

OREGON COUNCIL ON CIVIL RIGHTS

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Pay Equity Model: Sweden's Equal Opportunities Act (1991) and the Discrimination Act (2009)

Overview: Legislation to promote equal rights for women and men in the workplace was first adopted in Sweden in 1979 and has been updated several times over the years, most notably with the Equal Opportunities Act of 1991 and the Discrimination Act of 2009. The Discrimination Act of 2009 combined seven Swedish anti-discrimination laws, including the Equal Opportunities Act, into one Act and established the Equality Ombudsman to enforce these laws.

Sweden's approach to pay equity has been described as an exemplary model and it enjoys a high profile in Swedish society. Sweden has one of the most gender-segregated labor markets in the world with only 10% of women and men working in occupations with a gender balance. While women on average are better educated, men enjoy a higher financial return on their education. Women and men working in different occupations provide a partial explanation for pay differences because jobs dominated by women tend to be undervalued.

Employers Subject to the Law: The Act applies to all employers, regardless of size. Employers of 25 or more employees, however, have additional requirements under the law.

Basic Requirements of the Act: In order to detect, remedy and prevent unjustified differences in pay (and other conditions of employment), every three years, each employer must undertake a pay survey and analyze:

- i Provisions and practices regarding pay and other terms of employment that are used at the employer's establishment;
- i Pay differences between women and men performing work regarded as equal or of equal value;
- i Whether pay differences between women and men performing the same work are based on gender or on other factors; and
- i Groups of employees performing work generally dominated by women and compare it to work being performed of equal value but not dominated by women.

In addition, employers with 25 or more employees are required to draw up an action plan for equal pay every three years that:

- i Provides employees' organizations, to which they have a collective bargaining agreement, information to cooperate in the survey, analysis, and drawing up of plan (taking into consideration confidentiality and damages),
- i Details pay adjustments and measures necessary and to be taken by employer,
- i Includes a cost estimate and implementation schedule; and
- i Provides an account of how planned measures have been implemented (included in subsequent equal pay plans).

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Enforcement and Dispute Resolution: The equal pay provisions in the Discrimination Act are enforced by the Equality Ombudsman (DO), which is the government agency responsible for the enforcement of the entire Discrimination Act and laws prohibiting discrimination related to a person's sex, transgender identity or expression, ethnicity, religion or other belief, disability, sexual orientation or age. The Office of the Equality Ombudsman was created on January 1, 2009 when the four previous anti-discrimination ombudsmen were merged into a single body by the Discrimination Act.

The Ombudsman investigates complaints based on the law's prohibition of discrimination and harassment, and can represent victims in court free of charge. Complaints about discrimination, harassment and unfair treatment of employees on parental leave are investigated by the Ombudsman's case officers. If the complainant belongs to a union, the Ombudsman must first ask that union if it wishes to represent the member in the dispute. If the union does not wish to represent them, or they do not want union representation, the Ombudsman investigates the case. If the investigation shows discrimination or unfair treatment, the Ombudsman will first try to negotiate a voluntary agreement or settlement between the employer and the employee. Should the employee and employer fail to reach a settlement, the Ombudsman can take the matter to the Labor Court.

Advantages of the Swedish Model:

- i It was found that even under a compulsory legal system, support and follow-up by specialized bodies resulted in a high compliance by companies.
- i Employers are to survey and analyze pay criteria and other terms and conditions to determine whether they are gender-neutral.
- i Differences in pay must be surveyed with regard to differences between women and men performing work regarded as equal or of equal value.

Disadvantages of the Swedish Model:

- i The level of precision in employers' action plans for equal pay is extremely varied.
- i Sometimes reference is made to the number of individuals and sometimes only a certain group is referred to.
- i In nearly half of the plans that say that salary adjustments will be carried out, information is lacking on cost calculations.
- i The methods of calculating costs vary. They can be given in the form of gross pay costs for the employer or in the form of pay increases for the individual employee.

For additional information on Sweden's Discrimination Act, please visit the Equality Ombudsman's website at <http://www.do.se/en/>