

Proposed Amendments (as at 28 January 2003) to

Persons with disabilities ACT, 2002

By Coalition of Societies for Persons with Disabilities and NGOs in Penang (Society of Disabled Persons, Penang Eden Handicap Service Centre, Old Nicolites Association , St. Nicholas Association for the Blind, Society of the Blind, Malaysia (SBM), Penang Branch, Penang Deaf Association, The Cerebral Palsy (Spastic) Children's Association Of Penang, Asia Community Service, Autism Support Association Penang, Penang Down Syndrome Association, and Socio-economic & Environmental Research Institute.)

PREAMBLE.

An act to provide the basis for the equalization of opportunities for persons with disabilities and to ~~avoid~~ **eliminate** discrimination and harrassment of the same.

The objects of this Act are:

- i) To ensure that persons with disabilities in Malaysia have the same rights to equality before the law as the rest of the community in the country.
- ii) To eliminate, ~~as far as possible,~~ discrimination against persons on the grounds of disability **and persons who have a relationship or association with them** in ~~various~~ **all** areas of life.
- iii) To promote recognition and acceptance within the community of ~~the principle that~~ persons with disabilities **as equal members with the right to be afforded** equal opportunities and full participation ~~to enable them to live as a rightful citizen of the country.~~

CHAPTER i

PRELIMINARY

1. Short title and commencement.

This act may be cited as the Persons with disabilities Act, 2002.

2. Definition.

"Disability" means ~~any restriction or lack of ability, resulting from an impairment, to perform an activity in the manner or within the range considered normal for a human being.~~ **a physical or mental impairment that substantially limits one or more major life activities.**

"Equalization of opportunities" means the process through which the various systems of society and the environment, such as services, activities, information and documentation, are made **equally** available to all, particularly to persons with disabilities.

"Impairment" means any loss, ~~or abnormality~~ **total or partial** of a **person's** psychological, physiological or anatomical structure or function.

Comments

Not to use the word "normal" as it implies that disability is abnormal. For further definitions, see WHO's "International Classification of Functioning, Disability and Health".

"Handicap" means a disadvantage for a given individual, resulting from an impairment or disability, that **substantially** limits or prevents the fulfillment of a role that is normal, depending on age, gender, and social and cultural factors for that individual: **one or more major life activities.**

"Minister" means the Minister ~~of National Unity and Social Development.~~ **in the Prime Minister's Department with the special task of promoting the rights of disabled persons.**

"Rehabilitation" is a process aimed at enabling persons with disabilities to reach and maintain their optimal physical, sensory, intellectual, psychiatric and/or social functional levels, thus providing them with the tools to change their lives towards a higher level of independence. Rehabilitation may include measures to provide and/or restore functions, or compensate for the loss or absence of a function or for a functional limitation.

"relevant authorities" ~~includes any ministry or department of the Federal Government of Malaysia, an authority of the state government or local government for the time being in charge of the subject matter.~~

CHAPTER ii
EQUALIZATION OF OPPORTUNITIES AND FULL PARTICIPATION

PART 1. PREVENTION OF CAUSES OF DISABILITIES AND EARLY DETECTION OF DISABILITIES.

1. ~~Within the limit of its economic capacity and development, relevant authorities, with a view to preventing the occurrence of disabilities, shall:-~~ **The Minister of Health shall:-**

- (a) undertake or cause to be undertaken surveys, investigations and research concerning the causes **and** of occurrence of disabilities;
- (b) ~~promote various~~ **implement appropriate** methods of preventing disabilities;
- (c) ensure that all relevant medical and paramedical personnel at the primary health ~~centres~~ **care level** are adequately trained and equipped to give medical care **and rehabilitation** to persons with disabilities and that they have access to relevant treatment methods and technology **and this shall include early intervention;**
- (c a) **Ensure trained mid-level personnel and doctors are made available for tertiary care and that the necessary infrastructure for rehab. is provided;**
- (d) take **adequate** measures **to provide** for pre-natal, peri-natal and post-natal care of mother and child;
- (e) create awareness amongst the masses through television, radio and other mass media on the causes of disabilities and the preventive measures to be adopted;

Since many parts of this Act involve other Ministries, it is suggested that this Act not be sponsored by the National Unity Ministry.

