**Annex IV**

**LEGISLATION IN FAVOUR OF PERSONS WITH DISABILITIES**

**1. The Training and Employment of Disabled Persons Act**

The Training and Employment of Disabled Persons Board (TEDPB) operates under the aegis of the Ministry of Social Integration, Social Security and National Solidarity and is governed by the Training and Employment of Disabled Persons Act 1996 (amended 2012). The Act provides for the workforce of all employers having 35 or more employees to include 3% of persons with disabilities.

The Training and Employment of Disabled Persons (Amendment) Act 2012, has aligned our domestic law with the provisions of the Convention. The definition of the term “disabled person” has been changed to reflect the new approach.

The human rights approach has been further emphasized in section 4 of the Act which describes the functions of the Board to include, inter alia, as follows:

“(a) prevent, as provided under Section 16[[1]](#footnote-1), discrimination against disabled persons resulting from or arising out of their disability;

(b) educate and sensitize employers on the importance of employing disabled persons and contribute to remove barriers or prejudices with regard to the employment of such persons…”

Another amendment brought to the Training and Employment of Disabled Persons Act by the 2012 amendments and which reflects the social model is the composition of the Board. Prior to the 2012 amendments, it was mandatory to have a medical director on the B. To show that disability is not a medical issue per se, this provision has been done away with. Previously, law provided for “4 persons appointed by the Minister to represent the interests of disabled persons” on the Board. However, to ensure disability representation, this has been changed allowing disabled persons themselves to sit on the Board as provided by *section 3 (3) (i)* of the Act[[2]](#footnote-2).

Moreover, after the 2012 amendments, the Act now provides for a mediation mechanism in the form of a Hearing Committee.

**2. The National Council for the Rehabilitation of Disabled Persons Act**

The National Council for the Rehabilitation of Disabled Persons (NCRD) was established as a body corporate under the National Council for the Rehabilitation of Disabled Persons Act 1986 and operates under the aegis of the Ministry of Social Integration, Social Security and National Solidarity. Its main objective is to promote the welfare of persons with disabilities. *Section 4* of the Act provides the objects of the NCRD to be as follows:

 *(a) co-ordinate the activities of voluntary organisations catering for disabled persons;*

 *(b) promote the development and expansion of rehabilitative services;*

 *(c) advise the Minister on all aspects of the rehabilitation of disabled persons;*

 *(d) co-ordinate with private international and national agencies engaged in the rehabilitation of disabled persons and to disseminate technical information received from these sources;*

 *(e) promote the welfare of disabled persons.*

**3. The Building Control Act**

Section 3 of the Building Control Act provides that every building should, among others, satisfy functional requirements such as accessibility, in order to ensure that persons with impaired mobility and communication, elderly persons and pregnant women are able to access and use the building and the facilities within the building comfortably.

In conformity with the Act, the Building Control (Accessibility and Gender compliance in Buildings) Regulations have been promulgated and are effective since 1 November 2017, to make provision for inclusion of accessibility and gender compliance features such as ramps, audio-visual signage and others in buildings which are aimed mainly for public use.

**4. The National Disaster Risk Reduction and Management Act**

The National Disaster Risk Reduction and Management Act was promulgated in 2016 and provides for safe evacuation of persons including those with disabilities in situations of risk and humanitarian emergencies.

**5. The Equal Opportunities Act**

The Equal Opportunities Act, in force since 2008, promotes equality, prohibits discrimination on the basis of status and by victimization. The Act specifically prohibits discrimination on the basis of impairment, providing a very broad definition of impairment to cater for all types of impairment at its *section 2*, which reads as follows:

“impairment” means –

(a) total or partial loss of a bodily function;

(b) the presence in the body of organisms that may cause disease;

(c) total or partial loss of a part of the body;

(d) malfunction of a part of the body, including –

(i) a mental or psychological disease or disorder;

(ii) a condition or disorder that results in a person learning more slowly than people who do not have that condition or disorder;

(e) malformation or disfigurement of a part of the body…”

**6. The Copyrights Act**

Mauritius has already domesticated the provisions of the Marrakesh Treaty by promulgating the Copyrights Act. *Section 23* of the Act authorizes the reproduction of published works, without the authorization of the author but subject to certain conditions, in alternative manner or form for the benefit of blind, visually impaired and print disabled to ensure greater accessibility of publications to individuals having a visual impairment.

