

TABLE OF AMENDMENTS
Proposed by KNPD to
the Ministry for the Family and Social Solidarity
regarding
the Equal Opportunities (Persons with Disability) Act

In this table:

1st column refers to the relevant section;

2nd column shows the current provision;

3rd column shows the proposed amendments

4th column highlights the reasons for the amendments

The colour red denotes deletions; the colour blue denotes additions.

Part I -- Preliminary: definitions

Accommodation	includes residential or business accommodation, and structural adaptation or modifications to existing buildings;	includes residential or business accommodation;	It is being proposed that the term <i>accommodation</i> be used only in the traditional sense i.e. the occupation of premises whether for residential or business purposes. Any reference to changes required in order to address the needs of persons with disability is to be made through the use of a different term: <i>modification</i> .
Auxiliary aid	Auxiliary aid	Assistive apparatus	In line with current language usage it is being proposed that the use of the word <i>auxiliary aid/aids</i> is substituted with <i>assistive apparatus</i> .

	means any palliative or therapeutic device, any prosthetic aid , or any other device or aid that may be required by a person with a disability specifically because of that disability	means any palliative or therapeutic device, any prosthetic apparatus , or any other device or apparatus including trained animals that may be required by a person with a disability specifically because of that disability	It is being proposed that a definition of the new term <i>assistive apparatus</i> should include a reference to trained animals since persons with disability may require also the assistance of trained animals.
Harassment		Means subjecting a person to any unwelcome act, request, or conduct, including spoken words, gestures, or the production, display or circulation of written words, pictures, or other material which could reasonably be regarded as offensive, humiliating, hostile, degrading or intimidating to such person.	It is being proposed that the principles embodied in the EU directive 2000/78 be included in the EOA. Consequently a definition of harassment is being included in view of the reference being made to harassment in Part 2 of the EOA.
Modifications		includes any structural adaptation, the removal of architectural, communication or transport barriers, the provision of assistive apparatus, and changes in rules, policies and practices;	In line with the proposal that any reference to the changes required in order to address the needs of persons with disability be made through the use of the term <i>modifications</i> (rather than the term <i>accommodation</i>) a definition of the new term <i>modifications</i> is being added.
Property		includes all existing and future buildings, and outdoor areas such as streets, pavements, public paths	It is being proposed that in the Act the term <i>property</i> (rather than <i>premises</i>) be used when reference is to be made to any

		<p>and gardens;</p>	<p>place which could fall within the scope of this Act. This will assume particular relevance in Title 3 of Part III of the Act which deals with physical access; this amendment will eliminate any doubt as to whether physical access is to be provided only to, and in, premises i.e. buildings, or whether access should also be provided to, and in, any other place where persons with disability may wish to go, or may wish to use.</p>
<p>Qualified person with disability</p>	<p>(a) in relation to any employment as is referred to in Title 1 of Part III of this Act, a person with a disability who is over compulsory school age but has not yet reached pensionable age, and who, with or without any accommodation in accordance with the aforementioned Title, can perform the essential functions of the employment position that he holds or applies for or can hold or apply for</p> <p>(b) in relation to the provision of goods, facilities or services as are referred to in Title 4 of</p>	<p>(a) in relation to any employment as is referred to in Title 1 of Part III of this Act, a person with a disability who is over compulsory school age but has not yet reached pensionable age, and who, with or without any modification in accordance with the aforementioned Title, can perform the essential functions of the employment position that he holds or applies for or can hold or apply for</p> <p>(b) in relation to the provision of goods, facilities or services as are referred to in Title 4 of</p>	<p>In line with the proposed amendments to the terminology used in this Act, the term <i>modification</i> rather than <i>accommodation</i> is being used to refer to changes required to meet the needs of persons with disability.</p>

