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I assent.

(L.S.)

**MARIE-LOUISE  
COLEIRO PRECA  
President**

10th May, 2016

**ACT No. XXIV of 2016**

*AN ACT to amend the Equal Opportunities (Persons with Disability) Act, Cap. 413, and to provide for matters ancillary or consequential thereto.*

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 Equal Opportunities (Persons with Disability) (Amendment) Act, 2016, and this Act shall be read and construed as one with the Equal Opportunities (Persons with Disability) Act, hereinafter referred to as "the principal Act".

Cap. 413.

Amendment of  
article 2 of the  
principal Act.

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

(a) immediately after the definition "assistive means" there shall be added the following new definition:

" "Board" means the Board established by means of article 20A;"

(b) immediately after the definition "Board" there shall be added the following new definition:

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

(c) immediately after the definition "Commission" there shall be added the following new definition:

" "communication" includes languages, the showing of texts, communication by means of touch, Braille, large font, accessible multimedia as well as communication by means of writing, audio, easy readable format, human or multimedia readers or interpreters, accessible means and formats of communication and technological communication;"

(d) immediately after the definition "contract of service" there shall be added the following new definition:

" "Convention" refers to the United Nations Convention on the Rights of Persons with Disabilities adopted by the General Assembly of the United Nations on the 13th December 2006, and any Optional Protocol together with the Reservations as affirmed and ratified by Malta on the 30th March 2007 and the 9th November 2012 respectively;"

(e) immediately after the definition "Convention" there shall be added the following new definition:

" "Commissioner" means the Commissioner for the Rights of Persons with Disability appointed according to article 21, and includes any official duly authorised to act in his name for a specific aim or a category of aims under this Act;"

(f) the definition "Commission" shall be substituted by the following new definition:

" "Commission" shall mean the Commission for the Rights of Persons with Disability as established under article 21;"

(g) immediately after the definition "Commissioner" there shall be added the following new definition:

" "Council" means the Council for the Rights of Persons with Disability as appointed and constituted according to the provisions of article 24;"

(h) the definition "family member" shall be amended as follows:

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(i) in paragraph (b) thereof for the words "the spouse" there shall be substituted the words "the spouse or the partner";

(ii) paragraph (d) thereof shall be substituted by the following:

"(d) foster carers;"; and

(iii) immediately after paragraph (d) thereof there shall be added the following new paragraph:

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

(i) immediately after the definition "family member" there shall be added the following new definition:

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

(j) the definition "harassment" shall be substituted by the following new definition:

" "harassment" means when a person is exposed to an act, request, or conduct which is not desired, including words, gestures or conduct, the showing or dissemination by any means of written words, images and any other material which may be reasonably considered offensive, humiliating, hostile, degrading or intimidating with regard to that person;";

(k) immediately after the definition "impairment" there shall be added the following new definition:

" "language" includes any verbal languages, by means of signs, which includes, but does not exclude, the Maltese Sign Language and any other non-verbal languages;";

(l) immediately after the definition "language" there

shall be added the following new definition:

Cap. 525. " "mental disorder" shall have the same meaning as that provided for under the Mental Health Act;";

(m) the definition "Minister" shall be substituted by the following new definition:

" "Minister" means the Minister responsible for disability and the development of this sector, and includes any person duly authorised by the relevant Minister to act in his name for a specific act or category of acts under this Act;";

(n) immediately after the definition "Minister" there shall be added the following new definition:

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

(o) in paragraphs (a) and (b) of the definition "qualified person with a disability" for the words "Part III" there shall be substituted the words "Part IV";

(p) in the definition "reasonable accommodation" for the word "alterations" there shall be substituted the words "necessary alterations";

(q) immediately after the definition "reasonable accommodation" there shall be added the following new definition:

" "rights of persons with disability" includes the rights of persons with disability referred to in the United Nations Convention on the Rights of Persons with Disabilities adopted by the General Assembly of the United Nations on the 13th December 2006, and any Optional Protocol together with the Reservations as affirmed and ratified by Malta on the 30th March 2007 and the 9th November 2012 respectively;"; and

(r) in the definition "voluntary organisation" immediately after the words "Voluntary Organisations Act" there shall be added the words "the committee of which is

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formed by at least fifty one per cent of persons with disability or family members of persons with disability who cannot represent themselves, so however that the executive functions are exercised by persons with disability or family members of persons with disability who cannot represent themselves. This definition also includes groups of persons with intellectual disabilities aided by persons without disability."

