

REPUBLIC ACT NO. 7277

AN ACT PROVIDING FOR THE REHABILITATION, SELF-DEVELOPMENT AND SELF-RELIANCE OF DISABLED PERSONS AND THEIR INTEGRATION INTO THE MAINSTREAM OF SOCIETY AND FOR OTHER PURPOSES.

TITLE I
GENERAL PROVISIONS

CHAPTER I
BASIC PRINCIPLE

Section 1. Title. — This Act shall be known and cited as the "*Magna Carta for Disabled Persons.*"

Sec. 2. Declaration of Policy — The grant of the rights and privileges for disabled persons shall be guided by the following principles:

(a) Disabled persons are part of Philippine society, thus the State shall give full support to the improvement of the total well-being of disabled persons and their integration into the mainstream of society. Toward this end, the State shall adopt policies ensuring the rehabilitation, self-development and self-reliance of disabled persons. It shall develop their skills and potentials to enable them to compete favorably for available opportunities.

(b) Disabled persons have the same rights as other people to take their proper place in society. They should be able to live freely and as independently as possible. This must be the concern of everyone — the family, community and all government and nongovernment organizations. Disabled persons' rights must never be perceived as welfare services by the Government.

(c) The rehabilitation of the disabled persons shall be the concern of the Government in order to foster their capacity to attain a more meaningful, productive and satisfying life. To reach out to a greater number of disabled persons, the rehabilitation services and benefits shall be expanded beyond the traditional urban-based centers to community based programs, that will ensure full participation of different sectors as supported by national and local government agencies.

(d) The State also recognizes the role of the private sector in promoting the welfare of disabled persons and shall encourage partnership in programs that address their needs and concerns.

(e) To facilitate integration of disabled persons into the mainstream of society, the State shall advocate for and encourage respect for disabled persons. The State shall exert all

efforts to remove all social, cultural, economic, environmental and attitudinal barriers that are prejudicial to disabled persons.

Sec. 3. Coverage. — This Act shall cover all disabled persons and, to the extent herein provided, departments, offices and agencies of the National Government or nongovernment organizations involved in the attainment of the objectives of this Act.

Sec. 4. Definition of Terms. — For purposes of this Act, these terms are defined as follows:

(a) Disabled persons are those suffering from restriction or different abilities, as a result of a mental, physical or sensory impairment, to perform an activity in the manner or within the range considered normal for a human being;

(b) Impairment is any loss, diminution or aberration of psychological, physiological, or anatomical structure or function;

(c) Disability shall mean 1) a physical or mental impairment that substantially limits one or more psychological, physiological or anatomical function of an individual or activities of such individual; 2) a record of such an impairment; or 3) being regarded as having such an impairment;

(d) Handicap refers to a disadvantage for a given individual, resulting from an impairment or a disability, that limits or prevents the function or activity, that is considered normal given the age and sex of the individual;

(e) Rehabilitation is an integrated approach to physical, social, cultural, spiritual, educational and vocational measures that create conditions for the individual to attain the highest possible level of functional ability;

(f) Social Barriers refer to the characteristics of institutions, whether legal, economic, cultural, recreational or other, any human group, community, or society which limit the fullest possible participation of disabled persons in the life of the group. Social barriers include negative attitudes which tend to single out and exclude disabled persons and which distort roles and inter-personal relationships;

(g) Auxiliary Aids and Services include:

(1) qualified interpreters or other effective methods of delivering materials to individuals with hearing impairments;

(2) qualified readers, taped tests, or other effective methods of delivering materials to individuals with visual impairments;

(3) acquisition or modification of equipment or devices; and

(4) other similar services and actions or all types of aids and services that facilitate the learning process of people with mental disability.

