

# Proclamation of the Act on Equal Treatment of Men and Women with regard to Employment, etc. [1](#)

The Act on Equal Treatment of Men and Women in Employment, etc., is hereby promulgated, cf. Consolidation Act No. 645 of 8 June 2011, with the amendments resulting from section 13 of Act No. 533 of 18 June 2012, Act No. 217 of 5 March 2013, Act No. 1709 of 27 December 2018, section 2 of Act No. 879 of 21 June 2022 and section 1 of Act No. 324 of 28 March 2023.

## Chapter 1

### *Scope of application of the Act, etc.*

**Section 1.** In this Act, equal treatment of men and women means that there is no discrimination on the grounds of sex. This applies to both direct discrimination and indirect discrimination, in particular with reference to pregnancy or marital or family status.

**Subsection 2.** Direct discrimination occurs when a person is treated less favourably on grounds of sex than another person is, has been or would be treated in a similar situation. Direct discrimination on grounds of sex includes any form of negative discrimination in connection with pregnancy and during women's 14 weeks' absence after childbirth.

**Subsection 3.** Indirect discrimination occurs when a provision, criterion or practice that is apparently neutral would place persons of one sex at a disadvantage compared to persons of the other sex, unless the provision, condition or practice in question is objectively justified by an objective and the means of achieving it are appropriate and necessary.

**Subsection 4.** Harassment as defined in subsection 5 and sexual harassment as defined in subsection 6 shall be considered discrimination on grounds of sex and shall therefore be prohibited. A person's rejection of or acquiescence in such conduct shall not be used as a basis for a decision concerning that person.

**Subsection 5.** Harassment occurs when any form of unwanted verbal, non-verbal or physical conduct is exhibited in relation to a person's gender with the purpose or effect of violating that person's dignity and creating a threatening, hostile, degrading, humiliating or unpleasant environment.

**Subsection 6.** Sexual harassment occurs when any form of unwanted verbal, non-verbal or physical conduct with sexual overtones is exhibited with the purpose or effect of violating a person's dignity, in particular by creating a threatening, hostile, degrading, humiliating or unpleasant climate.

**Subsection 7.** An instruction to discriminate against a person on the basis of gender is considered discrimination.

**Subsection 8.** The Act does not preclude provisions on the protection of women, particularly in connection with pregnancy and childbirth, cf. Chapter 3.

**Subsection 9.** The Act does not apply to the extent that a corresponding obligation to equal treatment results from a collective agreement.

## Chapter 2

### *Equal treatment of men and women*

**Section 1 a.** Public authorities shall, within their area, work for equality and incorporate equality in all planning and administration in the areas covered by this Act.

**§ 2.** Every employer must treat men and women equally in employment, transfers and promotions.

**§ 3.** Every employer who employs men and women must treat them equally with regard to access to vocational guidance, vocational training, further vocational training and retraining.

*Subsection 2.* The obligation to provide equal treatment also applies to anyone who carries out guidance and education activities as mentioned in subsection 1.

**§ 4.** Every employer who employs men and women must treat them equally with regard to working conditions. This also applies in the event of dismissal.

*Subsection 2.* Equal working conditions, cf. subsection 1, also include a prohibition against sexual harassment, including the employer's obligation to provide a harassment-free environment in connection with the performance of work and to handle cases of sexual harassment.

**§ 5.** The obligation to provide equal treatment also applies to anyone who lays down regulations and makes decisions on access to self-employment. This also applies to the establishment, organisation or expansion of a business and the commencement or expansion of any other form of self-employment, including the financing thereof.

*Subsection 2.* The duty of equal treatment applies to anyone who lays down regulations and makes decisions on vocational training, etc. and on conditions for the exercise of such a profession.

**Section 5 a.** The obligation to provide equal treatment also applies to anyone who makes a decision about membership of and participation in an employee or employer organization or in organizations whose members practice a particular profession, including the benefits that such organizations provide to their members.

