



# **Position Paper on Governments' Measures to Increase Employment of Disabled Persons**

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The aim of this position paper is to submit proposals to government in connection with its stated budget measures to increase the number of disabled persons in employment.

## **1. Government's budget proposals**

The issue of employment and disability has been raised and discussed for decades. In the late sixties, government had passed a law which states that companies employing more than 20 persons should have at least 2% of their workforce who are disabled. This element of positive discrimination is intended to balance out the drawbacks and barriers which disabled persons face when seeking employment. The way the law is worded has been subject to confusion, as 2% of twenty does not amount to one employee. Also if a minimum of 1 employee is imposed on a company employing 20 persons, then the percentage of the workforce will be 5%, not 2%. In general, this law has not been enforced, and the reality is that many companies – even those with more employees than 20 - do not employ any persons with disability. The legal quota is not even enforced in the public sector.

In the National Budget 2015, government has announced a series of measures aimed at increasing the employment of disabled persons. The measures mentioned consist of:

- Exemption for national insurance for employed disabled persons
- A tax credit of a maximum of €4,500 for each disabled person in employment
- Enforcing the legislation which stipulates that companies with more than 20 employees must have 2% of the labour force that are disabled.
- Companies who fail to abide by the 2% provision and who employ more than 20 persons will pay a 'contribution' of €2,400 for every person they should be employing up to a maximum penalty of €10,000 per annum.

- The 'contribution' will be introduced over a period of three years, with 33% in 2015, 66% in 2016, and 100% in 2017
- The funds collected will be administered by the Employment and Training Corporation, and used to set up and administer the Lino Spiteri Foundation. This foundation will use the funds to train and assist disabled persons to find employment.

## 2. Current situation

In Malta there are currently in the region of 1,300 registered disabled persons in employment, of which 900 are in the public sector. There are currently 300 registered disabled persons on the unemployment list. Indications are that there could be many more, as a number of disabled persons are discouraged from registering for employment because of a low probability of actually finding work. It is estimated that the number of registered disabled persons is in the region of 18k, but not all of these will be able or willing to seek gainful employment.

There are no records of persons in employment who suffer from a degree of physical or mental disability but who are not registered unemployed. Some of these may have had the disability since childbirth or else during their lifetimes due to disease or injury.

On the demand side, the number of companies in Malta, classified by number of persons in employment is as follows:

<b>No. of Employees</b>	<b>No. of Companies</b>
0-9 employees	44k
10 – 49 employees	1.7k
50 – 249 employees	450
250 + employees	88

### 3. Obstacles to employing registered disabled persons

**Disabled persons are not a homogenous group.** Disability covers a wide spectrum of situations and many employers are at a loss to understand what they have to do to accommodate such persons. Regretfully the term disability has been generally portrayed to mean persons in wheelchairs, but the reality is far from this. A disabled person can vary from a person with a post graduate qualification with a hearing impairment to another with a mental disability who cannot operate independently. Many employers who are inclined to employ disabled persons may refrain from doing so because they cannot distinguish between these two extremes and various grades of disability in between.

**Lack of information.** Employers need to be more aware about their rights and obligations when employing disabled persons. Both ETC and MEA have to work closely with employers to publicise positive experiences and spread awareness about the incentives that are available to those employing persons with disability.

**Need for professional advice and assistance.** Employers, particularly those who do not have an HR department, will need professional support by ETC, KNPD and other relevant agencies in employing disabled persons. They will need advice about possible changes in work organisation and layout to accommodate disabled persons and to address specific types of disability where necessary. Many companies are not aware who they can turn to for such services.

**Type of work is not congenial for persons with a disability.** In other cases, companies may have vacancies but such vacancies are not suitable for disabled persons (e.g. skilled manual work), or there may not be disabled persons currently on the employment register who can fill these vacancies.

**Reluctance to employ disabled persons.** There may be cases of companies who are reluctant to employ people with disability, and will either prefer to pay a fine or will require strong persuasion to do so.

**Some companies may already have a quota of persons with disability who are not registered as such.** Some companies may argue that they already have a complement of employees who suffer from partial physical or mental disability although they are not registered. They may even have medical or other relevant certificates to back their claim. Many companies do, in fact, have employees on light duties who maybe working a shorter working week or else a reduced workload.

#### **4. 'Contribution' vs 'tax'**

The concept of a contribution gives the impression that it is something of a voluntary nature. In reality, the funds collected for the foundation will be more of a 'tax' or a 'fine'.

#### **5. MEA's Recommendations**

The following recommendations are aimed at enforcing compliance with legislation and also to encourage a take-up of disabled persons in the private sector. MEA recognises the role of employers in providing job opportunities for disadvantaged groups and that, in spite of difficulties that arise, such initiatives contribute to a more inclusive and productive labour force as well as enabling companies to operate as good corporate citizens. In many cases this has a positive effect on companies' relationship with consumers and also in their interaction with operators along the supply chain and distribution channels. It is believed that a strategy of persuasion is preferable and will achieve better results than one of coercion. The Association is convinced that, through a realistic and balanced approach, the number of disabled persons in employment in the privates sector will reach desired targets.

These recommendations are also being submitted on the understanding that the primary aim of the government proposals is not to raise funds for the Foundation but to increase the number of placements in the private sector.

