

Discrimination Act 2008:567

Amendments incorporated up to and including SFS 2017:1128. Transitional provisions omitted.

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Chapter 1. Introductory provisions

The purpose of the Act

Section 1

The purpose of this Act is to combat discrimination and in other ways promote equal rights and opportunities regardless of sex, transgender identity or expression, ethnicity, religion or other belief, disability, sexual orientation or age.

The contents of the Act

Section 2

The first chapter of the Act contains definitions and other introductory provisions. The second chapter contains provisions on prohibitions against discrimination and reprisals. The third chapter contains provisions on active measures. The fourth chapter contains provisions on supervision. The fifth chapter contains provisions on compensation and invalidity. The sixth chapter contains provisions on legal proceedings.

Section 3

A contract or agreement that restricts someone's rights or obligations under this Act is of no legal effect in that regard.

Discrimination

Section 4

In this Act discrimination has the meaning set out in this Section.

1. Direct discrimination: that someone is disadvantaged by being treated less favourably than someone else is treated, has been treated or would have been treated in a comparable situation, if this disadvantaging is associated with sex, transgender identity or expression, ethnicity, religion or other belief, disability, sexual orientation or age.

2. Indirect discrimination: that someone is disadvantaged by the application of a provision, a criterion or a procedure that appears neutral but that may put people of a certain sex, a certain transgender identity or expression, a certain ethnicity, a certain religion or other belief, a certain disability, a certain sexual orientation or a certain age at a particular disadvantage, unless the provision, criterion or procedure has a legitimate purpose and the means that are used are appropriate and necessary to achieve that purpose.
3. Inadequate accessibility: that a person with disability is disadvantaged through a failure to take measures for accessibility to enable the person to come into a situation comparable with that of persons without this disability where such measures are reasonable on the basis of accessibility requirements in laws and other statutes, and with consideration to
 - the financial and practical conditions,
 - the duration and nature of the relationship or contact between the operator and the individual, and
 - other circumstances of relevance.
4. Harassment: conduct that violates a person's dignity and that is associated with one of the grounds of discrimination sex, transgender identity or expression, ethnicity, religion or other belief, disability, sexual orientation or age.
5. Sexual harassment: conduct of a sexual nature that violates someone's dignity.
6. Instructions to discriminate: orders or instructions to discriminate against someone in a manner referred to in points 1–4 that are given to someone who is in a subordinate or dependent position relative to the person who gives the orders or instructions or to someone who has committed herself or himself to performing an assignment for that person.

Sex, transgender identity or expression, ethnicity, disability, sexual orientation and age

Section 5

In this Act the following terms have the meaning set out in this Section.

1. **Sex:** that someone is a woman or a man.
2. **Transgender identity or expression:** that someone does not identify herself or himself as a woman or a man or expresses by their manner of dressing or in some other way that they belong to another sex.
3. **Ethnicity:** national or ethnic origin, skin colour or other similar circumstance.
4. **Disability:** permanent physical, mental or intellectual limitation of a person's functional capacity that as a consequence of injury or illness existed at birth, has arisen since then or can be expected to arise.
5. **Sexual orientation:** homosexual, bisexual or heterosexual orientation.
6. **Age:** length of life to date.

A person who intends to change or has changed the sex they belong to is also covered by sex as a ground of discrimination.

Chapter 2. Prohibition of discrimination and reprisals

Working life

Prohibition of discrimination

Section 1

1. An employer may not discriminate against a person who, with respect to the employer,
2. is an employee,
3. is enquiring about or applying for work,
4. is applying for or carrying out a traineeship, or
5. is available to perform work or is performing work as temporary or borrowed labour.

The prohibition of discrimination in the form of inadequate accessibility does not apply to a person enquiring about work.

A person who has the right to make decisions on the employer's behalf in matters concerning someone referred to in the first paragraph shall be equated with the employer.

Section 2

The prohibition in Section 1 does not prevent

1. differential treatment based on a characteristic associated with one of the grounds of discrimination if, when a decision is made on employment, promotion or education or training for promotion, by reason of the nature of the work or the context in which the work is carried out, the characteristic constitutes a genuine and determining occupational requirement that has a legitimate purpose and the requirement is appropriate and necessary to achieve that purpose,
2. measures that contribute to efforts to promote equality between women and men and that concern matters other than pay or other terms of employment,
3. the application of age limits with regard to the right to pension, survivor's or invalidity benefits in individual contracts or collective agreements, or
4. differential treatment on grounds of age, if there is a legitimate purpose and the means that are used are appropriate and necessary to achieve that purpose.

