
Equal Treatment Act**Consulted on 07-07-2022****Applicable since 01-01-2020**

Act of 2 March 1994 containing general rules to provide protection against discrimination on the grounds of religion, belief, political opinion, race, sex, nationality, heterosexual or homosexual orientation or civil status

We Beatrix, by the grace of God Queen of the Netherlands, Princess of Orange-Nassau, etc., etc., etc.

Greetings to all who see or hear these presents! Be it known:

Whereas We have considered that, having regard *inter alia* to article 1 of the Constitution, it is desirable to provide protection against discrimination on the grounds of religion, belief, political opinion, race, sex, nationality, heterosexual or homosexual orientation or civil status, in order to promote equal participation in society, and that it is therefore desirable to prohibit discrimination on these grounds except in such cases as provided for by law, and that to enforce this prohibition it is desirable that an Equal Treatment Commission be established;

We, therefore, having heard the Council of State, and in consultation with the States General, have approved and decreed as We hereby approve and decree:

Chapter 1 Equal treatment of persons irrespective of their religion, belief, political opinion, race, sex, nationality, heterosexual or homosexual orientation or civil status

§ 1. General provisions

Section 1

1. For the purposes of this Act and the provisions based upon it the following definitions apply:

- a. discrimination: direct or indirect discrimination, or an instruction to discriminate directly or indirectly;
- b. direct discrimination: where a person is, has been or would be treated differently from another in a comparable situation on the grounds of religion, belief, political opinion, race, sex, nationality, heterosexual or homosexual orientation or civil status;
- c. indirect discrimination: where an apparently neutral provision, criterion or practice particularly affects persons of a particular religion, belief, political opinion, race, sex, nationality, heterosexual or homosexual orientation or civil status in comparison with other persons.

2. Discrimination on the grounds of sex includes discrimination on the grounds of sex characteristics, gender identity and gender expression.

3. Direct discrimination on the grounds of sex includes discrimination on the grounds of pregnancy, childbirth and motherhood.

Section 1a

1. The prohibition of discrimination laid down in this Act includes a prohibition of harassment and a prohibition of sexual harassment.

2. Harassment as referred to in subsection 1 means conduct related to the characteristics or behaviour referred to in section 1, subsection 1 (b) which has the purpose or effect of undermining the dignity of a person and creating a threatening, hostile, degrading, humiliating or offensive environment.

3. Sexual harassment as referred to in subsection 1 means any form of verbal, non-verbal or physical conduct of a sexual nature which has the purpose or effect of undermining the dignity of a person and creating a threatening, hostile, degrading, humiliating or offensive environment.

4. Section 2, section 5, subsections 2 to 6, section 6a, subsection 2 and section 7, subsections 2 and 3 do not apply to the prohibition of harassment and of sexual harassment contained in this Act.

§ 2. General exceptions

Section 2

1. The prohibition of discrimination contained in this Act does not apply to indirect discrimination if it is objectively justified by a legitimate aim and the means for achieving that aim are appropriate and necessary.

2. The prohibition of discrimination on the grounds of sex contained in this Act does not apply:

- a. in cases in which sex is a determining factor;
- b. in cases concerning the protection of women; and
- c. in relation to pregnancy and maternity.

3. The prohibition of discrimination contained in this Act does not apply if the aim of the discriminatory measure is to place women or persons belonging to a particular ethnic or cultural minority group in an advantageous position in order to eliminate or reduce actual disadvantages connected with race or sex and the discrimination is in reasonable proportion to that aim.

4. The prohibition of discrimination on the grounds of race contained in this Act does not apply:

- a. in cases where a person's racial appearance is a determining requirement, provided that the aim is legitimate and the requirement is proportionate to that aim;
 - b. if the discrimination concerns a person's racial appearance and constitutes, by reason of the nature of the particular occupational activity in question or of the context in which it is carried out, a genuine and determining occupational requirement, provided that the aim is legitimate and the requirement is proportionate to that aim.
5. The prohibition of discrimination on the grounds of nationality contained in this Act does not apply:
- a. if the discrimination is based on generally binding regulations or on written or unwritten rules of international law, or
 - b. in cases where nationality is a determining factor.
6. The cases referred to in subsections 2, 4 and 5 (b) will be defined in more detail by order in council.

Section 3

This Act does not apply to:

- a. legal relations within religious communities, independent sections or associations thereof and within other associations of a spiritual nature;
- b. the office of minister of religion.

