

The Law of the Kyrgyz Republic on Gender Equality

The Law on Gender Equality declares and regulates introduction of equal rights and opportunities for men and women in social, political, economic, cultural and other spheres of life.

The Law is designed to protect women and men from overt and covert forms of gender-based discrimination.

The Law is aimed at introduction of new relations between men and women in Kyrgyzstan based on the best traditions of the Kyrgyz nomadic civilization.

The Law provides state guarantees of equal rights for men and women through ensuring equal opportunities and affirming the principles of equal partnership.

The Law provides the framework for further development of the policy and procedures of affirmative action to ensure equality of women and men in Kyrgyzstan.

Section 1. Main principles

Article 1. Concepts

Equal opportunities is a system of measures (political, legal, administrative, economic, organizational and others) aimed at ensuring real equality.

Equal rights is the guaranteed by the state and vested in the Constitution and other legal documents equal right for women and men to enjoy all their civil, political, economic, cultural and other rights.

Equal responsibility is an ability of a person regardless his/her sex to perform the responsibilities given by the state.

Gender equality is the equality of men and women before the Law.

Gender equity is the equal legal status of women and men.

The state shall commit itself to provide equal right for women and men to enjoy all their civil, political and other rights.

Partner relations is recognition of individual differences between women and men and participation of women and men in the social process on equal positions.

Discrimination is any gender-based distinction, exclusion or restriction which impairs or nullifies human rights and fundamental freedoms in social, political, economic, cultural and other spheres of life.

Direct discrimination is discrimination with overt indication of sex.

Indirect discrimination is action not based on formal gender distinction (exclusion or restriction) but having unequal effect for different sexes in terms of their rights and freedoms.

Gender is social sex.

Gender expertise is the public gender sensitivity analysis of the national legislation, state programmes and other documents.

Nomadic civilization is the stage of development of material and spiritual culture of ethnicities living a nomadic life.

High-paid labor is labor activities involving application of high technologies and independent decision-making; the salary is paid on the basis of qualification and as a rule is higher than average.

Article 2. The mission of the Law

The mission of the Law is to affirm:

- equal rights of women and men;
- equal opportunities of women and men;
- equal responsibilities of women and men;
- partner cooperation of women and men in all spheres of life.

Article 3. The principles of the Law

The Law is based on the following principles:

- legitimacy;
- humanity;
- social justice;
- non-discrimination;
- equality of sexes in social life;
- observation of human rights.

Article 4. Legislation

The legislation on gender equality consists of the Law herewith, which is based on the Constitution of the Kyrgyz Republic, and of international Conventions on women ratified by Jogorku Kenesh of the Kyrgyz Republic.

Article 5. The constituent parts of gender equality

The constituent parts of gender equality are equal rights, equal opportunities, equal responsibilities, and partner relations and cooperation.

These parts are constituting an integral unity. The breach in any of the constituents of gender equality is considered as violation of the Law.

Article 6. Prohibition of overt and covert gender-based discrimination

Prohibited is any overt or covert gender-based discrimination in any sphere of activities towards women or men.

Citizens or organizations demonstrating overt or covert gender-based discrimination shall be prosecuted according to the Law.

The prohibition for overt or covert or covert discrimination applies to Sections 2, 3 and 4 of the Law herewith.

Article 7. Cultural barriers for gender equality

The cultural norms regulating women's and men's behavior in the social life (customary law), which contradict to the legislation, are considered as barriers for gender equality.

The cultural norms and traditions containing elements of gender-based discrimination shall not be supported.

Article 8. Gender equality in the reproductive and sexual sphere

Prohibited is demonstration of gender inequality and discrimination in reproductive and sexual rights.

The protection of reproductive and sexual health shall be regulated by the relevant legislation.

Section 2. Equal participation of women and men in politics and governance

Article 9. Participation of women and men in governance

Women and men have equal rights in relation to recruitment for civil service.

Article 10. Main principles of access to power

- openness;
- responsibility;
- transparency of entering the power;
- electivity and competitiveness;
- rotation;
- positive social impact;
- professionalism;
- moral qualification.

Article 11. Guarantees of women's participation in governance

The state shall ensure representation of women in legislative, executive and judicial power through institutional, legal and other mechanisms.

Article 12. Guarantees of equal opportunities for access to power

The state shall seek for ensuring access to power for women through legislative mechanisms.

Equal opportunities shall be guaranteed by the state policy.

The state shall develop and improve the system of actions to strengthen the policy of equal opportunities for women in order to ensure gender balance in governance.

