

PERSONS WITH DISABILITIES (EQUAL OPPORTUNITIES) BILL, 2014

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PERSONS WITH DISABILITIES (EQUAL OPPORTUNITIES) BILL, 2014

**A BILL FOR AN ACT TO ACHIEVE EQUALISATION OF
OPPORTUNITIES FOR PERSONS WITH DISABILITIES; TO
ELIMINATE DISCRIMINATION ON THE BASIS OF DISABILITIES;
TO PROVIDE RIGHTS AND REHABILITATION AND HABILITATION
OF PERSONS WITH DISABILITIES; TO ESTABLISH THE NATIONAL
COMMISSION FOR PERSONS WITH DISABILITIES; AND FOR
CONNECTED PURPOSES.**

Enacted by the Parliament of The Bahamas

PART I-PRELIMINARY

1. Short title and commencement.

- (1) This Act may be cited as the Persons with Disabilities (Equal Opportunities) Bill, 2014.
- (2) This Act shall come into operation on such date as the Minister may appoint by notice published in the Gazette, and different dates may be so appointed for different provisions.

2. Interpretation.

In this Act, unless the context otherwise requires—

“**adjustment order**” means an order made by the Commission under section 27;

“**appropriate**” means whatever is necessary to meet the individual need or needs of a person with disabilities;

- “assistive or adaptive devices and services”** means implements, tools and specialised services (including the services of qualified technicians and tutors for persons with learning disabilities, interpreters for the deaf and qualified teachers for the blind) provided to persons with disabilities to assist them in education, employment or activities of daily living;
- “care giver”** any person who provides assistance, care and support to a person with disabilities;
- “Commission”** means the National Commission for Persons with Disabilities established under section 4;
- “discriminate”** means to accord different treatment to different persons solely or mainly as a result of their disabilities and includes using words, gestures or caricatures that demean, scandalise or embarrass a person with a disability;
- “discrimination on the basis of disability”** means any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or eliminating the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field, including all forms of discrimination such as denial of reasonable accommodation;
- “Fund”** means the National Development Fund for Persons with Disabilities established under section 35;
- “medical practitioner”** means a person registered or licensed as a medical practitioner under the Medical Act (*Ch. 224*) and Dental Act (*Ch. 226*);
- “Minister”** means the Minister with responsibility for Disability Affairs;
- “organizations for persons with disabilities”** means associations or societies formed for the purposes of rendering services to persons with disabilities;
- “persons with disabilities”** means persons with a long term disability including physical, mental, intellectual, developmental or sensory impairments and other health related illnesses, which in interaction with various barriers may hinder full and effective participation in society on an equal basis with others;
- “public building”** means a building, irrespective of ownership which is used and accessed by the public;
- “reasonable accommodation”** means necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden where needed in a particular case to ensure persons with disabilities the enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms;
- “the Act”** means the Persons with Disabilities (Equal Opportunities) Act;

“**the Court**” means the Supreme Court or a Magistrate's Court, as the context may require.

3. Guiding principles.

The United Nations Convention on the Rights of Persons with Disabilities shall inform decisions taken in the administration of this Act.

PART II - ESTABLISHMENT OF THE COMMISSION

4. Establishment of the Commission.

- (1) There is hereby established a Commission to be known as the National Commission for Persons with Disabilities.
- (2) The Commission shall be a body corporate with perpetual succession and a common seal and shall in its corporate name be capable of suing and being sued, and acquiring, holding and disposing of movable and immovable property.

5. Minister may give directions to the Commission.

The Minister may give to the Commission directions of a general or of a specific nature as to the policy to be followed by the Commission in the carrying out or pursuit of its functions as appear to the Minister requisite in the public interest and the Commission shall give effect to any such directions.

6. Membership of the Commission.

- (1) The Commission shall consist of fifteen members appointed by the Minister, of whom—
 - (a) five members, one nominated from each of the Ministries with responsibility for works, social services, health, education and labour;
 - (b) five members, four of whom are persons with disabilities, nominated by and from non-governmental organizations that are directly and solely concerned with the welfare and advancement of persons with disabilities;
 - (c) one member appointed from a list of not less than three persons submitted by an organization which the Minister responsible for labour deems to be representative of employers in The Bahamas;
 - (d) one member appointed in consultation with the organizations for the time being recognized by the Government as the umbrella organizations representing the interests of workers in The Bahamas;

- (e) one member nominated by and from an organization representing civil society; and
 - (f) two members who are parents of persons with disabilities or who have extensive experience as a care giver of a person with disabilities.
- (2) The provisions of the Schedule to this Act shall have effect with respect to the conduct of business and the affairs of the Commission.

7. Chairman and Vice-Chairman.

- (1) There shall be a Chairman appointed by the Minister and a Vice-Chairman of the Commission who shall be elected by and from the members of the Commission.
- (2) The Chairman or the Vice-Chairman shall be a person with a disability or a person who has had a disability.
- (3) The Chairman, Vice-Chairman and members appointed under section 5 shall hold office for a period of three years and shall be eligible for re-appointment for a further term not exceeding six years.
- (4) The provision of the Schedule shall have effect with respect to the membership and procedure of the Commission.
- (5) The functions of the Chairman are—
 - (a) to preside over the meetings of the Commission;
 - (b) to supervise the management and administration of the affairs of the Commission;
 - (c) to ensure that the decisions and policies of the Commission are implemented;
 - (d) to represent the Commission;
 - (e) with the approval of the Commission, to enter into and execute any contracts as may be necessary in pursuit of the Commission's functions; and
 - (f) with the approval of the Commission, to appoint any committee or other body as may be necessary for the efficient discharge of the functions of the Commission.