Obligation to investigate and take measures against harassment

Section 3

If an employer becomes aware that an employee considers that he or she has been subjected in connection with work to harassment or sexual harassment by someone performing work or carrying out a traineeship at the employer's

establishment, the employer is obliged to investigate the circumstances surrounding the alleged harassment and where appropriate take the measures that can reasonably be demanded to prevent harassment in the future.

This obligation also applies with respect to a person carrying out a traineeship or performing work as temporary or borrowed labour.

Information about qualifications

Section 4

If a job applicant has not been employed or selected for an employment interview, or if an employee has not been promoted or selected for education or training for promotion, the applicant shall, upon request, receive written information from the employer about the education, professional experience and other qualifications that the person had who was selected for the employment interview or who obtained the job or the place in education or training.

Education

Prohibition of discrimination

Section 5

A natural or legal person conducting activities referred to in the Education Act (2010:800) or other educational activities (an education provider) may not discriminate against any child, pupil or student participating in or applying for the activities. Employees and contractors engaged in the activities shall be equated with the education provider when they are acting within the context of their employment or contract.

The prohibition of discrimination also applies in cases where an education provider, by taking reasonable measures regarding the accessibility and usability of the premises, can see to it that a person with a disability who is applying or has been accepted for education under the Higher Education Act (1992:1434) or for education that can lead to a qualification under the Act concerning authority to award certain qualifications (1993:792), is put in a comparable situation to people without such a disability.

Section 6

The prohibition in Section 5 does not prevent

1. measures that contribute to efforts to promote equality between women and men in admissions to education other than that referred to in the Education Act (2010:800),
2. the application of provisions that take account of age with regard to preschool education, preschool classes, compulsory schools, compulsory schools for pupils with learning disabilities, Sami schools, special schools or recreational school centres, or educational activities referred to in Chapter 25 of the Education Act, or

3. differential treatment on grounds of age, if there is a legitimate purpose and the means that are used are appropriate and necessary to achieve that purpose.

Nor does the prohibition prevent a folk high school or a study association from taking measures that contribute to efforts to promote equal rights and opportunities regardless of ethnicity, religion or other belief.

Obligation to investigate and take measures against harassment

Section 7

If an education provider becomes aware that a child, pupil or student participating in or applying for the provider's activities considers that he or she has been subjected in connection with these activities to harassment or sexual harassment, the education provider is obliged to investigate the circumstances surrounding the alleged harassment and where appropriate take the measures that can reasonably be demanded to prevent harassment in the future.

Information about qualifications

Section 8

If an applicant has been refused admission to an educational programme, or has not been selected for a test or interview if such a procedure is used in the admissions process, the applicant shall, upon request, receive written information from the education provider about the education or other qualifications that the person had who was admitted to the educational programme or who was selected for the test or interview.

Labour market policy activities and employment services not under public contract

Section 9

Discrimination against applicants or employees is prohibited with regard to labour market policy activities and employment services not under public contract.

However, this prohibition does not prevent

1. measures that contribute to efforts to promote equality between women and men or equal rights and opportunities regardless of ethnicity, or
2. differential treatment on grounds of age, if there is a legitimate purpose and the means that are used are appropriate and necessary to achieve that purpose.

Starting or running a business and professional recognition

Section 10

Discrimination is prohibited with regard to

1. financial support, permits, registration or similar arrangements that are needed or can be important for someone to be able to start or run a business, and
2. recognition, certification, authorisation, registration, approval or similar arrangements that are needed or can be important for someone to be able to exercise a certain profession.

These prohibitions do not prevent differential treatment on grounds of age, if there is a legitimate purpose and the means that are used are appropriate and necessary to achieve that purpose.

Nor does the prohibition in the first paragraph, point 1 prevent measures concerning support that contributes to efforts to promote equality between women and men or equal rights and opportunities regardless of ethnicity.

Membership of certain organisations

Section 11

Discrimination is prohibited with regard to

1. membership of or participation in an employees' organisation, employers' organisation or professional organisation, and
2. benefits that any such organisation provides to its members.

This prohibition does not prevent an organisation from providing benefits to members of one sex so as to contribute to efforts to promote equality between women and men.

Goods, services and housing etc.