(h) Reasonable Accommodation include 1) improvement of existing facilities used by employees in order to render these readily accessible to and usable by disabled persons; and 2) modification of work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustments or modifications of examinations, training materials or company policies, rules and regulations, the provision of auxiliary aids and services, and other similar accommodations for disabled persons;

(i) Sheltered Employment refers to the provision of productive work for disabled persons through workshops providing special facilities, income-producing projects or homework schemes with a view to giving them the opportunity to earn a living thus enabling them to acquire a working capacity required in open industry;

(j) Auxiliary Social Services are the supportive activities in the delivery of social services to the marginalized sectors of society;

(k) Marginalized Disabled Persons refer to disabled persons who lack access to rehabilitative services and opportunities to be able to participate fully in socioeconomic activities and who have no means of livelihood and whose incomes fall below the poverty threshold;

(l) Qualified Individual with a Disability shall mean an individual with a disability who, with or without reasonable accommodations, can perform the essential functions of the employment position that such individual holds or desires. However, consideration shall be given to the employer's judgment as to what functions of a job are essential, and if an employer has prepared a written description before advertising or interviewing applicants for the job, this description shall be considered evidence of the essential functions of the job;

(m) Readily Achievable means a goal can be easily attained and carried out without much difficulty or expense. In determining whether an action is readily achievable, factors to be considered include —

(1) the nature and cost of the action;

(2) the overall financial resources of the facility or facilities involved in the action; the number of persons employed at such facility; the effect on expenses and resources, or the impact otherwise of such action upon the operation of the facility;

(3) the overall financial resources of the covered entity with respect to the number of its employees; the number, type and location of its facilities; and

(4) the type of operation or operations of the covered entity, including the composition, structure and functions of the work force of such entity; the geographic separateness,

administrative or fiscal relationship of the facility or facilities in question to the covered entity.

(n) Public Transportation means transportation by air, land and sea that provides the public with general or special service on a regular and continuing basis;

(o) Covered Entity means an employer, employment agency, labor organization or joint-labor management committee; and

(p) Commerce shall be taken to mean as travel, trade, traffic, commerce, transportation, or communication among the provinces or between any foreign country or any territory or possession and any province.

TITLE II RIGHTS AND PRIVILEGES OF DISABLED PERSONS

CHAPTER I EMPLOYMENT

Sec. 5. Equal Opportunity for Employment. — No disable person shall be denied access to opportunities for suitable employment. A qualified disabled employee shall be subject to the same terms and conditions of employment and the same compensation, privileges, benefits, fringe benefits, incentives or allowances as a qualified able bodied person.

Five percent (5%) of all casual emergency and contractual positions in the Departments of Social Welfare and Development; Health; Education, Culture and Sports; and other government agencies, offices or corporations engaged in social development shall be reserved for disabled persons.

Sec. 6. Sheltered Employment — If suitable employment for disabled persons cannot be found through open employment as provided in the immediately preceding Section, the State shall endeavor to provide it by means of sheltered employment. In the placement of disabled persons in sheltered employment, it shall accord due regard to the individual qualities, vocational goals and inclinations to ensure a good working atmosphere and efficient production.

Sec. 7. Apprenticeship. — Subject to the provisions of the Labor Code as amended, disabled persons shall be eligible as apprentices or learners: Provided, That their handicap is not as much as to effectively impede the performance of job operations in the particular occupation for which they are hired; Provided, further, That after the lapse of the period of apprenticeship, if found satisfactory in the job performance, they shall be eligible for employment.

Sec. 8. Incentives for Employers. — (a) To encourage the active participation of the private sector in promoting the welfare of disabled persons and to ensure gainful employment for qualified disabled persons, adequate incentives shall be provided to private entities which employ disabled persons.

(b) Private entities that employ disabled persons who meet the required skills or qualifications, either as regular employee, apprentice or learner, shall be entitled to an additional deduction, from their gross income, equivalent to twenty-five percent (25%) of the total amount paid as salaries and wages to disabled persons: Provided, however, That such entities present proof as certified by the Department of Labor and Employment that disabled persons are under their employ: Provided, further, That the disabled employee is accredited with the Department of Labor and Employment and the Department of Health as to his disability, skills and qualifications.

(c) Private entities that improve or modify their physical facilities in order to provide reasonable accommodation for disabled persons shall also be entitled to an additional deduction from their net taxable income, equivalent to fifty percent (50%) of the direct costs of the improvements or modifications. This Section, however, does not apply to improvements or modifications of facilities required under Batas Pambansa Bilang 344.