8. The Secretariat of the Commission.

- (1) The Commission shall have a secretariat that shall provide services for the carrying out of the functions of the Commission.
- (2) The Secretariat shall be headed by an Executive Secretary to be assisted by a deputy executive secretary, both of whom shall be appointed by the Minister after consultation with the Commission.

- (3) The Minister after consultation with the Commission shall employ the technical, administrative and other personnel required by the Secretariat.

9. Functions of the Executive Secretary.

- (1) The Executive Secretary shall be an *ex-officio* member of the Commission and shall serve in a full-time capacity.
- (2) The Executive Secretary shall be the chief administrative officer of the Secretariat and shall exercise general supervision and control over the staff of the Secretariat.
- (3) The Executive Secretary shall ensure execution of the functions of the Commission in accordance with this Act and manage and administer the affairs of the Commission.

10. Functions of the Commission.

- (1) The functions of the Commission shall be—
 - (a) to issue adjustment orders under section 27 of this Act;
 - (b) to formulate and develop measures and policies designed to—
 - (i) co-operate with the government during the census or any data collection surveys to ensure that accurate figures of persons with disabilities are obtained in the country, for the purposes of planning;
 - (ii) advise the minister on the provisions of any international treaty or agreement relating to the care or rehabilitation and habilitation of persons with disabilities and its benefits to the country;
 - (iii) recommend measures to prevent discrimination against persons with disabilities;
 - (iv) put into operation schemes and projects for self-employment or regular employment for the generation of income by persons with disabilities;
 - (c) to register—
 - (i) persons with disabilities;
 - (ii) institutions, associations and organizations, including those controlled and managed by the government and local authorities, that provide services for the rehabilitation and habilitation and care of persons with disabilities;
 - (iii) places at which services for the rehabilitation and habilitation of persons with disabilities are provided; and
 - (iv) persons with disabilities whose condition requires constant medical attention;

- (d) to provide, to the maximum extent possible—
 - (i) recommendations which shall be included in the Road Traffic Act (*Ch. 220*) in order to facilitate appropriate adaptations and modifications to motor vehicles driven by persons with disabilities;
 - (ii) institute a special driver's licence for persons with disabilities to ensure that these persons where permitted by law are allowed to drive motor vehicles;
 - (iii) to provide for qualified driving instructors to certify persons with disabilities for a special licence;
- (e) to provide special recommendations for persons with increased vulnerabilities such as women, children, the elderly, the poor and persons with dual or multiple disabilities;
- (f) to consult with the Government in the formulation of suitable curricula for vocational rehabilitation and habilitation centres and other training facilities for persons with disabilities;
- (g) to assess and report to the Minister on the care, rehabilitation and habilitation of persons with disabilities and to advise on the relative priorities to be given to the implementation of those measures;
- (h) to consult with the Government to ensure the provision of suitable affordable housing and shelter for persons with disabilities and the adoption of the principles of universal design in the provision of supplies and services;
- (i) to ensure the proper care and protection of persons with disabilities during periods of civil unrest and natural emergencies or disasters;
- (j) to consult with the Government to ensure the provision of suitable transportation for persons with disabilities;
- (k) generally to carry out measures for public information on the rights of persons with disabilities and the provisions of this Act;
- (l) to perform such other functions in relation to the care, rehabilitation and habilitation of persons with disabilities as the Commission may deem necessary;
- (m) to perform such other functions as may be assigned to the Commission under this or any other Act;
- (n) to review this legislation from time to time and make necessary recommendations to the Minister; and
- (o) to monitor implementation of and make recommendations for compliance with international treaties to which The Bahamas is a party for the benefit of persons with disabilities.

- (2) Without prejudice to the provisions of subsection (1), the Commission shall have power to do all things that are necessary or convenient to be done for or in connection with the performance of its functions and in particular—
- (a) to conduct inquiries into any matter relating to the care, rehabilitation and habilitation of persons with disabilities;
 - (b) to constitute committees consisting of its members, and where necessary to co-opt experts to serve on such committees with the approval of the Minister;
 - (c) to vest in or delegate to any committee constituted under paragraph (b) such of the functions of the Commission as the Commission may with the approval of the Minister determine;
 - (d) with the approval of the Minister, to engage or make other arrangements with any other person to carry out research on, or supply information on, any matter relating to the care, rehabilitation and habilitation of persons with disabilities.

11. Funds of the Commission.

The funds of the Commission shall consist of the following—

- (a) funds voted by Parliament; and
- (b) funds the Commission may receive as a result of public and private appeal from local and international donors or agencies for the purposes of carrying out its functions.

12. Annual accounts of the Commission.

- (1) The financial year of the Commission shall be from the 1st July of one year to the 30th June of the following year.
- (2) The Commission shall ensure that proper accounts and other records are kept in relation to the revenue and expenditure of the Commission and ensure that, within three months of the end of each financial year of the Commission, a statement of accounts of the Commission is prepared and audited by an external auditor appointed by the Commission and approved by the Minister.

13. Annual reports of the Commission.

- (1) The Commission shall prepare an annual report of its activities which shall be presented to the Minister and all other Government agencies involved in the work of the Commission.
- (2) The Minister shall lay a copy of the Report before Parliament and arrange for such further publication of it as he considers appropriate.

PART III – RIGHTS OF PERSONS WITH DISABILITIES

14. Employment.

- (1) No person shall deny a person with a disability equal access to opportunities for suitable employment.
- (2) A qualified employee with a disability shall be subject to the same terms and conditions of employment and the same compensation, privileges, benefits, fringe benefits, incentives or allowances as qualified able-bodied employees.
- (3) Every employer having more than one hundred employees shall employ not less than one percent of qualified persons with disabilities.
- (4) The Commission shall provide a list of employable persons with disabilities and where such persons are not available for employment the Commission may issue to the employer, a certificate of exemption from the requirement prescribed under subsection (3).