Section 4

This Act is without prejudice to:

- a. the Equal Treatment (Men and Women) Act;
- b. articles 646, 667 and 670 of Book 7 of the Civil Code.

§ 3. Provisions in the field of employment and the liberal professions

Section 5

- 1. It is prohibited to discriminate in or with regard to:
 - a. advertisements for job vacancies and procedures for the filling of vacancies;
 - b. job placement;
 - c. the commencement or termination of an employment relationship;
 - d. the appointment and dismissal of persons to whom section 3 of the Central and Local Government Personnel Act 2017 applies;
 - e. conditions of employment;
 - f. permission to receive education or training during or prior to employment;
 - g. promotion;
 - h. working conditions.
- 2. Subsection 1 does not preclude that:

- a. an institution founded on religious or ideological principles,
- b. an educational establishment founded on religious or ideological principles or
- c. an institution founded on political principles

may, in regard to persons employed by them, discriminate on the grounds of religion, belief or political opinion, in so far as these characteristics, by reason of the nature of the specific occupational activities concerned or of the context in which they are carried out, constitute a genuine, legitimate and justified occupational requirement, given the principles on which the institution is founded. Such discrimination may not exceed what is appropriate, given that the institution is entitled to expect from persons it employs an attitude of good faith and loyalty to the principles on which it is founded, and may not lead to discrimination on any other ground listed in section 1, without prejudice to section 2, subsection 1.

2a. Subsection 1 does not affect the freedom of municipalities to discriminate on the grounds of religion or belief with respect to a civil servant or special registrar for marriages who discriminates in exercising his office, unless the discrimination by the latter is based on a generally binding regulation.

3. Subsection 1 does not apply if:

- a. the employment relationship is of a private nature,
- b. the difference in treatment is based on a characteristic that is connected with religion, belief, political opinion, race, sex, nationality, heterosexual or homosexual orientation or civil status, and
- c. that characteristic, by reason of the nature of the particular occupational activities concerned or of the context in which they are carried out, constitutes a genuine and determining occupational requirement, provided that its aim is legitimate and the requirement is proportionate to that aim.

4. Subsection 1 does not apply to requirements governing political opinion which may reasonably be imposed in connection with appointments to administrative or advisory bodies.

5. Subsection 1 does not apply to requirements governing political opinion which may reasonably be imposed in connection with appointments to confidential posts.

6. Subsection 1 (e) does not apply to discrimination on the grounds of civil status in relation to surviving dependants' pension schemes and pension entitlements accrued before the entry into force of section 1 (B) of the Act of 21 December 2000 amending the Pensions and Savings Funds Act and a number of other Acts in connection with the right to opt for old age pension instead of surviving dependants' pension and equal treatment for men and women (Bulletin of Acts and Decrees 625).

Section 6

It is prohibited to discriminate with regard to the conditions for and access to the liberal professions

and opportunities to pursue the liberal professions or for development within them.

Section 6a

1. It is prohibited to discriminate with regard to membership of or involvement in an employers' or employees' organisation or an occupational association, and with regard to the benefits ensuing from that membership or involvement.
2. Subsection 1 does not preclude that:
 - a. an organisation or association founded on religious or ideological principles, or
 - b. an organisation or association founded on political principles

may, in regard to persons who are members or are otherwise affiliated with them, discriminate on the grounds of religion, belief or political opinion, in so far as these characteristics, by reason of the nature of the affiliation or the context in which specific activities are carried out, constitute a genuine, legitimate and justified requirement, given the principles on which the organisation or association is founded. Such discrimination may not exceed what is appropriate, given that the institution is entitled to expect from affiliated persons an attitude of good faith and loyalty to the principles on which it is founded, and may not lead to discrimination on any other ground listed in section 1, without prejudice to section 2, subsection 1.

§ 4. Other provisions in the socioeconomic field

Section 7

1. It is prohibited to discriminate in offering goods or services or granting access to them, in concluding, implementing or terminating agreements thereon, and in providing educational or careers guidance if such acts of discrimination are committed:
 - a. in the course of carrying on a business or practising a profession;
 - b. by the public service;
 - c. by institutions which are active in the field of housing, social services, health care, cultural affairs or education; or
 - d. by private persons not engaged in carrying on a business or practising a profession, insofar as the offer is made publicly.

