

**THE PROTECTION AND PROMOTION OF THE RIGHTS OF
PERSONS WITH DISABILITIES BILL**
(No. XXIII of 2023)

Explanatory Memorandum

The object of this Bill is to provide for the protection and promotion of the rights of persons with disabilities.

2. The Bill will give effect to the United Nations Convention on the Rights of Persons with Disabilities and other international instruments to which Mauritius is a party, with a view to eliminating discrimination against persons with disabilities.

3. In addition, the Bill provides for the establishment of the National Disability Authority which will take over the functions and powers of the Loïs Lagesse Trust Fund, the National Council for the Rehabilitation of Disabled Persons and the Training and Employment of Disabled Persons Board. Accordingly, the Loïs Lagesse Trust Fund Act, the National Council for the Rehabilitation of Disabled Persons Act and the Training and Employment of Disabled Persons Act will be repealed.

4. Furthermore, with a view to encouraging employment of persons with disabilities, the Bill further provides for fiscal incentives to be given to employers who employ persons with disabilities.

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01 December 2023

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ARRANGEMENT OF CLAUSES

Clause

- | | |
|---|---|
| PART I – PRELIMINARY | 23. Protection order |
| 1. Short title | 24. Appeal against protection order |
| 2. Interpretation | PART V – NATIONAL DISABILITY
AUTHORITY |
| 3. Application of Act | Sub-Part A – The Authority |
| 4. Independent Monitoring Mechanism | 25. Establishment of Authority |
| PART II – PROHIBITION FROM
DISCRIMINATION AND ABUSIVE
TREATMENT | 26. Objects of Authority |
| 5. Prohibition from discrimination | 27. Functions of Authority |
| 6. Prohibition from abusive treatment | 28. Powers of Authority |
| 7. Research, medical and scientific
experimentation | Sub-Part B – Board of Authority |
| PART III – PROTECTION AND
PROMOTION OF RIGHTS OF
PERSONS WITH DISABILITIES | 29. The Board |
| 8. Training and education | 30. Meetings of Board |
| 9. Employment | 31. Committees of Board |
| 10. Protection and safety in situation of
risks | 32. Hearing Committee |
| 11. Habilitation and rehabilitation | 33. Appeal |
| 12. Statistics and data collection | 34. Powers of Minister |
| 13. International cooperation | Sub-Part C – Staff of Authority |
| 14. Obligations to ensure the continued
protection and promotion of rights of
persons with disabilities | 35. Chief Executive Officer |
| PART IV – PROTECTION AND
PROMOTION OF RIGHTS OF
PERSONS WITH DISABILITIES UNIT | 36. Appointment of officers of Authority |
| Sub-Part A – Establishment of
Protection and Promotion of Rights
of Persons with Disabilities Unit | Sub-Part D – Registration of
Organisations |
| 15. The Unit | 37. Application for registration |
| 16. Objects of Unit | 38. Inspection of registered organisations |
| 17. Functions and powers of Unit | PART VI – EMPLOYMENT OF PERSONS
WITH DISABILITIES |
| Sub-Part B – Administration of Unit | Sub-Part A – Employment of Persons
With Disabilities |
| 18. Staff of Unit | 39. Duty to employ persons with disabilities |
| Sub-Part C – Disability Rights Watch | 40. Duty to provide suitable employment |
| 19. Disability Rights Watch | Sub-Part B – Fiscal Incentives for
Employing Persons with Disabilities |
| Sub-Part D – Protection from Acts of
Abuse | 41. Deduction from gross income by
employer |
| 20. Duty to report acts of abuse | 42. Deduction to charitable institution |
| 21. Powers of entry of officers of Unit | 43. <i>Prime à l'Emploi</i> Scheme |
| 22. Police assistance | 44. Other fiscal incentives |
| | Sub-Part C – Registers |
| | 45. Establishment of registers |
| | 46. Register of persons with disabilities |
| | 47. Register of employers employing
persons with disabilities |
| | PART VII – MISCELLANEOUS |
| | 48. General Fund |

49. Income and expenditure	56. Offences and jurisdiction
50. Annual report	57. Regulations
51. Donations and exemptions	58. Repeal
52. Execution of documents	59. Consequential amendments
53. Confidentiality	60. Saving and transitional provisions
54. Legal proceedings	61. Commencement
55. Protection from liability	SCHEDULE

A BILL

To make provisions for the protection and promotion of the rights of persons with disabilities, and to provide for better measures to eliminate discrimination against them

ENACTED by the Parliament of Mauritius, as follows –

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Protection and Promotion of the Rights of Persons with Disabilities Act 2023.

2. Interpretation

In this Act –

“abuse” includes –

- (a) physical, sexual, psychological, emotional, financial or moral abuse; and
- (b) using derogatory words, gestures or caricatures that demean, humiliate or insult a person with disability;

“act of abuse” means an act or omission referred to in section 6(1);

“Authority” means the National Disability Authority established under section 25;

“benefit” means any benefit provided by the State to a person with disability;

“Board” means the Board referred to in section 29;

“Chairperson” means the Chairperson of the Board appointed as such under section 29(1)(a);

“Chief Executive Officer” means the Chief Executive Officer of the Authority referred to in section 35;

“Convention” means the United Nations Convention on the Rights of Persons with Disabilities;

“Court” means –

(a) in the Island of Mauritius, the District Court of the district in which a person with disability resides; or

(b) in Rodrigues, the Magistrate for Rodrigues;

“disability” means a long-term physical, mental, intellectual or sensory impairment of a person which substantially hinders his ability to carry out normal day to day activities; ;

“Disability Rights Watch” means a Disability Rights Watch referred to in section 19;

“disaster” has the same meaning as in the National Disaster Risk Reduction and Management Act;

“discriminate” means –

(a) treating a person with disability less favourably than a person without disability;

(b) treating a person with one type of disability less favourably than a person with another type of disability;

(c) requiring a person with disability to comply with a requirement or condition which would give a person without disability an advantage; or

(d) any other distinction, exclusion or restriction on the basis of disability which has the purpose and effect of impairing or nullifying the recognition of a person with disability;

“employer” –

(a) means any person who has in his regular employment one or more persons; and

(b) includes the State, a local authority and a statutory body;

“exploitation” includes –

(a) all forms of slavery or practices similar to slavery;

- (b) sexual exploitation;
- (c) forced labour;
- (d) child labour, in respect of a child with disability under the age of 16; or
- (e) the illegal removal of body organs;

