

Denmark

Act on Gender Equality

Part 1

Purpose of the Act

1. The purpose of this Act is to promote gender equality, including equal integration, equal influence and Gender Equality 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 based on gender (gender discrimination)

2. - (1) Women and Men shall be given equal treatment within the public administration and in occupational and general activities. Persons whose rights under clause 1 are violated may be awarded compensation.

(2) The Minister for Gender Equality may lay down rules to the effect that certain specified activities shall not be covered by subsection (1).

(3) Within the field of application laid down in subsection (1), persons who are exposed to sexual harassment may be awarded compensation. In this connection, special regard shall be paid to whether a relationship of dependence has existed between the person who has been exposed to the harassment and the person who has exercised it.

(4) The Act on Equal Treatment of Men and Women as regards 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 Occupational Social Security Schemes shall be applicable in those fields covered by these acts.

Measures to promote gender equality

3. - (1) Irrespective of the provision laid down in section 2, a minister may within his or her portfolio permit measures to promote gender equality which aim at preventing or redressing discrimination on the ground of gender.

(2) The Minister for Gender Equality may lay down rules specifying in which cases measures to promote gender equality may be initiated without permission under subsection (1).

(3) Section 13 of the Act on Equal Treatment of Men and Women as regards Access to Employment and Maternity Leave, etc. shall be applicable in fields covered by this Act.

Part 3

Obligations of public authorities

4. Public authorities shall, within their portfolio, work for gender equality and integrate gender equality in all planning and administration (mainstreaming).

Reports on gender equality

5. - (1) Ministries, state institutions and state enterprises shall every second year before 1 September give a report on gender equality. However, state institutions and state enterprises shall only give a report if they have more than 50 employees.

(2) The reports shall include information about:

- 1) whether the Ministry, institution or enterprise has formulated a policy for gender equality, and if so, the content of this policy,
- 2) the gender-distribution in relation to the specific occupational categories, and
- 3) any other matters considered to be of importance for an evaluation of the activities in the field of gender equality of the Ministry, institution or enterprise.

(3) The reports from the institutions and enterprises mentioned in subsection (1) shall be submitted to the Minister with the institution in his or her portfolio.

(4) Each Minister shall within his or her portfolio examine the reports submitted and shall - before 1 November of the year during which the reports are drawn up - submit a joint report and the enclosed specific reports to the Minister for Gender Equality.

6. The Minister for Gender Equality may lay down rules concerning the content of the reports mentioned in section 5 (1).

7. - (1) The Minister for Gender Equality shall each year before 1 March draw up a report and a perspective and action plan for gender equality for the Folketing (the Danish Parliament).

(2) Public authorities, enterprises and organisations shall at request provide the Minister for Gender Equality with any information concerning gender equality which is necessary for the drawing up 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 the society should have an equal composition of women and men.

9. - (1) Authorities or organisations which are to suggest members of committees etc. as mentioned in section 8 shall suggest both a woman and a man. If more than one seat is to be filled an equal number of women and men must be suggested, and in case of an uneven number of members only one more of one gender than of the other gender may be suggested. The same shall apply where the authority or organisation shall appoint members in accordance to rules of law. The minister concerned decides who shall be appointed as a member and shall endeavour an equal composition of women and men.

(2) The authority or organisation may deviate from the provision laid down in subsection (1) if there are special reasons for doing so and shall, in such case, state the reason for doing so.

(3) If authorities and organisations, etc. fail to appoint or nominate members in accordance with subsection (1), the minister concerned may decide that the committee, commission, etc. may function without the members concerned. The same shall apply if the minister cannot accept a reason given in accordance with subsection (2) for deviating from the provision laid down in subsection (1).

10. - (1) In connection with the setting up of committees, etc. as mentioned in section 8 (1) the minister concerned shall notify the Minister for Gender Equality of the planned composition before the appointment of members takes place.

(2) If the planned gender composition is not in accordance with section 8 (1), the Minister for Gender Equality may contact the minister concerned and ask for a reason and, in special cases, request a new composition of the committee.

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

11. - (1) Boards, executive committees or similar collective managements within the state administration should have an equal composition of women and men.

(2) Boards, executive committees or similar collective managements of independent institutions, partnerships and private and public limited companies which do not fall under the public administration should, as far as possible, have a balanced composition of women and men. This applies if the costs of the activities of the independent institutions are mainly covered by state funds or if the company is mainly owned by the state.

