

CHAPTER 413

EQUAL OPPORTUNITIES (PERSONS WITH DISABILITY) ACT

10th February, 2000

1st October, 2000

[ACT I of 2000](#), as amended by [Legal Notice 426 of 2007](#); and Acts [II](#) and [XXIV of 2012](#), [XXIV of 2016](#), [XXIX of 2019](#) and [LVIII of 2021](#).

PART I

PRELIMINARY

1. The short title of this Act is Equal Opportunities (Persons with Disability) Act. Short title.
2. In this Act, unless the context otherwise requires -
"Board" means the Board established by means of article 20A;
"Commission" shall mean the Commission for the Rights of Persons with Disability as established under article 21;
"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;
"Convention" means the [United Nations Convention on the Rights of Persons with Disabilities Act](#); Interpretation.
Amended by:
II. 2012.22;
XXIV. 2016.2;
LVIII.2021.2.
"Council" means the Council for the Rights of Persons with Disability as appointed and constituted according to the provisions of article 24;
"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;
"mental disorder" shall have the same meaning as that provided for under the [Mental Health Act](#); Cap. 627.
"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;
"Optional Protocol" shall have the same meaning as assigned to it in article 2 of the [United Nations Convention on the Rights of Persons with Disabilities Act](#); Cap. 627.
"Panel" means the Panel established in terms of article 33B;

Cap. 627. "person with disability" shall have the same meaning assigned to it in article 2 of the [United Nations Convention on the Rights of Persons with Disabilities Act](#);

"persons with lived experience of disability" means any persons who would have experienced disability through regular interactions in their personal or professional lives with persons with disability;

Cap. 627. "substantive Convention rights" shall have the same meaning as assigned to it in article 2 of the [United Nations Convention on the Rights of Persons with Disabilities Act](#);

Cap. 492. "voluntary organisation" shall have the same meaning assigned to it by article 2 of the [Voluntary Organisations Act](#), the committee of which is 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;

Cap. 627. "UNCRPD Committee" shall have the same meaning as assigned to it in article 2 of the [United Nations Convention on the Rights of Persons with Disabilities Act](#).

Added by:
XXIV. 2016.5.

PART II

RIGHTS OF PERSONS WITH DISABILITY

DELETED BY ACT LVIII OF 2021.

Amended by:
XXIV. 2016.3.

PART III

DISABILITY DISCRIMINATION

DELETED BY ACT LVIII OF 2021.

DELETED BY ACT LVIII OF 2021.

Amended by:
XXIV. 2016.3.

PART IV

PROHIBITION OF DISABILITY DISCRIMINATION

DELETED BY ACT LVIII OF 2021.

PART V

*Amended by:
XXIV. 2016.3.*

TEST OF REASONABLENESS

20. (1) For the purposes of this Act, in determining the reasonableness of any action to be undertaken by any person in the fulfilment of the provisions of this Act or of the [United Nations Convention on the Rights of Persons with Disability Act](#), including any alteration, change, and, or provision of services, facilities or assistive means, regard shall be had by the Board as to whether such actions could be undertaken without unjustifiable hardship.

*Test of
reasonableness.
Amended by:
II. 2012.31;
Amended by:
XXIV. 2016.14;
LVIII.2021.6.
Cap. 627.*

(2) The factors to be considered in determining whether such actions could be undertaken without unjustifiable hardship shall include -

- (a) the nature and cost of the actions in question;
- (b) the overall financial resources of the person, body, authority or institution concerned and the effect on expenses and resources or the impact of such actions upon the operations of such person, body, authority or institution; and
- (c) the availability of grants from public funds to defray the expense of the said actions.

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

*Board to determine
what is reasonable
under this Act.
Added by:
XXIV. 2016.15;
LVIII.2021.6.*

(2) The Board shall be convened whenever necessary, following a request by the Commissioner, and for the purposes of every such convocation, a panel of not less than three (3) and not more than seven (7) persons shall be appointed, including the Chairperson and Vice Chairperson of the Board.

