

## **Nru. 213**

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4. 5. 2021

### **MALTA**

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#### **KAMRA TAD-DEPUTATI**

#### **HOUSE OF REPRESENTATIVES**

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ABBOZZ ta' Liġi mressaq mill-Onorevoli Clyde Caruana, M.P., Ministru għall-Finanzi u x-Xogħol, u moqri għall-Ewwel darba fis-Seduta tal-20 ta' Jannar 2020.

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A BILL introduced by the Honourable Clyde Caruana, M.P., Minister for Finance and Employment and read the First time at the Sitting of the 20th January 2020.

**ATT biex jemenda l-Att dwar l-Impieg ta' Persuni b'Diżabilità, Kap. 210.**

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

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RAYMOND SCICLUNA  
*Skrivan tal-Kamra tad-Deputati*

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RAYMOND SCICLUNA  
*Clerk of the House of Representatives*



## ABBOZZ TA' LIĠI msejjah

*ATT biex jemenda l-Att dwar l-Impieg ta' Persuni b'Diżabilità, Kap. 210.*

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità tal-istess, ħareġ b'liġi dan li ġej:-

1. It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2021 li jemenda l-Att dwar l-Impieg ta' Persuni b'Diżabilità, u dan l-Att għandu jinqara u jinftiehem ħaġa waħda mal-Att dwar l-Impieg ta' Persuni b'Diżabilità, hawn iżjed 'il quddiem imsejjaħ "l-Att prinċipali". Titolu fil-qosor.  
Kap. 210.
2. Fl-artikolu 2 tal-Att prinċipali, it-tifsira "uffiċjal mediku ta' pjazzament" għandha tiġi sostitwita b'dan li ġej: Emenda tal-artikolu 2 tal-Att prinċipali.

" "uffiċjal ta' pjazzament" tfisser kull uffiċjal bi kwalifiki adatti awtorizzati bil-miktub mill-entità responsabbli għar-reġistru."
3. Fis-subartikolu (2) tal-artikolu 3 tal-Att prinċipali, minflok il-kliem "ħarsien mediku xieraq" għandhom jidhlu l-kliem "ħarsien xieraq kif u meta jkun meħtieġ". Emenda tal-artikolu 3 tal-Att prinċipali.
4. L-artikolu 8 tal-Att prinċipali għandu jiġi emendat kif ġej: Emenda tal-artikolu 8 tal-Att prinċipali.
  - (a) fil-paragrafu (ċ) tiegħu, minflok il-kliem "ma tkunx ordinarjament residenti f'Malta;" għandhom jidhlu l-kliem "ma tkunx ordinarjament residenti f'Malta."; u
  - (b) il-paragrafu (d) tiegħu għandu jiġi mħassar.
5. Is-subartikolu (8) tal-artikolu 15 tal-Att prinċipali għandu jiġi emendat kif ġej: Emenda tal-artikolu 15 tal-Att prinċipali.

(a) minflok il-kliem "mhux anqas minn għoxrin persuna:" għandhom jidhlu l-kliem "mhux anqas minn għoxrin persuna."; u

(b) il-proviso għall-imsemmi subartikolu għandu jiġi mħassar.

Emenda tal-  
artikolu 16 tal-  
Att prinċipali.

6. L-artikolu 16 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) is-subartikolu (5A) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(5A) Persuna li tonqos milli tosserva l-kwota msemmiha fis-subartikolu (2), kif stabbilita skont is-subartikolu (5), tiġi mitluba tagħmel kontribuzzjoni annwali kif stabbilita mill-Korporazzjoni:

Izda l-kontribuzzjoni annwali għandha tkun ta' elfejn u erba' mitt euro (€2,400) għal kull persuna b'diżabilità li suppost tkun fl-impieg tagħha, sa massimu ta' għaxart elef euro (€10,000) għal kull persuna waħda li hekk tonqos milli tosserva l-kwota:

Izda wkoll l-ammont massimu ta' għaxart elef euro (€10,000) imsemmi fil-proviso ta' hawn qabel m'għandux japplika għal grupp ta' kumpanniji li hu debitament reġistrat mal-awtoritajiet rilevanti.";

(b) is-subartikolu (5B) tiegħu għandu jiġi sostitwit b'dan li ġej:

"(5B) Il-Ministru jista', wara konsultazzjonijiet mal-Korporazzjoni, permezz ta' regolamenti jemenda l-ammonti msemmiha fis-subartikolu (5A)."; u

(ċ) minnufih wara s-subartikolu (6) tiegħu, għandu jiżdied is-subartikolu gdid li ġej:

"(7) Entitajiet partikolari ta' min iħaddem, bħal ma huma aġenziji għal xogħol temporanju, kuntratturi għal servizzi temporanji, u kumpanniji b'livelli ta' impjegati li jvarjaw jew li huma stagjonali, jistgħu, għall-finijiet tal-kalkolu tal-kwota, jistabbilixxu n-numru veru tal-impjegati tagħhom billi jgħoddu impjegat temporanju bħala frazzjon ta' 1 fil-proporzjon matematika għan-numru ta' granet li fihom dak l-impjegat ikun fil-fatt ħadem mill-1 ta' Jannar sal-31 ta' Dicembru.".

7. Fis-subartikolu (2) tal-artikolu 21 tal-Att prinċipali, minflok il-kliem "ħarsien mediku xieraq" għandhom jidhlu l-kliem "ħarsien xieraq".

Emenda tal-artikolu 21 tal-Att prinċipali.

8. Fil-paragrafu (a) tal-artikolu 24 tal-Att prinċipali, il-kliem "mhux milquta b'diżabilità" għandhom jiġu mħassra.

Emenda tal-artikolu 24 tal-Att prinċipali.

9. L-artikolu 26 tal-Att prinċipali għandu jiġi sostitwit b'dan li ġej:

Sostituzzjoni tal-artikolu 26 tal-Att prinċipali.

"Dispożizzjonijiet addizzjonali rigward kif tiġi stabbilita l-kwota.

26. (1) Persuna li tħaddem li ma timpjegax in-numru ta' persuni b'diżabilità skont id-dispożizzjonijiet tal-artikolu 16, iżda li tista' tagħti prova, għas-sodisfazzjon tal-Korporazzjoni, li hi tkun qed toffri numru ekwivalenti ta' sigħat ta' xogħol lil persuni b'diżabilità permezz ta' arrangament ta' għoti ta' servizzi jew xogħol magħmul barra mill-uffiċċju jew li tkun fil-fatt qed tagħti xogħol lil persuna b'diżabilità li hi ufficjalment impjegata ma' persuna oħra titqies bhala li tissodisfa l-kwota msemija fl-artikolu 16.

(2) Sforzi għar-reklutaġġ, xogħol bi prova u diskussjonijiet ma' entitajiet intizi għall-impjeg ta' persuni b'diżabilità ma jeżonerawx persuna li tħaddem mill-obbligi msemija fl-artikolu 16.

(3) Jekk persuna b'diżabilità tirriżenja fi żmien sena minn meta tkun ġiet impjegata, dik il-persuna xorta waħda tiġi kkunsidrata għall-finijiet li tiġi stabbilita l-kwota għas-sena li fiha l-impieg kien beda.

(4) Impjegati li, fid-data tal-bidu fis-seħħ ta' dan l-Att, mhumiex reġistrati bhala persuni b'diżabilità, iżda li huma medikament iċċertifikati li jaqgħu taħt it-tifsira ta' diżabilità skont dan l-Att, jistgħu jiġu rikonoxxuti mill-Korporazzjoni, għall-finijiet biss tal-kalkolu tal-kwota ta' min iħaddem:

Izda tali persuna ma tkunx eliġibbli għall-inċentivi ta' kull xorta, tkun liema tkun, sakemm ma tkunx ċertifikata bhala Persuna Reġistrata b'Diżabilità (PRD) minn ufficjal ta' pjazzament kif preskritt f'dan l-Att."

