

Act on freedom of organisation in the labour market

The Act on freedom of organisation in the labour market, see Act no. 443 of 13 June 1990 as amended by Act no. 359 of 26 April 2006 is hereby promulgated.

1. An employer may not decline to employ an applicant for a vacant position because the applicant is the member of a labour association or of a particular association.
2. An employer may not decline to employ an applicant for a vacant position or dismiss an employee because the applicant or employee is not a member of a labour association or of a particular association.
 - (2) (Repealed)
 - (3) (Repealed)
3. Under the Act sections 1, 2, 4 c and 4 d do not apply for employees who are employed or seeking employment with an employer whose enterprise has the express object of promoting a particular political, ideological, religious or cultural position, and where the employee's association membership may be deemed to be of importance for the enterprise.
4. If an employee is dismissed in contravention of the provisions of the Act the dismissal must be overturned and the employment relationship maintained or restored, if a claim to this effect is submitted. This does not apply to privately employed workers, provided that, in exceptional cases and after balancing the interests of the parties, it is considered unreasonable to require the employment relationship be maintained or restored.
 - (2) An applicant for a vacancy, who, contrary to sections 1 and 2, is not hired, may be awarded compensation.
- 4 a. If an employee is dismissed in contravention of the law and the dismissal is not overturned, the employer shall pay compensation.
 - (2) The compensation may not be less than 1 month's salary and not exceed 24 months' salary, and is fixed by reference to the employee's period of employment and other circumstances of the case. If the employment relationship has lasted at least 2 years, the compensation may not be less than 3 months' salary.
- 4 b. Cases of dismissal under this Act shall be processed with the greatest possible speed.
 - (2) The court, when dealing with a case of dismissal, can rule that the dismissal does not take effect until the case has been decided by judgement. The judgement can rule that an appeal does not have suspensive effect.
- 4 c. Provisions of collective agreements or agreements obliging an employer exclusively or primarily to hire employees who are members of an association or of a particular association, are invalid. The same applies to provisions in collective agreements or agreements that entitle or oblige an employer to exclusively or mainly hire employees who are not members of an association or of a particular association.
 - (2) Provisions in collective agreements or agreements that obligate an employee exclusively or mainly to take employment with an employer who is a member of an association or of a particular association, are invalid.
 - (3) Other provisions in collective agreements or agreements that give certain trade unions exclusivity or priority to assign labour to employers who are covered by the collective agreement or agreement, are invalid.

- 4 d. Provisions in the articles of association of employers' and employees' organisations that require their members exclusively or mainly to hire or not to hire employees who are or are not members of an association or of a particular association or exclusively to enter employment with an employer that is or is not a member of an association or of a particular association, are invalid. The same applies to provisions in the internal rules of companies which state that the company exclusively or mainly employs or does not employ persons who are members of an association or of a particular association.
5. The Act shall come into force on 1 July 1982.
6. The Act does not apply to the Faroe Islands and Greenland. By Royal Decree the Act may be brought into force for Greenland.

Act no. 347 of 29 May 1990 amending the Act on protection against dismissal for union matters with additions section 4, section 4 a and section 4 b, contains the following commencement provision:

2. The Act applies to dismissals that take place on June 1, 1990 or later.

Act no. 359 of 26 April 2006, which amends the title of the Act, section 1-4, 4 b and adds section 4 c and 4 d, contains the following provision:

2. The Act comes into force after publication in the Official Law Gazette. ¹⁾

The Ministry of Employment, May 8, 2006

Claus Hjort Frederiksen

/E. Edelberg

Official notes

¹⁾ Act no. 359 of 26 April 2006 was announced in the Official Law Gazette April 28, 2006