Each Minister and Department in charge of the respective responsibility be named to ensure implementation and prevent passing of the buck.

(f) **Carry out compulsory registration of all disabled persons.**

2. ~~Within the limit of its economic capacity and development, relevant authorities~~ **The Minister of Health** shall ensure that persons with disabilities are provided with ~~any~~ **accessible and affordable** regular treatment and medicines they may need to ~~preserve or~~ improve their level of functioning.

PART 2. EDUCATION.

1. Every ~~child~~ **person** with any kind and any level of disability shall have access to **early intervention programmes** and free education in an appropriate environment ~~till he or she attains the age of eighteen years.~~

2. Education for persons with disabilities should form an integral part of national educational planning, curriculum development and school organization.

3. ~~Relevant authorities~~ **The Minister of Education** shall ~~endeavour to~~ promote the ~~integration~~ **inclusion** of students with disabilities in the ~~normal~~ **mainstream** schools **so long as it is in the best interest of the disabled students.**

To accommodate educational provisions for persons with disabilities in the mainstream, ~~relevant authorities~~ **The Minister of Education** shall:-

- (a) have a clearly stated **child-centered approach and** policy, understood and accepted at the school level and by the community at large;
- (b) allow for curriculum flexibility, addition and adaptation;
- (c) provide for quality and accessible materials, **appropriate assistive devices**, ongoing teacher training and support teachers.

4. Special education may be considered in situations where the general school system does not yet adequately meet the needs of all persons with disabilities or where special education is deemed to be the most appropriate form of education for some students with disabilities. It should be aimed at preparing students for education in the general school system. The quality of special education should reflect the same standards and ambitions as general education and should be closely linked to it. ~~At a minimum, students with disabilities should be afforded the same portion of educational resources as students without disabilities.~~

5. In order to ensure that quality education is accessible to all, special attention shall be focussed on the following areas namely, curriculum educational programmes, teaching methods and support services.

The Minister should spell out guidelines which will make registration simple and accessible unlike the current system which is cumbersome.

It is unrealistic to stop at eighteen as the disabled person requires more time.

- (1) For persons with visual impairment, in the preparatory and primary levels, a modified curriculum shall include but shall not be limited to sensory training, daily living skills, special instruction in braille reading and writing, **enhancement of low-vision efficiency if applicable**, orientation and mobility, basic knowledge in computers with screen-reading software, mathematics, music and games. Preparation for mainstreaming must be worked out in the early years of schooling at the **pre-school and** primary level to ensure that visually impaired children just like other children with disabilities, ~~except those possibly with mental retardation~~ are educated with their non-disabled peers to the fullest extent possible. In secondary and tertiary levels, they shall be integrated and mainstreamed and undergo the regular curriculum. Students with visual impairment in these levels shall be supported with the necessary services such as reading materials in braille or audio form, braille equipments, reading machine, computer with special applications, low-vision equipments, orientation & mobility, counseling and resource teachers (in secondary schools).
- (2) For persons with hearing impairment, modified curriculum shall emphasize communication and language development which is tailored to meet the students' educational needs. The curriculum shall include special instruction in speech, speech reading, auditory training and rhythm using total communication, multi-sensory and other approaches. They shall be referred to support personnel such as sign language interpreters, audiologists, otologists, speech therapists, auditory trainers and others as needed. Owing to the particular communication needs of deaf and deaf-blind persons, their education may be more suitably provided in schools for such persons or special classes and units in mainstream schools.
- (3) For persons with ~~orthopedic handicaps~~ **mobility difficulties**, quality education shall be given in the same manner as those in the regular education and they shall be allowed to attend classes in the ground floors of the school buildings whenever possible. Class schedule and other pertinent considerations shall be made to suit their learning requirements Efforts shall be made for the removal of architectural barriers from schools and colleges.
- (4) For persons with ~~mental retardation~~, **intellectual impairment**, the modified curriculum shall emphasize on training in self-care, socialization, motor **mobility**, pre-vocational, vocational and other daily living skills. For those

with severe ~~retardation~~, **disability** emphasis shall be on the development of self-care skills.