Section 12

Discrimination is prohibited on the part of a natural or legal person who

1. supplies goods, services or housing to the general public, outside the private and family sphere, or
2. organises a meeting or event that is open to the public.

A person who represents a person referred to in the first paragraph in relation to the public, shall be equated with that person.

Section 12 a

The prohibition of discrimination in Section 12 associated with sex does not prevent women and men being treated differently with regard to services or housing if there is a legitimate purpose and the means that are used are appropriate and necessary to achieve that purpose.

With regard to insurance services, however, insurance premiums charged or insurance benefits paid to individuals must not differ between women and men on account of calculations based on sex. Nevertheless, if the conditions in the

first paragraph are met, a person's sex may influence the assessment of other factors on which calculations of insurance premiums are based.

Section 12 b

The prohibition of discrimination in Section 12 associated with age

1. does not prevent the application of provisions of an act in which a certain age is prescribed,
2. does not apply to the provision of insurance services,
3. does not prevent the application of lower age limits for admission to establishments where spirit drinks, wine, strong beer and other fermented alcoholic beverages which the business operator is licensed to serve are served on a commercial basis, and
4. does not prevent other differential treatment on grounds of age either if the differential treatment serves a legitimate purpose and the means that are used are appropriate and necessary to achieve that purpose.

Section 12 c

The prohibition of discrimination in the form of inadequate accessibility in Section 12, first paragraph, point 1 does not apply

1. with regard to housing,
2. to private persons,
3. if, with regard to the supply of goods and services, measures are required concerning properties and construction works that extend beyond the accessibility and usability requirements contained in the building permit or notification to begin work for the property or construction work in question under the Planning and Building Act (2010:900) or any older corresponding provisions and under regulations issued pursuant to these provisions.

Health and medical care and social services etc.

Section 13

Discrimination is prohibited with regard to

1. health and medical care and other medical services, and
2. social services activities, and assistance in the form of special transport services and national special transport services and housing adaptation allowances.

Section 13 a

The prohibition of discrimination in Section 13, points 1 and 2, associated with sex does not prevent women and men being treated differently if this has a legitimate purpose and the means that are used are appropriate and necessary to achieve that purpose.

Section 13 b

The prohibition of discrimination in Section 13 associated with age does not prevent

1. the application of provisions of an act in which a certain age is prescribed, or
2. other differential treatment on grounds of age if the differential treatment serves a legitimate purpose and the means that are used are appropriate and necessary to achieve that purpose.

Social insurance system, unemployment insurance and financial aid for studies

Section 14

Discrimination is prohibited with regard to

1. social insurance and related benefit systems,
2. unemployment insurance, and
3. state financial aid for studies.

Section 14a

The prohibition of discrimination in Section 14, point 1, associated with sex does not prevent the application of provisions of an act concerning widow's pension or payment of child allowance.

Section 14b

The prohibition of discrimination in Section 14 associated with age does not prevent

1. the application of provisions of an act in which a certain age is prescribed, or
2. other differential treatment on grounds of age if the differential treatment serves a legitimate purpose and the means that are used are appropriate and necessary to achieve that purpose.

National military service and civilian service

National military service and civilian service and other equivalent military training in the Swedish Armed Forces

Section 15

Discrimination is prohibited

1. in connection with enrolment procedures or other examination of personal circumstances under the National Total Defence Service Act (1994:1809) and in connection with enlistment for and during the performance of national military service or civilian service, and
2. in connection with admission examinations for and during the performance of other equivalent military training in the Swedish Armed Forces.

However, this prohibition does not apply to discrimination associated with age.

Further, the prohibition does not prevent the application of provisions directing that a person liable for national total defence service shall not be called for enrolment or called up for national military service or civilian service if he or she refers to her or his membership of a certain religious community.

Obligation to investigate and take measures against harassment

Section 16

If a government agency or an organisation covered by the prohibition in Section 15 becomes aware that a person applying for or participating in training or other activities indicated in that provision considers herself or himself to have been subjected in this connection to harassment or sexual harassment, the government agency or organisation is obliged to investigate the circumstances surrounding the alleged harassment and where appropriate take the measures that can reasonably be demanded to prevent harassment in the future.

However, the first paragraph does not apply to harassment associated with age.

Public employment

Section 17

Discrimination is also prohibited in cases other than those referred to in Section 5 or Sections 9–15 when a person who is wholly or partly subject to the Public Employment Act (1994:260)

1. assists the public by providing information, guidance, advice or other such help, or
2. has other types of contacts with the public in the course of her or his employment.

