

Act on the Board of Equal Treatment

BE IT KNOWN that the Folketing (Danish Parliament) has enacted and We Margrethe the Second, by the Grace of God, Queen of Denmark, have given Our Royal Assent to the following Act:

Part 1

Competence and organisation

1. – (1) The Board of Equal Treatment shall consider complaints of differential treatment on the grounds of gender, race, colour, religion or belief, political opinion, sexual orientation, age, disability or national, social or ethnic origin, cf. subsections (2)-(5).

(2) The Board shall consider complaints of differential treatment on the grounds of gender under:

(i) sections 2 and 2 b of the Act on Gender Equality.

(ii) the Act on Equal Pay to Men and Women.

(iii) the Act on Equal Treatment of Men and Women as regards Access to Employment, etc.

(iv) the Act on Equal Treatment of Men and Women in relation to Occupational Social Security Schemes.

(v) the Act on Childcare Leave.

(vi) the Act on Entitlement to Leave and Benefits in the Event of Childbirth.

(3) The Board shall consider complaints of differential treatment on the grounds of race, colour, religion or belief, political opinion, sexual orientation, age, disability or national, social or ethnic origin under the Act on the Prohibition of Differential Treatment on the Labour Market, etc.

(4) The Board shall, furthermore, consider complaints of differential treatment on the grounds of race or ethnic origin under the Act on Ethnic Equal Treatment.

(5) The Board of Equal Treatment may consider employee complaints of violations of provisions laid down in collective agreements which contain a corresponding equal treatment obligation or equal pay obligation as the Act on Equal Treatment of Men and Women as regards Access to Employment, cf. section 1 (9) hereof, the Act on Equal Pay to Men and Women, cf. section 1 (5) hereof, or the Act on Equal Treatment of Men and Women in relation to Occupational Social Security Schemes, cf. section 2 hereof, or a corresponding non-differential treatment obligation as the Act on the Prohibition of Differential Treatment on the Labour Market, etc., cf. section 1, subsections (6) and (7) hereof, provided the employee establishes that the employee organisation concerned is not prepared to initiate industrial disputes procedures regarding the claim.

2. The Board may award compensation and invalidate dismissals to the extent provided for by the Acts and collective agreements set out in section 1, subsections (2)-(5).

3. – (1) The Board shall comprise one chairman, two deputy chairmen and nine other members.

(2) The chairman and the deputy chairmen must be professional judges. The chairman and the deputy chairman shall be appointed by the president of the court. Both genders must have representation in the chairmanship of the Board.

(3) The other members of the Board shall be appointed by the Minister for Employment. Of these, the Minister for Refugee, Immigration and Integration Affairs shall nominate three members and the Minister for Gender Equality shall nominate three members. The members of the Board must hold a master's degree in law and must be appointed from among persons who have a specialist knowledge of the gender equality legislation, the legislation on equal treatment of all persons irrespective of race or ethnic origin, or the legislation on the prohibition of differential treatment on the labour market, as well as knowledge of the conditions on the labour market. The members of the Board must be independent of the nominating and appointing authorities. Endeavours must be made to ensure an equal gender distribution among the members of the Board.

(4) The members of the Board shall be appointed for terms of three years. Members shall be eligible for reappointment.

(5) The Minister for Employment may appoint a number of alternates to the members appointed under subsection (3). The appointment shall take place in compliance with subsections (3) and (4).

(6) The Minister for Employment shall lay down the rules of procedure of the Board after negotiation with the Minister for Refugee, Immigration and Integration Affairs and the Minister for Gender Equality.

4. – (1) The Board may not consider complaints that may be brought before another administrative authority until such authority has decided the matter.

(2) The Board may not consider cases pending before the courts.

(3) While a case is pending before the Board, the parties to the case may not bring the matter before the courts.

Part 2

Hearing of complaints

5. – (1) The National Social Appeals Board shall place a secretariat at the disposal of the Board.

(2) The Secretariat shall prepare the Board's consideration of complaints. The complaints shall be considered on a written basis.