- (5) For persons with behavior problems such as those with autism, for persons with learning disabilities and for persons with multiple handicaps, modified curriculum shall include special activities and instructional techniques for the normalization of behavior, functional and technical academic skills to rehabilitate them in society.

6. ~~Relevant authorities~~ **The Minister of Education and the Minister of Science and Technology** shall initiate or cause to be initiated research for the purpose of designing and developing new assistive devices, teaching aids, special teaching materials or such other items as are necessary to give a child with disability equal opportunities in education.

7. ~~Relevant authorities~~ **The Minister of Education** shall set up adequate number of teacher's training institutions and support non-governmental organizations to develop teacher's training programmes specialisation in disabilities so that requisite trained manpower is available for special schools and ~~integrated~~ **inclusive** schools for children with disabilities.

8. ~~Without prejudice to the foregoing provisions, relevant authorities~~ **The Minister of Education** shall prepare a comprehensive education scheme which shall make provision for:-

- the implementation of individualized education plan in respect of every children with disabilities at school;
- Transport facilities to the children with disabilities or alternatively financial incentives to parents or guardians to enable their children with disabilities to attend schools;
- the supply of free of cost special books and equipments needed for the education of children with disabilities;
- the grant of scholarship to students with disabilities;
- a means to attend to grievances of parents regarding the placement of their children with disabilities.

9. **The Minister of Education shall provide adult education programmes for disabled persons to enable them to communicate and to read and write.**

PART 3. EMPLOYMENT.

1. ~~Relevant authorities~~ **The Minister of Human Resource** shall ~~organize projects for promotion of~~ **promote the** employment of persons with disability ~~namely by:-~~

- Job development and diffusion of suitable jobs for persons with disability;

- measures to design and adapt workplaces and work premises in such a way that they become accessible for persons with different disabilities;
 - support for the use of new technologies and the development and production of assistive devices, tools and equipments and measures to facilitate access to such devices and equipments for persons with disability to enable them to gain and maintain employment;
 - provision of appropriate training and placement and ongoing support such as personal assistance and interpreter services;
 - public awareness-raising campaigns designed to overcome negative attitudes and prejudices concerning ~~workers~~ **persons** with disabilities;
 - measures to improve the work environment in order to prevent injuries and impairments and measures for the rehabilitation of employees who have sustained employment-related injuries.
2. ~~Relevant authorities shall formulate the following policies for ensuring employment of persons with disability:—~~ **All employers with a minimum of ten employees are required to hire a minimum of 1% disabled employees for any one year. Employers who fail to meet this quota shall pay a penalty which shall be utilized as incentives for employers who exceed the quota.**
- ~~• one percent jobs in the public sector in one year being reserved for persons with disability;~~
 - ~~• one percent jobs in the private sector in one year being reserved for persons with disability;~~
 - **The Minister of Human Resource shall give incentives and recognition to any employer maintaining no less than 5 percent employment of persons with disability for a continuous period of no less than 12 calendar months, and a special incentives to any employer maintaining more than 10 percent employment of persons with disability for a continuous period of no less than 12 calendar months;**
 - **The Minister of Finance shall grant** tax incentives to employers acquiring equipments for the benefit of their employees with disabilities or making adjustments to accomodate employees with disabilities.
3. ~~Relevant authorities~~ **The Minister of Human Resource** shall formulate the following schemes for promoting entrepreneurship and self-employment of persons with disability:
- grants for small business wholly owned by persons with disability;
 - loans for capital resources;

- business esites which are accessible for persons with different disabilities;
 - exclusive contracts or priority production rights;
 - special agency for marketing of goods produced by persons with disability.
4. **The Minister of Human Resource shall ensure skills training to be carried out for disabled persons in all states.**

PART 4. REHABILITATION.