Sec. 9. Vocational Rehabilitation. — Consistent with the principle of equal opportunity for disabled workers and workers in general, the State shall take appropriate vocational rehabilitation measures that shall serve to develop the skills and potentials of disabled persons and enable them to compete favorably for available productive and remunerative employment opportunities in the labor market.

The State shall also take measures to ensure the provision of vocational rehabilitation and livelihood services for disabled persons in the rural areas. In addition, it shall promote cooperation and coordination between the government and nongovernmental organizations and other private entities engaged in vocational rehabilitation activities.

The Department of Social Welfare and Development shall design and implement training programs that will provide disabled persons with vocational skills to enable them to engage in livelihood activities or obtain gainful employment. The Department of Labor and Employment shall likewise design and conduct training programs geared towards providing disabled persons with skills for livelihood.

Sec. 10. Vocational Guidance and Counseling. — The Department of Social and Welfare and Development, shall implement measures providing and evaluating vocational guidance and counseling to enable disabled persons to secure, retain and advance in employment. It shall ensure the availability and training of counselors and other suitably qualified staff responsible for the vocational guidance and counseling of disabled persons.

Sec. 11. Implementing Rules and Regulations. — The Department of Labor and Employment shall in coordination with the Department of Social Welfare and Development (DSWD) and National Council for the Welfare of the Disabled Persons (NCWDP) shall promulgate the rules and regulations necessary to implement the provisions under this Chapter.

CHAPTER II EDUCATION

Sec. 12. Access to Quality Education. — The State shall ensure that disabled persons are provided with access to quality education and ample opportunities to develop their skills. It shall take appropriate steps to make such education accessible to all disabled persons. It shall be unlawful for any learning institution to deny a disabled person admission to any course it offers by reason of handicap or disability.

The State shall take into consideration the special requirements of disabled persons in the formulation of educational policies and programs. It shall encourage learning institutions to take into account the special needs of disabled persons with respect to the use of school facilities, class schedules, physical education requirements, and other pertinent consideration.

The State shall also promote the provision by learning institutions, especially higher learning institutions of auxiliary services that will facilitate the learning process for disabled persons.

Sec. 13. Assistance to Disabled Students. — The State shall provide financial assistance to economically marginalized but deserving disabled students pursuing post secondary or tertiary education. Such assistance may be in the form of scholarship grants, student loan programs, subsidies, and other incentives to qualified disabled students in both public and private schools. At least five percent (5%) of the allocation for the Private Education Student Financial Assistance Program created by virtue of R.A. 6725 shall be set aside for disabled students pursuing vocational or technical and degree courses.

Sec. 14. Special Education. — The State shall establish, maintain and support complete, adequate and integrated system of special education for the visually impaired, hearing impaired, mentally retarded persons and other types of exceptional children in all regions of the country. Toward this end, the Department of Education, Culture and Sports shall establish, special education classes in public schools in cities, or municipalities. It shall also establish, where viable, Braille and Record Libraries in provinces, cities or municipalities.

The National Government shall allocate funds necessary for the effective implementation of the special education program nationwide. Local government units may likewise appropriate counterpart funds to supplement national funds.

Sec. 15. Vocational or Technical and Other Training Programs. — The State shall provide disabled persons with training in civics, vocational efficiency, sports and physical fitness, and other skills. The Department of Education, Culture and Sports shall establish in at least one government-owned vocational and technical school in every province a special vocational and technical training program for disabled persons. It shall develop and implement sports and physical fitness programs specifically designed for disabled persons taking into consideration the nature of their handicap.

Sec. 16. Non-Formal Education. — The State shall develop non-formal education programs intended for the total human development of disabled persons. It shall provide adequate resources for non-formal education programs and projects that cater to the special needs of disabled persons.

