

Draft

LAW OF THE REPUBLIC OF UZBEKISTAN ON EQUAL RIGHTS AND OPPORTUNITIES

The present Law establishes major tasks with regard to ensuring equal rights and opportunities for men and women in the political, economic, social, cultural and other fields of societal life, regulates the legal framework of exercising these rights and opportunities, the jurisdiction of the organs of government, enterprises, institutions and organizations, the rights and duties of the citizens of the Republic of Uzbekistan, guarantees equal rights for men and women by granting equal rights and opportunities and legal liability to men and women, and affirms the principle of equal partnership.

I. General Provisions

Article 1. Purpose of the Law

The purpose of the present Law is to affirm:

- equal rights for men and women;
- equal opportunities for men and women;
- equal legal liability for men and women;
- equal partnership and cooperation of men and women in all fields of human activity;
- prevention of all forms of discrimination, except for positive discrimination with regard to the field of labor.

Article 2. Propositions of the Law

The propositions of the Law shall be:

- the prohibition of direct, indirect and hidden discrimination on the basis of sex;
- the prohibition of sexual harassment;
- the prohibition of the violation of equal rights in the cultural, educational, reproductive, sexual, interethnic and family-relationship fields;
- the encouragement of equal partnership and cooperation in all fields of human activity.

Article 3. Basic Terms and Definitions

Equal rights. Equality of men and women in their right of enjoyment individual, political, economic, social, cultural and other rights, guaranteed by the State and enshrined in the Constitution of the Republic of Uzbekistan and other legislative enactments.

Equal opportunities. The system of political, legislative, administrative, economic, organizational, and social remedies that aim to achieve real equality of men and women in their rights.

Equal partnership. Recognition of differences with regard to the roles of men and women in the physiological and individual capacities and inclusion of men and women in social progress in equal starting positions.

Equal legal liability. A person's ability to bear respective responsibilities prescribed by law, irrespective of sex of a person.

Discrimination. Any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise of human rights and fundamental freedoms in the civil, political, economic, social, cultural or any other field.

Direct discrimination. Discrimination that occurs explicitly on the basis on sex with the purpose of using this distinction in actions.

Indirect discrimination. Discriminatory actions, which are not based on formal distinction (restriction, exclusion) on the basis of sex, but have unequal effects on persons of different sex in terms of their enjoyment of rights and freedoms.

Hidden discrimination. Intentional discrimination, which does not occur explicitly on the basis of sex, but leads to unequal effects for persons of different sex.

Positive discrimination. Intentional discrimination, which occurs explicitly on the basis of sex and is applied for the protection of men and women against factors in the sphere of labor that have negative effect on the physiological status of their organisms.

Violation of equal rights. A passive or active action in the form of humiliation or contemplation and also the restriction of rights or granting privileges on the basis of sex.

Sexual harassment. Offensive conduct, expressed verbally or physically and based on sexual intentions, with respect to the person in connection with his/her working, office or other subordination-based relations.

Gender. Achieved and socially established behavior of men and women.

Gender expertise. Social-legal analysis of legislations, state programs and other legislative enactments with the purpose of identification of the extent of equality irrespective of sex.

Accessibility. Everyone shall have the right to seek, receive and disseminate any information about equal rights and opportunities, except for information that undermines the polity enshrined in the national constitution and that come within the purview of other restrictions provided by law.

Equal representation. Equal representation of the citizens of the Republic of Uzbekistan, who are the subject to the present Law, on the basis of sex.

Article 4. Subjects of the Law

The subjects of the Law shall be the citizens of the Republic of Uzbekistan, foreign citizens and stateless persons, residing in the territory of the Republic of Uzbekistan.

Article 5. Legislation on Equal Rights and Opportunities

The legislation on equal rights and opportunities shall be based on the Constitution of the Republic of Uzbekistan, the universally recognized international law principles and standards, international treaties of the Republic of Uzbekistan, the present Law and other legislative enactments of the Republic of Uzbekistan.

Where an International Treaty of the Republic of Uzbekistan provides for regulations and provisions other than provided by the legislation of the Republic of Uzbekistan on equal rights and opportunities, the provisions of the international treaty shall be applied.

