

Act

on the Equal Status and Equal Rights of Women and Men

[Iceland]

SECTION I

Aim and Scope of this Act

Art. 1

Aim

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:

- a. gender mainstreaming in all spheres of the society,
- b. working on the equal influence of women and men in decision-making and policy-making in the society,
- c. enabling both women and men to reconcile their occupational and family obligations,
- d. improving especially the status of women and increasing their opportunities in the society,
- e. increasing education in matters of equality,
- f. analysing statistics according to sex.
- g. increasing research in gender studies.

SECTION II

Public Administration

Art. 2

Overall responsibility

The Minister of Social Affairs shall be in charge of the implementation of this Act unless otherwise provided for. The Equal Status Bureau shall be a special institution for which the Minister shall have responsibility. The Bureau shall be in charge of the administration of the scope of this Act. The Minister shall decide on the location of the Equal Status Bureau.

Art. 3

The Equal Status Bureau

The Minister shall appoint the Director of the Equal Status Bureau for five years at a time. The Director shall be in charge of the Bureau's day-to-day operations and appoint its staff. The tasks entrusted to the Equal Status Bureau are among others to:

- a. monitor the implementation of this Act,
- b. provide education and information,
- c. provide counselling for the authorities, institutions, companies, individuals and non-governmental organizations,
- d. provide suggestions and proposals on activities in the matters of equality to the Minister of Social Affairs, the Equal Status Council and other authorities,
- e. increase activity in matters of equality, i.a. by increased participation of men in such activities,
- f. monitor the developments of the society in matters of equality, i.a. through the gathering of information and research,
- g. provide assistance to equal status committees, equal status counsellors and the equal status

- representatives of local authorities, institutions and companies,
- h. undertake other tasks consistent with the aim and scope of the Act as further instructed by the Minister.

Public institutions, employers and non-governmental organizations shall be obliged to provide the Equal Status Bureau with general information which it may need for its operations.

In special circumstances, and when it might be expected that a ruling of a court of law could have widespread influence to increase equality, or if the interests of the plaintiff are deemed to be of such nature as to justify legal proceedings, the Equal Status Bureau may initiate legal proceedings to obtain recognition of the rights of the plaintiff on the basis of the Complaints Committee on Equal Status's opinions under Art. 4. The Minister will issue regulations with further instructions on the conditions under which the Equal Status Bureau shall be justified to initiate legal proceedings.

Art. 4

The Complaints Committee on Equal Status

The Minister of Social Affairs shall appoint a Complaints Committee on Equal Status. Its members shall be appointed for a period of three years at a time. The Minister will appoint one without nomination, and the Supreme Court shall nominate two, the Committee's chairman and vice-chairman. The alternates shall be nominated in the same manner. The Committee members shall be qualified lawyers.

The role of the Complaints Committee shall be to consider and issue in writing a substantiated opinion on whether the provisions of the law have been violated. The Committee's opinion shall not be subject to appeals to a higher authority.

In cases which may be expected to have a policy-establishing effect on the labour market in general, the Committee shall seek comments from the overall organizations of employees and their contracting parties before issuing its opinion.

In cases where the Complaints Committee on Equal Status is of the opinion that the provisions of this law have been violated, it shall submit substantiated requests for improvements to the parties concerned.

The Complaints Committee on Equal Status shall issue an annual report containing its opinions

Costs of the Committee's activities shall be paid by the State Treasury. The Minister of Social Affairs may issue regulation with further provisions on the Committee's activities and office expenses.

Art. 5

Procedures of the Complaints Committee on Equal Status

Individuals, and non-governmental organization in their own name or on behalf of their members who consider that they have been subjected to violations of this law, may seek redress with the Complaints Committee on Equal Status. In special circumstances, the Complaints Committee shall be permitted to consider cases referred to it by others.

Cases shall be submitted to the Complaints Committee in written form within one year from the time the alleged violation of the law was revealed, or from the time the party concerned became aware of the alleged violation. In cases where argumentation on the basis of administrative law is being sought, this respite shall start when such argumentation has been presented. A case shall be considered to have been submitted in time if a letter containing it is received by the Committee, or has been posted, before the end of this respite.

