

# The Act relating to Gender Equality

## Ministry of children and equality

Title of the Act amended by the Act of 10 June 2005 No. 38 (in force from 1 July 2005 pursuant to the Decree of 10 June 2005 No. 527).

### Section 1. (The purpose of the Act)

This Act shall promote gender equality and aims in particular at improving the position of women.

Women and men shall be given equal opportunities in education, employment and cultural and professional advancement.

Amended by the Act of 14 June 2002 No. 21 (in force from 1 July 2002 pursuant to the Decree of 14 June 2002 No. 535).

### Section 1a. (Duty to promote gender equality)

Public authorities shall make active, targeted and systematic efforts to promote gender equality in all sectors of society.

Employers shall make active, targeted and systematic efforts to promote gender equality within their enterprise. Employee and employer organizations shall have a corresponding duty to make such efforts in their spheres of activity.

Enterprises that are subject to a statutory duty to prepare an annual report shall in the said report give an account of the actual state of affairs as regards gender equality in the enterprise. An account shall also be given of measures that have been implemented and measures that are planned to be implemented in order to promote gender equality and to prevent differential treatment in contravention of this Act.

Public authorities and public enterprises that are not obliged to prepare an annual report shall give a corresponding account in their annual budget.

The provisions of the Anti-Discrimination Ombud Act shall apply in connection with the enforcement of the third and fourth paragraphs.

Added by the Act of 14 June 2002 No. 21 (in force from 1 July 2002 except for the third to fifth paragraphs which came into force on 1 January 2003, pursuant to the Decree of 14 June 2002 No. 535), amended by the Act of 10 June 2005 No. 40 (in force from 1 January 2006 pursuant to the Decree of 10 June 2005 No. 528).

Section 1b. (Incorporation of the UN Convention on the Elimination of All Forms of Discrimination against Women)

The United Nations Convention on the Elimination of All Forms of Discrimination against Women of 18 December 1979 with the Optional Protocol of 6 October 1999 shall apply as Norwegian law. The convention shall be published in the Norwegian Law Gazette in one original language and in a Norwegian translation.

Added by the Act of 10 June 2005 No. 38 (in force from 1 July 2005 pursuant to the Decree of 10 June 2005 No. 527).

Section 2. (The scope of the Act)

This Act shall apply to all areas.

With regard to family life and purely personal matters, this Act shall not be enforced by the bodies mentioned in section 9 of this Act.

In special cases the King may prescribe that all or part of the Act shall not apply to certain specific areas. Before such a decision is made, the opinion of the Board (cf. section 10) shall be obtained.

The Ministry will issue regulations regarding the application of the Act in the case of posted employees, cf. section 1-7 of the Working Environment Act.

Amended by the Act of 10 June 2005 No. 40 (in force from 1 January 2006 pursuant to the Decree of 10 June 2005 No. 528) and the Act of 17 June 2005 No. 62 (in force from 1 January 2006 pursuant to the Decree of 17 June 2005 No. 609).

Section 3. (General clause)

Direct or indirect differential treatment of women and men is not permitted.

The term “direct differential treatment” shall mean actions that

1. discriminate between women and men because they are of different sexes,
2. place a woman in a worse position than that in which she otherwise would have been because of pregnancy or childbirth, or place a woman or a man in a worse position than that in which the person concerned otherwise would have been because of her or his exercise of rights to take leave of absence that are reserved for a mother or father. Correspondingly, any questions about pregnancy, adoption or family planning during the hiring process shall, irrespective of the applicant’s gender, be regarded as direct differential treatment.

The term “indirect differential treatment” shall mean any apparently gender-neutral action that in fact has the effect of placing one of the sexes in a worse position than the other.

In certain cases, however, indirect differential treatment is permitted if the action has an objective purpose that is independent of gender, and the means that is chosen is suitable, necessary and is not a disproportionate intervention in relation to the said purpose.

In religious communities, differential treatment based on gender that is necessary for achieving a justifiable purpose and does not disproportionately affect the person or persons who are subject to differential treatment is permitted. In connection with hiring by a religious community, the requirement of a specific gender must in addition be of crucial importance to the performance of the work or profession.

It is not permitted to make use of reprisals against any person who has submitted a complaint regarding a breach of provisions of this Act, or who has stated that a complaint may be submitted. This shall not apply if the complainant has acted with gross negligence. The first and second sentences shall apply correspondingly to witnesses.

It is not permitted to give instructions regarding acts that are in contravention of provisions of this Act. Such instructions shall be regarded as differential treatment.

It is not permitted to be an accessory to a breach of provisions of this Act.

