

Gender Equality (Consolidation) Act

2 July 2002

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Consolidation Act No. 553 of 2 July 2002

An Act to consolidate the law relating to gender equality, cf. Act No. 388 of 30 May 2000, as amended by section 4 of Act No. 440 of 7 June 2001, Act No. 146 of 25 March 2002, section 2 of Act No. 373 of 6 June 2002 and section 1 of Act No. 396 of 6 June 2002.

Part 1

Purpose of the Act

1 The purpose of this Act is to promote gender equality, including equal integration, equal influence and equal opportunities in all functions in society on the basis of women's and men's equal status. The purpose of the Act is also to counteract direct and indirect discrimination on the ground of gender and to counteract sexual harassment.

Part 2

Prohibition against unequal treatment on the ground of gender (gender discrimination)

2(1) Women and men shall receive equal treatment by employers, authorities or organisations within the public administration and in connection with business and general activities. Any person whose rights under the first sentence are violated may be awarded compensation.

(2) The Minister for Gender Equality is authorised to lay down rules to the effect that certain specified business and general activities shall not be subject to subsection (1) above.

(3) Persons who have been exposed to sexual harassment within the scope of subsection (1) may be awarded compensation. In this connection, special importance shall be attached to whether a relationship of dependence existed between the person harassed and the harasser.

(4) The Act on Equal Treatment of Men and Women in respect of Employment and Maternity Leave etc., the Act on Equal Pay to Men and Women and the Act on Equal Treatment of Men and Women in relation to the Occupational Social Security Schemes shall apply to the areas covered by the said acts.

2 a(1) Where a person who considers that his or her rights have been violated, cf. section 2 hereof, establishes matters of fact indicating that such person has been discriminated against, directly or indirectly, the opposing party shall prove that the equal treatment principle has not been violated.

(2) Indirect discrimination means that a provision, a criterion or a practice, which seems to be neutral, places a considerably larger number of persons of one gender in an inferior position compared with the other gender, unless such provision, criterion or practice is appropriate and necessary and may be justified by objective non-gender related factors.

Measures to promote gender equality

3(1) Notwithstanding the provision of section 2 hereof, the responsible minister may within his area of responsibility permit measures for the promotion of gender equality aiming at preventing or compensating for unequal treatment on the ground of gender.

(2) The Minister for Gender Equality is authorised to lay down rules specifying the cases in which measures to promote gender equality may be taken without authorisation under subsection (1) above.

(3) Section 13 of the Act on Equal Treatment of Men and Women in respect of Employment and Maternity Leave etc. shall apply to the areas covered by the Act.

Part 3

Obligations of public authorities

4 Public authorities shall within their respective areas of responsibility seek to promote gender equality and incorporate gender equality in all planning and administration.

Reports on gender equality

5(1) Prior to 1 September of every second year, ministries, state institutions and state-owned undertakings shall prepare a report on gender equality. State institutions and state-owned undertakings shall prepare reports only if their number of employees exceeds 50.

(2) Such reports shall include information on:

(i) whether the ministry, the institution or the undertaking has formulated a policy on gender equality and if so, the detailed contents of such policy;

(ii) the gender distribution across job categories; and
(iii) any other matter deemed to be of importance for an evaluation of the efforts made by the ministry, the institution or the undertaking in respect of gender equality.

(3) The reports from the institutions and undertakings specified in subsection (1) above shall be submitted to the responsible minister.

(4) The responsible minister shall edit the said reports and submit an overall report accompanied by the individual reports to the Minister for Gender Equality not later than 1 November of the years in which such reports are prepared.

5 a(1) At least every second year, the local council and the county council shall submit a report on gender equality among local and county authority employees to their citizens. Such reports shall be subject to adoption by the local council and the county council.

(2) Such reports shall include information on:

(i) whether the local authority or the county authority has formulated a policy on gender equality and if so, the detailed contents of such policy;
(ii) the gender distribution across job categories; and
(iii) any other matter deemed to be of importance for the efforts made by the local authority or the county authority in respect of gender equality.

(3) The said reports shall be submitted to the Minister for Gender Equality not later than 1 September of the years in which such reports are prepared.

6 The Minister for Gender Equality is authorised to lay down rules in respect of the contents of the reports set out in section 5(1) and section 5 a hereof.

7(1) Prior to 1 March of each year, the Minister for Gender Equality shall submit a report and a perspective and action plan for gender equality to Folketinget (the Danish Parliament).

(2) Public authorities, undertakings and organisations shall upon request submit to the Minister for Gender Equality the information on gender equality which is necessary for the preparation of the annual report and the perspective and action plan.

Part 4

Committees and boards

Gender composition of public committees, commissions, etc.

8 Public committees, commissions and similar bodies set up by a minister for the purpose of laying down rules or for planning purposes of importance to society should consist of an equal number of women and men.

