

EQUAL TREATMENT (DISABILITY AND CHRONIC ILLNESS) ACT (Stb . 2003, 206)

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Act of 3 April 2003 to establish the Act on equal treatment on the grounds of disability or chronic illness

We Beatrix ...

§ 1. General

Section 1

The following definitions apply in this Act:

- a. discrimination: direct and indirect discrimination, as well as the instruction to discriminate;
- b. direct discrimination: discrimination between people on the grounds of a real or alleged disability or chronic illness;
- c. indirect discrimination: discrimination on the grounds of traits or behaviour other than those described at b which results in direct discrimination.

Section 1a

1. The prohibition on discrimination laid down in this Act shall also include a prohibition on harassment.
2. Harassment as referred to in section 1 means conduct related to disability or chronic illness that has the purpose or effect of violating the dignity of a person and creating an intimidating, hostile, degrading, humiliating or offensive environment.
3. Section 3 shall not apply to the prohibition of harassment contained in this Act.

Section 2

The prohibition on discrimination also means that the persons on whom this prohibition is imposed are obliged to make effective modifications according to need, unless this would impose a disproportionate burden on them.

Section 3

1. The prohibition on discrimination does not apply if:
 - a. the discrimination is necessary to protect health and safety;

b. the discrimination relates to a regulation, standard or practice which is aimed at creating or maintaining specific provisions and facilities for the benefit of persons with a disability or chronic illness;

c. if the discrimination concerns a specific measure which has the aim of granting persons with a disability or chronic illness a privileged position in order to neutralise or ameliorate existing disadvantages and the discrimination is proportionate to the objective.

2. The prohibition on discrimination contained in this Act shall not apply to indirect discrimination if the discrimination is objectively justified by a legitimate aim and the means used to achieve that aim are appropriate and necessary.

§ 2. Employment

Section 4

Discrimination is prohibited in:

- a. offering a job and the treatment in filling a vacancy;
- b. entering into and terminating an employment relationship;
- c. the appointment as a civil servant and the termination of employment as a civil servant;
- d. assistance with finding work;
- e. terms of employment;
- f. allowing people to attend education and training during and prior to an employment relationship;
- g. promotion;
- h. working conditions.

Section 5

Discrimination is prohibited with regard to the conditions for and access to the professions and for the performance of and development within the professions.

Section 5a

It shall be unlawful to discriminate with regard to membership of or involvement in an employers' organisation or trade union, or a professional occupational organisation, as well as the benefits which arise from that membership or involvement.

§ 3. Vocational education

Section 6

Discrimination is prohibited in:

- a. granting access to and the provision of career planning and career choice information;
- c. granting access to, offering, examining and concluding education aimed at entry to and performance in the labour market.

Section 7

The following definitions apply in section 8 and the provisions based on it:

- a. public transport: passenger transport open to all in accordance with a timetable by bus, train, metro, tram or a vehicle propelled by means of a guide system;
- b. travel information: information about the timetable with its period of validity, guaranteed connections within the timetable, changes to the timetable and the associated zoning.

Section 7a

Without prejudice to section 7, adverse treatment in reaction to a person's reliance, either at law or otherwise, on this Act or provision of assistance in relation to it shall be prohibited.

Section 8

1. Discrimination is prohibited in:

- a. granting the access to the buildings and infrastructure associated with the public transport which is required in order to travel;
- b. offering public transport services and travel information;
- c. concluding, executing or terminating contracts relating to public transport.

2. Rules will be stipulated by or pursuant to an Order in Council with regard to the modifications to be made under the first paragraph in conjunction with section 2, as described in that section.

3. Subsections 2 and 3 shall also apply to claims as referred to in section 305a of Book 3 of the Civil Code and of appeals lodged by persons with an interest within the meaning of section 1:2, subsection 3, of the General Administrative Law Act.

§ 5. Legal protection

Section 9

1. Termination of the employment relationship by the employer contrary to section 4 or because of the fact that the employee has invoked section 4 at law or otherwise is subject to annulment.

2. Without prejudice to chapter 8 of the General Administrative Law Act, an employee's right to invoke the grounds for annulment described in the first paragraph lapses two months after the termination of the employment relationship. Section 55 of Volume 3 of the Civil Code does not apply.

3. A legal action relating to the annulment will be barred after a period of six months following the day on which the employment relationship has ended.

4. The termination described in the first paragraph does not make the employer liable to pay damages.

Section 10

1. If a person who believes that they are or will be discriminated against to their disadvantage as described in this Act produces facts in court which can give grounds for suspecting that such discrimination exists, the counterparty must prove that they have not acted contrary to the law.

2. If a person who believes that they have been disadvantaged by acts contrary to section 2 produces facts in court which can give grounds for suspecting that there has been a failure to make effective modifications, the counterparty must prove that they have not acted contrary to this provision.

Section 11

Contractual terms which contradict this Act are invalid.

Section 12

The Equal Opportunities Commission described in section 11 of the General Equal Opportunities Act can investigate whether discrimination is taking place or will take place as described in this Act and whether acts contrary to section 2 of this Act have taken place. Sections 12, 13, 14, 15, 20, second paragraph, and 33 of the General Equal Opportunities Act apply correspondingly.

Section 13

Our Minister of Public Health, Welfare and Sport - in consultation with Our Ministers of the Interior and Kingdom Relations, of Justice, of Social Affairs and Employment, of Traffic and Water Management and of Education, Culture and Sciences - will send a report to Parliament on the effectiveness and effects of this Act in practice within five years of it coming into force

§ 6. Final provisions

Section 14

The sections of the Act come into force at a time to be stipulated by Royal Decree, which can be different for the various sections or components thereof.

Section 15

This Act will be cited as the Act on equal treatment on the grounds of disability or chronic illness.

Charge and command ...

Issued on May twenty-second 2003