

# Consolidation Act on the Board of Equal Treatment

*This is an unofficial translation for informational purposes only. In case of discrepancy, the Danish text prevails.*

The following is a consolidation of the Act on the Board of Equal Treatment, i.e. Consolidation Act No. 905 of 3 September 2012 with the amendments that follow from Act No. 1570 of 15 December 2015.

## Part 1

### *Competence and Organisation*

**1.-(1)** The Board of Equal Treatment shall hear complaints filed concerning differences of treatment based on gender, race, skin colour, religion or belief, political affiliation, sexual orientation, age, disability or national, social or ethnic origin as set out in subsections (2) – (5) below.

(2) The Board shall consider complaints of differences of treatment based on gender according to the following Acts:

- 1) Sections 2, 2a and 2b of the Act on Gender Equality,
- 2) The Act on Equal Pay to Men and Women,
- 3) The Act on Equal Treatment of Men and Women as regards Access to Employment, etc.,
- 4) The Act on Equal Treatment of Men and Women under Occupational Social Security Schemes,
- 5) The Act on Entitlement to Leave and Benefits in connection with Childbirth.

(3) The Board shall consider complaints of differences of treatment based on race, skin colour, religion or belief, political affiliation, sexual orientation, age, disability or national, social or ethnic origin under the Act on the Prohibition of Differences of Treatment in the Labour Market etc.

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

(5) The Board of Equal Treatment may consider complaints from workers concerning violation of provisions laid down in collective agreements which contain an equal treatment or equal pay obligation corresponding to that of the Act on Equal Treatment of Men and Women as regards Access to Employment as set out in section 1(9) of that Act, the Act on Equal Pay to Men and Women as set out in section 1(5) of that Act or the Act on Equal Treatment of Men and Women under Occupational Social Security Schemes as set out in section 2 of that Act, or a non-discrimination obligation corresponding that of the Act on the Prohibition of Differences of Treatment in the Labour Market etc. set out in section 1(6) and (7) of that Act, where the worker proves that the relevant trade union does not intend to initiate an industrial disputes procedure to deal with the issue.

(6) A complaint may be brought before the Equal Treatment Board by anyone who has a legal interest in the issue.

(7) The Danish Institute for Human Rights - Denmark's National Human Rights Institution, may bring cases involving principles of special importance or general public interest before the Equal Treatment Board.

**2.-(1)** The Board may award compensation and order reversal of a worker's dismissal to the extent that it follows from the Acts and collective agreements referred to in section 1(2) – (5).

(2) In cases that have been brought before the Board by the Danish Institute for Human Rights - Denmark's National Human Rights Institution, the Board may establish by a decision in accordance with section 1(2) - (4) that unlawful discrimination has taken place.

**3.-(1)** The Board shall consist of one chairman, two deputy chairmen and nine other members.

(2) The Chairman must be a high court judge or president or vice-president of the Maritime and Commercial Court. The deputy chairmen must be district court judges. The chairman and vice-chairmen shall be appointed by the Minister for Employment upon nomination by the presidents of their respective courts. Both genders must have representation in the chairmanship of the Board.

(3) The remaining members of the Board shall be appointed by the Minister for Employment. The Minister for Social and Integration Affairs shall recommend three members while the Minister for Equality and Ecclesiastical Affairs shall recommend three members. The members of the Board must hold a master's degree in law and be appointed from among persons who have specialist insight into gender equality legislation, legislation concerned with equality of treatment of all irrespective of their race or ethnic origin or legislation prohibiting discrimination in the labour market as well as insight into labour market conditions. The members of the Board must be independent of the nominating and appointing authorities. The appointments must be made so as to ensure equal gender distribution among the members of the Board.

(4) Members of the Board shall be appointed for three years at a time. Reappointment will be possible.

(5) The Minister for Employment may appoint alternates to the members appointed according to subsection (3). Such appointments shall be in conformity with subsections (3) and (4).

(6) The Minister for Employment shall lay down the rules of procedure of the Board upon negotiation with the Minister for Social and Integration Affairs and the Minister for Equality and Ecclesiastical Affairs.

