

Diskriminerings
ombudsmannen

Act concerning the Equality Ombudsman, Discrimination Act and Parental Leave Act



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**Swedish Equality Ombudsman
(Diskrimineringsombudsmannen, DO)**

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Act concerning the Equality Ombudsman 2008:568

Amendments: up to and including SFS 2014:959.

This is a non-official translation of the Act concerning the Equality Ombudsman. The text has no official legal status.

Section 1

The Equality Ombudsman has the duties described in the Discrimination Act (2008:567).

In addition, the Ombudsman shall work to ensure that discrimination associated with sex, transgender identity or expression, ethnicity, religion or other belief, disability, sexual orientation or age does not occur in any areas of society.

The Ombudsman shall also work in other respects to promote equal rights and opportunities regardless of sex, transgender identity or expression, ethnicity, religion or other belief, disability, sexual orientation or age.

Section 2

The Equality Ombudsman shall provide advice and other support to help enable persons who have been subjected to discrimination to claim their rights.

Section 3

Further, within its sphere of activities, the Equality Ombudsman shall

- inform, educate, discuss and have other contacts with government agencies, undertakings, individuals and organisations,

- follow international developments and have contacts with international organisations,
- follow research and development work,
- propose legislative amendments or other anti-discrimination measures to the Government, and
- initiate other appropriate measures.

Discrimination Act (2008:567)

Amendments: up to and including SFS 2022:848.

This is a non-official translation of the Discrimination Act. The text has no official legal status.

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

An agreement that restricts someone's rights or obligations under this Act has 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 through 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 achieve 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 1–5 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 made a commitment to perform an assignment for that person.
7. 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 grounds of discrimination.

Chapter 2. Prohibition of discrimination and reprisals

Working life

Prohibition of discrimination

Section 1

An employer may not discriminate against a person who, with respect to the employer,

1. is an employee,
2. is enquiring about or applying for work,
3. is applying for or carrying out a traineeship, or
4. 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 owing to 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 with the employer, 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

Persons 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.

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.
4. 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 operating a business and professional qualification

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 operate a business, and
2. qualification, 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.
3. 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 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 minimum age limits for admission to establishments for the commercial serving of spirits, wine, strong beer and other fermented alcoholic beverages which the business operator is licensed to serve, and
4. does not prevent 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.

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,
2. social services activities, and
3. 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

- social insurance and related benefit systems,
- unemployment insurance, and
- 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 stipulating 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 his or her 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 connection to this 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

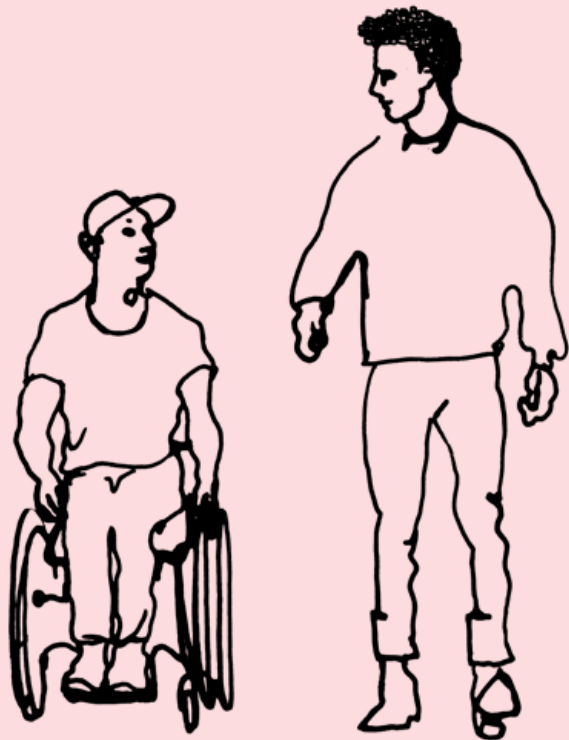
1. reported or called attention to the fact that the employer has acted contrary to this Act,
2. participated in an investigation under this Act, or
3. rejected or submitted to harassment or sexual harassment on the part of the employer.
4. The prohibition also applies in relation to a person who, with respect to the employer,
5. is enquiring about or applying for work,
6. is applying for or carrying out a traineeship, or
7. 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

Persons that are 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 submitted 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 an 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,
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 establishment with a view to preventing 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 unjustified 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 demands of the work being regarded as lower.