	<p>Part III of this Act, a person with a disability who meets the essential eligibility requirements for the provision of such goods, facilities or services or for participation in such programmes or activities as may be provided by any person or body in terms of the aforementioned Part of this Act.</p>	<p>Part III of this Act, a person with a disability who meets the essential eligibility requirements for the provision and receipt of such goods, facilities or services or for participation in such programmes or activities as may be provided by any person or body in terms of the aforementioned Part of this Act.</p>	<p>The inclusion of the words <i>and receipt</i> is being proposed because persons with disability may have to resort to the provisions of Title 4 of Part III of the Act not only when they are providing the services but also when they wish to receive the goods, facilities, etc referred to in that Part of the Act.</p>
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Part II --- Disability Discrimination

<p>Section 3(2)</p>	<p>For the purposes of paragraph (a) of subsection (1) of this section, the fact that different accommodation and, or, services may be required by the person with a disability shall in no case be deemed as constituting circumstances which are materially different.</p>	<p>For the purposes of paragraph (a) of subsection (1) of this section, the fact that modifications, and, or, services may be required by the person with a disability shall in no case be deemed as constituting circumstances which are materially different.</p>	<p>In line with the proposed amendments to the terminology used in this Act, the term <i>modification</i> rather than <i>accommodation</i> is being used to refer to changes required to meet the needs of persons with disability.</p>
<p>Section 5</p>	<p>A person shall be discriminating against another person on the grounds of disability if he treats or</p>	<p>A person shall be discriminating against another person on the grounds of disability if he treats or</p>	

	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 an auxiliary aid 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 an auxiliary aid .	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 apparatus 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 apparatus .	In line with the proposed amendments to the terminology used in this Act, the term <i>assistive apparatus</i> rather than <i>auxiliary aid</i> is being used.
New section 1 --- to follow section 6		A person shall be discriminating against another person on the grounds of disability if he subjects such other person to harassment in any circumstances relevant for the purposes of any provision of this Act.	In line with the proposal to include in the EOA the principles embodied in the EU directive 2000/78 the concept of (prohibition of) harassment is being included as a form of discrimination.
New section 2 --- to follow section 6		It shall be unlawful to victimize 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	In line with the proposal to include in the EOA the principles embodied in the EU directive 2000/78 the concept of (prohibition of) victimisation is also being included in the EOA.

		any information, confidential or otherwise, to a lawful authority regarding discriminatory behaviour, activities or practices.	
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Part III --- Prohibition of Discrimination: Employment

Section 7(2)(d)	fails to make reasonable accommodation for the disability of such a person, unless the employer can prove that the required accommodation would unduly prejudice the operation of the trade or business run by such employer	fails to make reasonable modifications for the disability of such a person	It is being proposed that the test which will determine whether any person shall be required to take any action in virtue of this Act should be the same in all instances where a similar test is provided for, and should be based on the same criterion i.e. the reasonableness of the action to taken.
Section 7(2)(e)	denies employment opportunities to such a person where such denial is based on the need of the employer to make reasonable accommodation for the disability of such a person	denies employment opportunities to such a person where such denial is based on the need of the employer to make reasonable modifications for the disability of such a person	This amendment is required in view of the proposed changes to the use in terminology and consequential changes made to the definitions
Section 7(4)	For the purposes of paragraph (d) of subsection (2) of this section, the factors to be considered in determining whether an accommodation would unduly prejudice the operation of the trade or business run by the employer shall include:- (a) the nature and cost of the		It is being proposed that this subsection be deleted in view of the fact that the law already provides for a test of reasonableness in section 20.

	<p>accommodation;</p> <p>(b) the overall financial resources of the workplace involved in the making of the accommodation;</p> <p>(c) the number of employees at the workplace requiring accommodation;</p> <p>(d) the effect on expenses and resources and the impact of the required accommodation upon the operation of the workplace;</p> <p>(e) the overall financial resources;</p> <p>(f) the overall size of the business of the employer including the number of employees, and the number, type and location of its workplaces;</p> <p>(g) the type of operation or operations of the employer, including the composition, structure and functions of the work-force; and</p> <p>(h) the availability of financial assistance from public funds to defray the expense of any accommodation.</p>		
Section 7(5)	For the purposes of this section, the term “make reasonable accommodation” includes –	For the purposes of this section, and without prejudice to the generality of section 2 of this Act, the term “modification” shall also	The amendments proposed to this subsection are in line with the general amendments being proposed i.e. streamlining terminology.