**§ 6.** It may not be stated in advertisements that persons of a particular gender are sought or preferred for employment or vocational training, etc.

### Chapter 3

#### *Pregnancy, maternity and adoption*

**§ 7.** (Repealed)

**Section 7 a.** (Repealed)

**§ 8.** The time an employee has been absent in accordance with sections 6-14 a, 23 b or 23 c of the Maternity Leave Act shall be included in the calculation of seniority in the employment relationship. The provision does not concern pension matters.

**Section 8 a.** An employee who has exercised the right to leave under sections 6-14 a, 23 b or 23 c of the Maternity Leave Act has the right to return to the same or a similar job with working conditions that are no less favourable to the employee, and to benefit from any improvement in working conditions to which the employee would have been entitled during his or her absence.

*Subsection 2.* An employee with one or more children under the age of 9 may request in writing from the employer changed working hours or patterns for a specified period. The employee has the right to request a return to the original working hours or pattern before the end of the agreed period if changed circumstances justify this. The employer must consider and respond to the employee's requests within a reasonable period of time, taking into account the needs of both the employer and the employee. The employer must justify any refusal of the employee's requests.

*Subsection 3.* The right to request the employer to change working hours or patterns in subsection 2 also includes employees who are social parents, cf. section 23 a, subsection 3 of the Maternity Benefit Act, with one or more children under 9 years of age.

**§ 9.** An employer may not dismiss an employee or subject him to other less favourable treatment because he has made a claim to exercise the right to absence, has been absent pursuant to sections 6-14 a, 23 b or 23 c of the Maternity Leave Act, or has made a request for changes pursuant to section 8 a, subsection 2 of this Act, or otherwise because of pregnancy, maternity leave or adoption.

**§ 10.** (Repealed)

#### Chapter 4 *Invalidity etc.*

**§ 11.** Provisions in agreements and in company regulations, etc., which are in conflict with §§ 2-5, are invalid. This also applies to provisions in articles of association, etc. for self-employed persons.

*Subsection 2.* Provisions in agreements and in company regulations, etc., which concern more than one employer, are also invalid if they authorize discrimination on the grounds of gender within the areas mentioned in sections 2-4. This also applies to provisions in articles of association, etc. for self-employed persons.

**Section 12.** The provisions of the Act may not be deviated from by agreement to the disadvantage of the employee.

#### Chapter 5 *Exemption*

**Section 13.** If it is essential for certain types of professional practice and training that the practitioner be of a particular gender, and this requirement is proportionate to the professional activity in question, the minister under whose area of business the business in question falls may deviate from the provisions of sections 2-6.

*Subsection 2.* The minister under whose area of business an enterprise falls may permit measures that deviate from sections 2-6, with a view to promoting equal opportunities for women and men, in particular by remedying the actual inequalities that affect access to employment, education, etc.

*Subsection 3.* The Minister for Equality may, pursuant to the Act on Equality between Women and Men, lay down further rules for the cases in which measures to promote equal opportunities for women and men may be implemented without permission pursuant to subsection 2.

*Subsection 4.* The deviations mentioned in subsections 1 and 2 shall be reported to the Minister for Equality by the relevant minister at least every two years before 1 November, for the first time in 2002.

#### Chapter 6 *Compensation, assessment of evidence, etc.*

**§ 14.** Persons whose rights have been violated by a violation of §§ 2-5 may be awarded compensation.

*Subsection 2.* If there has been a violation in the form of sexual harassment, this may be given weight when determining the compensation, cf. section 4, subsection 2.

*Subsection 3.* Persons who have been subjected to sexual harassment in connection with the performance of their work may be awarded compensation for tort from the employee who committed the violation.

**§ 15.** An employee, including an employee representative, who is dismissed or subjected to other disadvantageous treatment or consequences because a claim for equal treatment has been made pursuant to §§ 2-4, shall be awarded compensation from the employer.

*Subsection 2.* Compensation pursuant to subsection 1 shall be determined taking into account the employee's length of employment and the other circumstances of the case.

