

APPENDIX I

PART II

**Principal conclusions and experience gained
from experimental project on job evaluation.**

Chapter 5

Evaluation of the results of the project

5.1 Introduction.

When the working group on job evaluation was originally established in 1995, its role, according to its letter of appointment, was to work on proposals on job evaluation as an instrument for reducing the wage differentials between the sexes. The group was also commissioned with examining the formulation of guidelines on the use of job evaluation in accordance with the Act on the Equal Status and Equal Rights of Women and Men. The use of job evaluation for this purpose is an innovation in Iceland. For this reason, the working group took the view that in order to discharge its duties as well as possible and gain an insight and understanding of the task that had been assigned to it, it would have to gain first-hand experience of the application of job evaluation and the use of a non-gender-biased job evaluation system. In doing this, the working group chose what was by no means the easiest path, but there is no doubt that it was the one that was best for gaining a knowledge of the matter under examination. The working group was in charge of the execution of the experimental project, which involved its preparation and organisation. The group also monitored the progress of the project in those institutions and enterprises where it took place. An attempt will be made in this chapter to assess the practical value of job evaluation and its strengths and weaknesses.

Various questions have arisen in connection with the implementation of the project, and the main points which are regarded as meriting special mention are discussed in this chapter. It should be borne in mind that job evaluation is a complex process, consisting of many elements, each of which is capable of being implemented in various different ways. This means that there are no simple solutions or definitive answers to all the questions raised by the job evaluation process. However, it is hoped that the hints and speculations presented here may provoke others to consider these matters and guide them in the application of non-gender-biased job evaluation.

When the working group on job evaluation decided to go ahead with the experimental project described here, it set out certain requirements which the institutions/enterprises involved would have to meet in order for it to be possible to draw the most generally valid conclusions possible from the project. The requirements stated that varied types of jobs, including traditional men's and women's jobs, would have to be found within the institutions or enterprises involved. These included jobs covered by dissimilar unions represented within the Icelandic Federation of Labour (ASÍ), the Confederation of State and Municipal Workers (BSRB) and the Confederation of University Graduates (BHM), with a vertical spread of men and women up and down the organisational chart, i.e. it should be possible to find both men and women among managerial, skilled and unskilled groups. It soon became apparent that such institutions and enterprises were not easy to find, particularly because so few met the last part of these requirements, i.e. regarding a vertical spread of men and women up and down the organisational chart [...]. The fact that the labour market is divided by gender, i.e. that men and women choose jobs in different sectors, creates problems of many types when it comes to making a comparison of traditional men's and women's jobs on the basis of the Act on the Equal Status and Equal Rights of Women and Men. For this reason, it became necessary to abandon the working group's original suggestion on the selection of Reykjavík City's enterprises and institutions for the project. The National Hospitals, on the other hand, met the group's main requirements regarding composition of jobs, traditional men's and women's jobs and a mixed trade union membership among the employees.

According to the working group's original proposals on job evaluation, the experiment was also to embrace one company in the private sector. During the preparatory phase, a considerable number of companies were contacted with a view to inviting them to take part, including the Árnes Co-Operative (Kaupfélag Árneseinga), whose management showed a readiness to take part. The working group decided to begin the project with the state and municipal institutions and to defer the

decision on whether or not job evaluation at the co-operative would be included[...]. However, the outcome was that no job evaluation was carried out at the co-operative.

When the experimental project on job evaluation is assessed, it is evident that limitations apply to the conclusions that can be drawn from it in isolation. Firstly, the project did not include job evaluation in the private sector. It may be that facilities for carrying out job evaluation in the private sector are in some way different from those in the public sector, so making it impossible to apply the experience gained in the course of job evaluation in public bodies to the private sector. Secondly, it must be considered that even though the experimental project involved the evaluation of jobs within the traditional women's occupations, on the one hand, and men's occupations on the other, the scope of the project was restricted, as only thirty-two different jobs were evaluated in the three enterprises/institutions covered. It is therefore out of the question that it could be possible to draw generally valid conclusions from the project concerning the value and execution of non-gender-specific job evaluation on the Icelandic labour market. For example, it can not be asserted here whether it is possible to apply non-gender-specific job evaluation systems such as the *HAC* system when evaluating all jobs, irrespective of the enterprise/institution involved, or whether any particular conditions, and if so which, render this impossible. On the other hand, the experience of the project gives certain indications concerning the value and execution of non-gender-specific job evaluation and its pros and cons. An examination of these indications in the light of experience gained in other countries in this field also strengthens the speculations and conclusions presented in this report. On the other hand, because of the complexity of job evaluation, and because its execution depends to a considerable extent on conditions in each individual locality, it is clear that after the experimental project, it is not possible to make assertions about job evaluation and apply them to the Icelandic labour market in its entirety. For that to be possible would require more extensive experience of the use of non-gender-specific job evaluation than was involved in the restricted project under examination here.

5.1.1 Limitations inherent in job evaluation for achieving wage equality on a gender-divided labour market.

Job evaluation aimed at bringing about greater wage equality between the sexes is based on the assumption that it is possible to compare traditional men's and women's jobs in order to establish whether they are of equal value. In this context it is necessary to examine more closely the Act on the Equal Status and Equal Rights of Women and Men and who it applies to. This is discussed in the booklet "Wage equality in practice in a decentralised wage system" (Launajafnrétti í framkvæmd í dreifstýrðu launakerfi¹), which includes the following statement: "The provisions of the Act on the Equal Status and Equal Rights of Women and Men concerning wage discrimination are restricted to employees of the opposite sex working for the same employer. They apply both to individuals and groups of workers. When a group of workers compares itself with another group of workers working for the same employer, the premise on which the Sexual Equality Act will apply is that women must be in a decisive majority in one group, and men in the other; the percentage must be, e.g. as high as 70%."²

In the light of how gender-divided the labour market is, it is evident that comparison between groups of workers as described above is not always possible. The reason for this is that men and women pursue employment in different fields, with the result that enterprises/institutions that have been set up in various fields of activity are frequently based to a great extent on the work of one or other sex [...]. Thus, conditions resulting from a gender-divided labour market may make comparison between groups of workers on the premises of the Act on the Equal Status and Equal Rights of Women and Men impossible because either men or women will be in the vast majority in

¹ Sexual Equality Committee of the Alliance of University Graduates, the Reykjavik Sexual Equality Counsellor and the Sexual Equality Office, 1998, p. 15.

² Though it is considered that the other sex is in high majority if its proportion is 70% of the whole, it is not absolute. The proportion could be higher or lower and the estimate is dependent on the situation each time.

any one place of work. This problem is well known, and is not restricted to Iceland. The general pattern is that legislation on wage equality between women and men is restricted to comparison within groups working for the same employer or in the same institution or enterprise. This makes it difficult for workplaces where women are in the majority to make comparisons with groups of workers or professionals in which there is a majority of men. This fact has long been one of the main points of dispute in the campaign for equal wages in Ontario, where the gender-divided labour market has resulted in large groups of lowly-paid women remaining outside the scope of the law because comparison with male occupations has not been possible. The same problem may arise even within the same institution or enterprise, i.e. when groups of workers in which men are in the majority refuse to be compared with groups in which women are in the majority by using a common job-evaluation system. In this way, comparison of the value of different jobs is constantly frustrated because such comparison must be based on the same job evaluation methods.³

For the above reasons, the interpretation of the term “employer” is important when groups of workers are compared. The term is not defined in the Act on the Equal Status and Equal Rights of Women and Men, and often it is not absolutely clear who is really the employer. Is it, for example, the person in charge of the execution of the work, or is it the party who pays the wages? This may be a complex question, e.g. in the case of the state, where there are many institutions but one wage-payer. Is the employer in such a case the institution where the worker is employed, or the wage-payer. Similar questions may arise in the private sector in the case of a parent company and a subsidiary within the same corporate group. Sub-contracting of various types may complicate the issue still further. For example, the division of responsibility between the main contractor and the sub-contractor may be unclear in cases where employees are hired out by a particular party who has nothing to do with the activity in question.

In the case of the state, under the Act No. 94/1986, the Minister of Finance represents the state when wages and terms agreements are negotiated “Because the wage system is centralised, employees are able to compare their wages and terms with those of employees of the other sex working in another state institution or local government body (*cf.* the opinion of the Complaints Committee on Equal Status in Case No. 7/1997). Whether, and to what extent, a decentralised wage system reduces that possibility is not quite clear. It has not been put to the test.”⁴ To illustrate the importance of this question, one can take the example of nurses in the National Hospitals wishing to compare themselves with engineers at the National Energy Authority on the grounds that their work is of equal value but that nurses do not receive recognition of the value of their work in the form of wages. Whether this comparison would be possible depends on the answer to the above question, i.e. whether the term “employer” refers to the individual institution or whether the state is defined as a single employer. No attempt will be made to solve this matter here. But it is not disputed that each and every director or manager has an obligation to ensure equality of wages between women and men who work in comparable jobs of equal value.

5.1.2. Participation by employees and trade unions in the execution of job evaluation.

[...], the generally accepted opinion nowadays is that job evaluation will only be successful if the trade unions participate in its planning and execution. In the same way, the participation of employees in all stages of job evaluation has become more and more important as more and more job-evaluation systems have appeared in an attempt to adapt them to the institutions/enterprises in which job evaluation is carried out. Employee participation is important for various reasons. In view of how varied activities can be and how different individual jobs are, employees’ knowledge of, and insight into, various areas of work and particular jobs are important when it comes to planning and

³ This is discussed in the report *Arbeidsvurdering som virkemiddel for likelønn* (NOU, 1997:10, p. 120), with a reference to experience in Finland, where a certain local authority developed a job-evaluation system emphasising sexual equality and the male employees rejected it.

⁴ Sexual Equality Committee of the Alliance of University Graduates, the Reykjavik Sexual Equality Counsellor and the Sexual Equality Office, 1998, p. 15.

carrying out job evaluation, adapting job-evaluation systems and carrying out the actual job evaluation. Another important factor is that the reliability of job evaluation increases according as employees take an active part in the process, which makes it more likely that the results will be accepted. In this connection, reference can be made to the Reykjavík Job Assessment Committee [...], which states that in the view of the committee: "...job assessment may create a better acceptance of decisions regarding wages, and improve employee's ideas concerning a fairer wage policy, providing that there is unanimity on the execution of job evaluation when it is carried out."

If any appreciable degree of acceptance of job evaluation is to be assured in Iceland, it is necessary that the trade unions be admitted directly to the matter as circumstances permit in any given instance. It is necessary that employees or trade unions be involved. In each given instance, an assessment must be made of whether the representatives nominated by the staff and the trade unions for individual projects come from the staff or the trade union, but the most important point is that those who are involved in job evaluation should be active participants in the work process. It is also important that experience and knowledge of job evaluation should be developed within the trade unions and among employers/managers, so that other people's experience can be put to use and passed on.

At the same time as emphasis is placed on employee participation in the execution of job evaluation, consideration must be given to the fact that individuals' differing circumstances may have a great deal to say regarding their ability to play an active role in the decisions involved in job evaluation. In committee work, special care must be taken to ensure that particular individuals do not become more dominant than others. People's ability to express themselves differs, and in this, factors such as sex, age, education and social class may be important. In order to reduce the influence of these factors, it is desirable that representatives should be offered training in expressing their opinions and following them up.

5.1.3. Job evaluation and conditions on the Icelandic labour market

As has been stated, little experience has been gained of job evaluation in Iceland, and it has only been applied to a small extent for the purpose of determining wages. The interim report by the working group on job evaluation: *Job evaluation - a method of determining wages* contains a short review of job evaluation in Iceland and the experiments that have been made with it⁵. This states that the first job evaluation project carried out in Iceland was that made by the Conederation of State and Municipal Employees and the state in 1970. Unanimity did not prevail regarding the evaluation, and the system that was used did not become firmly established. In 1989, the unions within the Conederation of University Graduates (BHM) and the Ministry of Finance agreed on the evaluation of professional, financial and administrative responsibility, with systematic definitions of major positions. As a result of disputes, this evaluation was never carried out. When wages and terms agreements between the local authorities' wage committees and the employees' unions were signed in 1987, it was decided to develop and adopt a job evaluation system in 42 local government areas, covering 2,500 employees. This job evaluation system is still in use, and is used in all the larger local authorities in Iceland outside the capital, Reykjavík.

It is difficult to say why job evaluation has not caught on more than it has with other employers in Iceland. The reason may, however, be found in conditions on the labour market. In the private sector, the most obvious reason is the smallness of companies, which probably militates against job evaluation, though there are doubtless other reasons as well.

Although the situation in the public sector differs from that in the private sector, it is nevertheless likely that the smallness of many institutions makes job assessment less attractive, in many cases, than might be expected if one considers comparable institutions overseas, in which there

⁵ Ministry of Social Affairs, 1996, pp. 26-30.

are far more employees. In the local authorities the situation is rather different. When agreement was reached on job evaluation in the local authorities in 1987, this was done in a centralised agreement between the local authorities' wage committee and an alliance of groupings of employees within the Confederation of State and Municipal Employees (BSRB). Under the agreement, the local authorities and the employees' unions formulated independent policies regarding wages and terms, not least by co-ordinating the wages and terms of local government employees and bringing them into line with those of employees in the private sector. To this extent, the local authorities involved in the agreement were viewed as constituting a single entity, and the execution and structure of the job evaluation was based on certain common assumptions. It is probably due to these circumstances that it has proved possible to institute job evaluation as a regular procedure in many local authorities. For this purpose it is extremely important that the local authorities and their employees' unions joined forces on adopting job evaluation in order to aim at a particular goal, and also that they were in agreement on how its execution should be effected.