“financial year” has the same meaning as in the Finance and Audit Act;

“free communication” means sign languages, display of texts, Braille, tactile communications, large prints, or any alternative mode, means or form of communication that allows persons with disabilities to interact in society;

“Hearing Committee” means the committee referred to in section 32;

“impairment” means any loss or limitation of psychological, physiological or anatomical structure or function;

“intellectual impairment” means the limitation in cognitive functioning and skills of a person, including communication, social and self-care skills, which results in reduced ability to understand new or complex information, to learn and apply new skills and to be able to cope independently;

“member” –

- (a) means a member of the Board; and
- (b) includes the Chairperson;

“Minister” means the Minister to whom responsibility for the protection and promotion of the rights of persons with disabilities is assigned;

“Ministry” means the Ministry responsible for the protection and promotion of the rights of persons with disabilities;

“officer of the Authority” –

- (a) means an officer of the Authority; and
- (b) includes the Chief Executive Officer;

“officer of the Unit” –

- (a) means an officer of the Protection and Promotion of the Rights of Persons with Disabilities Unit; and

- (b) includes the Head of the Protection and Promotion of the Rights of Persons with Disabilities Unit;

“person with disability” means a person who has one or more disabilities;

“place of safety” includes a foster home, residential care institution, charitable institution, hospital and such other place as the Authority may designate;

“protection order” means an order issued under section 23;

“reasonable accommodation” means necessary and appropriate modification and adjustments to the workplace, but not imposing a disproportionate or undue burden on the employer, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms;

“Special Education Needs Authority” has the same meaning as in the Special Education Needs Authority Act;

“supervising officer” means the supervising officer of the Ministry;

“Unit” means Protection and Promotion of the Rights of Persons with Disabilities Unit referred to in section 15.

3. Application of Act

(1) This Act shall bind the State.

(2) This Act shall be in addition to, and not in derogation from, the Equal Opportunities Act, the Workers’ Rights Act 2019, Mental Health Care Act and the Data Protection Act.

(3) Every Government department, local authority and statutory body shall take into account the protection and promotion of the rights of persons with disabilities in all their policies and programmes.

(4) The State shall take reasonable measures within its available resources to achieve the progressive realisation of the rights of persons with disabilities.

(5) Part VI shall be in addition to, and not in derogation from, the Income Tax Act.

4. Independent Monitoring Mechanism

(1) There shall be, within the Ministry, an Independent Monitoring Mechanism which shall be responsible to promote and monitor the implementation of the Convention.

- (2) The Independent Monitoring Mechanism shall consist of –
- (a) a representative of the Ministry, as chairperson;
 - (b) a representative of the Human Rights Division of the Ministry responsible for the subject of foreign affairs;
 - (c) a representative of the Authority;
 - (d) 4 representatives of organisations providing support to persons with disabilities, each having a different type of disability, to be appointed by the Minister.

(3) The Independent Monitoring Mechanism may co-opt any other person who may be of assistance in relation to the promotion and monitoring of the implementation of the Convention.

(4) The Independent Monitoring Mechanism shall conduct its meetings in such manner as it may determine.

PART II – PROHIBITION FROM DISCRIMINATION AND ABUSIVE TREATMENT

5. Prohibition from discrimination

(1) No person shall discriminate against another person on the basis of his disability.

(2) Any person who contravenes subsection (1) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 200,000 rupees and to imprisonment for a term not exceeding 5 years.

6. Prohibition from abusive treatment

- (1) Any person who –
- (a) subjects a person with disability to degrading treatment or ill-treatment, whether physical or verbal;
 - (b) subjects a person with disability to prolonged mental or emotional harassment;
 - (c) intentionally causes pecuniary loss or material prejudice to a person with disability;
 - (d) subjects a person with disability to violent treatment;

- (e) fails to provide a person with disability under his care with adequate food, medical attention, shelter or clothing;
- (f) subjects a person with disability to any form of exploitation; or
- (g) otherwise neglects a person with disability,

shall commit an act of abuse.

(2) Any person who commits an act of abuse shall commit an offence and shall, on conviction, be liable to a fine not exceeding 200,000 rupees and to imprisonment for a term not exceeding 5 years.

7. Research, medical and scientific experimentation

(1) Notwithstanding any other enactment, no person with disability shall be subjected to any research, medical or scientific experimentation without his free and informed consent obtained in writing or through accessible modes of free communication.

(2) Any person who contravenes subsection (1) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 200,000 rupees and to imprisonment for a term not exceeding 5 years.

PART III – PROTECTION AND PROMOTION OF RIGHTS OF PERSONS WITH DISABILITIES

8. Training and education

(1) Every manager or owner of an educational or a training institution shall take into account the special education needs of a person with disability when admitting that person as a student in his institution.

(2) Every person who owns or establishes a special education needs school for persons with disabilities shall provide adequate facilities for such purposes.

(3) An admission as a student to a special education needs school shall be for a transitional period except where it is otherwise determined by the Special Education Needs Authority.

9. Employment

(1) No employer shall discriminate against a person with disability in any matter relating to employment, remuneration and conditions of employment, including but not limited to recruitment, promotion, rights to labour and trade union activities.

(2) An employer shall redeploy an employee who is no longer capable of

performing the duties required in the course of his employment due to a disability provided that there is no disproportionate or undue burden to the employer.

(3) Where an employer redeploys an employee under subsection (2), the employer shall redeploy the employee to a position or an existing vacancy which –

- (a) is commensurate with the current skills and abilities of the employee;
- (b) does not result in loss in remuneration and benefits to the employee; and
- (c) which is closest to the graded post previously held by the employee.

(4) Notwithstanding any other enactment, no redeployment under this section shall be considered as constructive dismissal by an employer.

(5) (a) No agreement shall be terminated by an employer by reason of an employee's performance as a result of an injury sustained out of, and in the course of, work where the employee produces a medical certificate from a medical practitioner registered under the Medical Council Act certifying that he has not fully recovered from the injury.

(b) No employer shall reduce in rank an employee who acquired a disability as a result of an injury sustained out of, and in the course of, work unless it is established that it is not possible to accommodate the employee to any other post or the employee is not in a position to continue working after having been subject to such a disability.

(6) Every employer shall provide reasonable accommodation to any employee who is a person with disability, unless the employer can prove that the required adjustments would unduly prejudice the operation of the trade or business run by such employer.