Article 13. Guarantees of partner relations between women and men in governance

The state shall seek for ensuring partner relations and cooperation between women and men in legislative, executive and judicial power as well as in local governance.

This guarantee shall be taken into consideration while representing Kyrgyzstan in various international organizations.

Section 3. Gender equality in economic sphere

Article 14. Equality of women and men in economic sphere

Equality of women and men in the economic sphere involves the state guarantees of:

- equal access to property;
- equal freedom of choice of occupation;
- access to equal salaries;
- access to equal social benefits;
- equal access to high-paid labor.

Article 15. Equal access to property

The state shall ensure implementation of property rights equally for both men and women.

The state shall provide necessary conditions for woman to enjoy her property-related rights: right to own, right to use and right to dispose property.

No one shall be discriminated on the basis of gender in the process of privatization or in any legal relations between citizens. The state shall guarantee equal access through all existing procedures.

Article 16. Equal access to freedom of choice of occupation

The employer in his/her activities shall direct efforts at ensuring equality of women and men in the employment.

The employer regardless of form of property shall take measures to ensure proper working conditions for both women and men.

The employer shall provide both women and men with an opportunity to combine working responsibilities with parent responsibilities.

The employer shall seek to equal representation of women and men at the working place.

Article 17. Access to equal salaries

Access to equal salaries assumes equal salaries for employees with equal qualification and equal working conditions.

Reduction of salaries or deterioration of working conditions on the basis of gender shall be considered as an expression of discrimination.

The article does not rely to the cases when the differences in salary are based on differences in qualifications of employees or when these differences are in no way related to the employee's sex.

Article 18. Access to equal social benefits

Every employee, whether man or woman, shall have equal access to social benefits.

Both parents shall have equal access to allowances for children, elderly or sick relatives.

Article 19. Equal access to high-paid labor

The employer regardless of form of property shall provide equal access to high-paid labor for both women and men.

Social benefits of women related to their reproductive functions shall not be a reason for restricting the access for women to high-paid labor.

The state shall develop policy and take necessary measures to eliminate cultural stereotypes restricting access of women to high-paid labor.

Article 20. Domestic work

Domestic work is a special kind of labor activities aimed at satisfaction of the needs of the family and its members.

The state shall introduce the policy of recognition of the domestic work along with the economic productive work.

Domestic work shall not constitute the grounds for discrimination and can be performed by both women and men.

All principles related to the principles of equality in economic activities are applicable to domestic work.

Article 21. Guarantees for recognition of domestic work

Property formed in the result of domestic work is the property of the family.

Family members have a freedom to choose an occupation: whether in domestic work or in economic work.

The state should seek to invest funds and new technologies in domestic work in order to improve its quality.

The state should seek for gradual recognition of domestic work and find ways of its remuneration and social protection.

Section 4. Control and supervision over the implementation of the Law

Article 22. Entities executing control and supervision over the implementation of the Law

The entities executing control over the implementation of the Law include:

- The President of the Kyrgyz Republic - as the guarantor of the Constitution;
- Ombudsman under the Jogorku Kenesh of the Kyrgyz Republic;
- The Public Institute of Equal Rights and Opportunities.

The entities executing supervision over the implementation of the Law include:

- The Prosecutor's Office of the Kyrgyz Republic.

Article 23. Control over the implementation of the Law by the President of the Kyrgyz Republic

The President of the Kyrgyz Republic executes control over the implementation of the law according to the provision of the Constitution about the gender equality in the state through development of gender policy and application of relevant legislations.

Article 24. Control over the implementation of the Law by the Ombudsman under the Jogorku Kenesh of the Kyrgyz Republic

The Ombudsman executes control over the implementation of the law within given jurisdiction.

Ombudsman shall publish annual reports on implementation of the Law.

Ombudsman shall have the right to request and receive any documents related to gender equality issues.

Article 25. Public control over the implementation of the Law

The public control over the implementation of the Law shall be executed by an independent non-governmental non-commercial organization - The Public Institute of Equal Rights and Opportunities following its Charter.

The Institute shall conduct monitoring and publish annual public reports on implementation of the Law.

The Institute shall prepare materials for appeals to the President of the Kyrgyz Republic, to the Parliament, as well as to international organizations to protect the infringed rights.

Article 26. Supervision over the implementation of the Law by the Prosecutor's Office of the Kyrgyz Republic

The prosecutor's office executes supervision over the implementation of the Law by the officials, employers and other subjects of this Law within given jurisdiction. In case of finding facts of violation, prosecution bodies shall take appropriate measures against the violators according to the Law on Prosecutor's Office.

