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Gender Equality Act¹

Adopted on 07.04.2004
RT I 2004, 27, 181
entry into force on 01.05.2004

Amended by the following acts

Reception	Publication	Enforcement
11.12.2008	RT I 2008, 56, 315	01.01.2009
24.09.2009	RT I 2009, 48, 323	23.10.2009
14.06.2012	RT I, 02.07.2012, 8	01.08.2012
13.06.2012	RT I, 06.07.2012, 1	01.04.2013
11.04.2013	RT I, 26.04.2013, 2	06.05.2013
19.06.2014	RT I, 29.06.2014, 109	01.07.2014, on the basis of paragraph 4 § 107 ³ of the Act on the Government of the Republic, the titles of the ministers replaced from the revision effective on July 1, 2014.
10.06.2015	RT I, 07.07.2015, 1	01.01.2016
19.12.2018	RT I, 10.01.2019, 2	20.01.2019
13.10.2021	RT I, 22.10.2021, 2	01.04.2022; amended [RT I, 22.12.2021, 3]
08.12.2021	RT I, 22.12.2021, 3	01.04.2022
15.02.2023	RT I, 07.03.2023, 5	01.01.2024
20.06.2023	RT I, 30.06.2023, 1	01.07.2023

Chapter 1 general settings

§ 1. Purpose and scope of the Act

[RT I 2008, 56, 315 - entered into force. 01.01.2009]

(1) The purpose of the law is to ensure gender equal treatment resulting from the Constitution of the Republic of Estonia and to promote the equality of women and men as one of the basic human rights and general good in all areas of social life.

(2) In order to achieve the goal, the law stipulates:

- 1) the prohibition of discrimination based on gender in the private and public sector;
- 2) the obligation of state and local government institutions, educational and research institutions and employers to promote equality between women and men;
- 3) emergence of the right to demand compensation.

§ 2. Scope of the Act

[RT I 2008, 56, 315 - entered into force. 01.01.2009]

(1) The law applies in all areas of social life.

(2) The requirements of the law do not apply to:

- 1) professing and practicing faith or working as clergy in religious associations entered in the register;
- 2) in family or private life relationships.

(3) The Administrative Procedure Act applies to the administrative procedure provided for in the Act, taking into account the specifics of this Act.

§ 3. Definitions

(1) In the law, terms are used in the following sense:

- 1) gender equality is the equal rights, obligations, opportunities and responsibility of women and men in working life, acquiring education and participating in other areas of social life;
- 2) equal treatment of women and men is the absence of direct and indirect gender discrimination;
- 3) direct gender discrimination occurs when one person is treated worse than another person in a similar situation is treated, has been treated, or would be treated because of his or her gender. Direct gender discrimination is also the less favorable treatment of a person in connection with pregnancy and childbirth, parenting, fulfilling family responsibilities, including caring for a person who needs significant care or support due to a serious health problem, or other circumstances related to gender, as well as gender and sexual harassment and resisting harassment or submitting to harassment less favorable treatment caused;

[RT I, 22.12.2021, 3 - enters into force. 01.04.2022]

4) indirect gender discrimination occurs when an externally neutral provision, criterion, practice or activity puts persons of one gender at a disadvantage compared to persons of the other sex, unless the provision, criterion, practice or activity in question objectively a

justified legitimate aim and the means of achieving this aim are appropriate and necessary;

[RT I 2009, 48, 323 - entry into force. 23.10.2009]

5) sexual harassment occurs when there is any unwanted verbal, non-verbal or physical behavior or activity of a sexual nature, the purpose or actual effect of which is to degrade a person's dignity, in particular by creating a disturbing, threatening, hostile, degrading, humiliating or offensive atmosphere;

[RT I 2009, 48, 323 - entry into force. 23.10.2009]

6) gender harassment takes place when there is unwanted behavior or activity related to gender, the purpose or actual effect of which is to degrade a person's dignity and create a disturbing, threatening, hostile, degrading, humiliating or offensive atmosphere.