Prohibition of reprisals

Section 18

An employer may not subject an employee to reprisals because the employee has

1. reported or called attention to the fact that the employer has acted contrary to this Act,
2. participated in an investigation under this Act, or
3. rejected or given in to harassment or sexual harassment on the part of the employer.

The prohibition also applies in relation to a person who, with respect to the employer,

1. is enquiring about or applying for work,
2. is applying for or carrying out a traineeship, or

3. is available to perform work or is performing work as temporary or borrowed labour.

A person who has the right to make decisions on the employer's behalf in matters concerning someone referred to in the first or second paragraph shall be equated with the employer.

Section 19

A person who is alleged to have acted contrary to the provisions of Chapter 2, Section 5, 7, 9, 10, 11, 12, 12a, 13, 14, 15, 16 or 17 or Chapter 3, Section 16, 17, 18 or 20 may not subject an individual to reprisals because that individual has

1. reported or called attention to such actions,
2. participated in an investigation under this Act, or
3. rejected or given in to harassment or sexual harassment on the part of the person who is alleged to have engaged in discrimination.

Chapter 3. Active measures

Introductory provisions

Section 1

Active measures are prevention and promotion measures aimed at preventing discrimination and serving in other ways to promote equal rights and opportunities regardless of gender, transgender identity or expression, ethnicity, religion or other belief, disability, sexual orientation or age within a given establishment.

Work on active measures

Section 2

Work on active measures means pursuing prevention and promotion work by

1. investigating the existence of any risks of discrimination or reprisals or any other obstacles to individuals' equal rights and opportunities in the establishment in question,
2. analysing the causes of any risks and obstacles discovered,
3. taking the prevention and promotion measures that can reasonably be demanded, and
4. monitoring and evaluating measures under points 1–3.

Section 3

Work on active measures is to be conducted continuously. Measures are to be scheduled and implemented as soon as possible.

Working life

Employers' work on active measures

Section 4

Within the framework of their activities, employers are to work on active measures in the manner indicated in Sections 2 and 3.

Section 5

Employers' work on active measures is to encompass

1. working conditions,
2. provisions and practices regarding pay and other terms of employment,
3. recruitment and promotion,
4. education and training, and other skills development, and
5. possibilities to reconcile gainful employment and parenthood.

Section 6

Employers are to have guidelines and routines for their activities to prevent harassment, sexual harassment and reprisals referred to in Chapter 2, Section 18.

Employers are to follow up and evaluate the guidelines and routines in place under the first paragraph.

Section 7

Employers are to promote gender balance in different types of work, among different categories of employees and in management positions by means of education and training, skills development and other appropriate measures.

Employers are to follow up and evaluate the measures taken under the first paragraph.

Employers' work on pay surveys

Section 8

In order to discover, remedy and prevent unfair gender differences in pay and other terms of employment, the employer is to annually survey and analyse

1. provisions and practices regarding pay and other terms of employment that are used by the employer, and
2. pay differences between women and men performing work that is to be regarded as equal or of equal value.

Section 9

The employer is to assess whether existing pay differences are directly or indirectly associated with gender. The analysis is to refer in particular to differences between

1. women and men performing work that is to be regarded as equal,

2. groups of employees performing work that is or is generally considered to be dominated by women and groups of employees performing work that is to be regarded as of equal value to such work but is not or is not generally considered to be dominated by women, and
3. groups of employees performing work that is or is generally considered to be dominated by women and groups of employees performing work that is not or is generally not considered to be dominated by women but that gives higher pay despite the requirements of the work being regarded as lesser.

Section 10

Work is to be regarded as of equal value to other work if it can be deemed so based on an overall assessment of the requirements and nature of the work. The assessment of the requirements of the work is to take into account criteria such as knowledge and skills, responsibility and effort. In assessing the nature of the work, particular account is to be taken of working conditions.

Cooperation

Section 11

Employers and employees are to cooperate in work on active measures.

Information required for cooperation

Section 12

The employer is to provide an employee organisation to which the employer is bound by collective agreement with the information required for the organisation to be able to cooperate on work on active measures.

If the information concerns data on pay or other circumstances that relate to an individual employee, the rules on confidentiality and damages contained in Sections 21, 22 and 56 of the Employment (Co-determination in the Workplace) Act (1976:580) apply. In activities of public authorities, the provisions of Chapter 10, Sections 11–14 and Chapter 12, Section 2 of the Public Access to Information and Secrecy Act (2009:400) apply instead.

