

## **BILL**

### **Entitled**

*An Act to prohibit discrimination in various spheres of life, to promote equality and prevent discrimination, inter alia, by giving effect to the relevant provisions of Council Directive 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin, Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation, Council Directive 2002/73/EC of 23 September 2002 amending Directive 76/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions, Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to goods and services and their supply, Council Directive 2006/54/EC of 5 July 2006 implementing the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast), and the Communication from the European Commission (22.12.2011 C(2011) 9497) containing Guidelines on the application of Council Directive 2004/113/EC to insurance, in the light of the judgment of the Court of Justice of the European Union in Case C-236/09 (Test-Achats).*

Short title.

**1.** The short title of this Act is the Equality Act, 2015.

Definitions.

**2.** In this Act, unless the context otherwise requires:

“advertisement” refers to any form of advertisement, whether to the public or not and whether in a newspaper, magazine or other publication, on television or radio or on the internet or other means of electronic communication, or by display of a notice, poster, billboard, trailer or flyer or by any other means, including disseminating information about a vacancy for work or the provision of a service by word of mouth from person to person, and references to the publishing or display of advertisements shall be construed accordingly;

“age” refers to a person’s real or perceived duration of life to date;

“age discrimination” refers to discrimination against persons within a particular age group;

“belief, creed or religion” refers to any religious or philosophical belief, and a reference to such belief, creed or religion shall include a reference to a lack thereof;

“Commission” refers to the Human Rights and Equality Commission established under Article 3 of the Human Rights and Equality Commission Act;

“Commissioner” refers to the Human Rights and Equality Commissioner appointed under Article 4 of the Human Rights and Equality Commission Act;

“direct discrimination” shall be taken to occur where a person is treated less favourably than another person is, has been, or would be, treated in a comparable situation, on the basis of one of the protected characteristics laid down under this Act, or when a person is treated less favourably than another person is, has been, or would be, treated in a comparable situation, on the basis of that person’s association with another person who has any one or more of the protected characteristics laid down under this Act;

“disability” refers to a long-term physical, mental, intellectual or sensory impairment which in interaction with various barriers may hinder one’s full and effective participation in society on an equal basis with others; “discrimination” refers to direct and, or indirect discrimination based on one of the protected characteristics laid down under this Act, and “discriminate” and “discriminatory” shall be construed accordingly;

“employer” shall be taken to include a person who has a right to make decisions on the employer’s behalf;

“employment” refers to any gainful activity including self-employment and includes the process of recruitment, promotion and transfer to another post, access to vocational or professional training, the duration of the employment or its extension or termination, as well as apprenticeships as defined by Article 29 of the Employment and Training Services Act;

“employment agency” refers to a person, an association of persons, organisation or institution related to the purpose of finding employment for workers or for supplying workers to employers, and includes guidance on careers and other services related to employment but excludes educational establishments;

“equal treatment” refers to the absence of discrimination, whether direct or indirect, on any one or more of the protected characteristics laid down under this Act;

“family status” includes membership in a family and the social, cultural and legal rights and expectations associated with such status;

“gender expression” refers to each person’s manifestation of their gender identity, and, or the one that is perceived by others;

“gender identity” refers to each person’s internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body (which may involve, if freely chosen, modification of bodily appearance and, or functions by medical, surgical or other means) and other expressions of gender, including name, dress, speech and mannerisms;

“harassment” shall be deemed to occur where an unwanted conduct related to one or more of the protected characteristics laid down under this Act, has the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment;

“indirect discrimination” refers to any treatment based on a provision, criterion or practice which would put persons having any one or more of the protected characteristics laid down under this Act at a particular disadvantage compared with other persons, unless that provision, criterion or practice is appropriate and necessary and can be justified by objective factors;

“intersectional discrimination” occurs when a person is discriminated against on the basis of two or more of the protected characteristics;

“language” refers to spoken and signed languages and other forms of non-spoken languages;

“marital status” refers to the status or condition of being single, married, annulled, divorced, widowed, cohabiting or in a civil union;

“Minister” refers to the Minister responsible for equality;

“ordinary discrimination” refers to discrimination on the basis of only one of the protected characteristics laid out under this Act;

“pay” refers to the ordinary basic salary and any other consideration, whether in cash or in kind, which workers receive directly or indirectly, in respect of their employment from their employer; including the conditions for such remuneration;

