

The Equal Treatment of men and women in employment and vocational training Law, No. 205(I)/2002

(Summary)

Purpose

This Law aims at the application of the principle of equal treatment for men and women in respect of employment, access to vocational guidance, vocational education and training and the conditions of their provision, including professional development and the conditions and preconditions of dismissal.

The Law shall not affect more favourable provisions.

Definitions

“Competent authority” means the Minister of Labour and Social Insurance;

“Discrimination” based on sex means every action or omission which constitutes or entails unfavourable treatment based on gender, including sexual harassment, but not including protection of mothers due to pregnancy, childbirth, nursing, maternity or sickness due to pregnancy or childbirth positive actions;

“Employment” means the providing of work or services, with payment, on the basis of an individual contract or work relationship or apprenticeship or other individual contract or relationship, governed either by private or public law, in any sector or branch of activity, private or public, including the Civil Service, the Judicial Service, the Public Education Service, the Local Administration Authorities, legal persons or organisations of public or private law, the Armed Forces and Security Forces;

“Indirect discrimination based on sex” shall exist where an apparently neutral provision, criterion or practice, puts at a disadvantage substantially higher proportion of the members of one sex, unless that provision, criterion or practice is appropriate and necessary and can be justified by objective factors unrelated to gender;

“Principle of equal treatment” means that there shall be no discrimination on the basis of sex, either directly or indirectly, with reference in particular to marital or family status, regarding any issues regulated by this Law;

“Positive actions” means measures which, for the purpose of reaching full and actual equality for men and women in professional life, provide for specific advantages for persons of the sex in work positions or ranks of the occupational hierarchy or sectors of vocational training, mainly for women, in order to enable them to exercise a professional activity. They are also actions which prevent or compensate for disadvantages in the professional career of such persons. Measures for the protection

of women due to pregnancy, childbirth, nursing or maternity do not constitute positive actions;

“Vocational training” means any form of training which aims at the attainment of a formal or real ability for the exercising of a profession, employment or work, irrespective of the age, the level of training of the trainees, even if the teaching programme includes parts of general education/training;

“Sexual harassment” means undesirable conduct of a sexual nature or other nature based on sex which offends the dignity of women and men during employment or vocational training or during access to employment or vocational training and is expressed in words or in deeds.

Scope of Application

The provisions of this Law apply to all employers with regard to all activities related to employment, except in certain occupational activities where by reason of the context in which they are carried out, gender constitutes a determining factor. These occupational activities are listed in the Schedule of the Law and are:

1. Artistic activities where the filling of a post with a persons of the other sex would cause a significant difference in the nature of the post.
2. Employment in a particular post when the duties of the post include the provisions of services outside Cyprus, in a state where legislation and culture are such that the particular services may not be logically rendered by a persons of the other sex.
3. Personal Services. It is imperative that these services employ persons from both sexes.
4. Employment in the post of warden in women’s or men’s prisons.
5. Employment in the Security Forces or private security bodies.
6. Employment of women in underground mining works.

This list shall be re-examined by the competent authority over periods not exceeding 5 years, in order to determine whether their preservation is justified.

The Law shall not affect the provisions related to the protection of women, particularly in relation to pregnancy, childbirth, breastfeeding and maternity.

Right to Equal Treatment

1. Men and women shall enjoy equal treatment, prohibiting any direct or indirect discrimination on the grounds of sex (Section 7,8,9,10) or due to pregnancy, childbirth, breastfeeding, maternity or illness due to pregnancy or childbirth (Section 11) as regards:

- Access to vocational guidance/training or apprenticeship and the terms and conditions of the provisions of services for this purpose.
 - Access to employment or work position, temporary, full or part-time employment and at all levels of an occupational hierarchy,
 - The terms and conditions of employment, including qualifications and other terms, conditions and placement, permanency, accession, transfer, removal, detachment or promotion criteria.
 - The terms and conditions of dismissal from any job or post.
 - Access to an independent occupation, the terms and conditions and termination of practice, and access to education or training required for access to an independent occupation and its practice.
2. Any existing provision, regulation of a collective agreement or an individual contract of employment etc, during the entry into force of this Law and which is contrary to the provisions of this Law as regards the part where direct or indirect discrimination against one of the sexes is concerned, shall be abolished. Where discrimination constitutes the granting of a right or any other advantage in persons of one sex, only this right or advantage shall be extended to persons of the other sex.

