

Rights of persons with disabilities - Jordanian law

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This article provides an overview of key matters arising in connection with Jordan's Law on the Rights of Persons with Disabilities (No.20 of 2017) ('Disabilities Law') with a focus on its application to the banking industry.

The Jordanian Constitution states that all "Jordanians shall be equal before the law. There shall be no discrimination between them as regards to their rights and duties on grounds of race, language or religion.... The Government shall ensure work and education within the limits of its possibilities, and it shall ensure a state of tranquillity and equal opportunities to all Jordanians". While Jordan has made significant progress in the pursuit of perfecting such lofty ideals as they apply to persons with disabilities, there remain significant challenges before this can be fully achieved.

It is estimated that over 10 per cent of the Jordanian population are living with some form of disability, and indeed, Jordan is rightfully considered a regional trailblazer in seeking to ensure that the rights of persons with disabilities are effectively protected and accommodated. This includes efforts by both private and public sectors to rehabilitate their premises to accommodate the needs of persons with disabilities and running campaigns to increase public awareness and empathy regarding the challenges faced by persons with disabilities in the health, employment, education, and transportation sectors.

In line with these objectives, and prompted by Jordan's continued commitment under previous local and international legislation, including the United Nations Convention on Rights of Persons with Disabilities (ratified on 31 March 2008), Jordan passed the Disabilities Law, which is generally considered to be one of the most progressive and developed laws in the MENA region with respect to the rights of persons with disabilities. To quote HRH Prince Mired Raad Zeid Al Hussein, the President of the Higher Council for People with Disabilities: "Jordan created a paradigm shift in disability rights with the issuance of the [Disabilities Law]; a product which culminated from in-depth and thorough examinations of legislative reviews and extensive technical consultations with stakeholders in the field, ranging from individuals, organisations and families, to workers, supporters and those actively concerned with disability issues."

The Disabilities Law defines a person with disabilities to be "a person who has long-term physical, sensory, intellectual, mental, psychological or neurological impairment, which, as a result of interaction with other physical and behavioural barriers, may hinder performance by such person of one of the major life activities or hinder the independent exercise by such person of any right or basic freedom...". This definition is a uniquely broad and holistic way of defining a person with disabilities, which not only takes into account the medical condition of the person, but goes further to include the surrounding physical and social environment in which they find themselves on a daily basis. Under this definition of a person with disabilities:

- an impairment is considered "long-term" if it cannot be expected to be resolved within 24 months of commencing treatment or rehabilitation;
- the interpretation of "physical obstacles and behavioural barriers" is considered to include the absence of reasonable accommodation, accessibility (as further specified below), and individual behaviours and discriminative institutional practices on the basis of disability; and
- "Major life activities" includes without limitation, working, learning, mobility, eating, drinking, and verbal, visual, and written communication.

The Disabilities Law, for the first time in Jordanian legislative history, expressly prohibits discrimination on the grounds of a disability, which is defined as being “every limitation, restriction, exclusion, nullification or denial either direct or indirect due to disability of any rights or freedoms stated in this Law or in any other law, and that constitutes discrimination on the basis of disability and reluctance to provide reasonable accommodation contrary to the provisions of this Law.”

This prohibition on discrimination is intended to encompass all aspects and day-to-day activities of a person with disabilities, including without limitation, activities relating to the banking industry. On this point, Article 43 of the Disabilities Law (‘Article 43’) states that “it is impermissible to exclude a person or restrict a person’s access to banking and credit services on the basis of, or because of, disability”.

Further, Article 43 sets out obligations, standards and processes to be observed and adhered to by all banks and non-banking financial services’ companies (to the extent applicable), including:

- to provide banking services, information and data to persons with disabilities in accessible formats, and to respect their rights to privacy and the confidentiality of their accounts on an equal basis with others;
- to train personnel working in the banking sector on methods of effective communication with persons with disabilities in order to be able to better and easily provide services to them;
- applying accessibility standards in banking buildings and facilities in order to allow persons with disabilities to have access to and benefit from the services provided to them; and
- in line with the requirements of the United Nations Convention on the Rights of Persons with Disabilities, and as an example of one of the Disabilities Law’s key principles of protecting the right to legal capacity (the right to make decisions about one’s own life), banks are required to accept the signature of persons with visual disabilities for banking transactions by way of handwritten signatures, stamps, or e-fingerprints without the condition of having a witness present. The person with such disabilities will be deemed to have acknowledged their review and understanding of the transaction’s details and procedures if they sign by way of handwritten signature, stamp or e-fingerprint, provided that the bank transactions performed by persons with visual and hearing disabilities will be documented audio-visually and will be made accessible to them, and to maintain the records of said transactions for a period of six months, after which any objections by the person with such disabilities to the relevant transaction will not be accepted.

