

# Act no. 64 of June 2005 relating to Kindergartens (The Kindergarten Act)

*Act no. 64 of June 2005 relating to Kindergartens (the Kindergarten Act)*

## **Chapter I. The purpose and content of kindergartens**

### **Section 1. Purpose**

The Kindergarten shall, in collaboration and close understanding with the home, safeguard the children's need for care and play, and promote learning and formation as a basis for an all-round development.

The Kindergarten shall be based on fundamental values in the Christian and humanist heritage and tradition, such as respect for human dignity and nature, on intellectual freedom, charity, forgiveness, equality and solidarity, values that also appear in different religions and beliefs and are rooted in human rights.

The children shall be able to develop their creative zest, sense of wonder and need to investigate. They shall learn to take care of themselves, each other and nature. The children shall develop basic knowledge and skills. They shall have the right to participate in accordance with their age and abilities.

The Kindergartens shall meet the children with trust and respect, and acknowledge the intrinsic value of childhood. They shall contribute to well-being and joy in play and learning, and shall be a challenging and safe place for community life and friendship. The Kindergarten shall promote democracy and equality and counteract all forms of discrimination.

*Amended in Act No.119 of 19 December 2008 (entry into force 1 August 2010 pursuant to decree No. 828 of 18 June 2010)*

### **1a. Special objectives**

In their statutes, the owners of private kindergartens are at liberty to determine that the values referred to in Section 1 of the Act shall not be based on fundamental values of the Christian and humanist heritage and tradition.

*Addition in Act No. 26 of 18 June 2010 (entry into force 1 August 2010 pursuant to decree No. 827 of 18 June 2010).*

### **Section 2. Content of kindergartens**

Kindergartens shall be pedagogical undertakings.

Kindergartens shall provide children with opportunities for play, self-expression and meaningful experiences and activities.

Kindergartens shall take account of children's age, level of functioning, gender, and social, ethnic and cultural background, including the language and culture of Sami children.

Kindergartens shall impart values and culture, provide room for children's own cultural creativity and help to ensure that all children experience joy and ability to cope in a social and cultural community.

Kindergartens shall nurture children's curiosity, creativity and desire to learn and offer challenges based on the children's interests, knowledge and skills.

Kindergartens shall have a health-promoting and preventive function, and contribute to even out social inequalities.

The Ministry shall lay down a framework plan for kindergartens.

The framework plan shall provide guidelines for kindergartens' content and tasks.

The owner of a kindergarten may adapt the framework plan to local conditions.

On the basis of the framework plan for kindergartens, the coordinating committee for each kindergarten shall establish an annual plan for the pedagogical activities.

*Amended in Act No. 26 of 18 June 2010 (entry into force 1 August 2010 pursuant to decree No. 827 of 18 June 2010)*

## **Chapter II. Participation by children and parents**

### **Section 3. Children's right to participate**

Children in kindergartens shall have the right to express their views on the day-to-day activities of the kindergarten.

Children shall regularly be given the opportunity to take active part in planning and assessing the activities of the kindergarten.

The children's views shall be given due weight according to their age and maturity.

### **Section 4. Parents' council and coordinating committee**

In order to ensure collaboration with the children's homes, each kindergarten shall have a parents' council and a coordinating committee.

The parents' council shall comprise the parents/guardians of all the children and shall promote their common interests and help to ensure that the collaboration between the kindergarten and the parents as a group foster a good environment in the kindergarten. If, pursuant to section 15, a maximum limit for parents' fees has been prescribed in regulations, only the parents' council may consent to parents paying fees in excess of this amount.

The coordinating committee shall be an advisory, contact-promoting and coordinating body. The coordinating committee shall comprise parents/guardians and the staff of the kindergarten so that each group is equally represented. The owner of the kindergarten may participate if he/she so wishes, but may not have more representatives than either of the other groups.

The owner of the kindergarten shall ensure that matters of importance are submitted to the parents' council and the coordinating committee.

### **Section 5. Joint coordinating committees for kindergartens and schools**

The municipality may decide that there shall be joint coordinating committees for municipal kindergartens and primary schools. Where both parties so wish, a corresponding arrangement may be established for private kindergartens and municipal or private schools. The coordinating committee shall also in such cases be composed pursuant to section 4, third paragraph, but in such a way that parents/guardians and staff from both the kindergarten and the school are represented, cf. section 11-1, fourth paragraph, of the Act relating to Primary and Secondary Education (the Education Act).