[RT I 2009, 48, 323 - entry into force. 23.10.2009]

(2) For the purposes of this Act:

1) an employee is a person working on the basis of an employment contract or a contract for the provision of services, an official and other person specified in § 2 of the Public Service Act. An employee is also considered a person who wants to work or serve;

[RT I, 06.07.2012, 1 - enters into force. 01.04.2013]

2) the employer is a natural or legal person who provides work on the basis of an employment contract or service provision contract, as well as a state or local government institution.

[RT I 2008, 56, 315 - entry into force. 01.01.2009]

§ 4. Shared proof obligation

(1) A person applying to a court, a labor dispute committee or a commissioner for gender equality and equal treatment must present factual circumstances in the application, on the basis of which it can be assumed that gender discrimination has occurred.

[RT I 2009, 48, 323 - entry into force. 23.10.2009]

(2) The person against whom the application has been submitted must prove in the proceedings that he has not violated the principle of equal treatment. If a person refuses to provide proof, the refusal is equated with acceptance of discrimination.

[RT I 2008, 56, 315 - entry into force. 01.01.2009]

(3) The shared obligation of proof does not apply in administrative court and criminal proceedings.

[RT I 2008, 56, 315 - entry into force. 01.01.2009]

Chapter 2 PROHIBITION OF GENDER DISCRIMINATION

§ 5. Gender discrimination

(1) Direct and indirect gender discrimination, including giving an order to do so, is prohibited.

[RT I 2009, 48, 323 - entry into force. 23.10.2009]

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(1) Malicious treatment of a person, as well as causing negative consequences for him because the person has relied on the rights and obligations provided for in this Act or supported another person in the protection of his rights provided for in this Act, is also considered discrimination.

[RT I 2009, 48, 323 - entry into force. 23.10.2009]

(2) The following are not considered direct or indirect gender discrimination:

1) provisions that include special protection for women in connection with pregnancy and childbirth;

2) introduction of mandatory military service for men only;

3) acceptance of only women or only men as members of a non-profit association, if this results from the association's articles of association;

4) different treatment due to a person's gender when getting a job or providing the necessary training, if gender is an important and determining requirement due to the nature of a certain professional activity or the conditions associated with it, and the purpose of such different treatment is justified and the requirement is proportionate to the purpose;

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4) differential treatment of persons when offering goods or services due to their gender in accordance with § 265 subsection 4 of the Insurance Activities Act, or in the event that the purpose of offering goods or services only or mainly to representatives of one gender is justified and the means of achieving it are proportionate to the purpose;

[RT I, 07.07.2015, 1 - enters into force. 01.01.2016]

5) implementation of temporary special measures promoting gender equality, which give advantages to the underrepresented gender or reduce gender inequality.

[RT I 2009, 48, 323 - entry into force. 23.10.2009]

§ 6. Discrimination in working life

(1) Cases in working life are considered discriminatory when the employer selects a person for a job or position, hires for a job or internship, promotes, selects for training or to perform a task, or sends a person of one gender to training, leaving aside a person of the opposite sex with a higher qualification, unless his actions have weighty causes or it is due to circumstances unrelated to gender.

(2) The employer's actions are also considered discriminatory if:

1) when making the decisions listed in this section, he leaves a person aside or otherwise treats him worse because of pregnancy, childbirth, parenting, fulfilling family obligations or any other circumstance related to gender;

[RT I 2009, 48, 323 - entry into force. 23.10.2009]

2) establishes employment conditions that put persons of one sex at a disadvantage compared to persons of the other sex;

3) establishes less favorable conditions for remuneration of work or giving and receiving benefits related to the employment relationship for an employee or employees of one gender than for an employee or employees of the other gender performing the same or equivalent work;

[RT I 2009, 48, 323 - entry into force. 23.10.2009]

4) manages work, distributes work tasks or establishes working conditions in such a way that an employee or employees of one gender is in a worse situation compared to an employee or employees of the opposite sex;

