



## VELFERÐARRÁÐUNEYTIÐ

*Ministry of Welfare*

### **Act on Equal Status and Equal Rights of Women and Men No. 10/2008, as amended by Act No. 162/2010 and No. 126/2011.**

#### **SECTION I**

##### **Aims and definitions.**

###### Article 1

###### *Aims.*

The aim of this Act is to establish and maintain equal status and equal opportunities for women and men, and thus promote gender equality in all spheres of the society. All individuals shall have equal opportunities to benefit from their own enterprise and to develop their skills irrespective of gender. This aim shall be reached by the following means, amongst others:

- a. observing gender equality perspectives and working towards gender mainstreaming in policy-making and decision-taking in all spheres of society,
- b. working to secure equal influence of women and men in society,
- c. specifically improving the position of women and increasing their opportunities in society,
- d. working against wage discrimination and other forms of gender-based discrimination on the employment market,
- e. enabling both women and men to reconcile their work and family life,
- f. increasing education and awareness-raising on gender equality,
- g. analysing statistics according to gender,
- h. increasing research in gender studies,
- i. working against gender-based violence and harassment and
- j. changing traditional gender images and working against negative stereotypes regarding the roles of women and men.

###### Article 2

###### *Definitions.*

For the purposes of this Act, the following terms are sense defined below:

1. *Direct discrimination:* When one individual receives less favourable treatment than another of the opposite sex in comparable circumstances.
2. *Indirect discrimination:* When an impartial requirement, standard of reference or measure affects either sex more heavily than the other, unless this is appropriate, necessary or justifiable in terms of impartial considerations independent of gender.
3. *Gender-based harassment:* Any type of unfair and/or insulting behaviour which is connected with the gender of the person affected by it, is unwelcome and impairs the self-respect of the person affected by it, and which is continued in spite of a clear indication is given that it is unwelcome. This harassment may be physical, verbal or symbolic. A single instance may be considered as gender-based harassment if it is serious.
4. *Sexual harassment:* Any type of unfair and/or insulting sexual behaviour which is unwelcome and impairs the self-respect of the person affected by it, and which is continued in spite of a clear indication is given that it is unwelcome. This harassment may be physical, verbal or symbolic. A single instance may be considered sexual harassment if it is serious.

5. *Gender-based violence*: Violence based on gender which results in, or could result in, physical, sexual or psychological injury or suffering on the part of the victim; also the threat of such and coercion or arbitrary deprivation of freedom, both in private life and in a public venue.
6. *Gender mainstreaming*: Organizing, improving, developing and evaluating the policy-making process in such a way that gender equality perspective is incorporated in all spheres in the policy-making and decisions of those who are generally involved in policy-making in society.
7. *Affirmative action*: Special temporary measures that are intended to improve the position of, or increase the opportunities of, women or men aimed at establishing gender equality in a specific field where either sex is at a disadvantage. In such cases it may prove necessary to give either sex temporary priority in order to achieve balance.
8. *Wages*: Ordinary remuneration for work and further payments of all types, direct and indirect, whether they take the form of perquisites or other forms, paid by the employer to the employee for his or her work.
9. *Terms*: Wages together with pension rights, holiday rights and entitlement to wages in the event of illness and all other terms of employment or entitlements that can be evaluated in monetary terms.

## **SECTION II**

### **Administration.**

#### Article 3

##### *Overall control.*

[The Minister]<sup>1)</sup> is in charge of the application of this Act unless other special provisions are made. The Centre for Gender Equality is a special institution under the control of the Minister. It shall handle administration in the sphere covered by this Act.

<sup>1)</sup> Act No. 126/2011, Article 473.

#### Article 4

##### *The Centre for Gender Equality.*

The Minister of Social Affairs and Social Security appoints the Director of the Centre for Gender Equality for a five year term.

The Director is in charge of the Centre's day-to-day operations and appoints its staff.

