
Equal Treatment (Disabled and Chronically Ill People) Act
Consulted on 04/07/2022
Applicable since 01/01/2020

Act of 3 April 2003 establishing the Equal Treatment (Disabled and Chronically Ill People) Act

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 it is desirable, in part in relation to article 1 of the Constitution and on the grounds of Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation (OJ EC 2000, L303), in order to promote equal participation in society, to provide protection against discrimination on the grounds of disability or chronic illness and that it is therefore desirable to prohibit discrimination on these grounds, except in such cases as provided for by law.

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:

§ 1. General

Section 01

All persons must be enabled to be autonomous in accordance with their own abilities.

Section 1

For the purposes of this Act, 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 disability or chronic illness;
- c. indirect discrimination: where an apparently neutral provision, criterion or practice particularly affects persons with a disability or chronic illness in comparison with other persons.

Section 1a

1. The prohibition of discrimination laid down in this Act includes a prohibition of harassment.
2. Harassment as referred to in subsection 1 means conduct which is related to the disability or chronic illness of a person and which has the purpose or effect of undermining the dignity of that person and creating a threatening, hostile, degrading, humiliating or offensive environment.
3. Section 3 does not apply to the prohibition of harassment contained in this Act.

Section 2

1. The prohibition of discrimination also imposes a duty on those who are subject to it to make effective needs-based adaptations, unless this would place a disproportionate burden on them.

2. Making effective adaptations includes, at any rate, permitting assistance dogs.

Section 2a

1. All those who are subject to the prohibition of discrimination also have a duty to at least gradually ensure universal access to persons with a disability or chronic illness, unless this would place a disproportionate burden on them.
2. Without prejudice to the provisions laid down by or pursuant to any statutory provision, rules will be laid down by order in council for the purpose of implementing subsection 1. These rules will, at any rate, concern the gradual attainment of universal access, the introduction of basic measures and the proportionality of the burden.
3. The recommendation for an order in council to be issued pursuant to subsection 2 must be made no less than four weeks after the draft has been submitted to both Houses of the States General.

Section 3

1. The prohibition of discrimination does not apply if:
 - a. the discrimination is necessary for health and safety;
 - b. the discrimination is related to an arrangement, standard or practice aimed at creating or maintaining specific provisions and facilities for the benefit of persons with a disability or chronic illness;
 - c. the discrimination is related to a specific measure aimed at giving persons with a disability or chronic illness an advantageous position in order to eliminate or reduce actual disadvantages connected with the grounds of disability or chronic illness and the discrimination is in reasonable proportion to that aim.
2. 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. Work

Section 4

It is prohibited to discriminate in or with regard to:

- a. advertisements for job vacancies and procedures for the filling of vacancies;
- b. the commencement or termination of an employment relationship;
- c. the appointment or dismissal of persons to whom section 3 of the Central and Local Government Personnel Act 2017 applies;
- d. job placement;
- e. conditions of employment;
- f. permission to receive education or training during or prior to employment;
- g. promotion;
- h. working conditions.

Section 5

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 5a

It is prohibited to discriminate with regard to membership of or involvement in a employers' or employees' organisation or an occupational association, and with regard to the benefits ensuing from that membership or involvement.

§ 3. Goods and services

Section 5b

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, in so far as the offer is made publicly.
2. Subsection 1 does not apply to areas covered by divisions 3a and 4.

Section 6

[Repealed on 14-06-2016]

§ 3a Housing

Section 6a

For the purposes of this division, a dwelling is:

- a. a built immovable property designated for habitation and constituting an independent residence or a part of a built immovable property designated for independent or non-independent habitation, including all communal spaces;
- b. a caravan, being a building designated for habitation, which is placed on a pitch and can be moved in part or in its entirety;
- c. a house boat, being a vessel that is exclusively or mainly used or designated for habitation;
- d. quarters in an inland waterway vessel designated for residence.

Section 6b

It is prohibited to discriminate in or with regard to:

- a. offering a dwelling for the purpose of habitation;
- b. concluding, implementing, amending or terminating agreements concerning the rental, purchase or occupancy of a dwelling for personal use, where personal use includes habitation by a person with whom the contracting party, their spouse or their registered partner has a family-law relationship or with whom the contracting party, their spouse or their registered partner lives as a member of the family;
- c. acting as an intermediary in connection with an agreement as referred to in (b);
- d. drafting, implementing or amending regulations as referred to in article 111 (d), Book 5 of the Civil Code;
- e. registering for allocation of housing.

Section 6c

Section 2, subsection 1 does not apply to this division if the adaptation involves a structural or technical change to the dwelling.

§ 4. Public transport

Section 7

The following definitions apply for the purposes of section 8 and the provisions based thereon:

- a. public transport: timetabled, open-to-all passenger transport by bus, train, metro, tram or fixed-guideway vehicle;
- b. travel information: information about the timetable including its period of validity, guaranteed transfer options within the timetable, changes to the timetable and information about fares and the related public transport zones.

Section 8

1. It is prohibited to discriminate in or with regard to:
 - a. providing the access to public transport buildings and infrastructure needed to facilitate travel;
 - b. offering public transport services and travel information;
 - c. concluding, implementing or terminating agreements concerning public transport.
2. Rules will be laid down by or pursuant to order in council in relation to the adaptations referred to in section 2 to be made pursuant to subsection 1 in conjunction with section 2.

§ 5. Legal protection

Section 9

In the event of termination by the employer of an employee's contract of employment in contravention of section 4, or on the grounds that the employee has invoked section 4, either at law or otherwise, or has assisted others in this connection, article 681, Book 7 of the Civil Code applies *mutatis mutandis*.

Section 9a

Notwithstanding section 9, it is prohibited to disadvantage persons because they have invoked this Act, either at law or otherwise, or have assisted others in this connection.

Section 10

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

Section 11

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

Section 12

The Institute referred to in section 1 of the Netherlands Institute for Human Rights Act may investigate whether discrimination as referred to in this Act is occurring or has occurred or whether a contravention of section 2 of this Act has occurred. Sections 10, 11, 12, 13, 22 and 23 of the Netherlands Institute for Human Rights Act apply *mutatis mutandis*.

Section 13

Within five years of this Act entering into force, Our Minister of Health, Welfare and Sport, in consultation with Our Ministers of the Interior and Kingdom Relations, of Justice, of Social Affairs and Employment, of Transport, Public Works and Water Management, of Housing, Spatial Planning and the Environment and of Education, Culture and Science, will submit a report to the States General on the effectiveness and effects of this Act in practice.

§ 6. Final provisions

Section 14

The sections of this Act enter into force on a date to be determined by Royal Decree, which may differ for the different sections or points thereof.

Section 15

This Act may be cited as: the Equal Treatment (Disabled and Chronically Ill People) 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, 3 April 2003

Beatrix

C.I.J.M. Ross-van Dorp
State Secretary for of Health, Welfare and Sport

K.L. Phoa
State Secretary for Social Affairs and Employment

R.H. de Boer
Minister of Transport, Public Works and Water Management

M.J.A. van der Hoeven
Minister of Education, Culture and Science

J.P.H. Donner
Minister of the Interior and Kingdom Relations (acting)

J.P.H. Donner
Minister of Justice

Published on the twenty-second of May 2003

J.P.H. Donner
Minister of Justice