CHAPTER 627

UNITED NATIONS CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES ACT

AN ACT to make provision for the possibility of civil claims alleging discrimination on the basis of disability in respect of the substantive Articles of the United Nations Convention on the Rights of Persons with Disabilities, as well as to provide for other matters in respect of the implementation of the said Convention.

17th August, 2021

ACT LIX of 2021.

Short title.

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

Interpretation.

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

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

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

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

"ENGAGE" means the civil society participation mechanism established within DDI in accordance with article 6;

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

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

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

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

Cap. 319.

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

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

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

Cap. 413.

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

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

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

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

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

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

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

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

Cap. 413.

(2) Any person or entity indicated in article 33A and, or 33B(4) of the Equal Opportunities (Persons with Disability) Act that alleges discrimination on the basis of disability, in respect of any of the substantive Convention rights, and when the remedy sought in respect of said alleged discrimination also includes a remedy of a pecuniary nature, whether said remedy is sought in conjunction with any other form of remedy or otherwise, can avail themselves of a civil action, in terms of article 33E(1) of the Equal Opportunities (Persons with Disability) Act.

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

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

Directorate for Disability Issues (DDI).

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

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

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

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

(a) identify, establish and update all national policies and strategies, including the National Policy on the Rights of Persons with Disability and the National Disability Strategy, directly or indirectly related to disability issues;

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

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

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

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

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

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

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

Civil society participation mechanism.

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

Conflict between versions in Schedules.

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

Powers of the Minister.

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

FIRST SCHEDULE
[ARTICLE 2(2)(i)]
Article 2 of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)
Article 2
Definitions

For the purposes of the present Convention:

- "Communication" includes languages, display of text, Braille, tactile communication, large print, accessible multimedia as well as written, audio, plain-language, human-reader and augmentative and alternative modes, means and formats of communication, including accessible information and communication technology;

- "Language" includes spoken and signed languages and other forms of non spoken languages;

- "Discrimination on the basis of disability" means any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including denial of reasonable accommodation;

- "Reasonable accommodation" means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms;

- Universal design" means the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design. "Universal design" shall not exclude assistive devices for particular groups of persons with disabilities where this is needed.

SECOND SCHEDULE
[ARTICLE 2(1)]
Articles 5 to 30 of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD)

Article 5
Equality and non-discrimination

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

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

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

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

Article 6
Women with disabilities

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

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

Article 7
Children with disabilities

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

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

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

Article 8
Awareness-raising

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

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

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

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

2. Measures to this end include:

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

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

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

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

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

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

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

Article 9
Accessibility

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

barriers to accessibility, shall apply to, *inter alia*:

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

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

2. States Parties shall also take appropriate measures to:

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

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

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

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

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

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

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

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

Article 10
Right to life

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

Article 11
Situations of risk and humanitarian emergencies

States Parties shall take, in accordance with their obligations under international law, including international humanitarian law and international human rights law, all necessary measures to ensure the protection and safety of persons with disabilities in

situations of risk, including situations of armed conflict, humanitarian emergencies and the occurrence of natural disasters.

Article 12
Equal recognition before the law

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

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

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

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

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

Article 13
Access to justice

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

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

Article 14
Liberty and security of the person

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

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

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

2. States Parties shall ensure that if persons with disabilities are deprived of their liberty through any process, they are, on an equal basis with others, entitled to guarantees in accordance with international human rights law and shall be treated in compliance with the objectives and principles of this Convention, including by provision of reasonable accommodation.

Article 15
Freedom from torture or cruel, inhuman or degrading treatment or punishment

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

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

Article 16
Freedom from exploitation, violence and abuse

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

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

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

4. States Parties shall take all appropriate measures to promote the physical, cognitive and psychological recovery, rehabilitation and social reintegration of persons with disabilities who become victims of any form of exploitation, violence or abuse, including through the provision of protection services. Such recovery and reintegration shall take place in an environment that fosters the health, welfare, self-respect, dignity and autonomy of the person and takes into account gender and age-specific needs.

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

Article 17
Protecting the integrity of the person

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

Article 18
Liberty of movement and nationality

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

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

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

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

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

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

Article 19
Living independently and being included in the community

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

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

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

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

Article 20
Personal mobility

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

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

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

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

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

Article 21
Freedom of expression and opinion, and access to information

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

(a) Providing information intended for the general public to persons with disabilities in accessible formats and technologies appropriate to different kinds of disabilities in a timely manner and without additional cost;

(b) Accepting and facilitating the use of sign languages, Braille, augmentative and alternative communication, and all other accessible means, modes and formats of communication of their choice by persons with disabilities in official interactions;

(c) Urging private entities that provide services to the general public, including through the Internet, to provide information and services in accessible and usable formats for persons with disabilities;

(d) Encouraging the mass media, including providers of information through the Internet, to make their services accessible to persons with disabilities;

(e) Recognizing and promoting the use of sign languages.