1. ~~Relevant authorities~~ **The Minister of Health, the Minister of National Unity and Social Development and the Minister of Human Resource** shall develop or support the development of national rehabilitation programmes for all groups of persons with disabilities. Such programmes should be based on the actual individual needs of persons with disabilities and on the principles of full participation and equality.
2. Rehabilitation programmes shall include but shall not be limited to basic skills training to improve or compensate for an affected function, counselling of persons with disabilities and their families, developing self-reliance, and occasional services such as assessment and guidance.
3. All persons with disabilities, including persons with severe and/or multiple disabilities, who require rehabilitation shall have access to it.

Rehabilitation is not just medical.

PART 5. ACCESSIBILITY.

1. ~~Relevant authorities~~ **The Minister of Housing and local government, the Minister of Information and the Minister of Telecommunication and Multimedia** shall formulate policies to make the physical environment accessible and to provide access to information and communication for persons with disabilities.
2. ~~The~~ **All Local Governments** shall ensure the attainment of a barrier-free environment that will enable persons with disability to have access in public and private buildings through effective implementation of Uniform Building Byelaws.
3. ~~Relevant authorities~~ **The Minister of Housing and local government** shall allocate funds for the provision of architectural facilities and structural features for persons with disability in government buildings and related facilities.

4. ~~Relevant authorities~~ **The Minister of Housing and local government and Minister of Transport** shall develop a comprehensive programme to assist persons with disability to gain more access to public transport facilities.
5. ~~Relevant authorities~~ **The Minister of Information and the Minister of Telecommunication and Multimedia** shall develop programmes to make information services and documentation accessible for different groups of persons with disability. Braille, tape services, large print and other appropriate technologies should be used to provide access to written information and documentation for persons with visual impairments. Similarly, appropriate technologies should be used to provide access to spoken information for persons with hearing impairments or comprehension difficulties.
6. In order to facilitate the communication between deaf persons and others, sign language interpretation services shall be provided in key places such as educational institutions and health centres while latest telecommunication services should be made available such as web camera, video conferencing and telecommunication relay services.
7. ~~Relevant authorities~~ **The Minister of Information and the Minister of Telecommunication and Multimedia** shall formulate guidelines for media especially television, radio and newspapers, and telecommunication operators to make their services accessible for persons with disability **and to eliminate negative and demeaning images of disabled persons.**
8. Organizations of persons with disabilities shall be consulted when,
 - (a) developing standards and norms for accessibility to physical environment;
 - (b) developing measures to make information services accessible.

PART 6. SUPPORT SERVICES.

1. ~~Relevant authorities shall establish ongoing communication with organizations of persons with disability and ensure their participation in the development of government policies.~~ **All local governments shall be required to appoint at least one disabled Councillor representing the interest of disabled persons in every local council.**

The organizations of persons with disability may have the role of identifying needs and priorities, participating in the planning, implementation and evaluation of services and measures concerning the lives of persons with disability, and contributing to public awareness and to advocate change.

2. ~~Relevant~~ **All** authorities should involve organizations of persons with disability in all decision-making relating to plans and programmes concerning persons with disability or affecting their economic and social status **and make the necessary financial allocations and resources to carry out such programmes.**

3. ~~Relevant authorities~~ **The Department of Statistics** shall, at regular intervals, collect gender-specific statistics and other information concerning the living conditions of persons with disability. Such data collection may be conducted in conjunction with national census and household surveys and could be undertaken in close collaboration, inter alia, with universities, research institutes and organizations of persons with disability.

4. ~~Relevant authorities should~~ **The Minister of Science and Technology** shall support, financially or otherwise, the development, production, distribution and servicing of assistive devices and equipment and the dissemination of knowledge about them.

5. ~~Relevant authorities should~~ **The Minister of Science and Technology, the Minister of National Unity and Social Development and the Minister of Health** shall support, financially or otherwise, the development and provision of personal assistance programmes and interpretation services, especially for persons with severe and/or multiple disabilities.