Documentation

Section 13

Employers who employed 25 or more workers as of the beginning of the calendar year are to document in writing in the course of the year their work on active measures under Sections 4–10.

This documentation is to contain

1. an account of all aspects of the work described in Sections 2 and 3 and concerning the areas indicated in Section 5,
2. an account of the measures taken and planned under Sections 6 and 7,
3. an account of the results of the survey and analysis under Sections 8–10,
4. an account of the pay adjustments and other measures that need to be taken to rectify pay differences that are directly or indirectly associated with gender,

5. a cost estimate and a time plan based on the goal of implementing the necessary pay adjustments as soon as possible and within at most three years,
6. an account and evaluation of how the previous year's planned measures were implemented, and
7. an account of how the obligation to cooperate under Section 11 is being met.

Section 14

Employers who employed between 10 and 24 workers as of the beginning of the calendar year are to document in writing in the course of the year their work on pay surveys under Sections 8–10.

The documentation is to contain the information stated in Section 13, points 3–6 and an account of how the obligation to cooperate under Section 11 is being met with respect to pay surveys.

Education

Education providers

Section 15

In this Chapter, the term 'education provider' means an entity engaged in

1. education or other activities under the Education Act (2010:800),
2. education under the Higher Education Act (1992:1434), or
3. education that can lead to a qualification under the Award of Certain Degrees Licensing Act (1993:792).

Education providers' work on active measures

Section 16

Within the framework of their activities, education providers are to use active measures in the manner indicated in Sections 2 and 3.

Section 17

Education providers work on active measures referred to in Section 15, points 2 and 3 is to encompass

1. admission and recruitment procedures,
2. teaching methods and organisation of education,
3. examinations and assessments of students' performance,
4. study environment, and
5. possibilities to reconcile studies with parenthood.

Section 18

Education providers are to have guidelines and routines for their activities, with a view to preventing harassment and sexual harassment.

Education providers are to follow up and evaluate the guidelines and routines in place under the first paragraph.

Cooperation

Section 19

Education providers are to cooperate on work on active measures with those taking part in education referred to in Section 15 and with those employed in the establishment.

Documentation

Section 20

Education providers are to annually document in writing their work on active measures under Sections 16 and 18. For education providers referred to in Section 15, points 2 and 3, the obligation to document refers to the areas indicated in Section 17.

This documentation is to contain

1. an account of all aspects of the work described in Sections 2 and 3,
2. an account of the measures taken and planned under Section 18, and
3. an account of how the obligation to cooperate under Section 19 is being met.

Chapter 4. Supervision

The Equality Ombudsman

Duties of the Equality Ombudsman

Section 1

The Equality Ombudsman is to supervise compliance with this Act. The Ombudsman is to try in the first instance to induce those to whom the Act applies to comply with it voluntarily.

Provisions on the duties of the Ombudsman are also contained in the Act concerning the Equality Ombudsman (2008:568).

Section 1a

In this Act, the term 'supervision' means an independent review aimed at verifying that the activities reviewed fulfil the requirements ensuing from this Act.

Section 2

Chapter 6, Section 2 states that the Equality Ombudsman may bring a court action on behalf of an individual who consents to this.

Obligation to provide information

Section 3

A natural or legal person who is subject to the prohibitions of discrimination and reprisals, the obligation to investigate and take measures against

harassment or the provisions on active measures in this Act is obliged, at the request of the Equality Ombudsman,

1. to provide information about circumstances in their activities that are of importance for the supervision exercised by the Ombudsman,
2. to provide information about qualifications when the Ombudsman is assisting in a request from an individual under Chapter 2, Section 4 or 8,
3. to give the Ombudsman access to workplaces and other premises where the activities are conducted for the purpose of investigations that may be of importance to the supervision exercised by the Ombudsman, and
4. to attend discussions with the Ombudsman.

The obligations specified in points 1–3 do not apply if there are special grounds against their doing so in an individual case.

Financial penalty

Section 4

A natural or legal person who does not comply with a request under Section 3 may be ordered by the Equality Ombudsman to fulfil his or her obligation subject to a financial penalty. A decision to order a financial penalty may be appealed to the Board against Discrimination.

A financial penalty order under the first paragraph shall be served.