5.1.4. Dissimilar conditions when job evaluation is effected – technical and methodological problems

In terms of substantial participation of the employees, as is considered desirable, when job evaluation is carried out, it should be pointed out that the situation in small workplaces may prove to be a threshold in this context. Other factors may cause certain methodological problems in the carrying out of job evaluation, not least in small workplaces, both in the case of private firms and state institutions. The main points considered necessary to mention are listed below.

Various points are mentioned in the Reykjavík City Job Evaluation Committee's discussion of job descriptions and their evaluation [...] that are connected with small workplaces and could reduce the reliability of job descriptions. Amongst other things, it is pointed out that "...it may be difficult to separate the individual from the job description, with the result that job descriptions are substantially coloured by the individual who discharges the job in question. This applies particularly to jobs that are not defined precisely in advance, but allowed to be formulated by the talents and abilities of the persons engaged in them." In the opinion of the job evaluation committee, this tended more to be the case in the Reykjavík District Heating Utility rather than in the Social Affairs Department, the reason being regarded as being that the heating utility had relatively few employees, with specialisation taking the form that in many cases, only one employee did a particular job. This situation doubtless applies to many small workplaces, and may in fact be problem in any workplace where there are specialised jobs. The result is that it is difficult or impossible to define groups in terms of a single job description; instead, it is necessary to write a special job description for each individual job in the workplace. This costs a great deal of work, both in preparing job descriptions and having them evaluated. If individual jobs are highly specialised and are to a substantial extent moulded by the abilities and talents of the person engaged to fill them at any given time, this will make it even more likely that the content of the job will change rapidly, e.g. when new personnel are engaged to the position. Thus, job descriptions soon become out of date, which makes frequent review and re-evaluation necessary. Taking this into account, it can be expected that job evaluation in small workplaces and/or workplaces where there are many specialised jobs will be more expensive, all other things being equal, than in larger workplaces, and that the outcome may possibly be smaller. Regarding specialisation in jobs, it should also be mentioned that it can be difficult to evaluate jobs that are characterised to a substantial extent by the contribution of the individual rather than by clearly defined tasks and duties. Circumstances such as these may result in under-evaluation because the job evaluation system does not cover the content of the job properly.

The job evaluation committees of the National Hospitals and the City of Reykjavík both emphasise the importance of job evaluation committees consisting of people who, in sum, have a good overview of, and insight into, the jobs that are evaluated. They should be people with dissimilar backgrounds who are able to express different points of view. In small workplaces, on the other

hand, employee participation in job evaluation committees can be a double-edged weapon. Firstly, the work of job evaluation committees is demanding and time-consuming. It is very important that those involved in job evaluation receive the time they need to acquaint themselves with the use of the job evaluation system, and the opportunity to carry out the actual job evaluation without distractions. In places where there are few employees, this can be problematical, as it is difficult to release employees from their daily tasks. Secondly, a small workforce may constitute a condition that will obstruct the ideology on which job assessment is based, i.e. that job content should be evaluated independent of the individual who does the job. On the one hand it is difficult to draw a line between the job and the individual in cases where the individual formulates the job to a substantial extent, and on the other hand it the proximity of members of the staff in a small workplace means that the representatives on the job evaluation committee will inevitably know the individual represented by the job description that they have to evaluate, and the boundary between the job and the individual will therefore become unclear. It is important to give this special consideration, because it is a fundamental principle of job evaluation that only the content of the job is to be assessed, independent of the individual or individuals involved. Thus, the proximity of employees and management can also create certain problems and make it less likely that discussions concerning the job evaluation process will not be as candid as would be desirable.

5.2 The *HAC* system; non-gender-biased job evaluation – conclusions

Among the jobs that have been evaluated in the experimental job evaluation project are traditional women's jobs involving care, nursing or other social services of some sort involving direct contact and assistance to the recipient. It is beyond dispute that jobs of this type involve mental strain, and frequently also physical strain. In addition, they are normally demanding in terms of social skills and also involve direct responsibility for human beings because mistakes or negligence may result in serious consequences for the credibility of the services and for the individuals or groups who make use of them. It has long been thought that the characteristics of traditional women's jobs in these areas are among those that have been undervalued. In terms of the experience gained from the experimental job evaluation project, evaluation according to the *HAC* system appears to attach more weight to these characteristics and make them more visible.

The discussion of the conclusions of the project by the governing committee of the National Hospital [...] mentions concern that the emphasis of the *HAC* system on male responsibility, on the one hand, and female responsibility, on the other, may influence the evaluation of jobs that involve neither education/care nor management/finance, i.e. that general office work and service jobs will be accorded less than their real value. It is argued that it is therefore necessary to examine whether jobs of this type contain elements that are not detected by the job evaluation system, with the result that their content is undervalued. This was discussed specially by the working group, and mention was made in the discussion of several elements that the *HAC* job evaluation system possibly failed to detect properly. Attention was drawn to jobs that make different demands that can not be met at the same time, e.g. if they involve working for more than one boss. Such jobs make the requirement that the persons who do them are responsible for prioritising various tasks that come from different parties, and for organising other people's time. In such jobs, it is necessary that people be able to stand stress, have flexibility in interpersonal relations, an ability to work with others and the ability to express themselves. Attention was also drawn to tiring and difficult conditions in jobs in which the worker is required to attend to many dissimilar things at the same time and switch quickly between dissimilar jobs, where an external party decides the time-frame to be observed while the persons who do the job have little to say in the matter regarding the circumstances under which they work. Other elements involved may be working in an open and busy environment, e.g. answering the telephone or working in a reception area where the person concerned has little scope for retreating into privacy in order to attend to tasks without disturbance and/or are tied to the same place with little chance of getting away from it.

When the definitions of the *HAC* system are examined with the above considerations in mind, it is evident that they are all included in the system and it is assumed that they will be taken into consideration in job evaluation. This in itself does not ensure, however, that these characteristics will be evaluated in full in jobs that involve them. There may be complex reasons for this; some of the possible factors involved will be mentioned below.

Firstly, it may be that significant characteristics are not mentioned in the job descriptions themselves. This may be because the job described consists of a great number of elements, which will increase the danger that some of them will be overlooked and fail to be mentioned (see Section 6.4.1. on the preparation of job descriptions).

Secondly, there are various indications that job characteristics that make demands such as those listed above, e.g. flexibility in interpersonal relations, the ability to attend to many dissimilar things at once, responsibility for prioritising tasks from many parties without any definition as to which of them is to have first priority, and the to work under constant time pressure, are examples of elements in women's jobs that are not highly visible and are difficult to identify. The reason for this is perhaps that when one examines individual tasks involved in the job, the demands regarding doing each of them individually do not seem so extraordinarily great. However, the difficulty of the job consists of how many-sided it is, and the fact that it makes a large number of demands at the same time. Good overall understanding, organisational ability and the ability to deal with stress are therefore necessary for doing the job in a satisfactory manner and attending to all its aspects. Jobs of this type may be compared to cog-wheels in a large clockwork mechanism. It is assumed that the wheels will turn in the way they are designed to turn, and while this is the case, no one gives much thought to their role. It is only when something goes wrong that their importance is brought home to other people.

The third factor that should be considered in this context concerns the definitions of requirements regarding vocational training or education. The discussion of the conclusions of the project and the *HAC* system by the governing committee of the National Hospital [...] included the question "...whether it is necessary to revise the definition of the part that assess the requirements regarding vocational training/education so as to make it give a true picture of the necessary vocational training in jobs that involve a considerable degree of complexity yet for which little or no requirements are stated regarding education, or even no formal requirements regarding vocational training, as is the case, for example, with various office work and service jobs." In the *HAC* system, when vocational training is assessed, attention is paid to how long it normally takes to acquire the necessary training, practice and experience to be able to attend to all the tasks involved in the job and that a fully-trained employee may normally be expected to cope with. Evaluation of necessary vocational training is difficult for various reasons, and amongst other things it must be examined in connection with the evaluation of the educational requirements for the job concerned. Frequently, no formal requirements are made regarding education or previous working experience for a particular job, and nor is any provision made for formal and specifically defined vocational training in the workplace for the job involved. Nevertheless it may be assumed that when persons are engaged, those who have a specific basic education or experience that may be of value to them in the job will have priority, without this being specifically evaluated. When it comes to evaluating the training necessary in order to be able to attend to all aspects of the job, it is evident that education or previous working experience will shorten the training period necessary for the job. If allowance is made for vocational training, courses or further education programmes for specific jobs, this should facilitate evaluation of these aspects. If no such things are allowed for, and the employees are expected to master the job without organised training, this makes evaluation more difficult. On the one hand, it is possible that the employees themselves and their bosses take the view that the job makes no requirements regarding vocational training because it is not specifically defined. On the other hand, it may prove difficult to assess how much time the employee should normally require to master all aspects of the job, partly because the definitions are unclear and the employees are given more and more tasks as

their skills increase. In addition, it is necessary to remember that job experience is not necessarily restricted to paid employment on the labour market. Housekeeping and bringing up children, for example, may constitute important experience on which to draw in certain jobs. It is important that such experience be evaluated and that the skills and abilities it confers should not be taken for granted or regarded as a “natural” feminine quality.

The aforementioned points connected with the assessment of the educational and vocational requirements of specific jobs demonstrate that the difficult of assessing these matters will not be removed primarily by changing the definitions of the job evaluation system. A realistic assessment of them will be follow from having the demands which specific jobs make as regards education, working experience and/or vocational training defined better in the workplace involved, and in addition it is necessary to examine closely the relationship between them.

5.3 Non-gender-biased job evaluation – in contrast to the prevailing traditions

Increasing attention has been given in the past few years to the question of whether, and if so, how, job evaluation can be used to reduce gender-based wage differentials. A great deal has been said about job evaluation and the experience that has been gained of its application internationally, in the course of which discussion conventional job evaluation systems, i.e. job evaluation systems that have achieved a considerable degree of currency but were not specifically designed to promote gender equality, have been placed under the microscope. These systems have come in for harsh criticism, generally because their use results in gender discrimination and hinders change in the prevailing wage policy. Another criticism is that the systems uphold and justify the prevalent value judgements and consolidate existing discrimination even more convincingly. The reason why this is so is thought to be that the systems do not take into account factors that are characteristic of traditional women’s jobs, or that these factors are accorded very low weighting. Furthermore, it is argued that conventional job evaluation systems are not intended to bring about change, but rather to provide systematic “arguments” and “justification” for the wage policy that is current in the institution/enterprise where job evaluation is carried out. Despite these criticisms, experience has shown that consulting companies that market job evaluation systems and assistance with their use demonstrate little readiness to modify the system to make them impartial from the point of view of gender.

The NOU report *Arbeidsvurdering som virkemiddel for likelønn* discusses the opposition of consulting firms towards changing their conventional job-evaluation systems in response to contemporary demands regarding non-gender-biased job evaluation. It states that in the campaign for gender equality regarding wages, it has become common practice to examine conventional job evaluation systems thoroughly in order to establish whether they have an inbuilt gender bias. The aim is to compel consulting firms to change their systems because the use of the existing systems is a violation of gender equality legislation. Examples are given of court cases in which employees have sued employers for using job evaluation systems that are gender discriminatory. In two large cases that were brought before the European Court and the Canadian Labour Court, it was demonstrated that the job evaluation systems referred to involved gender discrimination. Both judgements included detailed discussion of the discrimination, presenting a great deal of material setting out certain guidelines on how comparable and fair evaluation of the work of men and women can be guaranteed.⁶

The aforementioned NOU report points out that the criticisms that have been levelled at conventional job evaluation systems in the past have not prevented them from becoming more widely used, both in the private and the public sector. If such systems are to be adopted in the campaign for equal wages, then their capacity to grasp the content of traditional women’s jobs in the same way as they grasp the content of traditional men’s jobs will be crucial for the outcome. Therefore, it is argued in the report, it is necessary to change these systems and design them in such a way that they

⁶ NOU, 1997: 10, p. 120.

meet the requirements regarding non-gender-biased evaluation of the work done by women and men. It is pointed out that this requires expert knowledge for identifying how the systems are gender discriminatory. The report states that it is also vital that there should exist some legal remedies that can be invoked if it proves necessary to demand modification of the job evaluation systems that are in use.⁷

In the light of the experience gained from the experimental project on job evaluation and with reference to other information gathered when the project was put into practice, the aforementioned views are endorsed. It is important that clear requirements be made regarding the job evaluation systems that are adopted in Iceland, and the accent should be on having the systems themselves and their use comply with Iceland's international obligations regarding gender equality.