15. Vocational training skills, development and training programmes.

The Minister responsible for Labour, Social Services, Youth, Sports and Culture, and Education shall design, collaborate and implement programmes that provide—

- (a) persons with disabilities to be engaged as apprentices or learners;
- (b) persons with disabilities with skills to enable them to engage in gainful employment; and
- (c) appropriate vocational measures which serve to develop the skills and potential of persons with disabilities and enable them to compete favourably for available, productive and remunerative employment opportunities in the labour market.

16. Discrimination by employers prohibited.

- (1) Subject to subsection (2), no employer shall discriminate against person with disabilities in relation to—
 - (a) the advertisement of employment;
 - (b) the recruitment for employment;
 - (c) the creation, classification or abolition of posts;
 - (d) the determination or allocation of wages, salaries, pensions, accommodation, leave or other such benefits;
 - (e) the choice of persons for posts, training, advancement, apprenticeships, transfer or promotion;

- (f) the provisions of facilities related to or connected with employment; or
 - (g) any other matter related to employment.
- (2) Notwithstanding subsection (1), an employer shall be deemed not to have discriminated against a person with a disability if—
- (a) the act or omission alleged to constitute the discrimination was not wholly or mainly attributable to the disability of the said person;
 - (b) the disability in question was a relevant consideration in relation to the particular requirements of the type of employment concerned; or
 - (c) special facilities or modifications, whether physical, administrative or otherwise, are required at the work place to accommodate the person with a disability, which the employer cannot reasonably be expected to provide.
- (3) A person with a disability who feels discriminated against by an employer contrary to the Act, may complain to the Commission.
- (4) The Commission may take action in respect of a complaint received as it considers fit.
- (5) Nothing in subsection (3) or (4) shall preclude such person from applying to the Industrial Tribunal for the hearing and determination of any dispute against his employer on the grounds of discrimination under sections 57 and 58 of the Industrial Relations Act (*Ch. 321*).
- (6) Any contract for employment or for the provision of goods, facilities or services, or any other agreement, shall be void insofar as it purports to deny any person any rights or privileges conferred under this Act or in any other way to limit the operation of this Act.
- (7) An employer shall provide such facilities and effect such modifications, whether physical, administrative or otherwise, in the work place as may reasonably be required to accommodate persons with disabilities.

17. Records for job placement.

The Commission in conjunction with the Department of Labour, shall establish and maintain a record of persons with disabilities who are in possession of various levels of skills and training and shall update such records regularly for the purposes of job placement.

18. Right to health care services.

- (1) A person with a disability shall be provided with the same quality and standard of affordable healthcare treatments, health information and health programmes as provided to other persons.

- (2) In furtherance of subsection (1), the Ministry of Health shall, in collaboration with the Ministry responsible for disability affairs and all relevant health and rehabilitative authorities—
- (a) ensure that all community and health clinics are made accessible to persons with disabilities;
 - (b) establish programmes for early detection and intervention, assessment and treatment of impairment;
 - (c) ensure that all medical and para-medical personnel are adequately trained and equipped to give advice and medical care to persons with disabilities;
 - (d) ensure information on health issues is in a format that is accessible to all persons with disabilities.

19. Housing.

The Minister responsible for Housing in formulating and implementing a Housing Programme shall collaborate with the Commission to include provisions to address accommodations for persons with disabilities.

20. Accessibility and mobility.

Every person with a disability shall be entitled to a barrier-free and disabled friendly environment to enable him to have access to buildings, Information Communication Technology (ICT), roads and other social amenities, and assistive or adaptive devices and other equipment to promote his mobility.

21. Public buildings and parking.

- (1) A proprietor of any building to which the public is permitted access shall adapt it to suit persons with disabilities in such manner as may be specified by the Commission including provision for parking of vehicles by persons with disabilities.
- (2) All proprietors of buildings under subsection (1) shall comply with subsection (1) within two years after this section comes into operation or on such other date as the Minister may appoint by Notice published in the Gazette.
- (3) All proprietors of buildings shall designate parking for persons with disabilities within six months after the coming into operation of this Act.

22. Public Transportation.

The Commission shall collaborate with the Minister responsible for transport to formulate a public transportation policy which shall provide for persons with disabilities and which shall be implemented on the order of the Minister.

23. Service Animals.

The Minister shall, in consultation with the Minister responsible for the control and protection of animals—

- (a) facilitate the use of Service Animals by persons with disabilities at public places and public buildings or while using public services or facilities;
- (b) facilitate persons with disabilities who need assistance, to have the right to be accompanied by a Service Animal in public places or public buildings or while accessing public services without being required to pay an extra charge for the Service Animal; and
- (c) provide standards for certifying animals for use by persons with disabilities.

24. Auxiliary social services.

The Minister responsible for Social Services shall ensure that persons with disabilities who are in vulnerable situations are encouraged to function and participate in community affairs by assisting with—

- (a) the acquisition of prosthetic devices, assistive or adaptive devices and medical intervention;
- (b) specialized training activities designed to improve the functioning of persons with disabilities with respect to their communication skills;
- (c) the development among persons with disabilities of a positive self-image through the provision of counselling, orientation and mobility in order to strengthen their daily living capability;
- (d) family care services geared towards developing the capability of families to respond to the needs of persons with disabilities;
- (e) substitute family care services and facilities for abandoned, neglected, abused and unattached persons with disabilities who need an alternative form of care based on their individual needs;
- (f) family after care and follow-up services for the continued rehabilitation in a community-based setting of persons with disabilities who are discharged from residential care or rehabilitation centres;
- (g) day care services for children with disabilities of pre-school age.