PART 7. SOCIAL SECURITY.

1. ~~Relevant authorities~~ **The Minister of National Unity and Social Development** shall ensure the provision of adequate income support to persons with disability who, owing to disability or disability-related factors, have temporarily lost or received a substantial reduction in their income or have been denied employment opportunities.

2. Social security programmes ~~should also~~ **shall** provide ~~incentives~~ **assistance and training** for persons with disability to seek employment **or self-employment** in order to establish or re-establish their income-earning capacity.

3. Persons with disabilities and their families need to be fully informed about ~~taking precautions against~~ sexual and other forms of abuse, **steps to be taken to prevent such abuse and what to do if it occurs.** Persons with disability are particularly vulnerable to abuse in the family, community or institutions. ~~and need to be~~

The practice of giving RM200.00 allowance only to those who earn RM400.00 or less should be changed as it discourages people from working harder and penalizes those who cannot work or find work.

~~educated on how to avoid the occurrence of~~ **Education programmes must be conducted to empower disabled persons and their carers on how to stop** abuse, recognize when abuse has occurred and report on such acts.

CHAPTER iii
PROVISIONS RELATING TO DISABILITY DISCRIMINATION
PART 1. INTERPRETATION OF DISABILITY
DISCRIMINATION.

1. For the purposes of this act, a person ("discriminator") discriminates against another person ("aggrieved person") on the ground of a disability of the aggrieved person if, because of the aggrieved person's disability, the discriminator treats or proposes to treat the aggrieved person less favourably than, in circumstances that are the same or are not materially different, the discriminator treats or would treat a person without the disability.

Discrimination against persons associated or related to the disabled should also be prohibited.

2. Indirect Disability Discrimination.
For the purposes of this act, a person ("discriminator") discriminates against another person ("aggrieved person") on the ground of a disability of the aggrieved person if the discriminator requires the aggrieved person to comply with a requirement or condition:

It will be easier to understand if examples are given.

- (a) with which a substantially higher proportion of persons without the disability comply or are able to comply;
- (b) which is not reasonable having regard to the circumstances of the case or,
- (c) with which the aggrieved person does not or is not able to comply.

3. **Discrimination against persons** with palliative or therapeutic devices or auxiliary aids.

For the purposes of this act, a person ("discriminator") discriminates against another person with a disability ("aggrieved person") if the discriminator treats or proposes to treat the aggrieved person less favourably because of the fact that the aggrieved person is accompanied by, or possesses:

- (a) a palliative or therapeutic device or,
- (b) an auxiliary aid; that is used by the aggrieved person, or because of any matter related to that fact.

4. Persons accompanied by interpreters, assistants etc.

For the purposes of this act, a person ("discriminator") discriminates against another person with a disability ("aggrieved person") if the discriminator treats or proposes to treat the aggrieved person less favourably because of the fact that the aggrieved person is accompanied by:

- (a) an interpreter,
- (b) a reader,

- (c) a carer or
- (d) an assistant; who provides interpretive, reading or other services to the aggrieved person because of the disability, or because of any matter related to that fact.

PART 2. PROHIBITION OF DISABILITY
DISCRIMINATION

1. Discrimination in employment.
 - (1) An employer or a person acting or purporting to act on behalf of an employer shall not discriminate against a person on the ground of the other person's disability:
 - (a) in the arrangements made for the purpose of determining who should be offered employment;
 - (b) in determining who should be offered employment or,
 - (c) in the terms or conditions on which employment is offered.
 - (2) An employer or a person acting or purporting to act on behalf of an employer shall not discriminate against an employee on the ground of the employee's disability:
 - (a) in the terms or conditions of employment that the employer affords the employee;
 - (b) by denying or limiting the employee's access to opportunities for promotion, transfer or training, or to any other benefits associated with employment;
 - (c) by dismissing the employee or,
 - (d) by subjecting the employee to any other detriment.
2. Discrimination against agents by commission.
 - (1) A principal or a person acting or purporting to act on behalf of a principal shall not discriminate against a person on the ground of the other person's disability:
 - (a) in the arrangements made for the purpose of determining who should be engaged as an agent by commission;
 - (b) in determining who should be engaged as an agent by commission or,
 - (c) in the terms or conditions on which the person is engaged as an agent by commission.
 - (2) A principal or a person acting or purporting to act on behalf of a principal shall not discriminate against an agent by commission on the ground of the agent's disability:
 - (a) in the terms or conditions that the principal affords the agent as an agent by commission;
 - (b) by denying or limiting the agent's access to opportunities for promotion, transfer or training, or to any other benefits associated with the position as an agent by commission;
 - (c) by terminating the engagement or,
 - (d) by subjecting the agent to any other detriment.