5) harasses a person because of his or her gender or sexually or fails to fulfill the obligation provided for in § 11 (1) point 4 of this Act. The employer is responsible for failing to fulfill the duty of care if he knew or should have known about the occurrence of gender or sexual harassment and did not take the necessary measures to stop the harassment;
[RT I 2009, 48, 323 - entry into force. 23.10.2009]

6) [invalidated - RT I 2009, 48, 323 - entered into force. 23.10.2009] 7) punishes the employee in a disciplinary procedure, transfers the employee to another job, terminates the employment relationship or promotes its termination for reasons related to gender.

(3) Unfavorable treatment of a person due to his gender in connection with his membership in employees' or employers' organizations or other organizations whose members operate in a certain profession, as well as in connection with his participation in their work and in connection with the benefits provided by these organizations, is also considered discrimination.

[RT I 2009, 48, 323 - entry into force. 23.10.2009]

(4) An entrepreneur who deals with the employment agency specified in § 13 (2) point 2 of the Labor Market Measures Act and the employer may not demand information about the circumstances specified in subsection (2) 1) of this section from a person who has approached him with a desire to find a job.

[RT I, 07.03.2023, 5 - enters into force. 01.01.2024]

§ 7. Employer's obligation to provide explanations

(1) The employer is obliged to provide a written explanation to the person who requests it in case of suspicion of discriminatory behavior towards him specified in subsection 6 (1) of this Act, within ten working days from the submission of the written request. In the explanation, the employer must provide the following information about the person for whose benefit the choice was made:

- 1) length of service;
- 2) education;
- 3) work experience and other skills necessary for work;
- 4) other skills or reasons that give clear advantages.

(2) Within 15 working days from the submission of the request, the employer is obliged to provide a written explanation of his actions to the person who considers that he has been discriminated against on the basis specified in § 6 subsection 2 of this Act.

(3) The employee has the right to demand an explanation from the employer about the basis of salary calculation and to receive other necessary information, on the basis of which a decision can be made about the occurrence of discrimination specified in § 6 (2) point 3 of this Act.

(4) Within 15 working days of submitting the request, the employer is obliged to provide an explanation to the person whose request submitted on the basis of subsection 11 (3) of this Act has been refused or whose flexible working conditions have been postponed.

[RT I, 22.12.2021, 3 - enters into force. 01.04.2022]

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§ 7 . Obligation of the goods or service provider to provide explanations

The provider of goods or services is obliged within 15 working days of receiving a written request containing the factual circumstances of possible discrimination to provide a written explanation of its activities to a person who considers that he has been discriminated against due to his gender in relation to the availability or provision of goods or services.

[RT I 2009, 48, 323 - entry into force. 23.10.2009]

§ 8. Discriminatory job and training offer

Job and training offers that are directed only to persons of one gender are prohibited, unless there are reasons specified in clauses 4 and 5 of § 5 (2) of this Act.

Chapter 3 PROMOTING GENDER EQUALITY

§ 9. Institutions of state and local government units as promoters of gender equality

(1) Institutions of state and local self-government units are obliged to systematically and purposefully promote gender equality. Their task is to change the conditions and circumstances that prevent the achievement of gender equality.

(2) When planning, implementing and evaluating national, regional and institutional strategies, policies and action plans, the institutions specified in subsection 1 of this section must take into account the different needs and social status of women and men and take into account how the implemented and implemented measures affect the situation of women and men in society.

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(2) When planning the fulfillment of the obligations imposed in subsections 1 and 2 of this section, and when fulfilling these obligations, the authorities of state and local self-government units shall, if necessary, consult with relevant interest groups and non-profit associations that have a legitimate interest in helping to fight against gender discrimination, in order to support compliance with the principle of equal treatment.

[RT I 2009, 48, 323 - entry into force. 23.10.2009]

(3) The minister responsible for the field issues and publishes recommendations for the fulfillment of the obligations specified in subsections 1 and 2 of this section.