In special circumstances, the Equal Status Bureau may request that the Complaints Committee consider a specific case.

The Complaints Committee's proceedings shall, in general, be carried out in writing; however, the Committee may summon the parties or their representatives. In other respects, the Committee's proceedings shall be carried out under the provisions of administrative law and further regulations issued by the Minister of Social Affairs on the basis of proposals submitted by the Committee.

Art. 6

Gathering of information by the Complaints Committee on Equal Status

The Complaints Committee on Equal Status shall ensure that the party to a case is given the opportunity to express himself/herself before the Committee issues its opinion, providing the Committee considers that neither his/her position nor any argumentation for it is contained in the documents of the case.

At the request of the opponent, the Complaints Committee on Equal Status can demand to be shown documents that may effect the resolution of the case from the parties.

The Complaints Committee on Equal Status may demand to be supplied with further data from the parties to a case if it considers the case not to have been explained in a satisfactory manner.

If data on pay, other working terms or rights of individuals have been presented to the Committee, the person in question shall be informed thereof. Such information shall be handled as a matter of confidentiality.

Art. 7.

The Equal Status Council

In the wake of each parliamentary election, the Minister of Social Affairs shall appoint a nine-member Equal Status Council. The Minister shall appoint the chairman without nomination, one member shall be nominated by the Icelandic Federation of Labour, one nominated by the Confederation of State and Municipal Employees, one nominated by the Ministry of Finance, one nominated by the University of Iceland, one nominated by the Federation of Icelandic Women's Associations, one nominated by the Women's Rights Association of Iceland, one nominated by the Confederation of Icelandic Employers and one nominated by the National Association of Local Authorities in Iceland.

The nominating parties shall nominate one man and one woman for each seat on the Equal Status Council. There shall be appointed an approximately equal number of women and men.

Costs of the Council's activities shall be paid by the State Treasury. The Minister of Social Affairs may issue regulation with further provisions on the Equal Status Council's activities and office expenses.

Art. 8

The Role of the Equal Status Council

The Equal Status Council shall make systematic efforts to equalize the status and the right of women and men in the labour market. The Council shall submit proposals to the Minister of Social Affairs on measures to be taken in this field.

The Equal Status Council shall serve the authorities in a consultative capacity on matters of equality regarding the labour market and it may also submit proposals for improvement in matters of equality within other spheres of the society.

Art. 9

Parliamentary resolution on a programme on matters of equality

The Minister of Social Affairs shall present to the Althing within one year from parliamentary elections, a motion for a parliamentary resolution on a four-year programme on matters of equality after having received proposals made by the various ministries and the Equal Status Bureau. This programme shall include a detailed plan of actions and an estimate of the funding needed for individual projects concerning matters of equality. This programme shall be reviewed every two years.

Concurrently with the submission of the motion for a parliamentary resolution, and its review two years later, the Minister of Social Affairs shall present to the Althing a report on the status and development in matters of equality.

Art. 10.

Equal status committees under the auspices of local authorities

In the wake of municipal elections, local authorities shall appoint 3-5-member equal status committees which shall be responsible for matters of equality within each local authority area in accordance with provisions of this Act. These committees shall serve in a consultative capacity for the local authorities in matters of equality between women and men, monitor and initiate specific measures for the purpose of ensuring the equal status and equal rights of women and men. The committees shall be entitled to give comments on, or undertake the preparation of, a four-year municipal programmes on matters of equality which shall be presented within one year from the time of the municipal elections.

Art. 11

Equality coordinators of matters of equality

Each ministry shall appoint an equality coordinator who shall monitor activities in matters of equality within the sphere of the ministry and the institutions working under the auspices of the ministry. Equality coordinator shall give the Equal Status Bureau annual report containing the ministry's activities in matters of equality whose he/she works for.

Art. 12

Equal status consultants

The Minister of Social Affairs may engage an equal status consultant to work on a temporary basis at matters of equality within specific fields and/or within specific areas.