10. Fil-verżjoni bl-Ingliż tal-artikolu 27 tal-Att prinċipali, minnufih wara l-kelma "provisions" għandhom jiżdiedu l-kliem "of this Act".

Emenda tal-artikolu 27 tal-Att prinċipali.

**11.** L-artikolu 29 tal-Att prinċipali għandu jiġi emendat kif ġej:

(a) fis-subartikolu (1) tiegħu l-kliem "jew prigunerija għal mhux aktar minn tliet xhur jew dik il-multa u prigunerija flimkien" għandhom jiġu mħassra;

(b) is-subartikolu (2) tiegħu għandu jiġi enumerat mill-ġdid bħala s-subartikolu (3); u

(ċ) minnufih wara s-subartikolu (1) tiegħu għandu jiżdied is-subartikolu ġdid li ġej:

"(2) In-nuqqas li tithallas il-kontribuzzjoni msemmija fl-artikolu 16(5A) fiż-żmien stabbilit mill-Korporazzjoni jitqies bħala reat taht dan l-Att u, meta tinsab hatja, persuna akkużata ta' nuqqas ta' hlas tal-kontribuzzjoni tehel il-piena tal-hlas tal-kontribuzzjoni flimkien mal-piena stabbilita fis-subartikolu (1).".

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### **Għanijiet u Raġunijiet**

L-għan prinċipali ta' dan l-Abbozz ta' Liġi hu biex jiġu aġġornati d-dispożizzjonijiet tal-Att fir-rigward ta' kif jiġu stabbiliti l-kwoti għall-impieg ta' persuni b'diżabilità, kif ukoll biex jiġu indirizzati emendi oħra konsegwenzjali li għandhom x'jaqsmu ma' dawk id-dispożizzjonijiet.

**A BILL  
entitled**

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

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

1. The short title of this Act is the Persons with Disability (Employment) (Amendment) Act, 2021, and this Act shall be read and construed as one with the Persons with Disability (Employment) Act, hereinafter referred to as "the principal Act". Short title.  
Cap. 210.
  
2. In article 2 of the principal Act, for the definition "placement medical officer" there shall be substituted the following: Amendment of  
article 2 of the  
principal Act.

" "placement officer" means any suitably qualified officer authorized in writing by the entity responsible for the register;".
  
3. In sub-article (2) of article 3 of the principal Act, for the words "adequate medical supervision" there shall be substituted the words "adequate supervision as and when necessary". Amendment of  
article 3 of the  
principal Act.
  
4. Article 8 of the principal Act shall be amended as follows: Amendment of  
article 8 of the  
principal Act.
  - (a) in paragraph (c) thereof, for the words "is not ordinarily resident in Malta;" there shall be substituted the words "is not ordinarily resident in Malta."; and
  - (b) paragraph (d) thereof shall be deleted.
  
5. Sub-article (8) of article 15 of the principal Act shall be amended as follows: Amendment of  
article 15 of the  
principal Act.
  - (a) for the words "not less than twenty persons:" there

shall be substituted the words "not less than twenty persons."; and

(b) the proviso thereto shall be deleted.

Amendment of  
article 16 of the  
principal Act.

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

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

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

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

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

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

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

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

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

Amendment of  
article 21 of the  
principal Act.

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



words "adequate supervision".

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

Amendment of article 24 of the principal Act.

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

Substitution of article 26 of the principal Act.

"Additional provisions relating to determination of quota.

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

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

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

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

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

**10.** Immediately after the word "provisions" in article 27 of the principal Act there shall be added the words "of this Act".

Amendment of article 27 of the principal Act.

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

Amendment of article 29 of the principal Act.

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

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

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

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

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### **Objects and Reasons**

The main object of this Bill is to update the provisions of the Act relating to the fixing of quotas for the employment of persons with disability, as well as to address other consequential amendments in relation thereto.