Section 5

A person who fails to fulfil their obligations to work on active measures under Chapter 3, Section 4, 5, 6, 7, 8, 9, 16, 17 or 18, to provide information under Chapter 3, Section 12 or to keep documentation under Chapter 3, Section 13, 14 or 20 may be ordered to fulfil them. Such an order is to be combined with a conditional financial penalty and be issued by the Board against Discrimination upon application by the Equality Ombudsman. An order can also be directed towards the State as an employer or as an entity responsible for educational activities.

If the Ombudsman has declared that the Ombudsman does not want to apply to the Board for a financial penalty to be ordered, a central employees' organisation to which the employer is bound by a collective agreement may make an application concerning active measures in working life under Chapter 3, Sections 4–9 and 12–14.

The application is to indicate the measures that should be required of the party that the application concerns, the grounds referred to in support of the application and the investigation that has been made of the matter.

Prohibition against appeals

Section 6

No appeal may be made against decisions of the Equality Ombudsman under this Act other than decisions under Section 4 concerning the ordering of financial penalties.

Board against Discrimination

Duties of the Board

Section 7

The Board against Discrimination examines applications for financial penalties under Section 5 and appeals against decisions concerning orders for financial penalties under Section 4. In processing these cases, Sections 8–15a are to be applied.

Processing of an application for a financial penalty

Section 8

A natural or legal person who is the subject of an application for a financial penalty shall be ordered to comment within a certain time on the application and to supply the information concerning circumstances in their activities that the Board against Discrimination needs for its examination.

When an employees' organisation has made the application, the Equality Ombudsman shall be given an opportunity to comment.

Section 9

The Board against Discrimination shall ensure that cases are adequately investigated. When necessary, the Board shall arrange for additional investigation. Superfluous investigation may be refused.

Section 10

Cases before the Board against Discrimination are decided after an oral hearing, unless the Board considers such a hearing unnecessary.

Section 11

The Board against Discrimination shall call the party that has made the application to the Board and the party that is the subject of the application to a hearing. If necessary for the investigation, the Board may also call others to the hearing.

The Board may order the party that the application concerns or that party's representative to attend in person, subject to a financial penalty.

Section 12

A case concerning the ordering of a financial penalty may be decided even if the party that the application concerns does not comment on the case, does not cooperate in the investigation or fails to attend an oral hearing.

If the Equality Ombudsman or the employees' organisation that has made the application for a financial penalty fails to attend a hearing, the application for a financial penalty becomes void.

Section 13

In deciding a case concerning the ordering of a financial penalty, the Board against Discrimination may instruct the party that the application concerns to take measures other than those sought in the application, if these other measures are not obviously more burdensome for the party.

In its decision the Board shall state how and by when the measures are to be started or implemented.

The Board's decision shall be in writing and shall be delivered to the party that the application concerns.

Processing of an appeal against a decision to order a financial penalty

Section 14

In processing an appeal against a decision to order a financial penalty, Sections 9 and 10 shall be applied.

Service of documents

Section 15

The Board against Discrimination shall call the party that has appealed against the decision to order a financial penalty and the Equality Ombudsman to a hearing. If necessary for the investigation, the Board may also call others to the hearing.

The Board may order the party that has appealed against the decision or that party's representative to attend in person, subject to a financial penalty.

Service of documents

Section 15 a

An application for a financial penalty under Section 8, a summons to attend a hearing under Section 11 or Section 15, and other documents that an employer or some other party is required to provide shall be served.

Prohibition against appeals

Section 16

No appeal may be made against a decision of the Board against Discrimination under this Act.

Imposition of a financial penalty

Section 17

Proceedings for the imposition of a financial penalty that has been ordered under this Act are brought before a district court by the Equality Ombudsman.

In cases concerning the imposition of a financial penalty, the district court may also assess the appropriateness of the penalty.

Board of Appeals for Higher Education

Section 18

A decision of a university or other higher education institution for which the State is the responsible entity may, if it concerns education under the Higher Education Act (1992:1434), be appealed to the Higher Education Appeals Board on the grounds that the decision is contrary to

1. the prohibition of discrimination in Chapter 2, Section 5, if the decision concerns
 - a) admission to education,
 - b) credit for education,
 - c) deferment of studies or resumption of studies after time off from studies,
 - d) a change of supervisor,
 - e) withdrawal of a supervisor and other resources in third-cycle courses and study programmes, or
 - f) a disciplinary measure against a student,
2. the prohibition of discrimination in Chapter 1, Section 4, third paragraph, or
3. the prohibition of reprisals in Chapter 2, Section 19.