SECTION III

Rights and duties

Art. 13

The labour market

Employers and labour unions shall make systematic efforts to equalize the status of the sexes in the labour market. Employers shall make specific efforts to equalize the status of the sexes within their companies or institutions and make efforts to promote that occupations are not categorized as specific women's jobs or men's jobs.

Companies and institutions employing more than 25 people shall prepare a programme on matters of equality or include specific provisions on gender equality in their personnel policy. It shall specifically state aims and measures to be taken to ensure for their employees the rights provided for in Arts. 14–17 of this Act.

Art. 14

Pay equality

Women and men who are employed by the same employer shall receive equal pay and enjoy equal terms for equal-value and comparable work.

In this Act, the term pay shall mean general remuneration for a work done and any kind of further fees, direct or indirect, whether made through benefit payments or in another manner, which an employer pays his employee for his work.

Equal pay means that pay shall be determined in the same manner for women and men and that the criteria on which they are determined shall not include any discrimination based on gender.

In this Act, terms, in addition to pay, shall mean pension right, the right to be granted a holiday, the right to pay during sick leaves and any other terms or benefit that may be given monetary value.

Art. 15

Vacant positions, vocational training and continuing education

A vacant position shall be open equally to women and men.

Employers shall ensure that women and men have equal opportunities to continuing education and vocational training and to attend courses that are held to increase vocational skills or to prepare for other occupations.

Art. 16

Reconciliation of occupational and family obligation

Employers shall take the necessary measures to enable women and men to reconcile their occupational and family obligations. Such measures shall, i.a., promote increased flexibility in organizing work and working hours, taking into account the needs of the labour market and the family situation of employees, i.a. making it easy for them to return to work after maternity/paternity leave or parental leave, or time off from work on grounds of force majeure for urgent family reasons.

Art. 17

Sexual harassment

Employers and directors of institutions and social activities shall take special measures to prevent employees, students and clients from being subjected to sexual harassment in the work place, within institutions, during social activities or within schools.

Sexual harassment constitutes sexual behaviour that is unreasonable and/or insulting and against the will of those who are subjected to it, and which affects their self-esteem and is continued in spite of a clear indication that this behaviour is unwelcome. Sexual harassment can be physical, oral or symbolic.

One event may be considered sexual harassment if it is serious.

If a superior is charged with sexual harassment, he/she shall be deemed incompetent to take decisions on the working conditions of the plaintiff during the investigation of the case and a higher superior shall take decisions regarding the plaintiff.

Art. 18

Advertisements

An advertiser, and someone who designs or publishes an advertisement, shall ensure that the advertisement does not in any manner slight or disgrace the other sex or work against the equal status and equality of men and women in any manner.

Art. 19

Education and schooling

Education on matters of equality shall be provided at all levels of schooling, i.a. by emphasizing the equal preparation of both sexes for active participation in the society, family life and the labour market.

Introduction on educational and vocational training opportunities, and counselling within schools, shall introduce to both boys and girls those occupations which up to now have been considered as traditional male or female work.

Special care shall be taken to ensure that educational materials and textbooks are designed so as not to discriminate against either sex.

Research into the status of the sexes in Icelandic society shall be strengthened, both basic academic research and practical research, and the results disseminated systematically within the educational field and to the media.

The Ministry of Education shall monitor the development of matters of equality within the fields of education and pedagogy, and ensure gender equality within the fields of sports and leisure activities. Furthermore, the ministry shall monitor research in matters of equality (cf. par. 4).

Art. 20

Participation in public committees and boards

Efforts shall be made, wherever possible, to ensure approximately equal participation of women and men in committees, boards and councils under the auspices of the Government and local authorities. Attention shall be called to this fact whenever nominations are requested for the relevant committees, boards and councils.

Art. 21

Statistical analysis

In the production of official statistics on individuals and in interview and opinion surveys information shall be collected, compiled, analysed and presented on the basis of gender unless specific circumstances such as protection of privacy speak against it.

SECTION IV

Prohibition of discrimination on the basis of sex

Art. 22

General prohibition of discrimination

Any type of discrimination on the bases of gender, either direct or indirect, shall be prohibited.