**7. The Special Education Needs Authority Act**

Ministry of Education, Tertiary Education, Science and Technology has implemented, since 2006, the policy of ‘inclusive education’. A Special Education Needs Authority Act has been promulgated in 2018 with the main objective of providing for the establishment of a Special Education Needs Authority which has the mandate for:

1. monitoring and facilitating the implementation of special education needs policies of the Government;

(b) advising the Minister on the formulation of policies and on the criteria for the registration of –

(i) special education needs institutions;

(ii) the teaching and non-teaching staff, and any other resource person, of special education needs institutions;

(c) providing guidelines for the design and development of curriculum for special education needs;

(d) the harmonisation and promotion of programmes and policies for the education and holistic development of persons with special education needs in line with the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities.[[3]](#footnote-3)

**8. The Workers’ Rights Act**

The Workers’ Rights Act (WRA), was enacted last year is a very progressive piece of legislation providing a comprehensive legislative framework for the protection of workers. Provision has been made in the Act for protection of workers with disabilities, notably by ensuring equal treatment for all workers, including those with disabilities.

The said Act makes it clear that no prospective employer shall treat a person in a discriminatory manner in respect of access to employment, discrimination here being defined as affording different treatment to different workers attributable, wholly or mainly, inter alia, to their impairment, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation. Breach of section 5 of the WRA is an offence.

The WRA also criminalises harassment which, in relation to a worker, includes any unwanted conduct towards the worker, whether verbal, non-verbal, visual, psychological or physical, based on, inter alia, impairment, which occurs in circumstances where a reasonable person would consider the conduct as harassment of the worker;

**9. The Sports Act**

The Sports Act, which regulates the status of sports persons locally and provides a framework for holding sports events, makes provision for participation of persons with disabilities in sport activities both at national and international level, on the principles of good governance, transparency, democracy, fairness and non-discrimination. The definition of “athlete” itself includes, inter alia, persons with a disability engaged in sports activities and a “person with disability” includes a person who has long-term physical, mental, intellectual or sensory impairments which, in interaction with various barriers, may hinder his full and effective participation in society on an equal basis with other persons.

The Act, inter alia, provides for

1. “handisports”, which means sports for persons with disabilities, including its promotion and development; and

a Mauritius Paralympic Committee grouping all National Sports Federations catering for persons with a disability and which shall be an organisation registered under the Registration of Associations Act; the Mauritius Paralympic Committee is affiliated with the International Paralympic Committee, coordinates the participation of persons with disability in the sport in which they compete and consists of members catering for persons with a disability.

**10. The Excise Regulations**

Excise (Amendment of Schedule) Regulations 2012 provides for duty-concessions to persons with disabilities or the parents of disabled children, for the purchase of specifically designed vehicles for conveyance of with disabilities.

**11. The National Pensions Act (1976)**

The National Pensions Act defines disability as follows:-

"disabled" means-

(i) “for the purpose of sections 8, 21 and 28 (3), suffering from a disablement of not less than 60% and resulting from loss of mental or physical faculty”;

(ii) “for the purpose of section 26, suffering from a disablement of not less than one per cent and resulting from a loss of mental or physical faculty caused by an industrial accident or a prescribed disease”;

The Act provides for an “invalid’s basic pension” which refers to a basic pension that a person shall be qualified to receive where

 (a) he is disabled and is likely to be so disabled for a period of at least 12 months; and

 (b) he is under the age of 60.

Also, under the aforementioned Act, where an insured person has not reached retiring age, is wholly or substantially disabled and is likely to be so disabled either permanently or for at least 12 months, he shall be entitled to an invalid’s contributory pension together with other allowances (depending on the nature of the injury and/or disablement).

Moreover, where an employee is disabled, he shall be entitled to a disablement pension.

The National Pensions Act was amended in July 2016 to remove the minimum age requirement which existed previously for persons benefitting from a Basic Invalidity Pension. Only a person with a disability above the age of 15 years was eligible to apply for the benefit. Following the 2016 amendments, children below 15 years of age, with a disability, are also entitled to receive the Basic Invalidity Pension. Consequently, more than 3,000 children with disabilities are now benefitting from this financial help.