Sec. 17. State Universities and Colleges. — If viable and needed, the State University or State College in each region or province shall be responsible for (a) the development of material appliances and technical aids for disabled persons; (b) the development of training materials for vocational rehabilitation and special education instructions; (c) the research on special problems, particularly of the visually-impaired, hearing-impaired, speech-impaired, and orthopedically-impaired students, mentally retarded, and multi-handicapped and others, and the elimination of social barriers and discrimination against disabled persons; and (d) inclusion of the Special Education for Disabled (SPED) course in the curriculum.

The National Government shall provide these state universities and colleges with necessary special facilities for visually-impaired, hearing-impaired, speech-impaired, and orthopedically-impaired students. It shall likewise allocate the necessary funds in support of the above.

CHAPTER III HEALTH

Sec. 18. National Health Program. — The Department of Health in coordination with the National Council for the Welfare of Disabled Persons, shall institute a national health program which shall aim to attain the following:

- (a) prevention of disability, whether occurring prenatally or postnatally;
- (b) recognition and early diagnosis of disability; and
- (c) early rehabilitation of the disabled.

Sec. 19. Rehabilitation Centers. — The Department of Health shall establish medical rehabilitation centers in government provincial hospitals, and shall include in its annual appropriation the necessary funds for the operation of such centers.

The Department of Health shall formulate and implement a program to enable marginalized disabled persons to avail of free rehabilitation services in government hospitals.

Sec. 20. Health Services. — The State shall protect and promote the right to health of disabled persons and shall adopt an integrated and comprehensive approach to their health development which shall make essential health services available to them at affordable cost.

The National Government shall provide an integrated health service for disabled persons which shall include, but not limited to, the following:

(a) prevention of disability through immunization, nutrition, environmental protection and preservation, and genetic counseling; and early detection of disability and timely intervention to arrest disabling condition; and

(b) medical treatment and rehabilitation.

The Department of Health shall field medical personnel specializing in the treatment and rehabilitation of disabled persons to provincial hospitals and, when viable, to municipal health centers. It shall also train its field health personnel in the provision of medical attention to disabled persons. It shall further ensure that its field health units have the necessary capabilities to fit prosthetic and orthotic appliances on disabled persons.

CHAPTER IV AUXILIARY SOCIAL SERVICES

Sec. 21. Auxiliary Social Services. — The State shall ensure that marginalized persons are provided with the necessary auxiliary services that will restore their social functioning and participation in community affairs. Towards this end, the Department of Social Welfare and Development shall develop and implement programs on auxiliary social services that respond to the needs of marginalized disabled persons. The components of such a program shall be as follows:

(a) assistance in the acquisition of prosthetic devices and medical intervention of specialty services;

(b) provision of specialized training activities designed to improve functional limitations of disabled persons related to communication skills;

(c) development among disabled persons of a positive self-image through the provision of counseling, orientation and mobility and strengthening daily living capability;

(d) provision of family care services geared towards developing the capability of families to respond to the needs of the disabled members of the family;

(e) provision of substitute family care services and the facilities therefor for abandoned, neglected, abused and unattached disabled persons who need custodial care;

(f) provision of after care and follow-up services for the continued rehabilitation in a community-based setting of disabled persons who were released from residential care or rehabilitation centers; and

(g) provision of day care services for disabled children of pre-school age.

CHAPTER V TELECOMMUNICATIONS

Sec. 22. Broadcast Media. — Television stations shall be encouraged to provide a sign—language inset or subtitles in at least one (1) newscast program a day and special programs covering events of national significance.

Sec. 23. Telephone Services. — All telephone companies shall be encouraged to install special telephone devices or units for the hearing-impaired and ensure that they are commercially available to enable them to communicate through the telephone system.

Sec. 24. Free Postal Charges for the Disabled. — Postal charges shall be free on the following:

(a) articles and literatures like books and periodicals, orthopedic and other devices, and teaching aids for the use of the disabled sent by mail within the Philippines and abroad; and

(b) aids and orthopedic devices for the disabled sent by abroad by mail for repair:

Provided, That the aforesaid items are for personal purposes only: Provided, further, That the disabled person is a marginalized disabled as certified by the Social Welfare and Development Office of the local government unit concerned or the Department of Social Welfare and Development.