(7) No employer shall dispense with, or reduce in rank, an employee who acquired a disability during service unless it is established that it is not possible to accommodate the employee to any other post or the employee is not in a position to continue working after having been subject to such a disability.

10. Protection and safety in situation of risks

(1) The Ministry shall maintain a record of persons with disabilities in every district.

(2) The Ministry responsible for the subject of disaster management shall take suitable measures to ensure the protection and safety of persons with disabilities in situations of disasters.

11. Habilitation and rehabilitation

The Ministry and the Ministry responsible for the subject of health shall take appropriate measures to –

- (a) 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;
- (b) 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 based on a multidisciplinary assessment of the individual person's needs and strength;
- (c) promote the development of initial and continuing training for professional and staff working in habilitation and rehabilitation services; and
- (d) promote the availability, knowledge and use of assistive devices and technologies, designed for persons with disabilities, as they relate to habilitation and rehabilitation.

12. Statistics and data collection

Every Government department, local authority and statutory body shall collect appropriate disaggregated information on persons with disabilities and research data to formulate and implement policies.

13. International cooperation

Every Government department, local authority and statutory body shall ensure that international cooperation, including any international development programme, is accessible to persons with disabilities.

14. Obligations to ensure the continued protection and promotion of rights of persons with disabilities

Notwithstanding the obligations specified in this Part, the persons or bodies specified in the second column of the Schedule shall have the obligations set out in the third column of that Schedule.

**PART IV – PROTECTION AND PROMOTION OF RIGHTS OF
PERSONS WITH DISABILITIES UNIT**

**Sub-Part A – Establishment of Protection and Promotion of
Rights of Persons with Disabilities Unit**

15. The Unit

There shall be, within the Ministry, a Unit to be known as the Protection and Promotion of the Rights of Persons with Disabilities Unit.

16. Objects of Unit

The Unit shall –

- (a) ensure that all persons with disabilities are entitled, without discrimination, to the equal protection and benefits under the Act;
- (b) guarantee persons with disabilities equal and effective protection against discrimination on all grounds and be responsible for the coordination of all activities relating to the implementation of the Convention, and other international instruments to which Mauritius is a party;
- (c) in collaboration with organisations providing support to persons with disabilities, the private sector and other relevant stakeholders, be responsible for the protection and promotion of the rights of persons with disabilities;
- (d) be responsible for the conceptualisation and implementation of disability policies, projects and programmes; and
- (e) monitor, at national level, any administrative arrangement to support coordination of the Government's activities with regard to persons with disabilities.

17. Functions and powers of Unit

The Unit shall, in the discharge of its functions and exercise of its powers –

- (a) take such appropriate measures as may be necessary to provide protection and assistance to persons with disabilities;
- (b) improve generally the social and economic status and condition of persons with disabilities;
- (c) provide support, counselling and guidance services to persons with disabilities and their families, if need be;

- (d) organise public awareness and sensitisation campaigns on the rights of persons with disabilities and the need to provide them with assistance and protection;
- (e) assist in arranging for the admission of persons with disabilities to places of safety, where required;
- (f) apply to the Court for a protection order where there is a real danger to, or threat on, the life of a person with disability;
- (g) where necessary assist, in case a person with disability is a child and is a victim of violence, the Ministry responsible for the subject of child development in the discharge of its functions and exercise of its powers under the Children's Act 2020;
- (h) where necessary assist, in case a person with disability is an elderly person and is a victim of violence, the Elderly Persons' Protection Unit in the discharge of its functions and exercise of its powers under the Protection of Elderly Persons Act;
- (i) where necessary assist, in case a person with disability is a victim of domestic violence, the Ministry responsible for the subject of family welfare in the discharge of its functions and exercise of its powers under the Protection from Domestic Violence Act;
- (j) advise the Minister on any matter with regard to persons with disabilities; and
- (k) do such other things as may be necessary to attain its objects.

Sub-Part B – Administration of Unit

18. Staff of Unit

- (1) There shall be a Head of the Unit, who shall be a public officer.
- (2) The Unit shall comprise other public officers to be known as the Protection and Promotion of the Rights of Persons with Disabilities Officers, who shall assist the Head of the Unit in the discharge of his functions and exercise of his powers under this Act.
- (3) The officers of the Unit shall be under the administrative control of the supervising officer.

Sub-Part C – Disability Rights Watch

19. Disability Rights Watch

(1) There shall be, in such part of Mauritius as the Minister may determine, a Disability Rights Watch.

(2) The functions of a Disability Rights Watch shall be to –

- (a) promote the empowerment of persons with disabilities;
- (b) provide support to families that need protection and assistance for persons with disabilities;
- (c) endeavour to prevent acts of abuse on persons with disabilities;
- (d) identify persons with disabilities, who are subject to acts of abuse and report those cases to the Unit or the Police; and
- (e) provide psychological support to persons with disabilities who are subject to acts of abuse and carry out mediation exercise with their families and the community.

(3) Every Disability Rights Watch shall consist of such persons working for the protection and promotion of the rights of persons with disabilities as the Minister may approve.

(4) Every member of a Disability Rights Watch shall be paid such fee as the Minister may approve.

Sub-Part D – Protection from Acts of Abuse

20. Duty to report acts of abuse

(1) Where a person has reasonable ground to believe that an act of abuse has been, is being, or is likely to be, committed against a person with disability, he shall forthwith report the matter to the Unit or nearest police station.

(2) Where an officer of the Unit has reasonable ground to believe that an act of abuse has been, is being, or is likely to be, committed against a person with disability, he shall –

- (a) forthwith report the matter to the nearest police station;
- (b) forthwith arrange for the person to consult such suitable person for counselling or such other support as, in the circumstances, may be required;

- (c) issue a summons, in such form as may be prescribed, to any person to –
 - (i) attend such place at such time as he may direct; and
 - (ii) provide such written or oral information as may be necessary; and
- (d) depending on the nature of the case, apply for a protection order, if need be, under section 23.

21. Powers of entry of officers of Unit

(1) Subject to subsection (2), an officer of the Unit may, for the purpose of discharging any of the functions of the Unit, enter, at any reasonable time, any premises and make inspections, seek information, examine records and make copies of them.

(2) (a) A District Magistrate may, upon an affidavit sworn by an officer of the Unit to the effect that he has reasonable ground to believe that an act of abuse has been, is being, or is likely to be, committed against a person with disability, issue a warrant authorising the officer to enter such premises as may be specified in the warrant for any of the purposes specified in subsection (1).

(b) A warrant issued under paragraph (a) shall be valid for the period specified in the warrant.