However, special temporary measures taken to improve the status of women or men, for the purpose of ensuring equality and the equal status of men and women, shall not be considered violations of this Act. Also, measures taken to increase the opportunity of women or men specifically to promote equality, and the equal status of men and women, shall not be considered in violation of this Act. The same shall apply if it is deemed necessary to engage one sex due to objective factors connected with the occupation.

It shall not be considered discriminatory to make special allowances for women due to pregnancy or the birth of a child.

Art. 23

Prohibition of discrimination regarding terms

Employers shall be prohibited from discriminating against employees regarding pay and other terms on the basis of their sex.

When evidence is presented that a woman and a man, employed by the same employer, receive different pay or other terms for equal-value and comparable work, the employer shall be obliged, if there is any difference, to prove that the difference can be explained by other factors than gender.

Art. 24

Prohibition against discrimination upon engagement and in working conditions

Employers shall be prohibited from discriminating between applicants for a work on the basis of gender. The same rule shall apply regarding promotion, changing of position, continuing education, vocational training, study sabbaticals, dismissal, employee's working conditions and the working environment.

It shall be 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 distribution of the sexes within an occupational sector, and this shall then be indicated in the advertisement. The same rule shall apply if there are legitimate reasons for advertising only for one of the sexes.

If evidence is presented of direct or indirect discrimination due to sex in the engagement, appointment, whether temporary or permanent, to a occupation, promotion, changing of position, continuing education, vocational training, study sabbaticals, dismissal, working conditions or the working environment, the employer shall be obliged to prove that other reasons than sex were the criteria for his/her decision.

Art. 25

Prohibition of dismissal

Employers shall be prohibited from dismissing an employee for the sake of his/her demanding redress on the basis of this law.

Employers shall also ensure that no employee is subjected to injustice in his/her occupation, e.g. regarding safety at work, working terms or the assessment of his/her performance, due to the fact that he/she has complained about sexual harassment or discrimination on the basis of gender.

If evidence is presented that this provision has been violated, the employer shall prove that the dismissal or alleged injustice was not based on the employee's demand for redress, or his/her charge concerning sexual harassment or other gender discrimination. This rule will not apply if the dismissal is made more than a year from the time of the employee's demand for redress on the bases of this Act.

Art. 26

Education

Within schools, and other educational and pedagogical institutions, any kind of discrimination on the basis of gender shall be prohibited. This rule shall be heeded in studies, teaching, work routines and day-to-day relations with students.

The director of an institution shall ensure that a student or client shall not suffer for having complained of sexual harassment or gender discrimination.

Art. 27

Prohibition of the waiving of rights

It shall not be permitted to waive any rights provided for by this Act.

SECTION V

Sanctions

Art. 28

Compensation for financial and non-financial loss

Anyone who deliberately or through negligence violates this law shall be liable for damages under general rules. Furthermore, the party in question may be awarded to pay compensation for non-financial loss, in addition to any financial loss, to whom subjected to damages, if applicable.

Art. 29

Fines

Violations of this Act may be liable to fines to be paid to the State Treasury.

SECTION VI

Other provisions

Art. 30

The Minister for Social Affairs may issue regulation on the further implementation of this Act.

Art. 31

Commencement

This Act shall take effect immediately. At the same time the Equal Status and Equal Rights of Women and Men Act, No. 28/1991, with subsequent amendments, shall be revoked.

Interim provisions

On commencement of this Act, the remit of the current Equal Status Council shall be revoked and a new Equal Status Council shall be appointed for the period until the next parliamentary elections.

On commencement of this Act, the remit of the current Complaints Committee on Equal Status shall be revoked. The Minister of Social Affairs shall appoint Complaints Committee

on Equal Status which will take over the activity from the ex-Complaint Committee. On commencement of this Act, the Minister shall appoint one member to the Complaints Committee on Equal Status, without nomination, to a period of three years. The Supreme Court shall appoint two members, a chairman for a period of four years and a vice-chairman for a period of two years. The alternates shall be appointed in the same manner.

The current Director of the Equal Status Council shall continue in his occupation until the Minister of Social Affairs has appointed the Director of the Equal Status Bureau under Art. 3, par. 1.

Passed by the Althing, 9 May 2000.