If the Appeals Board finds that the appealed decision is contrary to one of the prohibitions and that this can be assumed to have influenced the outcome, the decision shall be set aside and the case, if necessary, referred back to the university or other higher education institution for re-examination.

If a decision can be appealed under another statute, the appeal is to be made as prescribed there instead of as directed in the first paragraph.

If a decision can be appealed under another statute, the appeal is to be made as prescribed there instead of as directed in the first paragraph.

Section 19

No appeal may be made against a decision of the Board of Appeals for Higher Education under this Act.

Chapter 5. Compensation and invalidity

Compensation

Section 1

A natural or legal person who violates the prohibitions of discrimination or reprisals or who fails to fulfil their obligations to investigate and take measures against harassment or sexual harassment under this Act shall pay compensation for discrimination for the offence resulting from the infringement. When compensation is decided, particular attention shall be given to the purpose of

discouraging such infringements of the Act. The compensation shall be paid to the person who has been offended by the infringement.

An employer who violates Chapter 2, Section 1, first paragraph or Section 18 shall also pay compensation for the loss that arises. However, this does not apply to a loss that arises in connection with a decision concerning employment or promotion. Nor does it apply to a loss that arises as a result of discrimination in the form of inadequate accessibility.

If there are special grounds, the compensation can be reduced or set at zero.

Section 2

If an employer in activities referred to in Chapter 2, Section 9, 10, 11, 13, 14, 15 or 17 discriminates against someone or subjects someone to reprisals, the compensation for discrimination shall be paid by the employer. A person performing work on behalf of another person in circumstances resembling those in an employment relationship shall be equated with an employee.

If an education provider violates Chapter 2, Section 5, 7 or 19 the compensation shall be paid by the entity responsible for the activities.

Invalidity

Section 3

If someone is discriminated against by a provision in an individual contract or in a collective agreement in a manner that is prohibited under this Act, the provision shall be modified or declared invalid if the person discriminated against requests this. If the provision is of such significance for the contract or agreement that it cannot reasonably be demanded that the contract or agreement shall apply in other respects without material changes, the contract may also be modified in other respects or be declared invalid in its entirety.

If someone is discriminated against by termination of a contract or agreement or by some other such legal act, the legal act shall be declared invalid if the person discriminated against requests this.

If someone is discriminated against by a rule or similar internal provision at the place of work, the provision shall be modified or declared without effect if the person discriminated against requests this.

Refusal to comply with a judgment

Section 3a

If an employer refuses to comply with a judgment in which a court has declared a termination or dismissal to be invalid under this Act, the employment relationship will be considered to have ended.

For non-compliance, the employer is to pay compensation to the employee in an amount that is reasonable considering the employee's pay and total period of employment with the employer at the time the employment relationship ended.

Compensation must not be set at a lower amount than follows from Section 39, second and third paragraphs of the Employment Protection Act (1982:80).

Chapter 6. Legal proceedings

Applicable rules

Section 1

Cases concerning the application of Chapter 2, Section 1, 2, 3 or 18 shall be dealt with under the Labour Disputes (Judicial Procedure) Act (1974:371). In such cases a person enquiring about or applying for work, a person applying for or carrying out a traineeship or a person who is available to perform work or who is performing work as temporary or borrowed labour shall be regarded as an employee.

The person at whose establishment the traineeship or work is being or would have been carried out shall be regarded as employer. This also applies when the regulations on negotiations concerning disputes in the Employment (Co-determination in the Workplace) Act (1976:580) are applied.

Cases concerning the application of Chapter 2, Section 5, 6, 7, 9, 10, 11, 12, 12a, 12b, 12c, 13, 13a, 13b, 14, 14a, 14b, 15, 16, 17 or 19 shall be examined by a general court and dealt with in accordance with the provisions of the Swedish Code of Judicial Procedure concerning procedures in civil cases in which out-of-court settlement of the matter is permitted.

Right to bring an action

Section 2

The Equality Ombudsman, or a non-profit organisation whose statutes state that it is to look after the interests of its members and that is not an employees' organisation referred to in the third paragraph, may bring an action, as a party, on behalf of an individual who consents to this. When the Ombudsman or the association brings such an action, the Ombudsman or association may also bring another action on behalf of the individual as part of the same proceedings, if he or she consents to this. In cases under Section 1, first paragraph the Ombudsman's action is brought before the Labour Court. For unmarried children under 18 years of age the consent of the custodian or custodians is required.