3. **Discrimination in Partnerships.**
- (1) Persons who are proposing to form themselves in to a partnership shall not discriminate against another person on the ground of the other person's disability:
 - (a) in determining who should be invited to become a partner in the partnership or,
 - (b) in the terms or conditions on which the other person is invited to become a partner in the partnership.
 - (2) One or more of the partners in a partnership shall not discriminate against another person on the ground of the other person's disability:
 - (a) in determining who should be invited to become a partner in the partnership or,
 - (b) in the terms or conditions on which the other person is invited to become a partner in the partnership.
 - (3) One or more of the partners in a partnership shall not discriminate against another partner in the partnership on the ground of the other partner's disability:
 - (a) by denying or limiting the partner's access to any benefit arising from being a partner in the partnership;
 - (b) by expelling the other partner from the partnership or,
 - (c) by subjecting the partner to any other detriment.
4. **Discrimination by Qualifying bodies.**
- (1) No authority or body that is empowered to confer, renew, extend, revoke or withdraw an authorisation or qualification that is needed for or facilitates the practice of a profession, the carrying on of a trade or the engaging in of an occupation shall discriminate against a person on the ground of the person's disability:
 - (a) by refusing or failing to confer, renew or extend the authorisation or qualification;
 - (b) in the terms or conditions on which it is prepared to confer the authorisation or qualification or to renew or extend the authorisation or qualification or,
 - (c) by revoking or withdrawing the authorisation or qualification or varying the terms or the conditions upon which it is held.
5. **Discrimination in Registered organisations.**
- (1) No registered organisation, the committee of management of a registered organisation or a member of the committee of management of a registered organisation shall discriminate against a person on the ground of the person's disability:
 - (a) by refusing or failing to accept the person's application for

- membership or,
- (b) in the terms or conditions on which the organisation is prepared to admit the person to membership.
- (2) No registered organisation, the committee of management of a registered organisation or a member of the committee of management of a registered organisation shall discriminate against a person who is a member of the registered organisation on the ground of the member's disability:
 - (a) by denying or limiting the partner's access to any benefit provided by the organisation;
 - (b) by depriving the member of membership or varying the terms of membership or,
 - (c) by subjecting the member to any other detriment.

6. **Discrimination in Education.**

- (1) No educational authority shall discriminate against a person on the ground of the person's disability:
 - (a) by refusing or failing to accept the person's application for admission as a student or,
 - (b) in the terms or conditions on which it is prepared to admit the person as a student.
- (2) No educational authority shall discriminate against a student on the ground of the student's disability:
 - (a) by denying or limiting the partner's access to any benefit provided by the educational authority;
 - (b) by expelling the student or,
 - (c) by subjecting the student to any other detriment.
- (3) This section does not render it unlawful to discriminate against a person on the ground of the person's disability in respect of admission to an educational institution established wholly or primarily for students who have a particular disability where the person does not have that particular disability.

7. **Discrimination in Access to public buildings.**

- (1) No person shall discriminate against another person on the ground of the other person's disability:
 - (a) by refusing to allow the other person access to, or the use of, any buildings or part of a building, that the public or a section of the public is entitled or allowed to enter or use (whether for payment or not);
 - (b) in the terms or conditions on which the first-mentioned person is prepared to allow the other person access to, or the use of, any such buildings;
 - (c) in relation to the provision of means of access to such buildings;
 - (d) by refusing to allow the other person the use of any facilities in such buildings that the public or a section of the public is entitled or allowed to use (whether for payment or not);

- (e) in the terms or conditions on which the first-mentioned person is prepared to allow the other person the use of any such facilities or,
- (f) by requiring the other person to leave such buildings or cease to use such facilities.

