

NATLEX Database – ISN 68752

Unofficial translation prepared for the International Labour Office. This translation is intended for information purposes only and does not substitute consultation of the authoritative text. Copyright © 2005 International Labour Organization

**Act of the Kyrgyz Republic
On the basic elements of state guarantees ensuring gender equality**

31 January 2003

Adopted by the Legislative Assembly of the
Jogorku Kenesh of the Kyrgyz Republic

This Act regulates matters relating to the granting of equal rights and opportunities to persons of both sexes in social, political, economic, cultural and other areas of human life; its purpose is to protect men and women from discrimination based on sex; it is intended to promote progressive democratic relations between men and women on the basis of national traditions; it affords state guarantees to ensure that they have equal rights.

Chapter 1. General provisions

Section 1. Definitions.

Gender: acquired, socially assigned behaviour of persons of both sexes.

Gender policy: state and social activities aimed at achieving equality in relations between persons of both sexes.

Gender relations: the mode of behaviour and treatment of each other by persons of both sexes in their interrelations or in the conduct of various common activities.

Gender evaluation: monitoring of national legislation and other regulatory enactments to determine whether they are in conformity with gender legislation.

Gender statistics: statistics that reflect the status of persons of both sexes in every area of social and political life and revealing gender problems and attitudes in society.

Gender equality (ravenstvo): equal social status of persons of both sexes in society.

Gender equity (ravnopravie): equality of rights, obligations and responsibilities of persons of both sexes before the law, except for the mitigating circumstances prescribed by the legislation of the Kyrgyz Republic.

Equal opportunities: the system of means and conditions necessary for the effective achievement of gender equality.

Equal partnership: cooperation or joint participation in state and social life by persons of both sexes under equal conditions.

Gender discrimination: any distinction, exclusion or preference restricting or denying the equal exercise of rights on the basis of sex.

Overt gender discrimination: discrimination directly referring to a person's sex.

Hidden gender discrimination: discrimination without directly referring to a person's sex.

Sexual harassment: immoral conduct, or inadmissible sexual advances in respect of persons of both sexes, whether verbal (threats, intimidation, indecent remarks) or physical (touching, slapping), humiliating and insulting a person in a situation of professional, financial, family or other dependence.

Violation of equal rights: active or passive behaviour manifested in the form of humiliation, contempt or restriction of rights or preferential treatment by reason of a person's sex.

Household work: an independent form of work for the purpose of meeting family needs.

Section 2. Purposes and objectives of this Act

The purposes and objectives of this Act are to ensure that persons of both sexes enjoy

—

- equal rights, obligations and responsibilities;
- equal opportunities;
- equal partnership in all areas of activity;
- equality in family relationships;
- equality in social, economic, professional and other activity.

Section 3. Objects of gender equality

The objects of gender equality are public and social relations subject to regulation by the law.

Section 4. Subjects of gender equality

The subjects of gender equality are natural persons, legal entities and the State.

Section 5. Legislation of the Kyrgyz Republic on gender relations

Gender relations in the Kyrgyz Republic are governed by the Constitution of the Kyrgyz Republic, international treaties relating to gender relations to which the Kyrgyz Republic is a party, this Act and other regulatory enactments of the Kyrgyz Republic.

Section 6. Prohibition of gender discrimination

Overt and hidden gender discrimination in any area of activity against persons of both sexes are prohibited.

Subjects of gender equality which perpetrate overt or hidden discrimination shall be held liable in accordance with the legislation of the Kyrgyz Republic.

The following shall not be deemed to be gender discrimination:

- maternity protection;
- conscription of men only for military service in the cases prescribed by the laws of the Kyrgyz Republic;
- the adoption of special provisional measures based on this Act, with the aim of achieving effective equity in gender relations.

Section 7. Basic elements of state policy on ensuring gender equality

The basic elements of state policy on ensuring gender equality are as follows:

- the establishment, improvement and development of a legal framework for ensuring gender equity;
- the design and implementation of state targeted programmes aimed at achieving gender equality;
- protection of society against information, propaganda and agitation aimed at infringing gender equality;
- education and advocacy for a culture of gender equality;
- compliance with generally recognized principles and rules of international law, as well as international obligations of the Kyrgyz Republic, concerning gender equality issues.

Section 8. Obstacles to achieving gender equality

Behaviour based on the rules of customary law, traditions and culture which runs counter to the requirements laid down in this Act shall be deemed to be obstacles to achieving gender equality.

Rules of customary law, traditions and culture which contain elements of gender discrimination shall not be supported.

Chapter II. Guarantees of gender equality in the state administration and the public service

Section 9. Guarantees of gender equality in the state administration

The State shall guarantee equal participation of persons of both sexes in the state administration.

The State shall ensure equal representation of persons of both sexes in the legislative, executive and judiciary branches of state power through legal, organizational and other means.