(3) An officer of the Unit exercising his powers under subsection (1) or (2) –

- (a) shall, on demand, show his authority by producing a card or other document signed by the supervising officer and bearing the seal of the Ministry; and
- (b) may be accompanied by a police officer.

22. Police assistance

(1) Where a police officer has reasonable grounds to believe that a person with disability –

- (a) has been, is being, or is likely to be, the victim of an act of abuse, he shall forthwith intervene to assist in preventing the person from being abused; and
- (b) represents any danger to himself or to others, he shall forthwith intervene to assist in preventing any danger to himself or to others.

(2) Notwithstanding any other enactment, a police officer may, for the purpose of subsection (1) –

- (a) enter, at any time, any place where the person with disability is present;
- (b) where it is urgent and in the best interests of the person with disability –
 - (i) bring the person to a hospital for medical examination; and
 - (ii) notify the Unit forthwith for any action deemed fit and necessary.

23. Protection order

(1) Where the Court is satisfied by information on oath that a person with disability, a family member or an officer of the Unit has reasonable ground to believe that an act of abuse has been, is being, or is likely to be, committed against a person with disability, the Court shall issue a protection order restraining the respondent from engaging in any conduct which may constitute an act of abuse.

(2) The information on oath referred to in subsection (1) and the protection order shall be in such form as may be prescribed.

(3) On an application being made for a protection order, the Court shall cause notice of the application to be served on the respondent requiring him to appear before the Court on such day as may be specified in the notice, not being later than 7 days after the date of the application, to show cause why the order applied for should not be made.

(4) An application for a protection order shall be heard as a civil case between the parties.

(5) Where the Court is satisfied that there is a risk of harm being caused to a person with disability before the application may be heard and that the circumstances revealed in the application are such as to warrant the intervention of the Court even before the respondent is heard, the Court may –

- (a) issue an interim protection order in such form as may be prescribed, restraining the respondent from engaging in any conduct which may constitute an act of abuse and ordering him to be of good behaviour towards the person with disability; and

- (b) order the Commissioner of Police to provide police protection to the person with disability until such time as the interim order is served on the respondent or for such time as the particular circumstances of the case may justify.

(6) Where an interim protection order is issued, the Clerk of the Court shall forthwith take steps to have a copy of the order served on the respondent requiring him to appear before the Court on such day as may be specified in the order to show cause why the order should not be confirmed, varied or discharged.

(7) An interim protection order shall, unless the Court directs otherwise, remain in force until such time as the Court makes a final pronouncement on the application for the protection order.

(8) (a) Where a protection order is in force, either party may apply to the Court for a variation or revocation of the order.

(b) The party applying for the variation or revocation of the order shall cause a copy of the application to be served on the other party.

(9) Where any person under subsection (1), except an officer of the Unit, has applied for a protection order and the person with disability has obtained a protection order, he shall forthwith inform the Unit who shall be responsible for providing appropriate support and assistance to the person with disability.

24. Appeal against protection order

(1) Subject to subsection (2), an appeal shall lie to the Judge in Chambers against any decision concerning a protection order in the same way as an appeal lies from a decision of a District Court in the exercise of its civil jurisdiction.

(2) Notwithstanding any other enactment, no appeal shall lie against any decision concerning an interim protection order.

(3) An appeal against a protection order shall not have for effect the suspension of its operation until the decision of the Judge in Chambers.

PART V – NATIONAL DISABILITY AUTHORITY

Sub-Part A – The Authority

25. Establishment of Authority

(1) There is established, for the purposes of this Act, the National Disability Authority.

(2) The Authority shall be a body corporate.

26. Objects of Authority

The Authority shall be responsible for –

- (a) assisting and supporting persons with disabilities to reach and maintain their optimal human potential;
- (b) ensuring that the environment is barrier free to enable persons with disabilities to lead independent and meaningful lives;
- (c) promoting and advocating for effective service delivery and collaboration between service providers and persons with disabilities;
- (d) undertaking regular audits of general schemes and programmes to ensure that they meet the requirements and concerns of persons with disabilities and they do not have an adverse impact upon them; and
- (e) advising the Ministry on national policies and other matters related to persons with disabilities.

27. Functions of Authority

The Authority shall have such functions as are necessary to further its objects most effectively and may, in particular –

- (a) do such things as is necessary to prevent, as provided under section 5, discrimination against persons with disabilities resulting from, or arising out of, their disabilities;
- (b) facilitate the social integration of persons with disabilities in mainstream society and ensure that they participate in society and community life;
- (c)
 - (i) set the requirements and standards for organisations providing support to persons with disabilities registered with the Authority; and
 - (ii) issue codes of conduct for the organisations registered with the Authority;
- (d) sensitise employers on the importance of employing persons with disabilities and contribute to remove barriers on prejudices with regard to the employment of such persons;
- (e) encourage the establishment of appropriate centres and other institutions for the training of persons with disabilities;
- (f) operate and encourage schemes and projects for the training, employment and empowerment of persons with disabilities;

- (g) develop and implement measures to achieve equal opportunities for persons with disabilities by ensuring, to the maximum extent possible, that they obtain education and employment, participate fully in sports, recreational and cultural activities and are afforded full access to community and social services;
- (h) register persons with disabilities and organisations providing support to persons with disabilities;
- (i) promote public awareness on all aspects of disability by combating stereotypes, prejudices and harmful practices relating to persons with disabilities, highlighting abilities, talents and contributions of persons with disabilities, fostering an attitude of respect for the rights of persons with disabilities and encouraging all organs of the media to portray persons with disabilities in a manner consistent with the Act and the Convention;
- (j) set up centres for persons with disabilities; and
- (k) perform such other functions, not inconsistent with this Act, as the Minister may, in writing, direct.

28. Powers of Authority

The Authority shall have such powers as are necessary to attain its objects and discharge its functions most effectively, and may –

- (a) enter into any contract in accordance with the Public Procurement Act;
- (b) receive grants and donations, and raise funds; and
- (c) do such other acts and things as may be necessary for the purposes of this Act.