With the exception of the local authorities' job evaluation system, job evaluation has not been used a great deal in Iceland up to now, and no other job evaluation systems have become permanently established in the country. In this respect, conditions in Iceland are different from those in most other places where there is a tradition of the use of job evaluation and certain systems have become established over time. Nonetheless, it may be expected that as interest in job evaluation grows in the Icelandic labour market, various overseas systems will be translated and marketed in Iceland, and reference will be made to the fact that they have been used for many years. Those who have worked for the introduction of non-gender-biased job evaluation have found that job evaluation systems that are specially designed with the aim of gender impartiality in mind generally meet with opposition and it has been difficult to have them adopted side by side with an established wage and personnel policy. Partly for this reason, it may be more fruitful for the campaign for gender equality to concentrate instead on improving conventional job evaluation systems rather than designing new ones. On the other hand, the opposition shown by consulting firms to changing their system argues against this point of view. In many countries overseas, a great deal of work has been put into designing non-gender-biased job evaluation systems that are supposed to serve to assess work done by men and women on a comparable and impartial basis. This work is difficult, and in fact it can be said that whether effort is directed towards improving conventional systems or creating new ones, the main problem consists of explaining in a way that can not be faulted what is meant by the term "non-gender-biased" job evaluation.

When conventional job evaluation systems are marketed, emphasis is always placed on the assertion that they constitute a tool for evaluating jobs scientifically and impartially. Furthermore, it is maintained that because the systems contain no reference to the sex of the employees, the possibility of gender discrimination in the evaluation of jobs done by men and women is excluded. In the light of the ideology of non-gender-biased job evaluation, this claim is rejected because on a gender-divided labour market, jobs done by men and women differ in so many ways that conventional job evaluation systems fail to comprehend various factors that are characteristic of women's jobs. The reason for this, it is argued, is that men have been dominant on the labour market for most of the time, and when job evaluation systems have been designed, men's jobs have been used as the yardstick, and the characteristics of various women's jobs have been ignored. Those who argue for non-gender-biased job evaluation systems also approach with caution the assertion that job evaluation is a scientific and impartial technique. The new factors on which non-gender-biased job evaluation is based require an awareness that there is always a certain partiality involved when job evaluation is carried out. It is necessary to examine the structure of job evaluation systems and all decisions involved in the job evaluation process with wage equality between the sexes in mind, and also bearing in mind that the aim of the exercise is to compare men's and women's jobs in a spirit of equality.

⁷ NOU, 1997: 10, p. 72.

From the foregoing it is clear that job evaluation can never be a universally valid and correct yardstick for establishing the value of jobs. Nonetheless, it constitutes an important attempt to co-ordinate decisions on wages and make them clearer by evaluating all jobs in a systematic manner. Job evaluation is a particular method by which values and attitudes that are reflected in the structure and use of the job evaluation systems in use at any time can be built into a system. Job evaluation systems that are based on the view that changes to the existing wage ratios are unnecessary and even undesirable will never achieve anything other than a consolidation of the existing wage system. The results of job evaluation carried out according to such systems will first and foremost consolidate the reality that most people are familiar with and consequently they will not threaten the status quo. Job evaluation systems that are based directly on the view that the prevailing wage policy is antiquated and that it discriminates between the sexes, and that it needs to be changed will, on the other hand, definitely cause unrest, not least among those who consider that other people's position may be redressed at their expense.

The use of job evaluation to reduce gender-based wage discrimination does not result in instant change. What is involved is a certain ideology that may form an important element in eradicating the attitudes on the labour market that are the main cause of gender-based wage differentials.

5.4 Benefits and drawbacks of job evaluation

As has been stated, systematic job evaluation is an extensive and complicated undertaking. Its execution depends on many factors, each one of which is of great importance regarding the result. It is essential to bear in mind that there is no single job evaluation system that is indisputably "right" and nor is there any one correct method of implementing job evaluation. Here follows a listing of the advantages and disadvantages of systematic job evaluation based on the experience gained in the experimental project and taking into account other data that has been gathered. It is assumed that the method is non-gender-biased, i.e. that it meets the natural requirement that it should not discriminate against either sex.

Benefits

- With systematic job evaluation, all jobs are evaluated in the same way according to rules that are decided in advance. Job content is evaluated independent of the individuals employed in each job.
- With job evaluation, it is possible to provide arguments in support of wage decisions and to make them more visible. A more transparent wage system paves the way for a critical discussion of wages and reduces the risk that arbitrary decisions will influence the determination of wages.
- Job evaluation makes it possible to compare dissimilar jobs and assess whether they are of equal value.
- With job evaluation, it is possible to identify and make visible elements in jobs that have, up to now, been undervalued in terms of wages.
- Job evaluation can be used to examine whether wage discrimination is practised within the enterprise/institution.
- Job evaluation can throw light on the system of values that results in women's jobs being valued lower when it comes to assessing them in terms of wages, so promoting greater gender equality.
- Job evaluation is a suitable tool for job development. It increases employees' and managers' understanding and knowledge of the nature and content of dissimilar jobs and strengthens their personnel policy. Job evaluation may lead to necessary reviews of individual jobs, e.g. by changing the division of roles, increasing demands, reducing workload, sharing out responsibility or increasing responsibility and encouraging an augmentation of skills. Job evaluation can be an important basis on which to build in employee interviews, and can also be of use when staff are engaged to new positions. The foregoing applications are likely to promote better utilisation of the workforce's talents, and it simplifies the setting of goals

and promotes positive developments in the company's activities. Job evaluation can also give important information on working conditions and the working environment of the employees and facilitate the assessment of the need for vocational training, further education and continuing education.

- Systematic job evaluation changes the work involved in negotiating agreements between employees and employer, and also between the trade unions and the employers. It can be time-consuming and involve a great deal of work to develop, institute and maintain job evaluation; on the other hand, work on agreements, both wages and terms agreements and employment contracts, should become easier as time goes by.

Drawbacks

- Although job evaluation has a scientific guise, it is nevertheless based to a substantial degree on subjective assessment. This applies to the choice of factors, their definition and decisions on the weighting of factors, i.e. which aspects of a job are most important and which are least important.
- Many different job evaluation systems exist, and various methods can be employed when job evaluation is carried out. No job evaluation system is indisputably correct, and nor is there any one single method of carrying out job evaluation. For this reason, different job evaluation systems may produce dissimilar results, and no job evaluation result is unequivocally the one true result.
- Job evaluation that is not free of gender bias frequently does nothing but reflect the current system of valuation on the labour market, and may thus end up by providing reasons for, and maintaining, gender-related wage differentials that are based on prejudice and discrimination.
- Job evaluation only addresses part of wage discrimination. Special measures are needed if the wage discrimination involved in additional payments and perquisites of various types is to be tackled. If performance assessment is to be used to determine additional payments, then it is necessary to ensure that such assessment does not involve gender discrimination.
- Job evaluation does not comprehend the effects that supply and demand on the labour market may have on the wages and terms of individual occupational groups.
- Job evaluation is an extensive and complex process that demands a great deal of co-ordination on the part of different parties, and costs time and money.

5.5 Summary

Systematic job evaluation has the appearance of an impartial scientific method; this may create unrealistic expectations and raise job evaluation above the reach of necessary and fair criticism. By giving each aspect of a job evaluation system a certain percentage weighting and then assessing each job in terms of a certain number of points, statistical results are obtained that suggest the jobs have been evaluated on an infallible and strictly accurate scale. However, the findings are based on many subjective decisions, e.g. concerning the choice of factors and their definition, and decisions on the proportional weighting of each factor, to name only a few examples. Nonetheless, job evaluation is a particular procedure to control subjectivity in evaluating the content and value of jobs. An attempt is made to define the premises on which jobs are evaluated and to set them out in a disciplined manner and co-ordinate procedures. It can therefore be said that in the last analysis, job evaluation is based on far more scientific methods than other procedures that have generally been tried when determining wages. Last but not least, job evaluation makes it possible to compare the content and value of dissimilar jobs, and can therefore be an important tool for applying the provisions of the Act on the Equal Status and Equal Rights of Women and Men, which state that men and women are to enjoy the same wages and terms for equally valuable and comparable work. On the other hand, the prerequisite for job evaluation being of use in eradicating gender-related wage discrimination is that gender equality be the guiding principle at all stages of its application. Job evaluation that is not based on the principle of gender equality is likely, first and foremost, to confirm and justify the system of values that is the root cause of gender-based wage discrimination on the labour market.

APPENDIX II

PART III

**Guidelines on carrying out job evaluation
and the principal requirements that a job
evaluation system must meet**

Chapter 6

Draft guidelines on job evaluation

6.1 The aim of guidelines on job evaluation

According to the letter of appointment from the Minister of Social Affairs to the working group on job evaluation dated 8th March 1995, one of the tasks assigned to the group was to “...examine the formulation of guidelines on the application of job evaluation under Article 4 of the Act on the Equal Status and Equal Rights of Women and Men, No. 28/1991.” In the light of the experience gained by the working group of the implementation of the experimental job evaluation project and information about experience of job evaluation gained in other countries, the group worked on the compilation of draft guidelines on job evaluation, its implementation and the main requirements that must be made of modern and non-gender-biased job evaluation systems. **Because the working group on job evaluation ceased to function before the final report on the experimental project was ready in its final form, the draft guidelines on job evaluation published here are presented in the name of the Ministry of Social Affairs which published the report, and not that of the working group as was originally intended.**

The aim of publishing draft guidelines on job evaluation is to assist the social partners and institutions and enterprises that intend to use job evaluation as a part of their attempts to improve their decisions regarding wages, making them more transparent and eradicating gender-based wage differentials.

Following increased discussion of gender-based wage differentials and wage surveys that demonstrate the existence of gender-based wage differentials of up to 16% to the disadvantage of women,¹ attention has been directed to the question of whether job evaluation is a suitable method of eradicating these differentials. Concomitant with changes to the wage system in which the determination of wages has increasingly been shifted from centralised control to the individual institutions and enterprises, the demand for job evaluation has gained support. Amongst other things, various trade unions have recorded resolutions in their wages and terms agreements stating that systematic job evaluation is to be adopted. Although job evaluation will not replace negotiations on wages and terms, it may constitute an important foundation on which to base the determination of wages.

6.2 Organisation and management

Organisation and management of the project are of great importance when job evaluation is carried out. Generally, it is aimed to have the work in the hands of two parties: a *pilot committee* and a *job evaluation committee*, though other arrangements are possible. The pilot committee takes all the principal decisions on the execution of the project and is responsible for its management. This involves, amongst other things, defining the aim of the project, choosing a job evaluation system and adapting it, deciding what jobs are to be evaluated, weighting the job evaluation system if this is necessary, etc. The pilot committee also chooses a representative to sit on the job evaluation committee, which is completely responsible for evaluating the jobs.

6.2.1 The aim

The first step in carrying out job evaluation is to determine the aim of the project, how it is to be carried out and how the findings are to be used. It is important that there be agreement on these points between the employers and the employees. If the aim is to re-evaluate women's jobs and even out men's and women's wages, then a decision must also be taken on how this evening-out of wages

¹ E.g. the survey by the Equal Status Council, Launamyndun og kynbundinn launamunur (Wage composition and gender-based wage differentials), February 1995, and the survey made by the Social Science Institute for the City of Reykjavík, Samanburður á launum karla og kvenna sem starfa hjá Reykjavíkurborg (A comparison of the wages of men and women employed by the City of Reykjavík), May 1996.

is to be done, i.e. whether wages are to be raised in one step or over a certain number of years, which wages are to be raised first, etc.

6.2.2 Composition of the committees

The management of the job evaluation project has to be based on collaboration between employees, trade unions and managers. It is therefore important that both sides be represented in the pilot committee: the managers and the employers, appointed in consultation with the trade unions involved. The composition of the committees must reflect as far as possible the full scope of the operation, thus including, for example, representatives of different departments at various levels of the organisational chart. It is necessary and natural that both women and men should sit on the committees, and it must be guaranteed that the points of view of both sexes be expressed and heard in the course of committee work. This is vital not least because many jobs are done almost entirely by men or women, and the pilot committee must understand the difference between traditional "women's jobs" and traditional "men's jobs".

6.2.3 The pilot committee

There are certain limitations to the breadth of composition of the pilot committee; if the committee is excessively large then its work becomes encumbered and the decision-making process is slowed down. It is natural that the number of representatives on the pilot committee should depend to some extent on the size and diversity of the operation in order to guarantee that the pilot committee will have a good overview of, and insight into, the jobs that are done there. Representatives on the pilot committee must have the strength and the mandate required to be able to take all important decisions regarding the project and the way it is carried out.

6.2.4 The job evaluation committee

Generally speaking, job evaluation committees are larger than pilot committees and it is therefore easier to guarantee a broad composition. The size of the job evaluation committee will be determined by the number of jobs to be evaluated and the diversity of the operation. However, the committee may not be so large that its size militates against cohesion between members and undermines unanimity in evaluation. The ILO's discussion of the composition of job evaluation committees states that according to experience, a good number of representatives is between four and eight.² A condition for membership is that the job evaluation committee should have a good knowledge of the operation and of the jobs that are to be evaluated. The committee should include people from different types of job, men and women and people of various ages reflecting the range across the organisational chart. Care must be taken to ensure balance in the backgrounds of the committee members: for example, it is undesirable that all the men should be from managerial positions and all the women from unskilled workers' positions. Representatives in the job evaluation committee must be broad-minded, enjoy trust in the workplace and should not be on the committee as representatives of individual departments or lines of work. Guidelines on the execution of job evaluation generally recommend that the breakdown of committees by sex should reflect the ratios of men and women in the jobs that are evaluated in the project. While it is natural to take the sex ratios in the workplace into consideration, this must not result in the exclusion of either sex from work on the project, either in the pilot committee or the job evaluation committee, and it is desirable to have the ratios of the sexes in the committees as even as possible.