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 demands and nature of the work. The assessment of the demands 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 have been 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 establishment 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 employees at 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

Persons 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 are obliged, at the request of the Equality Ombudsman,

1. to provide information about any circumstances within their activities that may be 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 particular grounds not to do so in an individual case.

Conditional fines

Section 4

Persons that do not comply with a request under Section 3 may be ordered by the Equality Ombudsman to fulfil their obligation under penalty of a fine. A decision to impose a conditional fine may be appealed to the Board against Discrimination.

The imposition of a conditional fine under the first paragraph shall be served.

Section 5

Persons that fail 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 fine 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 the imposition of a conditional fine, 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 shall 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 imposition of conditional fines.

Board against Discrimination

Duties of the Board

Section 7

The Board against Discrimination examines applications for the imposition of conditional fines under Section 5 and appeals against decisions concerning the imposition of conditional fines under Section 4. In processing these cases, Sections 8–15a are to be applied.

Processing of an application for the imposition of conditional fines

Section 8

Persons that are the subject of an application for the imposition of a conditional fine shall be ordered to give their opinion on the application within a certain time and to supply the information concerning any

circumstances within 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 give its opinion.

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, under penalty of a fine.

Section 12

A case concerning the ordering of a conditional fine may be decided even if the party that the application concerns does not give an opinion 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 conditional fine fails to attend a hearing, the application for a conditional fine becomes void.

Section 13

In deciding a case concerning the ordering of a conditional fine, 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 served to the party that the application concerns.

Processing of an appeal against a decision to impose a conditional fine

Section 14

In processing an appeal against a decision to impose a conditional fine, Sections 9 and 10 shall be applied.

Section 15

The Board against Discrimination shall call the party that has appealed against the decision to impose a conditional fine 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, under penalty of a fine.

Service of documents

Section 15 a

The imposition of a conditional fine 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 fine

Section 17

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

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

Higher Education Appeals Board

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. transfer of credits 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.

Section 19

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

Chapter 5. Compensation and invalidity

Compensation

Section 1

Persons that violate the prohibitions of discrimination or reprisals or that fail to fulfil their obligations to investigate and take measures against harassment or sexual harassment under this Act shall pay discrimination compensation 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 that 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 particular grounds, the compensation can be reduced or set at zero.

Section 2

If an employee engaged 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 principal organiser 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 an 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. Persons with whom the traineeship or work is being or would have been carried out shall be regarded as an 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 association whose statutes state that it is to look after the interests of its members and which 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 cause to assume that he or she has been discriminated against or subjected to reprisals, it is for the defendant to prove that discrimination or reprisals have not occurred.

Statute of limitations

Working life

Section 4

If an action is pursued for reasons of notice of termination or summary dismissal, the following provisions of the Employment Protection Act (1982:80) shall be applied:

1. Section 40 concerning the time limit for actions for a declaration of invalidity,

2. Section 41 concerning the time limit for damages or other claims, and
3. Section 42 concerning the expiry of the right to bring an action owing to the statute of limitations.

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:

1. Section 64 on the time limit for calling for negotiations,
2. Section 65 on the time limit for bringing an action,
3. 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
4. Section 68 concerning the expiry of the right to bring an action owing to the statute of limitations.

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 became legally binding.

Section 5

In cases under Section 1, first paragraph the Equality Ombudsman can interrupt 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 its right to interrupt the statute of limitations. If the running of the statute of limitations has been interrupted by such a communication, a new statute of limitations under Section 4 runs from the day of interruption.

A statute of limitations cannot be interrupted 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 alleged act 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:

1. Section 34 concerning the validity of a notice of termination etc.,
2. Section 35 concerning the validity of a notice of summary dismissal etc.,

3. Section 37 concerning suspension from work when a notice of termination or summary dismissal has been declared invalid,
4. 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 become legally binding.

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 legally binding, the matter may not be reviewed on the action either of the individual or of the Equality Ombudsman or the association.



Parental Leave Act (1995:584)

Amendments: up to and including SFS 2022:1294.

This is a non-official translation of the Parental Leave Act. The text has no official legal status.

The persons subject to the Act

Section 1

An employee has the right, as a parent, to leave from her or his employment under this Act. Other employees also have the right to leave in certain cases.

The following persons are equated with a parent:

1. a parent's spouse who permanently cohabits with the parent;
2. a parent's cohabitee;
3. a specially appointed custodian who has care of the child,
4. a person who, with the Social Welfare Committee's consent, has received a child for permanent care and fosterage with a view to adopting the child (future adoptive parent)
5. a person who has received a child for permanent care and fosterage into a single home that does not belong to any of the child's parents or anyone else who has care of the child (foster home parent).