CHAPTER VI ACCESSIBILITY

Sec. 25. Barrier-Free Environment. — The State shall ensure the attainment of a barrier-free environment that will enable disabled persons to have access in public and private buildings and establishments and such other places mentioned in Batas Pambansa Bilang 344, otherwise known as the "Accessibility Law".

The national and local governments shall allocate funds for the provision of architectural facilities or structural features for disabled persons in government buildings and facilities.

Sec. 26. Mobility. — The State shall promote the mobility of disabled persons. Disabled persons shall be allowed to drive motor vehicles, subject to the rules and regulations issued by the Land Transportation Office pertinent to the nature of their disability and the appropriate adaptations or modifications made on such vehicles.

Sec. 27. Access to Public Transport Facilities. — The Department of Social Welfare and Development shall develop a program to assist marginalized disabled persons gain access in the use of public transport facilities. Such assistance may be in the form of subsidized transportation fare.

The said department shall also allocate such funds as may be necessary for the effective implementation of the public transport program for the disabled persons.

The "Accessibility Law", as amended, shall be made suppletory to this Act.

Sec. 28. Implementing Rules and Regulations. — The Department of Transportation and Communications shall formulate the rules and regulations necessary to implement the provisions of this Chapter.

CHAPTER VII POLITICAL AND CIVIL RIGHTS

Sec. 29. System of Voting. — Disabled persons shall be allowed to be assisted by a person of his choice in voting in the national or local elections. The person thus chosen shall prepare the ballot for the disabled voter inside the voting booth. The person assisting shall bind himself in a formal document under oath to fill out the ballot strictly in accordance with the instructions of the voter and not to reveal the contents of the ballot prepared by him. Violation of this provision shall constitute an election offense. Polling places should be made accessible to disabled persons during national or local elections.

Sec. 30. Right to Assemble. — Consistent with the provisions of the Constitution, the State shall recognize the right of disabled persons to participate in processions, rallies, parades, demonstrations, public meetings, and assemblages or other forms of mass or concerned action held in public.

Sec. 31. Right to Organize. — The State recognizes the right of disabled persons to form organizations or associations that promote their welfare and advance or safeguard their interests. The National Government, through its agencies, instrumentalities and subdivisions, shall assist disabled persons in establishing self-help organizations by providing them with necessary technical and financial assistance.

Concerned government agencies and offices shall establish close linkages with organizations of the disabled persons in order to respond expeditiously to the needs of disabled persons. National line agencies and local government units shall assist disabled persons in setting up specific projects that will be managed like business propositions.

To ensure the active participation of disabled persons in the social and economic development of the country, their organizations shall be encouraged to participate in the planning, organization and management of government programs and projects for disabled persons.

Organizations of disabled persons shall participate in the identification and preparation of programs that shall serve to develop employment opportunities for the disabled persons.

TITLE III
PROHIBITION ON DISCRIMINATION AGAINST DISABLED PERSONS

CHAPTER I
DISCRIMINATION ON EMPLOYMENT

Sec. 32. Discrimination on Employment. — No entity, whether public or private, shall discriminate against a qualified disabled person by reason of disability in regard to job application procedures, the hiring, promotion, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment. The following constitute acts of discrimination:

(a) Limiting, segregating or classifying a disabled job applicant in such a manner that adversely affects his work opportunities;

(b) Using qualification standards, employment tests or other selection criteria that screen out or tend to screen out a disabled person unless such standards, tests or other selection criteria are shown to be job-related for the position in question and are consistent with business necessity;

(c) Utilizing standards, criteria, or methods of administration that:

(1) have the effect of discrimination on the basis of disability; or

(2) perpetuate the discrimination of others who are subject to common administrative control.