25. Sports and recreation.

The Minister responsible for Sports and Culture, in the formulation and implementation of the national sports programme, shall coordinate with the Commission to ensure that—

- (a) public and private sports and cultural facilities are accessible to persons with disabilities;

- (b) sports, recreational and cultural activities are provided for persons with disabilities;
- (c) training of specialists in sports, games and culture for persons with disabilities is provided;
- (d) there is improvement of existing facilities and equipment to provide for the participation of persons with disabilities in sports, recreational and cultural activities;
- (e) there is development and implementation of sports and physical fitness programmes specifically designed for persons with disabilities taking into consideration the nature of their disability.

26. Voting.

- (1) Subject to the provisions of the Parliamentary Elections Act, (*Ch. 7*) persons with a disability shall be entitled upon request, to be assisted by a person of their choice in voting in parliamentary elections or any referendum.
- (2) A person who undertakes to render assistance under subsection (1), shall do so strictly in accordance with the instructions of the voter.
- (3) A person described in subsection (2) shall bind himself, in the prescribed form, to comply with this section.
- (4) A person who contravenes subsection (2) is guilty of an offence.

PART IV – ADJUSTMENT ORDERS

27. Adjustment Orders.

- (1) This section shall apply to—
 - (a) any premises to which members of the public are ordinarily admitted whether on payment of a fee or otherwise; or
 - (b) any services or amenities ordinarily provided to members of the public.
- (2) Without prejudice to the provisions of section 20, if the Commission considers that any premises, services or amenities are inaccessible to persons with disabilities by reason of any structural, physical, administrative or other impediment to such access, the Commission may, subject to this section, serve upon the owner of the premises or the provider of the services or amenities concerned an adjustment order—
 - (a) setting out—
 - (i) a full description of the premises, services or amenities concerned; and

- (ii) the grounds upon which the Commission considers that the premises, services or amenities are inaccessible to persons with disabilities;
 - (b) requiring the owner or provider concerned to undertake at his own expense such action as may be specified in order to secure reasonable access by persons with disabilities to the premises, services or amenities concerned; and
 - (c) stipulating the period within which the action referred to in paragraph (b) shall be commenced and completed.
- (3) Before serving an order under subsection (2) the Commission shall serve notice upon the person concerned—
- (a) specifying the ground upon which the adjustment order is to be issued and the nature of the action which the Commission considers necessary to rectify the situation which has given rise to the proposed order;
 - (b) stipulating the maximum period that the Commission considers reasonable for the implementation of the action it proposes to order; and
 - (c) calling upon the person concerned, if he wishes to do so, to make representations to the Commission within thirty days from the date of the service of the notice.
- (4) After considering any representations described in subsection (3)(c) the Commission may issue, or refrain from or defer the issuing of, an adjustment order.
- (5) Within thirty days after an adjustment order is confirmed or issued under subsection (4), the person concerned may appeal against the confirmation or issue to the Court designate whether a Magistrate Court or the Supreme Court in the prescribed manner on any grounds including on the grounds that—
- (a) he cannot reasonably be expected to bear the whole or any part of the expense required in implementing the adjustment order;
 - (b) the period stipulated for implementing the adjustment order is unreasonable;
 - (c) the nature of the action required to be taken in terms of the adjustment order is, in the circumstances of the case, unreasonable; or
 - (d) adequate access to the premises, services or amenities concerned may be secured without recourse to the action required by the adjustment order.
- (6) Upon hearing an appeal under subsection (5) the Court may—
- (a) confirm, vary or set aside the adjustment order appealed against; and
 - (b) make such order as to the costs of the appeal as it thinks fit.

28. Denial of admission into premises, etcetera.

- (1) No person shall, on the ground of disability alone, deny a person with a disability—
 - (a) admission into any premises to which members of the public are ordinarily admitted; or
 - (b) the provision of any services or amenities to which members of the public are entitled, unless such denial is motivated by a reasonable concern for the safety of such person.
- (2) The proprietor of premises referred to in subsection (1)(a) shall not have the right, on the ground of a person's disability alone, to refuse such person admission to his premises.
- (3) A person with a disability who is denied admission into any premises or the provision of any service or amenity contrary to subsection (1) shall be deemed to have suffered an injury and shall have the right to recover damages in any court of competent jurisdiction.
- (4) Without prejudice to subsection (3), damages awarded under that subsection shall be recoverable summarily as a civil debt.

29. Offences-Adjustment orders and discrimination.

- (1) A person is guilty of an offence if he—
 - (a) fails to comply with an adjustment order served under section 27;
 - (b) contravenes section 16 or discriminates against a person with a disability contrary to section 16;
 - (c) discriminates against a person with a disability contrary to section 18; or
 - (d) contravenes section 28 or discriminates against a person with a disability contrary to section 28.
- (2) A person who is convicted of an offence under subsection (1) is liable to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.
- (3) A person found guilty of an offence under this section may in addition to the penalty imposed by the Court be ordered to pay to the person injured by the offence such sums of money in compensation as the Court may deem appropriate.

PART V-EDUCATION

30. Free primary and secondary education, trained teachers.

The Minister responsible for Education in collaboration with the Commission shall formulate and implement the National Education programme to ensure that—

- (a) training programmes for teachers specialising in disabilities are developed and implemented so that the requisite trained personnel are available for special schools and integrated schools for children with disabilities; and
- (b) special education is made a compulsory component of the teachers' curriculum offered by institutions established to train teachers.

31. Access to quality education.

- (1) The Minister responsible for Education, after consultation with the Commission, shall ensure that the special requirements of persons with disabilities are addressed when formulating and implementing educational policies and programmes.
- (2) The Minister responsible for Education after consultation with the Commission shall ensure that learning institutions take into account the special needs of persons with disabilities with respect to the entry requirements, curriculum, examinations, auxiliary aids, and services including accessible formatting, use of school facilities, class schedules, physical education requirements and other relevant matters.

