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NEWS REPORT

Country:	Sweden
Title:	Changed rules on active duties
Date:	17 August 2016
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Update of flash report nr:	1283-SE-37 (2014)
<u>Context</u>	
Issue at stake:	Active duties
Ground of discrimination:	All grounds
Source:	Legislation
Field:	Employment and education
Applicable law:	Chapter 3 of the Discrimination Act

Content

Law development: On the 12 of July 2016 the Parliament adopted new rules on active duties entering into force on 1 of January 2017.¹

The current rules on active duties with regard to employers covers the grounds of ethnicity, religion and sex. For education providers, disability and sexual orientation are covered as well. As of 1 January 2017, both employers and education providers will have a duty to work actively on all seven grounds of discrimination.

The current rules require the employer to do 'goal orientated work' with regard to active duties (Chapter 3 Section 3 of the Discrimination Act). According to the preparatory works this means that equality plans are necessary.² According to Chapter 3 Section 13, employers with 25 or more employees must every third year make a report on how the work with active duties according to their plans proceed. Education provides must on a yearly basis evaluate their equality plans with regard to pupils/students (Chapter 3 Section 16). With regard to employees there is no fixed time period unless the education provider has 25 or more employees in which case the three-year period of Chapter 3 Section 13 applies.

The rules entering into force in 2017 will replace this with a duty for employers and education providers to 'document' their work with active duties. The central requirements are listed in Chapter 3 Section 2 of the Discrimination Act:

1. Investigate risk for discrimination or victimisation or if there are other obstacles for equality of rights and opportunities for individuals in the activities or the work place

¹ Act (2016:828) Changing the Discrimination Act.

² Government bill 2007/08:95 p. 535.

- (verksamheten).
2. Analyze causes for the found risks and obstacles.
 3. Adopt the preventive and promotional measures which reasonably may be demanded and
 4. Follow up and evaluate the work according to point 1-3.

With regard to harassment, sexual harassment and victimization the wording is changed from 'preventing and stopping' to 'having guidelines and routines in order to prevent and stop'.

With regard to the documentation required from 2017 there are no detailed rules for employers with less than 10 employees (but they must still document their work). A list of 4 qualitative requirements apply to employers with 10-24 employees and an additional 3 criteria are required of employees with 25 or more employees according to Chapter 3 Sections 13 and 14. This documentation shall take place during (throughout) the year rather than yearly. Education providers must still make yearly documentations with regard to pupils/students.

The rules on the enforcement remain the same. If the employer or the educational provider is insufficiently active the Equality Ombudsman may ask the Board Against Discrimination to order the employer to fulfil his or her duty *in the future* subject to a financial penalty (vite). In the field of working life, central employees' organisations having a collective agreement can ask for such an order, if the Ombudsman declines to do so.

The economic penalty will gain legal force only after a district court has ordered the payment. The legality of the order itself, as well as the reasonableness of the amount, can be decided upon by the district court.

Internet links:

<https://www.notisum.se/Pub/Doc.aspx?url=/rnp/sls/lag/20080567.htm>
(The Discrimination Act with the new rules in Swedish).

<https://data.riksdagen.se/fil/395A407D-5AD1-4B64-BE1F-5E13C2A85F00>
(The government bill in Swedish. This bill has no English summary).