(d) Providing less compensation, such as salary, wage or other forms of remuneration and fringe benefits, to a qualified disabled employee, by reason of his disability, than the amount to which a non-disabled person performing the same work is entitled;

(e) Favoring a non-disabled employee over a qualified disabled employee with respect to promotion, training opportunities, study and scholarship grants, solely on account of the latter's disability;

(f) Re-assigning or transferring a disabled employee to a job or position he cannot perform by reason of his disability;

(g) Dismissing or terminating the services of a disabled employee by reason of his disability unless the employer can prove that he impairs the satisfactory performance of the work involved to the prejudice of the business entity: Provided, however, That the employer first sought to provide reasonable accommodations for disabled persons;

(h) Failing to select or administer in the most effective manner employment tests which accurately reflect the skills, aptitude or other factor of the disabled applicant or

employee that such tests purports to measure, rather than the impaired sensory, manual or speaking skills of such applicant or employee, if any; and

(i) Excluding disabled persons from membership in labor unions or similar organizations.

Sec. 33. Employment Entrance Examination. — Upon an offer of employment, a disabled applicant may be subjected to medical examination, on the following occasions:

(a) all entering employees are subjected to such an examination regardless of disability;

(b) information obtained during the medical condition or history of the applicant is collected and maintained on separate forms and in separate medical files and is treated as a confidential medical record; Provided, however, That:

(1) supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employees and necessary accommodations;

(2) first aid and safety personnel may be informed, when appropriate, if the disability may require emergency treatment;

(3) government officials investigating compliance with this Act shall be provided relevant information on request; and

(4) the results of such examination are used only in accordance with this Act.

CHAPTER II DISCRIMINATION ON TRANSPORTATION

Sec. 34. Public Transportation. — It shall be considered discrimination for the franchisees or operators and personnel of sea, land, and air transportation facilities to charge higher fare or to refuse to convey a passenger, his orthopedic devices, personal effects, and merchandise by reason of his disability.

CHAPTER III DISCRIMINATION ON THE USE OF PUBLIC ACCOMMODATIONS AND SERVICES

Sec. 35. Public Accommodations and Services. — For purposes of this Chapter, public accommodations and services shall include the following:

(a) an inn, hotel, motel, or other place of lodging, except for an establishment located within a building that contains not more than five (5) rooms for rent or hire and that is actually occupied by the proprietor of such establishment as the residence of such proprietor;

(b) a restaurant, bar, or other establishment serving food or drink;

(c) a motion picture, theater, concert hall, stadium, or other place of exhibition or entertainment;

(d) an auditorium, convention center, lecture hall, or other place of public gathering;

(e) a bakery, grocery store, hardware store, shopping center, or other sales or rental establishment;

(f) a bank, barber shop, beauty shop, travel service, funeral parlor, gas station, office of a lawyer, pharmacy, insurance office, professional office of a health care provider, hospital or other service establishment;

(g) a terminal, depot, or other station used for specified public transportation;

(h) a museum, gallery, library or other place of public display or collection;

(i) a park, zoo, amusement park, or other place of recreation;

(j) a nursery, elementary, secondary, undergraduate, or post-graduate private school, or other place of education;

(k) a gymnasium, health spa, bowling alley, golf course; or

(l) other place of exercise or recreation.

Sec. 36. Discrimination on the Use of Public Accommodations. — (a) No disabled person shall be discriminated on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages or accommodations of any place of public accommodation by any person who owns, leases, or operates a place of public accommodation. The following constitute acts of discrimination:

(1) denying a disabled person, directly or through contractual, licensing, or other arrangement, the opportunity to participate in or benefit from the goods, services, facilities, privileges, advantages, or accommodations of an entity by reason of his disability;

(2) affording a disabled person, on the basis of his disability, directly or through contractual, licensing, or other arrangement, with the opportunity to participate in or benefit from a good service, facility, privilege, advantage, or accommodation that is not equal to that afforded to other able-bodied persons; and

(3) providing a disabled person, on the basis of his disability, directly or through contractual, licensing, or other arrangement, with a good, service, facility, advantage, privilege, or accommodation that is different or separate form that provided to other able-bodied persons unless such action is necessary to provide the disabled person with a good, service, facility, advantage, privilege, or accommodation, or other opportunity that is as effective as that provided to others;

For purposes of this Section, the term "individuals or class of individuals" refers to the clients or customers of the covered public accommodation that enters into the contractual, licensing or other arrangement.