## 5.1 Go for a Skimming Approach

Rather than approach all employers simultaneously to enforce the 2% threshold, it is proposed to adopt a skimming approach whereby the Foundation will first approach large employers and gradually work its way down to smaller enterprises. A proposed framework will run as indicated below:

<b>Year</b>	<b>No. of Employees</b>
2015, 2016	>250
2017	150 – 249
2018	50 - 150

This approach will have the following advantages:

Primarily, it will enable the foundation to focus on one segment at a time, which should yield better results. If, during 2015, 2016, the effort is focused on the 88 companies that employ more than 250 persons in Malta (as indicated in point 2 above), one would expect more compliance as the Foundation would be dealing with a manageable number of companies, rather than say, the 2k companies employing between 20 and 250 employees. This was one reason why the existing legislation was never enforceable.

In addition, the experience with the larger employers will enable both the Foundation and other companies to identify the major obstacles encountered and to fine tune the policies according to these experiences to achieve better results within this cohort.

If this initiative is successful, it would be easier to convince smaller companies to follow suit without incurring the fine/contribution. Whilst efforts are being focused on the larger companies to comply, smaller organisations will have a two year forewarning to change their employment culture to be more amenable to engage disabled persons. It is also probable that, if the success rate with the larger companies reaches expected targets, smaller companies will act on their own accord due to a 'snowball effect'. This is more likely if success stories are publicised by the ETC and MEA, and through other business networks.

Another outcome arising from this approach could be that the number of available disabled persons on the employment register will be mostly absorbed by the larger companies, and thus there will be no need to waste resources on enforcement with the smaller segments. In that case, efforts may be focused on trying to find placements for individual cases without penalising the entire segment as there will not be any need to impose fines.

## **5.2 Implement the regulations for Companies employing more than 50 persons**

It is more realistic to expect companies employing more than 50 persons to engage at least one disabled person on their workforce. This will address the anomaly of the 2% of twenty persons mentioned earlier. However, this would not preclude efforts to encourage smaller companies, including those employing less than 20 persons to offer employment to disabled persons.

### **5.3 A policy for Gozo**

Gozo deserves special attention as the island has few companies that employ more than 50 persons (or more than 20, for that matter). This situation needs to be tackled through positive discrimination to establish equal opportunity between disabled persons in Malta and those seeking employment in Gozo. This can be achieved by:

- Increased productive employment of disabled persons in the public sector. Back office operations can be transferred to Gozo to be performed by eligible disabled persons. Although MEA has criticised increased employment in the public sector, in this case it makes sense to address the imbalance of opportunity that exists between the two islands.
- Stronger incentives for Gozitan companies to employ disabled persons irrespective of size of company.

### **5.4 The Unregistered Disabled**

Employers who can supply proof that they are employing unregistered disabled persons should not be subject to the contribution if they meet the minimum quotas. MEA knows that a number of its members have retained employees in employment following serious injury or disease. In other cases, persons with a level of physical or mental disability have been employed even though they are not registered disabled. Companies who engage in such practices should not be penalised. Enforcing the quota on such companies may also be counterproductive as it might jeopardise the employment of unregistered disabled, who could be laid off to give preference to registered disabled. Such exemptions will only be considered if certification is provided as proof of disability.

## 5.5 Classifying Disabled Persons

As explained earlier, one of the issues of employing disabled persons is their diversity. It is wrong to treat these people as one category when the type and severity of the disability may stretch across a wide spectrum. Accepting this fact does not in any way diminish the dignity of such persons, as long as it is done with sensitivity, compassion and with a commitment to improve their employability prospects.

It is suggested to conduct an exercise whereby the type and severity of disability may be categorised on a grid as proposed below:

		Mental Disability		
		No/Low	Medium	High
Physical Disability	No/Low			
	Medium			
	High			

The grid demonstrates the grades of impairment within the parameters of mental and physical disability. Each area within the grid could call for different interventions. For example, the upper left area – indicating low levels of disability – suggests that persons falling within this classification could seek and find work independently, with minimum assistance required. At the other extreme, the lower right hand area depicts high mental and physical disability. In such cases, a customised effort will be required to place such people in employment, and they will also require continuous assisted supervision and probably modification of the workplace. The point here is that, depending on the severity of mental and/or physical disability, different action plans can be designed to increase the probability of job placements. It would be of help to employers if these situations are explained in seeking a placement for disabled persons, or in matching available jobs with available manpower.

## **5.6 Flexibility**

There are cases whereby a company may not be able to offer full time employment to a disabled person, but can engage a number of people with disabilities to deal with seasonal work. A principle of equivalence should be established to allow flexibility in employment and to exploit to the fullest any employment opportunities that may arise, even if these are for a temporary period.

The same principle should be applied also in cases where a disabled person may not be able take on full-time employment.

## **5.7 Employee Availability**

It is suggested that for the operation of the scheme, interested employers will submit a list of available jobs that can be offered to disabled persons. If no such persons are

available, the post may be filled by other employees without the employer incurring the penalty of non-compliance.

## **5.8 Assistance in Work Organisation**

The Foundation and the ETC should offer full assistance and expertise to employers who offer job placements, including job coaching where necessary and advice on work organisation. There have been positive recent experiences whereby assisted employment schemes have yielded positive results.

## **Conclusion**

The measures related to the employment of disabled persons as announced in the budget adopt a carrot and stick approach to employ disabled persons. The Malta Employers' Association believes that proper consultation is essential before implementing the measures, and that with the right fine tuning there should be an increase in job placements of disabled persons. These proposals are being submitted in the belief that the primary aim of the setting up of the Foundation is not to collect contributions, but to bring about a positive change in culture that will result in a better quality of life for a vulnerable segment of the population. Such an objective carries strong challenges which, if there is appropriate dialogue with the stakeholders involved, will be surmounted.