The tasks handled by the Centre for Gender Equality shall include:

- a. monitoring the application of this Act,
- b. supervising educational and informative activities,
- c. advising government authorities, institutions, companies, non-governmental organisations and individuals on gender equality issues,
- d. making suggestions and proposals to the Minister, the Gender Equality Council and other government authorities on measures to achieve gender equality,
- e. making proposals on affirmative actions,
- f. increasing the level of activity in gender equality issues, i.e. by greater involvement of men in gender equality work,
- g. monitoring gender equality developments in society, i.e. by gathering information and initiating research,
- h. providing assistance to gender equality committees, gender equality counsellors and gender equality representatives of local authorities, institutions and companies,
- i. working at preventive measures against gender-based violence in collaboration with other government authorities and organisations specifically involved in such preventive measures,
- j. working against gender based wage discrimination and other forms of gender discrimination in the labour market,
- k. mediating cases of dispute referred to the Centre for Gender Equality on the basis of this Act,
- l. changing traditional gender images and working against negative stereotyping regarding the roles of women and men,
- m. carrying out other tasks in accordance with the aims of this Act in accordance with further decisions by the Minister.

Institutions, enterprises and non-governmental organisations shall be obliged to provide the Centre for Gender Equality with any type of information necessary for its operations.

If the Centre for Gender Equality has reason to suspect that an institution, enterprise or non-governmental organisation has violated this Act, it shall investigate whether there is reason to request the Gender Equality Complaints Committee to examine the matter. The relevant institution, enterprise or non-governmental organisation shall be obliged to provide the Centre for Gender Equality with the information and materials it considers necessary to reveal the facts of the case. If the parties concerned do not comply with this request by the Centre for Gender Equality within a reasonable time limit, the Centre may decide that they are to pay *per diem* fines until the information and materials have been provided. If the Centre for Gender Equality considers that the information and materials in question further substantiate the suspicion that a violation of this Act has taken place, it shall request the Gender Equality Complaints Committee to examine the matter, and consequently inform the institution, enterprise or non-governmental organisation concerned in writing of its decision to do so.

The Centre for Gender Equality shall, at the request of the plaintiff, take steps to ensure that the rulings of the Gender Equality Complaints Committee are enforced as appropriate. When a party against whom a ruling of the Gender Equality Complaints Committee is directed fails to comply with it, the Centre for Gender Equality may instruct the party concerned to make satisfactory remedial measures in accordance with the ruling within a reasonable time limit. If the party against whom the ruling is directed fails to comply with the instructions of the Centre for Gender Equality, the Centre may decide that the party is to pay *per diem* fines until it complies with the instructions.

The employees of the Centre for Gender Equality may not use their position to obtain information or materials other than those that are necessary, or may be necessary, for the purposes of monitoring under paragraph 5. Furthermore, they may not provide or deliver to others than the parties to the case and the Gender Equality Complaints Committee any information or materials gathered for the purposes of monitoring under paragraph 5 that they may have become aware of in connection with their work on resolving disputes under item *k* of paragraph 3, or follow-up measures to ensure compliance with rulings by the Gender Equality Complaints Committee under paragraph 6.

Decisions to impose *per diem* fines under paragraphs 5 and 6 shall be announced in writing in a verifiable manner to the parties against whom they are directed. *Per diem* fines may amount to up to ISK 50,000 per day. When determining the amount of *per diem* fines, factors including the number of employees of the enterprise, institution or non-governmental organisation and the scope of the business involved shall be taken into account.

*Per diem* fines shall accrue to the Treasury.

The party to whom the instructions of the Centre for Gender Equality are addressed under this provision may appeal to the Minister of Social Affairs and Social Security against the Centre for Gender Equality's decision. A decision to impose *per diem* fines under paragraph 6 shall be cancelled if the ruling of the Gender Equality Complaints Committee is referred to the courts.