Renumbering of the headings of the Parts of the principal Act.

3. The headings of Parts II, III, IV, V, VI and VII of the principal Act shall be renumbered as Parts III, IV, V, VI, VII and VIII respectively.

Renumbering and amendment of article 3 of the principal Act.

4. Article 3 of the principal Act shall be renumbered as article 3A, and shall be amended as follows:

(a) sub-article (1) thereof shall be renumbered as sub-article (6), and in the said sub-article for the words "against another person" there shall be substituted the words "with another person";

(b) sub-article (2) thereof shall be renumbered as sub-article (7), and in the said sub-article for the words "of sub-article (1)(a)" there shall be substituted the words "of sub-article (6)(a)"; and

(c) immediately after sub-article (6), as renumbered, thereof there shall be added the following new sub-articles:

"(1) A person discriminates with another person in a multiple manner if apart from the disability there exists discrimination *inter alia* due to gender, age, civil status, sexual orientation, race, ethnicity, beliefs, skin colour, trade union affiliation or political belief.

(2) A person would be discriminating with another person due to disability if such person inhibits the free thought, social and economic improvement, and the integration in society of that person.

(3) A person would be discriminating with another person due to disability if such person deprives the other person from the protection and rights provided by law.

(4) There is discrimination when a person:

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

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

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

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

Provided that the preceding paragraphs include in particular the behaviour listed therein, but without prejudice to the generality of the conduct referred to in this Act and in the Convention.

(5) A person would be discriminating with another person due to that person's disability if such refers to that other person or addresses him or her in a language which is disrespectful. This applies both to a person with disability in an individual or a collective manner, as well as to persons with a disability, both directly as well as by references on all means of communication, such as, but not limited to, broadcasting, publishing and correspondence."

5. Immediately before Part III, as renumbered, of the principal Act there shall be added the following new Part:

Addition of a new Part in the principal Act.

## "PART II

### RIGHTS OF PERSONS WITH DISABILITY

Rights of persons with disability.

3. (1) Every person has an intrinsic right to life, dignity, respect and mental reproductive and physical integrity, and the State shall guarantee this right to persons with disability, both before and after their birth.

(2) Every person has a right to know at the first possible opportunity whether he or she has any disability. Therefore every person has a right to a diagnosis which shows if he or she has any disability. So however that the State has the duty to provide information and an early and comprehensive intervention as well as services and help to children with disability and to their families.

(3) Whoever abandons, hides, segregates, abuses, persecutes and exploits persons with a disability shall be guilty of an offence under this Act.

(4) Every person with a disability shall have the right to family life and upbringing as any other person.

(5) Every person with a disability shall enjoy the same fundamental rights and freedoms of the individual without discrimination as declared in the Constitution of Malta. The State shall ensure that the exercise of such rights is also guaranteed when together with the disability there are also other factors *inter alia* gender, age, ethnicity, beliefs, skin colour, trade union affiliation and the political belief of the person with disability.

(6) Every person with a disability shall have the right of freedom of expression, opinion and association, including the freedom to search, receive and provide information and ideas on an equal basis with others and by means of any form of communication of his or her choice.

(7) Every person with a disability shall have the right to reach his or her maximum physical, sexual, reproductive, emotional, social, artistic and intellectual capacities.

(8) Every person with a disability shall have the right to take those decisions which affect his or her life and which he or she deems as good for him or her after being aided to do so in the case of a request for help.

(9) Every person with a disability shall have the right to form a family or a civil union, as the case may be, as any other person.

(10) The State shall ensure that no discrimination is exercised against persons with disability with regard to marriage, family, their responsibilities as parents and relationships. In no case shall a parent be separated from his child due to a disability of the child or of any of the parents, or of both parents, and no person with disability shall be separated from his or her family due to his or her disability:

So however that every decision shall be taken in the best interest of the children who have or do not have a disability; and the same interests shall be established by means of a full consultation with the person with disability by a competent authority according to the applicable laws and procedures, subject to a judicial examination where the best interest of the child is to prevail.

(11) The person with disability shall be free to decide with whom to live.

