

# **The Prohibition of Discrimination Act (2003:307)**

## **The purpose of the Act**

### **Section 1.**

The purpose of this Act is to combat discrimination associated with one of the following grounds for discrimination: ethnic origin, religion or other belief, sexual orientation or disability.

## **Other provisions prohibiting discrimination**

### **Section 2**

Provisions prohibiting discrimination are also found in

- the Equal Opportunities Act (1991:433),
- the Act on Measures against Discrimination in Working Life on Grounds of Ethnic Origin, Religion or other Belief (1999:130),
- the Prohibition of Discrimination in Working Life on Grounds of Disability Act (1999:132),
- the Act on a Ban against Discrimination in Working Life on Grounds of Sexual Orientation (1999:133), and
- the Equal Treatment of Students at Universities Act (2001:1286).

Chapter 16 Section 9 of the Swedish Penal Code contains provisions on unlawful discrimination.

## **Definitions**

### **Discrimination**

#### **Section 3.**

In this Act discrimination has the meaning set out in this section:

1. direct discrimination: that an individual is disadvantaged by being treated less favourably than some other individual is, has been or would have been treated in a comparable situation, if this disadvantaging is associated with ethnic origin, religion or other belief, sexual orientation or disability;
2. indirect discrimination: that an individual is disadvantaged by the application of provisions, criteria or practices that are apparently neutral but in practice particularly disadvantage individuals of a certain ethnic origin, religion or other belief, sexual orientation or disability, in so far as these provisions, criteria or practices cannot be justified by legitimate objectives and the means are appropriate and necessary for achieving these objectives;
3. harassment: conduct that violates a person's dignity and that is associated with ethnic origin, religion or other belief, sexual orientation or disability;
4. instructions to discriminate: orders or instructions to discriminate against a person as described in subsections 1-3 that are given to a person who is in a subordinate or dependent position relative to the person who gives the orders or instructions or who has committed herself or himself to fulfilling an assignment for that person.

## **Ethnic origin, sexual orientation and disability**

### **Section 4.**

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

1. ethnic origin: the condition of belonging to a group of persons who have the same national or ethnic origin, race or skin colour;
2. sexual orientation: homosexual, bisexual or heterosexual orientation;
3. disability: permanent physical, mental or intellectual limitations of a person's functional capacity that as a consequence of injury or illness existed at birth, have arisen since then or may be expected to arise.

## **Prohibition of discrimination**

### **Labour market policy activities**

#### **Section 5.**

Discrimination against employees or persons seeking employment that is associated with ethnic origin, religion or other belief, sexual orientation or disability is prohibited

1. in job placement services offered by public employment offices or other organisations or parties offering employment services,
2. in connection with other measures included in labour market policy activities.

The prohibition of discrimination does not, however, constitute an obstacle to the application of provisions that are integral to endeavours to promote equal opportunities regardless of ethnic origin.

### **Starting or running a business**

#### **Section 6.**

Discrimination that is associated with ethnic origin, religion or other belief, sexual orientation or disability is prohibited in connection with financial support, permits, registration or similar arrangements that are needed or may be of importance in enabling an individual to start or run a business.

## **Occupation**

#### **Section 7.**

Discrimination that is associated with ethnic origin, religion or other belief, sexual orientation or disability is prohibited in connection with qualification, certification, authorisation, registration, approval or similar arrangements that are needed or may be of importance in enabling an individual to engage in a certain occupation.

## **Membership etc.**

#### **Section 8.**

Discrimination that is associated with ethnic origin, religion or other belief, sexual orientation or disability is prohibited in connection with

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

## **Goods, services and housing**

### **Section 9.**

Discrimination that is associated with ethnic origin, religion or other belief, sexual orientation or disability is prohibited in connection with the professional provision of goods, services or housing.

## **Social services etc.**

### **Section 10.**

Discrimination that is associated with ethnic origin, religion or other belief is prohibited in connection with

1. services provided by the social services, and
2. entitlement to local and national transport services for disabled people and housing adaptation allowances.

## **Social insurance system**

### **Section 11.**

Discrimination that is associated with ethnic origin, religion or other belief is prohibited in connection with the social insurance system and connected benefit systems.