Article 27. Gender expertise of legislation and other documents

Gender expertise is the procedure of scrutinizing and discovering the facts of infringement of gender equality in laws and other regulatory documents as well as national and local programmes, etc.

Gender expertise shall be conducted by Ombudsman and independent institutions.

Article 28. Consequences of breach of the Law

In case of finding the facts of infringement of gender equality, the Ombudsman has the authority:

To issue a written instruction to eliminate the discovered facts of infringement including deadlines;

To use the threat of imposing the fine or including the organization (enterprise) into the list of violators of the Law.

To pass the materials to the prosecutor's office or court in order to remedy the situation.

Article 29. Consequences of publishing the lists of the violation of the Gender Equality Law

The entities included into the list of breaching the Law shall be subjects of pressure from the state in form of closing access to credits, participation in tenders and other procedures.

Section 5. Rights and responsibilities of employers regardless form of property on implementation of gender equality

Article 30. Rights of employers

Employer following the Law on Gender Equality:

- has the priority right for access to development credits;
- has the priority to receive state support for the social development of the enterprise;
- has the priority access to information from governmental agencies on enterprise development;
- has the right to test employee and to obtain the decision of the qualification commission on the issues of hiring or promotion;
- has the opportunity to conduct additional training for women-employees in case of performing their reproductive functions.

Article 31. Responsibilities of employers

Employer is responsible:

- to develop annual programme of promotion and strengthening gender equality at the enterprise (organization); this provision does not apply to the enterprises with less than 10 employees;
- to provide annual reports on implementation of the above programme;
- in case of signing joint agreements, gender equality should be included as a priority issue;
- to avoid decisions leading to overt or covert gender-based discrimination;
- to provide information upon Ombudsman's request and take necessary measures if Ombudsman discovers any violations;
- to develop social services for employees as an additional mechanism for ensuring gender equality;
- to create appropriate working conditions for both women and men;

- to provide equal opportunity to both parents (man and woman) to combine working activities with the parents responsibilities;
- to control the procedures of receiving applications for a vacancy from both women and men;
- to conduct annual revision in order to eliminate discrepancies in salaries of women and men with equal qualification and position.

Article 32. Employee's qualification

If an employee for 5 years has not been promoted or trained for the purpose of promotion, s/he has the right to request the employer and obtain the written information about the capacities, experience and qualification of the employee of the opposite sex who has been hired, promoted or trained.

Article 33. Prohibition

Employer shall not press on or persecute employee for refusal of sexual harassment or for applying with a complaint on employer for sexual discrimination.

In case of pressure or persecution of an employee on the above grounds, the employer is responsible under the legislation of the Kyrgyz Republic.

Section 6. Procedures of investigation of gender inequality cases

Article 34. Procedures of investigation of cases of discrimination, pressure, persecution, and gender inequality

The procedures of investigation of cases of discrimination, pressure, persecution, and gender inequality include:

- appeal to employer;
- appeal to Ombudsman;
- appeal to court;
- appeal to law enforcement agencies

Article 35. Appeal to employer

A person may appeal to employer in case of gender-based violation of employment rights.

Article 36. Appeal to Ombudsman

Citizens or public organizations may appeal to Ombudsman in case of employer's failure to implement responsibilities listed in the Article 30 herewith.

Article 37. Appeal to court

Citizens or public organizations may appeal to court for protection of their rights in accordance with the legislation of the Kyrgyz Republic.

During the court proceedings of the cases of gender inequality, representatives of Ombudsman shall be invited.

Article 38. Appeal to law enforcement agencies

A victim of gender-based discrimination or sexual persecution may appeal to relevant law enforcement agencies.

Article 39. Coordination of agencies in gender inequality cases

Governmental or other specialized agencies responsible for control, investigation and resolving of gender equality issues shall provide all information available to Ombudsman.

In case of necessity, the Ombudsman shall take all the necessary measures and procedures to protect infringed rights in any sphere of life, especially in politics and economy.

Section 7. Procedures of investigation of gender inequality cases

Article 40. Statistics and record-keeping of gender inequality cases

Registration and records of all cases of infringements of gender equality shall be kept by Ombudsman, who shall provide this information to the National Statistical Committee. The National Statistical Committee shall register and provide data to evaluate progress in achieving equality.

Article 41. Effective date of the Law

The Law herewith shall be effective since the date of its official publication.