

EQUAL RIGHTS OF PERSON WITH DISABILITIES LAW, 5758-1998

CHAPTER ONE: BASIC PRINCIPLES

Basic principle.

1. The rights of persons with disabilities and the commitment of Israel society to those rights are based on recognition of the principle of equality, of the worth of each person created in the image and on the principle of human dignity.

Objective.

2. The objective of this Law is to protect the dignity and freedom of persons with disabilities, and to provide a basis for his right to equal and active participation in society in all spheres of life, and also to provide a fitting response to his special needs in a manner that will enable him to live his life with maximum independence, privacy and dignity, while using his abilities to the utmost.

Corrective preferences.

3. Any act intended to correct previous or present discrimination against person with disabilities, or which is intended to promote the equality of persons with disabilities shall not be deemed to be prohibited discrimination.

Right of decision.

4. The person with disabilities is entitled to make the decisions that concern his life, according to his wish and preference, all in accordance with the provisions of any law.

CHAPTER TWO: INTERPRETATION.

Definitions.

5. In this Law -

"person with disabilities" means a person with a permanent or temporary physical, mental or intellectual - including a cognitive - impairment, due to which his functions are substantively restricted in one or more main spheres of life;

"Representative Employee Organization" - as defined within its meaning in the Collective Agreements Law 5717-1957;

"Commission" - the Equal Rights for Persons with Disabilities Commission, within its meaning in Chapter Six of this Law.

CHAPTER THREE: GENERAL PRINCIPLES

Principles in exercise of rights and in the provision of services.

6. (a) The exercise of the rights of and the provision of services to a person with, disabilities shall be effected -
- (1) with strict observance of his human dignity and freedom and protection of his privacy;
 - (2) within the framework of such services as are provided for and intended for the general public, while making such adjustments as are necessary in the circumstances of the case as provided in this law;
 - (3) in relation to those rights and services provided by public body - to an appropriate standard, within a reasonable time and at a reasonable distance from the persons place of residence, and all within the framework of such sources of finance as are available to such public body.
- (b) In this Section "public body" means any of the following -
- (1) A Government Ministry, including the departments thereof and departments that are under the auspices of such Ministry;
 - (2) A Local Authority;
 - (3) A corporate body in which at least half of the voting power or the right of appointing at least half of the members of the Board of Directors thereof resides with a local authority;
 - (4) a corporate body formed in accordance with statute'
 - (5) A Government Company as defined in the Government Companies Law 5735-1975, as prescribed by the Minister of Justice, and with the agreement of the Ministers as they are defined in the said Law;
 - (6) Any other body, being an inspected body within the meaning of section 9 of the State Comptroller Law, [Consolidated Version], 5718-1958, which is prescribed by the Minister of Justice, with the approval of the Constitution, Law and Justice Committee of the Knesset.

Determination of entitlement.

7. An examination and clarification, the purpose of which is to determine a person's entitlement to rights and services by reason of such person's disabilities, shall be carried out having the maximum regard for his normal life style.

CHAPTER FOUR: EMPLOYMENT.

Discrimination in employment is prohibited.

8. (a) An employer must not discriminate between his employees or between applicants for employment in any of the following respects because of their disability, provided that they are qualified for the position or job in question:
- (1) hiring, including admission tests,
 - (2) working conditions;
 - (3) promotion at work;
 - (4) training or professional studies;
 - (5) discharge or severance pay;
 - (6) benefits and payments to employees in connection with leaving their job;
- (b) For the purposes of subsection (a) the prescribing of irrelevant conditions shall also be deemed to be discrimination.
- (c) Any act or abstention from any act made necessary by the substantive requirements of the position or job shall not be deemed to be discrimination under this section.
- (d) The provisions of this section also shall apply, *mutatis mutandis*, to persons who previously had disabilities, to persons deemed to have disabilities and to the relatives or persons with disabilities who take care of them.
- (e) For the purposes of this section -
- "relative" -
- (1) means a spouse, parent or child;
 - (2) a parent's spouse, child's spouse, brother or sister or their spouses, grandfather, grandmother, grandson or granddaughter - who are responsible for the maintenance of the person with disabilities;
- "discrimination" - including failure to make adjustments necessary because of the special requirements of the person with disabilities, which would make his employment possible;

"adjustment", "adjustments" including adjustment of the workplace, the equipment in it, admission tests, training, and guidance, work procedures, all without imposing an excessively heavy burden on the employer'

"excessively heavy burden" - a burden that is unreasonable under the circumstances of the case, also taking into account the cost and nature of the adjustment, size and structure of the business, extent of activity, number of employees, composition of the manpower, and the availability of outside or governmental sources of finance for making such adjustment.

Proper representative of people with disabilities.