“person” refers to a natural person;

“pregnancy” refers to the state of a person who has within the ovary or womb an implanted embryo, which gradually becomes developed in the latter receptacle;

“prohibited conduct” refers to any form of discrimination on any of the protected characteristics laid down under this Act;

“protected characteristics” shall be age; belief, creed or religion; disability; family responsibilities; family or marital status; gender expression or gender identity; HIV status; maternity; pregnancy; race, colour or ethnic origin; sex or sex characteristics; and sexual orientation;

“public administration” refers to the Government of Malta including its ministries and departments, and the agencies, government entities, commissions and boards referred to in this Act;

“race, colour or ethnic origin” shall include colour, nationality, language, cultural background and ethnic and national origins;

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

“self-employed workers” in line with Directive 2010/41/EU of the European Parliament and the Council of 7 July 2010 on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity, means all persons pursuing a gainful activity for their own account, and the spouses of self-employed workers not being employees or business partners, where they habitually participate in the activities of the self-employed worker and perform the same tasks or ancillary tasks;

“sex characteristics” refers to the chromosomal, gonadal and anatomical features of a person, which include primary characteristics such as reproductive organs and genitalia and, or in chromosomal structures and hormones; and secondary characteristics such as muscle mass, hair distribution, breasts and, or stature;

“sex discrimination” shall include less favourable treatment, directly or indirectly, to persons on the basis of their sex, sex characteristics, or because of family responsibilities or treating a woman less favourably for reasons of actual or potential pregnancy or childbirth; or treating persons less favourably on the basis of parenthood, family responsibility or for some other reason related to their sex or sex characteristics;

“sexual harassment” occurs where any form of unwanted verbal, non-verbal or physical conduct of a sexual nature occurs, with the purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment;

“victim” refers to any natural person who has suffered harm, including physical, mental or emotional harm or economic loss which was directly caused by prohibited conduct under this Act; as well as family members of a person whose death was directly caused by prohibited conduct under this Act and who have suffered harm as a result of that person’s death;

“victimisation” shall include less favourable treatment for having made a complaint to the lawful authorities or for having initiated or participated in proceedings for redress on grounds of alleged breach of the provisions of this Act, or for having disclosed information, confidential or otherwise, to a designated public regulating body,

regarding alleged illegal or corrupt activities being committed by any person falling within the scope of this Act or by persons acting in such person's name and interests;

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

Anti-Equality provision to be null and void.

**3.** (1) Any provision or practice contrary to the principle of equal treatment shall be null and void.

(2) Any provisions contrary to the principle of equal treatment in any law, individual or collective contracts or agreements, internal rules of undertakings, or rules governing any registered organisation in terms of the Act, shall, on entry into force of these regulations, be considered null and void.

Best interest of children.

**4.** In all actions concerning children, the best interests of the child shall be the primary consideration.

Scope.

**5.** No person, establishment or entity, whether in the private sector or within the public administration, shall discriminate against any other person in relation to:

- (a) advertising;
- (b) educational and vocational guidance;
- (c) employment;
- (d) employees' and employers' organisations;
- (e) employment agencies;
- (f) self-employment and occupation;
- (g) banks and financial services;
- (h) insurances;
- (i) access to goods and services, including medical care, social services and housing.

Prohibited conduct.

**6.** (1) It shall be unlawful to engage in any discrimination, whether direct or indirect, whether ordinary or intersectional, on the basis of any one or more of the protected characteristics laid out under this Act.

(2) Indirect discrimination may be proved by any means of evidence including statistical evidence.

(3) Notwithstanding the provision of sub-article (1) the following shall not be deemed to constitute discrimination:

(a) Special protection granted to persons during pregnancy, childbirth or maternity;

(b) Measures of positive action or reasonable accommodation for the purpose of achieving substantive equality by maintaining or adopting specific measures to prevent or compensate for disadvantages linked to any of the protected characteristics laid down under this Act;

(c) In relation to access to employment, less favourable treatment which is based on a characteristic related to any of the protected characteristics laid down under this Act, where by reason of the particular occupational activities concerned, or of the context in which they are carried out, such a characteristic constitutes a genuine occupational requirement and where such treatment remains within the limits of what is appropriate, proportionate and necessary in the circumstances:

Provided that the burden of proving a genuine occupational requirement shall lie on the person who alleges its existence.