Section 16 contains provisions on the prohibition of disadvantageous treatment of job applicants and employees.

Section 1a

An employee who is a parent is in certain cases also covered by the Act's provisions on flexible forms of work.

Agreement between employer and employee

Section 2

An agreement which limits an employee's rights under this Act is invalid in that respect.

However, by a collective bargaining agreement that has been entered into or approved on behalf of the employees by a central employees' organisation which is referred to in the Employment (Co-determination in the Workplace) Act (1976:580), deviations from the Act may be made in respect of issues regarding:

1. notice regarding leave (Section 13),
2. the time for the employee's notification of her or his return to work (Section 15, second paragraph),
3. the time that the employer is entitled to postpone the employee's return to work (Section 15, third paragraph).

A collective bargaining agreement that has been concluded in the manner described in the second paragraph may also determine the details of the application of:

1. the distribution of leave (Sections 11 and 12),
2. the prohibition of disadvantageous treatment (Section 16).

Employers that are bound by collective bargaining agreements according to the second or third paragraph may also apply the agreement to employees who are not members of the contracting employees' organisation if the employees are engaged in the type of work referred to in the agreement and are not covered by any other applicable collective bargaining agreement.

The right to leave

Overview of the different types of parental leave for employees

Section 3

There are six types of parental leave for care of children, etc., namely:

1. full-time leave for a female employee in connection to the birth of her child and while breastfeeding (maternity leave, Section 4);
2. full-time leave for a parent until the child has reached the age of 18 months or, provided the parent is then receiving full parental benefit, during a period after that point (full-time leave with or without parental benefit, Section 5);
3. leave for a parent in the form of a reduction of normal working hours by three quarters, half, one quarter or one eighth while the parent is receiving parental benefit at three quarters, half, one quarter or one eighth of the full rate (part-time leave with parental benefit, Section 6);
4. leave for a parent in the form of a reduction of normal working hours by up to one quarter until, in most cases, the child has reached the age of eight (part-time leave without parental benefit, Section 7);
5. leave for an employee's temporary care of a child (leave with temporary parental benefit, etc., Section 8); and
6. leave in the form of a reduction of normal working hours by up to a quarter for a parent of a child for whom care allowance for children with special needs is paid (leave with care allowance for children with special needs, Section 9).

Sections 18–21 contain special provisions concerning leave and transfer to other duties of female employees who are expecting children, have recently given birth to a child, or are breastfeeding.

Maternity leave

Section 4

A female employee is entitled to full leave in connection with her child's birth during a continuous period of at least seven weeks prior to the estimated time for delivery and seven weeks after the delivery. If she is not on leave for another reason, two weeks of this maternity leave shall be obligatory during the period prior to or after the delivery.

The employee is also entitled to be on leave for breastfeeding the child.

Maternity leave does not need to be combined with the payment of parental benefit. Sections 10–15 do not apply to leave for breastfeeding.

Full leave with or without parental benefit

Section 5

A parent is entitled to full-time leave for the care of a child until the child reaches the age of 18 months. An employee who has adopted a child or received a child with the intention of adopting it is entitled to full-time leave for 18 months from the time when the employee took the child into his or her care. The employee's right to such leave terminates when the child reaches the age of eight years or when the child concludes its first year of school, whichever occurs later. For the adoption of a child of the employee's spouse or cohabitee, the employee is not entitled to a period of leave that is greater than that which would have applied if the adoption had not taken place.

In addition, a parent is entitled to full-time leave during the period when the parent receives full parental benefit under Chapter 12 of the Social Insurance Code.

Partial leave with parental benefit

Section 6

During the period of time that a parent receives three quarters, one half, one quarter or one eighth parental benefit under Chapter 12 of the Social Insurance Code, the parent is entitled to a reduction of normal working hours by three quarters, one half, one quarter or one eighth.

Partial leave without parental benefit

Section 7

A parent is entitled to a reduction of normal working hours by up to one quarter for the care of a child who has not yet reached the age of eight years or who is older but has not yet concluded his or her first year of school.

Leave with temporary parental benefit, etc.

Section 8

An employee is entitled to leave during the period in which he or she:

- 1.** receives temporary parental benefit under Chapter 13 of the Social Insurance Code;
- 2.** would have been entitled to temporary parental benefit under Chapter 13, Sections 10–31 or Sections 31e and 31f of the Social Insurance Code, if the employee had not been covered by the provisions in Chapter 37, Section 3 of the same Code; or
- 3.** would have been entitled to temporary parental benefit under Chapter 13, Section 8 or 9 of the Social Insurance Code, if the employee had not been covered by the provisions in Chapter 37, Section 3 of the same Code.

