

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

Chapter I. The purpose and content of kindergartens

Section 1. *Purpose*

Kindergartens shall provide children under compulsory school age with good opportunities for development and activity in close understanding and collaboration with the children's homes.

Kindergartens shall assist in giving the children an upbringing that accords with Christian values.

Owners of private kindergartens may in their statutes prescribe that the second paragraph shall not apply.

Private kindergartens and kindergartens owned or run by parishes of the Norwegian State Church may incorporate in their statutes special provisions in regard to ideological aims.

In force from 1 January 2006.

Section 2. *Content of kindergartens*

Kindergartens shall be pedagogical undertakings.

Kindergartens shall assist homes with the care and upbringing of their children, and thereby lay a sound foundation for the children's development, life-long learning and active participation in a democratic society.

Care, upbringing and learning in kindergartens shall promote human dignity, equality, intellectual freedom, tolerance, health and an appreciation of sustainable development. Kindergartens shall provide children with opportunities for play, self-expression and meaningful experiences and activities in safe, yet challenging surroundings.

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 give children basic knowledge of central and topical fields. 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 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.

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.

In force from 1 January 2006.

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.

In force from 1 January 2006.

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 fosters 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.

In force from 1 January 2006.

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).

In force from 1 January 2006.

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.

In force from 1 January 2006.

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, fourth paragraph, including any reservation pursuant to section 1, second paragraph, cf. third paragraph,
- 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.

In force from 1 January 2006.

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 is obligated to ensure that there are a sufficient number of kindergarten places for children under compulsory school age. 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 by national insurance offices 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 national insurance office'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 fulfil the responsibilities of the municipality.

The municipality shall administer grants for non-municipal kindergartens in the municipality.

In force from 1 January 2006.

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 fulfil the responsibilities of the county governor.

In force from 1 January 2006.

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 organisation 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 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. *Public grants for private kindergartens*

Approved kindergartens shall be treated equally with regard to public grants. The King may prescribe regulations containing further provisions concerning what is meant by equal treatment.

In force from 1 January 2006.

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 foreign academic credentials.

In force from 1 January 2006

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, the approval of foreign academic credentials 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.

In force from 1 January 2006.

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.

In force from 1 January 2006.

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 behavioural 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 check-ups, 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.¹

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.