Section 10. Guarantees of gender equity in the public service

Persons of both sexes shall have equal rights, obligations, responsibilities and opportunities in regard to recruitment and subsequent activity in the public service.

Directors of state bodies are obliged to ensure equal access of persons of both sexes to the public service, according to their abilities and professional training.

The State shall ensure observance of equal partnership of persons of both sexes in the legislative, executive and judiciary branches of state power and in local self-government bodies.

Vacancies in the public service, including managerial positions, shall be filled by competition, in which persons of both sexes shall participate equally and under equal conditions.

It is prohibited to announce competitions for persons of only one sex.

Chapter III. Guarantees for gender equality in economic and social relations

Section 11. Equal access to all forms of property

The State guarantees the exercise of the right to property ownership to persons of both sexes.

The State guarantees equal conditions of access to all forms of property ownership to persons of both sexes.

Section 12. Equal access to entrepreneurial activity

The State guarantees equal access to entrepreneurial activity to persons of both sexes.

Gender discrimination in regard to carrying out an entrepreneurial activity is prohibited.

Section 13. Equal access to operation of enterprises

The State shall create equal conditions of access by persons of both sexes to the operation of enterprises (economic units).

Gender discrimination in regard to the operation of enterprises (economic units) is prohibited.

Section 14. Equal access to use of land

The State shall ensure that persons of both sexes enjoy equal conditions of access to use of a plot of land whether allotted or granted for an unspecified time or for temporary use.

The right to land shall be protected equally for persons of both sexes.

Section 15. Access to equal social benefits

Persons of both sexes shall enjoy equal access to social benefits.

Parents shall enjoy equal access to benefits for caring for small children or for elderly or sick family members.

Chapter IV. Gender equality in employment relationships

Section 16. Equal access to free choice of a professional activity

In carrying out their activities, employers shall ensure equality of persons of both sexes at work.

Irrespective of the form of ownership, employers are obliged to take measures to ensure equivalent conditions of work for persons of both sexes.

Employers are obliged to provide persons of both sexes with the opportunity to combine work with parental responsibilities.

Section 17. Equal access to remuneration

Equal access to remuneration for persons of both sexes implies equal remuneration for workers possessing the same qualifications and with the same conditions of work.

Reducing remuneration or downgrading conditions of work on the basis of a person's sex shall be deemed to be an act of gender discrimination.

Section 18. Guarantees of equity in the event of layoffs

In the event of layoffs, the number of persons of one sex who are laid off shall be in proportion to the size of the workforce of the enterprise, establishment or organization.

Section 19. Equality in household work

The principle of gender equality at work also extends to household work.

Persons of both sexes have equal obligations in regard to household work.
Household work cannot be used as a means of gender discrimination and may be carried out to the same extent by persons of both sexes.

Section 20. Guarantees of recognition of household work

The State recognizes household work as one of the forms of socially productive work.
Property derived from household work of family members is the property of the family.

Section 21. Right of persons of both sexes to receive information on filling of vacancies

Persons of both sexes who, for a period of three years, have not been promoted or assigned to training to upgrade their skills have the right to request and obtain from their employer a written explanation of the reasons for such action, and to receive information concerning the experience and qualifications of a person who was appointed (recruited, promoted) for a position for which they applied or who was assigned to training.

Section 22. Prohibition of pressure on or victimization of workers of both sexes who have been subjected to sexual harassment by the employer

Employers do not have the right to pressure or victimize workers of either sex on account of their refusing the employer's sexual harassment or filing a complaint of sex discrimination against the employer.

An employer who pressures or victimizes workers for the abovementioned reasons shall be held liable in accordance with the legislation of the Kyrgyz Republic.

Chapter V. Means of ensuring compliance with gender equality

Section 23. Competence of the Jogorku Kenesh of the Kyrgyz Republic to ensure gender equality

Through the adoption of laws, the Jogorku Kenesh of the Kyrgyz Republic shall lay down the legal basis for the state policy on gender equality in every area of state and social life.

The Jogorku Kenesh of the Kyrgyz Republic, within its area of competence, shall appoint no more than 70 per cent of persons of one sex, taking the principle of representativity into account:

- as judges of the Constitutional Court of the Kyrgyz Republic;
- as judges of the Supreme Court of the Kyrgyz Republic;
- as members of the Central Commission on Elections and Referendums of the Kyrgyz Republic and auditors of the National Audit Office of the Kyrgyz Republic.

The Jogorku Kenesh of the Kyrgyz Republic shall, at least once a year, hear a state report on the situation with regard to gender equality. The report shall be submitted by the Government of the Kyrgyz Republic in the manner determined by the Jogorku Kenesh of the Kyrgyz Republic, and shall be published in the media.

