

BAHAMAS LEGISLATION TO ENABLE THE DISABLED

The Persons with Disabilities (Equal Opportunities) Act (the "Act") was enacted on 12 August 2014 and its provisions are being phased into operation. The first phase of implementation was as of 3 November 2014 and the second was as of 1 January 2016.

Various provisions which confer benefits on and recognise the rights of disabled persons were made effective in the first implementation phase. These include rights and benefits relating to obtaining devices and medical assistance; and access to training, counselling and family services so that disabled persons can be incorporated into the community. Access to and consideration for insurance, credit and lending services were also among the initial provisions, as was the provision facilitating voting by disabled persons with assistance of a third party.

Some provisions of the Act will be implemented incrementally. Section 34, which was brought into effect in November 2014, requires television stations to provide sign language insets, closed captioning or sub-titles in all newscasts, educational programmes, public notices, national emergencies and national events coverage. However, television stations have a two year window to become compliant, which ends on 3 November 2016.

The second implementation phase which commenced on 1 January 2016, includes sections 14 – 23, and 25; sections 27 – 29, sections 38 – 42; and sections 46 and 52. Sections 14 through 23 are concerned with disabled persons' access to employment as well as vocational and developmental training to perform within the labour force, and healthcare.

As of the commencement of the second implementation phase, a qualified disabled person must be subject to the same employment terms, conditions, privileges, compensation and benefits as a similarly qualified able-bodied person. Employers with more than 100 employees are required to have qualified disabled persons comprise at least 1% of their workforce. Additionally, employers are prohibited from discriminating against disabled persons in their recruitment and hiring practices, wages and salaries, pensions, leave or other employment benefits or any other matter relating to employment. However, employers will not be considered to have discriminated if the act complained of was not wholly or mainly attributable to the person's disability, the disability was a relevant consideration in the context of the particular type of employment, or if the facilities required are of a type that an employer could not reasonably be expected to provide.

Owners of buildings to which members of the public are given access will be required to adapt the building to allow free access to disabled persons. The adaptations of buildings are subject to any specifications made by the National Commission for Persons with Disabilities (the "Commission"). Building adaptations may be implemented incrementally but must be effected by January 2018 or such other date as the Minister may appoint. The Commission has power to make adjustment orders, requiring modifications to premises to facilitate access by disabled persons.

Certain exemptions and incentives are allowed under the Act. Items donated to institutions and organisations of or for disabled persons may be purchased or obtained free of customs duties and other taxes which would defeat the purpose or increase the cost of the donation. The Minister of Finance may grant incentives to local enterprises that manufacture assistive or adaptive devices for use by persons with disabilities.

Other provisions of the Act which became effective as of 1 January 2016 are:

- Persons providing public telephone services are required to install and maintain telephone devices adapted for the hearing and visually impaired.
- Polling places must be made accessible to persons with disabilities, and necessary devices, services and accommodations must be made to enable disabled persons to vote.
- The legal system must be adapted to accommodate disabled persons. In this connection, the Supreme Court Rules Committee is mandated to promulgate rules exempting disabled persons from paying filing fees and providing assisted services to enable their participation in proceedings before the Court.

Various offences have been created under the Act. They include denial of lending solely on the basis of a disability, denial of the right to apply for insurance coverage, concealment of disabled persons for purpose of denying access to opportunities under the Act, and voting contrary to the instructions of a disabled person. Offences under the Act are generally subject to the payment of a fine of \$5,000.00, imprisonment for up to three months or both.

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