Article 22
Respect for privacy

1. No person with disabilities, regardless of place of residence or living

arrangements, shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence or other types of communication or to unlawful attacks on his or her honour and reputation. Persons with disabilities have the right to the protection of the law against such interference or attacks.

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

Article 23
Respect for home and the family

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

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

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

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

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

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

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

5. States Parties shall, where the immediate family is unable to care for a child with disabilities, undertake every effort to provide alternative care within the wider family, and failing that, within the community in a family setting.

Article 24
Education

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Article 25
Health

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

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

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

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

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

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

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

Article 26
Habilitation and rehabilitation

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

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

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

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

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

Article 27
Work and employment

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

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

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

(c) Ensure that persons with disabilities are able to exercise their

labour and trade union rights on an equal basis with others;

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

(e) Promote employment opportunities and career advancement for persons with disabilities in the labour market, as well as assistance in finding, obtaining, maintaining and returning to employment;

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

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

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

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

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

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

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

Article 28
Adequate standard of living and social protection

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

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

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

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

programmes and poverty reduction programmes;

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

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

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

Article 29
Participation in political and public life

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

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

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

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

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

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

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

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

Article 30
Participation in cultural life, recreation, leisure and sport

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

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

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

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

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

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

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

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

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

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

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

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

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

THIRD SCHEDULE
[ARTICLE 2(1)]
Declaration and Reservations made by the Republic of Malta upon the signing of the Convention on the Rights of Persons with Disabilities and its Optional Protocol

Interpretative statement made upon ratification:

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

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

Reservations made upon ratification:

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

With regard to (a)(i):

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

With regard to (a)(iii):

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

Interpretative statement and reservation made upon signature:

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

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

(b) Pursuant to Article 29(a)(i) and (iii) of the Convention, while the

Government of Malta is fully committed to ensure the effective and full participation of persons with disabilities in political and public life, including the exercise of their right to vote by secret ballot in elections and referenda, and to stand for elections, Malta makes the following reservations:

With regard to (a)(i):

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

With regard to (a)(iii):

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

FOURTH SCHEDULE
[ARTICLE 2(2)(ii)]
Interpretative Guidance on Discrimination on the basis of Disability

In this Schedule, unless the context otherwise requires:

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

"compulsory school age", in relation to a person, means the age at which such person is subject to the provisions of the Cap. 327. Education Act insofar as these relate to such age;

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

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

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

"employment" means work under a contract of service;

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

"family member", in relation to an individual, includes:

(a) the parents;

(b) the spouse or the partner;

(c) a son, daughter, brother or sister aged eighteen years or over;

(d) foster carers; and

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

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

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

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

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

"qualified person with a disability" means:

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

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

A. GENERAL

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

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

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

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

(d) fails to furnish information with regard to the

rights of the other person by means of communication which the other person can understand;

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

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

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

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

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

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

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

(l) victimises any person for having made a complaint to the lawful authorities or for having initiated or participated in the proceedings for redress on grounds of an alleged breach of any of the provisions of this Act, or for

having disclosed any information, confidential or otherwise, to a lawful authority regarding alleged discriminatory behaviour, activities or practices;

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

(n) fails to publicise, in an effective manner, those goods, facilities and services provided by him to persons with disability, in order to eliminate discrimination prohibited under this Act;

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

B. EMPLOYMENT

Employment.

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

(a) procedures relative to applications for employment;

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

(c) employee compensation;

(d) job training; and

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

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

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

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

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

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

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

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

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

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

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

(a) the nature and cost of the alterations;

(b) the overall financial resources of the workplace involved in the making of the alterations;

(c) the number of employees at the workplace requiring alterations;

(d) the effect on expenses and resources and the impact of the required alterations upon the operation of the workplace;

(e) the overall financial resources of the employer;

(f) the overall size of the business of the employer including the number of employees, and the number, type and location of its workplaces;

(g) the type of operation or operations of the employer, including the composition, structure and functions of the work-force; and

(h) the availability of financial assistance from public funds to defray the expense of any alterations.

(5) For the purposes of this Section, the term "make reasonable accommodation" includes:

(a) making existing facilities used by employees readily accessible to and usable by persons with disabilities;

(b) restructuring jobs, instituting part-time or modified work schedules, reassigning vacant positions, acquiring or modifying equipment or devices, appropriately adjusting or modifying examinations, training materials or policies, providing qualified readers or interpreters, and making any other similar alterations for a person with a disability; and

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

Medical examinations.