6.2.5 Disputes and their resolution

In full-scale job evaluation projects in which the aim is to use the findings as a basis for decisions regarding wages, it is necessary to establish some sort of *complaining committee* to deal with points of dispute. If for example working groups consider there is an inconsistency in evaluations by the job evaluation committee, they can then refer the matter to this committee. It is natural that rules be set on a specific period in which the committee is to resolve disputes. The

² Job Evaluation. 1986, p. 77.

composition of the complaining committee should be comparable to that of the job evaluation committee, though the number of members should be restricted as far as possible.

6.2.6 Publicity and instructions

It is important that all those involved in a job evaluation project should receive the necessary information and instructions on how it is to be carried out. Those who sit on the pilot committee must acquaint themselves thoroughly with the content of job evaluation and the fundamental working methods on which it is based. At the same time, the pilot committee must familiarise itself well with the structure of the job evaluation system that is to be used in the project. In the same way, the job evaluation committee will need detailed information on the structure of the job evaluation system. The committee must have well-defined working procedures to refer to, and it will require practice in the use of the system before the actual evaluation work begins. All those who take part in work on the project should receive instruction on aspects of the work process where there is a risk that incorrect working methods may lead to gender-based discrimination.

Before job evaluation begins, all employees must be informed about what is being done. This is the responsibility of the pilot committee. The employees should be given information on the aim of job evaluation, what process will be involved and who is responsible for the individual parts of it. It must be made clear to everyone how the work will be done, what will be done with the findings of the job evaluation and what effect evaluation may have on wages. In order to guarantee that this information will reach the largest possible number of people, it is desirable to use a variety of means of dissemination, e.g. an in-house newsletter, the Internet and staff meetings.

6.3 Principal demands regarding job evaluation systems

It is not possible to recommend one job evaluation system rather than another for evaluation jobs. On the other hand, certain conditions must be met in the structure of the systems if they are to be considered modern and free from gender-related bias.

6.3.1 Choice of factors

Job evaluation consists of assessing the value of jobs on the basis of their content, irrespective of the person who does the job. If a job description is inaccurate and fails to describe the job in its entirety, the evaluation will be correspondingly inaccurate. Certain tasks or areas of activity will be omitted and not included in the evaluation, even though they are part of the job in question. The same applies to the job evaluation system itself. If the job evaluation system is based on factors that are illustrative of a particular type of job, but lacks certain factors that are characteristic of other types of job, this will result in an under-valuation of some jobs. Partly because of this, special attention must be given to ensuring that the structure of the system does not result in tasks or areas of activity that are highly characteristic of women's jobs are not neglected, or that excessive emphasis is not placed on factors that are highly characteristic of men's jobs. This requirement is upheld in the judgement by the European Court in the Rummler case in Germany (Case No. 237/85) in which it is clearly stated that job evaluation systems must identify equally factors that are characteristic of traditional men's jobs, on the one hand, and women's jobs on the other. "The issue in the case was whether a job evaluation system in which physical exertion, or the lifting of heavy weights, was evaluated for the purpose of wages constituted a violation of the EU Directive on Equal Remuneration because it involved a requirement that only men could meet. The Court concluded that paying wages specifically for physical exertion was not opposed to the general principle of equal wages for men and women as long as the jobs in question called for this ability. On the other hand, the Court considered that in the same way, requirements regarding abilities that women are primarily suited to meet, e.g. regarding digital dexterity, should be evaluated in terms of wages in the same way."³

³ Launajafnrétti í framkvæmd í dreifstýrðu launakerfi 1998. (Wage equality in practice in a decentralised wage system) p. 32. This publication by the Sexual Equality Committee of the Alliance of University Graduates, the Reykjavík Sexual Equality Counsellor and the Sexual Equality Office, which is intended for the information of

Skill, responsibility, effort and job conditions

The fundamental requirement that must be made of job evaluation systems is that they comprehend the entire content of the jobs that are to be evaluated. There are no consistent guidelines on the structure of job evaluation systems and the factors on which they are to be based in order to describe jobs satisfactorily. Nevertheless, from the judgements of the European Court it can be seen that emphasis is placed on four main factors (principal factors), i.e. skill, effort, responsibility and job conditions. This accords with the factors that are generally specified in connection with ILO Convention No. 100 on Equal Remuneration for women and men for work that is comparable and of equal value. It is therefore recommended here that job evaluation systems that are based on these four principal factors – *skill, effort, responsibility and job conditions* – be used.

These principal factors give only an approximate picture of the dimensions that a job evaluation is intended to assess. It will depend, however, on the subsidiary factors and how they are defined as to whether the system will succeed in comprehending the content of all the jobs that are to be evaluated. It is not possible to give a particular formula defining a “correct” choice of subsidiary factors. Firstly, care must be taken to ensure that the job evaluation system used is capable of describing the jobs covered by the evaluation, and that the definition of the subsidiary factors will not result in gender-based discrimination. The four principal factors are examined separately below, with a summary of the main points that are to be borne in mind.

Skill

This involves the evaluation of all the types of knowledge/skill that are required in order to do a specific job. It is natural to evaluate both knowledge and skill that are acquired through schooling and skills acquired by working experience.⁴ In this area it is possible to evaluate demands made by jobs regarding physical skills and also demands regarding communicative and social skills. Many traditional women’s jobs make great demands regarding social skills, e.g. jobs involving care of persons, or other jobs in which it is necessary to deal with people in varying circumstances. Skills of this type are often not conspicuous, and care must therefore be taken to ensure that they are evaluated.

Other qualities that are in danger of being ignored when knowledge and skills are assessed are:

- fine-control movements and digital dexterity,
- co-ordination of movements, in particular co-ordination of the fingers and hands,
- organisation (as opposed to management),
- compiling reports, gathering data and the storing, sorting and organisation of documents,
- work with office machines, including simple repairs and maintenance,
- knowledge of languages and
- the ability to do different things at the same time.

Responsibility

Responsibility may include things such as responsibility for monetary assets or valuables, being in charge of work, being responsible for information, people, development work and organisation. Responsibility for people should be given particular attention: a typical gender-based bias in job evaluation systems takes the form of ignoring responsibility involving the health, well-being and security of individuals and groups. In order to ensure equality of the sexes, it is necessary that responsibilities connected with women’s and men’s spheres of work are evaluated in the same

the heads of institutions and trade union shop stewards, contains summaries of several judgements by the European Court in cases regarding equal remuneration.

⁴ Working experience is not limited to participation in the labour market, but also includes unpaid work, e.g. housework, which may form the necessary basis for certain jobs.

way. An example of discrimination in this area is, for example if responsibility for people's health, well-being and security is accorded little or no importance in the job evaluation system, while responsibility for valuable items or monetary assets carries great weight.

Other qualities that are in danger of being ignored when responsibility at work is evaluated are:

- responsibility for dealings with customers and clients,
- responsibility for confidential documents,
- responsibility for maintaining a confidential relationship with clients,
- responsibility for issuing invoices,
- responsibility for sorting and arranging documents and other materials,
- responsibility for information
- responsibility for the care of others, e.g. children, old people and patients.

Effort

This covers both physical and mental effort. The main points examined when evaluating physical effort are the demands made by the job regarding lifting burdens, working speed and work in uncomfortable or monotonous working positions. Particular care must be taken to ensure that jobs that require constantly repeated movements, e.g. work on assembly-plant conveyor belts or monotonous office work involve physical effort no less than jobs in which heavy objects are to be lifted. Similarly, a great deal of physical effort is often involved in looking after individuals with limited physical capacity of their own. Mental effort is associated, e.g., with the concentration demanded by the job. In this connection the complexity of the tasks makes a great difference, and also whether they are many-sided and require accuracy or whether the work is done under time pressure. It is also possible to evaluate the emotional strain involved.

An example of gender-based bias in job evaluation systems is when physical effort involved in lifting heavy objects is evaluated as effort while the strain resulting from constantly-repeated movements or lifting lighter objects many times is not accorded much value, or the job evaluation system fails to identify such effort at all. Particular mention should be made of the physical effort involved in working with people, e.g. in lifting or turning patients, or holding children. Other types of strain and effort involved in jobs, which job evaluation systems must be able to identify, are:

- strain involved in being constantly distracted,
- strain involved in dealing with customers, clients and colleagues,
- strain involved in doing a number of complex tasks that all have to be completed at the same time, or more or less the same time,
- strain involved in contradictory or conflicting demands in the job, when it is necessary to take orders from many different parties or when the work is done under great time pressure,
- strain involved in having to deal with complaints from service agents or the public,
- strain involved in having to calm and comfort customers or clients,
- strain involved in receiving messages or communications from angry or impatient customers and
- strain involved in attending to people who are close to death.

Job conditions

When job conditions are evaluated, attention is given to the conditions in which the job is done. Some jobs inevitably involve work in difficult or unpleasant circumstances, i.e. in conditions of abnormal heat or cold, at great heights or under the ground, or work in damp or draughty conditions, a great deal of noise, work involving constant movement to and from, etc. Evaluation takes into account various types of dirt/pollution involved in the work, e.g. dust, gas, smoke, steam, oil, excrement or body fluids. The danger of accidents and/or illness that can be attributed to the work is one of the factors coming under the heading job conditions. Evaluation assumes that normal preventive measures are taken and that instructions are followed. Many types of accident hazard or

risk of disease may be associated with certain jobs. Particular mention should be made of the danger of infection and strain-related illnesses connected with certain jobs and the danger of exposure to physical assault in the course of dealing with violent individuals.

An example of gender-based bias would be if the definitions in job evaluation systems accorded a great deal of weighting to factors such as the dirt involved in work with lubricating oil, but little weighting to the dirt involved in some traditional women's jobs, or failed to detect this factor at all. This applies, for example to work involving contact with excrement, urine and body fluids. Other job condition factors that should be borne in mind are:

- working with patients with infectious diseases and
- working in an open-plan office or reception area where the staff are constantly distracted and have no place in which to be private.

6.4 Requirements regarding implementation

Although the structure of the job evaluation system used in job evaluation is of great importance, it will not in itself guarantee a fair evaluation of jobs. Job evaluation involves many procedures, each of which has a bearing on the evaluation findings. It is therefore vital to take great care in all the procedures and to ensure that a gender bias does not creep in at any stage of the job evaluation process. Successful job evaluation depends on the participants being prepared to reconsider the current system of values and discard possible prejudices regarding jobs and their importance.

6.4.1 Preparing job descriptions

Accurate and properly prepared job descriptions are the foundation for a quality job evaluation, because the findings will be based on them to a substantial degree. It is very important that the same methods be used when information is gathered on the various jobs so as to ensure that the information will be equally valid and comparable. The job descriptions must contain clear information on the content of each job, i.e. the principal tasks, the knowledge and skills required, what sort of responsibility it involves, details of physical and mental effort required and what the job conditions are like. The contents of the job descriptions must correspond to the structure of the job evaluation system. It is necessary that all job descriptions be standardised and set out in the same way. This is important in order to ensure consistency in evaluation and make it possible to compare different jobs.⁵

Before beginning work on compiling job descriptions, it is important to convince oneself that the designations of the jobs to be evaluated refer more or less to the same tasks, i.e. to examine whether one job description will cover all the jobs within the job designation in question or whether more job descriptions are needed. This check must be made, because the jobs covered by the same designation may sometimes differ so much one from another that the only thing they have in common is the name, and are therefore not at all served by the same job description. If jobs under the same job designation are similar in all general respects, yet not entirely identical, then it is possible to compile one common basic description for the jobs. Then when job evaluation is carried out, the common basic description is used as the basis, but the contents of the jobs covered by the same designation which distinguish themselves substantially from the basic description are examined and evaluated specially. Examples of this are jobs that involve special responsibility for certain tasks, while other job requirements, the effort required and job conditions are the same as in the case of other jobs covered by the designation in question.

Job descriptions must be drawn up in close collaboration with the employees who work in the jobs concerned and with their immediate superiors. Either the employees themselves fill out a

⁵ A sample job description prepared according to the HAC system is to be found at the end of this report (see Appendix 3).

standardised questionnaire on which a job description in summary form will be based, or else this information is gathered by means of staff interviews. Both methods are sometimes used, and experience shows that this is often necessary because some people find it difficult to describe their jobs without support and assistance. In addition, it can be useful and necessary to observe employees in their work in order to gain a better overview of the nature of the work. When the job description has been compiled, it must be referred to the employees and their superiors and modifications must be made where necessary. A job description is not regarded as fully valid unless it has been signed by the relevant employee and his immediate superior or superiors. The job evaluation committee should not, however, receive job descriptions bearing names, because its evaluation should be based solely on the content of the description irrespective of the person who is in the position. For the same reason, job descriptions should never refer to the sex of the person or persons who work in the job, and consequently all use of personal pronouns (he, she; him, her; his, hers, etc.) should be avoided.

As in all other stages of the implementation of job evaluation, care must be taken when compiling job descriptions to ensure that they do not include distortion with a gender bias. There are many dangers, and it is probably safe to say it is impossible to set rules or guidelines that will ensure that all the traps will be avoided. A few points will be mentioned specifically below, however.

