the provision and use of such goods, facilities or services or for participation in such programmes or activities as maybe provided by any person or body in terms of this Schedule.

## **A. GENERAL**

A person would be discriminating with another person due to disability if such person:

(a) inhibits the free thought, social and economic improvement, and the integration in society of that person;

(b) deprives the other person from the protection and rights provided by law;

(c) fails to provide full access to a person with disability for all those actions provided by law;

(d) fails to furnish information with regard to the rights of the other person by means of communication which the other person can understand;

(e) fails to offer help to the other person in procedures linked to an investigation, the giving of evidence and other similar procedures;

(f) knowingly limits or by any other act inhibits the enjoyment of any right acquired by the other person both *inter vivos* or *causa mortis*;

(g) refers to a person or persons, or addresses them in a language which is disrespectful, both directly as well as by references on all means of communication, such as, but not limited to, broadcasting, publishing and correspondence;

(h) in circumstances which are similar or are not materially different, and with different accommodation and, or, services that may be required by the person with a disability in no case being deemed as constituting said circumstances, he treats or proposes to treat a person who has a disability less favourably than he treats or would treat a person who does not have such a disability;

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

(j) requires such other person to comply with a requirement or condition with which the majority of persons who do not have the disability comply or are able to comply, which is unreasonable in the circumstances of the case, and with which such other person does not comply or is unable to comply;

(k) treats or proposes to treat such other person less favourably than he treats or would treat others who do not have such a disability because of the fact that such other person is accompanied by or possesses any assistive means that is used by such other person or because of any matter related to that fact, whether or not it is the practice to treat in such less favourable manner any person who is accompanied by or is in possession of such assistive means;

(l) victimises 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;

(m) subjects such other person to a particular disadvantage through an apparently neutral provision, criterion or practice;

(n) 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;

(o) treats or proposes to treat such other person less favourably than he treats or would treat others who do not have such a disability because of the fact that such other person is accompanied by an interpreter, a reader, an assistant, or a carer, with such person providing interpretative, reading or other services to such other person because of the disability of such other person or because of any matter related to that fact, whether or not it is the practice to treat less favourably any person who is accompanied by an interpreter, a reader, an assistant or a carer, as the case may be.

## **B. EMPLOYMENT**

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

(a) procedures relative to applications for employment;

(b) the hiring, promotion or dismissal of employees;

(c) employee compensation;

(d) job training; and

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

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

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

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

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

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

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

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

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

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

(4) For the purposes of paragraph (2)(d), the factors to be considered in determining whether any alterations would unduly prejudice the operation of the trade or business run by the employer

shall include:-

- (a) the nature and cost of the alterations;
  - (b) the overall financial resources of the workplace involved in the making of the alterations;
  - (c) the number of employees at the workplace requiring alterations;
  - (d) the effect on expenses and resources and the impact of the required alterations upon the operation of the workplace;
  - (e) the overall financial resources of the employer;
  - (f) the overall size of the business of the employer including the number of employees, and the number, type and location of its workplaces;
  - (g) the type of operation or operations of the employer, including the composition, structure and functions of the work-force; and
  - (h) the availability of financial assistance from public funds to defray the expense of any alterations.
- (5) For the purposes of this Section, the term "make reasonable accommodation" includes:

- (a) making existing facilities used by employees readily accessible to and usable by persons with disabilities;
- (b) restructuring jobs, instituting part-time or modified work schedules, reassigning vacant positions, acquiring or modifying equipment or devices, appropriately adjusting or modifying examinations, training materials or policies, providing qualified readers or interpreters, and making any other similar alterations for a person with a disability; and
- (c) quality and vocational career guide, which guide shall be free for the person with disability.

2. (1) Save as provided for in paragraphs (2) and (3), an employer shall not conduct or require any medical examination or otherwise make any enquiries of an applicant for employment or of any of his employees as to whether such applicant or employee is a person with a disability or as to the nature or severity of such disability except to ascertain the ability of the applicant to perform

Medical  
examinations.

job-related functions or to identify the cost involved in any adaptations that may be required as a result of such disability.

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

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

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

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

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

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

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

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



Employment and Industrial Relations Act, or for the committee of management or a member of the committee of management of such a registered organisation, to discriminate against:

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

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

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

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

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

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

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

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

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

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

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

### C. EDUCATION

(1) Save as provided for in paragraphs (2) and (3), and without prejudice to the generality of this Act, it shall be unlawful for an educational authority or institution to discriminate against -

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

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

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

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

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

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

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

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

#### **D. ACCESS TO PROPERTY**

(1) Save as provided for in paragraph (2), and without

prejudice to the generality of this Act, it shall be unlawful for any person to discriminate against another person on the grounds of the disability of such other person or a disability of any of his family members:

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

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

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

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

(2) Where:

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

(b) 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 (1)(a) 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.