[RT I, 30.06.2023, 1 - enters into force. 01.07.2023]

(4) If possible, both sexes must be represented in the commissions, councils and other collegial assemblies formed by the institutions of state and local self-government units.

§ 10. Promotion of gender equality in the field of education and training

Educational and research institutions and institutions involved in the organization of training must ensure equal treatment of women and men in vocational counseling, acquiring education, special and vocational training and retraining. Curricula, teaching material used and research carried out must contribute to the elimination of inequality between women and men and the promotion of equality.

§ 11. Employers as promoters of gender equality

(1) When promoting the equality of women and men, the employer must:

1) act in such a way that his activities support the application of both men and women to vacant jobs, and persons of both sexes are hired for them;

[RT I 2009, 48, 323 - entry into force. 23.10.2009]

2) hire women and men as equally as possible for various positions and ensure equal treatment for them during promotion;

3) design working conditions suitable for both women and men and improve the reconciliation of work and family life, taking into account the needs of employees;

4) ensure that the employee is protected from gender and sexual harassment in the work environment;

[RT I 2009, 48, 323 - entry into force. 23.10.2009]

5) inform the employee about the rights guaranteed by this Act;

6) regularly provide employees and/or their representatives with relevant information about the equal treatment of men and women in the organization and the measures introduced to promote equality.

(2) The employer must collect gender-specific employment statistical data, which, if necessary, enable the relevant institutions to monitor and evaluate the observance of the principle of equal treatment in employment relationships. The procedure for data collection and the list of data shall be established by a regulation of the Government of the Republic.

(3) The employee has the right to request from the employer opportunities to reconcile work and family life, including flexible working conditions, to which the employer must respond within a reasonable time.

[RT I, 22.12.2021, 3 - enters into force. 01.04.2022]

Chapter 4 SETTLEMENT OF GENDER DISCRIMINATION DISPUTES

§ 12. Settlement of gender discrimination disputes

Discrimination disputes are settled by the court or the labor dispute commission. Discrimination disputes are settled by the chancellor of justice in accordance with the conciliation procedure.

[RT I 2008, 56, 315 - entry into force. 01.01.2009]

§ 13. Compensation for damage

(1) If a person's rights have been violated due to discrimination, he may demand from the person who violated the rights the cessation of the harmful behavior and compensation for the damage on the grounds and procedure provided by law.

[RT I 2009, 48, 323 - entry into force. 23.10.2009]

(2) The victim may demand that, in addition to the provisions of subsection 1 of this section, a reasonable amount of money be paid to him as compensation for the non-pecuniary damage caused by the violation.

(3) When determining the amount of compensation, the court or the labor dispute commission takes into account, among other things, the scope, duration and nature of discrimination.

[RT I 2008, 56, 315 - entry into force. 01.01.2009]

(4) Applicants for work and service, with whom the employer did not conclude an employment contract or contract for the provision of services, or who were not appointed or elected to a position because of their gender, may not demand the conclusion of a contract of employment or a contract for the provision of services, or to be appointed or elected to a position.

[RT I 2008, 56, 315 - entry into force. 01.01.2009]

§ 14. Expiration of the claim for damages

The claim provided for in § 13 of this Act expires within one year, starting from the day when the injured party became aware or should have become aware of the occurrence of the damage.

Chapter 5 COMMISSIONER FOR GENDER EQUALITY AND EQUAL TREATMENT

[RT I 2008, 56, 315 - entry into force. 01.01.2009]

§ 15. Commissioner for gender equality and equal treatment

(1) The Commissioner for Gender Equality and Equal Treatment (hereinafter *the Commissioner*) is an independent and impartial expert who monitors compliance with the requirements of this Act and the Equal Treatment Act and performs other tasks assigned to him by law, who acts independently.

(2) The appointment of the commissioner, the termination of his powers and the limitations of his activities, as well as the competence of the commissioner are stipulated in the Equal Treatment Act.