(b) Integrated Settings — Goods, services, facilities, privileges, advantages, and accommodations shall be afforded to individual with a disability in the most integrated setting appropriate to the needs of the individual.

(c) Opportunity to Participate — Notwithstanding the existence of separate or different programs or activities provided in accordance with this Section, an individual with a disability shall not be denied the opportunity to participate in such programs or activities that are not separate or different.

(d) Association — It shall be discriminatory to exclude or otherwise deny equal goods, services, facilities, advantages, privileges, accommodations or other opportunities to an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association.

(e) Prohibitions — For purposes of this Section, the following shall be considered as discriminatory:

(1) the imposition or application of eligibility criteria that screen out or tend to screen out an individual with a disability or any class or individuals with disabilities from fully and equally enjoying any goods, services, facilities, privileges, advantages, or accommodations, unless such criteria can be shown to be necessary for the provision of the goods, services, facilities, privileges, or accommodations being offered;

(2) a failure to make reasonable modifications in policies, practices, or procedures, when such modifications are necessary to afford such goods, services, facilities, privileges, advantages, or accommodations to individuals with disabilities, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of the goods, facilities, services, privileges, advantages, or accommodations;

(3) failure to take such steps as may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services, unless the entity can demonstrate that taking such steps would fundamentally alter the nature of the good, service, facility, privilege, advantage or accommodation being offered or would result in undue burden;

(4) a failure to remove architectural barriers, and communication barriers that are structural in nature, in existing facilities, where such removal is readily achievable; and

(5) where an entity can demonstrate that the removal of a barrier under clause (4) is not readily achievable, a failure to make such goods, services, facilities, privileges, advantages, or accommodations available through alternative methods if such methods are readily achievable.

Sec. 37. Use of Government Recreational or Sports Centers Free of Charge. — Recreational or sports centers owned or operated by the Government shall be used, free of charge, by marginalized disabled persons during their social, sports or recreational activities.

Sec. 38. Implementing Rules and Regulations. — The Department of Public Works and Highways shall formulate the rules and regulations necessary to implement the provisions of this Chapter.

TITLE IV FINAL PROVISIONS

Sec. 39. Housing Program. — The National Government shall take into consideration in its national shelter program the special housing requirements of disabled persons.

Sec. 40. Role of National Agencies and Local Government Units. — Local government units shall promote the establishment of organizations of disabled persons in their respective territorial jurisdictions. National agencies and local government units may enter into joint ventures with organizations or associations of disabled persons to explore livelihood opportunities and other undertakings that shall enhance the health, physical fitness and the economic and social well-being of disabled persons.

Sec. 41. Support From Nongovernment Organizations. — Nongovernment organizations or private volunteer organizations dedicated to the purpose of promoting and enhancing the welfare of disabled persons shall, as they, are hereby encouraged, become partners of the Government in the implementation of vocational rehabilitation measures and other related programs and projects. Accordingly, their participation in the implementation of said measures, programs and projects is to be extended all possible support by the Government.

The Government shall sponsor a volunteer service program which shall harness the involvement of private individuals in the provision of assistance to disabled persons.

Sec. 42. Tax Incentives. — (a) Any donation, bequest, subsidy or financial aid which may be made to government agencies engaged in the rehabilitation of disabled persons and organizations of disabled persons shall be exempt from the donor's tax subject to the provisions of Section 94 of the National Internal Revenue Code (NIRC), as amended and shall be allowed as deductions from the donor's gross income for purposes of computing the taxable income subject to the provisions of Section 29 (h) of the Code.

(b) Donations from foreign countries shall be exempt from taxes and duties on importation subject to the provisions of Section 105 of the Tariff and Customs Code of the Philippines, as amended, Section 103 of the NIRC, as amended and other relevant laws and international agreements.