Sub-Part B – Board of Authority

29. The Board

- (1) The Authority shall be administered by a Board which shall consist of –
- (a) a Chairperson, to be appointed by the Minister;
 - (b) a representative of the Ministry;
 - (c) a representative of the Ministry responsible for the subject of education;

- (d) a representative of the Ministry responsible for the subject of finance;
 - (e) a representative of the Ministry responsible for the subject of gender equality, child development and family welfare;
 - (f) a representative of the Ministry responsible for the subject of health;
 - (g) a representative of the Ministry responsible for the subject of labour;
 - (h) a representative of the Ministry responsible for the subject of land transport and light rail;
 - (i) a representative of the Ministry responsible for the subject of public infrastructure;
 - (j) a representative of the Ministry responsible for the subject of social integration;
 - (k) 4 persons with disabilities, 2 of whom shall be women, to be appointed by the Minister;
 - (l) 2 persons from the private sector, to be appointed by Minister.
- (2) The Chairperson and the persons appointed under subsection (1) –
- (a) shall hold office for a period of 2 years; and
 - (b) may be eligible for reappointment for not more than 2 terms.
- (3) Every member shall be paid such fee as the Minister may approve.
- (4) Where any person appointed under subsection (1) ceases to hold office, the vacancy shall be filled by another person appointed by the Minister, who shall hold office for the remainder of the term of office of that member.
- (5) (a) The Board may co-opt any other person who may be of assistance in relation to any matter before it.
- (b) A person co-opted under paragraph (a) shall –
 - (i) not have the right to vote at a meeting of the Board; and
 - (ii) be paid such fee as the Minister may approve.

(6) The Board shall designate an officer of the Authority to act as Secretary to the Board who shall –

- (a) prepare and attend every meeting of the Board;
- (b) keep minutes of proceedings of every meeting of the Board; and
- (c) have such other duties as may be conferred upon him by the Board.

30. Meetings of Board

(1) Subject to subsections (2) and (3), the Board shall regulate its meetings and proceedings in such manner as it may determine.

(2) The Board shall meet at the request of the Chairperson or of at least 7 members.

(3) At a meeting of the Board, 9 members shall constitute a quorum.

(4) At a meeting of the Board, each member shall have one vote on a matter in issue and in the event of an equality of votes, the person presiding shall have a casting vote.

(5) The Chief Executive Officer shall, unless otherwise directed by the Board, attend every meeting of the Board and may take part in its deliberations, but shall not have the right to vote.

(6) Where a member or a person related to him by blood or marriage has a pecuniary or other material interest in relation to any matter before the Board, the member shall –

- (a) disclose the nature of the interest before or at the meeting convened to discuss that matter; and
- (b) not take part in any deliberations of the Board relating to that matter.

31. Committees of Board

(1) The Board may set up such committees as may be necessary to assist it in the discharge of its functions.

(2) A committee shall consist of not less than 3 members and such other persons as may be co-opted by the Board.

(3) A committee shall –

- (a) meet as often as is necessary and at such time and place as the chairperson of the committee thinks fit;
- (b) meet as and when required by the Board; and
- (c) regulate its meetings and proceedings in such manner as it may determine.

(4) A committee shall submit its report within such time as the Board may determine.

(5) The report referred to in subsection (4) shall contain the committee's observations, comments, recommendations or findings, if any, on any matter referred to it.

32. Hearing Committee

(1) Notwithstanding section 31, the Board shall set up a Hearing Committee to hold hearings in matters relating to employment under this Act, and any determination made by the Hearing Committee shall be communicated to the Board for consideration and decision.

(2) The Hearing Committee shall consist of –

- (a) a chairperson, who shall be a law practitioner with at least 5 years of standing, to be appointed by the Minister, after consultation with the Attorney-General;
- (b) a representative of the Ministry responsible for the subject of social security;
- (c) a representative of the Attorney-General's Office;
- (d) a representative of Business Mauritius;
- (e) a representative of employees with disabilities, to be appointed by the Minister;
- (f) a member of the Board of the Authority.

(3) (a) The Hearing Committee may co-opt such person as may be of assistance in relation to any matter brought before it.

(b) A person co-opted under paragraph (a) shall not have the right to vote.

(4) The Hearing Committee shall keep a proper record of its proceedings.

(5) The Board shall, in the light of any determination of the Hearing Committee, give such directions to an employer as it may consider reasonable and proper in the circumstances.

(6) An employer shall, subject to section 33, comply with any direction of the Board under subsection (5).

(7) Every member and co-opted member of the Hearing Committee shall be paid such fee as the Minister may approve.

33. Appeal

(1) A person with disability or an employer, as the case may be, who is aggrieved by –

- (a) a direction given by the Board under section 32(5) or 39(5); or
- (b) a removal from the register under section 46(4),

may appeal, not later than 21 days of the notification of such direction or removal, to the Judge in Chambers.

(2) The Judge in Chambers may, on an appeal under subsection (1) –

- (a) affirm, reverse or amend a decision or direction of the Board; or
- (b) make such other order as he thinks fit.

34. Powers of Minister

(1) The Minister may give such directions of a general character to the Board, not inconsistent with this Act, as the Minister considers necessary in the public interest, and the Board shall comply with those directions.

(2) The Minister may require the Board to furnish such information in such manner and at such time as the Minister thinks fit in respect of its activities and the Board shall supply that information in a timely manner.

Sub-Part C – Staff of Authority

35. Chief Executive Officer

(1) There shall be a Chief Executive Officer of the Authority who shall be appointed, subject to the approval of the Minister, by the Board on a fixed term performance contract.

(2) The Chief Executive Officer shall be responsible for the execution of the policy of the Board and for the control and management of the day to day business of the Authority.

(3) The Chief Executive Officer shall, in the discharge of his functions, act in accordance with such directions as he may receive from the Board.

(4) (a) The Board may, subject to such instructions as it may give, delegate to the Chief Executive Officer such of its powers and functions as may be necessary for the effective management of the day to day business and activities of the Authority.

(b) The Chief Executive Officer may, with the approval of the Board, delegate his powers and functions to such officer of the Authority as he may determine.

36. Appointment of officers of Authority

(1) The Board may, subject to the approval of the Minister, appoint such number of officers of the Authority as may be necessary for the proper discharge of its functions under this Act.

(2) Every officer of the Authority shall be under the administrative control of the Chief Executive Officer.

(3) The Authority may, with the approval of the Minister, make provision to govern the conditions of service of officers of the Authority and, in particular, to deal with –

- (a) the appointment of, discipline against, pay and leave of, and the security to be given by, the officers;
- (b) appeals by the officers against dismissal or other disciplinary measures; and
- (c) the establishment and maintenance of provident and pension fund schemes and the contributions payable to, and the benefits recoverable from, such schemes.