## **Chapter III. Obligation to seek approval and distribution of responsibilities**

### **Section 6 The obligation of the undertaking to seek approval**

Undertakings that have responsibility for children under compulsory school age are Obligated to seek approval as a kindergarten when:

a) the undertaking operates on a regular basis and one or more children spend more than 20 hours per week there, and

b) the number of children who are present at the same time is ten or more when the children are three years old or older, or five or more when the children are less than three years old, as the case may be, and

c) the activity is carried out in return for remuneration.

Undertakings pursuant to the first paragraph must be approved before they commence operating.

## **Section 7. Responsibilities of the owner of a kindergarten**

The owner of a kindergarten shall run the undertaking in accordance with current statutes and rules.

The owner of a kindergarten must produce information on accounts and services pursuant to regulations laid down by the Ministry.

The owner of a kindergarten is obligated to give the municipality in which a child resides such information as is necessary to be able to keep such a register as is mentioned in section 8, fourth paragraph.

The owner of a kindergarten shall lay down the statutes of the kindergarten. The statutes shall provide information of significance for the parents'/guardians' relationship to the kindergarten, including

- a) ownership,
- b) purpose, cf. section 1 and 1a,
- c) admission criteria
- d) the number of members in the coordinating committee,
- e) the kindergarten's hours of operation.

Approved undertakings shall be registered in the Central Coordinating Register for Legal Entities. *Amended in Act No. 26 of 18 June 2010 (entry into force 1 August 2010 pursuant to decree No. 827 of 18 June 2010)*

## **Section 8. Responsibilities of the municipality**

The municipality is the local authority for kindergartens. The municipality shall provide guidance and ensure that kindergartens are operated in accordance with current rules.

The municipality must offer a place in a kindergarten to children under school age domiciled in the municipality, cf. Section 12a. The pattern of development and modes of operation shall be adapted to local conditions and needs.

The municipality is responsible for ensuring that kindergartens for Sami children in Sami districts are based on the Sami language and culture. In other municipalities steps shall be taken to enable Sami children to secure and develop their language and their culture.

Each municipality shall establish and keep a register for use of the Labour and Welfare Service in connection with control of the calculation and disbursement of cash benefits pursuant to the Act concerning Cash Benefit for Parents with Small Children. The register may be checked against the Labour and Welfare Service's register of cash benefit recipients. The Ministry will lay down regulations containing supplementary provisions regarding the keeping of the register, the information to be contained in the register and the way this information is to be handled.

The municipality has the right of access to documents and to the premises of kindergartens insofar as this is deemed necessary in order to fulfill the responsibilities of the municipality.

The municipality shall administer the State's ear-marked grants for non-municipal kindergartens in the municipality. The municipality cannot curtail the municipal grants pursuant to Section 14 as a result of such State grants.

*Amended by the Acts of 16 June 2006 No. 20 (in force from 1 July 2006 in accordance with the Resolution of 16 June 2006 No. 631), 8 August 2008 No. 73 (in force from 1 January 2009 in accordance with the Resolution of 26 September 2008 No. 1048), 19 June 2009 No. 93 (in force from 1 January 2011 in accordance with the Resolution of 29 October 2010 No. 1378).*

## **Section 9. Responsibilities of the county governor**

The county governor shall provide guidance to municipalities and owners of undertakings pursuant to this Act and is the appellate body in respect of administrative decisions made by the municipality pursuant to sections 10, 11, 16, 17 and 18 and where this follows from regulations laid down pursuant to this Act.

The county governor shall supervise that the municipality carries out the responsibilities imposed on it as the authority for kindergartens pursuant to this Act.

The county governor has the right of access to documents and to the premises of

kindergartens insofar as this is deemed necessary in order to fulfill the responsibilities of the county governor.

## **Chapter IV. The general responsibilities etc. of the kindergarten authority**

### **Section 10. Approval**

The municipality shall make decisions on applications for approval after assessing the suitability of the kindergarten in terms of purpose and content, cf. sections 1 and 2.

When giving approval, the municipality may set operating conditions as regards the number of children, the age of the children and the amount of time spent at the institution.