To be allowed to bring an action, the association must be suited to represent the individual in the case, taking account of its activities and its interest in the matter, its financial ability to bring an action and other circumstances.

When an employees' organisation has the right to bring an action on behalf of the individual under Chapter 4, Section 5 of the Labour Disputes (Judicial Procedure) Act (1974:371), the Ombudsman or association may only bring an action if the employees' organisation does not do so.

Burden of proof

Section 3

If a person who considers that he or she has been discriminated against or subjected to reprisals demonstrates circumstances that give reason to presume that he or she has been discriminated against or subjected to reprisals, the defendant is required to show that discrimination or reprisals have not occurred.

Statute of limitations

Working life

Section 4

If someone brings an action on the basis of notice of termination or summary dismissal, the following provisions of the Employment Protection Act (1982:80) shall be applied:

- Section 40 concerning the time limit for actions for a declaration of invalidity,
- Section 41 concerning the time limit for damages or other claims, and
- Section 42 concerning the expiry of the right to bring an action on the grounds that it is time-barred.

If someone brings an action against an employer other than an action referred to in the first paragraph, the following provisions of the Employment (Co-determination in the Workplace) Act (1976:580) shall be applied:

Section 64 on the time limit for calling for negotiations,

Section 65 on the time limit for bringing an action,

Section 66 on the extended time limit for a person who is not represented by an employees' organisation, with the difference that the time limit referred to in Section 66, first paragraph, first sentence shall be two months, and

Section 68 concerning the expiry of the right to bring an action on the grounds that it is time-barred.

If the action concerns compensation on grounds of an employment decision announced by an employer in the public sector, the time limits specified in the second paragraph are calculated from the day on which the employment decision gained legal force.

Section 5

In cases under Section 1, first paragraph the Equality Ombudsman can toll the statute of limitations, except in cases concerning a declaration that a notice of termination or summary dismissal is invalid, by informing the employer in writing that the Ombudsman is making use of her or his right to toll the statute of limitations. If the running of the statute of limitations has been tolled by such

a communication, a new statute of limitations under Section 4 runs from the day of tolling.

A statute of limitations cannot be tolled more than once.

Other areas of society

Section 6

A legal action other than actions referred to in Section 4 must be brought within two years from the date on which the act to which attention is called was performed or from the last date on which an obligation should have been fulfilled. Otherwise the right to bring legal action expires.

If the action concerns a person who was under 18 years of age when the act was performed or the obligation should have been fulfilled at the latest, the time limit specified in the first paragraph is calculated from the day on which the person reached the age of 18.

Litigation costs

Section 7

In cases under Section 1, second paragraph, each party may be ordered to bear its litigation costs, if the party that has lost the case had reasonable grounds for bringing the dispute to court. However, this does not apply when the Equality Ombudsman brings an action on behalf of an individual under Section 2.

In cases under Section 1, first paragraph, Chapter 5, Section 2 of the Labour Disputes (Judicial Procedure) Act (1974:371) applies instead.

Other provisions

Section 8

If someone brings an action on the basis of notice of termination or summary dismissal, the following provisions of the Employment Protection Act (1982:80) are to be applied:

- Section 34 concerning the validity of a notice of termination etc.,
- Section 35 concerning the validity of a notice of summary dismissal etc.,
- Section 37 concerning suspension from work when a notice of termination or summary dismissal has been declared invalid,
- Section 43, first paragraph, second sentence and second paragraph concerning expeditious conduct of proceedings etc.

Section 9

An action for compensation based on a decision on employment that has been announced by an employer in the public sector may not be examined before the employment decision has gained legal force.

Section 10

The provisions of the Swedish Code of Judicial Procedure concerning parties shall also apply to a person on whose behalf the Equality Ombudsman or an association brings an action under this Act in so far as they regard disqualifying circumstances, ongoing legal proceedings and personal attendance, as well as hearing of witnesses on oath and other issues concerning evidence.

When an individual brings an action under this Act, the Equality Ombudsman or an association may not bring an action on the individual's behalf in the same matter.

Section 11

The decision of the court in a case where the Equality Ombudsman or an association brings an action on behalf of an individual may be appealed by the individual, if it may be appealed by the Ombudsman or the association.

When the decision of the court in a case referred to in the first paragraph has become final and non-appealable, the matter may not be reviewed on the action either of the individual or of the Equality Ombudsman or the association.