## **E. PROVISION OF GOODS, FACILITIES OR SERVICES**

(1) Save as provided for in paragraph (3), and without prejudice to the generality of this Act, no qualified person with a disability shall, on the grounds of disability, be excluded from participation in or be denied the benefits of the programmes or activities of any person or body in relation to the goods, facilities or services to which this Section applies or be discriminated against by any person or body providing such goods, facilities or services which the qualified person seeks to obtain or use.

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

- (a) access to and use of any place which members of the public or a sector of the public are permitted to enter;
- (b) the provision of property rights and of housing;
- (c) accommodation in a hotel, boarding house or similar establishment;
- (d) facilities by way of banking, insurance or for grants, loans, credit or finance;
- (e) participation in occupational and other pension schemes;
- (f) facilities for education;
- (g) facilities for entertainment, sports or recreation;
- (h) facilities for transport or travel by land, sea or air;
- (i) the services of any profession or trade, or of any local or other public authority;
- (j) membership of associations, clubs or other organisations;
- (k) enjoyment of civic rights and performance of civic duties; and
- (l) such other facilities and services as the Minister may prescribe by regulations made under this Act.

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

## **F. HEALTH**

(1) A person would be discriminating with another person

due to a disability if that person is refused the giving of a health service of the same standard, conditions, even financial, of a range and quality like that given to other persons, including but not limited to that related to sexual and reproductive health.

This also includes, but is not limited to, the refusal to administer food and fluids to the person with disability due to that disability.

(2) A person with disability shall also have a right to the health services required by persons with disability specifically due to their disability, including:

- (a) the early identification and intervention as appropriate;
- (b) an assessment which reflects the actual needs and health conditions of the person with disability; and
- (c) rehabilitation and habilitation services designed to minimise and prevent further disabilities:

so however that the State shall offer all support as the case may be.

## **G. ACCOMMODATION**

(1) Save as provided for in paragraphs (2) and (3), and without prejudice to the generality of this Act, no person shall discriminate with another person on the grounds of the disability of such other person or a disability of any of the his family members:

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

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

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

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

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

(2) The provisions of paragraph (1) shall not apply if -

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

(b) the accommodation provided in that property could cater for no more than four persons.

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

## H. EXEMPTIONS

Positive  
Discrimination.

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

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

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

(c) allowed grants, benefits or programmes, whether

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

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

## FIFTH SCHEDULE

### [ARTICLE 2(2)(iii)]

#### **General Comments issued by the United Nations Committee on the Rights of Persons with Disabilities**

##### **A. GENERAL COMMENT No. 1**

Article 12: Equal recognition before the law

Document number CRPD/C/GC/1 in the Official Document System of the United Nations (ODS), as amended from time to time, shall apply *mutatis mutandis*.

##### **B. GENERAL COMMENT No. 2**

Article 9: Accessibility

Document number CRPD/C/GC/2 in the Official Document System of the United Nations (ODS), as amended from time to time, shall apply *mutatis mutandis*.

##### **C. GENERAL COMMENT No. 3**

Article 6: Women and girls with disabilities

Document number CRPD/C/GC/3 in the Official Document System of the United Nations (ODS), as amended from time to time, shall apply *mutatis mutandis*.

##### **D. GENERAL COMMENT No. 4**

Article 24: Right to inclusive education

Document number CRPD/C/GC/4 in the Official Document System of the United Nations (ODS), as amended from

time to time, shall apply *mutatis mutandis*.

**E. GENERAL COMMENT No. 5**

Article 19: Right to independent living

Document number CRPD/C/GC/5 in the Official Document System of the United Nations (ODS), as amended from time to time, shall apply *mutatis mutandis*.

**F. GENERAL COMMENT No. 6**

Article 5: Equality and non-discrimination

Document number CRPD/C/GC/6 in the Official Document System of the United Nations (ODS), as amended from time to time, shall apply *mutatis mutandis*.

**G. GENERAL COMMENT No. 7**

Articles 4(3) and 33(3): Participation of persons with disabilities in the implementation and monitoring of the Convention

Document number CRPD/C/GC/7 in the Official Document System of the United Nations (ODS), as amended from time to time, shall apply *mutatis mutandis*.

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**Objects and Reasons**

The objects and reasons of this Bill are to make provision for the possibility of civil actions based on claims alleging discrimination on the basis of disability in respect of the substantive Articles of the United Nations Convention on the Rights of Persons with Disabilities, as well as to provide for other matters in respect of the implementation of the said Convention.