32. Integration of persons with disabilities in schools.

The Minister responsible for Education shall—

- (a) promote the integration of students with disabilities into all schools and learning institutions;
- (b) promote the establishment of special schools by the government and the private sector for those persons in need of special education, so that children with disabilities living in any part of The Bahamas shall have access to these schools;
- (c) equip the special schools with vocational training facilities; and
- (d) encourage the development of a system of support services for special education in schools.

33. Special education.

- (1) The Minister responsible for Education shall establish and maintain an integrated system of special education for persons with disabilities.
- (2) The Minister responsible for Education shall establish—

- (a) special education classes in schools and facilitate learning in subject areas including Braille, alternative script, augmentative and alternative modes, means and formats of communication, orientation and mobility skills;
- (b) braille and record libraries or sections within existing national libraries throughout The Bahamas;
- (3) The Minister responsible for Education shall adopt appropriate measures to facilitate the implementation of the special education programmes in the Family Islands.

34. Television programmes.

All television stations shall within two years of the coming into operation of this Act, provide a sign language inset, closed caption or sub-titles in all newscasts and educational programmes, and in all programmes covering all public notices, national emergencies and national events.

PART VI – NATIONAL DEVELOPMENT FUND

35. Establishment of the Fund.

- (1) There shall be established a Fund to be known as the National Development Fund for Persons with Disabilities.
- (2) The Fund shall be established as a permanent fund and the income therefrom shall be used for the benefit of persons with disabilities in The Bahamas.
- (3) The Fund shall be administered by the Commission through a board of trustees as hereunder provided under section 37.

36. Sources of and payments from Fund.

- (1) The sources of the Fund shall comprise of—
 - (a) income generated by investments made by the trustees; and
 - (b) any other donations from international and local donors which the Commission may receive for purposes of the Fund.
- (2) Without limiting the generality of section 35, the Board of Trustees may, out of the Fund—
 - (a) contribute to capital expenses of organizations of or for persons with disabilities;
 - (b) contribute to capital expenses of institutions that train persons in the care of persons with disabilities;
 - (c) contribute to the capital expenses of projects undertaken by the Government for the benefit of persons with disabilities.

37. Trustees to manage the Fund.

- (1) The Fund shall be managed by a Board of Trustees which shall consist of—
 - (a) the Chairman of the Commission;
 - (b) the Executive Secretary of the Commission who shall be the Secretary of the Board (and an ex officio member);
 - (c) a representative of the Ministry responsible for Finance appointed by the Minister responsible for Finance;
 - (d) three representatives appointed by the Commission consisting of persons with disabilities nominated by and from non-governmental organizations that are directly and solely concerned with the welfare and advancement of persons with disabilities.
 - (e) not more than two persons co-opted by the Commission to represent the donors that in its opinion have substantially supported the care of persons with disabilities.
- (2) The Minister shall appoint one of the persons appointed to be the Treasurer to the Fund.
- (3) The Board shall conduct its affairs in accordance with regulations prescribed by the Minister after consultation with the Commission subject to any law relating to trustees.

PART VII – EXEMPTIONS AND INCENTIVES

38. Exemptions.

All goods, items, implements or equipment donated to institutions and organizations of or for persons with disabilities shall be exempt from custom duties, and any other government tax which would in any way defeat the purpose of or increase the cost of the said donations.

39. General requirements for exemptions and deductions.

- (1) The following shall apply with respect to exemptions and deductions described in subsection (2)—
 - (a) no person is eligible for an exemption or deduction unless the exemption or deduction has been recommended and approved by the appropriate government authority;
 - (b) no person is eligible for an exemption or deduction unless any additional requirements or conditions prescribed in the regulations made by the Minister are satisfied;
 - (c) an exemption or deduction may be refused on the basis that it has not been provided for in the allocation of public resources specified in the Government's annual budget.

- (2) The exemptions and deductions referred to in subsection (1) are the exemptions and deductions under the following—
 - (a) section 38;
 - (b) section 40.

40. Incentives.

- (1) The Minister responsible for Finance or other appropriate authority shall endeavour to provide, subject to the provisions of any other relevant law, incentives to the local manufacturers of assistive or adaptive devices used by persons with disabilities including, but not limited to the following—
 - (a) exemptions from custom duty on imported capital equipment;
 - (b) exemptions from custom duties on raw materials;
 - (c) exemptions from custom duty on materials used to erect, equip, furnish, or repair any accessible transportation facilities.
- (2) The Minister responsible for Finance may also provide exemptions from custom duty on vehicles used to transport persons with disabilities.

PART VIII – MISCELLANEOUS

41. Telephone services.

All persons providing public telephone services shall as far as possible install and maintain telephone devices or units for persons with hearing disabilities and tactile marks on telephone sets to enable persons with visual disabilities to communicate through the telephone system.

42. Polling place.

Every polling place shall be made accessible to persons with disabilities during elections, and such persons shall in addition be provided with reasonable accommodations and assistive or adaptive devices and services to facilitate the exercise of this right under this section.

43. Registration.

- (1) Every person with a disability may register with the Commission with respect to their disability.
- (2) All organizations of or for persons with disabilities shall register with the Commission.
- (3) The Commission shall determine the form and manner of registration.
- (4) The register may be reviewed by persons authorized by the Commission.
- (5) The register of organizations of persons with disabilities shall be made available to the public.

44. Credit.

- (1) A credit union, cooperative or lending institution shall not withhold credit or financial services from persons with disabilities solely as a result of their disabilities.
- (2) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine not exceeding five thousand dollars.

45. Insurance.

- (1) Persons with disabilities shall not be prohibited from applying for or being considered for any insurance policy and such persons shall have a right to apply for or be considered for any insurance policy, on an equal basis with other persons.
- (2) Any person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine not exceeding five thousand dollars.