(3) The majority of persons seated on a Board for every convocation of the said Board shall be persons with disability, or persons supporting persons with disability who cannot represent themselves, and such persons shall be representatives from public entities, experts in the sector, including technical experts, or representatives from organisations of persons with disability, and their selection for a particular convocation shall best reflect the subject-matter on the agenda of a particular Board meeting.

(4) The Board shall be presided by the Chairperson, assisted by the Vice Chairperson, who shall both be persons with disability, appointed by the Commissioner for renewable periods of three (3) years, who shall retain their roles throughout said period for all convocations of the Board convened throughout the said period.

(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 intending to make a request needs support 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 support to that person.

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

*Amended by:
XXIV. 2016.3, 16.*

PART VI

COMMISSION FOR THE RIGHTS OF PERSONS WITH DISABILITY

*Commission for
the Rights of
Persons with
Disability.
Amended by:
II. 2012.32.
Substituted by:
XXIV. 2016.17.*

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.

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

*Commissioner for
the Rights of
Persons with
Disability.
Added by:
XXIV. 2016.18.*

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.

22. (1) The Commission, whilst paying particular attention to the different needs of persons with disability, shall -

- (a) *(deleted by Act LVIII of 2021).*
- (b) *(deleted by Act LVIII of 2021).*
- (c) effect monitoring in order to ascertain that all government programmes concerning the affairs and interests of persons with disabilities, their families and voluntary bodies working in the field of disability issues, are implemented in accordance with national policies for disability issues;
- (d) *(deleted by Act LVIII of 2021).*
- (e) *(deleted by Act LVIII of 2021).*
- (f) monitor the provision of services offered by government or its agencies or by any other person or

Functions of the Commission.
Amended by:
II. 2012.33;
XXIV. 2012.6;
XXIV. 2016.19;
LVIII.2021.7.

- group of persons, where the clients of such services are persons with disability;
- (g) work towards the elimination of discrimination against people with disabilities;
 - (h) carry out general investigations with a view to determining whether the provisions of this Act are being complied with;
 - (i) investigate such complaints as may be made to them of failure to comply with any provision of this Act in an individual case and, where it seems appropriate, conciliate in relation to such complaints, or otherwise take relevant action in respect of enforcement;
 - (j) inquire into, and make determinations on, matters referred to it by the Minister;
 - (k) provide, where and as appropriate, assistance, to persons with disabilities in enforcing their rights under this Act;
 - (l) keep under review the working of this Act and, when deemed fit by the Commission or so required by the Minister, draw up and submit to the Minister proposals for amendments to same;
 - (m) examine enactments, and (when requested to do so by the Minister) propose enactments, for the purpose of ascertaining whether the enactments or proposed enactments are or would be, inconsistent with or contrary to the objects of this Act, and to report to the Minister the results of any such examination;
 - (n) provide all such services that may be necessary or required for the Commission to attain its objectives;
 - (o) collate, analyse and publish statistics related to the disability sector which, *inter alia*, indicates the national level achieved in inclusive policy;
 - (p) have the power to take any appropriate action, including proportionate administrative measures and judicial action, to eliminate discrimination on the basis of disability as defined in this Act;
 - (q) raise awareness and foster respect for the rights and dignity of persons with disabilities, to combat stereotypes, prejudices and harmful practices relating to persons with disabilities, including those based on gender and age, in all areas of life;
 - (r) raise awareness about the capabilities and contributions of persons with disabilities;
 - (s) provide the independent mechanism to promote, protect and monitor the implementation of the United Nations Convention on the Rights of Persons with Disability and any of its Optional Protocols as ratified by Malta;
 - (t) to monitor Guardianship Orders;

- (u) monitor facilities offering services to persons with disability and licensed in terms of the [Social Care Standards Authority Act](#), and to undertake relevant investigations and compliance and enforcement actions in respect of such;
 - (v) fulfil the role of market surveillance authority in terms of [Directive \(EU\) 2019/882](#) on the accessibility requirements for products and services, through its Investigations Unit and Enforcement Unit.
- Cap. 582.

(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.

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.

Legal status of the Commission.
Substituted by:
XXIV. 2016.20.

(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.

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.

Council for the Rights of Persons with Disability.
Substituted by:
XXIV. 2016.21.
Amended by:
LVIII.2021.7.