Amended by the Act of 30 June 1995 No. 43 (in force from 1 August 1995), the Act of 14 June 2002 No. 21 (in force from 1 July 2002 pursuant to the Decree of 14 June 2002 No. 535) and the Act of 10 June 2005 No. 38 (in force from 1 July 2005 pursuant to the Decree of 10 June 2005 No. 527).

Section 3a. (Affirmative action in favour of one of the sexes)

Different treatment that promotes gender equality in conformity with the purpose of this Act is not a contravention of section 3. The same applies to special rights and rules regarding measures that are intended to protect women in connection with pregnancy, childbirth and breastfeeding.

The King may prescribe further provisions as to which types of different treatment are permitted in pursuance of this Act, including provisions regarding affirmative action in favour of men in connection with the education and care of children.

Added by the Act of 14 June 2002 No. 21 (in force from 1 July 2002 pursuant to the Decree of 14 June 2002 No. 535).

Section 4. (Gender equality in connection with employment, etc.)

A job vacancy must not be advertised as being restricted to one sex only unless there is an obvious reason for doing so. Nor must the advertisement give the impression that the employer expects or prefers one of the sexes for the position.

In connection with the employment, promotion, dismissal or lay-off of employees, no difference must be made between women and men in contravention of section 3.

During the hiring process, including during the interview, the employer may not ask the applicant, irrespective of the applicant's gender, to provide any information on pregnancy, adoption or family planning. Nor may the employer implement measures to obtain such information in some other way.

A job seeker who has not obtained an advertised position may demand that the employer state in writing the education, experience and other clearly demonstrable qualifications for the position which are possessed by the person of the opposite sex appointed to the position.

Amended by the Act of 30 June 1995 No. 43 (in force from 1 August 1995) and the Act of 14 June 2002 No. 21 (in force from 1 July 2002 pursuant to the Decree of 14 June 2002 No. 535).

#### Section 5. (Equal pay for work of equal value)

Women and men in the same enterprise shall have equal pay for the same work or work of equal value. The pay shall be fixed in the same way for women and men regardless of sex.

The right to equal pay for the same work or work of equal value shall apply regardless of whether such work is connected with different trades or professions or whether the pay is regulated by different collective wage agreements.

Whether the work is of equal value shall be determined after an overall assessment in which importance is attached to the expertise that is necessary to perform the work and other relevant factors, such as effort, responsibility and working conditions.

The term "pay" shall mean ordinary remuneration for work as well as all other supplements or advantages or other benefits provided by the employer.

The King may by regulations prescribe further rules for what is to be considered the same enterprise in the state and municipal sector.

Amended by the Act of 30 June 1995 No. 43 (in force from 1 August 1995) and the Act of 14 June 2002 No. 21 (in force from 1 July 2002 pursuant to the Decree of 14 June 2002 No. 535).

#### Section 6. (Equal right to education)

Women and men have an equal right to education.

Employers shall treat women and men equally as regards training, further education and leave of absence in connection with education, etc.

Amended by the Act of 30 June 1995 No. 43 (in force from 1 August 1995) and the Act of 14 June 2002 No. 21 (in force from 1 July 2002 pursuant to the Decree of 14 June 2002 No. 535).

#### Section 7. (Teaching aids)

In schools and other educational institutions the teaching aids used shall be based on gender equality.

#### Section 8. (Associations)

An association shall be open to women and men on equal terms when

1. membership of the association is of significance for the individual member's opportunities for work or professional advancement, or
2. the object of the association is essentially to contribute to the solution of general social problems.

The provisions of the first paragraph shall not apply to associations where the main object is to promote the special interests of one of the sexes.

#### Section 8a. (Gender-based harassment and sexual harassment)

Gender-based harassment and sexual harassment are not permitted. Such harassment is considered to be differential treatment in contravention of section 3.

The term "gender-based harassment" shall mean unwelcome conduct that is related to a person's gender and that has the effect or purpose of offending another person's dignity. The term "sexual harassment" shall mean unwelcome sexual attention that is offensive to the object of such attention.

The employer and management of organizations or educational institutions shall be responsible for preventing and seeking to preclude the occurrence of harassment in contravention of provisions of this Act within their sphere of responsibility.

The provisions of the Anti-Discrimination Ombud Act shall apply in connection with the enforcement of the prohibition against gender-based harassment in the first paragraph and the provision in the third paragraph.

The prohibition against sexual harassment shall be enforced by the courts of law.

Added by the Act of 14 June 2002 No. 21 (in force from 1 July 2002 pursuant to the Decree of 14 June 2002 No. 535), amended by the Act of 10 June 2005 No. 38 (in force from 1 July 2005 pursuant to the Decree of 10 June 2005 No. 527) and the Act of 10 June 2005 No. 40 (in force from 1 January 2006 pursuant to the Decree of 10 June 2005 No. 528).

