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| **OG Annex I(I)**  **No. 4227,23,12.2009** | **L. 146(I)/2009** |

**The Recruitment of Persons with Disabilities in the Wider Public Sector (Special Provisions) Law of 2009, published in the Official Gazette of the Republic of Cyprus according to Article 52 of the Constitution.**

Number 146(I) of 2009

A LAW TO ESTABLISH SPECIAL PROVISIONS FOR THE RECRUITMENT OF

PERSONS WITH DISABILITIES IN THE WIDER PUBLIC SECTOR

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| Preamble | Whereas the equality before the law and the protection of all individuals against discriminations is a universal human right recognised by the international human rights; and |
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|  | Whereas the General Assembly of the United Nations in its 85th Session of 20 December 1993 adopted Resolution no 48/96 on Standard Rules on the Equalisation of Opportunities for Persons with Disabilities, mentioning that the undertaking of action to equalise the opportunities for persons with disabilities by the States means their moral and political commitment, indicating, specifically in Rule 7, important principles of responsibility, action and cooperation of States in areas of decisive importance for the quality of life and for the achievement of full participation and equality of persons with disabilities, such as the area of employment; and |
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|  | Whereas the Republic has signed on 30 March 2007 the UN Convention on the Rights of Persons with Disabilities; and |
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|  | Whereas article 27 of the UN Convention on the Rights of Persons with Disabilities lays down that State Parties protect and ensure the realisation of the right to work by taking appropriate steps, including through legislation, to inter alia, promote employment opportunities and career advancement for persons with disabilities in the labour market, and to employ persons with disabilities in the wider public sector; and |
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| 42 of 1987. | Whereas ILO Convention no 159 on Vocational Rehabilitation and Employment of Persons with Disabilities as validated by the Republic of Cyprus with the Convention on the Vocational Rehabilitation and Employment of Persons with Disabilities (validating) Law of 1987, imposes the taking of special measures for vocational rehabilitation of persons with disabilities and lays down that special positive measures aiming to the effective equality of opportunities and treatment between workers with disabilities and other workers should not be considered as discrimination against other workers; and |
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| EU OJ  C323,  27.12.89, p. 44. | Whereas the Community Charter of Fundamental Social Rights for Workers of 1989, recognizes, the importance to fight any kind of discrimination, including the necessity to take appropriate measures for the social and economic inclusion of persons with disabilities; and |
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| EU OJ  L225,  12.08.1986, p. 43. | Whereas the European Council in its Recommendation 86/379/EEC of 24 July 1986 on the employment of persons with disabilities in the Community laid down a guideline framework for positive action to promote the employment and vocational training of persons with disabilities and with its Resolution of 17 June 1999 on equal employment opportunities for people with disabilities confirmed that it is important to place particular emphasis on the recruitment and retention of employees, and to life-long learning and training of persons with disabilities; and |
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| EU OJ  C186,  2.7.1999, p. 3. | Whereas 2000 employment guidelines approved by the European Council in Helsinki on 10 and 11 December 1999, underline the importance to promote the creation of opportunities for a labour market that will favour social inclusion, by the implementation of policies against discriminations on grounds of disability; and |
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| EU OJ  L072,  21.03.2000, p. 15. | Whereas occupation and employment are the fundamental elements for ensuring equal opportunities for all and contribute to a great extend to the full participation of the citizens in the economic, cultural and social life, as well as to personal development; and |
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| EU OJ  L303,  02.12.2000, p. 16. | Whereas Directive 2000/78/EC of 27 November 2007 establishing a general framework for equal treatment in employment and occupation lays down that the prohibition of discrimination should be without prejudice to the maintenance or adoption of measures intended to prevent or compensate for disadvantages suffered by persons with disabilities and that the principle of equal treatment shall be without prejudice to the right of Member States to maintain or adopt provisions on the protection of health and safety at work or to measures aimed at creating or maintaining provisions or facilities for safeguarding or promoting their integration into the working environment, and |
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| 127(I) of 2000  57(I) of 2004  72(I) of 2007  102(I) of 2007 | Whereas the Persons with Disabilities Laws of 2000 to 2007 as harmonised with Directive 2000/78/EC, enable the taking of positive actions and lay down that the principle of equality provided for in article 3 of the said Laws, shall not prevent any more favourable treatment in employment, which in spite of the fact that indirectly it seems like discrimination, it aims to prevent or compensate for disadvantages linked to any discrimination on grounds of disability; and |
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|  | Whereas the taking of positive actions for the recruitment of persons with disabilities to the wider public sector is considered necessary for the effective integration of the persons to the labour market, which is a basic requirement for the smooth operation of the democratic institutions and for the substantial achievement of the principle of equality which may not be effectively achieved due to the factor of disability that restricts substantially the field of economic activity of the persons; and |
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|  | Whereas, under the light of the above, a special legislation on the recruitment of persons with disabilities to the wider public sector is considered necessary; |
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|  | The House of Representatives enacts as follows: |
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| Short title. | 1. This Law may be cited as the Hiring of Persons with Disabilities in the Wider Public Sector (Special Provisions) Law of 2009. |
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| Interpretation. | 2. In this Law unless the context otherwise requires: |