(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:

- (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 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).

Proceedings and
workings of the
Council.
*Substituted by:
XXIV. 2016.22.*

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.

26. (1) The Commissioner shall occupy the post on a full-time basis. 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.

Office of the
Commissioner.
Substituted by:
XXIV. 2016.23.
Amended by;
LVIII.2021.7.

(2) The Commissioner may appoint, 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.

27. (1) The Prime Minister may, at the request of the Commission, from time to time direct that any public officer shall be detailed for duty with the Commission in such capacity and with effect from such date as may be specified in the direction.

Detailing of public
officers for duty
with the
Commission.

(2) The period during which a direction as aforesaid shall apply to any officer specified therein shall, unless the officer retires from the public service, or otherwise ceases to hold office at an earlier date, or a different date is specified in the direction, end on the happening of any of the following events, that is to say -

- (a) the acceptance by such officer of an offer of transfer to the service of, and permanent employment with the Commission made in pursuance of sub-article (8); or
- (b) the revocation by the Prime Minister of any direction made by him under this article in relation to such officer.

(3) Where a direction as aforesaid is revoked by the Prime Minister in relation to any officer, the Prime Minister may, by further direction, detail such officer for duty with the Commission in such capacity and with effect from such date as may be specified in the further direction, and the provisions of sub-article (2) shall thereupon apply to the period of duration of such further direction in relation to such officer.

(4) When a public officer is detailed for duty with the Commission under any of the provisions of this article, such officer shall, during the time the direction has effect in relation to him, be under the administrative authority and control of the Commission, but he shall for other intents and purposes remain, and be considered and treated as, a public officer.

(5) Without prejudice to the generality of the foregoing, a public officer detailed for duty as aforesaid -

- (a) shall not during the time while such officer is so detailed -
 - (i) be precluded from applying for a transfer to a

department of the Government in accordance with the terms and conditions of service attached to the appointment under the Government held by him at the date on which he was detailed for duty; or

- (ii) be so employed that his remuneration and conditions of service are less favourable than those which are attached to the appointment under the Government held by him at the date he was detailed for duty as aforesaid or which would have become attached to such appointment, during the said period, had such officer not been detailed for duty with the Commission; and

- (b) shall be entitled to have his service with the Commission considered as service with the Government for the purpose of any pension, gratuity or benefit under the [Pensions Ordinance](#) and the [Widows' and Orphans' Pension Act](#), and of any other right or privilege to which he would be entitled, and shall be liable to any liability to which he would be liable, but for the fact that he is detailed for duty with the Commission.

Cap. 93.
Cap. 58.

(6) Where an application is made as provided in sub-paragraph (i) of paragraph (a) of sub-article (5), the same consideration shall be given thereto as if the applicant had not been detailed for duty with the Commission.

(7) The Commission shall pay to the Government such contributions as may from time to time be determined by the Minister responsible for Finance in respect of the cost of pensions and gratuities earned by an officer detailed for duty with the Commission as aforesaid during the period in which he is so detailed.

(8) The Commission may, with the approval of the Prime Minister, offer to any public officer detailed for duty with the Commission under sub-article (2) permanent employment with the Commission at a remuneration and on terms and conditions specified in the offer.

(9) Every public officer who accepts permanent employment with the Commission offered to him pursuant to this article shall, for all purposes other than those of the [Pensions Ordinance](#) and the [Widows' and Orphans' Pensions Act](#), cease to be in the service of the Government and shall enter into service with the Commission with effect from the date of his acceptance of the offer, or such other date agreed between him and the Commission; and for the purposes of the said Ordinance and the said Act, service with the Commission shall be deemed to be service with the Government within the meaning thereof:

Cap. 93.
Cap. 58.

Provided that for the purposes of the said Pensions Ordinance, the pensionable emoluments of such officer on retirement shall be deemed to be the pensionable emoluments

payable to an officer in Government service in a grade and at an incremental level corresponding to the post and incremental level at which the officer retires from the Commission.

28. At least two months prior to the end of the 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 of Finance, such business plan, shall be the approved budget of the Commission.