	<p>(a) making existing facilities used by employees readily accessible to and usable by persons with disabilities; and</p> <p>(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 accommodation for a person with a disability.</p>	<p>include–</p> <p>(a) making existing facilities used by employees readily accessible to and usable by persons with disabilities; and</p> <p>(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 modifications for a person with a disability.</p>	
Section 8(4)(a)	<p>supervisors and managers within the same establishment regarding any necessary restrictions on the work or duties of such applicant and any necessary accommodations that may be required</p>	<p>supervisors and managers within the same establishment regarding any necessary restrictions on the work or duties of such applicant and any necessary modifications that may be required</p>	<p>The amendments proposed to this subsection are in line with the general amendments being proposed i.e. streamlining terminology.</p>
Section 9	<p>It shall be unlawful for a registered organisation under the Industrial Relations Act, or for the committee of management or a member of the committee of</p>	<p>It shall be unlawful for a registered organisation under the Employment and Industrial Relations Act, or for the committee of management or a</p>	<p>Amendment in view of the new Law regulating Industrial Relations</p>

	management of such a registered organisation, to discriminate against	member of the committee of management of such a registered organisation, to discriminate against	
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Part III --- Prohibition of Discrimination: Education

Section 11(1)	Save as provided for in subsections (2) and (3) of this section, it shall be unlawful for an educational authority or institution to discriminate against -	Save as provided for in subsections (2) and (3) of this section, and without prejudice to the generality of Part II of this Act , it shall be unlawful for an educational authority or institution to discriminate against -	The provisions of Part III of the Act constitute a specific application of the general principles contained in Part II. It has to be made clear that the instances listed by way of a specific application of the general principles are not an exhaustive list. There may be instances of discrimination in the field of education which are not listed in Part III but which would be redressed on an application of the general principles listed in Part II
Section 11(1)(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 provided by such educational authority or institution; or (ii) expelling him from the educational institution he is attending.	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, service and/or facility provided by such educational authority or institution; or (ii) expelling him from the educational institution he is attending.	It is being proposed that the terms <i>service and/or facility</i> be included in order to ensure that students with disability are given access to all things which other students are provided access to.

Section 11(3)	Where the admission 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 as a student of such a person in that educational institution if such authority or institution proves that the admission 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.	(a) Where the admission 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 as a student of such a person in that educational institution if such authority or institution proves that the admission of such person in such institution would be unreasonable in the circumstances.	This subsection being renumbered as subpara (a) in view of the inclusion of a new subparagraph. All instances where discrimination is to be tolerated are to be regulated by the test of reasonableness.
Section (11)(3)(b)		(b) For purposes of paragraph (b) of subsection 1 of this section the educational authority or institution may refuse or fail to grant such person access to any benefit, service and/or facility, or to keep such person as a student in the educational institution he is attending if the educational	The inclusion of this provision is being proposed in order to include the test of reasonableness even in situations when the discrimination is being suffered by persons who already are students and would regulate how they are treated as students. The Act previously included the test of reasonableness only insofar as admission to an educational institution

		<p>authority or institution proves that it would be unreasonable to grant such person access to any benefit, service and/or facility, or to keep such person as a student in the educational institution he is attending.</p>	<p>was concerned.</p>
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Part III --- Prohibition of Discrimination: Access

<p>Section 12(1)</p>	<p>Save as provided for in subsection (2) of this section, 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:</p>	<p>Save as provided for in subsection (2) of this section, and without prejudice to the generality of Part II 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</p>	<p>The provisions of Part III of the Act constitute a specific application of the general principles contained in Part II. It has to be made clear that the instances listed by way of a specific application of the general principles are not an exhaustive list. There may be instances of discrimination insofar as access is concerned which are not listed in Part III but which would be redressed on an application of the general principles listed in Part II.</p>
<p>Section 12(1)</p>	<p>(a) by refusing to allow such other person access to, or the use of any premises, or of any facilities within such premises, that the public or a section of the public is entitled or allowed to enter or use</p>	<p>(a) by refusing to allow such other person access to, or the use of any property, or of any facilities within such property, that the public or a sector of the public is entitled or allowed to enter or use (whether</p>	<p>These amendments are required in view of the proposed changes to the use in terminology and consequential changes made to the definitions</p>