(12) A person with disability shall have access to a range of tools of support, community services and facilities including, but not limited to, personal assistants, technological equipment and mobility aid, to ensure an effective inclusion. Such services shall be available for a reasonable price and the freedom of choice shall pertain to the person with disability. The choice of objects, services and facilities shall reflect the needs and preferences of the person with disability.

(13) The person with disability shall have access to mobility and orientation training, to the Maltese Sign Language, and the use of technological equipment.

(14) The assessment of a person with disability shall be multi-disciplinary and trans-disciplinary and shall reflect the actual needs and the qualities of the person."

**6.** Article 5 of the principal Act shall be amended as follows:

Amendment of article 5 of the principal Act.

(a) in sub-article (2) thereof for the words "against another person" there shall be substituted the words "with another person";



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(b) in sub-article (4) thereof for the words "against another person" there shall be substituted the words "with another person"; and

(c) in sub-article (5) thereof for the words "against another person" there shall be substituted the words "with another person".

Amendment of article 7 of the principal Act.

**7.** Sub-article (5) of article 7 of the principal Act shall be amended as follows:

(a) in paragraph (a) thereof for the words "with disabilities; and" there shall be substituted the words "with disabilities;";

(b) in paragraph (b) thereof for the words "with a disability;" there shall be substituted the words "with a disability; and"; and

(c) immediately after paragraph (b) thereof there shall be added the following new paragraph:

"(c) quality and vocational career guide, which guide shall be free for the person with disability.".

Amendment of article 11 of the principal Act.

**8.** In sub-article (1) of article 11 of the principal Act for the words "Part II" there shall be substituted the words "Part III".

Amendment of the heading of Title 3 of the principal Act.

**9.** In the Maltese version of the heading of Title 3 immediately before article 12 of the principal Act for the word "DHUL" there shall be substituted the word "ACCESS".

Renumbering of the heading of Title 6 of the principal Act.

**10.** In the heading of Title 6 immediately before article 15 of the principal Act for the words "TITLE 6" there shall be substituted the words "TITLE 7".

Substitution of the heading of Title 5 of the principal Act.

**11.** The heading of Title 5, immediately before article 14 of the principal Act, shall be substituted by the following new heading:

"TITLE 6  
ACCOMMODATION".

Addition of a new title to the principal Act.

**12.** Immediately after article 13 of the principal Act there shall be added the following new title:

"TITLE 5  
HEALTH

Health  
services.

13A. (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 help as the case may be."

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

Amendment of  
article 14 of the  
principal Act.

(a) in sub-article (1) thereof for the words "Part II" there shall be substituted the words "Part III"; and for the words "against another person" there shall be substituted the words "with another person";

(b) in sub-article (3) thereof for the words "ma' jkunux" in the Maltese version there shall be substituted the words "ma jkunux"; and for the words "where special the services or facilities" there shall be substituted the words "where particular services or facilities".

14. In sub-article (1) of article 20 of the principal Act for the words "regard shall be had" there shall be substituted the words "regard shall be had by the Board".

Amendment of  
article 20 of the  
principal Act.

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Addition of a new article in the principal Act.

**15.** Immediately after article 20 of the principal Act there shall be added the following new article:

"Board to determine what is reasonable under this Act.

20A. (1) There shall be a Board to determine what is reasonable, for the object of the preceding article, appointed by the Commissioner for a period of three years.

(2) The Board shall be composed of:

(a) five persons to represent organisations, public entities and experts in the sector;

(b) a technical consultant of the Commissioner; and

(c) a member of the committee of a voluntary organisation as defined under article 2:

So however that the representatives of public entities and experts in the sector and the technical consultant of the Commissioner may from time to time be appointed according to the nature of the case discussed by the Board.

(3) At least half of the total number of members of the Board shall be persons with disability or family members of persons with disability who cannot represent themselves:

So however that the number of persons with disability shall be higher than the number of family members of persons with disability who cannot represent themselves.

(4) The Board shall be presided by the Chairperson who shall be a person with disability and who shall preside over every meeting of the Board, aided by the Vice Chairperson who shall be a person with disability.

(5) The Board shall have a Secretary appointed from amongst officials or employees appointed by the Commissioner.

(6) The quorum of the Board shall be of three members, one of whom shall be the Chairperson or the Vice Chairperson.

(7) The validity of every Board proceeding shall not be affected by any vacancy amongst its members or by a defect in the appointment of a member.