(d) With regards to disabled persons, measures taken at the workplace aimed at creating or maintaining provisions or facilities for safeguarding or promoting their integration into the working environment;

(e) In relation to banks or financial institutions, nothing in sub-article (1) of this article shall be deemed to constitute discrimination in so far as the conditions under which the facility or the insurance cover is offered or withheld reflect genuine considerations based on the financial risk in the grant of such facilities or of such insurance cover:

Provided that the burden of proving such a genuine consideration shall lie on the person who alleges its existence.

(f) In relation to the provision of goods and services, if the provision of the goods and services exclusively or primarily to persons having one or more of the protected characteristics laid down under this Act is, justified by a legitimate aim and the means of achieving that aim are appropriate, proportionate and necessary:

Provided that the burden of proving such a genuine consideration shall lie on the person who alleges its existence.

(g) Less favourable treatment relating to religious practice, access to priesthood or membership in any religious order or other religious communities in so far as these relate solely and purely to religious purposes;

(h) Less favourable treatment on the grounds of age and disability in the Armed Forces of Malta.

(4) Harassment shall constitute prohibited conduct under this Act and shall be tantamount to discrimination.

(5) Victimisation shall constitute prohibited conduct under this Act and shall be tantamount to discrimination.

(6) An instruction to discriminate shall constitute prohibited conduct under this Act and shall be tantamount to discrimination.

#### Advertising.

**7.** It shall not be lawful for persons to publish, display or broadcast, or cause to be published, displayed or broadcast, any advertisement which promotes discrimination or which is discriminatory or which might reasonably be understood as indicating an intention to discriminate.

#### Educational and vocational guidance.

**8.** (1) Discrimination in education and vocational guidance shall include less favourable treatment in the:

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

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

(c) selection and implementation of the curricula;

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

(2) It shall be the duty of educational establishments and entities providing vocational training, within the limits of their competence to:

(a) ensure that curricula and textbooks do not propagate discrimination;

(b) promote diversity and respect towards all persons regardless of whether they fall under any one or more of the protected characteristics.

#### Employment.

**9.** (1) Discrimination in employment shall include less favourable treatment in the:

- (a) Assessment of work applications;
- (b) Conduction of interviews, including requesting from job seekers information concerning their private life or family plans;
- (c) Determination of selection criteria;
- (d) Recruitment conditions;
- (e) Provision of promotions;
- (f) Granting of access to vocational guidance and/or training, including practical work experience;
- (g) Conditions of employment;
- (h) Pay;
- (i) Management of work, including distribution of tasks;
- (j) Membership of, and involvement in, any organisation of employees and employers, or any organisation whose members carry on a particular profession, including the benefits provided for by such organisations;
- (k) Redundancy;
- (l) Dismissal.

(2) The prohibition of discrimination in employment shall be applicable to all types of employees amongst all levels of the professional hierarchy, including job applicants, trainees, temporary workers and self-employed workers.

(3) A job applicant who is rejected, or an employee who is rejected from accessing promotion or training opportunities, shall have a right to request from the employer, information in writing regarding the criteria upon which the successful applicant was selected.

Equal pay for equal work

**10.** Employees in the same class of employment are entitled to the same rate of pay for work of equal value:

- (a) Provided that an employer and a worker or a union of workers as a result of negotiations for a collective agreement, may agree on different salary scales, annual increments and other conditions of employment that are different for those workers



who are employed at different times, where such salary scales have a maximum that is achieved within a specified period of time;

(b) Provided further that any distinction between classes of employment based on discriminatory treatment otherwise than in accordance with the provisions of this Act or any other law shall be null and of no effect.

Employees and Employers Associations.

**11.** Without prejudice to any relevant provisions of the Act, it shall be unlawful for a registered organisation under the Employment and Industrial Relations Act, or for the governing body or any officer or official representative of such organisation:

(a) To subject a person to discriminatory treatment -

(i) By refusing or failing to accept an application for membership;

(ii) In the terms or conditions on which such organisation is prepared to accept applications for membership;

(b) To subject a member to discriminatory treatment by -

(i) Denying access to any benefit provided by the organisation or limiting access to such benefit;

(ii) Depriving membership of the organisation or varying the terms of such membership;

(iii) Subjecting the person to any other detriment.