	<p>(whether on payment or not); or</p> <p>(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 premises or facilities; or</p> <p>(c) in relation to the provision of means of access to such premises including any necessary alterations to such premises or facilities so as to make such access possible; or</p> <p>(d) by requiring such other person to leave such premises or to cease to use such facilities or to unjustifiably restrict in any way such use.</p>	<p>on payment or not); or</p> <p>(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</p> <p>(c) in relation to the provision of means of access to such property including any necessary modifications to such property or facilities so as to make such access possible; or</p> <p>(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.</p>	
<p>Section 12(2)</p>	<p>Where -</p> <p>(a) such premises 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</p> <p>(b) any alteration of such premises or facilities would impose unjustifiable hardship on</p>	<p>Where -</p> <p>(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</p> <p>(b) the modification of such property or facilities would be unreasonable in the circumstances,</p>	<p>These amendments are required in view of the proposed changes to the use in terminology and consequential changes made to the definitions.</p> <p>All instances where discrimination is to be tolerated are to be regulated by the test of reasonableness</p>

	<p>whoever is required to provide such an access,</p> <p>then it shall not be unlawful for such a person to discriminate against a person with a disability by refusing him such access to or use of any premises or facilities as are referred in paragraph (a) of subsection (1) of this section or to refuse to carry out any alterations to such premises or facilities that would otherwise render such premises or facilities accessible to a person with a disability.</p>	<p>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 (a) of subsection (1) of this section or to refuse to carry out any modifications to such property or facilities that would otherwise render such property or facilities accessible to a person with a disability.</p>	<p>This amendment is being proposed because discrimination should never be described as lawful; it may have to be tolerated but it can never be lawful.</p>
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Part III--- Prohibition of Discrimination: Provision of goods facilities and services

<p>Section 13(1)</p>	<p>Save as provided for in subsection (3) of this section, 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</p>	<p>Save as provided for in subsection (3) of this section, and without prejudice to the generality of Part II 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</p>	<p>The provisions of Part III of the Act constitute a specific application of the general principles contained in Part II. It has to be made clear that the instances listed by way of a specific application of the general principles are not an exhaustive list. There may be instances of discrimination insofar as access is concerned which are not listed in Part III but which would be redressed on an application of the general principles listed</p>
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	person or body providing such goods, facilities or services which the qualified person seeks to obtain or use.	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.	in Part II.
Sections 13(2)	This section applies to the provision (whether on payment or not) of goods, facilities and services to the public or any section 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 section of the public are permitted to enter;	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;	Better terminology
Section 13(3)	The provisions of subsections (1) and (2) of this section 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 modification to rules, policies or practices, or the removal of architectural, communication or transport	The provisions of subsections (1) and (2) of this section shall not apply where compliance with such provisions in relation to a qualified person with a disability would be unreasonable in the circumstances.	All instances where discrimination is to be tolerated are to be regulated by the test of reasonableness

	barriers or the provision of auxiliary aids or services.		
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Part III --- Prohibition of Discrimination: Accommodation

Section 14(1)	Save as provided for in subsections (2) and (3) of this section no person, whether as principal or agent , shall discriminate against another person on the grounds of the disability of such other person or a disability of any of the his family members -	Save as provided for in subsections (2) and (3) of this section, and without prejudice to the generality of Part II of this Act , no person shall discriminate against another person on the grounds of the disability of such other person or a disability of any of his family members -	The provisions of Part III of the Act constitute a specific application of the general principles contained in Part II. It has to be made clear that the instances listed by way of a specific application of the general principles are not an exhaustive list. There may be instances of discrimination insofar as accommodation is concerned which are not listed in Part III but which would be redressed on an application of the general principles listed in Part II. No other section of the Act makes reference to the distinction between principal and agent so it is being proposed that this distinction here is deleted.
Section 14(1)(g)	by refusing to permit such other person to make reasonable alterations to accommodation occupied by such other person if - (i) such other person has undertaken to restore at his own	by refusing to permit such other person to make reasonable modifications to accommodation occupied by such other person if - (i) such other person has undertaken to restore at his own	These amendments are required in view of the proposed changes to the use in terminology and consequential changes made to the definitions.