(8) The decisions of the Board shall be taken by a majority of the members present and voting. The Chairperson or, in his absence, the Vice Chairperson, shall have an original and a casting vote in the case of an equality of votes.

(9) Without prejudice to the provisions of this Act and of any regulations made thereunder, the Commissioner shall regulate the proceedings of the Board.

(10) Together with the members of the Board there may also be appointed, as observers, competent officials, appointed by every Ministry who may from time to time be called by the Commissioner to assist the Board in its functions, so however that the Commissioner may recommend particular officials for this scope.

(11) Every request made to the Board shall be made in writing; in the case where the person wishing to make a request needs help to formulate such request in an oral form and, or in writing, it shall be the duty of the Commissioner to take reasonable steps to provide appropriate help to that person.

(12) There shall be no appeal from a decision of the Board."

**16.** In the heading of Part VI, as renumbered, of the principal Act for the words "THE NATIONAL COMMISSION PERSONS WITH DISABILITY" there shall be substituted the words "COMMISSION FOR THE RIGHTS OF PERSONS WITH DISABILITY".

Amendment of the heading of Part VI of the principal Act.

**17.** Article 21 of the principal Act shall be substituted by the following:

Substitution of article 21 of the principal Act.

"Commission for the Rights of Persons with Disability.

21. (1) There shall be a Commission for the Rights of Persons with Disability, which shall be styled "the Commission", and shall be composed of the Commissioner for the Rights of Persons with Disability, as appointed under article 21A, and a Council for the Rights of Persons with Disability, which shall be styled "the Council", as appointed under article 24.

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(2) The juridical representation of the Commission shall be vested in the Commissioner."

Addition of new article to the principal Act.

**18.** Immediately after article 21 of the principal Act there shall be added the following new article:

"Commissioner for the Rights of Persons with Disability.

21A. (1) The Prime Minister shall, after consultation with the Minister, appoint the Commissioner for the Rights of Persons with Disability, who as far as possible shall be a person with disability, who shall be styled "the Commissioner".

(2) A person shall not be qualified to hold the office of a Commissioner if that person:

(a) is a Minister, Parliamentary Secretary, Member of the House of Representatives; or

(b) is serving as a judge or magistrate; or

(c) is bankrupt, or has made an arrangement with his creditors, or is insolvent or guilty of a voluntary offence against the person; or

(d) has been found guilty of an offence which impinges on public trust or theft or fraud, or knowingly received property acquired through theft or fraud, of an offence against the good order of the family, or a breach of a provision of this Act or of the Convention; or

(e) is not capable to perform his duties; or

(f) is a member of an organisation of, or for, persons with disability.

(3) When the person appointed as Commissioner was, before such appointment, a public officer, such person shall continue to hold such office but shall not hold any other office which is incompatible with the exercise of his official duties as a Commissioner for the Rights of Persons with Disability or with the independence and impartiality expected from this office or from the public trust therein.

(4) In the exercise of the functions established under this Act, the Commissioner shall act independently and shall not be subject to any direction or control of any person or other authority.

(5) Without prejudice to the provisions of sub-article (6), the Commissioner shall hold office for a period of three years, and shall be eligible for a reappointment upon termination of such period.

(6) Unless he vacates the office before termination, the person appointed as Commissioner shall continue to hold office until another Commissioner is appointed.

(7) The Commissioner may at any time resign from office by writing to the Minister.

(8) The Commissioner may at any time be removed or suspended from office by the Prime Minister after consultation with the Minister for the reasons of proven inability to exercise his functions as a Commissioner or proven misbehaviour or an unjustified absence of more than fourteen consecutive days or twenty-eight days within a period of twelve months.

(9) The Prime Minister may, at any time, during the absence of the Commissioner, or for any other temporary purpose when the Commissioner deems it fit to do so, appoint a person to act in his office according to this article, until the Commissioner resumes his responsibilities under this Act; so however that the person so appointed shall be eligible to hold such office according to this Act."

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

Amendment of article 22 of the principal Act.

(a) the present article shall be renumbered as sub-article (1) of the said article;

(b) in sub-article (1) thereof, as renumbered, for the words "children, women and men" there shall be substituted the word "persons";

(c) in paragraph (k) of sub-article (1) thereof, as

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renumbered, the words "including legal and financial assistance" shall be deleted;

(d) in paragraph (p) of sub-article (1) thereof, as renumbered, the words "and in order for the Commissioner to exercise a judicial action he shall be considered to hold the required juridical interest to exercise such action in his name" shall be deleted; and

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

"(2) The Commissioner is responsible to carry out the functions of the Commission; provided that, the Commissioner may appoint, in accordance with the provisions of article 26(2), the officers whom he deems required, in order to ensure that the functions of the Commission are carried out.