Decisions by the Centre for Gender Equality to impose *per diem* fines may be enforced by attachment. Appeals lodged with the Minister of Social Affairs and Social Security or the institution of proceedings before the ordinary courts shall defer enforcement action.

## Article 5

### *The Gender Equality Complaints Committee.*

The Minister of Social Affairs and Social Security shall appoint three members of the Gender Equality Complaints Committee for periods of three years at a time in accordance with nominations by the Supreme Court. They shall all be qualified lawyers, and at least one of them shall have expert knowledge of gender equality issues. The chairman and vice-chairman shall meet the conditions set for serving as a district court judge. Alternates shall be appointed in the same way. The Committee may summon experts to give it advice and assistance if it deems necessary.

The task of the Gender Equality Complaints Committee shall be to examine cases and to deliver a ruling in writing on whether provisions of this Act have been violated. The Committee's rulings may not be referred to a higher authority.

In cases that may be expected to influence policy on the labour market as a whole, the Committee shall seek comments from the national federations of workers and employers before delivering its ruling.

The rulings of the Complaints Committee shall be binding for the parties to each case. The parties may refer the Committee's rulings to the courts. At the request of a party, the Committee may deliver a ruling deferring the legal effect of its own ruling if it deems it reasonable. A request to this effect shall be presented not later than ten days after the publication of the ruling. The deferral of the legal effects of a ruling shall be subject to the condition that the party to the case will refer the matter to the courts within thirty days of the publication of the ruling deferring the legal effects, and will then request that it receives swift treatment. If a request for swift treatment is rejected, then the case shall be litigated as quickly as possible after the rejection is announced, and not later than thirty days following the judge's rejection. The deferral of the legal effects of a ruling shall expire if the matter is not referred to the courts within thirty days of the publication of the ruling deferring the legal effects, or if no action is instituted within thirty days of the rejection by a judge of the request for speedy treatment. If a case concerning a Committee's ruling is litigated, the Committee may defer its treatment of comparable pending cases until judgment has been delivered in the case.

The Gender Equality Complaints Committee may decide that the party against whom the complaint is directed is to pay the plaintiff the costs of bringing the complaint before the Complaints Committee, providing that the Committee's conclusion is in the plaintiff's favour.

If a ruling of the Gender Equality Complaints Committee is in the plaintiff's favour but the respondent does not accept the Complaints Committee's ruling and brings an action to have it annulled by the courts, the plaintiff's legal costs, both at the district court and Supreme Court level, shall be paid by the Treasury.

If the Gender Equality Complaints Committee deems a complaint evidently unfounded, the Committee may order the plaintiff to pay the respondents' legal costs. An attachment may be made, without a prior court judgement, to secure the payment of legal costs.

The Complaints Committee shall publish its rulings.

Costs of the Committee's activities shall be paid by the State Treasury. The Minister of Social Affairs and Social Security may, by means of a regulation, set further provisions on the procedures of the Complaints Committee and its office management.

## Article 6

### *Procedure before the Gender Equality Complaints Committee.*

Individuals, enterprises, institutions and non-governmental organisations, either in their own name or on behalf of their members who consider that they are the victims of violations of this Act, may submit their case to the Gender Equality Complaints Committee.

The Centre for Gender Equality may request that the Gender Equality Complaints Committee examine a case *cf.* paragraph 5 of Article 4.

Cases shall be submitted to the Complaints Committee in writing within six months of the date when the alleged violation of this Act was known, or from the time when a situation regarded as an infringement of this Act came to an end, or from the time when the person concerned became aware of the alleged violation. If reasoning is sought on the basis of the provisions of the Administrative Procedure Act, the period for submission shall be reckoned from the time that the reasoning has been obtained. In special circumstances, the Complaints Committee may decide to examine a case even though the time limit defined above has passed, though in no case exceeding one year. An application shall be considered as timely if the pertaining letter is received by the Committee, or posted, before the time limit.