Section 24. Competence of the Government of the Kyrgyz Republic to ensure gender equality

- The Government of the Kyrgyz Republic shall, within its area of competence:
- participate in the design and ensure the implementation in the Kyrgyz Republic of a single state policy aimed at achieving gender equality in every area of social life;
 - design state targeted programmes on achieving gender equity and ensure their implementation;

- finance measures for the implementation of the state policy on gender equality out of the Republic budget, extra-budgetary sources and other sources that are not prohibited by the legislation of the Kyrgyz Republic;
- direct and supervise the activity of the executive bodies of state authority relating to defending and ensuring gender equality.

Section 25. Competence of the National Council on Women, the Family and Gender Development of the President of the Kyrgyz Republic

The National Council on Women, the Family and Gender Development of the President of the Kyrgyz Republic shall, within the powers vested in it, ensure compliance with this Act.

The National Council on Women, the Family and Gender Development of the President of the Kyrgyz Republic shall publish annual reports on compliance with this Act.

Section 26. Activities of the local self-government bodies to ensure gender equality

The local self-government bodies shall take measures to develop and achieve gender equality, and coordinate their activities with those of the executive bodies of state authority in regard to support for the relevant state, regional and local programmes.

Section 27. Participation of social organizations and other non-governmental associations in ensuring gender equality

Social organizations and other non-governmental associations shall:

- participate in preparing decisions taken by the state authorities and local self-government bodies on matters relating to ensuring gender equality;
- represent and defend the rights of citizens in courts and other state bodies;
- nominate and support candidates whose programme includes defending the principles of gender equality;
- be entitled to receive from the relevant state bodies of the executive branch of the Kyrgyz Republic methodological, information and other assistance to the extent and in the manner prescribed by state, regional and local programmes aimed at eliminating gender discrimination.

Social organizations and other non-governmental associations shall be entitled to prepare annual public reports.

Section 28. Supervision of compliance with this Act

Supervision of correct and consistent compliance with this Act shall be carried out by the Office of the Prosecutor-General of the Kyrgyz Republic.

Section 29. Gender evaluation of legislation and other regulatory enactments of the Kyrgyz Republic

A gender evaluation shall be carried out to examine and identify infringements of gender equality in the legislation and other regulatory enactments of the Kyrgyz Republic, as well as state, regional and local programmes on gender equality issues.

The gender evaluation shall be carried out by state bodies, independent social organizations and other non-governmental associations.

Section 30. Gender statistics

The collection of information on gender statistics in the Kyrgyz Republic shall be directed by the National Statistical Committee of the Kyrgyz Republic.

State bodies, local self-government bodies and directors of enterprises, establishments and organizations are obliged to provide the National Statistical Committee of the Kyrgyz Republic with relevant information on gender issues.

Section 31. Consequences of non-compliance with this Act

In the event of violation of gender equality, the bodies responsible for supervising compliance with this Act shall have the right to:

- issue to state bodies, local self-government bodies and directors of enterprises, establishments and organizations written orders to eliminate the violations of gender equality, indicating a time limit;
- avail themselves of the possibilities offered by the legislation of the Kyrgyz Republic to ensure gender equity;
- publish in the media the names of enterprises, establishments or organizations in lists of entities that violate this Act.

Section 32. Liability of officials for violation of this Act

Officials of state bodies and local self-government bodies, state and local organizations carrying out organizational management or economic administrative functions, as well as directors and other staff of other organizations carrying out similar functions, who violate the provisions of this Act shall be held liable in accordance with the legislation of the Kyrgyz Republic.

Chapter VI. Procedures for examining violations of gender equality

Section 33. Procedures for examining violations of gender equality

Procedures for examining acts of gender discrimination, sexual harassment, pressure, victimization and other violations of gender equality include filing reports with:

- the President of the Kyrgyz Republic;
- the Jogorku Kenesh of the Kyrgyz Republic;
- the Government of the Kyrgyz Republic;
- the Ombudsman (Akyikatchy) of the Kyrgyz Republic;
- the local self-government bodies;
- the courts;
- the National Council on Women, the Family and Gender Development of the President of the Kyrgyz Republic;
- employers;
- social organizations and other non-governmental associations;
- the law-enforcement bodies.

Section 34. Coordination of activities of bodies responsible for settling disputes concerning violation of gender equality

Coordination of activities of bodies responsible for settling disputes concerning violation of gender equality shall be carried out by the National Council on Women, the Family and Gender Development of the President of the Kyrgyz Republic.

Section 35. Registration and recording of violations of gender equality

Registration and recording of all violations of gender equality shall be carried out by the National Council on Women, the Family and Gender Development of the President of the Kyrgyz Republic.

State bodies, social organizations and other non-governmental associations shall register violations of gender equality and provide information to the National Council on Women, the Family and Gender Development of the President of the Kyrgyz Republic in order to monitor the situation with regard to ensuring gender equality.

Section 36. Entry into force of this Act

This Act shall enter into force on the date of its official publication.

The Government of the Kyrgyz Republic shall bring its legislative enactments into conformity with this Act.

**A. Akayev,
President of the
Kyrgyz Republic**

Bishkek, Government House,
12 March 2003
No. 60