The administrative decisions of the municipality may be appealed to the county governor.  
*In force from 1 January 2006.*

### **Section 11. Family kindergartens**

Approval of family kindergartens shall cover the organization of the undertaking and the suitability of the individual home as premises for the operation of a family kindergarten.

The Ministry may lay down regulations regarding the approval and operation of family kindergartens.

*In force from 1 January 2006.*

### **Section 12. Coordinated admission process in the municipality**

All approved kindergartens in the municipality shall cooperate on the admission of children. The municipality shall facilitate a coordinated admission process, in which account is taken of the diversity and distinctive character of the kindergartens. Great importance shall be attached to the wishes and needs of users in connection with the actual admission. A coordinated admission process is intended to ensure equal treatment of children and equal treatment of municipal and privately-owned kindergartens.

Chapters IV-VI of the Public Administration Act shall not apply to admissions to a kindergarten. The King will prescribe regulations regarding the processing of applications for admission to a kindergarten.

*In force from 1 January 2006.*

### **Section 12a. Right to a kindergarten place**

Children who reach the age of one no later than by the end of August in the year a kindergarten place has been sought, are, upon application, entitled to a place in a kindergarten from August in accordance with this act with regulations.

The child is entitled to a place in a kindergarten in the municipality in which it is domiciled.

The municipality must have at least one admission process per year. The application Deadline for the admission process will be set by the municipality.

*Added through the Act of 8 August 2008 No. 73 (in force from 1 January 2009 in accordance with the Resolution of 26 September 2008 No. 1048).*

### **Section 13. Priority in connection with admissions**

Children with disabilities shall be entitled to priority for admission to a kindergarten. An expert assessment shall be carried out to determine whether the child has a disability.

Children who are the objects of an administrative decision pursuant to sections 4-12 and 4-4, second and fourth paragraphs, of the Child Welfare Service Act shall be entitled to priority for admission to a kindergarten.

The municipality is responsible for ensuring that children who are entitled to priority are given a place in a kindergarten.

*In force from 1 January 2006.*

## **Section 14. Municipal grants to approved non-municipal kindergartens**

The municipality must provide grants to the regular operation of all approved, non-Municipal kindergartens in the municipality, provided the kindergarten has applied for approval before the kindergarten sector becomes subject to block financing.

The municipality may provide grants to kindergartens that apply for approval after the Daycare sector becomes subject to block financing.

Approved non-municipal kindergartens, cf. the first and second subsection, must be given equal treatment with municipal kindergartens as regards public grants. The King in Council may prescribe regulations containing further provisions concerning what is meant by equal treatment.

The municipality must disburse grants to approved non-municipal kindergartens that are entitled to grants pursuant to the first or second subsection quarterly in advance until the municipality makes a final decision regarding grants.

The municipality's decision pursuant to the second subsection can be appealed to the County Governor.

*Amended by the Act of 19 June 2009 No. 93 (in force from 1 January 2011 in accordance with the Resolution of 29 October 2010 No. 1378).*

## **Section 15. Parents' fees**

The King may prescribe regulations containing further provisions regarding parents' fees at kindergartens, including a discount for siblings, income-based differentiation of payment and maximum payments.

## **Section 16. Supervision**

The municipality shall supervise undertakings pursuant to this Act. The municipality may order the rectification of inadequate or unlawful conditions at undertakings that have been approved or are subject to approval. If the deadline for complying with the order is not observed, or if the condition cannot be rectified, the municipality may order the temporary or permanent closure of the undertaking. The municipality's administrative decision regarding closure shall be sent to the county governor for his/her information. Administrative decisions regarding rectification and closure may be appealed to the county governor.

*In force from 1 January 2006.*

## **Chapter V. Staffing**

### **Section 17. Head teacher**

Kindergartens shall have adequate pedagogical and administrative leadership.

Kindergartens shall have a head teacher who is a trained pre-school teacher or has other college education that gives qualifications for working with children and pedagogical expertise.

The municipality may grant a dispensation from the educational requirement in the second paragraph. Administrative decisions made by the municipality may be appealed to the county governor.

The Ministry will lay down further regulations regarding dispensation from the educational requirement and regarding approval of professional qualifications acquired abroad.

*Amended by the Act of 8 August 2008 No. 73 (in force from 1 January 2009 in accordance with the Resolution of 26 September 2008 No. 1048).*

### **Section 18. Other kindergarten staff**

Pedagogical leaders must be trained preschool teachers.