(3) The Commissioner may, on behalf of the Commission, pursue all required actions, including judicial actions, to ensure that the provisions of this Act are adhered to, and he shall be deemed to have the required juridical interest on behalf of the Commission."

Substitution of article 23 of the principal Act.

**20.** Article 23 of the principal Act shall be substituted by the following:

"23. (1) The Commissioner may appoint one or more officials or employees to appear and act in his name and on his behalf in any judicial proceeding and on every act, contract, agreement or any other document.

(2) A document which shows that it is an instrument made or issued and signed by the Commissioner shall be approved as evidence and shall, unless the contrary is proven, be deemed as an instrument made or issued by the Commissioner."

Substitution of article 24 of the principal Act.

**21.** Article 24 of the principal Act shall be substituted by the following:

"Council for the Rights of Persons with Disability.

24. (1) There shall be a Council for the Rights of Persons with Disability appointed by the Minister, to aid the Commissioner in the exercise of his duties, made up of the Commissioner who shall preside and not less than fourteen members appointed by the Minister.

(2) Amongst the Council members, who shall represent different types of disability and be representative of society, there shall be:

(a) nine members who are representative of voluntary organisations of persons with disability, after consultation with those voluntary organisations;

(b) a member who is a representative of the University of Malta;

(c) a member who is a representative of the entities which provide services to persons with disability;

(d) a member who is a representative of residential homes for persons with disability;

(e) a member nominated by the Government; and

(f) a member nominated by the Opposition:

So however that at least half of the total number of members of the Council shall be persons with disability or family members of persons with disability who cannot represent themselves.

(3) Together with the Commissioner and the members of the Council there shall be appointed, as observers, competent officers by every Ministry who may from time to time be called upon by the Commissioner to assist him in his work, so however that the Commissioner may recommend particular officers for this scope.

(4) A person shall not be qualified to be a member on the Council if that person:



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(a) is serving as a judge or magistrate; or

(b) is bankrupt, or has made an arrangement with his creditors, or is insolvent or guilty of a voluntary offence against the person; or

(c) has been found guilty of an offence which impinges on public trust or theft or fraud, or knowingly received property acquired through theft or fraud, or an offence against the good order of the family, or the breach of a provision of this Act or of the Convention; or

(d) is not capable to perform his duties.

(5) Without prejudice to the provisions of sub-article (6), the members of the Council shall hold such position for three years, and shall be eligible for reappointment as members when the period of such office terminates.

(6) A member may at any time resign from his office by writing to the Minister.

(7) A member may at any time be removed or suspended from office by the Minister after consultation with the Commissioner as a result of:

(a) proven inability to perform his functions as member of the Council; or

(b) proven misbehaviour; or

(c) unjustified absence for more than three consecutive meetings; or

(d) if, being a chosen member due to his representative state, he stops from holding that representative state; or

(e) in the case of the happening of one of the circumstances provided for under sub-article (4)."

Substitution of article 25 of the principal Act.

**22.** Article 25 of the principal Act shall be substituted as follows:

"Proceedings and workings of the Council.

25. (1) The Commissioner shall have a right to regulate the proceedings of the Council.

(2) Without prejudice to sub-article (1), the quorum for Council meeting shall be six members present together with the Commissioner.

(3) The proceedings of the Council shall be valid notwithstanding any defect in the appointment of a member, or in the vacancy of any of the members of the Council."

**23.** Article 26 of the principal Act shall be substituted by the following:

Substitution of article 26 of the principal Act.

"Office of the Commissioner.

26. (1) The Commissioner shall occupy the post on a full-time basis on those terms and conditions as indicated by the Minister. When the Commissioner is a public officer seconded from the Government, he shall have the right, upon termination of his secondment, to return to the post he used to occupy without losing his position or seniority.

(2) The Commissioner may appoint, after consultation with the Minister, the officers whom he deems required, according to the approval of the Minister with reference to the number, remuneration and terms and conditions of other services.

