

A 672

I assent.

(L.S.)

GEORGE VELLA
President

25th June, 2021

ACT No. XXXIV of 2021

AN ACT to amend the Persons with Disability (Employment) Act, Cap. 210.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same as follows:-

Short title.

Cap. 210.

Amendment of
article 2 of the
principal Act.

1. The short title of this Act is the Persons with Disability (Employment) (Amendment) Act, 2021 and this Act shall be read and construed as one with the Persons with Disability (Employment) Act, hereinafter referred to as "the principal Act".

2. Article 2 of the principal Act shall be amended by the following:

(a) the definition "person with disability" shall be substituted by the following:

Cap. 413.

" "person with disability" shall have, for any person over compulsory school age, the same meaning assigned to it in article 2 of Part I of the Equal Opportunities (Persons with Disability) Act; and the word "disability", with respect to any person, shall be construed accordingly;"

(b) in the Maltese text in the definition "persuna għamja" the words "persuna għamja" shall be substituted by the words "persuna nieqsa mid-dawl";

(c) in the Maltese text in the definition "persuna truxa li titkellem" the words "persuna truxa li titkellem" shall be substituted by the words "persuna nieqsa mis-smigh li titkellem";

(d) in the Maltese text in the definition "persuna truxa u muta" the words "persuna truxa u muta" shall be substituted by the words "persuna nieqsa mis-smigh u li ma titkellimx";

(e) the definition "placement medical officer" shall be substituted by the following:

" "placement officer" means any suitably qualified officer authorized in writing by the entity responsible for the register;" and

(f) the words "placement medical officer" and the words "placement medical officers", wherever they occur in the principal Act, shall be substituted by the words "placement officer" and "placement officers" respectively.

3. In sub-article (2) of article 3 of the principal Act for the words "adequate medical supervision" there shall be substituted the words "adequate supervision as and when necessary".

Amendment of article 3 of the principal Act.

4. Sub-article (2) of article 8 of the principal Act shall be amended as follows:

Amendment of article 8 of the principal Act.

(a) in paragraph (c) thereof, for the words "is not ordinarily resident in Malta;" there shall be substituted the words "is not ordinarily resident in Malta."; and

(b) paragraph (d) thereof shall be deleted.

5. Article 15 of the principal Act shall be amended by the following:

Amendment of article 15 of the principal Act.

(a) in sub-article (7) thereof, the words "chairman" and "deputy chairman" shall be substituted by the words "chairperson" and "deputy chairperson" respectively;

(b) in sub-article (8) thereof, for the words "not less than twenty persons:" there shall be substituted the words "not less than twenty (20) persons."; and

(c) the proviso to sub-article (8) thereof shall be

A 674

deleted.

Amendment of
article 16 of the
principal Act.

6. Article 16 of the principal Act shall be amended as follows:

(a) sub-article (5A) thereof shall be substituted by the following:

"(5A) A person who fails to respect the quota referred to in sub-article (2), as determined in accordance with sub-article (5), shall be required to make an annual contribution as determined by the Corporation:

Provided that the annual contribution shall be two thousand and four hundred euro (€2,400) for every person with disability that should be in his employment, to a maximum of ten thousand euro (€10,000) for any one person who so fails to respect the quota:

Provided further that the maximum amount of ten thousand euro (€10,000) referred to in the above proviso shall not apply to a group of companies which is duly registered with the relevant authorities.";

(b) sub-article (5B) thereof shall be substituted by the following:

"(5B) The Minister may, following consultations with the Corporation, by means of regulations amend the amounts referred to in sub-article (5A)."; and

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

"(7) Particular employers, like temporary work agencies, temporary service contractors, and companies with fluctuating or seasonal levels of employment, shall be entitled, for quota calculation purposes, to establish the true size of their workforce by counting a temporary employee as a fraction of 1 in mathematical proportion to the number of days actually worked by such employee from 1st January to the 31st December.".

Amendment of
article 21 of the
principal Act.

7. In sub-article (2) of article 21 of the principal Act for the words "adequate medical supervision" there shall be substituted the words "adequate supervision".

8. In paragraph (a) of article 24 of the principal Act the words "with persons not handicapped by disability" shall be deleted.

Amendment of article 24 of the principal Act.

9. In paragraph (a) of sub-article (2) of article 25 of the principal Act, the words "physical or mental disability of the person with disability" shall be substituted by the words "the disability of that person with a disability and his particular circumstances".

Amendment of article 25 of the principal Act.

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

Substitution of article 26 of the principal Act.

"Additional provisions relating to determination of quota.

26. (1) An employer who does not employ the number of persons with disability in accordance with article 16, but who can prove, to the satisfaction of the Corporation, that he is offering equivalent hours of work to persons with disability through an in-service or an outsourced work arrangement or is actually providing work to a person with disability who is officially employed by another employer shall be deemed to satisfy the quota referred to in article 16.

(2) Recruitment efforts, work trials and discussions with entities towards the employment of persons with disability will not exonerate an employer from the obligations referred to in article 16.

(3) If a person with disability resigns within one year of employment, that employee shall still be considered for the purposes of determining the quota for the year in which employment commenced.

(4) Employees who, on the date of the coming into force of this Act, are not registered as persons with disability, but who are medically certified to be within the definition of disability in accordance with this Act, may be acknowledged by the Corporation, only for the purposes of an employer's quota calculation:

Provided that any such person shall not become eligible for incentives of any kind until he is certified as Registered Disabled Persons (RDPs) by a placement officer as prescribed in this Act."

11. In article 27 of the principal Act immediately after the word "provisions" in article 27 of the principal Act there shall be added the words "of this Act".

Amendment of article 27 of the principal Act.

A 676

Amendment of
article 29 of the
principal Act.

12. Article 29 of the principal Act shall be amended as follows:

(a) in sub-article (1) thereof the words "or to imprisonment not exceeding three months or to both such fine and imprisonment" shall be deleted;

(b) sub-article (2) thereof shall be re-numbered as sub-article (3); and

(c) immediately after sub-article (1) thereof there shall be added the following new sub-article:

"(2) Failure to pay the contribution referred to in article 16(5A) within the time established by the Corporation shall be considered as an offence under this Act and, upon conviction, a person accused of failure to pay the contribution shall become liable to the payment of the contribution and the punishment established in sub-article (1)".

Passed by the House of Representatives at Sitting No. 476 of the 21st June, 2021.

ANĠLU FARRUGIA
Speaker

RAYMOND SCICLUNA
Clerk of the House of Representatives