46. Legal System.

- (1) The Rules Committee of the Supreme Court shall make rules providing for—
 - (a) the exemption, for persons with disabilities, from the payment of fees of the Court in relation to proceedings commenced under this Act; and
 - (b) the provision, to persons with disabilities who attend the Court, free sign language interpretation, Braille services and physical guide assistance.
- (2) Accused persons with disabilities who are denied bail shall be entitled to be held in custody in facilities modified in accordance with regulations made by the Minister.
- (3) The Court shall endeavour to ensure that all suits involving persons with disabilities are disposed of expeditiously having due regard to the particular disability and suffering of such persons.

47. Inspectors.

- (1) All Government ministries shall, under the provisions of this Act, designate inspectors for the purpose of ensuring the implementation and compliance with the provisions of this Act.
- (2) The Commission shall appoint inspectors who shall be empowered to investigate and recommend prosecution or any other remedy against any person who infringes any provision of this Act.
- (3) The inspector appointed under subsection (2) shall report to the Commission or the relevant committee of the Commission, any person or

persons whose conduct is in violation of this Act or the regulations made thereunder.

48. Concealment of persons with disabilities.

- (1) No parent, guardian or next of kin shall conceal any person with a disability in such a manner as to deny such a person the opportunities and services available under this Act.
- (2) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine of five thousand dollars or a term of imprisonment not exceeding three months or to both such fine and imprisonment.

49. Regulations.

The Minister may, after consultation with the Commission make regulations generally for the better carrying out of the provisions of this Act and, without limiting the generality of the foregoing, may make regulations—

- (a) prescribing standards for accessibility to infrastructure facilities, information and communication technologies;
- (b) prescribing the procedures, permits, forms and fees applicable under this Act;
- (c) specifying and describing the nature of acts of discrimination against persons with disabilities; and
- (d) prescribing the procedure and forms for persons entitled to subsidized medical care.

50. Giving false information to get registered.

- (1) A person is guilty of an offence if he knowingly gives false information to the Commission for the purpose of being registered or for the purpose of acquiring any privilege due to persons so registered.
- (2) A person who contravenes subsection (1) shall be liable on summary conviction to a fine of one thousand dollars or imprisonment for one month or both.

51. General penalty.

Any person found guilty of an offence under this Act for which no penalty is expressly provided shall be liable on summary conviction to a fine of five thousand dollars or imprisonment for a term not exceeding three months, or to both such fine and imprisonment.

52. Request for legal action by the Attorney-General.

- (1) The Commission may request the Attorney-General to take appropriate legal action if the Commission believes that—

- (a) a person or group of persons is engaged in a practice which is discriminatory under this Act; and
 - (b) the discrimination is a significant and substantial infringement of the rights of persons with disabilities and raises issues of public interest.
- (2) Any person or group of persons aggrieved by an order made in a legal action commenced pursuant to a request under subsection (1) may within sixty days after the making of such order apply in the prescribed form to the Supreme Court for the review of such order.

53. Burden of proof.

A person alleging a violation of this Act shall bear the burden of presenting a *prima facie* case of discrimination or of an offence related to discrimination under this Act, and the burden of proof shall then shift to the respondent to disprove the allegations.

54. Savings and transitional.

- (1) A person who immediately before the coming into operation of this Act is registered as a person with a disability at the Ministry responsible for Disability Affairs shall, on the coming into operation of any section or part of this Act, be deemed to be a person with a disability registered under this Act.
- (2) All registers relating to registration of persons with disabilities that are kept and maintained by the Ministry responsible for Disability Affairs immediately before the coming into operation of this Act shall, on the coming into operation of this Act, be deemed to be registers kept and maintained under this Act and shall be deemed to form part of the Register of Persons with Disabilities.

55. Act binds the Government.

This Act binds the Government.

SCHEDULE (Section 6)

**PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE
COMMISSION**

1. A member of the Commission may—
 - (a) resign his office by notice in writing to the Minister; or
 - (b) be removed by the Minister by notice in writing if he—
 - (i) has been absent from five consecutive meetings of the Commission without permission of the Chairman;
 - (ii) is so incapacitated by prolonged physical or mental illness as to be unable to attend to and perform his duties;
 - (iii) is an undischarged bankrupt;
 - (iv) is convicted by a Court of an offence punishable by a term of imprisonment; or
 - (v) is otherwise unable or unfit to discharge his functions.
2. Where the office of a member becomes vacant the vacancy may with the approval of the Minister be filled through the majority vote of the members of the Commission for the remainder of the term.
3. The Commission shall pay to its members such remuneration as the Minister may approve.
4. The Commission shall meet not less than nine times in every year or at such other times as the Commission may determine.
5. A meeting of the Commission shall be held on such date and at such time as the Commission shall decide, or in the absence of such a decision if the Chairman decides that a meeting is necessary, on a date and at a time determined by the Chairman.
6. Unless otherwise decided by a two-thirds majority of the members of the Commission, at least fourteen days written notice of every meeting of the Commission shall be given to every member of the Commission.
7. The quorum of a meeting of the Commission shall be nine members.
8.
 - (1) The Chairman, or in his absence, the Vice-Chairman, shall preside at every meeting of the Commission.
 - (2) In the absence of both the Chairman and Vice-Chairman, the

members present may choose one of their number to preside at the meeting.

9. A decision of the majority of members of the Commission present at any meeting of the Commission shall be deemed to be the decision of the Commission and if upon any question the voting shall be equal, the Chairman, Vice-Chairman or other person presiding shall have a second or casting vote.
10. No act, decision or proceedings of the Commission shall be invalid on account of a vacancy in the membership thereof or on account of the appointment of a member of the Commission being defective.