Other three-year pedagogical programmes at college level with further education in teaching in kindergartens shall be equated with pre-school teacher education.

The municipality may grant dispensation from the pedagogical requirement in the first paragraph. Administrative decisions made by the municipality may be appealed to the county governor.

The Ministry will lay down regulations concerning dispensation, relating to approval of professional qualifications acquired abroad and exemption from the pedagogical requirement for staff who work in the kindergarten at night.

Staffing at the kindergarten must be sufficient for the staff to be able to carry on satisfactory pedagogical activity.

The Ministry will lay down supplementary regulations concerning teaching staff.

*Amended by the Act of 8 August 2008 No. 73 (in force from 1 January 2009 in accordance with the Resolution of 26 September 2008 No. 1048).*

### **Section 19. Police certificate**

Any person who is to work in a kindergarten must present a satisfactory police certificate. The certificate shall show whether the person concerned has been charged with, indicted for or convicted of sexual abuse of children.

Persons convicted of sexual abuse of children are barred from employment in kindergartens.

The municipality may also require a police certificate pursuant to the first paragraph for other persons who are regularly present in the kindergarten.

The Ministry will lay down supplementary regulations concerning police certificates.

*In force from 1 January 2006.*

## **Chapter VI. Miscellaneous provisions**

### **Section 20. Duty of confidentiality**

The rules regarding the duty of confidentiality in sections 13 to 13f of the Public Administration Act shall apply correspondingly to undertakings pursuant to this Act.

*In force from 1 January 2006.*

### **Section 21. Duty to provide information to the social services**

The kindergarten staff shall assist the social services in client cases. They shall in their work be alert to circumstances which ought to lead to action on the part of the social services, and they shall on their own initiative provide the social services with information on such circumstances. They may only provide information on their own initiative after the client has given his/her consent, or otherwise insofar as the information may be provided notwithstanding the duty of confidentiality. Information shall normally be provided by the head teacher.

*Amended by the Act of 24 June 2011 No. 30 (in force from the date set by the King in Council).*

### **Section 22. Duty to provide information to the child welfare service**

The kindergarten staff shall in their work be alert to circumstances which may lead to action on the part of the child welfare service.

Notwithstanding the duty of confidentiality, the kindergarten staff shall on their own initiative provide information to the child welfare service when there is reason to believe that a child is being mistreated at home or if there are other forms of seriously deficient care, cf. section 4-10, section 4-11, section 4-12 of the Child Welfare Services Act, or when a child has shown persistent, serious behavioral problems, cf. section 4-24 of the same Act. Kindergarten staff are also obliged to provide such information when ordered to do so by the bodies responsible for implementing the Child Welfare Services Act. Information shall normally be provided by the head teacher.

*In force from 1 January 2006.*

### **Section 23. Health check-ups for children and staff**

Before a child starts to attend a kindergarten, a statement concerning the child's health shall be presented. If the child has attended the local mother-and-child clinic for regular checkups, such statement may be provided by the child's parents/guardians.

The kindergarten staff are obliged to undergo check-ups for tuberculosis pursuant to current rules.

*In force from 1 January 2006.*

#### **Section 24. Practice teaching**

The owner of the kindergarten is obligated to make the institution available for practice teaching for students undergoing preschool teacher training.

The kindergarten's head teacher and pedagogical leader are obligated to provide guidance to students during such practice teaching.

*In force from 1 January 2006.*

#### **Section 25. Application of the Act to Svalbard**

The King may lay down regulations regarding the application of this Act to Svalbard and may prescribe special provisions out of regard to local conditions.

*In force from 1 January 2006.*

### **Chapter VII. Commencement and amendments to other Acts**

#### **Section 26. Commencement. Amendments to other Acts**

This Act shall come into force on the date decided by the King.<sup>1</sup>

When this Act comes into force, the Act of 5 May 1995 No. 19 relating to Day Care Institutions shall be repealed. Administrative decisions made pursuant to the latter Act shall apply until they cease to have effect or are amended pursuant to this Act.

The Act of 19 June 1997 No. 64 amending the Act of 5 May 1995 No. 19 relating to Day Care Institutions shall be repealed immediately.

The Ministry may lay down regulations containing further provisions regarding transitional provisions.

*1 From 1 January 2006 pursuant to the Decree of 17 June 2005 No. 613.*