Article 43 also authorises and instructs the Central Bank of Jordan to monitor the banking sector’s implementation of these requirements. Consequently, and shortly after the promulgation of the Disabilities Law, the Central Bank of Jordan issued the Instructions of Financial Consumer Protection for Customers with Disabilities No. (18/ 2018) (‘Instructions’), the stated purpose of which is to “protect the consumers of financial and banking services on the basis of equality among all segments of the society without any form of discrimination or derogation of the rights of any of them, and with the aim of deepening financial inclusion in Jordan and empowering all segments of society to access financial and banking services,” and are meant to “to remove all physical and behavioural barriers which impede or hinder access to the banking and financial services by customers with disabilities...”

These Instructions direct banks and non-banking financial services’ companies (as applicable) to, and among other things:

- develop clear and specific policies and procedures for dealing with and accommodating the needs of persons with disabilities;
- take into consideration the special requirements of persons with disabilities when designing banking and financing products and services; and
- with regards to banking due diligence procedures, to only request a medical report confirming the customer’s disability at the commencement of the banking relationship.

With respect to the paramount point of Accessibility which is defined under the Disabilities Law as “the construction of buildings, roads, facilities, and other public and private sector venues in a way that is

accessible to all the public, and making adjustments in accordance with the Building Code Requirements for Persons with Disabilities....”, the Instructions require that:

- banks with 10 branches must ensure that no less than 10 per cent of their branches in every governorate, and one branch at a minimum, be equipped with proper and appropriate facilities which take into consideration the ease of access for and provision of banking services to persons with disabilities. This requires such branches be equipped, at a minimum, with the following:
 1. ramps to facilitate access to the bank’s premises and use of its facilities;
 2. parking spaces dedicated for persons with disabilities;
 3. talking Automated Teller Machines (‘ATMs’) with, but not limited to, the following specifications:
 1. the dimensions of ATM should be appropriate for use by persons with disabilities;
 2. the ATM should be able to receive and emit audio services and should be equipped with special headphones for such purpose; and
 3. the ATM must be supported with a braille keyboard or a similar feature, allowing users to differentiate between numbers;
 4. service counters of appropriate height to cater to persons with disabilities or alternatively, to make services available through suitable independent desks; and
 5. safety deposit box services, customised to suit the needs of persons with disabilities.
- banks with less than 10 branches are required to equip at least one branch that it is able to provide banking services to persons with disabilities in accordance with the above provisions, and in the event such a bank is unable to do so for reasons beyond its control, such a bank is then required to provide its products and services to persons with disabilities without fees or charges, including ATM card fees, salary transfer fees, and cash withdrawal fees; and
- when licensing a new branch, to ensure to the extent possible that the branch is designed and prepared to accommodate the needs of persons with disabilities.

The Instructions further emphasise the importance of raising not only the level of competency of banking personnel about the needs and requirements of persons with disabilities, but also the level of awareness and knowledge of persons with disabilities of the banking sector and how it operates. To this end, the Instructions mandate that all banks are to coordinate with the Higher Council for the Rights of Persons with Disabilities, the Central Bank of Jordan, charities and other relevant entities to raise the level of awareness of persons with disabilities regarding their right to use the financial and banking services as well as their duties and responsibilities regarding the use of these services. Banks are also required to make available on their websites and social media (if any) information dedicated to persons with disabilities, including relevant banking services and products, and how to apply for them.

In order to ensure effective adherence to the above, the Instructions require banks to provide the Central Bank of Jordan with annual reports on clients with disabilities, including the number of such clients, the type of disability, the services and products provided to them, the relevant branches they are dealing with, and recommendations, if any, of amendments to banking processes and procedures as they apply to persons with disabilities.

These sweeping legislative changes go a significant way towards advancing Jordan’s progress and commitment to developing the appropriate legal infrastructure to effectively protect the rights and interests of persons with disabilities, and provided the appropriate levels of political and financial support remain steadfast, Jordan is expected to achieve greater strides in its continued pursuit of enhancing the quality of lives of all Jordanians living with disabilities.

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