(c) Local manufacturing or technical aids and appliances used by disabled persons shall be considered as a preferred area of investment subject to the provisions of Executive

Order No. 226 otherwise known as the "Omnibus Investments Code of 1987" and, as such, shall enjoy the rights, privileges and incentives as provided in said Code such as, but not limited, to the following:

- (1) repatriation of investments;
- (2) remittance of earnings;
- (3) remittance of payments on foreign contracts;
- (4) freedom from expropriations;
- (5) freedom from requisition of investment;
- (6) income tax holiday;
- (7) additional deduction for labor expense;
- (8) tax and duty exemption on imported capital equipment;
- (9) tax credit on domestic capital equipment;
- (10) exemption from contractor's tax;
- (11) simplification of customs procedures;
- (12) unrestricted use of consigned equipment;
- (13) employment of foreign nationals;
- (14) tax credit for taxes and duties on raw materials;
- (15) access to bonded manufacturing/traded warehouse system;
- (16) exemption from taxes and duties on imported spare parts; and
- (17) exemption from wharfage dues and any export tax, duty, impost and fee.

Sec. 43. Continuity Clause. — Should any department or agency tasked with the enforcement or formulation of rules and regulations and guidelines for implementation of any provision of this Act is abolished, merged with another department or agency or modified, such shall not affect the enforcement or formulation of rules, regulations and guidelines for implementation of this Act to the effect that —

(a) In case of abolition, the department or agency established to replace the abolished department or agency shall take-over the functions under this Act of the abolished department or agency.

(b) In case the department or agency tasked with the enforcement or formulation of rules, regulations and guidelines for implementation of this Act is merged with another department or agency, the former shall continue the functions under this Act of the merged department or agency.

(c) In case of modification, the department or agency modified shall continue the functions under this Act of the department or agency that has undergone the modification.

Sec. 44. Enforcement by the Secretary of Justice. —

(a) Denial of Right

(1) Duty to Investigate — the Secretary of Justice shall investigate alleged violations of this Act, and shall undertake periodic reviews of compliance of covered entities under this Act.

(b) Potential Violations — If the Secretary of Justice has reasonable cause to believe that —

(1) any person or group of persons is engaged in a pattern or practice of discrimination under this Act; or

(2) any person or group or persons has been discriminated against under this Act and such discrimination raises an issue of general public importance, the Secretary of Justice may commence a legal action in any appropriate court.

Sec. 45. Authority of Court. — The court may grant any equitable relief that such court considers to be appropriate, including, to the extent required by this Act:

(a) granting temporary, preliminary or permanent relief;

(b) providing an auxiliary aid or service, modification of policy, practice or procedure, or alternative method; and

(c) making facilities readily accessible to and usable by individuals with disabilities.

Sec. 46. Penal Clause. — (a) Any person who violates any provision of this Act shall suffer the following penalties:

(1) for the first violation, a fine of not less than Fifty thousand pesos (P50,000.00) but not exceeding One hundred thousand pesos (P100,000.00) or imprisonment of not less than six (6) months but not more than two (2) years, or both at the discretion of the court; and

(2) for any subsequent violation, a fine of not less than One hundred thousand pesos (P100,000.00) but not exceeding Two hundred thousand pesos

(P200,000.00) or imprisonment for not less than two (2) years but not more than six (6) years, or both at the discretion of the court.

(b) Any person who abuses the privileges granted herein shall be punished with imprisonment of not less than six (6) months or a fine of not less than Five thousand pesos (P5,000.00), but not more than Fifty thousand pesos (P50,000.00), or both, at the discretion of the court.

(c) If the violator is a corporation, organization or any similar entity, the officials thereof directly involved shall be liable therefor.

(d) If the violator is an alien or a foreigner, he shall be deported immediately after service of sentence without further deportation proceedings.

Sec. 47. Appropriations. — The amount necessary to carry out the provisions of this Act shall be included in the General Appropriations Act of the year following its enactment into law and thereafter.

Sec. 48. Separability Clause. — Should any provisions of this Act be found unconstitutional by a court of law, such provisions shall be severed from the remainder of the Act, and such action shall not affect the enforceability of the remaining provisions of this Act.

Sec. 49. Repealing Clause. — All laws, presidential decrees, executive orders and rules and regulations inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

Sec. 50. Effectivity. — This Act shall take effect fifteen (15) days after its publication in any two (2) newspapers of general circulation.

Approved: March 24, 1992