Employment Agencies.

**12.** (1) It shall be unlawful for an employment agency to subject a person to discriminatory treatment:

(a) By refusing to provide any of its services;

(b) In the terms or conditions it offers to provide any of its services;

(c) In the manner in which it provides any of its services.

(2) For the purposes of this article, an employment agency shall not be deemed to discriminate against a person if, taking into account 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 be unable to carry out the inherent requirements of the work sought.

Self-employment and occupation.

**13.** No person in self-employment or occupation shall be discriminated against in relation to the establishment, equipment or extension of a business or the launching or extension of any other form of self-employed activity or occupation.

Spouses of self-employed.

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

(2) The provisions of sub-article (1) shall not apply where the system of community of acquests or community of the residue under separate administration subsists between the spouses.

Banks and Financial Services.

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

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

Insurances

**16.** (1) The use of one or more of any of the protected characteristics as a factor in the calculation of premiums and benefits for the purposes of insurance and related financial services shall not result in differences in the premiums and benefits relating to an individual with respect to insurance contracts concluded after 21st December 2007 where the policyholder is an individual.

(2) The provisions of sub-article (1) shall not apply with respect to insurance contracts concluded before 21st December 2012, where the use of sex is a determining factor in the assessment of risk, if the resulting differences in the premiums and benefits

relating to an individual are proportionate, and where this assessment is based on relevant and accurate actuarial statistical data.

(3) For the purposes of this article, providers of insurance and related financial services who use such a determining factor shall file an annual notification to such effect with the Commission.

(4) Such notification shall include the following details:

(a) The name of the service provider;

(b) The product or service in relation to which the notification is being filed;

(c) A rationale as to why the use of sex is a determining factor;

(d) The actuarial statistical data on which this rationale is based.

(5) For the purposes of sub-article (2), an insurance contract shall be deemed to have been concluded before 21st December 2012 notwithstanding that:

(a) the said insurance contract is extended automatically on or after 21st December 2012 on the basis of terms and conditions in an insurance contract concluded before 21st December 2012 (hereinafter referred as a "pre-existing contract");

(b) the said insurance contract is amended on or after 21st December 2012 on the basis of terms and conditions in a pre-existing contract, where the consent of the policyholder is not required;

(c) the said insurance contract is a top-up or follow-on insurance policy whose terms were agreed in a pre-existing contract, where such insurance contract is activated by the unilateral decision of the policyholder;

(d) a pre-existing contract is amended on or after 21st December 2012 on the request and with the consent of the policyholder, on condition that such amendment does not result in any increase in premium;

(e) the said insurance contract is part of a scheme under which an insurance company transfers to another insurance company all rights and obligations arising from pre-existing contracts in accordance with the provisions of the Insurance Business Act.

Access to goods and services, includes medical care, social services and housing.

**17.** (1) Discrimination in the access to goods and services shall include less favourable treatment in:

(a) the supply of goods, services or to the general public;

(b) the provision of health and medical care and other medical services;

- (c) social services;
- (d) transport;
- (e) housing;
- (f) sports;
- (g) the participation in a meeting or event which is open to the public.

(2) The provision of sub-article (1) shall only be applicable to the supply of goods and services to the general public, and outside the private and family sphere.

#### Equality Duty.

**18.** Persons and organisations falling within the scope of applicability of this Act, shall take the necessary measures to ensure that the principle of equal treatment is respected, and in particular that administrative provisions contrary to the principle of equal treatment are abolished and that any contractual provisions, internal rules of undertakings and rules governing profit-making or non-profit-making organisations contrary to the principle of equal treatment are abolished or amended.

#### Persons responsible for any workplace, educational establishment or vocational training.

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

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

(3) The failure by any person responsible for any establishment and, or entity to fulfil his obligation to suppress harassment as provided under sub-article (2) of article 6 of this Act shall, for the purposes of sub-article (1) of this article, constitute discrimination.

#### Public administration and equality duty.

**20.** (1) The public administration must, in the exercise of its functions, have due regard to the need to -

- (a) Eliminate discrimination, harassment, sexual harassment, victimisation and any other conduct that is prohibited by or under this Act;
- (b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- (c) Promote equality and gender mainstreaming when formulating and implementing laws, regulations, administrative provisions, policies and activities in the areas of employment, including promotion and vocational training and as regards working conditions and, on the conditions relating to social security;
- (d) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

(2) A person who is not a public authority but who exercises public functions must, in the exercise of those functions, have due regard to the matters mentioned in sub-article (1).