Sub-Part D – Registration of Organisations

37. Application for registration

(1) No organisation shall provide support to more than 20 persons with disabilities unless it is registered with the Authority.

(2) An application for registration shall be made in such form and manner as may be prescribed and shall be accompanied by a copy of the constitution or rules that govern that organisation.

(3) No organisation shall be registered under this Act unless it complies with established good governance principles.

(4) Every organisation registered under this Act shall comply with this Act and shall conform to every requirement, standard and the code of conduct set by the Authority with respect to the organisation.

38. Inspection of registered organisations

(1) The Chief Executive Officer shall designate appropriate officers of the Authority to inspect registered organisations to ensure that the services offered to persons with disabilities are provided in accordance with this Act.

(2) The Chief Executive Officer shall issue an identity card to every officer of the Authority designated under subsection (1).

(3) A designated officer of the Authority shall submit to the Chief Executive Officer such reports and information relating to any inspection undertaken by him as the Chief Executive Officer may direct.

PART VI – EMPLOYMENT OF PERSONS WITH DISABILITIES

Sub-Part A – Employment of Persons with Disabilities

39. Duty to employ persons with disabilities

(1) Subject to this section, every employer shall endeavour to employ persons with disabilities.

(2) The Board may summon an employer to show cause, on such date and at such time as it may direct, why he is not complying with subsection (1).

(3) Every employer who fails or is unable to comply with subsection (1), wholly or in part, shall inform the Board of the reasons for such non-compliance.

(4) The Board shall, after examination of the grounds for non-compliance under subsection (3), determine whether the employer cannot reasonably be expected, having regard to the nature of his business, to provide suitable employment to, or create suitable employment opportunities for the employment of, persons with disabilities.

(5) The Board may, pursuant to subsection (4) –

(a) give such directions to an employer as it may, in the circumstances, consider reasonable and proper; or

(b) exempt the employer from his obligation to employ persons with disabilities.

(6) Every employer shall, subject to section 33, comply with any direction of the Board under subsection (5).

40. Duty to provide suitable employment

(1) A person with disability shall not be employed to perform work which, having regard to the nature of his disability, is not suitable.

(2) Where a dispute arises as to whether any work is or is not suitable for a person with disability, the dispute may be referred by the person with disability or his employer to the Board for a direction.

(3) The Board shall, on being requested to make a direction under subsection (2), require the Hearing Committee to hold the hearing and make a determination under section 32(1).

(4) Every employer shall, subject to section 33, comply with any direction of the Board given under section 32(5) following a referral under this section.

(5) Every employer shall submit an annual report to the Authority on the employment of persons with disabilities employed in his organisation not later than 31 March in every year.

Sub-Part B – Fiscal Incentives for Employing Persons with Disabilities

41. Deduction from gross income by employer

An employer shall be eligible to deduct an amount equal to 300 per cent of the expenditure incurred by him in an income year for the purpose of computing his chargeable income where he satisfies the requirements of section 18(1) of the Income Tax Act and the expenditure is incurred on emoluments in respect of a person with disability.

42. Deduction to charitable institution

(1) Subject to subsection (2) and section 66 of the Income Tax, where in an income year, an employer has made a donation through electronic means to a charitable institution approved by the Director-General under the Income Tax Act which is involved in supporting persons with disabilities, he shall be allowed, in that income year, a deduction from his gross income of an amount representing thrice the amount of such donation.

(2) The amount of deduction allowed under subsection (1) shall not exceed one million rupees in an income year.

43. *Prime à l'Emploi* Scheme

Subject to Part XIIE of the Income Tax Act, the Director-General of the Mauritius Revenue Authority shall, in respect of every approved qualifying employee who is a person with disability, pay to his employer an allowance equivalent to the basic wage or salary of that employee for that month, not exceeding 15,000 rupees, in the month he is employed and in the next 60 consecutive months immediately following the month of employment.

44. Other fiscal incentives

The Minister to whom responsibility for the subject of finance is assigned may, after consultation with the Minister, make such regulations as he deems necessary for providing other fiscal incentives to employers who employ persons with disabilities.

Sub-Part C – Registers

45. Establishment of registers

The Board shall establish and maintain –

- (a) a register of persons with disabilities; and
- (b) a register of employers employing persons with disabilities;
- (c) a register of organisations supporting persons with disabilities,

in such manner as may be prescribed.

46. Register of persons with disabilities

(1) (a) Every person with disability may apply to the Board to have his name and particulars in such manner as may be prescribed entered in the register of persons with disabilities.

(b) The next of kin or legal guardian of a person with disability may, on behalf of a person with disability, make an application under paragraph (a).

(2) Every applicant under subsection (1) may be required to attend such interview, medical examination and other assessment as the Board may consider necessary.

(3) Where the Board is satisfied that the applicant is a person with disability, it shall cause the name of the applicant and his particulars to be entered in the register of persons with disabilities.

(4) The Board may, at any time, remove, subject to this Act, the name and particulars of a person from the register of persons with disabilities where –

- (a) it is satisfied that the entry in the register has been obtained by misrepresentation or through fraudulent means or where the person has ceased to be a person with disability, and shall immediately inform the person concerned;
- (b) a person with disability requests that his name be removed from the register; or
- (c) the next of kin or legal guardian of a person with disability makes an application to have the name of the person removed from the register and the Board is satisfied the name and particulars should be so removed.

(5) The Board may, for the purpose of administering and implementation of this Act, share information relating to a person with disability with the Ministry or other Government departments.

47. Register of employers employing persons with disabilities

(1) Every employer who employs a person with disability may apply to have his name entered in the register of employers and specify, in the application –

- (a) his full name, residential address and business registration number;
- (b) the registered name and address of his organisation;
- (c) the number of employees in his organisation;
- (d) the number of persons with disabilities he employs or may employ;
- (e) the nature or description of any employment which he is providing or may provide to persons with disabilities; and
- (f) the name, address and nature of disability of any person with disability employed by him.

(2) After verifying the particulars under subsection (1), the Board may direct that the name of the applicant and the particulars specified in the application be entered in the register of employers employing persons with disabilities.

(3) The Board may, for the purposes of administering and implementation of this Act, share information relating to an organisation employing a person with disability with the Unit or the Ministry.

PART VII – MISCELLANEOUS

48. General Fund

- (1) The Authority shall set up a General Fund –
 - (a) into which shall be paid all the revenue of the Authority; and
 - (b) out of which shall be paid all the expenses incurred by the Authority.
- (2) The revenue of the Authority shall consist of –
 - (a) Government grants;
 - (b) special Government funding for specific projects; and
 - (c) external aid funding for specific projects.