	<p>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;</p> <p>(ii) the alteration does not involve the alteration of premises occupied by other persons.</p>	<p>expense the accommodation to its condition before modification on leaving the accommodation and the action required to restore the accommodation to its condition before modification, is, in fact, practicable;</p> <p>(ii) the modification does not involve the modification of premises occupied by other persons.</p>	
Section 14(3)	<p>The provisions of subsection (1) of this section shall also not apply if the provision of accommodation in premises where special services or facilities would be required by the person with a disability would impose unjustifiable hardship on the person providing or proposing to provide the accommodation whether as principal or agent.</p>	<p>The provisions of subsection (1) of this section shall also not apply if the provision of accommodation in premises where special services or facilities would be required by the person with a disability would be unreasonable in the circumstances.</p>	<p>All instances where discrimination is to be tolerated are to be regulated by the test of reasonableness</p>

Part III --- Exemptions

Section 15	<p>Nothing under this Act shall in any way be constructed as prohibiting any form of action that may be</p>	<p>Nothing under this Act shall in any way be construed as prohibiting any form of action that may be</p>	<p>Better terminology</p>
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	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 -	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 -	
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Part IV -- Test of Reasonableness

Section 20(1)	For the purposes of this Act, in determining the reasonableness of (a) any modification to rules, policies or practices; or (b) the removal of architectural, communication or transport barriers; or (c) the provision of auxiliary aids or services, regard shall be had as to whether such actions could be undertaken without unjustifiable hardship.	For the purposes of this Act, in determining the reasonableness of any action, modification, and/or the procurement of services, facilities, assistive apparatus to be undertaken by any person in terms of the provisions of this Act regard shall be had as to whether such actions could be undertaken without unjustifiable hardship.	It is being proposed that in all instances where a person may be required to take some sort of action in order to remedy discrimination, there should be one test: that of reasonableness. This in turn will be made dependent on the three factors originally mentioned in the Act i.e the nature and cost of the actions, the financial resources of the person and the availability of public funds.
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Part V -- The Commission

Section 21(1)	The Prime Minister shall upon the advice of the Minister appoint a Commission, called the National Commission Persons with Disability (hereinafter referred to	The Prime Minister shall upon the advice of the Minister appoint a Commission, called the National Commission Persons with Disability (hereinafter referred to	These amendments are being proposed in order to ensure that at least five of those members of the Commission who are appointed from the public sector come from specific Ministries whilst giving the
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	<p>as the “Commission”) composed of not less than fourteen members. Seven of the members shall be appointed from amongst such persons appearing to the Prime Minister to best represent the Ministries responsible for Social Policy, Labour, Health, Education, Housing and Economic Planning. Another seven of the members shall be appointed from among such persons who, in the opinion of the Prime Minister, best represent voluntary organisations working in the field of disability issues.</p>	<p>as the “Commission”) composed of not less than fourteen members. Seven of the members shall be appointed from amongst such persons appearing to the Prime Minister to best represent the Ministries responsible for Social Policy, Labour, Health, Education, and Finance, provided that other Ministries may be represented together with the aforementioned ones. At least another seven of the members shall be appointed from the non-governmental sector and shall be individuals who, in the opinion of the Prime Minister, best represent persons with disabilities and their families.</p>	<p>Prime Minister discretion as to which other two Ministries should be represented on the Commission.</p> <p>The other members of the Commission shall be appointed in their personal capacity, on the strength of their expertise in a specific field; they should represent the interests of persons with disability rather than any other entity. It is also being proposed that the persons appointed come from the nongovernmental sector in general rather than just from voluntary organisations. This will ensure that wider representation.</p>
Section 21(2)	<p>At least one half of the total number of the members of the Commission shall themselves be persons with a physical disability or family members of persons with a mental disability and if possible, there shall be a balanced</p>	<p>At least one half of the total number of the members of the Commission shall themselves be persons with a disability or family members of persons with disability who cannot represent themselves. As far as possible, there shall be a</p>	<p>These amendments are being proposed in order to provide for consistency and to ensure that the representation is wide as possible. Moreover through this amendment children with disability may be represented, and persons with disability (irrespective of the type of disability) who</p>