Firstly, different attitudes to the sexes and their work may have an important effect. An example of this could be if those involved in preparing the job description have firm ideas formed in advance on the value of various different jobs, as a consequence of which they have a tendency to play down the importance of certain factors that are characteristic for particular jobs.

Secondly, a characteristic feature of many traditional women's jobs is that they are composed of a large number of elements. The result of this seems to be that definitions of these jobs are very open and general, so giving a rather vague impression of all the tasks involved in the job. It is necessary to bear this in mind when compiling a job description and to take care that the descriptions of such jobs give a correct picture of their variety and that important aspects will not be omitted.

The third point that may pose a danger of distortion when job descriptions are made is people's differing ability to describe the contents of their work; this may result either in over-valuation or under-valuation of the job in question. For example, studies have been made in connection with job evaluation that indicate that there are differences in the presentation and choice of words and substantive emphases used by men and women when they are describing their jobs, and that this difference may result in higher value being attributed to jobs described by men.⁶ For many reasons it is difficult to avoid distortions of this type. The main problem lies in the fact that people's ability to express themselves is determined by countless factors that it is difficult to distinguish between. Many factors other than sex may have an influence on language and expression, e.g. age, education and social class, to name but a few. Particular attention should be given to these factors. It has been pointed out, for example, that people with little or no education, who work at jobs that are generally poorly regarded by society, have a tendency to make less of their jobs than is actually justified. Also related to this is the fact that people whose work involves little or no use of language, written or spoken, are in a weaker position when it comes to describing their jobs than those who use language directly as a professional tool.

To avoid distortions of the type described above it is important that those involved in drawing up job descriptions receive sound information and guidance about equality issues, gender-related difference in language, the various characteristics of traditional women's and men's occupations and training in the technique of taking interviews. Emphasis should be placed on having job descriptions

⁶ The book *Arbedsvärdering, teori - praktik - kritik*, published by the Swedish labour research institute (Arbetslivsinstitutet) discusses, on p. 97, the difference in language use by the sexes and refers to studies made in this area.

deal with the content of the jobs as impartially as possible so that they will be coloured as little as possible by the individual or individuals who fill them.

6.4.2 Evaluation of jobs/job descriptions

It is the role of the job evaluation committee to evaluate the jobs/job descriptions. In doing so, it examines in detail the job descriptions involved and evaluates them, factor by factor, in accordance with the definitions of the job evaluation system in use. It is important that those in the job evaluation committee should have, collectively, a good knowledge of the jobs to be covered by the evaluation. The work of the job evaluation committee must be democratic so that all members of the committee have an equal chance of taking part in the job evaluation process. The job evaluation committee must set itself clear working rules and observe them [...], and emphasis should be placed on maintaining consistency in the evaluation of all jobs.

6.4.3 Determining the weighting of factors

The structure of the job evaluation system, i.e. the choice of factors and of how they are defined, has a great deal of influence on the evaluation findings. In fact, the structure reflects certain attitudes concerning what is important and what is less important in different jobs (see Section 6.3.1). Another important point is the determination of the relative importance of the factors, one to another. In some job evaluation systems, the weighting of the factors is fixed, i.e. it is determined in advance by the authors of the system. Other job evaluation systems allow for the users themselves deciding the relative weighting of individual factors in accordance with their importance for the operation in which the job evaluation is carried out. In either case, this decision is based on a certain system of values, which will inevitably be subjective. Here, special care must be taken to ensure that this weighting will not result in gender discrimination. The danger of this consists precisely in the fact that men and women choose different jobs with different emphases.

As was stated in Section 6.3.1, it is important that the factors used in the system identify the factors that characterise both traditional women's jobs and traditional men's jobs. Decisions on the weighting of individual factors in the system may, on the other hand, result in these factors being distorted, e.g. if the factors that characterise both traditional women's jobs generally receive much smaller weighting than those that characterise traditional men's jobs. For this reason, it is not enough that the job evaluation system contain factors that detect the main emphases in traditional women's jobs if the decisions taken by the pilot committee result in precisely these factors receiving proportionally the lowest weighting.

In order to avoid gender-related distortion in the weighting of the factors of the job evaluation system, it is necessary to investigate particularly those factors that receive the highest weighting, on the one hand, and those that receive the lowest, on the other. If it can be assumed that decisions on the weighting of factors will be to the disadvantage of either sex at the expense of the other, e.g. in such a way that traditional men's jobs systematically score highest in the factors that have received the greatest weighting while traditional women's jobs have been rated under the factors that have received the lowest weighting, then this is an indication of gender discrimination.

Decisions on the weighting of factors can never be based on scientific methods because they are based primarily on an objective assessment of the value of individual factors. On the other hand, it is vital to approach rational decisions by defining, as accurately as possible, the aim and value of the operation in which the job evaluation is being carried out and to rank the factors in the system in order of priority in accordance with this definition. When this is done, the relative importance of each factor must be determined, which should preferably be done (and will be best done) through purposeful discussion by those involved. The final outcome of the weighting of the factors will, however, always be based to some extent on compromise in which dissimilar value assessments and different understandings of the concept of "justice" have to meet. In this respect, the same applies

here as to wage determination in general: points of view that all those concerned can agree on must be taken into consideration.⁷

The relative weighting of the factors of the job evaluation system should indicate what factors are most important for the operation in order to achieve its goals as successfully as possible. When determining the weighting of factors, one must never proceed from assumed premises, i.e. in such a way that factors are given weighting that is likely to confirm and justify the prevalent wage differentials.

6.4.4 Reasoned decisions on the payment of wage supplements

Job evaluation assesses only the content of jobs, i.e. the conditions that have to be met in order to perform the job in question in a satisfactory manner. Individual performance, or particular results attained by individuals, are not assessed. For this reason, job evaluation can only be useful as a yardstick when jobs are ranked in pay-scale groupings. Decisions on wage supplements based on length of working experience, success or particular abilities of individuals or groups must be based on other premises. The main strength of job evaluation is that enables jobs to be evaluated in as objective and systematic a way as is possible, and that all jobs are evaluated on the same basis. It must be borne in mind, on the other hand, that clear arguments are necessary for all decisions regarding wages in order to meet the requirements of the Act on the Equal Status and Equal Rights of Women and Men to the effect that men and women are to enjoy the same wages and terms for work that is comparable and of equal value. Therefore, it is important that decisions on wage supplements be based on clear and well-defined rules and scales of reference in which special care is taken to ensure that gender discrimination does not take place.

6.5 Draft guidelines - summary

Non-gender-biased job evaluation can be an important element in eradicating gender-based wage differentials. Through job evaluation, it is possible to identify and explain factors in traditional women's jobs that have been undervalued. The systematic re-evaluation of traditional men's and women's jobs carried out on this basis can thus give a new insight into the value of dissimilar jobs with the legislation on equal wages and terms for work that is comparable and of equal value as the guiding principle.

Non-gender-based job evaluation makes certain demands of the job evaluation systems that are used, and also regarding the implementation of the evaluation itself. Particular emphasis is put on the following points:

Consultation: Job evaluation must be carried out in consultation with managers, employees and the trade unions involved. This means that these parties must take joint decisions regarding:

- the aim of the project
- the choice of job evaluation system and
- appointments to committees.

A non-gender-based job evaluation system: It must be ascertained that the job evaluation to be used is free of gender discrimination.

- It is recommended that job evaluation be based on four factors: skill, responsibility, effort and job conditions.
- The factors in the system must comprehend the content of traditional women's and men's jobs with equal validity.
- Decisions regarding the weighting of factors must ensure job evaluation that is free of gender-based bias.

⁷ JämO. 1995, p. 27.

Execution of the job evaluation: Job evaluation involves many procedures, each of which has an effect on the outcome of the evaluation. It is therefore necessary to take care in the execution and ensure that gender-related distortion does not creep into the job evaluation process.

- It must be ensured that the points of view of both sexes are heard in connection with all decisions relating to the execution of the evaluation and when jobs are evaluated. The proportions of the sexes on committees should be as equal as possible.
- When job descriptions are drawn up, it is important that the same methods be used when gathering information about different jobs. Job descriptions must never contain references to the individuals or to the sex of the individuals employed in the positions.
- The same job evaluation system, and the same methods, must be used when assessing all the jobs to be included in the job evaluation.

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Translated from the Icelandic:

Act on the Equal Status and Equal Rights of Women and Men

[Iceland]

SECTION I

Aim and Scope of this Act

Art. 1

Aim

The aim of this Act is to establish and maintain equal status and equal opportunities for women and men, and thus promote gender equality in all spheres of the society. All individuals shall have equal opportunities to benefit from their own enterprise and to develop their skills irrespective of gender. This aim shall be reached by:

- a. gender mainstreaming in all spheres of the society,
- b. working on the equal influence of women and men in decision-making and policy-making in the society,
- c. enabling both women and men to reconcile their occupational and family obligations,
- d. improving especially the status of women and increasing their opportunities in the society,
- e. increasing education in matters of equality,
- f. analysing statistics according to sex.
- g. increasing research in gender studies.

SECTION II

Public Administration

Art. 2

Overall responsibility

The Minister of Social Affairs shall be in charge of the implementation of this Act unless otherwise provided for. The Equal Status Bureau shall be a special institution for which the Minister shall have responsibility. The Bureau shall be in charge of the administration of the scope of this Act. The Minister shall decide on the location of the Equal Status Bureau.

Art. 3

The Equal Status Bureau

The Minister shall appoint the Director of the Equal Status Bureau for five years at a time. The Director shall be in charge of the Bureau's day-to-day operations and appoint its staff. The tasks entrusted to the Equal Status Bureau are among others to:

- a. monitor the implementation of this Act,
- b. provide education and information,
- c. provide counselling for the authorities, institutions, companies, individuals and non-governmental organizations,
- d. provide suggestions and proposals on activities in the matters of equality to the Minister of Social Affairs, the Equal Status Council and other authorities,
- e. increase activity in matters of equality, i.a. by increased participation of men in such activities,
- f. monitor the developments of the society in matters of equality, i.a. through the gathering of information and research,
- g. provide assistance to equal status committees, equal status counsellors and the equal status

representatives of local authorities, institutions and companies,
h. undertake other tasks consistent with the aim and scope of the Act as further instructed by the Minister.

Public institutions, employers and non-governmental organizations shall be obliged to provide the Equal Status Bureau with general information which it may need for its operations.

In special circumstances, and when it might be expected that a ruling of a court of law could have widespread influence to increase equality, or if the interests of the plaintiff are deemed to be of such nature as to justify legal proceedings, the Equal Status Bureau may initiate legal proceedings to obtain recognition of the rights of the plaintiff on the basis of the Complaints Committee on Equal Status's opinions under Art. 4. The Minister will issue regulations with further instructions on the conditions under which the Equal Status Bureau shall be justified to initiate legal proceedings.

Art. 4

The Complaints Committee on Equal Status

The Minister of Social Affairs shall appoint a Complaints Committee on Equal Status. Its members shall be appointed for a period of three years at a time. The Minister will appoint one without nomination, and the Supreme Court shall nominate two, the Committee's chairman and vice-chairman. The alternates shall be nominated in the same manner. The Committee members shall be qualified lawyers.

The role of the Complaints Committee shall be to consider and issue in writing a substantiated opinion on whether the provisions of the law have been violated. The Committee's opinion shall not be subject to appeals to a higher authority.

In cases which may be expected to have a policy-establishing effect on the labour market in general, the Committee shall seek comments from the overall organizations of employees and their contracting parties before issuing its opinion.

In cases where the Complaints Committee on Equal Status is of the opinion that the provisions of this law have been violated, it shall submit substantiated requests for improvements to the parties concerned.

The Complaints Committee on Equal Status shall issue an annual report containing its opinions

Costs of the Committee's activities shall be paid by the State Treasury. The Minister of Social Affairs may issue regulation with further provisions on the Committee's activities and office expenses.

Art. 5

Procedures of the Complaints Committee on Equal Status

Individuals, and non-governmental organization in their own name or on behalf of their members who consider that they have been subjected to violations of this law, may seek redress with the Complaints Committee on Equal Status. In special circumstances, the Complaints Committee shall be permitted to consider cases referred to it by others.

Cases shall be submitted to the Complaints Committee in written form within one year from the time the alleged violation of the law was revealed, or from the time the party concerned became aware of the alleged violation. In cases where argumentation on the basis of administrative law is being sought, this respite shall start when such argumentation has been presented. A case shall be considered to have been submitted in time if a letter containing it is received by the Committee, or has been posted, before the end of this respite.

In special circumstances, the Equal Status Bureau may request that the Complaints Committee consider a specific case.

The Complaints Committee's proceedings shall, in general, be carried out in writing; however, the Committee may summon the parties or their representatives. In other respects, the Committee's proceedings shall be carried out under the provisions of administrative law and further regulations issued by the Minister of Social Affairs on the basis of proposals submitted by the Committee.

Art. 6

Gathering of information by the Complaints Committee on Equal Status

The Complaints Committee on Equal Status shall ensure that the party to a case is given the opportunity to express himself/herself before the Committee issues its opinion, providing the Committee considers that neither his/her position nor any argumentation for it is contained in the documents of the case.

At the request of the opponent, the Complaints Committee on Equal Status can demand to be shown documents that may effect the resolution of the case from the parties.