49. Income and expenditure

(1) The Authority shall, not later than 31 March in every year, submit to the Minister an estimate of the expenditure and income of the Authority for the next financial year for his approval.

(2) Subject to subsection (3), the Minister shall, before the beginning of every financial year, signify in writing his approval of the estimates.

(3) Where the Minister gives his approval under subsection (2), he may direct the Authority to amend the estimate in respect of any item in such manner as he thinks fit.

(4) Subsection (1) shall not apply to the first financial year of the Authority.

50. Annual report

(1) The Board shall prepare and submit, in accordance with the Statutory Bodies (Accounts and Audit) Act, an annual report to the Minister, together with an audited statement of accounts on the operations of the Authority in respect of every financial year.

(2) The Minister shall, at the earliest available opportunity, lay a copy of the annual report and audited accounts of the Authority before the National Assembly.

(3) The auditor to be appointed under section 5(1) of the Statutory Bodies (Accounts and Audit) Act shall be the Director of Audit.

51. Donations and exemptions

(1) Article 910 of the Civil Code shall not apply to the Authority.

(2) Notwithstanding any other enactment, the Authority shall be exempt from payment of any registration duty, fee or charge in respect of any document under which the Authority is the sole beneficiary.

52. Execution of documents

(1) (a) Subject to subsection (2), every document shall be executed by or on behalf of the Authority if signed by the Chief Executive Officer.

(b) The Chief Executive Officer may delegate his powers under subsection (1) to any officer of the Authority.

(2) No cheque shall be executed by, or on behalf of, the Authority unless it is signed by –

(a) the Chairperson or, in his absence, a member designated by the Board; and

(b) the Chief Executive Officer, or, in his absence, an officer of the Authority designated by the Board.

53. Confidentiality

(1) No member of the Board, officer of the Authority or officer of the Ministry or Unit shall, during or after his term of office, use or disclose any matter which has come to his knowledge in the discharge of his functions or use any material of the Authority or Unit, as the case may be, except for the purposes of administering this Act.

(2) Any person who contravenes subsection (1) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees and to imprisonment for a term not exceeding one year.

54. Legal proceedings

(1) The Authority shall act, sue and be sued in its corporate name.

(2) Service of process by, or on the Authority, shall be sufficient if made on behalf of, or on, the Chief Executive Officer.

55. Protection from liability

No liability, civil or criminal, shall be incurred by the Ministry, an officer of the Ministry or Unit, the Authority, an officer of the Authority or a member of the Board in respect of any act done or omitted in good faith in the discharge of its or his functions or exercise of its or his powers under this Act.

56. Offences and jurisdiction

(1) Any person who fails to comply with a protection order shall commit an offence and shall –

- (a) on a first conviction, be liable to a fine not exceeding 50,000 rupees or to imprisonment for a term not exceeding 2 years;
- (b) on a second conviction, be liable to a fine not exceeding 200,000 rupees or to imprisonment for a term not exceeding 5 years; and
- (c) on any subsequent conviction, be liable to penal servitude for a term not exceeding 10 years.

(2) Any person –

- (a) on whom a summons is served under section 20(2)(c) and who fails, without reasonable excuse, to appear at the time and place specified in the summons;
- (b) who molests, hinders or obstructs an officer of the Unit in the discharge of his functions or exercise of his powers; or
- (c) who otherwise contravenes this Act,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 200,000 rupees or to imprisonment for a term not exceeding 5 years.

(3) (a) Where an act of abuse is committed against a person with disability, the Court shall, for sentencing purposes, have regard to the existence of the following aggravating circumstances surrounding the commission of the offence –

- (i) the offender is the parent of the person with disability;
- (ii) the offender has abused his position of responsibility, trust or authority towards the person with disability;
- (iii) the offence exposed the person with disability to a life-threatening illness;

- (iv) medications, drugs or weapons were used in the commission of the offence;
- (v) the offender has previously been convicted for same or similar offences.

(b) Any person who is convicted of an offence on a person with disability shall, where aggravating circumstances exist, be liable to penal servitude for a term of not less than 3 years and not exceeding 10 years.

(4) Notwithstanding section 114 of the Courts Act and section 72 of the District and Intermediate (Criminal Jurisdiction) Act, a Magistrate shall have jurisdiction to try an offence under this Act and may impose any penalty provided in this Act.

(5) Part X of the Criminal Procedure Act and the Probation of Offenders Act shall not apply to a person liable to be sentenced under this Act.

57. Regulations

(1) The Minister may make such regulations as he thinks fit for the purposes of this Act.

(2) Any regulations made under subsection (1) may provide –

- (a) for the amendment of the Schedule;
- (b) for the levying of fees and charges;
- (c) that any person who contravenes them shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees and to imprisonment for a term not exceeding 2 years.

58. Repeal

The following enactments are repealed –

- (a) the Loïs Lagesse Trust Fund Act;
- (b) the National Council for the Rehabilitation of Disabled Persons Act; and
- (c) the Training and Employment of Disabled Persons Act.

59. Consequential amendments

(1) The Equal Opportunities Act is amended –

(a) in section 2, in the definition of “impairment”, by adding the following new paragraph –

(f) a disability as defined in the Protection and Promotion of the Rights of Persons with Disabilities Act 2023;

(b) in section 3, in subsection (3), by deleting the words “Training and Employment of Disabled Persons Act” and replacing them by the words “Protection and Promotion of the Rights of Persons with Disabilities Act 2023”.

(2) The Income Tax is amended, in section 150F, in subsection (1), in the definition of “person with disabilities”, by deleting the words “Training and Employment of Disabled Persons Act” and replacing them by the words “Protection and Promotion of the Rights of Persons with Disabilities Act 2023”.

(3) The Protection from Domestic Violence Act is amended, in section 13, by inserting, after subsection (2), the following new subsection –

(2A) (a) Notwithstanding subsections (1) and (2), a person who is convicted of an offence under this Act shall, where the victim is a person with disability, be liable to penal servitude for a term of not less than 3 years and not exceeding 10 years.

(b) In this subsection –

“person with disability” has the same meaning as in the Protection and Promotion of the Rights of Persons with Disabilities Act 2023.

(4) The Protection of Elderly Persons Act is amended, in section 11, by inserting, after subsection (2), the following new subsection –

(2A) (a) Notwithstanding subsection (2), a person who is convicted of an offence under this Act shall, where the victim is a person with disability, be liable to penal servitude for a term of not less than 3 years and not exceeding 10 years.