8. **Discrimination in the provision of** Goods, services and facilities.

- (1) No person who, whether for payment or not, provides goods or services, or makes facilities available shall discriminate against another person on the ground of the other person's disability:
 - (a) by refusing to provide the other person with those goods or services or to make those facilities available to the other person;
 - (b) in the terms or conditions on which the first-mentioned person provides the other person with those goods or services or makes those facilities available to the other person or,
 - (c) in the manner in which the first-mentioned person provides the other person with those goods or services or makes those facilities available to the other person.

9. **Discrimination in the provision of** Accommodation.

- (1) No person shall discriminate against another person on the ground of the other person's disability:
 - (a) by refusing the other person's application for accommodation;
 - (b) in the terms or conditions on which the accommodation is offered to the other person or,
 - (c) by deferring the other person's application for accommodation or according to the other person a lower order of precedence in any list of applicants for that accommodation.
- (2) No person shall discriminate against another person on the ground of the other person's disability:
 - (a) by denying or limiting the other person's access to any benefit associated with accommodation occupied by the other person;
 - (b) by evicting the other person from accommodation occupied by the other person or,
 - (c) by subjecting the other person to any other detriment in relation to accommodation occupied by the other person.

10. **Discrimination in** Land and properties.

- (1) No person shall discriminate against another person on the ground of the other person's disability:
 - (a) by refusing or failing to dispose of a land or property or interest in land or property to the other person or,
 - (b) in the terms or conditions on which a land or property or interest in land or property is offered to the other person.

11. **Discrimination in Sports and recreational activities.**
- (1) No person shall discriminate against another person on the ground of the other person's disability by excluding that other person from a sport or recreational activity.
 - (2) This section does not render unlawful discrimination against a person if:
 - (a) the person is not reasonably capable of performing the actions reasonably required in relation to the sports or recreational activity or,
 - (b) a sport activity is conducted only for persons who have a particular disability and the first-mentioned person does not have that disability.

PART 3. DISCRIMINATION INVOLVING HARASSMENT

1. Harassment in employment.
 - (1) No person shall, in relation to the disability, harass another person who:
 - (a) is an employee of that person and,
 - (b) has a disability.
 - (2) No person shall, in relation to the disability, harass another person who:
 - (a) is an employee of a person by whom the first-mentioned person is employed and,
 - (b) has a disability.
 - (3) No person shall, in relation to the disability, harass another person who:
 - (a) is seeking employment by the first-mentioned person or by an employer of the first-mentioned person and,
 - (b) has a disability.
2. Harassment in education.

No person who is a member of the staff of an educational institution shall, in relation to the disability, harass another person who:

 - (a) is a student at that educational institution or is seeking admission to that educational institution as a student and,
 - (b) has a disability.

~~PART 4. EXEMPTIONS.~~

- ~~1. Acts done under statutory authority.~~
~~This Part does not render unlawful anything done by a person in direct compliance with:~~
 - ~~(a) a statutory authority;~~
 - ~~(b) an order of a court or a tribunal or,~~
 - ~~(c) any law or regulation.~~
- ~~(2) Infectious diseases.~~
~~This Part does not render unlawful for a person to discriminate against another person on the ground of the other person's disability if:~~

There is fear that these exemptions will nullify the purpose of this Act.

- ~~(a) the person's disability is an infectious disease and,~~
~~(b) the discrimination is reasonably necessary to protect public health.~~

~~3. Commission may grant exemptions.~~

~~The Commission may, on application by an affected person, by notification in writing grant an exemption from the operation of a provision of Chapter iii Part 2 subject to such terms and conditions as are specified in the notice.~~

CHAPTER iii

PERSONS WITH DISABILITIES COMMISSION.