The Complaints Committee on Equal Status may demand to be supplied with further data from the parties to a case if it considers the case not to have been explained in a satisfactory manner.

If data on pay, other working terms or rights of individuals have been presented to the Committee, the person in question shall be informed thereof. Such information shall be handled as a matter of confidentiality.

Art. 7.

The Equal Status Council

In the wake of each parliamentary election, the Minister of Social Affairs shall appoint a nine-member Equal Status Council. The Minister shall appoint the chairman without nomination, one member shall be nominated by the Icelandic Federation of Labour, one nominated by the Confederation of State and Municipal Employees, one nominated by the Ministry of Finance, one nominated by the University of Iceland, one nominated by the Federation of Icelandic Women's Associations, one nominated by the Women's Rights Association of Iceland, one nominated by the Confederation of Icelandic Employers and one nominated by the National Association of Local Authorities in Iceland.

The nominating parties shall nominate one man and one woman for each seat on the Equal Status Council. There shall be appointed an approximately equal number of women and men.

Costs of the Council's activities shall be paid by the State Treasury. The Minister of Social Affairs may issue regulation with further provisions on the Equal Status Council's activities and office expenses.

Art. 8

The Role of the Equal Status Council

The Equal Status Council shall make systematic efforts to equalize the status and the right of women and men in the labour market. The Council shall submit proposals to the Minister of Social Affairs on measures to be taken in this field.

The Equal Status Council shall serve the authorities in a consultative capacity on matters of equality regarding the labour market and it may also submit proposals for improvement in matters of equality within other spheres of the society.

Art. 9

Parliamentary resolution on a programme on matters of equality

The Minister of Social Affairs shall present to the Althing within one year from parliamentary elections, a motion for a parliamentary resolution on a four-year programme on matters of equality after having received proposals made by the various ministries and the Equal Status Bureau. This programme shall include a detailed plan of actions and an estimate of the funding needed for individual projects concerning matters of equality. This programme shall be reviewed every two years.

Concurrently with the submission of the motion for a parliamentary resolution, and its review two years later, the Minister of Social Affairs shall present to the Althing a report on the status and development in matters of equality.

Art. 10.

Equal status committees under the auspices of local authorities

In the wake of municipal elections, local authorities shall appoint 3-5-member equal status committees which shall be responsible for matters of equality within each local authority area in accordance with provisions of this Act. These committees shall serve in a consultative capacity for the local authorities in matters of equality between women and men, monitor and initiate specific measures for the purpose of ensuring the equal status and equal rights of women and men. The committees shall be entitled to give comments on, or undertake the preparation of, a four-year municipal programmes on matters of equality which shall be presented within one year from the time of the municipal elections.

Art. 11

Equality coordinators of matters of equality

Each ministry shall appoint an equality coordinator who shall monitor activities in matters of equality within the sphere of the ministry and the institutions working under the auspices of the ministry. Equality coordinator shall give the Equal Status Bureau annual report containing the ministry's activities in matters of equality whose he/she works for.

Art. 12

Equal status consultants

The Minister of Social Affairs may engage an equal status consultant to work on a temporary basis at matters of equality within specific fields and/or within specific areas.

SECTION III

Rights and duties

Art. 13

The labour market

Employers and labour unions shall make systematic efforts to equalize the status of the sexes in the labour market. Employers shall make specific efforts to equalize the status of the sexes within their companies or institutions and make efforts to promote that occupations are not categorized as specific women's jobs or men's jobs.

Companies and institutions employing more than 25 people shall prepare a programme on matters of equality or include specific provisions on gender equality in their personnel policy. It shall specifically state aims and measures to be taken to ensure for their employees the rights provided for in Arts. 14-17 of this Act.

Art. 14

Pay equality

Women and men who are employed by the same employer shall receive equal pay and enjoy equal terms for equal-value and comparable work.

In this Act, the term pay shall mean general remuneration for a work done and any kind of further fees, direct or indirect, whether made through benefit payments or in another manner, which an employer pays his employee for his work.

Equal pay means that pay shall be determined in the same manner for women and men and that the criteria on which they are determined shall not include any discrimination based on gender.

In this Act, terms, in addition to pay, shall mean pension right, the right to be granted a holiday, the right to pay during sick leaves and any other terms or benefit that may be given monetary value.

Art. 15

Vacant positions, vocational training and continuing education

A vacant position shall be open equally to women and men.

Employers shall ensure that women and men have equal opportunities to continuing education and vocational training and to attend courses that are held to increase vocational skills or to prepare for other occupations.

Art. 16

Reconciliation of occupational and family obligation

Employers shall take the necessary measures to enable women and men to reconcile their occupational and family obligations. Such measures shall, i.a., promote increased flexibility in organizing work and working hours, taking into account the needs of the labour market and the family situation of employees, i.a. making it easy for them to return to work after maternity/paternity leave or parental leave, or time off from work on grounds of force majeure for urgent family reasons.

Art. 17

Sexual harassment

Employers and directors of institutions and social activities shall take special measures to prevent employees, students and clients from being subjected to sexual harassment in the work place, within institutions, during social activities or within schools.

Sexual harassment constitutes sexual behaviour that is unreasonable and/or insulting and against the will of those who are subjected to it, and which affects their self-esteem and is continued in spite of a clear indication that this behaviour is unwelcome. Sexual harassment can be physical, oral or symbolic.

One event may be considered sexual harassment if it is serious.

If a superior is charged with sexual harassment, he/she shall be deemed incompetent to take decisions on the working conditions of the plaintiff during the investigation of the case and a higher superior shall take decisions regarding the plaintiff.

Art. 18

Advertisements

An advertiser, and someone who designs or publishes an advertisement, shall ensure that the advertisement does not in any manner slight or disgrace the other sex or work against the equal status and equality of men and women in any manner.

Art. 19

Education and schooling

Education on matters of equality shall be provided at all levels of schooling, i.a. by emphasizing the equal preparation of both sexes for active participation in the society, family life and the labour market.

Introduction on educational and vocational training opportunities, and counselling within schools, shall introduce to both boys and girls those occupations which up to now have been considered as traditional male or female work.

Special care shall be taken to ensure that educational materials and textbooks are designed so as not to discriminate against either sex.

Research into the status of the sexes in Icelandic society shall be strengthened, both basic academic research and practical research, and the results disseminated systematically within the educational field and to the media.

The Ministry of Education shall monitor the development of matters of equality within the fields of education and pedagogy, and ensure gender equality within the fields of sports and leisure activities. Furthermore, the ministry shall monitor research in matters of equality (cf. par. 4).

Art. 20

Participation in public committees and boards

Efforts shall be made, wherever possible, to ensure approximately equal participation of women and men in committees, boards and councils under the auspices of the Government and local authorities. Attention shall be called to this fact whenever nominations are requested for the relevant committees, boards and councils.

Art. 21

Statistical analysis

In the production of official statistics on individuals and in interview and opinion surveys information shall be collected, compiled, analysed and presented on the basis of gender unless specific circumstances such as protection of privacy speak against it.

SECTION IV

Prohibition of discrimination on the basis of sex

Art. 22

General prohibition of discrimination

Any type of discrimination on the bases of gender, either direct or indirect, shall be prohibited.

However, special temporary measures taken to improve the status of women or men, for the purpose of ensuring equality and the equal status of men and women, shall not be considered violations of this Act. Also, measures taken to increase the opportunity of women or men specifically to promote equality, and the equal status of men and women, shall not be considered in violation of this Act. The same shall apply if it is deemed necessary to engage one sex due to objective factors connected with the occupation.

It shall not be considered discriminatory to make special allowances for women due to pregnancy or the birth of a child.

Art. 23

Prohibition of discrimination regarding terms

Employers shall be prohibited from discriminating against employees regarding pay and other terms on the basis of their sex.

When evidence is presented that a woman and a man, employed by the same employer, receive different pay or other terms for equal-value and comparable work, the employer shall be obliged, if there is any difference, to prove that the difference can be explained by other factors than gender.

Art. 24

Prohibition against discrimination upon engagement and in working conditions

Employers shall be prohibited from discriminating between applicants for a work on the basis of gender. The same rule shall apply regarding promotion, changing of position, continuing education, vocational training, study sabbaticals, dismissal, employee's working conditions and the working environment.

It shall be prohibited to advertise, or publish an advertisement for, a vacant position indicating that an employee of one sex is preferred over the other. This provision shall not apply if the aim of the advertiser is to promote a more equal distribution of the sexes within an occupational sector, and this shall then be indicated in the advertisement. The same rule shall apply if there are legitimate reasons for advertising only for one of the sexes.

If evidence is presented of direct or indirect discrimination due to sex in the engagement, appointment, whether temporary or permanent, to a occupation, promotion, changing of position, continuing education, vocational training, study sabbaticals, dismissal, working conditions or the working environment, the employer shall be obliged to prove that other reasons than sex were the criteria for his/her decision.

Art. 25

Prohibition of dismissal

Employers shall be prohibited from dismissing an employee for the sake of his/her demanding redress on the basis of this law.

Employers shall also ensure that no employee is subjected to injustice in his/her occupation, e.g. regarding safety at work, working terms or the assessment of his/her performance, due to the fact that he/she has complained about sexual harassment or discrimination on the basis of gender.

If evidence is presented that this provision has been violated, the employer shall prove that the dismissal or alleged injustice was not based on the employee's demand for redress, or his/her charge concerning sexual harassment or other gender discrimination. This rule will not apply if the dismissal is made more than a year from the time of the employee's demand for redress on the bases of this Act.

Art. 26

Education

Within schools, and other educational and pedagogical institutions, any kind of discrimination on the basis of gender shall be prohibited. This rule shall be heeded in studies, teaching, work routines and day-to-day relations with students.

The director of an institution shall ensure that a student or client shall not suffer for having complained of sexual harassment or gender discrimination.

Art. 27

Prohibition of the waiving of rights

It shall not be permitted to waive any rights provided for by this Act.

SECTION V

Sanctions

Art. 28

Compensation for financial and non-financial loss

Anyone who deliberately or through negligence violates this law shall be liable for damages under general rules. Furthermore, the party in question may be awarded to pay compensation for non-financial loss, in addition to any financial loss, to whom subjected to damages, if applicable.

Art. 29

Fines

Violations of this Act may be liable to fines to be paid to the State Treasury.

SECTION VI

Other provisions

Art. 30

The Minister for Social Affairs may issue regulation on the further implementation of this Act.

Art. 31

Commencement

This Act shall take effect immediately. At the same time the Equal Status and Equal Rights of Women and Men Act, No. 28/1991, with subsequent amendments, shall be revoked.

Interim provisions

On commencement of this Act, the remit of the current Equal Status Council shall be revoked and a new Equal Status Council shall be appointed for the period until the next parliamentary elections.

On commencement of this Act, the remit of the current Complaints Committee on Equal Status shall be revoked. The Minister of Social Affairs shall appoint Complaints Committee

on Equal Status which will take over the activity from the ex-Complaint Committee. On commencement of this Act, the Minister shall appoint one member to the Complaints Committee on Equal Status, without nomination, to a period of three years. The Supreme Court shall appoint two members, a chairman for a period of four years and a vice-chairman for a period of two years. The alternates shall be appointed in the same manner.

The current Director of the Equal Status Council shall continue in his occupation until the Minister of Social Affairs has appointed the Director of the Equal Status Bureau under Art. 3, par. 1.

Passed by the Althing, 9 May 2000.

Translated from Icelandic:

Act on Maternity/Paternity Leave and Parental Leave

(Presented to the Althing at its 125th annual session, 1999–2000.)

SECTION I

Aim and scope

Art. 1

Scope

This Act shall apply to the rights of parents working in the domestic labour market to be granted maternity/paternity leave and parental leave. It shall apply to parents who are employed by others or are self-employed.

This Act shall also apply to parents who are not active in the labour market and parents attending full-time educational programmes as to receiving a maternity/paternity grant.

Art. 2

Aim

The aim of this Act to ensure children's access to both their fathers and mothers.

Furthermore, the aim of this Act is to enable both women and men to co-ordinate family life and work outside the home.

SECTION II

Public administration

Art. 3

Overall responsibility

The Minister of Social Affairs shall be in overall charge of maternity/paternity leave under this Act.

Art. 4

The Maternity/Paternity Leave Fund

The Maternity/Paternity Leave Fund is to handle all payments to parents who are eligible for payments during maternity/paternity leave under Art. 13. It is, however, permitted to make arrangements with employers to handle such payments, providing they are compensated by the Maternity/Paternity Leave Fund. Payments to parents under Art. 1, par. 2, shall come out of the State Treasury.

The Maternity/Paternity Leave Fund shall be managed by the State Social Security Institute which is to handle the accounts and the day-to-day running of the fund on behalf of the Minister of Social Affairs.

The Maternity/Paternity Leave Fund shall be financed through the collection of an insurance levy (cf. Insurance Levy Act), in addition to interest on the Fund's deposits.

The Minister of Social Affairs shall ensure that the Fund has at all times sufficient funds to meet its obligations. The Fund shall prepare an annual budget which the Minister of Social Affairs shall submit to the Minister of Finance when the State Budget is being prepared.

The Annual Accounts of the Maternity/Paternity Leave Fund shall be audited by the National Audit Office of Iceland and published annually in the Official Gazette.