## **Unemployment insurance**

### **Section 12.**

Discrimination that is associated with ethnic origin, religion or other belief is prohibited in connection with unemployment insurance.

## **Health and medical care**

### **Section 13.**

Discrimination that is associated with ethnic origin, religion or other belief is prohibited in connection with health and medical care and other medical services.

## **Prohibition of victimisation**

### **Section 14.**

A person who is claimed to have discriminated against somebody as defined in this Act may not subject any individual to victimisation because he or she has reported or drawn attention to the discrimination or taken part in an investigation into the discrimination.

## **Invalidity and damages**

## **Invalidity**

### **Section 15.**

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

If a person is discriminated against in a manner that is prohibited under this Act by termination of a contract or by some other such legal document, the legal document shall be declared invalid if the person discriminated against requests this.

## **Damages**

### **Section 16.**

Anyone discriminating against a person in a manner that is prohibited under this Act shall pay damages for the violation that the discrimination involves. If an employee discriminates against a person, the damages shall be paid by the party in whose service the employee is engaged.

### **Section 17.**

Anyone subjecting a person to victimisation in a manner that is prohibited under Section 14 shall pay damages for the violation that the victimisation involves. If an employee subjects a person to victimisation, the damages shall be paid by the party in whose service the employee is engaged.

### **Section 18.**

Damages under Section 16 or 17 can be reduced or cancelled if it is reasonable to do so.

## **Supervision**

### **Section 19.**

The Ombudsman against Ethnic Discrimination, the Ombudsman against Discrimination based on Sexual Orientation and the Disability Ombudsman are to supervise compliance with this Act.

The Ombudsmen shall attempt to induce parties covered by the prohibitions against discrimination and victimisation to follow the Act voluntarily.

## **Legal proceedings**

## **Applicable rules**

### **Section 20.**

Cases concerning application of the prohibitions against discrimination and the prohibition against victimisation under this Act shall be dealt with in accordance with the provisions of the Swedish Code of Judicial Procedure concerning procedures in civil cases where conciliation in the matter is permitted.

The Court may, however, order that each party shall bear its own litigation costs if the person who considers that he or she has been discriminated against or subjected to victimisation has lost the case and had reasonable cause to have the dispute examined. However, this does not apply when one of the Ombudsmen brings the action in accordance with Section 22.

## **Burden of proof**

### **Section 21.**

If a person who feels that he or she has been discriminated against or subjected to victimisation demonstrates circumstances that give reason to presume that he or she has been discriminated against or subjected to victimisation, the respondent shall show that discrimination or victimisation has not occurred.

## **Right to bring an action**

### **Section 22.**

In a dispute under this Act, the Ombudsman against Ethnic Discrimination, the Ombudsman against Discrimination because of Sexual Orientation or the Disability Ombudsman may act as the party bringing the action on behalf of an individual who considers that he or she has been discriminated against or subjected to victimisation, if this individual gives her or his consent. If the Ombudsman brings such an action the Ombudsman may also in the same judicial proceedings bring another action as representative for that person.

## **Statutory limitation etc.**

### **Section 23.**

Legal proceedings in a case under this Act must be initiated within two years from the date of the action in question or from the last date on which an obligation should have been fulfilled. Otherwise the right to initiate legal proceedings is forfeit.

### **Section 24.**

The provisions of the Swedish Code of Judicial Procedure concerning parties with respect to disqualification, pending proceedings, personal appearance and examination on oath as well as other questions relating to evidence shall also apply to the person on whose behalf the Ombudsman against Ethnic Discrimination, the Ombudsman against Discrimination because of Sexual Orientation or the Disability Ombudsman brings an action under this Act.

The provisions of the Swedish Code of Judicial Procedure concerning pending proceedings for an individual bringing an action under this Act shall also apply to an Ombudsman bringing an action on behalf of the individual under this Act.

### **Section 25.**

The decision of the Court in a case in which the Ombudsman against Ethnic Discrimination, the Ombudsman against Discrimination because of Sexual Orientation or the Disability Ombudsman brings an action on behalf of an individual has legal force in relation to this person. The decision may be appealed by the individual.