1. Establishment of the Commission.

An independent body to be known as Commission For Persons With Disabilities (elsewhere to be referred to as "the Commission") shall be established for the purpose of this act.

2. Membership.

The Commission shall comprise of the following members to be appointed by the Minister **in the Prime Minister's Department who is granted the sole task of promoting the rights and well-being of disabled persons:**

- (a) a Chairman, who shall also be the Executive Chairman of the Commission;
- (b) four persons ~~to represent~~ **from the various relevant the government departments and,**
- (c) four persons of individuals with disabilities or representing the organizations of persons with disabilities **and the composition of the Commission shall be such that the interest of a cross-section of the disabled groups are represented.**

They should not "represent" the government but instead act for the benefit of the disabled persons.

A person shall not be qualified for the appointment as members of the Commission unless he or she has substantial knowledge or practical experience in respect of matters relating to rehabilitation or other aspects of disabilities.

3. Terms of office.

Subject to the terms and conditions as stipulated in the letter of appointment, a member of the Commission shall hold office for a term not exceeding three years and shall be eligible for reappointment.

4. Remuneration and other expenses.

The Parliament shall allocate sufficient fund for remuneration of the members of the Commission and other expenses of the Commission.

The Commission may develop its own procedures relating to its general management **and procedures in investigating complaints.**

4A. Powers to delegate to committees at state and district levels.

5. Functions of the Commission.
- To exercise all the powers conferred on it by this Act.
 - To advise ~~the Minister with respect to disability discrimination~~ **and make recommendations to any Minister to ensure compliance with this Act and promotion of the rights of disabled persons.**
 - Submit reports to the to the Parliament on the implementation of the act.
 - Takes steps to safeguard the rights and facilities made available to persons with disability.
 - To promote an understanding and acceptance of, and compliance with, this Act.
 - To undertake research and educational programmes for the purpose of promoting the objects of this Act.
 - To prepare, and to publish in such manner as the Commission considers appropriate, guidelines for the avoidance of discrimination on the ground of disability.

The Executive Chairman of the Commission shall co-ordinate the work of the Commission and shall be responsible to the day to day running of the Commission. The other members shall discharge of their functions under the general superintendence of the Executive Chairman.

6. Commission to look in to complaints.

Without prejudice to the foregoing, the Commission may, of its own motion or on the application of any aggrieved person **or of any person acting on behalf of any aggrieved person**, look in to complaints with respect to matters relating to:

- deprivation of rights of persons with disability;
- non-implementation of laws, rules, bye-laws, regulations, executive orders, guidelines, or instructions made or issued by relevant authorities, institutions, corporate bodies and non-governmental organizations for the ~~welfare~~ **well-being** and protection of rights for persons with disability;
- and take up the matter with the appropriate authorities or bodies.

7. Commission to investigate.

For the purpose of discharging their functions of enquiries and investigations under this act, the

Commission shall have the same powers as are vested in a court under the Courts of Judicature act in respect of the following matters:

- Summoning and enforcing the attendance of witnesses;
- Requiring the discovery and production of any document;
- Requisitioning any public record or copy thereof from any court or office;
- Receiving evidence on affidavit.

It is necessary to ensure that the Commission is accessible to all disabled persons especially those in rural areas and outside Kuala Lumpur.

8. Prosecution.

After due investigation, if in the opinion of the Commission there is a violation of any provision of this act, the Commission ~~may take up~~ **shall refer** the matter to the ~~relevant prosecuting authority A-G's Office~~ for prosecution purposes.

It is important to ensure that the Com. has enough powers to carry out its functions and to make this Act meaningful and effective.

CHAPTER iv
OFFENCES.

(to be formulated in consultation with the Attorney-General office).

PREPARED BY,

(Mah Hassan Haji Omar)
Chairman
TWG On Legislation, NACCD.
President, Society of the Blind Malaysia.

Date: 16 September 2002

Besides penalties and punishments including those against government departments that infringe this Act, provisions should be made for the payment of compensation and damages to the aggrieved persons.