#### Section 9. (Enforcement of the Act)

The Equality and Anti-Discrimination Ombud and the Equality and Anti-Discrimination Tribunal shall monitor and contribute to the implementation of this Act, cf. the Anti-Discrimination Ombud Act, except for section 17 and the limitations set out in sections 1 a and 8 a.

Added by the Act of 10 June 2005 No. 40 (in force from 1 January 2006 pursuant to the Decree of 10 June 2005 No. 528), former section 9 was repealed.

Sections 10-15. (Repealed by the Act of 10 June 2005 No. 40 (in force from 1 January 2006 pursuant to the Decree of 10 June 2005 No. 528).)

#### Section 16. (Burden of proof)

If there are circumstances that give reason to believe that there has been direct or indirect differential treatment in contravention of the provisions of this Act, such differential treatment shall be assumed to have taken place unless the person responsible proves on a balance of probabilities that such differential treatment nonetheless did not take place.

The first paragraph shall apply correspondingly when a person claims to have been subjected to an act of reprisal in contravention of section 3, fifth paragraph.

Amended by the Act of 14 June 2002 No. 21 (in force from 1 July 2002 pursuant to the Decree of 14 June 2002 No. 535) and the Act of 10 June 2005 No. 38 (in force from 1 July 2005 pursuant to the Decree of 10 June 2005 No. 527).

#### Section 17. (Liability for damages)

Any job seeker or employee who has been subjected to treatment in contravention of provisions of this Act by an employer or a person acting on the latter's behalf may demand compensation and redress regardless of the fault of the employer. Compensation shall be fixed at the amount that is reasonable, having regard to the financial loss, the situation of the employer and the employee or job seeker and all other circumstances. Redress shall be fixed at the amount that the court finds reasonable, having regard to the relationship of the parties and all other circumstances.

In all other respects, the general rules regarding liability for damages in the event of wilful or negligent contravention of the provisions of this Act shall apply.

Amended by the Act of 14 June 2002 No. 21 (in force from 1 July 2002 pursuant to the Decree of 14 June 2002 No. 535) and the Act of 10 June 2005 No. 38 (in force from 1 July 2005 pursuant to the Decree of 10 June 2005 No. 527).

Sections 18-19. (Repealed by the Act of 10 June 2005 No. 40 (in force from 1 January 2006 pursuant to the Decree of 10 June 2005 No. 528).)

Section 20. (The geographical extent of the Act)

This Act shall apply in Norway, on Svalbard and on board Norwegian vessels and aircraft in areas that are not subject to the sovereign right of any state. The Act shall also apply to activities on installations and devices on the Norwegian part of the Continental Shelf.

The King may make exceptions to the provisions of the first paragraph and make supplementary provisions regarding the extent of the Act. Before such a decision is made, the opinion of the Board of Appeals shall be obtained.

Section 21. (Representation of both sexes in all public committees, etc.)

When a public body appoints or elects committees, governing boards, councils, boards, etc. each sex shall be represented as follows:

1. If the committee has two or three members, both sexes shall be represented.
2. If the committee has four or five members, each sex shall be represented by at least two members.
3. If the committee has six to eight members, each sex shall be represented by at least three members.
4. If the committee has nine members, each sex shall be represented by at least four members, and if the committee has a greater number of members, each sex shall be represented by at least 40 per cent of the members.
5. The provisions of nos. 1-4 shall apply correspondingly to the election of deputy members.

Exceptions may be made from the provisions of the first paragraph if there are special circumstances that make it obviously unreasonable to demand that the requirements be fulfilled.

The provisions of this section shall not apply to committees, etc. which pursuant to statute shall consist only of members from directly elected assemblies.

The provisions of the Local Government Act shall apply to committees, etc. elected by publicly elected bodies in municipalities and counties.

The King will make provisions regarding enforcement and reporting and may make supplementary provisions pursuant to this section.

Added by the Act of 12 June 1981 No. 59, amended by the Act of 25 March 1983 No. 12, the Act of 5 June 1987 No. 25, the Act of 19 February 1988 No. 6, the Act of 30 June 1995 No. 43 (in force from 1 August 1995), the Act of 19 December 2003 No. 120 (in force from 1 January 2004) and the Act of 10 June 2005 No. 38 (in force from 1 July 2005 pursuant to the Decree of 10 June 2005 No. 527).

Section 22. (Commencement, etc.)

1. This Act shall come into force from the date decided by the King.

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Amended by the Act of 12 June 1981 No. 59 (formerly section 21).