The Complaints Committee may, after consulting the plaintiff, send the case to the Centre for Gender Equality for mediation.

The Committee shall deliver its rulings at the earliest opportunity, and no later than three months after receiving the case.

Procedure before the Complaints Committee shall, as a rule, be in writing; however, the Committee may summon the parties or their representatives to hearings. In other respects, the Committee's procedure shall be in accordance with the Administrative Procedure Act and further regulations issued by the Minister after receiving proposals from the Committee.

## Article 7

### *Gathering of information before the Complaints Committee.*

The Gender Equality Complaints Committee shall ensure that a party to a case has the opportunity to express himself or herself regarding the matter at issue before the Committee delivers its ruling, providing that the Committee considers that neither the party's position nor the reasons for it are presented in the evidence.

The Gender Equality Complaints Committee may, at the request of the opposite party, demand a party to present materials which the Committee considers could have an influence on the resolution of the case.

The Gender Equality Complaints Committee may demand further evidence from the parties if it deems the facts inconclusive.

If evidence is presented to the Gender Equality Complaints Committee concerning wages, other terms of employment or entitlements of individuals, the Complaints Committee shall inform the party concerned that this information has been submitted to the Committee. Such information shall be treated in confidence.

## Article 8

### *The Gender Equality Council.*

After each parliamentary election, the Minister of Social Affairs and Social Security shall appoint a Gender Equality Council of eleven representatives. The Minister shall appoint the chairman without nomination; two representatives nominated jointly by the employees' associations; two representatives nominated jointly by the employers' associations; two nominated jointly by the Icelandic Feminist Association, the Federation of Icelandic Women's Associations and the Icelandic Women's Rights Society; one nominated jointly by the Women's Shelter Organisation, (*Samtök um kvennaathvarf*) and the Counselling and Information Centre for Survivors of Sexual Violence (*Stígamót*); one nominated by the Centre for Women's and Gender Studies at the University of Iceland (RIKK); one nominated by the Association for Parental Equality and one nominated by the Association of Local Authorities in Iceland. Alternates shall be appointed accordingly.

## Article 9

### *Role of the Gender Equality Council.*

The Gender Equality Council shall work in close contact with the Centre for Gender Equality and advise the Minister of Social Affairs and Social Security and the Director of the Centre for Gender Equality on professional policy-making in gender equality issues. Particular emphasis shall be placed on promoting gender equality on the labour market and on the reconciliation of work and family life.

The Gender Equality Council shall prepare the Gender Equality Forum in consultation with the Minister of Social Affairs and Social Security (*cf.* Article 10) and present a report on its work to the forum.

The operational costs of the council shall be paid by the State Treasury. The Minister may issue regulations containing further provisions on the work of the Gender Equality Council and its office management.

## Article 10

### *The Gender Equality Forum.*

The Minister of Social Affairs and Social Security shall call a Gender Equality Forum within a year of parliamentary elections, and again two years thereafter.

The Gender Equality Forum shall discuss gender equality issues; at its beginning the Minister of Social Affairs and Social Security shall present a report on the situation and developments in gender equality issues. The Minister's report shall include, *i.e.*, an assessment of the status and success of the projects covered by the current gender equality action programme adopted as a parliamentary resolution (*cf.* Article 11) and a review of the situation and developments regarding gender equality issues in principal spheres of society. The Gender Equality Council shall provide a summary of the discussions at the forum, and deliver the summary to the Minister. Other tasks of the forum shall, at each occasion, be decided by the Minister of Social Affairs and Social Security after receiving proposals from the Gender Equality Council.

The forum shall be open to all; the Gender Equality Council shall invite members of the Althingi (parliament), representatives of national and local government institutions, including their gender equality representatives, and representatives of the social partners and non-governmental organisations with gender equality issues on their agenda.

Participation in the forum shall be honorary, but other necessary costs of the forum shall be paid by the Treasury in accordance with the decision of the Minister of Social Affairs and Social Security.