9(1) Authorities or organisations which are to suggest a member for a committee, etc. in compliance with section 8 above shall suggest both a woman and a man. Where more than one vacancy needs to be filled, authorities or organisations shall suggest an equal number of women and men, and where the number of vacancies is an odd number one more of the one gender than of the other. The same shall apply where the authority or organisation shall appoint members pursuant to Danish law. The minister shall decide on the appointment of members and shall aim at achieving an equal gender balance.

(2) If special reasons exist, the authority or organisation may derogate from the provision of subsection (1) above. In that case, the authority or organisation shall state the reason for the derogation.

(3) Where authorities and organisations, etc. fail to appoint or suggest members in compliance with subsection (1), the responsible minister may decide that the committee, the commission, etc. may carry out its functions without the said members. The same shall apply if the minister cannot accept the reason given under subsection (2) for derogating from the provision of subsection (1) hereof.

10(1) When setting up committees, etc. as set out in section 8(1), the responsible minister shall notify the Minister for Gender Equality of the planned gender composition prior to the appointment of members.

(2) Where the planned gender composition fails to comply with section 8(1) hereof, the Minister for Gender Equality may contact the responsible minister and ask for a reason, and in special cases require the responsible minister to alter the composition of the committee.

Gender composition in connection with the appointment of certain board members in the public administration, etc.

11(1) Boards, assemblies of representatives or similar collective management bodies within the public administration should have an equal gender balance.

(2) To the extent possible, boards, assemblies of representatives or similar collective management bodies of independent institutions, partnerships and limited liability companies which are not part of the public administration, should have an equal gender balance. This shall apply where the expenses relating to the independent institution are mainly covered by government funds or where the state holds a majority interest of the company.

(3) The responsible minister may decide that subsection (1) shall apply to the institutions and companies, etc. specified in subsection (2) above.

(4) The responsible minister may decide that subsection (1) or (2) shall apply to specified independent institutions, partnerships or limited liability companies where more than 50 per cent of the expenses incurred by such independent institutions are covered by government funds or where the state

holds not less than a 50 per cent stake in the company, etc. The responsible minister may further decide that subsection (1) or (2) shall apply to companies carrying on activities under a concession agreement or similar public licences.

12(1) Where one or more members of the board, etc. as set out in section 11 hereof are appointed by a minister, the authorities or organisations suggesting a member for the board, etc. shall suggest both a woman and a man. Where more than one vacancy needs to be filled, authorities or organisations shall suggest an equal number of women and men, and where the number of vacancies is an odd number one more of the one gender than of the other. The same shall apply where the authority or organisation shall appoint members pursuant to Danish law. The minister shall decide on the appointment of members.

(2) The authority or organisation may derogate from the provision of subsection (1) where special reasons exist. In that case, the authority or organisation shall state the reason for the derogation.

(3) Subsection (1) shall not apply if one or more members of the board, etc. are elected in a direct vote.

(4) Where authorities and organisations fail to appoint or suggest members in compliance with subsection (1), the responsible minister may decide that the board, etc. may carry out its functions without the said members. The same shall apply if the minister cannot accept the reason given under subsection (2) for derogating from the provision of subsection (1) hereof.

13(1) Prior to 1 November of every third year, the responsible minister shall notify the Minister for Gender Equality of the gender composition of the boards, etc. which are subject to section 11(1) hereof.

(2) Boards, etc. subject to section 11 hereof shall upon request submit information on the gender composition of the board, etc. to the responsible minister. The responsible minister is authorised to lay down rules specifying how and when such information is to be submitted.

(3) In the case of doubt as to whether a board, etc. as set out in section 11 hereof is subject to the duty of notification, the matter shall be decided by the responsible minister.

Part 5
(Repealed)

Part 6
Gender Equality Board

18(1) The Gender Equality Board shall consist of a chairperson and two other members to be appointed by the Minister for Gender Equality for terms of three years. Members shall be eligible for reappointment. The chairperson

shall be a professional judge. The other members shall hold an MA degree in law, and one member shall have knowledge about gender equality issues, whereas the other member shall have knowledge about industrial relations. Both genders shall be represented on the Board.

(2) The Minister for Gender Equality shall lay down the rules of procedure of the Board.

(3) The secretariat of the Minister for Gender Equality shall be at the disposal of the Board.

19(1) The Board may consider cases concerning unequal treatment on the ground of gender pursuant to section 2 hereof and pursuant to the Act on Equal Pay to Men and Women, the Act on Equal Treatment of Men and Women in respect of Employment and Maternity Leave etc. and pursuant to the Act on Equal Treatment of Men and Women in relation to the Occupational Social Security Schemes. The Board may award compensation and set aside dismissals to the extent provided for by the said acts, etc.

(2) The Board may also consider complaints from an employee about the non-observance of collective agreement provisions imposing duties of equal treatment or equal pay similar to those imposed by the Act on Equal Treatment of Men and Women in respect of Employment and Maternity Leave etc., cf. section 1(3) of the said act; by the Act on Equal Pay to Men and Women, cf. section 1(4) of the said act; or by the Act on Equal Treatment of Men and Women in relation to the Occupational Social Security Schemes, cf. section 2 of the said act, if such employee substantiates that the trade union in question has no intention of subjecting the matter to the industrial dispute resolution system.