[RT I 2008, 56, 315 - entry into force. 01.01.2009]

§ 16. – § 21. [Repealed - RT I 2008, 56, 315 - entered into force. 01.01.2009]

Chapter 6

TASKS OF THE MINISTRY OF ECONOMY AND COMMUNICATIONS IN THE IMPLEMENTATION OF THE GENDER EQUALITY ACT

02/08/2023 11:20

Bug fix. An obvious inaccuracy has been corrected, the title has been brought into line with the content of the chapter by replacing the word "Ministry of Social Affairs" with the words "Ministry of Economy and Communications" on the basis of § 10 (3) of the State Gazette Act.

§ 22. Duties of the Ministry of Economic Affairs and Communications

[RT I, 30.06.2023, 1 - entered into force. 01.07.2023]

The Ministry of Economic Affairs and Communications:

1) advises on issues related to the implementation of the principle of equal treatment and gives instructions for the implementation of this Act;

2) analyzes the impact of laws and legislation on the status of women and men in society;

3) publishes reports on the implementation of the principle of equal treatment of women and men;

4) coordinates the promotion of gender equality and equal treatment and related activities.

[RT I, 30.06.2023, 1 - enters into force. 01.07.2023]

§ 23. Counseling

(1) The official of the equality structural unit of the Ministry of Economic Affairs and Communications (hereinafter *the advisor*) advises everyone on issues related to the implementation of the principle of equal treatment of women and men. Counseling can be done orally or in writing.

[RT I, 30.06.2023, 1 - enters into force. 01.07.2023]

(2) If necessary, the counselor will explain to the person which institution is under the competence of solving a possible case of discrimination. At the person's request, assistance is provided in writing the application and forwarding it to the competent body. The application is not forwarded to the court and the labor dispute committee.

Chapter 7 GENDER EQUALITY COUNCIL

§ 24. The Council for Gender Equality

(1) The Council for Gender Equality is an advisory body under the Ministry of Economic Affairs and Communications, which:
[RT I, 30.06.2023, 1 - enters into force. 01.07.2023]

1) approves the general directions of the gender equality policy and performs the duties prescribed in this Act and the Statute;

2) advises the Government of the Republic on matters of strategy for the promotion of gender equality;

3) submits its opinion to the Government of the Republic regarding the compliance of the national programs submitted by the ministries with § 9 of this Act.

(2) The rules of procedure of the Gender Equality Council shall be stipulated in the statute. The Statute of the Council for Gender Equality is established by the Government of the Republic .

(3) The composition of the Gender Equality Council is approved by the Government of the Republic.

Chapter 8 IMPLEMENTATION PROVISIONS

§ 25. Entry into force of the Act

The law enters into force on May 1, 2004.

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Council Directive 79/7/EEC on the gradual implementation of the principle of equal treatment of men and women in the field of social security (OJ L 6, 10.01.1979, pp. 24–25);

Council Directive 92/85/EEC on the introduction of measures to improve the occupational safety and health of pregnant workers, those who have recently given birth and those who are breastfeeding (tenth individual directive within the meaning of Article 16(1) of Directive 89/391/EEC) (OJ L 348, 28.11.1992, pp. 1-7);

Council Directive 2004/113/EC on the implementation of the principle of equal treatment of men and women in relation to the availability and supply of goods and services (OJ L 373, 21.12.2004, pp. 37–43);

Directive 2006/54/EC of the European Parliament and of the Council on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and profession (recast) (OJ L 204, 26.07.2006, pp. 23–36);

Directive 2010/41/EU of the European Parliament and of the Council on the application of the principle of equal treatment of self-employed men and women, which repeals Council Directive 86/613/EEC (OJ L 180, 15.07.2010, pp. 1–6);

Directive (EU) 2019/1158 of the European Parliament and of the Council, which deals with the work-life balance of parents and carers and which repeals Council Directive 2010/18/EU (OJ L 188, 12.07.2019, pp. 79–93).

[RT I, 22.12.2021, 3 - enters into force. 01.04.2022]