#### Article 11

##### *Parliamentary resolution on a gender equality action programme.*

Within one year following a general election, the Minister of Social Affairs and Social Security shall present to the Althingi a motion for a parliamentary resolution on a four-year gender equality action programme after having received proposals made by the ministries, the Centre for Gender Equality and the Gender Equality Council. Discussions at the Gender Equality Forum (*cf.* Article 10) shall also be taken into account. The gender equality action programme shall include projects intended to secure equal status and equal rights of women and men in Icelandic society (*cf.* Article 1). The actions planned, and the estimated funding for projects, shall be itemised in the programme. The report presented by the Minister of Social Affairs and Social Security on the situation and developments of gender equality issues to the Gender Equality Forum (*cf.* Article 10) shall accompany the proposed parliamentary resolution.

#### Article 12

##### *The local authorities' gender equality committees.*

Following local government elections, the municipalities shall appoint gender equality committees to examine equal status and equal rights of women and men within their municipality. These committees shall advise the local governments on matters with a bearing on gender equality, and shall monitor and take initiative on measures, including affirmative action, to ensure the equal status and equal rights of women and men within their municipality.

Each gender equality committee shall supervise the compilation of a four-year gender equality programme stating, i.e. how work on gender mainstreaming in all spheres is to proceed, together with an action plan on how to redress imbalance in the positions of women and men within the municipality. Gender equality programmes shall be submitted for approval by the relevant local government not later than one year after local government elections.

Each committee shall every second year submit to the Centre for Gender Equality a report on the situation and developments in gender equality issues within the respective municipality.

#### Article 13

##### *Gender equality representatives.*

Each ministry shall have a gender equality representative with an expert knowledge of gender equality issues. The gender equality representative shall deal with, and monitor, gender equality work in the policy areas of the ministry in question and its institutions, i.e. the expert shall work on gender mainstreaming in the fields administered by the ministry. Each year, the gender equality representatives shall send a report on the status and developments in gender equality issues in the policy areas of their respective ministries to the Centre of Gender Equality.

#### Article 14

##### *Gender equality counsellors.*

The Minister of Social Affairs and Social Security may engage a gender equality counsellor to work temporarily on gender equality issues in a specific field and/or in a particular region of the country.

#### Article 15

##### *Participation in government and municipal committees, councils and boards.*

When appointments are made to national and local government committees, councils and boards, care shall be taken to ensure as equal representation of men and women as possible, and not lower than 40% when there are more than three representatives in a body. This shall also apply to the boards

of publicly-owned limited companies and enterprises in which the state or a municipality is the majority owner.

When nominations are made to national and local government committees, councils and boards, a man and a woman shall be nominated. The nominating party may deviate from the condition of the first sentence when, in consequence of objective circumstances, it is not possible to nominate both a man and a woman. In such cases, the nominating party shall explain the reasons for this.

The appointing party may deviate from the condition of paragraph 1 if the exemption provided for in paragraph 2 applies.

#### Article 16

##### *Analysis of statistical data.*

In the compilation of official economic reports on individuals, and in canvassing interviews and opinion surveys, a distinction shall be drawn between the sexes in the collection of data, data processing and the publication of information unless special circumstances, e.g. the protection of personal privacy, argue against doing so.

#### Article 17

##### *Gender mainstreaming.*

Gender mainstreaming shall be observed in all policy-making and planning on the part of the ministries and the public institutions operating under their realm. The same shall apply, as appropriate, to all decision-making within ministries and institutions.

### **SECTION III Rights and obligations.**

#### Article 18

##### *The labour market.*

Employers and trade unions shall work deliberately to bring women and men on an equal footing on the labour market. Employers shall work specifically to put women and men on an equal footing within their enterprise or institution and to take steps to avoid jobs being classified as specifically women's or men's jobs. Particular emphasis shall be placed on achieving equal representation of women and men in managerial and influential positions.