9. (a) If an employer finds that - under the circumstances - people with disabilities are not suitably represented among his employees (hereinafter referred to as - proper representation), then he shall take action to promote their proper representation, including the making of adjustments.
- (b) An employer's action under this section may follow a program that includes instructions for the preference in hiring and promotion of those persons with disabilities, who are qualified for a position and who have qualifications similar to those of other candidates for the position or job.
- (c) The Minister of Labour and Social Affairs may, in consultation with the Commission and with organisations engaged in the advancement of persons with disabilities, in accordance with the basic principles of this Law and with the approval of the Knesset Labour and Social Affairs Committee -

(1) prescribe supplementary provisions, either for a specific case or for categories of cases, with regard to an employer's obligations under this section including provisions concerning the category or severity of disability of persons who are to be employed or promoted at work;

(2) prescribe provisions regarding an employer's obligation to report on the action taken under this section;

(3) prescribe restrictions on employer's obligations under this section.

(d) In this section -

"employer" means an employer who employs 25 or more employees, other than the State or another employer to whom the provisions of section 15A of the State Service (Appointments) Law (Consolidated Version) 5719-1959 applies;

"adjustments" - as defined in section 8(e).

Protection of complainant.

10. (a) An employer shall not injure an employee in any of the matters enumerated in section 8 because of any complaint or claim by the employee relating to the provisions of this Chapter, or because he assisted another employee in connection with any complaint or claim concerning the provisions of this Chapter.

(b) In a criminal or civil trial in respect of a breach of subsection (a) it shall be a defence that the employer's action was taken because of a false complaint or assistance in connection with a false complaint, performed maliciously and in the knowledge that the complaint was false.

Employees wanted advertisements.

11. (a) An employer or a person in need of an employee shall not publish any advertisement about work offered or referral to vocational training, that includes anything that is discriminatory under the provisions of section 8.

(b) The provisions of this section shall not apply to the publication of an advertisement about work offered or referral to vocational training, to which section 8(c) applies.

Right to sue.

12. An action in respect of a breach of this Chapter may be brought by -

(1) an employee;

(2) the Representative Employee Organisation at that workplace, and if there is no said organisation, then employee organisation of which the employee is a member;

(3) the Commission or an organisation engaged in the advancement of persons with disabilities, on condition that the employee has consented thereto.

Application of provisions of the Equal Employment Opportunities Law.

13. The provisions of sections 11, 13, 14, 16, 17, 18, and 21 of the Equal Employment Opportunities Law 5748-1988 shall apply to the provisions of this Chapter, *mutatis mutandis* as the case may be.

Jurisdiction and remedies.

14. The Labour Court shall have exclusive jurisdiction to hear civil proceedings for a breach of the provisions of this Chapter and it may -

(1) award compensation even if no monetary damage was caused in an amount that it deems proper under the circumstances;

(2) issue a restraining injunction or a mandatory order, if it concludes that the payment of compensation alone will not be just; when making an order under this paragraph, the Court shall also take into account the effect that the order will have on labour relations at the workplace and the possibility that another employee will be injured; the provisions of this paragraph shall take effect notwithstanding the provisions of section 3(2) of the Contracts (Remedies for Breach of Contract) Law 5713-1970.

Penalties.

15. (a) Where a person is in breach of the provisions of sections 8, 10, and 11 then he shall be liable to double the fine prescribed in section 61(a)(1) of the Penal Law 5737-1977.

(b) In an offence against the provisions of section 11 only the employer or the person who uses the employee shall bear criminal responsibility.

(c) The provisions of this section shall not apply to the non-implementation of an adjustment, as defined in section 8(e).

Programs.

16. (a) The Minister of Labour and Social Affairs shall initiate, develop and prepare programs -
- (1) for the employment and rehabilitation of persons with disabilities, with preference for their integration in ordinary work places;
 - (2) for the establishment of an employment diagnostic system and of an appropriate professional system, to ensure the integration of persons with disabilities in the working economy;
 - (3) for the provision of professional counseling for employers and employee on the subject of the integration of persons with disabilities in the working economy.
- (b) The Minister of Labour and Social Affairs shall submit an annual report, on programs referred to in subsection (a), to the Knesset Labour and Social Affairs Committee.

Implementation and regulations.

17. (a) The Minister of Labour and Social Affairs is charged with the implementation of the provisions of this Chapter and he may make regulations on anything that relates to the implementation of this Chapter, including the nature of adjustments required by the provisions of this Chapter.
- (b) The Minister of Labour and Social Affairs and the Minister of Finance shall prescribe in regulations, provisions concerning participation in the financing of adjustments, as defined in section 8(e).
- (c) The Minister of Labour and Social Affairs in consultation with the Minister of the Interior shall make regulations on preference to be given to persons with disabilities in the allocation of parking spaces at the workplace.
- (d) (1) Regulations under this Chapter shall be made in consultation with the Commission and with organisation engaged in the advancement of persons with disabilities, in accordance with the basic principles of this Law and with the approval of the Knesset Labour and Social Affairs Committee.
- (2) Regulations under subsection(b) and (c) shall be made in consultation with Representative Employee Organisations and with those employer's organisations, which in the opinion of the Minister of Labour and Social Affairs are representative and concerned.
- (e) Regulations under this Chapter shall be submitted to the Knesset Labour and Social Affairs Committee within one year after the publication of this Law.