(3) The Board shall not consider complaints which can be brought before another administrative authority until such authority has decided the matter.

(4) The Board shall not consider complaints pending before the courts.

(5) The parties to the case shall not bring the matter before the courts as long as the case is pending before the Board.

20(1) The Board shall dismiss complaints which are deemed unsuitable for consideration by the Board.

(2) The Board shall be entitled to dismiss a complaint if it is considered obvious that the Board will find against the complainant.

21(1) The decisions made by the Board cannot be appealed against to any other administrative authority.

(2) The decisions made by the Board shall be entered into the records of the Board and shall be published. Where a decision is not unanimous, information about the casting of votes shall also be entered into the records.

22(1) Once the Board has made a decision about a complaint, either party may bring the matter before the courts.

(2) Where the decisions made by the Board or the settlements made with the assistance of the Board are not observed, the Minister for Gender Equality shall, at the complainant's request and on his or her behalf, bring the matter before the courts.

23 The Board shall submit an annual report on its activities.

Part 7

Commencement, repeal and review

24(1) This Act shall come into force on 1 June 2000.

(2) The first of the reports set out in section 5 hereof shall be prepared in 2001. The first of the notifications set out in section 13 hereof shall be submitted to the Minister for Gender Equality in 2003.

(3) The chairperson of the Gender Equality Board set out in section 18 hereof shall be appointed for an initial term of four years.

(4) The following acts and provisions shall be repealed:

- (i) Act No. 157 of 24 April 1985 on Equal Treatment of Men and Women in Connection with the Appointment of Members of Public Committees, Commissions etc.
- (ii) Act No. 238 of 20 April 1988 on Equal Treatment of Men and Women.
- (iii) Act No. 427 of 13 June 1990 on Equal Treatment of Men and Women in Connection with the Appointment of Certain Board Members in the Public Administration.
- (iv) Sections 5 a and 6 a of the Act on Equal Pay to Men and Women, cf. Consolidation Act No. 639 of 17 July 1992.

25 The Act on Equal Treatment of Men and Women in respect of Employment and Maternity Leave etc., cf. Consolidation Act No. 213 of 3 April 1998, shall be amended as follows:

1. 'cf. section 18(2)' shall be deleted from Section 1(3).

2. Section 13 shall read as follows:

'13(1) Where the gender of a person is crucial to the performance of certain types of business and educational/training activities, the minister responsible for such activities may derogate from the provisions of sections 2 to 6 hereof.

(2) The minister responsible for a particular activity may permit measures derogating from sections 2 to 6 hereof for the purpose of promoting gender equality, particularly by redressing actual inequalities between men and women which affect the access to employment, education, etc.

(3) Pursuant to the Gender Equality Act, the Minister for Gender Equality is authorised to lay down rules specifying the cases in which measures to promote gender equality may be taken without authorisation under subsection (2) above.

(4) The responsible minister shall notify the Minister for Gender Equality of the derogations specified in subsections (1) and (2) at least every second year prior to 1 November, first time in 2002.'

3. Section 18 shall be repealed.

4. 'and section 18(2)' shall be deleted from section 19(1).

26 Act No. 375 of 14 June 1995 on the Technology Council shall be amended as follows:

1. In section 5(2)(v) 'the National Research and Documentation Centre on Gender Equality' shall be replaced by 'the Minister for Gender Equality'.

27 The Act on Educational and Occupational Guidance, cf. Consolidation Act No. 452 of 4 June 1996 shall be amended as follows:

1. In section 3(3) 'the Gender Equality Council' shall be replaced by 'the National Research and Documentation Centre on Gender Equality'.

2. Section 3(4) shall read as follows:

'(4) Two representatives from the Ministry of Labour and two representatives from the Ministry of Education shall be appointed to assist the Council.'

28 Act No. 134 of 25 February 1998 on Equal Treatment of Men and Women in relation to the Occupational Social Security Schemes shall be amended as follows:

1. In section 18(1) 'the Gender Equality Council' shall be replaced by 'the Minister for Gender Equality'.

2. In section 18(2) 'the Gender Equality Council' shall be replaced by 'the Minister for Gender Equality' and 'of the Gender Equality Council' by 'of the Minister for Gender Equality'.

3. In section 18(3) 'the Gender Equality Council' shall be replaced by 'the Minister for Gender Equality'.

29 Act No. 401 of 26 June 1998 on the Danish Court Administration shall be amended as follows:

1. Section 4(5) shall read as follows:

'(5) section 12 of the Gender Equality Act shall not apply in connection with the appointment of members to the board of the Danish Court Administration.'

30 The Minister for Gender Equality shall put a proposal for the review of Part 6 of this Act before Folketinget in the sessional year 2002/2003.

31 This Act shall not extend to the Faeroe Islands and Greenland.

Ministry of Social Affairs, 2 July 2002

HENRIETTE KJÆR

/ Vibeke Abel