A parent who needs to care for his or her child when the regular carer is sick or infected is entitled to leave even if the parent is not entitled to temporary parental benefit on the grounds that:

1. the child is younger than 240 days old; or
2. the child is younger than 240 days old and the parent is not covered by the provisions in Chapter 37, Section 3 of the Social Insurance Code.

Section 9

A parent is entitled to a reduction of normal working hours by up to a quarter when care allowance for children with special needs under Chapter 22 of the Social Insurance Code is paid for the child.

Distribution of leave

The number of periods of leave

Section 10

Leave may be divided into a maximum of three periods for each calendar year. If a period of leave continues into the following year, it shall be regarded as relating to the calendar year in which the leave was commenced.

Notwithstanding this limitation, leave with temporary parental benefit, etc. under Section 8, or leave or leave with parental benefit under Chapter 12, Sections 5a – 7a of the Social Insurance Code may be divided into non-consecutive periods.

How leave may be taken in the case of full leave

Section 11

The employee is entitled to take full leave on the day or days the employee requests.

How leave may be taken in the case of reduced working hours

Section 12

When working hours are reduced, the leave may be distributed over all days of the working week or distributed to a certain day or certain days of the working week.

Notice and decisions regarding leave

Section 13

An employee who wishes to exercise his or her right to leave under Section 4, 5, 6, 7 or 9 shall give notice of this to his or her employer not later than two months prior to commencement of the leave or, if this is impracticable, as soon as possible. When giving notice, the employee shall indicate the planned duration of the leave.

An employee who wishes to exercise his or her right to leave under Section 8 shall give notice of this to his or her employer not later than one week prior to the commencement of the leave. If this impracticable, and the right to leave is based on the fact that the employee is receiving temporary parental benefit or would have had the right to the benefit in accordance with regulations issued under Chapter 2, Section 5a of the Social Insurance Code, the employee shall give notice of the leave as soon as possible. However, if the reason for the leave is illness or infection, no period of notice is required.

Section 14

The employee shall discuss the distribution of the leave and any other issues concerning the leave with her or his employer. Where it is not inconvenient for the employee, the employee shall take leave as contemplated in Section 11 in such a manner that the employer's activities may continue without substantial disturbance.

In cases of reduced working hours, if an agreement cannot be reached regarding how the leave shall be taken, the employer shall distribute the leave according to the wishes of the employee, if such distribution does not cause substantial disturbance to the employer's activities. The employer may not without the employee's consent distribute the leave in any manner other than spreading it over all days of the working week, divide the leave during the working day, or distribute it to any other time other than the beginning or end of the working day.

If a decision relating to an issue referred to in the second paragraph has been made in any manner other than according to the wishes of the employee, the employer shall inform the employee and the employee's local employees' organisation regarding the decision. If practicable, this shall be done not later than two weeks prior to the commencement of the leave.

Resumption of work

Section 15

An employee may discontinue her or his leave which has already been commenced and resume her or his work to the same extent as before the leave.

If the employee wishes to exercise her or his right to resume work, the employee shall give notice to the employer to that effect as soon as practicable.

In the event the leave was intended to continue for one month or more, the employer may postpone the resumption by no more than one month after the employer has received notice.

Request for flexible working arrangements

Section 15a

Flexible working arrangements means adjustments to working patterns through for example remote work and flexible working hours.

Section 15b

If a parent with a child who has not reached the age of eight years requests flexible working arrangements on grounds of childcare, the employer shall respond to the request within a reasonable time. If the request is denied or the requested adjustment is postponed, the employer shall provide reasons for the decision.

The right to a response only applies if the employee has been employed by the employer for a total of at least six months when the request is made.

If a request relates to leave, the Act's provisions on leave shall be applied instead.

Section 15c

If the working pattern is adjusted as a result of a request under Section 15b and the adjustment applies for a certain duration, the employee has the right to return to the original working pattern at the end of that duration.

If the employee requests to return to the original working pattern before the end of that duration owing to changes in circumstances, the employee shall respond to the request within a reasonable time.