*Subsection 3.* Subsections 1 and 2 shall apply *mutatis mutandis* where the obligation to provide equal treatment results from a collective agreement, but where the agreement does not give the person concerned access to compensation for dismissal that is not reasonably justified in the circumstances of the employee or the company. The claim shall be processed through industrial law.

**Section 16.** If an employee is dismissed in violation of Section 9, the dismissal must be rejected if a claim is made to this effect, unless in special cases, after weighing the interests of the parties, it is found to be manifestly unreasonable to demand that the employment relationship be maintained or restored.

*Subsection 2.* If an employee is dismissed in violation of Section 9, without the dismissal being rejected, or if the employee is subjected to other less favorable treatment, the employer must pay compensation.

*Subsection 3.* The compensation shall be determined taking into account the employee's length of employment and the other circumstances of the case.

*Subsection 4.* If a dismissal or other less favourable treatment takes place during pregnancy, absence pursuant to sections 6-11, 13-14 a or 23 b of the Maternity Leave Act and during notice periods pursuant to section 16, subsection 2, it is the employer's responsibility to prove that the dismissal or treatment is not justified by these circumstances.

*Subsection 5.* If an employee is dismissed who has requested absence or has been absent during the periods mentioned in sections 6-14 a, 23 b or 23 c of the Maternity Leave Act, the employee is entitled to a written and adequate justification for the dismissal.

**Section 16 a.** If a person who considers himself or herself to have been violated, cf. sections 2-5, 9 and section 15(1), including a violation in the form of sexual harassment, demonstrates factual circumstances that give rise to the presumption that direct or indirect discrimination has been exercised, it is incumbent on the opposing party to prove that the principle of equal treatment has not been violated.

## Chapter 7

### *Various provisions*

**§ 17.** The Minister of Employment shall lay down special rules for seafarers' maternity leave, etc.

**§ 18.** The Danish Institute for Human Rights – the Danish National Human Rights Institution has the task of promoting, evaluating and monitoring and supporting equal treatment of women and men without discrimination on the grounds of sex, including by assisting victims of discrimination with their complaints about discrimination, taking into account the rights of victims, associations, organisations and other legal persons, conducting independent investigations into discrimination and publishing reports and making recommendations on issues relating to discrimination.

## Chapter 8

### *Penal provisions*

**§ 19.** Violation of §§ 2-6 is punishable by a fine.

*Subsection 2.* Companies etc. (legal persons) may be held criminally liable in accordance with the provisions of Chapter 5 of the Criminal Code.

## Chapter 9

### *Entry into force provisions*

**Section 20.** The Act enters into force on 1 May 1989.

*Subsection 2.* The Act on Equal Treatment of Men and Women with regard to Employment, etc., cf. Consolidated Act No. 572 of 28 August 1986, and the Act on Maternity Leave, etc., cf. Consolidated Act No. 101 of 6 March 1987, are repealed.

**Section 21.** The Act does not apply to the Faroe Islands and Greenland.

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Act No. 268 of 2 May 1990 amending the Act on Equal Treatment of Men and Women with regard to Employment and Maternity Leave, etc. contains the following entry into force provisions:

### § 2

*Subsection 1.* The Act shall enter into force on the day following its publication in the Official Gazette and shall take effect from 2 April 1990.

*Subsection 2.* Section 1, no. 5, however, shall not enter into force until the date determined by the Minister of Employment. <sup>21</sup>

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Act No. 412 of 1 June 1994 amending the Act on Equal Treatment of Men and Women with regard to Employment and Maternity Leave, etc. contains the following entry into force provision:

### § 2

The Act enters into force on 1 October 1994.

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Act No. 416 of 1 June 1994 amending the Act on Equal Treatment of Men and Women with regard to Employment and Maternity Leave, etc. contains the following entry into force provision:

### § 2

The Act enters into force on 1 July 1994.