(b) In this subsection –

“person with disability” has the same meaning as in the Protection and Promotion of the Rights of Persons with Disabilities Act 2023.

(5) The Statutory Bodies (Accounts and Audit) Act is amended, in the Schedule –

- (a) by deleting the following items and their corresponding entries –

Loïs Lagesse Trust Fund

Loïs Lagesse Trust Fund Act

National Council for the Rehabilitation of Disabled Persons

National Council for the Rehabilitation of Disabled Persons Act

Training and Employment of Disabled Persons Board

Training and Employment of Disabled Persons Act

- (b) by inserting, in the appropriate alphabetical order, the following new item and its corresponding entry –

National Disability Authority

Protection and Promotion of the Rights of Persons with Disabilities Act 2023

- (6) The Statutory Bodies Pension Funds Act is amended, in the First Schedule –

- (a) by deleting the following item and its corresponding entry –

Training and Employment of Disabled Persons Board	1 December 1998
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- (b) by inserting, in the appropriate alphabetical order, the following new item –

National Disability Authority	
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60. Saving and transitional provisions

- (1) In this section –

“former organisation” means LLTF, NCRDP or TEDPB;

“LLTF” means the Loïs Lagesse Trust Fund established under the repealed Loïs Lagesse Trust Fund Act;

“NCRDP” means the National Council for the Rehabilitation of Disabled Persons established under the repealed National Council for the Rehabilitation of Disabled Persons Act;

“TEDPB” means the Training and Employment of Disabled Persons Board established under the repealed Training and Employment of Disabled Persons Act.

(2) (a) For the purposes of the Statutory Bodies (Accounts and Audit) Act, the period extending from the commencement of this Act to 30 June next following shall be deemed to be the first financial year of the Authority.

(b) Section 7 of the Statutory Bodies (Accounts and Audit) Act shall not apply to the first financial year of the Authority.

(3) (a) Notwithstanding any other enactment, every person employed by a former organisation shall, on the commencement of this Act, be dealt with in accordance with this Act.

(b) Subject to this section, every person who, on the commencement of this Act, is employed on the permanent and pensionable establishment of a former organisation shall be entitled to be transferred to the permanent and pensionable establishment of the Authority on terms and conditions which shall be not less favourable than those of his previous employment.

(c) The period of service of every person employed on the permanent and pensionable establishment of a former organisation who is transferred to the Authority under paragraph (b) shall be considered to be an unbroken period of service with the Authority.

(d) Where a person employed on the permanent and pensionable establishment of a former organisation is transferred to the Authority under paragraph (b), his service with the Authority shall be past service for the purposes of the Statutory Bodies Pension Funds Act.

(e) No person employed on the permanent and pensionable establishment of a former organisation shall, on account of his transfer to the Authority or any resulting change in his job title, be entitled to claim that his employment has been terminated or adversely affected in breach of any enactment.

(f) Any person employed on the permanent and pensionable establishment of a former organisation may, instead of a transfer under paragraph (b), have the option to –

- (i) be redeployed, so far as is practicable, to a Ministry, Government department or statutory corporation, where a vacancy in a similar position is available; or
- (ii) retire on the ground of abolition of office and be paid his pension benefits in accordance with the Pensions Act, the Statutory Bodies Pension Funds Act or such other

pension scheme as may be applicable to a former organisation.

(g) (i) Subject to this section, any person employed on the permanent and pensionable establishment of a former organisation against whom a disciplinary inquiry or other proceedings are pending on the commencement of this Act, who is –

(A) not interdicted, shall be transferred to the permanent and pensionable establishment of the Authority on terms and conditions which shall be not less favourable than those of his previous employment;

(B) interdicted, may opt to –

(a) be transferred to the permanent and pensionable establishment of the Authority on terms and conditions which shall be not less favourable than those of his previous employment; or

(b) where no disciplinary charge is subsequently found proved against him, retire on the ground of abolition of office and be paid pension benefits in accordance with the Pensions Act, the Statutory Bodies Pension Funds Act or such other pension scheme as may be applicable to a former organisation.

(ii) For the purpose of this paragraph and paragraph (f), the date of a person's retirement on the ground of abolition of office shall be the date of the commencement of this Act.

(h) Any disciplinary inquiry or proceedings pending on the commencement of this Act against a person employed on the permanent and pensionable establishment of a former organisation shall be taken up, continued or completed by the supervising officer, and any resulting order or decision shall have the same force and effect as if made by a former organisation.

(4) Any proceedings, whether judicial or extra-judicial, started by or against a former organisation and pending on the commencement of this Act shall be deemed to have been started by or against the Authority.

(5) The assets, training centres, schools, hostels and funds of a former organisation shall, on the commencement of this Act, vest in the Authority.

(6) Subject to subsection (3)(b) to (f), all rights, obligations and liabilities

subsisting in favour of or against a former organisation on the commencement of this Act shall continue to exist under the same terms and conditions in favour of or against the Authority.

(7) The register of disabled persons and the register of employers established under the repealed Training and Employment of Disabled Persons Act shall, on the commencement of this Act, be deemed to be the register of persons with disabilities and the register of employers employing persons with disabilities, respectively.

(8) Any act done by a former organisation shall be deemed to have been done by the Authority.

(9) Where this Act does not make provision for any transition, the Minister may make such regulations as may be necessary to provide for such transition.

61. Commencement

(1) Subject to subsection (2), this Act shall come into operation on a date to be fixed by Proclamation.

(2) Different dates may be fixed for the coming into operation of different sections of this Act.

SCHEDULE
[Section 14]

PERSONS AND BODIES WHO HAVE OBLIGATIONS

Person and body	Obligation
1. Electoral Commissioner's Office	Ensure that all polling stations are accessible to persons with disabilities and that any literature or material relating to the electoral process is easily understood by, and accessible to, persons with disabilities
2. Institution providing educational services	(1) Provide learning instructional materials and assistive devices suitable for learners with special needs (2) Provide facilities during examinations and assessments, including giving extra time, for students with special disability needs
3. Institution providing training services to educators or trainers	(1) Include a module on teaching children with special needs in the curriculum (2) Provide adequate training for special teaching professionals and in-service training for educators in mainstream schools to cater for the educational development of persons with disabilities
4. Owner of a new building to which the public has access	Ensure that the building is accessible to any person with disability