	representation of women and men.	balanced representation of women and men and of persons with different impairments.	can represent themselves will have the right to represent themselves.
Section 21(3)	The Prime Minister shall appoint a Chairman and a Deputy Chairman from amongst the members of the Commission one of whom shall himself be a person with a disability or a family member of a person with a mental disability.	The Prime Minister shall appoint a Chairman and a Deputy Chairman from amongst the members of the Commission one of whom shall himself be a person with a disability or a family member of a person with a disability who cannot represent himself.	This amendment follows that proposed to the previous section
Section 22 -- new paragraph 1		take any appropriate action, including judicial action, to eliminate discrimination on the basis of disability as defined in this Act;	It is being proposed that the right of the Commission to take judicial action (previously inferred from the Minister's powers to make regulations setting out the procedure whereby the Commission itself is to take judicial action rather than the aggrieved party) be specifically set out as one of its functions.
Section 22 -- new paragraph 2		acquire and dispose of property, including immovable property; to take out loans and overdraft facilities as well as credit card facilities; and to hypothecate its property as security for the fulfillment of its obligations	It is being proposed that the Commission be granted the right to acquire property and to freely administer the same. It is also being proposed that the Commission be granted the right to take out loans and overdraft facilities as well as credit card facilities. Being granted these rights will

			ensure that the Commission has the necessary tools to operate effectively in today's world.
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Part VI – Complaints Investigations Enforcement

Section 32(1)	The Commission may itself initiate investigations on any matter involving an act that is allegedly unlawful under any of the provisions of this Act.	The Commission may itself initiate investigations to determine whether the provisions of this Act are being complied with, and on any matter involving an act that is allegedly unlawful under any of the provisions of this Act.	This change is being proposed in order to ensure that the Commission may investigate not only cases of alleged discrimination but also it may undertake preventive investigations.
Section 33	<p>(1) In respect of general investigations or investigations of complaints undertaken by the Commission, the Minister shall prescribe by regulations -</p> <p>(a) the procedure whereby the Commission may require a person to furnish any information as is necessary for the investigations aforesaid in this section, and the time, manner, and form in which such information is to be furnished;</p> <p>(b) the procedures to be followed where a person fails to supply such</p>	<p>Without prejudice to the right of any person against whom an unlawful act of discrimination has been committed, or of his legal representative, to bring an action for redress, where following investigations carried out it appears to the Commission that an unlawful act of discrimination has been committed, the Commission shall have the right:</p> <p>(i) to institute proceedings before the First Hall of the Civil Court seeking redress; and</p> <p>(ii) to intervene in any pending lawsuit in terms of section 960 of</p>	<p>These amendments are being propose to:</p> <ul style="list-style-type: none"> • address the anomaly whereby the Commission was granted the right to institute judicial action itself only by inference i.e. this right may be inferred from the fact that the Minister may make regulations for the Commission to take legal action. • harmonise the type of action to be taken under the provisions of this Act: the Act currently states that the aggrieved party is to commence procedures similar to an action for damages i.e. by writ, while the Commission takes action by application.