Financing of the Commission.
Amended by:
XXIV. 2016.24.

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.

Financing of the Commission, accounts and audit.
Substituted by:
XXIV. 2016.25.

(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.

(3) The accounts of the Commission may be audited by the Auditor General and for this purpose the provisions of the [Public Finance Management Act](#) shall apply.

Cap. 601.

(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.

30. (1) As soon as practicable after the end of every calendar year, but in any case not later than the 31st day of March of the following year, the Commission shall submit to the Minister a report on its activities during the year, hereinafter referred to as an "Annual Report".

Annual report.
Amended by:
XXIV. 2016.26.

(2) Each Annual Report shall include a general report of developments during the period to which it relates in respect of matters falling within the scope of the duties of the Commission and shall also include activities and initiatives undertaken to examine and, or, provide for the different needs of persons with disabilities.

(3) The Minister shall, as soon as practicable, but in any case not later than two months after its submission, to him by the Commissioner, cause a copy of such report together with copies of the current Commissioner business plan and the financial plan, to be laid before the House of Representatives.

31. The Commission shall be exempt from any liability for the payment of income tax.

Exemption from tax and duties.

Amended by:
XXIV.2016.3.

PART VII

Substituted by:
LVIII.2021.8.

ACCESS TO JUSTICE

TITLE 1 – COMPLAINTS, INVESTIGATIONS AND ENFORCEMENT

Complaints and
investigations.

Amended by:
XXIV.2016.27;
LVIII.2021.8.

S.L. 413.03.

32. (1) The Commission shall have the power to carry out inspections and investigations on any occasion and for any purpose related to the responsibilities and functions pertaining to the said Commission under the Act and subsidiary legislation made thereunder, as well as any other applicable law, including but not limited to the [Accessibility Standards for All in the Built Environment Regulations](#). Saving as otherwise provided for in this Act, the Commission shall have exclusive jurisdiction in relation to matters involving any substantive Convention rights, or otherwise brought under any provisions of this Act, unless the discrimination alleged in such matters is of a multiple or intersectional nature, and shall also have the power to enforce sanctions in conformity with the Act. The Commissioner may, on behalf of the Commission, initiate investigations on any matter involving an act that allegedly breaches any of the substantive Convention rights, or otherwise violates any of the provisions of this Act.

(2) The Commissioner may also initiate investigations on the receipt of a complaint in writing alleging that a person has committed an act that is unlawful in terms of any substantive Convention rights, or otherwise under any provisions of this Act. Such complaint may be lodged with the Commissioner by:

- (a) any person aggrieved by the act; or
- (b) any person referred to in article 33A of this Act.

(3) If it appears to the Commissioner that a person wishes to make a complaint under sub-article (2) and that person requires assistance to formulate the complaint orally and, or, in writing, it shall be the duty of the Commissioner to take reasonable steps to provide appropriate assistance to that person.

(4) In the exercise of the powers mentioned in the previous sub-articles, the Commissioner shall be assisted by the following mechanisms:

- (a) an Investigations Unit within the Commission to carry out investigations of complaints; and
- (b) an Enforcement Unit within the Commission to take the following measures in respect of any person who infringes any provision of the Act, or any other law which the Enforcement Unit is entitled to enforce, or who fails to comply with any decision given by the Investigations Unit or the Test of Reasonableness Board:
 - (i) impose an administrative fine in accordance with the provisions of this Act; and
 - (ii) order the cessation of any act or omission which are in breach of any provision of the Act and any other law which the Enforcement Unit is entitled

to enforce;

- (c) the Investigations Unit and Enforcement Unit shall also serve towards the Commission's fulfilment of its role as market surveillance authority in respect of [Directive \(EU\) 2019/882](#) on the accessibility requirements for products and services, acting in conjunction with other relevant stakeholders locally and at European Union level, and in line with other relevant primary and secondary legislation.