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

(4) The minister concerned may decide that subsection (1) or (2) shall apply to specified independent institutions, partnerships or private or public companies if the costs of activities of the independent institutions are covered with more than 50 per cent out of state funds or if more than 50 per cent of the company, etc. is owned by the state. The minister concerned may further decide that subsection (1) or (2) shall apply to companies exercising activities in accordance to a concession or similar public authorisation.

12. - (1) If the board, etc., as mentioned in section 11, is fully or partly appointed by a minister, the authorities or organisations nominating a member for a board, etc. shall propose both a woman and a man. If several members are to be nominated, an equal number of women and men shall be suggested and, in the case of an uneven number, one more of one gender than of the other. The same shall apply where the authority or organisation is to appoint members in accordance to rules of law. The minister decides who shall be appointed as member.

(2) The authority or organisation may deviate from the provision laid down in subsection (1) if there are special reasons for doing so and shall, in such case, state the reason for doing so.

(3) Subsection (1) shall not apply if the members of the board, etc. are fully or partly elected by direct ballot.

(4) If authorities and organisations do not appoint or nominate members in accordance with subsection (1), the minister concerned may decide that the board, etc. may function without the member(s) concerned. The same shall apply if the minister cannot accept a reason given under subsection (2) for deviating from the provision laid down in subsection (1).

13. - (1) The minister concerned shall every three years before 1 November notify the Minister for Gender Equality of the composition of boards, etc. covered by section 11 (1).

(2) Boards, etc. covered by section 11 shall at request provide the minister concerned with information concerning the gender composition of the board, etc. The minister concerned may lay down more detailed rules concerning how and when such information shall be provided.

(3) In the case of doubt as to whether a board, etc. as mentioned in section 11 is covered by the duty of notification, the matter shall be decided by the minister concerned.

Part 5

National Centre for Research and Information on Gender Equality

14. - (1) The National Centre for Research and Information on Gender Equality is an independent institution set up for the purpose of promoting, qualifying and creating debate concerning gender equality for women and men and of underpinning measures to

integrate the aspect of gender equality in all policies, planning and administrative activities (mainstreaming).

(2) The National Centre for Research and Information on Gender Equality shall disseminate knowledge and information about gender equality to the general public.

(3) The National Centre for Research and Information on Gender Equality may point to needs for and initiate studies, research, analyses and other activities of importance for ensuring a broad debate on gender equality and may come up with proposals about gender equality initiatives and activities to ministries concerned. The Minister for Gender Equality may come up with proposals for gender equality initiatives and activities to the National Centre for Research and Information on Gender Equality.

15. - (1) The National Centre for Research and Information on Gender Equality is managed by a board set up by the Minister for Gender Equality. The board is composed of 11 members, of which one member is appointed by and among the staff of the Centre. The Minister for Gender Equality appoints the chairman and three members engaged in research concerning gender equality or gender. The remaining six members are appointed by the Minister for Gender Equality on nomination from

- 1) one member from the Ministry of Finance, the Association of County Authorities in Denmark, the Association of Municipal Authorities in Denmark and the municipalities of Copenhagen and Frederiksberg, jointly;
- 2) one member from the Danish Employers' Confederation;
- 3) one member from the Confederation of Danish Trade Unions;
- 4) one member from the Federation of Public Servants' and Salaried Employees' Organisations;
- 5) one member from the women's organisations jointly, and
- 6) one member from the men's organisations jointly.

(2) The board shall be appointed for a term of 4 years. The members of the board may be re-appointed.

(3) Sections 11 and 12 shall apply for the composition of the board.

16. - (1) The board shall have the overall responsibility for the management of the centre in relation to the Minister for Gender Equality.

(2) The board shall recruit and dismiss the Director of the Centre.

(3) The board shall determine the budget of the centre at the recommendation of the Director.

(4) The board shall lay down the regulations of the National Centre for Research and Information on Gender Equality concerning the more detailed conditions for the centre. The regulations shall be approved by the Minister for Gender Equality.

(5) The Centre shall draw up an annual activity and action plan.

(6) The board shall submit and publish an annual report on the activities of the centre.

17. The National Centre for Research and Information on Gender Equality shall set up a Debate Forum the composition of which shall be approved by the Minister for Gender Equality. The Debate Forum shall be composed in such a way it represents insight in and interest in matters concerning gender equality and general social conditions, including views prevailing among interested organisations, researchers, individual persons and groups of persons. The Debate Forum shall have an equal composition of women and men.

Part 6

The Gender Equality Board

18. - (1) The Gender Equality Board shall be composed of a chairperson and two members appointed by the Minister for Gender Equality for a term of 3 years at a time. Re-appointment may take place. The chairman shall be a legally qualified judge. The other members shall have a law degree and one member shall have expertise knowledge about equality matters and the other about labour market matters. Both genders must be represented in the board.