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|  | “person with disabilities” shall mean the person who, according to the evaluation by the special multidisciplinary commission, under the provisions of articles 5 and 6 of this Law, experiences any kind of insufficiency or impairment which cause permanent or long lasting bodily or intellectual or mental restriction substantially reducing or excluding the possibility to find and maintain an appropriate employment; |
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|  | “appointing body” shall mean any body which according to the legislation in force or administrative arrangements or practices governing that body, has the competence to hire persons to any employment position in the wider public sector; |
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|  | “special multidisciplinary commission” shall mean the commission established in accordance with the provisions of article 5 of this Law; |
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|  | “wider public sector” shall mean every Ministry, independent service or authority or office of independent official, every legal entity or organisation of public law including local authorities; |
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| 17 of 1988. | “work position” shall mean any vacancy at the starting grade in the wider public sector the fulfilment of which is governed by the rules of either the public or private law, not including the operator’s position within the meaning of the Recruitment of Trained Blind Telephone Operators in the Public and Educational Service and in the Legal Entities of Public Law, as well as those in the Army of the Republic and in the National Guard, the Police, the Fire Service and the Prisons, where the execution of duties requires the candidates to not experience any bodily or intellectual or mental restriction; |
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|  | “recruitment” includes appointment or recruitment in the wider public sector; |
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|  | “Council” shall mean the Pancyprian Council for Persons with Disabilities established and operating by virtue of the Persons with Disabilities Laws of 2000 to 2007; |
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|  | “Department” shall mean the Department of Social Inclusion for Persons with Disabilities, Ministry of Labour and Social Insurance; |
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|  | “Service” shall mean every department, service or sector under the bodies of the wider public sector within the meaning of this Law and |
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|  | “Minister” shall mean the Minister of Labour and Social Insurance. | |
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| Special provisions for  recruitment persons with disabilities to employment positions. | 3. Subject to the provisions of the Recruitment of Trained Blind Telephone Operators in the Public and Educational Service and in the Legal Entities of Public Law and notwithstanding the provisions of any other law or regulations or other administrative arrangements or practices laying down the rules and recruitment procedures in the wider public sector, persons with disabilities shall be hired in employment positions in the wider public sector and shall cover 10% of the number of vacancies, provided that the number of persons with disabilities hired under this Law shall not exceed 7% of the total number of officers per Service on the 31st of December of the precedent year of each recruitment procedure or in the case of Educational Service, on the 1st of September of the precedent year of each recruitment procedure, and, provided that the persons with disabilities fulfil cumulatively the following objective requirements: | |
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|  | | (a) have the necessary qualifications required for the employment position; |
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|  | | (b) have succeeded in any written or oral examinations required for the employment position; |
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|  | | (c) are considered to be the appropriate persons for the execution of the duties of the vacancy, by the competent appointing body which is obliged to take into consideration the report of the special multidisciplinary commission, drawn up in accordance with article 6: |
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|  | Provided that in the calculation of this 10% of vacancies, any decimals from 0.5 to 0.9 should be rounded up to the closest unit. | |
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|  | Provided further that in case vacancies are less than five, for calculation purposes of 10%, the number of the respective vacancies fulfilled during the past year, for which the provisions of this Law did not apply, shall be taken into consideration and added to the number of vacancies to be fulfilled. | |
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|  | Provided further that persons with disabilities who due to the nature of their disability have received from educational institutions of secondary, higher or tertiary education facilities or exemptions in the learning or examination of a foreign language, shall be treated in the same manner during the requested written and/oral examinations referred to in article 3(b) and their grade of success shall be adapted or weighted accordingly, taking into consideration their grades in the other subjects, as if the foreign language was not included in the examined subjects. Persons who for the same reason do not have the qualification of the foreign language requested for the vacancy, referred to in article 3(a), should be exempted from the requested qualification of the foreign language, provided that they have all the other qualifications requested for the fulfilment of the vacancy. | |
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| Special lists and  priority among disabled persons | 4. – (1) Notwithstanding the provisions of any other law, regulation or administrative arrangements or practices, the appointing body shall prepare special lists of candidates who are persons with disabilities and they meet the requirements of article 3, from whom the persons with disabilities shall be selected to fulfil the vacancies according to article 3. | |
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|  | (2) In order to determine the priority order in case of 2 or more candidates, the appointing body shall take into consideration the grade obtained in the written and/oral examinations, where applied, or the order of their classification by virtue of any evaluation system applied by the appointing body. | |