(5) In exercising the duties in terms of this article, the Commission shall be granted the right of entry into any premises, public or private, for the purposes of:

- (a) carrying out investigations, inspections, or surveys;
- (b) ascertaining that nothing contrary to the provisions of the Act, to the regulations made thereunder, or to any term imposed by any of the Investigations Unit, or the Test of Reasonableness Board, is taking, or has taken place, and proceeding with any action accordingly;
- (c) ascertaining or reproducing such data or information as the Commission may require;
- (d) making plans of any premises and registering audio-visual footage of the said premises after entry in accordance with this sub-article;
- (e) doing anything that is ancillary or consequential thereto.

(6) In the case of a dwelling house or a condominium, such right of entry, inspection and monitoring as provided for in this Act, shall be subject to giving prior notice of at least forty-eight (48) hours, except in cases of emergency, and shall not apply before half past seven in the morning and after seven o'clock in the evening, and where such entry, inspection or monitoring is refused, it shall be lawful for any Magistrate, on good cause being shown to him by the Commissioner, or by one of his authorised officers on oath, to grant a warrant authorizing such entry, inspection or monitoring.

(7) The Minister shall, by means of regulations made under this Act, establish penalties in respect of when a person refuses to permit entry, or else obstructs inspection or monitoring, when the warrant issued pursuant to sub-article (6) is produced, and when a person obstructs, threatens, attacks or impedes any officer of the Commission in the exercise of his duties under the Act.

(8) Any person authorised pursuant to this article shall produce a means of identification issued by the Commission.

32A. (1) The Enforcement Unit shall act after being duly authorised to do so by the Investigations Unit following its investigations carried out as provided for in this Act.

Enforcement.
Added by:
LVIII.2021.8.

(2) Notwithstanding the provisions of sub-article (1), where the Enforcement Unit has *prima facie* evidence that the infringement

represents an immediate hardship for the aggrieved party, the said Enforcement Unit may be directed by the Investigations Unit to take urgent interim measures to remedy the situation in advance of the termination of the investigations process, including the immediate cessation of the act or omission contributing to the infringement:

Provided that the person against whom such measures are contemplated, shall, thereafter, be given a reasonable opportunity to state his opinion and propose any remedies.

Reasonableness.
Added by:
LVIII.2021.8.

32B. In conducting its investigations, the Investigations Unit shall be guided by the principle of reasonableness as established in article 20, and may consult with the Board to determine what is reasonable as the case may be, with investigations being suspended pending the outcome of any such reference by the Investigations Unit to the Board.

Administrative
fines.
Added by:
LVIII.2021.8.

32C. The Minister shall, by means of regulations made under this Act, enact provisions in respect of administrative fines issued in terms of this Act.

Appeals from
decisions.
Added by:
LVIII.2021.8.

32D. (1) The Administrative Review Tribunal shall be competent to hear and determine appeals from decisions of the Investigations Unit as provided for in this Act or in any law.

Cap. 490.

(2) The provisions of the [Administrative Justice Act](#), in so far as they apply to the Administrative Review Tribunal, shall apply to any proceedings before said Tribunal, and the words "public administration" in the said law shall be construed as a reference to the Investigations Unit.

Procedure of
Appeal.
Added by:
LVIII.2021.8.

32E. (1) The right to appeal to the Tribunal shall be competent to any person to whom the decision is addressed.

(2) An appeal from a decision of the Investigations Unit shall be made by application and shall be filed with the Secretary of the Tribunal within twenty (20) days from the date on which said decision has been notified.

Appeal Decisions.
Added by:
LVIII.2021.8.

32F. In determining an appeal, the Tribunal shall take into account the merits of the appeal, and may confirm or annul the decision appealed from, in whole or in part, and shall give in writing the reasons for its decision, and cause such decision to be made public and communicated to the parties to the appeal.

Investigation
procedures.
Amended by:
XXIV. 2016.28.

33. (1) In respect of general investigations or investigations of complaints undertaken by the Commissioner, the Minister shall prescribe by regulations -

- (a) the procedure whereby the Commissioner may require a person to furnish any information as is necessary for the investigations aforesaid in this article, and the time, manner, and form in which such information is to be furnished;

- (b) the procedures to be followed where a person fails to supply such information;
- (c) the circumstances in which, following these investigations aforesaid, the Commission may take appropriate legal action.