	<p>information;</p> <p>(c) the circumstances in which, following these investigations aforesaid, the Commission may take appropriate legal action.</p> <p>(2) Any regulations made under subsection (1) of this section shall prescribe, in the case of an alleged discrimination by one person against another, the arrangements whereby the Commission may itself refer the matter to the First Hall of the Civil Court:</p> <p>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.</p>	<p>the Code of Organisation and Civil Procedure.</p>	<ul style="list-style-type: none"> • In line with the clarifications to the duties of the Commission being proposed, this section should directly reflect the right of the Commission to take that judicial action it is permitted to. • A new section is being proposed which gives the Minister the right to make regulations providing for the procedure to be followed in any judicial action to be taken in terms of this Act.
New Section		<p>Any association, organisation or any other 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</p>	<p>In line with the proposal to include in the EOA the principles embodied in the EU directive 2000/78 non governmental organisations working in the field of disability are being given the right to institute judicial proceedings on behalf of any person who is being discriminated.</p>

		discrimination has been committed, with his or her approval, proceedings for redress before the First Hall of the Civil Court.	
Section 34	A claim by any person having a legal interest in the matter, made personally or through his or her legal representative, that another person has committed an unlawful act of discrimination against him or her as provided for under this Act shall be subject to civil action in like manner as any other claim for damages; and any damages in respect of an unlawful act of discrimination may include compensation for injury to feelings whether or not they include compensation under any other head, up to a maximum of two hundred liri as the court may declare.	A claim by any person having a legal interest in the matter, made personally or through his or her legal representative, that another person has committed an unlawful act of discrimination against him or her as provided for under this Act may include a claim for damages; and any damages in respect of an unlawful act of discrimination may include compensation for injury to feelings whether or not they include compensation under any other head, up to a maximum of one thousand liri as the court may declare.	In line with the general trend, and in order to harmonise the way judicial action is taken by the various players in this field, it is being proposed that the aggrieved party need not file a claim as a claim for damages. The actual procedure to be followed would be provided for by regulations and would be the same for both the Commission and the aggrieved party. It is being proposed that the amount of moral damages that may be awarded to the aggrieved party be increased.
New Section		When, in any judicial proceedings taken in terms of this Act for redress following an unlawful act of discrimination, the person commencing the proceedings establishes before the Court facts from which it may be presumed	In line with the proposal to include in the EOA the principles embodied in the EU directive 2000/78 the Act is being amended to provide for the inversion of the burden of proof in cases of alleged discrimination.

		<p>that there has been discrimination, it shall be for respondent to prove that there has been no breach of the provisions of this Act.</p>	
<p>New Section</p>		<p>The Minister shall prescribe by regulation: (a) the procedure whereby the Commission may require a person to furnish any information as is necessary for the investigations aforesaid in this section, 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 procedure whereby the aggrieved party or his legal representative as well as the Commission and any other legal entity having the right to do so in terms of this Act shall institute proceedings before the First Hall of the Civil Court.</p>	<p>This new section is being proposed as a Consequence to the amendments being proposed to section 33 this new section will provide for the Minister's power to prescribe by regulation the procedures to be followed in investigations and judicial proceedings to be taken in terms of the Act.</p>

Part VII – Miscellaneous

<p>Section 35</p>	<p>(1) 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 :-</p> <p>(a) for providing for any matter which is required or authorised by this Act to be prescribed; and, or,</p> <p>(b) for the exemption of any person, or class of persons or body, from any of the requirements of Part III of this Act as may be specified in the aforesaid regulations; provided that any such exemption shall only be declared by the Minister after consultation with the Commission and provided that such exemption shall be for a specified period of time which can be renewed by the Minister after consultation with the Commission.</p> <p>(2) Any regulations made by virtue of this section may specify different periods of</p>	<p>The Minister may make regulations generally for giving effect to the provisions of this Act, and the enforcement thereof, and for providing for any matter which is required or authorised by this Act to be prescribed.</p>	<p>In view of the fact that the matters provided for in subsections 1(b) and 2 have been superseded and are now irrelevant it is being proposed that these be deleted</p>
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	<p>exemption in relation to:-</p> <p>(a) the provision of different goods, facilities or services;</p> <p>(b) different persons or bodies; or</p> <p>(c) different classes of persons or bodies.</p>		
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