The Fund's operating costs shall be met by its income.

Art. 5

The Maternity/Paternity and Parental Leave Complaints Board

The Minister of Social Affairs will appoint a three-man Maternity/Paternity and Parental Leave Complaints Board and the same number of alternates. The members of the Complaints Board shall be appointed for a period of three years, one of whom shall be appointed without nomination. The Supreme Court shall nominate two, one of whom shall meet the conditions

for being appointed a district court judge, and shall serve as its chairman, and the other shall be a physician, and shall serve as its vice-chairman. The alternates shall be nominated in the same manner, and shall have the same qualifications as the principals.

The role of the Complaints Board shall be to deliver rulings on disputes which may arise under this Act.

The Complaints Board's rulings shall not be subject to appeals to a higher authority.

Costs of the Complaints Board's activities shall be paid by the State Treasury.

Art. 6

Procedure of the Maternity/Paternity and Parental Leave Complaints Board

Complaint shall be submitted in writing to the Complaints Board within three months from the time the party to the dispute was notified of the relevant decision. A complaint shall be deemed to have been received in ample time if a letter containing it is received by the Complaints Board, or is posted, before the end of the notice period.

The Complaints Board's proceedings shall, in general, be carried out in writing; however, the Complaints Board may summon the parties or their representatives.

The Complaints Board shall ensure that a party to a complaint is given the opportunity to express his/her views before the Complaints Board renders its ruling, providing the Complaints Board is of the opinion that neither his or her position nor argumentation may be surmised from the documents of the case.

In other respects, the Complaints Board's proceedings shall be carried under the provisions of administrative law.

The Social Security Institute shall provide the Complaints Board with all data relevant to each case, in addition such information and explanation which the Complaints Board considers necessary to obtain from the Institute.

The members of the Complaints Board shall be prohibited from revealing to third parties any personal data of which they may become aware in the course of their work and which should be kept secret. Professional secrecy is kept even when the occupation is given up.

The Complaints Board shall make its rulings as quickly as possible, and not later than two months from the time when a case is submitted to it.

SECTION III

Definition of terms

Art. 7

For the purposes of this Act, maternity/paternity leave and parental leave refers to leave from salaried employment that is occasioned by:

1. a birth,
2. a primary adoption of a child under the age of eight years, or
3. a permanent foster care of a child under the age of eight.

For the purposes of this Act, "employee" refers to anybody who is employed in a salaried position in the service of others amounting to at least a 25% of a full-time position each month. Notwithstanding this, the term "employee", as used in Section VII, shall apply to all those who are employed in salaried positions in the service of others.

"Self-employed individual" refers to anybody who works for himself, irrespective of the type of company, to the effect that he/she is obliged to pay an insurance levy every month, or in another manner decided by the tax authorities.

For the purposes of this Act, a woman shall be considered as having recently given birth to a child if the child is 14 weeks old or younger.

SECTION IV

Maternity/Paternity Leave

Art. 8

Parents' rights in the labour market

Under Art. 1, par. 1, parents shall each have an independent right to maternity/paternity leave of up to three months due to a birth, primary adoption or permanent foster care of a

child. This right shall not be assignable. In addition, parents shall have a joint right to three additional months, which may either be taken entirely by one of the parents or else divided between them. The right to maternity/paternity leave shall lapse when the child reaches the age of 18 months.

The right to maternity/paternity leave shall be established upon the birth of a child. However, a woman shall be permitted to start her maternity leave up to one month prior to the expected birth date, which shall be confirmed by a medical certificate.

A woman shall take maternity leave for at least the first two weeks after the birth of her child.

In the case of adoption of a child, or the taking of a child into permanent foster care, the time-reference shall be based on the date when the child enters the home, providing this is confirmed by the relevant Child Welfare Committee, or other competent bodies. If the parents have to fetch the child from another country, the maternity/paternity leave may begin at the start of the journey, providing the relevant authorities or institute have confirmed that permission has been granted for the adoption of a child.

A parent's right to maternity/paternity leave shall be conditional on the fact that the parent herself/himself has custody of the child, or has joint custody with the other parent at the beginning of the maternity/paternity leave (cf., however, par. 6).

A non-custodial parent shall have the right to maternity/paternity leave providing the custodial parent has agreed that the non-custodial parent is to have access to the child during the period of the maternity/paternity leave.

Should one of the parents die before the child reaches the age of 18 months, the right to maternity/paternity leave which the deceased has not utilized shall revert to the surviving parent.

Art. 9

Notification of maternity/paternity leave

When an employee intends to exercise the right to maternity/paternity leave, she/he shall notify her/his employer thereof as soon as possible and at least eight weeks prior to the expected birth date of the child. Should a woman wish to change a previously-notified starting date of her maternity leave (cf. Art. 8, par. 2), she shall notify her employer of this three weeks prior to the new intended starting date of her maternity leave.

Notice of the maternity/paternity leave shall be given in writing and shall state the intended starting date of the leave, its length and its structure. The proposed division of the parents' joint maternity/paternity leave shall also be stated. The employer shall then sign the notification with the date of receiving it and deliver a copy thereof to the employee. The employer may demand, if he considers it necessary, confirmation of the fact that the parent has the custody of a child, or that the approval of the custodial parent has been obtained.

Art. 10

The structure of maternity/paternity leave

Employees shall have the right to take maternity/paternity leave in a one continuous period.

However, the employee shall be permitted to make arrangements with her/his employer for the maternity/paternity leave to be divided into a number of periods and/or that it will be taken concurrently with a reduced worktime ratio (cf., however, Art. 8, par. 3). However, maternity/paternity leave may never be taken in periods of less than one week at a time. The employer shall make efforts to meet the wishes of the employee regarding the structure of maternity/paternity leave under this provision.

Should the employee wish to arrange her/his maternity/paternity leave under par. 2, and the employer is unable to accept her/his wishes, the employer, having consulted the employee, shall propose another arrangement within one week of the date of receiving the notification (cf. Art. 9, par. 2). This shall be done in writing and the reasons for the altered arrangement shall be stated.

Should no agreement be reached between the employee and her/his employer on the taking of the employee's maternity/paternity leave, the employee shall always have the right to take her/his maternity/paternity leave in one continuous period as of the starting date decided by the employee.

Art. 11

Safety and health in the work place

If the safety and health of a pregnant woman, a woman who has recently given birth to a child, or a woman who is breastfeeding a child, is considered to be in danger according to a special assessment, her employer shall make the necessary arrangements to ensure the woman's safety by temporarily changing her working conditions and/or working hours. If this is not possible for technical reasons, or other valid reasons, the woman's employer shall entrust her with other tasks; if this is not possible, he/she shall grant her leave of absence for the length of time necessary to protect her safety and health. This provision shall be implemented under further rules to be issued by the Minister of Social Affairs.

Those changes, which are considered necessary in a woman's working conditions and/or working time (cf. par. 1), shall not affect her wages so as to reduce them or abridge her other job-related rights.

If it is necessary to grant a pregnant woman leave under this Article, she shall be entitled to payment (cf. Article 13).

Art. 12

Right to maternity/paternity leave in the event of stillbirth and miscarriage

Parents shall have a joint right to maternity/paternity leave of up to three months in the event of a stillbirth after 22 weeks of pregnancy. In the event of a miscarriage after 18 weeks of pregnancy, the parents shall have a joint right to maternity/paternity leave of up to two months.

Art. 13

Parents' rights to payments from the Maternity/Paternity Leave Fund

A parent (cf. Art. 1, par. 1) shall obtain the right to payments from the Maternity/Paternity Leave Fund after he/she has been active in the domestic labour market for six consecutive months prior to the first day of the maternity/paternity leave. A parent's working time in other EEA countries shall be taken into account if the parent has been employed in Iceland for at least one month during the last six months prior to the first day of the maternity/paternity leave. So as to establish the working time of a self-employed parent, the payment of the insurance levy on his/her calculated remuneration for the same period shall be taken as a base.

The Maternity/Paternity Leave Fund's monthly payment to an employee during maternity/paternity leave shall amount to 80% of her/his average wages during a 12-month consecutive period ending two months prior to the first day of the maternity/paternity leave. Included in such wages shall be all forms of wages and other remunerations under the Insurance Levy Act.

The Maternity/Paternity Leave Fund's monthly payment to a self-employed parent shall amount to 80% of her/his calculated remuneration on which an insurance levy has been paid for the same period.

However, the monthly payment during maternity/paternity leave to a parent in a 25-49% part-time job shall never be less than ISK 54,021, and the monthly payment to a parent holding a 50-100% job shall never be less than ISK 74,867.

The amount of minimum payments shall be reviewed in connection with the enactment of the State Budget every year with a view to trends in wages, price levels and the economy. However, the Minister of Social Affairs shall be authorized, with the approval of the government, to raise this amount if significant changes in wage trends and conditions in the national economy take place after the enactment of the Budget.

Payments during maternity/paternity leave shall be made monthly, for the preceding month or part of a month, on the first day of each month.

A parent's right to receive payments during maternity/paternity leave shall be subject to her/his meeting the conditions for the right to maternity/paternity leave under Art. 8.

The Minister of Social Affairs may issue further regulations on payments from the Maternity/Paternity Leave Fund, e.g. as regarding the assessment of the employment ratio of self-employed people and of those who are exempt under law from payment of the insurance levy.

Art. 14

Accumulation and protection of rights

During maternity/paternity leave, a parent shall pay a minimum of 4% of the maternity/paternity leave payment into a pension fund and the Maternity/Paternity Leave Fund shall pay a minimum of 6%. In addition, the parent shall have the right to pay into a private fund, in which case the Maternity/Paternity Leave Fund shall be obliged to make the statutory complementary contribution.

Maternity/paternity leave shall count as working time for the purpose of assessing work-related rights, such as the right to holiday or the extension of the holiday period under wage agreements, wage increases due to seniority, sickness rights, a notice period of termination of employment and the right to unemployment benefit.

The provisions of para. 1 and 2 shall also apply to leave granted to pregnant women under Art. 11.

Art. 15

Applications to the Social Security Institute

Parents (cf. Art. 1, par. 1) shall apply for payment during maternity/paternity leave to the Social Security Institute six weeks prior to the expected birth of the child. Should a woman wish to start her maternity leave prior to the expected birth date (cf. Art. 8, par. 2), she shall notify the Social Security Institute thereof three weeks prior to the intended starting date of her maternity leave.

Applications shall be in writing and shall state the intended starting date of the leave, its length and its structure. Furthermore, the intended division of the joint maternity/paternity leave between the parents shall be stated. The application shall be signed by the prospective mother and father, providing both have custody of the child. A non-custodial parent shall sign the application if he/she meets the condition stated in Art. 8, par. 6. The same shall apply even though one of the parents is not active in the labour market or is attending full-time educational programmes (cf. Art. 1, par. 2). If applicable, the employers of both parents shall sign the application to confirm the arrangements regarding maternity/paternity leave.

Calculations of payments to a parent during maternity/paternity leave shall be based on data which the Social Security Institute shall acquire on the income of an employee or a self-employed parent from the tax authorities' records of income tax and insurance levies. If a parent considers the information from the relevant list not correct, he/she shall present data to support this contention.

The Minister may issue regulations on the further implementation of this provision.

SECTION V

Exceptional circumstances

Art. 16

Multiple births

Parents shall have a joint right to the extension of maternity/paternity leave by three months for each child after the first in a multiple birth.

Payments shall be effected under Art. 13.

Art. 17

Illness of a child or its mother

Should a child need to stay in hospital for more than seven days directly following the birth, it shall be permitted to extend the parents' joint right to maternity/paternity leave by the number of days the child has to stay in hospital, prior to its first homecoming, by up to four months.

It shall also be permitted to extend the parent's joint right to maternity/paternity leave by up to three months in the case of a serious illness of the child which requires more intensive parental attention and care.

It shall be permitted to extend the mother's maternity leave by up to two months due to a serious illness suffered by her in connection with the birth.

Should it become necessary for a pregnant woman to cease paid employment for the sake of her health more than a month prior to the expected birth of her child, she shall be entitled to payment during her maternity leave during this period, though not for more than two months. Should the birth occur prior to the expected birth date of the child, the authorization for extension under this provision shall cease to apply from that time. The Minister shall issue regulations on further conditions regarding the application of this provision.

The need for the extension of a maternity/paternity leave under pars. 1-4 shall be established by a medical certificate. The Chief Medical Officer of the Social Security Institute shall assess whether the extension of maternity/paternity leave is necessary under this provision. His/her decision may be referred to the Maternity/Paternity and Parental Leave Complaints Board (cf. Art. 5).

The application for the extension of maternity/paternity leave under par. 4 shall be accompanied by a certificate from the employer. In this certification, it shall be stated when wage payments were discontinued.

Payments shall be effected under Art. 13.

SECTION VI

Parents not active in the labour market or attending full-time educational programmes

Art. 18

Maternity/paternity grants to parents who are not active in the labour market

Parents who are not active in the labour market, or who are employed in less than 25% of a full employment position, shall have an independent right to a maternity/paternity grant for up to three months each in connection with a birth, primary adoption or permanent foster care of a child. This right shall not be assignable. In addition, parents shall have a joint right to a maternity/paternity grant for three additional months, which may be exercised entirely by one parent or divided between them. The right to a maternity/paternity grant shall lapse when the child reaches the age of 18 months.