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| Special multidisciplinary commission. | 5. – (1) For evaluation purposes and in order to establish that a person is a persons with disabilities for the purposes of this Law The Department shall construct, based on the annual lists of special health professionals approved by the Minister, a special multidisciplinary committee, either on an annual basis or according to the needs of the appointing bodies, and its procedures and operation rules shall be laid down by internal regulations established by the Department and approved by the Minister. | |
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|  | (2) Notwithstanding the provisions of par. (1) the special multidisciplinary committee shall be formed by a representative of the Department and at least two health professionals by the lists referred to in par. (1) specialised in the particular disability of the person to be assessed. | |
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|  | Provided that, depending on the needs of each assessment, the Department may additionally invite any other person with a relevant health or work specialty considered necessary, to participate in the special multidisciplinary committee. | |
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| Assessment of disability and  competence. | 6. – (1) With his application for the fulfilment of the vacancy or if asked by the appointing body or the special multidisciplinary committee, the person with disabilities should submit, in addition to the supporting documents required by the recruitment procedure, the original certificates of his treating physicians describing the nature and condition of his disability. | |
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|  | (2) The appointing body, having examined the application and the supporting documents and established that the candidate has the requested qualifications, transmits the application and the supporting documents to the Department, indicating at the same time any deadline within which the special multidisciplinary committee should transmit its report to the appointing body. | |
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|  | (3) The Department transmits the application and the supporting documents and refers the candidate to the special multidisciplinary committee which assesses whether the candidate is a person with disabilities within the meaning of this Law, as well as the candidate’s competence to exercise the duties of the vacancy. | |
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|  | (4) The special multidisciplinary committee following the assessment of the candidate, prepares a report on his disability and competence to exercise the duties of the vacancy, which is transmitted through the Department and within the prescribed deadline, to the appointing body. | |
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|  | Provided that the special multidisciplinary committee may assess the candidate on his competence to exercise duties similar to those required for the vacancy, and in such case the report of the special multidisciplinary committee, which may provide for its duration, remains at the Department which transmits it to each appointing body whenever asked, for recruitment purposes of the candidate in vacancies of similar duties, and in such case there is no need to repeat the assessment of the candidate by the special multidisciplinary committee. | |
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| Reasonable adjustment and facilities in case of examinations. | 7. – (1) In case for recruitment purposes candidates have to pass written or/and oral examinations, the appointing body should provide reasonable adjustments and facilities for the participation of persons with disabilities in the said examinations, the nature and extend of which is determined in general per disability or/and specifically per case, if necessary, by the Department and, if possible, in concertation with the special multidisciplinary committee. | |
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|  | (2) The Department may organise or sponsor in cooperation with the bodies of persons with disabilities, special training programmes for the reinforcement of the abilities and knowledge of the persons with disabilities who will participate or may participate in written or/and oral examinations. | |
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| Supply of supporting technological equipment. | 8. The Department shall undertake, in cooperation with the Services in which persons with disabilities are hired by virtue of the provisions of this Law, the provision of financial assistance for the supply of special supporting technological equipment for the exercise of the duties of the vacancy by the persons with disabilities. | |
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| Placement to the  appropriate position | 9. The Head of each Service in which a person with disabilities will be hired by virtue of the provisions of this Law, shall place the person with disabilities to a position which shall serve both the administrative needs of the Service and the special needs arising from the nature and condition of the disability of the person. | |
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| Competences of the  Department to monitor  The implementation  of this Law. | 10. – (1) The Department shall have the competent to monitor the results from the implementation of this Law, in particular as to the inclusion of persons with disabilities in employment and, in cooperation with the appointing bodies, to coordinate and evaluate the implementation of this Law. | |
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|  | (2) Each appointing body shall send to the Department within the first trimester of each year report with detailed information on the number of persons with disabilities hired during the previous year and on whether the percentages of article e are met, on the nature of their disability, their position and qualifications and any other information requested by the Department. | |
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|  | (3) The Department, within the first semester of each year, shall submit an aggregate statement and a report on the implementation of this Law during the previous year, to the Minister who shall inform the Council of Ministers and the Cyprus Confederation of Organisations of the Disabled (CCOD) on the results of the implementation of the Law. | |
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| Issue of  Regulations. | 11. The Council of Ministers may issue Regulations for the better implementation of the provisions of this Law. | |
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| Transitory  provisions. | 12. – (1) This Law shall not apply to the procedures for the fulfilment of positions in the wider public sector, which commenced before the entry into force of this Law and they have not been completed after its entry into force. | |
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|  | (2) For calculation purposes of the percentages of article 3 of this Law, the number of persons with disabilities who occupy positions at the wider public sector before the entry into force of this Law, shall not be taken into consideration. | |