(2) Any regulations made under sub-article (1) shall prescribe, in the case of an alleged discrimination by one person against another, the arrangements whereby the Commissioner may himself refer the matter to the First Hall of the Civil Court:

Provided that no such referral shall prevent an individual having a legal interest from making a claim of discrimination the subject of an action, including an action for damages before the said Court.

TITLE 2 – LEGAL REDRESS

*Added by:
LVIII.2021.8.*

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

*Proceedings
instituted by third
parties.
Added by:
II. 2012.34.
Amended by:
LVIII.2021.8.*

33B. (1) There shall be a Panel within the Commission, to be referred to as the UNCRPD Redress Panel, competent to hear petitions alleging that one or more substantive Convention rights have been, are being, or are likely to be contravened, and it shall be composed of three (3) persons, including a Chairperson, being persons with disability or persons with lived experience of disability, appointed by the Commissioner, who may from time to time appoint more than one Panel.

*UNCRPD Redress
Panel.
Added by:
LVIII.2021.8.*

(2) Saving as otherwise provided for in this Act, the Panel shall have exclusive jurisdiction in relation to matters involving any substantive Convention rights, unless the discrimination alleged in such matters is of a multiple or intersectional nature.

(3) The persons composing the Panel shall be appointed for a term of two (2) years, and during their term of office they may only be removed from office by the Commissioner on the same grounds as for the removal of a Magistrate.

(4) The Panel shall be tasked with determining any petition, submitted to it by any person with disability on their own behalf, or by any person on behalf of any other person with disability for whom, or with whom, they are authorised to exercise legal capacity.

(5) The Panel shall respect and apply the principles of good administrative behaviour laid down in article 3 of the [Administrative Justice Act](#), and in delivering its decisions, the Panel shall be guided by the provisions of the [United Nations Convention on the Rights of](#)

Cap. 490.

Cap. 627.

[Persons with Disabilities Act](#), including the Schedules annexed thereto.

(6) There shall be such number of chambers of the Panel as the Commissioner may prescribe. The petitions shall be assigned to the various Panels on a rotation basis, by such officers as are designated by the Registry of the Panel.

Procedures before
the UNCRPD
Redress Panel.
Added by:
LVIII.2021.8.

33C. The procedures before the Panel shall be regulated by means of regulations made by the Minister under this Act.

Appeals to the
Administrative
Review Tribunal.
Added by:
LVIII.2021.8.

33D. (1) Any petitioner or defendant in a petition brought before the Panel may appeal from a decision of the said Panel within twenty (20) days from the date that such decision is communicated to the petitioner and the defendant.

Cap. 490.

(2) An appeal under this article shall be made to the Administrative Review Tribunal in accordance with the procedure laid down under the [Administrative Justice Act](#) and regulations prescribed thereunder.

Matters within the
jurisdiction of the
First Hall of the
Civil Court.
Added by:
LVIII.2021.8.

33E. (1) Any person who alleges that one or more substantive Convention rights have been, are being, or are likely to be contravened, and is seeking a remedy of a pecuniary nature exceeding the sum of five thousand euro (€5,000), whether or not such remedy is sought in conjunction with any other form of relief, or is a person other than a person described in article 33B(4), may, without prejudice to any other action with respect to the same matter that is lawfully applicable, apply to the First Hall of the Civil Court for redress, and the said Court shall have exclusive jurisdiction in relation to any such matters, unless the discrimination alleged in such matters is of a multiple or intersectional nature.

(2) The First Hall of the Civil Court shall have original jurisdiction to hear and determine any application made by any person in pursuance of article 33E(1), and may make such orders, issue such acts and give such directions as it may consider appropriate, for the purpose of enforcing, or securing the enforcement, of the rights in question:

Provided that the Court may, if it considers it expedient to do so, decline to exercise its powers under this sub-article in any case where it is satisfied that adequate means of redress for the alleged infringement are, or have been available to the person concerned under any other ordinary law.