**12. The Protection from Domestic Violence Act**

The Protection from Domestic Violence Act (1997) provides for the issue of protection orders, occupation orders and tenancy orders to victims of domestic violence irrespective of their disabilities. The Protection from Domestic Violence Act has been amended in 2004 and 2007 to make it more responsive to the needs of victims of domestic violence. The amendments brought in 2007 now allows the Courts to wider discretionary powers, including the issue of an ancillary order as to alimony in respect to an aggrieved spouse or child. Further amendments brought in 2011 provide for uniformity and consistency in the procedure for the hearing of application for protection orders, occupation orders and tenancy orders. The Act was again amended in 2016 to provide for harsher punishments to perpetrators of domestic violence especially for acts of violence committed upon the elderly and persons with disabilities.

**13. The Child Protection Act**

The Child Protection Act was passed in 1995 to promote the welfare and provide protection to all children including those with disabilities in the Republic of Mauritius. The Act provides for protection from ill treatment, child trafficking, removal from place of safety, abandonment of child, child abduction, sexual offences, mendicity amongst others. For this purpose, there are several orders that can be issued by the Court accordingly such as emergency protection orders and mentoring orders.

**14. The Society for the Welfare of the Deaf Act**

The Society for the Welfare of the Deaf Act was enacted in 1968 with the following objectives[[4]](#footnote-4):

*(a) aid, train and educate all deaf persons;*

*(b) assist deaf persons in obtaining medical treatment and suitable employment;*

*(c) grant deaf persons any material relief of which they may be in need; and*

*(d) erect, open and manage training centres, schools and hostels for deaf persons.*

**15. The Lois Lagesse Trust Fund Act**

The Lois Lagesse Trust Fund Act was enacted in 1983 with the objectives to:

*(a) aid, train and educate all blind persons in Mauritius;*

*(b) assist blind persons in obtaining medical treatment and suitable employment;*

*(c) set up and manage training centres, schools and hostels for the blind;*

*(d) cater for the general welfare of the blind.[[5]](#footnote-5)*

**16. The National Solidarity Fund Act**

The National Solidarity Fund Act was passed in 1991. It establishes a National Solidarity Fund the objects of which includes providing financial assistance to citizens of Mauritius including persons with disabilities who may require surgical operations which can only be performed abroad or in medical institutions in Mauritius approved by the Ministry responsible for the subject of health as well as for other personal hardships including redundancy.

**17. The Courts Act**

*The Courts Act of 1945* provides for cases where the language used in any proceedings is other than English. A person who is required to give evidence, may give his evidence in the language which he is best acquainted with. Thus where a witness in proceedings in unable, on account of a disability to give evidence in English, French or Creole, the Court will have recourse to an interpreter. There would be similar interpretation if an accused party was unable to follow the proceedings on account of a disability.

Section 31 provides that “All interpreters appointed by the Public Service Commission shall be deemed to be clerks attached to the Supreme Court” and that “They shall be subject, as officers of the Court, to the control of the Chief Justice and they shall perform such duties, including clerical duties as the Chief Justice may direct.”

Section 132 provides that “Any person appointed to act as interpreter at the Intermediate Court or any District Court may, in addition to his duties as interpreter, be assigned such other duties as the Magistrate having the supervision of the Court may determine.”

**18. Legal Aid and Legal Assistance Act**

Any person, including person with disabilities, requiring legal aid as a party to civil or criminal proceedings or legal assistance where he has been charged with a prescribed criminal offence can make a written application to the authority[[6]](#footnote-6) under the Legal Aid and Assistance Act provided his assets are not worth Rs 500,000 and his monthly earnings are less 10,000.

1. Prohibition of discrimination, now repealed by The Equal Opportunities Act 2008 which is a special law designed to promote equal opportunity between persons and prohibit discrimination on the ground of status and by victimisation. [↑](#footnote-ref-1)
2. 3. Establishment of the Board
(3) The Board shall consist of—…(i) 4 disabled persons, to be appointed by the Minister on the recommendation of the National Council for the Rehabilitation of Disabled Persons [↑](#footnote-ref-2)
3. *section 4 of the Special Education Needs Authority Act* [↑](#footnote-ref-3)
4. *Section 3 of the Act* [↑](#footnote-ref-4)
5. *Section 4 of the Act* [↑](#footnote-ref-5)
6. *“Authority” means—*

*(a) in respect of proceedings before the Supreme Court or a Court of Appeal, the Chief Justice or a Judge designated by him;*

*(b) in respect of proceedings before any other Court, a Magistrate of that Court;* [↑](#footnote-ref-6)