2. (1) Save as provided for in paragraphs (2) and (3), an employer shall not conduct or require any medical examination or otherwise make any enquiries of an applicant for employment or of any of his employees as to whether such applicant or employee is a person with a disability or as to the nature or severity of such disability except to ascertain the ability of the applicant to perform job-related functions or to identify the cost involved in any adaptations that may be required as a result of such disability.

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

this same kind of employment are made subject to such an examination.

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

(a) collected and maintained on separate forms;

(b) kept in separate medical files; and

(c) treated as a confidential medical record.

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

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

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

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

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

Trade Unions.

3. It shall be unlawful for a registered organisation under the Employment and Industrial Relations Act, or for the committee of management or a member of the committee of management of such a registered organisation, to discriminate against:

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

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

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

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

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

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

Employment Agencies.

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

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

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

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

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

C. EDUCATION

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

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

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

(ii) in the terms or conditions on which such educational authority or institution is prepared to

admit him as a student; and, or

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

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

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

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

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

D. ACCESS TO PROPERTY

(1) Save as provided for in paragraph (2), and without prejudice to the generality of this Act, it shall be unlawful for any person to discriminate against another person on the grounds of the disability of such other person or a disability of any of his family members:

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

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

(c) in relation to the provision of means of access to such property including any necessary alterations to such

property or facilities so as to make such access possible; or

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

(2) Where:

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

(b) the alteration of such property or facilities would be unreasonable in the circumstances, then such a person may refuse a person with disability such access to or use of any property or facilities as are referred in paragraph (1)(*a*) or refuse to carry out any alterations to such property or facilities that would otherwise render such property or facilities accessible to a person with a disability.

E. PROVISION OF GOODS, FACILITIES OR SERVICES

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

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

(a) access to and use of any place which members of the public or a sector of the public are permitted to enter;

(b) the provision of property rights and of housing;

(c) accommodation in a hotel, boarding house or similar establishment;

(d) facilities by way of banking, insurance or for grants, loans, credit or finance;

(e) participation in occupational and other pension schemes;

(f) facilities for education;

(g) facilities for entertainment, sports or recreation;

(h) facilities for transport or travel by land, sea or air;

(i) the services of any profession or trade, or of any local or other public authority;

(j) membership of associations, clubs or other organisations;

(k) enjoyment of civic rights and performance of civic duties; and

(l) such other facilities and services as the Minister may prescribe by regulations made under this Act.

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

F. HEALTH

(1) A person would be discriminating with another person due to a disability if that person is refused the giving of a health service of the same standard, conditions, even financial, of a range and quality like that given to other persons, including but not limited to that related to sexual and reproductive health.

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

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

(a) the early identification and intervention as appropriate;

(b) an assessment which reflects the actual needs and health conditions of the person with disability; and

(c) rehabilitation and habilitation services designed

to minimise and prevent further disabilities:

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

G. ACCOMMODATION

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

(a) by refusing the application of such other person for accommodation; or

(b) in the terms or conditions on which the accommodation is offered to such other person; or

(c) by deferring the application of such other person for accommodation or by according to such other person a lower order of precedence in any list of applicants for that accommodation; or

(d) by denying or limiting the access of such other person to any benefit associated with accommodation occupied by such other person; or

(e) by evicting such other person from any accommodation that is occupied by such other person; or

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

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

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

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

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

(a) the person who provides or proposes to provide the accommodation or a near relative of that person, resides

and intends to continue to reside in that property; and

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

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

H. EXEMPTIONS

Positive discrimination.

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

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

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

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

Exemption for charities.

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

FIFTH SCHEDULE
[ARTICLE 2(2)(iii)]
General Comments issued by the United Nations Committee on the Rights of Persons with Disabilities

A. GENERAL COMMENT No. 1

Article 12: Equal recognition before the law

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

B. GENERAL COMMENT No. 2

Article 9: Accessibility

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

C. GENERAL COMMENT No. 3

Article 6: Women and girls with disabilities

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

D. GENERAL COMMENT No. 4

Article 24: Right to inclusive education

Document number CRPD/C/GC/4 in the Official Document System of the United Nations (ODS), as amended from time to time, shall apply *mutatis mutandis*.

E. GENERAL COMMENT No. 5

Article 19: Right to independent living

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

F. GENERAL COMMENT No. 6

Article 5: Equality and non-discrimination

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

G. GENERAL COMMENT No. 7

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

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