**4.-(1)** The Board may not consider complaints that qualify for being brought before another administrative authority until such an authority has made a decision in the case.

(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 dispute before the courts.

## Part 2

### *Hearing of complaints*

**5.-(1)** The Social Appeals Board shall provide a secretariat to the Board.

(2) The secretariat shall provide the preparatory work for the Board's hearing of complaints. Complaints shall be dealt with on a written basis.

(3) The Secretariat may request the parties to a case to contribute to clarifying the circumstances. If one party 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 case may be decided on the basis available.

**6.-(1)** The Board's consideration of a complaint is carried through by one member of the Chairmanship and two other members of the Board. The Board's decision shall be made by a majority of votes.

(2) The Chairman may decide that two more members of the Board must take part in the hearing of cases involving principles of special importance.

(3) Where it is estimated that a case may be resolved in accordance with the established practice of the courts or the Board, the decision may be made by a member of the Chairmanship alone.

**7.-(1)** The Board may obtain statements from experts in connection with the hearing of a complaint.

(2) When considering cases concerned with breach of provisions of collective agreements as referred to in section 1(5), the Board must obtain statements from the parties to the collective agreement in question before making a decision.

**8.-(1)** The Board may refuse to consider a complaint that is not assessed to be suited to being heard by the Board.

(2) The Board may refuse to consider a complaint in case it is obvious that the Board will not be able to find in favour of the complainant.

(3) The Board may refuse to consider a complaint in case the complainant has no legal interest in the issue.

(4) The Board may delegate its competence according to subsection (1) - (3) to the secretariat. Specific rules on such delegation must be established in the rules of procedure of the Board.

**9.-(1)** The decisions of the Board may not be brought before any other administrative authority.

(2) The decisions of the Board shall be kept on record and published in anonymised form. The reasons for a decision must be entered in the records. Where a decision has not been unanimous, information about the voting and the reasons for the votes cast shall be entered in the records.

**10.** The Board may decide that a case in which a decision has been made must be reopened if special circumstances make it advisable.

**11.** A complainant may withdraw a complaint until a decision has been made in the case. If while the complaint is being considered the respondent party satisfies the complainant's claim or if a settlement is reached between the parties on a final resolution of the issue, the case will be discontinued.

**12.-(1)** When the Board has made a decision concerning a complaint, the secretariat will inform the parties of the decision and the options available for bringing the matter before the courts.

(2) In case a decision made by the Board or a settlement reached before the Board is not complied with, the Board must bring the case before the courts on behalf of the complainant or the Danish Institute for Human Rights – Denmark's National Human Rights Institution in case the complainant or the Institute so requests.

**13.** The Board shall issue a report on its activity once every year.

## Part 3

### *Commencement etc.*

**14.-(1)** This Act shall enter into force on 1 January 2009.

(2) The Chairman of the Board shall be appointed the first time for a period of four years.

(3) Cases that have been brought before the Gender Equality Board or the Complaints Committee for Ethnic Equal Treatment at the time when this Act enters into force shall be transferred to the Board for continued consideration.

**15. - 17.** (Left out)

**18.** (Repealed)

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

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Act No. 530 of 11 June 2012<sup>4</sup> (Harassment cases, appointment of the Chairmanship, etc.) includes the following commencement provision:

**2.**

This Act shall enter into force on 1 July 2012.

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Act No. 1570 of 15 December 2015 (Introduction of the requirement of a legal interest, decisions made by the Chairmanship and the possibility of allowing the Danish Institute for Human Rights – Denmark's National Human Rights Institution to bring certain cases before the Board of Equal Treatment, etc.) includes the following commencement provision:

**2.**

*Subsection (1).* This Act shall enter into force on 1 January 2016.

*Subsection (2)* This Act shall not apply to complaints submitted before the Act entered into force. Such complaints shall be considered according to the rules in force prior to the commencement of this Act.

*Ministry of Employment, 2 October 2016*

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/ Vibe Westh

**Kommentar [LTH1]:** Selve fodnoten mangler. Der skal stå følgende:  
Lovændringen vedrører §1, §3, §5, §8 og §18.