OBJECTS AND REASONS

The Persons With Disabilities (Equal Opportunities) Bill, 2014 (referred to hereinafter as “the Bill”), seeks to provide for the rights and rehabilitation and habilitation of persons with disabilities, to eliminate discrimination against persons with disabilities, to achieve equalisation of opportunities for persons with disabilities, to establish the National Commission for persons with disabilities and for connected purposes.

The Bill is comprised of eight Parts and fifty-six clauses.

Clause 1 of the Bill seeks to make provision for the Short title and the commencement provision of the Bill.

Clause 2 of the Bill seeks to make provision for the interpretation of certain definitions in the Bill.

Clause 3 of the Bill seeks to make provision for the guiding principles to be used in making decisions under the Bill.

Clause 4 of the Bill seeks to make provision for the establishment of a Commission which will be known as the National Commission for Persons with Disabilities (“the Commission”) which shall be a body corporate.

Clause 5 of the Bill provides that the Minister may give to the Commission directions of a general or of a specific nature as to the policy to be followed by the Commission in the carrying out or pursuit of its functions as appear to the Minister requisite in the public interest and the Commission shall give effect to any such directions.

Clause 6 of the Bill seeks to make provision for the appointment of the membership of the Commission. The Schedule to the Bill contains provisions relating to the conduct of business and the affairs of the Commission

Clause 7 of the Bill seeks to make provision, *inter alia*, for the appointment of the Chairman and Vice-Chairman, who shall be elected by and from the members of the Commission.

Clause 8 of the Bill seeks to make provision for the establishment of the office of the Secretariat of the Commission, which shall provide services for the carrying out of the functions of the Commission. This clause additionally provides that the Secretariat shall be headed by an Executive Secretary, who shall be assisted by a deputy executive secretary; both the Executive Secretary

and the Deputy Executive Secretary shall be appointed by the Minister after consultation with the Commission.

Clause 9 of the Bill seeks to make provision for the functions of the Executive Secretary, who shall be the chief administrative officer of the Secretariat. The functions of the Executive Secretary are namely, to exercise general supervision and control over the staff of the Secretariat, ensure the execution of the functions of the Commission and manage and administer the affairs of the Commission.

Clause 10 of the Bill seeks to make provision for the functions of the Commission. The commission's functions include advising the Minister on any international treaty or agreement, formulating and developing equal opportunities for persons with disabilities, preventing discrimination against persons with disabilities, the registration of persons with disabilities and the provision to the maximum extent possible, various services, entitlements and assistance *inter alia*, for persons with disabilities, consulting with the government in the formulation of suitable vocational training centres and performing such other functions in relation to care and rehabilitation and habilitation of persons with disabilities including the review of the Act, from time to time and the making of recommendations if necessary.

Clause 11 of the Bill seeks to make provision for the funds and resources of the Commission. These funds are voted by Parliament and may be received as a result of public or private appeal from local or international donors or agencies for the purpose of carrying out its functions.

Clauses 12 and 13 of the Bill seek respectively, to make provision for annual accounts and reports of the Commission to ensure that proper accounting and other records are kept in relation to the revenue and expenditure of the Commission. The annual reports shall be presented to the Minister who is obligated to lay those documents together with the relevant reports before Parliament.

Clause 14 of the Bill seeks to make provision for a person with a disability to have equal access to opportunities for suitable employment.

Clause 15 of the Bill seeks to make provision for vocational training skills development and training programmes for persons with disabilities.

Clause 16 of the Bill seeks to make provision for persons with disabilities not to be discriminated against by employers.

Clause 17 of the Bill seeks to make provision for the Commission to establish and maintain a record of persons with disabilities who are in possession of various levels of skills and training for the purpose of job placement.

Clause 18 of the Bill seeks to make provision for persons with disabilities to have equal access to health care and health education.

Clause 19 of the Bill seeks to make provision for the Minister of Housing to collaborate with the Commission to address housing needs for persons with disabilities.

Clause 20 of the Bill seeks to make provision for the accessibility and mobility of persons with disabilities which would allow them accessibility to roads, buildings and other social amenities.

Clause 21 of the Bill seeks to make provision for all proprietors of public buildings to adapt them to suit persons with disabilities in such manner as may be specified by the Commission within two years after the Act comes into operation or on such other date as the Minister may appoint.

Clause 22 of the Bill seeks to make provision for the Commission to collaborate with the Minister responsible for transport for the purpose of formulating a public transportation policy, which shall provide for persons with disabilities and which shall be implemented on the order of the Minister.

Clause 23 of the Bill seeks to make provision for the use of Service Animals by persons with disabilities.

Clause 24 of the Bill seeks to make provision for the Minister of Social Services to ensure that persons with disabilities who are in vulnerable situations, receive the requisite auxiliary social services.

Clause 25 of the Bill seeks to make provision for persons with disabilities to be entitled to participate in all national and international sports events provided the environment is suitable for them to do so.

Clause 26 of the Bill seeks to make provision for all persons with disabilities to be entitled at their request, to be assisted by persons of their choice in voting at parliamentary elections or in a referendum subject to the provisions of the Parliamentary Elections Act, (*Ch. 7*).

Clause 27 of the Bill seeks to make provision for the Commission to serve upon the owner of the premises or the provider of the services or amenities, an adjustment order where services or amenities are inaccessible to persons with disabilities and need to be modified accordingly

Clause 28 of the Bill seeks to make provision for no person with a disability to be denied access to any premises on the grounds of disability alone.

Clause 29 of the Bill seeks to make provision for the offences of persons who fail to comply with an adjustment order and who discriminates against persons with disabilities.

Clause 30 of the Bill seeks to make provision for the Minister responsible for Education in collaboration with the Commission to formulate and implement the National Education programme to ensure that (i) training programmes for teachers specialising in disabilities are developed and implemented so that the requisite trained personnel are available for special schools and integrated schools for children with disabilities and (ii) that special education is made a compulsory component of the teachers' curriculum offered by institutions established to train teachers.