Enterprises and institutions with more than 25 employees, on average over the year, shall set themselves a gender equality programme or mainstream gender equality perspectives into their personnel policy. This shall specifically include, i.e., a statement of aims, with a plan of how they are to be achieved in order to guarantee the employees the rights set forth in Articles 19-22. Gender equality programmes and gender equality perspectives in personnel policies shall be reviewed at three-year intervals.

The enterprises and institutions referred to in paragraph 2 shall provide the Centre for Gender Equality with a copy of their gender equality plan, or personnel policy if they do not have a gender equality programme, together with their action plan, when the Centre for Gender Equality so requests. Furthermore, enterprises and institutions referred to in paragraph 2 shall submit a report on developments in this field, within a reasonable period, to the Centre for Gender Equality when it so requests.

In cases where an enterprise or institution referred to in paragraph 2 has not set itself a gender equality programme or mainstreamed gender equality perspectives into its personnel policy, the Centre for Gender Equality shall instruct the enterprise or institution in question to remedy the situation within a reasonable time limit. The same shall apply if the Centre for Gender Equality deems the gender equality programme of an enterprise or institution referred to in paragraph 2 to be unsatisfactory, or if gender equality perspectives have not been mainstreamed in its personnel policy with sufficient clarity.

Where an enterprise or institution referred to in paragraph 2 fails to comply with instructions given by the Centre for Gender Equality as provided for in paragraph 4, the Centre for Gender Equality may determine that the enterprise or institution in question is to pay *per diem* fines until it complies with the instructions. The same shall apply when an enterprise or institution neglects to provide the Centre for Gender Equality with a copy of its gender equality programme, or personnel policy if it has no

gender equality programme, and its plan of action, when the Centre for Gender Equality so requests, or refuses to give the Centre for Gender Equality a report on developments in this field (*cf.* paragraph 3). The decision on *per diem* fines shall be announced in writing in a verifiable manner to the party against whom it is directed.

*Per diem* fines may amount to up to ISK 50,000 per day. When determining the amount of *per diem* fines, factors including the number of employees of the enterprise or institution and the scope of the business involved shall, i.e., be taken into account.

*Per diem* fines shall accrue to the Treasury.

The party to whom the instructions of the Centre for Gender Equality are addressed under this provision may appeal to the Minister of Social Affairs and Social Security against the Centre for Gender Equality's decision.

Decisions by the Centre for Gender Equality to impose *per diem* fines may be enforced by attachment. Appeals lodged with the Minister of Social Affairs and Social Security or litigation before the ordinary courts shall defer enforcement action.

#### Article 19

##### *Wage equality.*

Women and men working for the same employer shall be paid equal wages and enjoy equal terms of employment for the same jobs or jobs of equal value.

By "equal wages" is meant that wages shall be determined in the same way for women and men. The criteria on the basis of which wages are determined shall not involve gender discrimination.

Workers shall at all times, upon their choice, be permitted to disclose their wage terms.

#### Article 20

##### *Vacancies, vocational training, retraining and continuing education (lifelong learning).*

Vacant positions that are open for application shall be equally accessible to women and men.

Employers shall take necessary measures to ensure that women and men have equal opportunities regarding retraining, continuing education, (lifelong learning) and vocational training, and to attend courses held to enhance vocational skills or to prepare for other assignments occupations.

#### Article 21

##### *Reconciliation of work and family life.*

Employers shall take the measures necessary to enable women and men to reconcile their professional obligations and family responsibilities. Amongst other things, such measures shall be aimed at increasing flexibility in the organization of work and working hours in such a way as to take account of both workers' family circumstances and the needs of the labour market, including facilitating the return of employees to work following maternity/paternity or parental leave or leave from work due to pressing and unavoidable family circumstances.