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Act No. 1111 of 29 December 1997 amending the Act on unemployment benefits in the event of illness or childbirth and the Act on equal treatment of men and women with regard to employment and maternity leave, etc. (Extension of paternity leave) contains the following entry into force provision:

### § 3

The Act enters into force on 1 April 1998 and applies in cases where the birth or reception of the child took place on 15 October 1997 or later.

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Act No. 388 of 30 May 2000 on equality between women and men contains the following entry into force provision:

**Section 24.** The Act enters into force on 1 June 2000.  
*Paragraphs 2-4. (Omitted)*

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Act No. 440 of 7 June 2001 amending the Act on Equal Treatment of Men and Women with regard to Employment and Maternity Leave, etc., the Act on Equal Pay for Men and Women, the Act on Childcare Leave, the Act on Equality between Women and Men and the Act on Equal Treatment of Men and Women within Occupational Security Schemes contains the following entry into force provision:

#### § 6

The law comes into force on 1 July 2001.

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Act No. 141 of 25 March 2002 amending the Act on Equal Treatment of Men and Women with regard to Employment and Maternity Leave, etc., the Act on Unemployment Benefits in Case of Sickness or Birth and the Act on Childcare Leave (Extension of Maternity Leave and Amendment of Childcare Leave) contains the following entry into force provisions:

#### § 4

*Subsection 1.* The Act shall enter into force on the day following its publication in the Official Gazette. The Act shall take effect from 1 January 2002.

*Subsection 2.* The Childcare Leave Act is repealed on 1 June 2011.

#### § 5

*Subsection 1.* Parents in relation to their own children who were born after 31 December 2001, but before the entry into force of the Act, continue to be covered by the previously applicable rules in the Childcare Leave Act, the Equal Treatment of Men and Women with regard to Employment and Maternity Leave etc. Act and the Sickness or Birth Benefits Act. Furthermore, parents in relation to adopted children who were received after 31 December 2001, but before the entry into force of the Act, continue to be covered by the previously applicable rules in the Childcare Leave Act, the Equal Treatment of Men and Women with regard to Employment and Maternity Leave etc. Act and the Sickness or Birth Benefits Act.

*Subsection 2.* Parents pursuant to subsection 1, first sentence, may, however, before 1 June 2002, instead choose to both be covered by this Act by giving written notice thereof to the employment service. The same applies to parents pursuant to subsection 1, second sentence, where the authorities investigating the adoption decide that the person seeking adoption or one of the spouses seeking adoption must remain at home for a period of time.

*Subsection 3.* Parents who transfer to extended maternity leave pursuant to subsection 2 will have childcare leave taken offset proportionately against their parental leave.

*Subsection 4.* The Minister of Employment shall lay down further rules on the transition from childcare leave to maternity leave and the offset of periods of childcare leave.



*Subsection 5.* For children born before 1 January 2002, the previously applicable rules on maternity leave in the Act on Equal Treatment of Men and Women with regard to Employment and Maternity Leave, etc. and the Act on Unemployment Benefits in Case of Sickness or Birth continue to apply.

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Act No. 1385 of 21 December 2005 amending the Act on Equal Treatment of Men and Women with regard to Employment and Maternity Leave etc. (Definitions of Discrimination, Harassment and Sexual Harassment, Removal of Compensation Caps etc.) contains the following entry into force provision:

## § 2

The Act enters into force on the day following its publication in the Official Gazette.

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Act No. 566 of 9 June 2006 on the right to leave and unemployment benefits during maternity leave (the Maternity Leave Act) contains the following entry into force provision:

**Section 55.** The Act enters into force on 3 July 2006.  
*Paragraph 2. (Omitted)*

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Act No. 182 of 8 March 2011 amending the Act on the Establishment of the Danish Centre for International Studies and Human Rights and certain other acts (Extension of the competence of the Danish Institute for Human Rights to also include gender) contains the following entry into force provision:

## § 4

The law enters into force on March 15, 2011.