Clause 31 of the Bill seeks to make provision for the Minister responsible for Education, after consultation with the Commission, to ensure that the special requirements of persons with disabilities are addressed when formulating and implementing educational policies and programmes, and that learning institutions take into account the special needs of persons with disabilities with respect to the entry requirements, curriculum, examinations, auxiliary aids, and services.

Clause 32 of the Bill seeks to make provision for the Minister responsible for Education to, (i) promote the integration of students with disabilities into all schools and learning institutions, (ii) promote the establishment of special schools by the government and the private sector for those persons in need of special education, so that children with disabilities living in any part of The Bahamas shall have access to these schools, (iii) equip the special schools with vocational training facilities and (iv) encourage the development of a system of support services for special education in schools.

Clause 33 of the Bill seeks to make provision *inter alia*, for the Minister responsible for Education to establish and maintain an integrated system of special education for persons with disabilities.

Clause 34 of the Bill seeks to make provision for all television stations to provide a sign language inset closed caption or sub-titles in all newscasts and educational programmes, and in all programmes covering all public notices, national emergencies and national events, within two years of the coming into operation of this Bill.

Clause 35 of the Bill seeks to make provision for the establishment of a Fund administered by the Commission to be known as the National Development Fund for Persons with Disabilities and the income therefrom shall be used for the benefit of persons with disabilities in The Bahamas.

Clause 36 of the Bill seeks to make provision for the sources of the Fund to be income that is generated by investments made by the trustees and any other donations which the Commission may receive for the purposes of the Fund. Additionally, the Commission shall make payments or contributions from the Fund, for such purposes as may be prescribed by the Commission.

Clause 37 of the Bill seeks to make provision for the Fund to be managed by a Board of Trustees which shall consist of the Chairman of the Commission, the Executive Director (*ex officio*) of the Commission, a representative of the Minister, a representative from the Ministry responsible for Finance and four other persons appointed by the Commission. The Board shall conduct its affairs in accordance with regulations prescribed by the Commission, subject to the law relating to trustees.

Clause 38 of the Bill seeks to make provision for all goods, items, implements or equipment donated to institutions and organizations of or for persons with disabilities to be exempt from customs duties, port charges and any other tax.

Clause 39 of the Bill seeks to make provision for persons eligible for an exemption or deduction recommended by the Commission and approved by the appropriate government authority.

Clause 40 of the Bill seeks to make provision for the Minister responsible for Finance or other appropriate authority to provide incentives to local manufacturers of technical aids and appliances used by persons with disabilities and exemptions from custom duty on vehicles used to transport persons with disabilities.

Clause 41 of the Bill seeks to make provision for all persons providing public telephone services to install and maintain telephone devices or units for persons with hearing disabilities.

Clause 42 of the Bill seeks to make provision for every polling place to be made accessible to persons with disabilities during elections, and that such persons shall in addition, be provided with reasonable accommodations and assistive or adaptive devices and services to facilitate the exercise of such right.

Clause 43 of the Bill seeks to make provision for every person with a disability and each organization of or for persons with disabilities, may register with the Commission with respect to their disability and that the Commission shall determine the form and manner of such registration. Further, that such registers may be reviewed by persons authorized by the Commission and be made available to the public.

Clause 44 of the Bill seeks to make provision for a credit union, cooperative or lending institution not to withhold credit or financial services from persons with disabilities solely as a result of their disabilities, while also creating an offence for the denial of such credit to such persons and the payment of a fine of five thousand dollars, where any aforementioned institution is found guilty of committing of such offence.

Clause 45(1) of the Bill seeks to make provision for persons with disabilities not to be prohibited from applying for, or being considered for, any insurance policy and for such persons to have a right to apply for, or be considered for, any insurance policy on an equal basis with other persons. Further, Clause 45(2) of the Bill seeks to create an offence where any insurance company is found guilty on summary conviction of refusing to permit persons with disabilities from applying for, or being considered for, insurance coverage, to be liable to pay a fine of five thousand dollars for committing such offence.

Clause 46 of the Bill seeks to make provision for the Rules Committee of the Supreme Court to make rules providing for the exemption, from the payment of fees of the Court in relation to proceedings commenced under this Bill and the provision to persons with disabilities who attend the Court, free sign language interpretation, Braille services and physical guide assistance

Clause 47 of the Bill seeks to make provision *inter alia*, for the Commission to appoint inspectors who shall be empowered to investigate and recommend prosecution or any other remedy against any person who infringes any provision of this Bill.

Clause 48 of the Bill provides for an offence where a parent or guardian conceals a person with a disability.

Clause 49 of the Bill seeks to make provision for the making of regulations by the Minister after consultation with the Commission, for the better carrying out of the provisions of this Bill.

Clause 50 of the Bill seeks to make provision for an offence where a person gives false information to the Commission for the purpose of being registered.

Clause 51 of the Bill seeks to make provision for a general penalty where no specific penalty has been provided for under any of the other provisions of this Bill.

Clause 52 of the Bill seeks to make provision for the Commission to request the Attorney-General to take appropriate legal action if the Commission believes that, (a) a person is, or group of persons are, engaged in a practice which is discriminatory under this Act and (b) the discrimination is a significant and substantial infringement of the rights of persons with disabilities and raises issues of public interest.

Clause 53 of the Bill seeks to make provision for a person alleging a violation of this Act to bear the burden of presenting a *prima facie* case of discrimination or any violation under the Act.

Clause 54 of the Bill seeks to make provision for a transitional clause which will allow persons with disabilities registered with the Ministry of Social Services to be deemed registered under the new Act.

Clause 55 of the Bill of the Bill seeks to make provision for the Government of The Bahamas to be bound by all provisions of this Bill.