(3) The Secretariat may request the parties to the case to contribute to clarifying the matter. If one of the parties fails to comply with the request within the stipulated time limit, a new time limit shall be stipulated. If the request to respond is not complied with, the Board may resolve that the matter can be decided on the existing basis.

(4) The Secretariat may dismiss complaints that are not deemed suitable for consideration by the Board. This decision may be appealed against to the Board.

6. – (1) Where a complaint is considered by the Board, one member of the chairmanship and two other members of the Board shall participate. The decision of the Board shall be taken by simple majority.

(2) The chairman may decide that another two members of the Board must participate in the consideration of cases of general public importance.

7. – (1) The Board may obtain opinions from experts in connection with the consideration of a complaint.

(2) When considering cases of violations of provisions laid down in collective agreements, cf. section 1 (5), the Board must obtain a statement from the parties to the agreement concerned before a decision is made.

8. The Board may refuse to consider a complaint if it must be deemed obvious that the Board will not find in favour of the complainant.

9. – (1) Decisions taken by the Board may not be appealed against to any other administrative authority.

(2) Decisions taken by the Board shall be recorded and published in anonymised form. The reason for the decision must appear from the records. If a decision is not unanimous, information regarding the casting of votes and the reason for the casting of votes shall be recorded.

10. The Board may decide that a case on which a decision has been made must be reopened if special reasons speak in favour of this.

11. The complainant may withdraw the complaint until a decision has been made on the case. If the defendant satisfies the complainant's claim during the consideration of the case, or if the parties agree to settle and finally resolve the matter, the case shall lapse.

12. – (1) Once the Board has decided on a complaint, the Secretariat shall inform the parties of the possibility of bringing the matter before the courts.

(2) Where the decisions made by the Board and the settlements made with the assistance of the Board are not observed, the Board, at the request of the complainant and on behalf of the complainant, must bring the matter before the courts.

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

Part 3

Commencement, etc.

14. – (1) The Act shall come into force on 1 January 2009.

(2) The chairman of the Board shall be appointed for an initial term of four years.

(3) Matters brought before the Gender Equality Board or the Complaints Committee for Ethnic Equal Treatment at the time of commencement of this Act shall be transferred to the Board for further consideration.

15. The following amendments shall be made to the Act on Gender Equality, cf. Consolidation Act no. 1095 of 19 September 2007:

1. After section 3 c, there shall be added in *Part 2*:

»Hearing of complaints

3 d. Complaints of violations of the prohibition of differential treatment on the grounds of gender, cf. sections 2 and 2 b shall be considered by the Board of Equal Treatment.«

2. *Part 6* shall be repealed.

16. The following amendments shall be made to Act no. 374 of 28 May 2003 on Ethnic Equal Treatment as amended by section 11 of Act no. 554 of 24 June 2005:

1. The heading of *Part 4* shall read as follows:

»Jurisdiction rules and complaints rules«

2. *Section 10 (2)-(4)* shall be repealed and the following shall be added instead:

» (2) Complaints of violations of the prohibition of differential treatment on the grounds of race or ethnic origin, cf. section 3 and complaints of violations of the prohibition of reprisals, cf. section 8 shall be considered by the Board of Equal Treatment.«

17. The following amendments shall be made to the Act on the Prohibition of Differential Treatment on the Labour Market, etc., cf. Consolidation Act no. 31 of 12 January 2005 as amended by Act no. 240 of 27 March 2006 and Act no 1542 of 20 December 2006:

1. *Section 8 a* shall read as follows:

» 8 a. Complaints of violations of the prohibition of differential treatment under this Act and of violations of the prohibition of reprisals of section 7 (2) shall be considered by the Board of Equal Treatment.«

18. The Minister for Employment shall submit a proposal for revision of the Act to the Folketing in the sessional year of the Danish Parliament 2011-2012.

19. The Act shall not extend to the Faroe Islands and Greenland.

Given at Amalienborg Palace, 27 May 2008

MARGRETHE R.

/ Claus Hjort Frederiksen