Article 6. Basic Principles of the Law

The basic principles of the Law shall be:

- the observance of human rights;
- social justice;
- the proclamation of equality of men and women;
- the rule of law;
- humanism;

- legal obligation;
- accessibility; and
- equal representation.

Article 7. International Cooperation in the Field of Equal Rights and Opportunities

The cooperation between the Republic of Uzbekistan and foreign states and international organizations, working towards equal rights and opportunities, shall be exercised by the organs of government, the organs of self-governance, public associations, as well as citizens, residing in the territory of the Republic of Uzbekistan, in compliance with international treaties and the national legislation.

II. Observance of Equal Rights and Opportunities in the Organs of Government, Governance and Political Life

Article 9. Guarantees of Equal Participation in Governance

Men and women shall enjoy equal rights as to their employment in civil service.

The state shall ensure equal opportunities and rights for men and women with regard to their employment in civil service.

Article 10. Participation of Men and Women in Governance

The principle of equal representation of men and women, with equal abilities, knowledge and competence, shall be observed through organizational, legal and other mechanisms with regard to the appointment to the positions of executives in all the organs of government and the nomination to positions in the legislative, executive, and judicial bodies of the Republic of Uzbekistan.

No one shall take measures worsening the position of persons of the opposite sex with the purpose of entitling equal rights.

Article 11. Guarantees of Equal Partnership in Governance and Political Life

The state shall ensure the observance of equal partnership with respect to relationships and cooperation of men and women in political life, the legislative, executive and judicial bodies, and the organs of self-governance.

This present provision shall be taken into consideration in terms of the representation of the Republic of Uzbekistan in international organizations.

III. Equality of Rights and Opportunities for Men and Women in the Socioeconomic, Cultural and Educational fields

Article 12. Equality in the Economic Field

Equality of men and women in the economic field means the equality in access to the following opportunities, as guaranteed by the state:

- freedom of choice of profession and employment;
- equal remuneration for work of equal value;
- property;
- material resources;
- equal distribution of profits from income for equal contribution;
- equal social benefits.

Article 13. Equality in Access to Choice of Profession and Employment and Equal Remuneration for Work of Equal Value

Any citizen, residing in the territory of the Republic of Uzbekistan, irrespective of sex, shall have the right to free choice of profession and employment, in compliance with the existing legislation.

An employer, in his/her activities, shall make efforts to affirm equality of men and women in the field of labor and employment.

An employer, irrespective of a type of ownership of employing enterprise or institutions, shall take the measures of positive discrimination in the field of labor and employment, to protect employees against negative factors that affect physiology of men's and women's organisms.

An employer shall ensure the opportunity for men and women to exercise his/her parental responsibilities simultaneously with his/her labor activity.

An employer shall ensure equal representation of men and women at their workplaces on the basis of positive discrimination.

Access to equal remuneration for labor shall mean equal remuneration for labor of equal qualification of workers and with equal working conditions as well as equal remuneration for work of equal value.

An employer shall ensure equal remuneration for work of equal value. Should the qualifications of workers be unequal and the results of their work be equal, remuneration for this labor shall be equal.

The decrease of remuneration for labor or the worsening of working conditions, made on the basis of sex, shall be considered discriminatory practices and the violation of the present Law.

These provisions shall not be applicable to the cases, which are not directly or indirectly related to sex of the worker.

Article 14. Equal access to Property and Material Resources

The State shall guarantee equal rights of property and access to material resources, irrespective of sex, age, race, national origin, language, religion, social origin, opinion, personal or social status.

The State shall provide equal conditions to the subjects of this present Law for their exercising the enabling rights to property: the right to ownership, enjoyment and disposition.

Any discrimination on the basis of sex in the privatization of state-owned property or in exercising any civil contracting shall be prohibited.

The State shall guarantee equal access to property and material resources on the basis of the existing legislation.

Article 15. Equal distribution of Profits from Income for Equal Contribution

Any citizen residing in the territory of the Republic of Uzbekistan shall, irrespective of sex, have the right of equal distribution of profits from income for equal contribution in accordance with the existing legislation.

The State shall provide equal conditions to the subjects of the present Law for exercising their enabling rights to profit: the right to ownership, enjoyment and disposition.