(3) The Commissioner shall treat as confidential, all documents and any other information which is in his possession or under his control, or which in any manner is brought to his attention, and which concerns persons with disability together with any other matter or other affairs related to the relevant person with disability, and the obligation of confidentiality as so put on the Commissioner shall extend to the officers and employees of the Commission."

**24.** In article 28 of the principal Act for the words "its financial year" there shall be substituted the words "the financial year".

Amendment of article 28 of the principal Act.

**25.** Article 29 of the principal Act shall be substituted by the following:

Substitution of article 29 of the principal Act.

"Financing of the Commission, accounts and audit.

29. (1) At least two months prior to the end of its financial year, the Commission shall submit to the Minister, a business plan (including a financial plan) covering the proposed activities of the Commission during the following financial year. If approved by the Minister and by the Minister for Finance, such business plan shall be the approved budget of the Commission.

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

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(3) The accounts of the Commission may be audited by the Auditor General and for this purpose the provisions of the Financial Administration and Audit Act shall apply.

(4) The Minister shall, at the earliest opportunity, cause to be laid on the Table of the House of Representatives a copy of such accounts of the Commission.

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

Amendment of article 30 of the principal Act.

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

(a) in sub-article (2) thereof for the words "for the different needs of children, women and men with disabilities" there shall be substituted the words "for the different needs of persons with disabilities"; and

(b) in sub-article (3) thereof for the word "Commission" there shall be substituted the word "Commissioner".

Amendment of article 32 of the principal Act.

**27.** Article 32 of the principal Act shall be amended as follows:

(a) in sub-article (1) thereof for the words "The Commission may itself initiate" there shall be substituted the words "The Commissioner may, on behalf of the Commission, himself initiate";

(b) in sub-article (2) thereof for the words "The Commission may also initiate" there shall be substituted the words "The Commissioner may also initiate"; for the words "with the Commission" there shall be substituted the words "with the Commissioner"; and in the Maltese version for the words "li tkun irċeviet" there shall be substituted the words "li jkun irċieva"; and

(c) in sub-article (3) thereof for the words "If it appears to the Commission" there shall be substituted the words "If it appears to the Commissioner"; for the words "duty of the Commission" there shall be substituted the words "duty of the Commissioner"; and in the Maltese version for the words "biex tipprovdi għajjnuna" there shall be substituted the words "biex jipprovdi għajjnuna".

**28.** Article 33 of the principal Act shall be amended as follows:

Amendment of article 33 of the principal Act.

(a) in sub-article (1) thereof for the words "undertaken by the Commission" there shall be substituted the words "undertaken by the Commissioner"; and in paragraph (a) thereof for the words "the Commission may require" there shall be substituted the words "the Commissioner may require"; and

(b) in sub-article (2) thereof for the words "the Commission may itself refer" there shall be substituted the words "the Commissioner may itself refer".

**29.** In paragraph (b) of sub-article (1) of article 35 of the principal Act for the words "of Part III" there shall be substituted the words "of Part IV" and for the words "with the Commission" there shall be substituted the words "with the Commissioner".

Amendment of article 35 of the principal Act.

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

Addition of new article to the principal Act.

"Inconsistency with this Act.

37. When another law is inconsistent with this Act, this Act shall prevail when such inconsistency regards the rights of a person with disability."

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Consequential amendment to the Civil Code. Cap. 16.

**31.** In sub-article (1) of article 188A of the Civil Code for the words "be subject to guardianship" there shall be substituted the words "be subject to guardianship; and notwithstanding the provisions of Sub-title II on Interdiction and Incapacitation, to the extent possible, the parents of a person of age, with disability, with a mental disorder and with another condition, which makes such person incapable of taking care of his or her affairs, shall first seek to place the person with disability under guardianship before seeking the interdiction or incapacitation of that person".

Consequential amendment to the Education Act. Cap. 327.

**32.** In article 3 of the Education Act for the words "age, sex, belief" there shall be substituted the words "age, sex, disability, belief".

Transitory provision.

**33.** On the coming into force of this Act, any pending application or action which refers to the provisions of the principal Act shall be regulated by the provisions of the principal Act as amended by this Act.

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Passed by the House of Representatives at Sitting No. 384 of the 3rd May, 2016.

ANĠLU FARRUGIA  
*Speaker*

RAYMOND SCICLUNA  
*Clerk of the House of Representatives*