(3) Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to -

- (a) Remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- (b) Take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
- (c) Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

(4) The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

(5) Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

- (a) Tackle prejudice;
- (b) Promote understanding.

(6) Compliance with the duties in this Article may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

Public Management Service Code.

**21.** The public administration shall endeavour to carry out any amendments to the Public Management Service Code which are required in order to ensure conformity with the provisions of this Act by not later than 2 years from the coming into force of this Act.

Duties of Employer.

**22.** (1) It shall be the duty of the employer to take effective measures to prevent all forms of discrimination, in particular harassment and sexual harassment in the workplace, in access to employment, vocational training and promotion.

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

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

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

(4) It shall be the duty of the employer or any person or organisation to whom the provisions of this Act apply, to use appropriate means to bring the provisions of this Act as well as of any measure taken to further the aim of these regulations to the attention of his employees, or of the organisation's members, as the case may be, or to any other persons who may be affected by the actions of the employer or the organisation concerned.

Right of action.

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

(2) In any such action as is provided in sub-article (1) or (2) of this article the plaintiff shall, over and above and in addition to such damages and costs as may have been actually suffered and be due according to law, be entitled to recover by way of compensation such sum of money as the court in its discretion may consider reasonable taking into account all the circumstances of the case, including any moral or non-material damages suffered by the plaintiff, and as the court on the trial of the cause shall award and assess in order to ensure that such compensation payable is dissuasive and proportionate to the damage suffered by the injured party.

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

Provided further that any association, organisation or other legal entity, having a legitimate interest in ensuring that the provisions of this Act are complied with, may engage itself either on behalf or in support of the complainant, with his or her approval, in any judicial or administrative procedure provided for the enforcement of obligations under this Act.

(3) Any association, organisation or other legal entity, having a legitimate interest in ensuring that the provisions of this Act are complied with, may engage in any judicial act or administrative procedure provided for the enforcement of obligations under this Act, even if an individual victim has not been identified, but there is nonetheless evidence of discriminatory practices by a particular person falling within the scope of this Act.

#### Burden of proof

**24.** In any proceedings under Articles 22(2) and (3) it shall be sufficient for the plaintiff or the person instituting the said proceedings to establish, before the Court or before any other competent authority, facts from which it may be presumed that the person has been treated less favourably, directly or indirectly, on the basis of one or more of the protected characteristics laid down under this Act, and it shall be incumbent on the defendant or on the person against whom such proceedings are brought to prove that there has been no breach of the principle of equal treatment, or that such less favourable treatment was justified in accordance with the provisions of this Act, and the Court or other competent authority shall uphold the complaint if the defendant or the person against whom the proceedings before the competent authority are brought fails to prove that he did not commit an illegal act.

Sanctions.

**25.** Persons who act in breach of any of the provisions of this Act shall be guilty of an offence against this article and shall, on conviction, be liable a fine (multa) of not more than five thousand (5000) Euros, or to imprisonment for a period not exceeding six months, or to both such fine and imprisonment.

Responsibility in cases of partnerships etc.

**26.** Where an offence against the provisions of this Act is committed by a partnership, company, association or other body of persons, every person who, at the time of the commission of the offence, was a director, manager, secretary or other similar officer of such partnership, company, association or other body of persons or was purporting to act in any such capacity shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of the offence.

Application of this act.

**27.** (1) This Act binds the State and all persons.

(2) The provisions of this Act shall be without prejudice to the Protection of Maternity (Employment) Regulations, the Parental Leave Entitlement Regulations, and the Urgent Family Leave Regulations.

(3) This Act shall not apply to any differences of treatment based on nationality and are without prejudice to laws and conditions relating to entry into and residence of persons who are not Maltese nationals in Malta and to any treatment which arises from the legal status of these individuals concerned.

(4) If any conflict relating to a matter dealt with in this Act arises between this Act and the provisions of any other law, other than the Constitution or an Act of Parliament expressly amending this Act, the provisions of this Act must prevail.

(5) The Equality for Men and Women Act and all subsidiary legislation promulgated hereunder are hereby repealed.