2. Subsection 1 (c) does not preclude that an educational establishment founded on religious or ideological principles may, in regard to admission to the establishment and participation in the education it provides, discriminate on the grounds of religion, belief or sex, in so far as these characteristics, by reason of the nature of the education, constitute a genuine, legitimate and justified requirement, given the principles on which the establishment is founded. Discrimination on the grounds of sex is permitted solely if equivalent facilities are available for all pupils or students regardless of their sex. Such discrimination may not exceed what is appropriate, given that the

establishment is entitled to expect from its pupils or students an attitude of good faith and loyalty to the principles on which it is founded, and may not lead to discrimination on any other ground listed in section 1, without prejudice to section 2, subsection 1.

3. Subsection 1 (a) and (d) does not apply if:

- a. the legal relationship is of a private nature,
- b. the difference in treatment is based on a characteristic relating to religion, belief, political opinion, sex, nationality, heterosexual or homosexual orientation or civil status, and
- c. the difference in treatment is justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.

Section 7a

1. Without prejudice to section 7, it is prohibited to discriminate on the grounds of race in the field of social protection, which includes social security, and access to social advantages.

2. The concepts of social protection, social security and social advantages referred to in subsection 1 may be defined by order in council. A recommendation for an order in council pursuant to the first sentence must be made no less than four weeks after the draft has been submitted to both Houses of the States General.

§ 5. Protection and enforcement

Section 8

In the event of termination by the employer of an employee's contract of employment in contravention of section 5, or on the grounds that the employee has invoked section 5, either at law or otherwise, or has assisted others in this connection, article 681, Book 7 of the Civil Code applies *mutatis mutandis*.

Section 8a

1. It is prohibited to disadvantage persons because they have invoked this Act, either at law or otherwise, or have assisted others in this connection.
2. The fact that a person rejects or passively undergoes the conduct referred to in section 1a, subsections 2 and 3 may not be grounds for a decision that affects that person.

Section 9

Contractual provisions which conflict with this Act are null and void.

Section 10

1. If a person who considers that he is or has been a victim of discrimination within the meaning of this Act adduces before a court facts from which it may be presumed that such discrimination has taken place, the other party must prove that no contravention of this Act has occurred.
2. Subsection 1 applies *mutatis mutandis* to legal actions as referred to in article 305a, Book 3 of the Civil Code and to review or appeal proceedings under administrative law instituted by interested parties within the meaning of section 1:2, subsection 3 of the General Administrative Law Act.

Chapter 2 The Equal Treatment Commission

Section 11

[Repealed on 01-10-2012]

Section 12

[Repealed on 01-10-2012]

Section 13

[Repealed on 01-10-2012]

Section 14

[Repealed on 01-10-2012]

Section 15

[Repealed on 01-10-2012]

Section 16

[Repealed on 01-10-2012]

Section 17

[Repealed on 01-10-2012]

Section 18

[Repealed on 01-10-2012]

Section 19

[Repealed on 01-10-2012]

Section 20

[Repealed on 01-10-2012]

Section 21

[Repealed on 01-10-2012]

CHAPTER 3 Concluding provisions

Section 22

[Repealed on 01-09-1994]

Section 23

[Repealed on 01-09-1994]

Section 24

[Repealed on 01-01-2005]

Section 25

[Repealed on 01-04-1997]

Section 26

[Repealed on 01-01-2005]

Section 27

[Repealed on 01-01-2005]

Section 28

[Repealed on 01-01-2005]

Section 29

[Repealed on 01-01-2005]

Section 30

[Repealed on 05-05-1995]

Section 31

[Repealed on 01-01-2005]

Section 32

[Repealed on 01-01-2005]

Section 33

[Repealed on 01-10-2012]

Section 34

This Act enters into force with effect from the first day of the sixth calendar month after the date of publication of the Bulletin of Acts and Decrees (*Staatsblad*) in which it appears. An earlier date of entry into force may be laid down by Royal Decree.

Section 35

This Act may be cited as: the Equal Treatment Act.

We order and command that this Act be published in the *Bulletin of Acts and Decrees* and that all ministries, authorities, bodies and officials whom it may concern diligently implement it.

Done at The Hague on 2 March 1994

Beatrix

E. van Thijn
Minister of the Interior

E.M.H. Hirsch Ballin
Minister of Justice

J. Wallage
State Secretary for Social Affairs and Employment

J.M.M. Ritzen
Minister of Education and Science

H. d'Ancona
Minister of Welfare, Health and Cultural Affairs

Published on 31 March 1994

E. van Thijn
Minister of Justice (acting)