#### Article 22

##### *Gender-based harassment and sexual harassment.*

Employers and the directors of institutions and non-governmental organisations shall take special measures to protect employees, students and clients from gender-based or sexual harassment in the workplace, in institutions, in their work for, or the functions of, their societies, or in schools.

If a superior is charged with alleged gender-based or sexual harassment, he or she shall be non-competent to take decisions regarding the working conditions of the plaintiff during the examination of the case, and the next superior shall take such decisions.

#### Article 23

##### *Education and schooling.*

Gender mainstreaming shall be observed in all policy-making and planning in the work of the schools and educational institutions, including sports and leisure activities.

At all levels of the educational system, pupils shall receive instruction on gender equality issues in which emphasis shall be placed, amongst other things, on preparing both sexes to play an equal role in society, including work and family life.



Educational materials and textbooks shall be designed in such a way as not to discriminate against either sex.

In presentations on educational and vocational opportunities, and in counselling in the schools, boys and girls shall receive instruction and counselling regarding the same jobs, irrespective of their gender.

Studies of the status of the genders in Icelandic society shall be enhanced, this applying equally to primary academic research and to applied studies, and their findings shall be disseminated systematically within the educational system and to the media.

[The ministry in charge of education affairs]<sup>1)</sup> shall monitor compliance with gender equality in schools and educational institutions, including sports and leisure activities. Furthermore, [the ministry in charge of education affairs]<sup>1)</sup> shall monitor developments in these areas of society as regards gender equality.

A gender equality counsellor shall be employed within [the ministry in charge of education]<sup>1)</sup> and shall monitor the application of the provisions of this Article, and give relevant parties advice on gender equality issues, including affirmative action to promote gender equality.

<sup>1)</sup> Act No. 126/2011, Article 473.

## SECTION IV

### **Prohibition against discrimination on grounds of gender.**

#### Article 24

##### *General prohibition against discrimination.*

All forms of discrimination, direct or indirect, on grounds of gender, are prohibited.

However, affirmative action shall not be regarded as being contrary to this Act. The same shall apply if there are valid reasons to support employing an individual of a particular gender in view of objective factors relating to the job.

Special consideration to women in connection with pregnancy and childbirth shall not be regarded as discrimination.

#### Article 25

##### *Prohibition against discrimination regarding terms.*

Employers may not discriminate between women and men in wages and other terms of employment on grounds of their gender.

If a likelihood is adduced, that a woman and a man working for the same employer receive different wages for the same work, or for work of equal value, then the employer shall demonstrate, if there is a difference in their wages, that the difference is explained on grounds other than their gender.

#### Article 26

##### *Prohibition against discrimination at work and on engagement in employment.*

Employers are prohibited from discriminating between applicants for jobs on grounds of their gender. The same applies regarding promotion, changes of position, retraining, continuing education, (lifelong learning) vocational training, study leave, notice of termination, the working environment and employees' working conditions.

It is prohibited to allow maternity/paternity or parental leave, or other circumstances relating to pregnancy and childbirth, to have a negative effect on decisions under paragraph 1.

It is prohibited to advertise, or publish an advertisement for, a vacant position indicating that an employee of one sex is preferred over the other. This provision shall not apply if the aim of the advertiser is to promote a more equal representation of women and men within an occupational sector, in which case this shall be stated in the advertisement. The same shall apply if there are valid reasons for advertising for a man or a woman only.

If a likelihood is adduced that, regarding engagement, assignment or appointment to a post, promotion, change of position, retraining, continuing education, (lifelong learning) vocational training, study leave, notice of termination, the working environment or employees' working conditions, individuals have been discriminated against on grounds of their gender, the taking of maternity/paternity leave or parental leave, or other circumstances relating to pregnancy and childbirth, then the employer shall demonstrate that his or her decision was based on grounds other

than the individual's gender, the taking of maternity/paternity leave or parental leave, or other circumstances relating to pregnancy and childbirth.