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Act No. 1709 of 27 December 2018 amending the Act on Equal Treatment of Men and Women in Employment, etc. (Increased focus on the tone of communication in the workplace in cases of sexual harassment and increasing the level of compensation in cases of sexual harassment) <sup>31</sup> contains the following entry into force provision:

## § 2

*Subsection 1.* The Act enters into force on 1 January 2019.

*Subsection 2.* Section 1, no. 2, does not apply to compensation in cases of violation of the prohibition against sexual harassment in the Act on Equal Treatment of Men and Women in Employment, etc., where the violation occurred before the entry into force of this Act. In the case of such violations, the previously applicable rules apply.

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Act No. 879 of 21 June 2022 amending the Act on the right of employees to be absent from work for special family reasons, the Act on equal treatment of men and women in employment, etc., the Act on active social policy and various other acts (Implementation of the provisions of the Leave Directive on carers' leave, dismissal protection, etc. as well as exemption from

availability during leave, better leave conditions for parents of triplets, etc.) <sup>41</sup> contains the following entry into force provision:

## Section 8

*Subsection 1.* The Act enters into force on 2 August 2022, cf. however subsections 4 and 5.  
*Paragraphs 2 and 3.* (Omitted)

*Subsection 4.* Section 2, nos. 3, 9 and 12, section 4, nos. 1, 2 and 4, and section 5, nos. 5, 12, 14, 16, 18, 25, 30, 34 and 39, shall enter into force on 1 January 2023 and shall apply to parents who have three or more children at the same birth on 1 January 2023 or later.

*Subsection 5.* Section 2, nos. 4, 5, 7, 8, 10 and 13, section 4, nos. 5, 9 and 10, and section 5, nos. 6, 13, 15, 17, 19, 26, 31, 35 and 40, shall enter into force on 1 December 2023 and shall apply to parents of a child born or received on 1 January 2024 or later.

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Act No. 324 of 28 March 2023 amending the Act on Equal Treatment of Men and Women in Employment, etc., the Working Environment Act and the Vocational Training Act (Implementation of the "Tripartite Agreement on Initiatives to Combat Sexual Harassment in the Workplace" and extension of the legal basis for the smiley scheme) <sup>42</sup> contains the following entry into force provision:

## § 5

*Subsection 1.* The Act enters into force on 1 April 2023, cf. however subsection 2.

*Subsection 2.* Sections 1-3 shall enter into force on 1 July 2023.

*Subsection 3.* Section 1, no. 3, does not apply to compensation in cases of violation of the prohibition against sexual harassment in the Act on Equal Treatment of Men and Women in Employment, etc., where the violation occurred before the entry into force of this Act. In the case of such violations, the previously applicable rules shall apply.

*Subsection 4.* Section 1, no. 4, does not apply to cases concerning violations of the prohibition against sexual harassment in the Act on Equal Treatment of Men and Women in Employment, etc., where the violation occurred before the entry into force of this Act.

*Ministry of Employment, July 19, 2024*

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## Official notes

<sup>41</sup> The Act contains provisions implementing Council Directive 92/85/EEC of 19 October 1992 on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC), Official Journal of the European Communities 1992, No. L 348, page 1, Council Directive 2006/54/EC of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast), Official Journal of the European Communities 2006, No. L 204, page 23, and parts of Directive (EU) 2019/1158 of the European Parliament and of the Council of 20 June 2019 on work-life balance for parents and carers and repealing Council Directive 2010/18/EU, Official Journal of the European Union 2019, No. L 188, page 79.

<sup>42</sup> I.e. Section 21 of the Act.

<sup>43</sup> The amendment concerns Section 4(2) and Section 14(2).

<sup>44</sup> The amendment to the Act concerns the footnote to the title of the Act, Section 8, Section 8a, Section 9, Section 16(4) and (5) and Section 17.

<sup>45</sup> The amendment to the Act concerns Section 1, subsections 4 and 6, Section 14, subsections 2 and 3, Section 4, subsection 2 and Section 16 a.