Any discrimination on the basis of sex in the process of the distribution of profits shall be prohibited and prosecuted by law.

Article 16. Access to Equal Social Benefits

Any citizen of the Republic of Uzbekistan and persons who have the right to receive social benefits in accordance with the existing legislation shall, irrespective of sex, have equal access to social benefits.

Both parents shall have equal access to receiving benefits for the care of children, old-aged or sick members of their families.

A childcare leave which may be provided until the child attains the age of three may be entitled to one of the parents at their will, irrespective of sex of a parent. The refusal of the employer to provide the childcare leave shall be considered direct discrimination and the violation of the present Law.

Article 17. Equality in the Fields of Culture and Education

Equality of men and women in the fields of culture and education envisages equality, guaranteed by the state, in access to:

- education;
- scientific and technical achievements;
- free choice of education;
- free choice of creative activities;
- participation in researches and technical progress;
- universal and national cultural values.

The state shall guarantee equal rights of access to culture and education, irrespective of sex, age, race, national origin, language, religion, social origin, opinion, and personal or social status.

Any direct, indirect, or hidden discrimination in the fields of culture and education shall be considered the violation of the present Law.

Article 18. Domestic Labor

Domestic labor is a self-employment labor activity intended for meeting family needs. Domestic labor shall not be a means of discrimination and may be equally practiced by men and women.

All the principles laid down with respect to equal labor policies shall encompass and be applicable to domestic labor as well. The property generated from domestic labor of family members shall be the property of the family.

Family members shall have the right to free choice of labor activity and to practice either domestic or social productive labor.

The State shall encourage investment of financial resources and new advanced technologies in domestic labor with the purpose of the upgrading of domestic labor.

Family members, employed in the sphere of public production, may effect payments to the pension fund as well as other funds for their family members engaged in domestic labor so as to ensure pension for these family members in accordance with their employment time record.

Article 19. National Traditions and Equal Rights and Opportunities

The Republic of Uzbekistan shall ensure respect to languages, customs and traditions of nationalities and ethnic groups, residing in the territory of the Republic of Uzbekistan, and promote conditions for their development.

The State shall also encourage national traditions, which are based on respect to persons irrespective of their sex.

Any direct, indirect or hidden discrimination under the pretence of practicing national traditions and customs shall be prohibited.

IV. Control over and Supervision of the Observance of the Present Law

Article 20. Subjects Exercising Control over the Observance of the Present Law

The subjects exercising control over the observance of the present Law shall be:

- Oliy Majlis (Parliament) of the Republic of Uzbekistan;
- President of the Republic of Uzbekistan;
- Cabinet of Ministers of the Republic of Uzbekistan;
- Supreme Court of the Republic of Uzbekistan;
- Supreme Economic Court of the Republic of Uzbekistan;
- Ministries and agencies;
- Human rights organizations.

Article 21. Subjects Exercising Supervision of the Observance of the Present Law

The subjects exercising supervision of the observance of the present Law shall be:

- Constitutional Court of the Republic of Uzbekistan;
- Prosecutor's Office (Prokuratura) of the Republic of Uzbekistan.

Article 22. Public Control over the Observance of the Present Law

Public control over the observance of the present Law shall be exercised by non-governmental not-for-profit organizations, mass media, and the citizens of the Republic of Uzbekistan.

Article 23. Gender Expertise of Legislation

Gender expertise shall be a procedure of the investigation and identification of violations of equal rights and opportunities, based on sex, in legislation and other legal enactments as well as state and national equal rights and opportunities programs.

Article 24. Effects of Inobservance of the Present Law

In case of eliciting violations of equal rights and opportunities, the subject exercising control over the observance of the present Law, shall have the right to:

- submit a request in a written form to the organs of government, organs of self-government, and officials, requesting to eliminate the violations identified and indicate the terms of execution of the request;
- use administrative-legal and economic remedies for the prevention and elimination of violations of the present Law;
- submit materials concerning violations identified to either the Prosecutor's Office, or to the Court;
- submit the names of the persons who violated the present Law to mass media for publication.

Article 25. Legal Liability for the Violation of the Legislation on Equal Rights and Opportunities

Persons who are found guilty of the violation of the legislation on equal rights and opportunities shall be charged legal liability, as established by law.