When assessing whether the provisions of paragraph 4 have been violated, the educational qualifications, working experience, specialised knowledge or other special talents demanded in the relevant position according to law or regulations, or which must otherwise be considered as being of use in the position, shall be taken into account.

#### Article 27

*Prohibition against dismissal, etc., in connection with a complaint or a demand for redress.*

Employers may not dismiss employers for demanding redress on the basis of this Act.

Furthermore, employers shall ensure that employees are not subjected to injustice in their work, e.g. as regards job security, terms of employment or performance assessment, on the grounds of having submitted a complaint or provided information regarding gender-based or sexual harassment or sexual discrimination.

If a likelihood is adduced, that this provision has been violated, the employer shall demonstrate that the dismissal, or alleged injustice, is not based on the employee's demand for redress, complaint or provision of information regarding gender-based or sexual harassment or sexual discrimination. This shall not apply if the dismissal takes place more than one year after the employee made his/her demand for redress under this Act.

#### Article 28

*Prohibition against discrimination in schools and educational institutions.*

All forms of discrimination on grounds of gender shall be prohibited in schools and other educational institutions. This prohibition shall be observed in teaching and studies, in working methods and in day-to-day dealings with pupils.

Directors of institutions shall ensure that pupils or clients are not made to suffer for having made a complaint concerning gender-based harassment or gender discrimination.

#### Article 29

*Advertisements.*

Advertisers and those who design or publish advertisements shall ensure that the advertisements are not belittling or disrespectful towards either sex and that they do not run contrary to gender equality in any way. Such advertisements may not be published in the media or any other public venue.

#### Article 30

*Prohibition against waiver.*

No person may waive the rights set forth in this Act.

### **SECTION V**

#### **Sanctions.**

#### Article 31

*Compensation for financial and non-financial loss.*

Anyone who, deliberately or through negligence, violates this Act, shall be liable to pay compensation according to the ordinary rules. Furthermore, the party in question may be sentenced to pay the party affected by the violation compensation for non-financial loss, if appropriate, in addition to compensation for financial loss.

#### Article 32

*Fines.*

Violations of this Act, or of regulations issued hereunder, may be punishable by fines unless heavier penalties are prescribed in other statutes.

Fines shall be paid to the State Treasury.

Cases involving violations of this Act, or of regulations issued hereunder, shall be handled as criminal cases.

**SECTION VI**  
**Other provisions.**

Article 33

*Regulations.*

The Minister may issue regulations on the further application of this Act.

Article 34

*Commencement.*

This Act enters into force immediately. At the same time, the Act on Equal Status and Equal Rights of Women and Men, No. 96/2000, stands repealed.

**Interim Provisions.**

**I.**

The provisions of paragraph 1 of Article 4 regarding the appointment of the Director of the Centre for Gender Equality shall apply as from, and including, the first appointment to the position following the commencement of this Act. On commencement of this Act, the Director of the Centre for Gender Equality shall retain his/her position until the end of the appointment period.

**II.**

When this Act has taken effect, the Minister shall appoint a new Gender Equality Council (*cf.* Article 8).

**III.**

When this Act has taken effect, the Minister shall appoint a new Gender Equality Complaints Committee in accordance with Article 5, upon which the appointment of the Gender Equality Complaints Committee made under the Act No. 96/2000 shall expire.

**IV.**

The Minister of Social Affairs and Social Security shall ensure that a special certification system is developed in collaboration with the organisations of the social partners to certify the implementation of the policy of wage equality and equality in connection with employment and dismissal. This project shall be completed by 1 January 2010, when a review of this Act shall be undertaken.

**V.**

Notwithstanding the provisions of sentence 1 of Article 11, the Minister of Social Affairs and Social Security shall submit a proposal for a parliamentary resolution on a gender equality action programme to the Althingi on the basis of the provision for the first time in autumn 2008, the programme to run until spring 2012. In other respects, the provisions of Article 11 shall apply.

*Passed by the Althingi on 26 February 2008.*

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