Temporary provision.

18. The effect of section 9 is for seven years after the publication of this Law.

CHAPTER FIVE: PUBLIC TRANSPORT SERVICES

Public transport services.

19. (a) A person with a disability is entitled to public transport services which are accessible and suitable for his use, at reasonable frequency, including affording access to stations and ports within the framework of which such public transport services operate.
- In this section, "public transport services" means urban bus services, trains, air and sea transport that are intended for the public at large.
- (b) Such access as is referred to in subsection (a) shall be arranged by a public transport service operator and local authority, each within its own area of responsibility.
- (c) The Minister of Transport and the Minister of Finance, in consultation with those Minister concerned in the matter, with the Commission, the representation of the public transport operators, and with organizations engaged in the promotion of the rights of persons with disabilities, in accordance with the basic principles of this Law, and with the approval of the Constitution Law and Justice Committee of the Knesset, shall make regulations governing accessibility under this section, including the intended means of affording such accessibility; regulations pursuant to this section shall be submitted to the Constitution Law and Justice Committee of the Knesset within one year from the date on which this Law is published.
- (d) A person who contravenes the regulations made under this section, shall be liable to a fine as provided in section 61(a)(3) of the Penal Law, 5737-1937.

CHAPTER SIX: EQUAL RIGHTS FOR PERSONS WITH DISABILITIES COMMISSION

Establishment of the Commission.

20. The Equal Rights for Persons with Disabilities is hereby established.

Functions of the Commission.

21. The commission shall take action -

- (1) To promote the basic principles of this Law;
- (2) To promote equality and the prevention of discrimination against disable persons;
- (3) To encourage the active integration and participation of disabled persons in society.
- (4) To fulfill such functions as are imposed upon it in this Law.

Disabled Persons Equal Rights Commissioner.

22. (a) The Government, in consultation with the Minister of Justice and the Minister of Labour and Social Affairs, shall appoint disabled persons equal rights commissioner (hereinafter referred to as - The Commissioner).

(b) The Commissioner shall be charged with implementing the commission's functions.

Qualification to serve as commissioner.

23. A citizen of Israel and a resident of Israel shall be qualified to serve as commissioner, being a person with an academic degree in a subject within the field of the commission's functions; the Commissioner shall be a public servant and notice of his appointment shall be published in *Reshumot*.

Employees at the Commission.

24. The commission's employees shall be public servants.

The Commission's budget.

25. The Commission's budget shall be fixed in the Budget Law in a separate section within the meaning thereof as defined in the Budget Principles Law 5745-1985.

Advisory Committee.

26. (a) The Minister of Labour and Social Affairs and the Minister of Justice shall appoint an advisory committee; notice of the appointment thereof and the composition thereof shall be published in *Reshumot*.

(b) Persons with various disabilities, or their representatives as the case may be, representatives of organisations engaged in promoting the rights of disabled people, experts in the field of the commissions activity, lawyers and public representatives, shall be members of the advisory committee; the majority of the members of the committee shall be disable persons.

(c) The commissioner shall consult with the advisory committee on matters concerning the functions of the commission.

CHAPTER SEVEN: MISCELLANEOUS PROVISIONS

Amendment of the Labour Courts Law - No. 28

27. In the Labour Courts Law, 5729-1969, in the Second Schedule, insert at the end of the schedule: "Chapter Four of the Equal Rights of Person with Disabilities Law, 5758-1998".

Amendment of the State Service (Appointments) Law - No. 10

28. In the State Service (Appointments) Law, 5719-1959, in section 15A -

(1) The marginal heading of the section shall be "Proper representation",

(2) In subsection (a), instead of "(hereinafter referred to as - "proper representation") substitute "and also for the representation of persons with disabilities (hereinafter referred to as - proper representation);" in this section, "a person with disabilities", "persons with disabilities" - shall have the meanings assigned to them in the Equal Rights for Persons with Disabilities Law, 5758-1998";

(3) In subsection (b), at the end insert "including the implementation of adjustments as defined in section 8(e) of the Equal Rights for Persons with Disabilities Law, 5758-1998.";

(4) In subsection (c) -

(a) after "that shall be prescribed therein" insert "and in the matter of proper representation for persons with disabilities - including provisions concerning the category and severity of such disabilities";

(b) At the end of the said subsection insert "and also the giving of preference in a tender to a person with disabilities where persons with disabilities are not properly represented, and where the candidate, being a person with disabilities, has similar qualifications to those of other candidates".

Commencement.

29. This law shall come into force on the 13th of Tevet 5759 (1st January 1999).