(3) If in any proceedings in any Court other than the First Hall of the Civil Court, or the Constitutional Court, any question arises as to the infringement of any of the substantive Convention rights, the said Court shall refer the question to the Panel or to the First Hall of

the Civil Court, depending on whether such question would fall within the scope of articles 33B(4) and 33C read jointly, or of article 33E(1) of this Act, unless in its opinion the raising of the question is merely frivolous or vexatious; and that Court shall give its decision on any question referred to it under this sub-article and, subject to the provisions of article 33E(4), the Court in which the question arose shall dispose of the question in accordance with that decision.

(4) Any party to proceedings brought before the First Hall of the Civil Court in pursuance of this article shall have a right of appeal to the Constitutional Court which, in addition to the jurisdiction conferred on it by article 95 of the Constitution, shall have jurisdiction to hear and determine all appeals in terms of this sub-article and exercise all such powers as are conferred on it by this Act.

Appeals to the Constitutional Court.

(5) No appeal shall lie from any determination under this article that any application or the raising of any question is merely frivolous or vexatious.

(6) The Rules of Court made in accordance with article 46(7) of the Constitution, as in force from time to time, shall apply *mutatis mutandis* to the practice and procedure of the Courts for the purpose of this article, as if the proceedings instituted under this article were proceedings instituted under article 46 of the Constitution.

(7) Where it is alleged that any of the substantive Convention rights have been, are being, or are likely to be contravened, the demand for redress, or the reference to the First Hall of the Civil in accordance with article 46 of the Constitution, or article 4 of the [European Convention Act](#) and this article may be made in the same application or reference.

Redress sought in terms of different laws.

Cap. 319.

(8) Where an application for redress or any reference to the First Hall of the Civil Court is made exclusively either under article 46 of the Constitution, or under article 4 of the [European Convention Act](#), or under this article, and is still pending before the First Hall of the Civil Court, or the Constitutional Court, the Court may examine whether or otherwise the alleged facts complained of are in breach of the corresponding substantive Convention rights, in the first case; or of corresponding rights enforceable under the Constitution, or under the [European Convention Act](#), in the second case; and if the Court so determines, it may order accordingly the redress it may deem appropriate under any of the aforesaid laws:

Cap. 319.

Provided that if a final decision on an application has already been given by the Courts in terms of Chapter IV of the Constitution or in terms of the [European Convention Act](#), a person shall be prohibited from filing an action based on the same facts under this Act.

Cap. 319.

Communication
with the UNCRPD
Committee.
Added by:
LVIII.2021.8.

33F. (1) No person shall be hindered in the exercise of his right to communicate with the UNCRPD Committee in accordance with the provisions of the Optional Protocol.

Rights under Act
without prejudice
to other rights.

(2) The provisions of this Act shall be without prejudice to any other action that may be available under the Act, or under any other law.

Civil proceedings.
Amended by:
L.N. 426 of 2007;
II. 2012.35.

34. (*Deleted by Act LVIII of 2021.*)

Defendant to prove
that there has been
no breach of Act.
Added by:
II. 2012.36.

34A. (*Deleted by Act LVIII of 2021.*)

Amended by:
XXIV. 2016.3.

PART VIII

MISCELLANEOUS

Regulations.
Amended by:
II. 2012.37;
XXIV. 2016.29.
Substituted by:
LVIII.2021.9.

35. The Minister may make regulations generally for giving effect to the provisions of this Act, and the enforcement thereof, and in particular, but without prejudice to the generality of the foregoing, for providing for any matter which is required or authorised by this Act to be prescribed.

Power of Minister
to designate focal
point.
Added by:
II. 2012.38.

36. (*Deleted by Act LVIII of 2021.*)

Inconsistency with
this Act.
Added by:
XXIV. 2016.30.
Amended by:
LVIII.2021.9.
Cap. 627.

37. When another law, not being the [United Nations Convention on the Rights of Persons with Disabilities Act](#), is inconsistent with this Act this Act shall prevail when such inconsistency regards the rights of a person with disability.

Transitional
provision.
Added by:
LVIII.2021.10.
Act No. LVIII of
2021.
Cap. 627.

38. Any competent Court that has before it pending proceedings instituted under the Act may also apply the provisions of the Equal Opportunities (Persons with Disability) (Amendment) Act and, or the [United Nations Convention on the Rights of Persons with Disabilities Act](#) in reaching its decision on any pending proceedings.