Prohibition of disadvantageous treatment and reprisals

Section 16

An employer may not disadvantage a job applicant or an employee for reasons related to parental leave under this Act, when the employer

1. decides on an employment issue, selects a job applicant for an employment interview or implements other measures during the employment procedure,
2. decides on promotion or selects an employee for training for promotion,
3. decides on or implements other measures concerning vocational training,
4. decides on or implements other measures concerning other training or vocational counselling,
5. applies pay or other terms of employment,
6. manages and distributes work, or
7. gives notice of termination, summarily dismisses, lays off or implements other significant measures against an employee.

However, this prohibition does not apply if different terms and conditions or different treatment are a necessary consequence of the leave.

Section 16a

An employer may also not disadvantage an employee under Section 16 for reasons connected to a request for flexible working arrangements under this Act.

Section 16b

If an employee claims that he or she has been given notice of termination or has been summarily dismissed for reasons connected to parental leave

or a request for flexible working arrangements under this Act, the employer is required, on the employee's request, to state the circumstances that have been cited as a ground for termination or summary dismissal.

The information shall be in writing if the employee requests this and claims a connection with parental leave.

Section 16c

An employer may not subject an employee to reprisals because he or she has reported or brought attention to the fact that the employer has acted contrary to the Act.

Section 17

If an employee is given notice of termination or is summarily dismissed solely for reasons related to parental leave under this Act, the notice of termination or summarily dismissal shall be declared invalid, if the employee so requests.

Specific provisions relating to an employee who is expecting a child, has recently given birth to a child or is breastfeeding

Section 18

A female employee who is expecting a child, has recently given birth to a child or is breastfeeding is entitled to be transferred to other work while retaining her employment benefits, provided that she has been prohibited from continuing her regular work under a regulation issued under Chapter 4, Section 6 of the Work Environment Act (1977:1160).

Section 19

A female employee who is expecting a child and, as a result, cannot carry out physically demanding work duties, is entitled to be transferred to other work while retaining her employment benefits.

The right to transfer, however, applies only from and including the sixtieth day prior to the estimated date of delivery.

Section 20

The right to transfer under Sections 18 and 19 applies only to the extent that the employer can be reasonably required to provide the woman with other work within its activities.

In the event that a transfer is not practicable, a woman in the situations provided for under Sections 18 and 19 is entitled to leave, insofar as it is necessary to protect her health and safety, though without retaining employment benefits during the period to which the leave relates.

If an opportunity for transfer arises which is estimated to last a minimum of one month, the employer shall offer the position to the woman.

Section 21

Any person who wishes to exercise her or his right to transfer under Section 18 or 19 shall give notice thereof to the employer. In the event that the need for transfer is necessitated by the fact that the woman, due to pregnancy, cannot perform physically demanding work tasks, notice shall be given not later than one month in advance. In other cases, notice shall be given as soon as is practicable. Following notice, the employer shall provide information regarding the possibility of transfer as soon as is practicable. If a transfer cannot be made, the employer shall periodically review the possibility of a transfer.

Damages

Section 22

An employer who violates this Act shall pay damages for any losses suffered and for any infringement that occurred.

Where reasonable, the damages may be reduced in whole or in part.

Procedure

Section 23

Proceedings regarding the application of this Act shall be dealt with in accordance with the Proceedings in Labour Disputes (Judicial Procedure) Act (1974:371).

If a claim is pursued by reason of notice of termination or summary dismissal, Sections 34 and 35, Section 37, Section 38, second paragraph, second sentence, Sections 39–42 and Section 43, first paragraph, second sentence of the Employment Protection Act (1982:80) shall apply in relevant parts. As regards other actions, Sections 64– 66 and Section 68 of the Employment (Co-determination in the Workplace) Act (1976:580) shall apply *mutatis mutandis*.

Burden of proof

Section 24

If a job applicant or an employee demonstrates circumstances that give cause to assume that he or she has been disadvantaged for reasons related to parental leave, it is for the employer to prove that no such disadvantaging has occurred or that the disadvantaging is a necessary consequence of the parental leave.

Right to bring an action

Section 25

In a dispute under Section 16, 16a or 17, the Equality Ombudsman may bring an action on behalf of an individual employee or job applicant. The action shall be brought in the Labour Court. When an employees' organisation is entitled to bring an action on behalf of the individual under Chapter 4, Section 5 of the Labour Disputes (Judicial Procedure) Act (1974:371), the Equality Ombudsman may only bring an action if the organisation does not do so.

Actions that are brought by the Equality Ombudsman shall be dealt with as if the action had been brought by the employee or job applicant on their own behalf. The provisions of the Labour Disputes (Judicial Procedure) Act governing matters relating to the standing of an individual in the litigation shall also apply when actions are brought by the Ombudsman.

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