(2) The Minister for Gender Equality shall lay down the regulations of the board.

(3) The Minister for Gender Equality shall provide secretarial assistance to the board.

19. - (1) The board shall deal with cases concerning gender discrimination under section 2 and under the Act on Equal Pay to Men and Women, the Act on Equal Treatment of Men and Women as regards Employment and Maternity Leave, etc. and the Act on Equal Treatment of Men and Women in relation to Occupational Social Security Schemes. In this connection, the Board may award compensation and overrule dismissals to the extent following from the acts mentioned, etc.

(2) The board may also deal with complaints from an employee concerning breaches of provisions laid down in collective agreements which contain a similar duty to offer equal treatment or equal pay as the Act on Equal Treatment of Men and Women in relation to Employment and Maternity Leave, etc. cf. section 1 (3) of this Act, the Act on Equal Pay for Men and Women, cf. Section 1 (4) of this Act, or the Act on Equal Treatment of Men and Women in relation to Occupational Social Security Schemes, cf. Section 2 of this Act, provided that the person concerned substantiates that the trade union in question does not intend to deal with the complaint through the machinery set to deal with industrial disputes.

(3) The board may not deal with complaints which may be brought before another administrative authority before this authority has made a decision in the case.

(4) The board may not deal with complaints pending before a court of law.

(5) The parties to the case may not bring the case before a court of law as long as the case is pending before the board.

20. - (1) The board shall dismiss complaints which are not found suitable for consideration by the board.

(2) The board may dismiss a complaint if it finds it obvious that the complaint will not be decided in favour of the complainant.

21. - (1) No appeal shall lie against the decisions of the board to any superior administrative authority.

(2) The decisions of the board shall be recorded and made public. If the decision is not unanimous, information about the voting shall be recorded.

22. - (1) When a complaint has been decided by the board, either of the parties may bring the matter before a court-of-law.

(2) In the case of failure to comply with the decisions or settlements of the board, the Minister for Gender Equality shall, at the request of the complainant and on his/her behalf, bring the matter before a court-of-law.

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

Part 7

Provisions on commencement, abolition and review

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

(2) The reports mentioned in section 5 shall be drawn up for the first time in year 2001. The notifications mentioned in section 13 shall be submitted for the first time to the Minister for Gender Equality in year 2003.

(3) The chairperson of the Gender Equality Board mentioned in section 18 shall be appointed for the first time for a term of 4 years.

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

1) Act No. 157 of 24 April on equality between men and women in connection with appointment of members of public committees, commissions, etc.

2) Act No. 238 of 20 April 1988 on Equal Treatment for Men and Women.

3) Act No. 427 of 13 June 1990 on Equality between men and women in connection with appointment of members to certain boards in the state administration.

4) 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. - (1) The Act on Equal Treatment of Men and Women as regards 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 of decisive importance for the performance of certain types of professional and educational/training activities, the minister under whose competence the activity concerned falls may deviate from the provisions laid down in sections 2 to 6.

(2) The minister under whose competence an activity falls may permit measures which deviate from sections 2 to 6 with a view to promoting Gender Equality for men and women, mainly by redressing actual inequalities which affect the access to employment, education/training, etc.

(3) The Minister for Gender Equality may under the Act on Gender Equality lay down further rules providing in which cases measures to promote gender equality may be taken without permission under subsection (2).

(4) The deviations from subsections (1) and (2) shall be notified to the Minister for Gender Equality at least every second year before 1 November, the first time in year 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) 5 "the Gender Equality Council" shall be amended to "the National Centre for Research and Information on Gender Equality".

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

1. In Section 3 (3) "the Equal Status Council" shall be amended to "the National Centre for Research and Information on Gender Equality".

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

"(4) Furthermore, 2 representatives from the Ministry of Labour and 2 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 Occupational Social Security Schemes shall be amended as follows:

1. In Section 18 (1) "the Equal Status Council" shall be amended to "the Minister for Gender Equality".

2. In Section 18 (2) "the Equal Status Council" shall be amended to "the Minister for Gender Equality".

3. In Section 18 (3) "the Equal Status Council" shall be amended to "the Minister for Gender Equality".

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

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

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

30. The Minister for Gender Equality shall submit a proposal for revision of Part 6 of the Act in the course of the Parliamentary Session 2002-03.

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

Given at Fredensborg Castle, 30 May 2000

Under Our Royal Hand and Seal

Margrethe R

/Jytte Andersen