Prohibited Acts

- Any act that constitutes sexual harassment or causes direct or indirect discriminatory treatment shall be prohibited. Employers and representatives of legal entities or their supervisor, or the person competent/responsible shall abstain from such an act, whether isolated or repeated (Section 12).

Obligation of the Employer

- To take all appropriate measures against sexual harassment occurring mainly in the field of their competence and
- As soon as sexual harassment comes to the attention to take all appropriate measures to stop it and
- Ensure that it does not re-occur and
- Lift its consequences.

Provision of Information

- The competent authority has a duty to inform workers, employers, and organisations through printed materials and other appropriate means of the provisions of the Law and the provisions enacted for its implementation.
- The worker's organisation shall inform the workers of the context and measures adopted pursuant to this Law and ensure the application of the principle of equal treatment by written announcements on boards in the workplace, with the distribution of printed materials, or orally.
- Employers have a duty to facilitate the worker's unions to provide workers with the above information.

Judicial and out-of-court Protection

- Any person who considers himself wronged because of breach of this Law shall be entitled to pursue his claim before any competent Court (Section 14). According to Section 15 the Industrial Disputes Court shall have jurisdiction in industrial disputes and remaining disputes of private law arising from the implementation of this Law
- Any person who considers himself wronged because of breach of this Law shall be entitled to protection by the Chief Inspector or Inspectors (Section 14).

Damages in case of Breach

1. District Court: shall award the person the maximum of the following 2 amounts:
 - a. Just and equitable compensation by virtue of paragraph 6 of Article 146 of the Constitution or
 - b. The whole of the actual damage sustained in accordance with paragraph 4 of Article 146 of the Constitution. (Section 15).
2. Industrial Disputes Court: shall award just and equitable compensation which shall cover at least the whole of the real damage. Moreover in each case the above awarded amount shall carry a legal interest from the date of the infringement until the date the compensation is paid in full. In case of dismissal, the Industrial Disputes Court shall, apart from the award of compensation, order the reemployment of the worker and shall compel the employer to accept his or her services. It also, where it deems necessary shall issue an order of the recognition of the applicant's rights in relation to the reported violation .

Implementation of the Law

- The Gender Equality Committee, established under Section 22, shall be responsible for considering matters falling within the purpose and scope of the Law. Among others, it will consult in matters of national policy, advise about the enactment of legislation, supervise the implementation of the Law, suggest the introduction of measures and the application of programmes for the promotion of equality for men and women, promote studies and research, consult any person on matters relevant to the equality of men and women, submit or accept complaints which are forwarded to the Chief Inspector etc (Section 23).
- Inspectors shall secure the full and effective application of the provisions of the Law, provide information, advise, report any problems caused during the application of the Law and suggest measures to be taken for their solution (Section 25). The Chief Inspector and Inspectors shall receive complaints in relation to any breach of the Law by any person who considers himself wronged as well as on behalf of this person (Section 27).

Sanctions

- Any person who intentionally does not comply shall be guilty of an offence and shall be punished with a fine not exceeding CY£4,000 or to imprisonment not exceeding 6 months or to both such penalties, provided the offence is not more severely punished by other provisions.
- If the offence is committed by a legal entity, the managing director, chairman, secretary etc. shall be guilty and punished as above. The legal entity shall be punished only with a fine not exceeding CY£7,000, provided the offence is not more severely punished by other provisions.
- Where the offence is committed due to gross negligence, a fine not exceeding CY£2,000 shall be imposed, provided the offence is not more severely punished by other provisions (Section 30).
- Section 31 provides for offences and penalties for hindering the Inspectors in the performance of their duties.