The maternity/paternity grant shall amount to ISK 33,157 per month. Normally, the parent shall be permanently domiciled in Iceland at the time of the birth of the child and shall have been domiciled in Iceland for the 12 months preceding the birth.

Regarding adoption, or permanent foster care of a child, the payment of the maternity/paternity grant to the parents shall be made on the basis of the time when the child arrives at their home, providing this is confirmed by the Child Welfare Committee in question, or other competent bodies. If the parents have to fetch the child from another country, the payment of the maternity/paternity grant could start at the beginning of the journey, providing the relevant authorities or institute have confirmed that permission has been granted for the adoption of a child.

A parent's rights to a maternity/paternity grant shall be conditional on the fact that the parent himself/herself has custody of the child, or has joint custody with the other parent when the payment of the maternity/paternity grant is begun.

Payments of a maternity/paternity grant to a parent shall be made in retrospect, on the first working day of each month, covering the previous month.

If one of the parents exercises part of the parents' joint right to a maternity/paternity leave, and receives payment from the Maternity/Paternity Leave Fund under Art. 13, the period of payment of the maternity/paternity grant shall be shortened accordingly.

Art. 19

Maternity/paternity grants to parents attending full-time educational programmes

Parents attending full-time educational programmes shall each have an independent right to a maternity/paternity grant for up to three months in connection with a birth, primary adoption or permanent foster care of a child. This right shall not be assignable. In addition, parents shall have a joint right to a maternity/paternity grant for three additional months, which one of the parents may use entirely or which the parents may divide between themselves. The right to a maternity/paternity grant shall lapse when the child reaches the age of 18 months.

The maternity/paternity grant for a parent attending a full-time programme of education shall amount to ISK 74,867 per month. In general, a parent shall be domiciled in Iceland at the time of the birth of the child and shall have been domiciled in Iceland for the 12 months preceding the birth.

Regarding adoption, or permanent foster care of a child, the payment of the maternity/paternity grant to the parents shall be made on the basis of the time when the child arrives at their home, providing this is confirmed by the Child Welfare Committee in question, or other competent bodies. If the parents have to fetch the child from another country, the payment of the maternity/paternity grant may begin at the start of the journey, providing the relevant authorities or institute have confirmed that permission has been granted for the adoption of a child.

A parent's rights to a maternity/paternity grant shall be conditional on the fact that the parent herself/himself has custody of the child, or has joint custody with the other parent when the payment of the maternity/paternity grant is begun.

Payments of a maternity/paternity grant to a parent shall be made in retrospect, on the first working day of each month, covering the previous month.

If one of the parents exercises part of the parents' joint right to a maternity/paternity leave, and receives payment from the Maternity/Paternity Leave Fund under Art. 13, the period of payment of the maternity/paternity grant will be shortened accordingly.

The Minister may issue regulations on the further implementation of this provision.

Art. 20

The right to payment of a maternity/paternity grant in the event of a stillbirth or a miscarriage

The parents shall have a joint right to a maternity/paternity grant for up to three months in the event of a stillbirth after 22 weeks of pregnancy. In the event of a miscarriage after 18 weeks of pregnancy, the parents shall have joint right to maternity/paternity grant of up to two months.

If one of the parents takes maternity/paternity leave under Article 12 and receives payment from the Maternity/Paternity Leave Fund under Art. 13, the period of payment of the maternity/paternity grant shall be shortened accordingly.

Art. 21

Multiple births

The parents shall be entitled to a joint maternity/paternity grant for three additional months for each child after the first in a multiple birth.

If one of the parents takes maternity/paternity leave under Art. 16 and receives payment from the Maternity/Paternity Leave Fund under Art. 13, the period of payment of the maternity/paternity grant shall be shortened accordingly.

Art. 22

Illness of the child or its mother

Should a child need to stay in hospital for more than seven days directly following the birth, it shall be permitted to extend the parents' joint right to maternity/paternity grant by the number of days the child has to stay in hospital, prior to its first homecoming, by up to four months.

It shall also be permitted to extend the parents' joint right to maternity/paternity grant by up to three months in the case of a serious illness of the child which requires more intensive parental attention and care.

It shall be permitted to extend the mother's right to a maternity grant by up to two months due to a serious illness suffered by her in connection with the birth.

The need for the extension of a maternity/paternity grant under pars. 1-3 shall be established by a medical certificate. The Chief Medical Officer of the Social Security Institute shall assess whether the extension of maternity/paternity grant is necessary under this provision. His decision may be referred to the Maternity/Paternity and Parental Leave Complaints Board (cf. Art. 5).

If one of the parents takes maternity/paternity leave under Art. 17, and receives payment from the Maternity/Paternity Leave Fund under Art. 13, the period of payment of the maternity/paternity grant shall be reduced accordingly.

Art. 23

Applications to the Social Security Institute

Parent (cf. Art. 1, par. 2) shall apply to the Social Security Institute for a maternity/paternity grant three weeks before the expected birth of the child (cf., however, Art. 15).

Applications shall be made in writing and shall state the intended starting date of the payment of the maternity/paternity grant and the length of the period of payment. Furthermore, the intended division of the joint maternity/paternity leave between the parents shall be stated. The application shall be signed by the prospective mother and father, providing they will both exercise custody of the child. The same shall apply even though one of the parents is active in the labour market (cf. Art. 1, par. 1).

The Minister may issue regulations on further arrangements regarding payments by the Social Security Institute.

SECTION VII

Parental leave

Art. 24

Parents' right to take parental leave

Parent (cf. Art. 1, par. 1) shall be entitled to parental leave for 13 weeks to care for their children.

The right to parental leave shall be established upon the birth of a child. In the event of adoption, or permanent foster care of a child, account shall be taken of the time when the child arrives at their home, providing this is confirmed by the Child Welfare Committee in question, or other competent bodies. If the parents have to fetch the child from another country, parental leave may begin at the beginning of the journey, providing the authorities or institute have confirmed that permission has been granted for the adoption of a child.

The right to a parental leave shall lapse when the child reaches the age of eight years.

Each parent shall have an independent right to parental leave, which shall not be assignable.

Parental leave shall not be accompanied by payment from the Maternity/Paternity Leave Fund.

Art. 25

Structure of parental leave

A parent shall have the right to take parental leave in one continuous period.

However, the employee shall be permitted to make other arrangements with his/her employer for the parental leave to be divided into number of periods and/or it will be taken concurrently with a reduced worktime ratio.

The employer shall make efforts to meet the wishes of the employee regarding the structure of the parental leave.

An employee shall not be entitled to take parental leave amounting to more than 13 weeks in each 12-month period without the special approval of the employer.

Art 26

Notification of parental leave

An employee shall acquire the right to parental leave when he/she has been employed for six consecutive months by the same employer.

An employee who intends to exercise his/her right to parental leave shall notify his/her employer thereof as soon as possible and at the latest six weeks prior to the intended first day of the leave. Notice of parental leave shall be given in writing and shall state the intended starting day of the leave, its length and its structure. The employer shall sign the notification with the date of receiving it and deliver a copy thereof to the employee.

The employer shall record the taking of parental leave, enabling the employee to obtain a certificate stating the number of days of parental leave if he/she wishes to do so.

Art. 27

Postponement or other changes regarding parental leave

If the employer is unable to grant the employee's wishes regarding the structure of the parental leave, he/she shall, in consultation with the employee, propose a different arrangement within one week from the day of reception of the notification (cf. Art. 26, par. 2). This shall be done in writing, stating the reasons therefor and, if it involves a postponement, the length of the postponement.

Such postponement shall only be permitted in the case of extraordinary circumstances in the operations of the company/institution which necessitate it. It is possible, e.g. in the case of seasonal work, or if no qualified substitute can be found, or if a considerable number of the employees apply to take parental leave simultaneously, or if the employee in question holds a key position in the top management of the company or institution

At no time may an employer postpone parental leave by more than six months from the time it was to start according to the employee's request without his approval.

Parental leave which is to be taken following directly on maternity/paternity leave, or in the case where serious illness of the child renders the parent's presence necessary, may never be postponed. Furthermore, postponement shall not be permitted when the employer has already agreed to the taking of parental leave, or the period of notice under par. 1 has passed without a reply being made by the employer.

If the decision of the employer on the postponement of parental leave results in the employee's not being able to complete his/her parental leave before his/her child reaches the age of eight years, the period during which the taking of parental leave is permitted shall be extended to the day when the child turns nine years of age.

Art. 28

Protection of accumulated rights

The rights which an employee has gained, or is gaining, at the start of parental leave shall remain unchanged until the end of the leave. At the end of the leave, these rights shall be valid, as shall any changes which may have been made on the basis of the law or wage agreements.

SECTION VIII
Common provisions

Art. 29

Right to employment

The employment relations between an employee and his/her employer shall remain unchanged during maternity/paternity leave and parental leave.

The employee shall be entitled to return to her/his job upon the completion of maternity/paternity leave or parental leave. Should this not be possible, she/he shall be entitled to a comparable position with the employer according to a contract of employment.

Art. 30

Protection against dismissal

It shall not be permitted to dismiss an employee due to the fact that he/she has given notice of intended maternity/paternity leave or parental leave under Arts. 9 or 26 or during her/his maternity/paternity leave or parental leave, without reasonable cause, and in such a case, the dismissal shall be accompanied by written arguments. The same rule shall apply to pregnant women, and women who have recently given birth.

Art. 31

Liability

Should an employer violate any provision of this Act, he/she shall be liable under general rules.

Art. 32

Lapse of parental rights

The rights of parents (cf. Art. 1, par. 1) to maternity/paternity leave and parental leave shall lapse from the day the parent gives away the child for adoption, upbringing or foster care. The same shall apply to parents' rights (cf. Art. 1, par. 2), to the payment of maternity/paternity grants.

In cases under par. 1, the natural parents (cf. Art. 1, par. 1) shall have the joint right to a two-months maternity/paternity leave after the birth of a child. Also, parents (cf. Art. 1, par. 2) shall have the joint right to the payment of a maternity/paternity grant for two months after the birth of a child.

If one of the parents exercises part of the parents' joint right for a maternity/paternity leave, under par. 3, and receives payments from the Maternity/Paternity Leave Fund, under Art 13, the payment period of the maternity/paternity grant shall be reduced accordingly.

Art. 33

Incompatible rights

A parent enjoying maternity/paternity leave or parental leave shall not be entitled to unemployment benefit under the Unemployment Benefit Act.

A parent receiving payments during maternity/paternity leave shall not be entitled to child-care support under the Social Assistance Act regarding the same child or the same birth. The same rule shall apply to the payment of sick leave pay and pension payments under the Social Security Act.

Payments from other states concerning the same birth, and for the same period, shall be deducted from payments out of the Maternity/Paternity Leave Fund under Art. 13, and concerning the payment of maternity/paternity grants under Arts. 18 and 19.

Art. 34

International agreements

When this Act is applied, attention shall be given to international agreements in the field of social security and social affairs to which Iceland is a party.

Art. 35

Authorization for the issue of regulations

The Minister of Social Affairs may issue regulations on the further application of this Act.

SECTION IX

Commencement

Art. 36

Commencement

This Act shall take effect immediately. The provisions on maternity/paternity leave shall take effect as of 1 January 2001, on which date the Maternity/Paternity Leave Act, No. 57/1987, with subsequent amendments, shall stand repealed. The provisions on maternity/paternity leave shall cover children who are born, adopted or come into permanent foster care, on 1 January 2001 or thereafter.

Notwithstanding the wording of Art. 8, a father's independent right to paternity leave shall be one month as of 1 January 2001, two months as 1 January 2002 and three months as of 1 January 2003.

The provisions on parental leave shall grant the parents of children who are born, adopted or taken into permanent foster care on 1 January 1998 or thereafter the right to parental leave.

SECTION X

Amendments to other Acts

Art. 37

On commencement of this Act, the following amendments will be made to *the Insurance Levy Act, No. 113/1990, with subsequent amendments*:

- a. The following amendments shall be made to Art. 2 of the Act:
 1. The ratio 1.15 in par. 1 shall be replaced by 0.8.
 2. The ratio 3.99 in paragraph 3 shall be replaced by 4.34.
- b. Art. 3, par. 2, of the Act shall read as follows:

Income from the general insurance levy shall be disposed of as follows:

 1. The Occupational Safety and Health Authority shall receive up to 0.08% of the levy base under Section III. This proportion shall be decided for one year at a time under regulations issued by the Minister of Social Affairs in consultation with the Authority's Board.
 2. The Standards Board shall receive up to 0.007% of the levy base under Section III.
 3. Icepro shall receive up to 0.001% of the income base under Section III.
 4. The Maternity/Paternity Leave Fund shall receive up to 0.85% of the levy base under Section III.
 5. Income from the insurance levy, in excess of that decided under sub-sections 1-4, shall go to the Social Security Institute to finance the social security pension and accident insurance under regulations issued by the Minister of Finance .

Art. 38

When the provisions of the Maternity/Paternity Leave Act take effect, the following amendments will be made to the *Social Security Act, No. 117/1993, with subsequent amendments*:

- a. Art 10, par. 1, of the Act shall read as follows:

Pension insurance shall cover old-age pensions, disability pensions, income insurance, disability grants and child support.
- b. Arts. 15-16 a of the Act shall be repealed.