

Ministry of Social Affairs and Health, Finland

Unofficial

Translation from Finnish

Legally binding only in Finnish and Swedish

## **Act on Equality between Women and Men**

(609/1986; amendments up to 915/2016 included)

### **Section 1 (1329/2014)**

#### **Objectives**

The objectives of this Act are to prevent discrimination based on gender, to promote equality between women and men, and thus to improve the status of women, particularly in working life. Furthermore, it is the objective of this Act to prevent discrimination based on gender identity or gender expression.

### **Section 2**

#### **Limits to the scope of application**

The provisions of this Act do not apply to:

- 1) activities associated with the religious practices of the Evangelical Lutheran Church of Finland, the Orthodox Church of Finland or other religious communities; or
- 2) relationships between family members or other relationships in private life.

The provisions of sections 10, 11, 14a, 17 and 19 do not apply to parliamentary activities that are connected with the duties of Members of Parliament. Nor do the provisions of sections 10 and 11 apply to the activities of the President of the Republic. (206/1995)

### **Section 3 (1329/2014)**

#### **Definitions**

In this Act, *employee* means a person who, by contract, undertakes to perform work for another party (an employer) under the latter's direction and supervision in return for pay or other remuneration, or who is in a public-service employment relationship or another comparable employment relationship with the State, a municipality or other public body (an authority). This Act's provisions on employees also apply as appropriate to persons working in other legal relationships that are treated as employment relationships.

In this Act, *employer* means an employer or public body as referred to in subsection 1. This Act's provisions on employers apply correspondingly to companies hiring labour from another employer (user enterprises), where the company exercises the authority of an employer as referred to in the Employment Contracts Act (55/2001).

The provisions on employers are also applied as appropriate to clients or principals in some other legal relationship that is treated as an employment relationship.

In this Act, *education provider* means a body which organises statutory education or training.

In this Act, *gender identity* means an individual's own experience of their gender.

In this Act, *gender expression* means expressing one's gender through clothing, behaviour, or by other means.

This Act's provisions on discrimination based on gender identity or gender expression apply correspondingly to discrimination based on the fact that an individual's physical gender-defining characteristics are not unambiguously female or male.

#### **Section 4 (232/2005)**

##### **Duty of authorities to promote gender equality**

In all their activities, authorities must promote equality between women and men purposefully and systematically, and must create and consolidate administrative and operating practices that ensure the advancement of equality between women and men in the preparatory work undertaken on different matters and in decision-making.

In particular, circumstances which prevent the attainment of gender equality must be changed.

In the availability and supply of services, the promotion of equality between women and men must be taken into account in the manner referred to in subsections 1 and 2.

#### **Section 4a (232/2005)**

##### **Composition of public administration bodies and bodies exercising public authority**

The proportion of both women and men in government committees, advisory boards and other corresponding bodies, and in municipal bodies and bodies established for the purpose of inter-municipal cooperation, but excluding municipal councils, must be at least 40 per cent, unless there are special reasons to the contrary.

If a body, agency or institution exercising public authority, or a company in which the Government or a municipality is the majority shareholder has an administrative board, board of directors or some other executive or administrative body consisting of elected representatives, this must comprise an equitable proportion of both women and men, unless there are special reasons to the contrary.

Authorities and all parties that are requested to nominate candidates for bodies referred to in this section must, wherever possible, propose both a woman and a man for every membership position.

#### **Section 5 (1329/2014)**

##### **Implementation of gender equality in education and training**

Authorities, education providers and other bodies providing education and training shall ensure that girls and boys as well as women and men have equal opportunities for education, training and professional development, and that teaching, research and instructional material support the attainment of the objectives of this Act. Equality shall be promoted in education and training while taking into account the age and level of development of the children.

## **Section 5a (1329/2014)**

### **Measures to promote gender equality in educational institutions**

Education providers are responsible for ensuring that each educational institution prepares a gender equality plan annually in cooperation with staff and pupils or students. The gender equality plan may be incorporated into the curriculum or some other plan drawn up by the educational institution.

The gender equality plan must include:

- 1) an assessment of the gender equality situation within the institution;
- 2) the necessary measures to promote gender equality;
- 3) a review of the extent to which measures previously included in it have been implemented and of the results achieved.

Special attention must be given to pupil or student selections, the organisation of teaching, learning differences and the evaluation of study performance, and to measures to ensure the prevention and elimination of sexual harassment and gender-based harassment.

Instead of an annual review, the plan may be prepared no less than once every three years.

## **Section 6 (232/2005)**

### **Employer's duty to promote gender equality**

Every employer must promote equality between women and men within working life in a purposeful and systematic manner.

In order to promote gender equality in working life, the employer must, with due regard to the resources available and any other relevant factors,

- 1) act in such a way that job vacancies attract applications from both women and men;
- 2) promote the equitable recruitment of women and men in the various jobs and create for them equal opportunities for career advancement;
- 3) promote equality between women and men in the terms of employment, especially in pay;
- 4) develop working conditions to ensure they are suitable for both women and men;
- 5) facilitate the reconciliation of working life and family life for women and men by paying attention especially to working arrangements; and
- 6) act to prevent the occurrence of discrimination based on gender.

## **Section 6a (1329/2014)**

### **Measures to promote gender equality in working life**

If an employer regularly has a personnel of at least 30 employees working in employment relationships, the employer shall at least every two years prepare a gender equality plan dealing particularly with pay and other terms of employment, according to which the gender equality measures are implemented. The gender equality plan may be incorporated into a personnel and training plan or an occupational safety and health action plan.

The gender equality plan must be prepared in cooperation with the shop steward, the elected representative, the occupational safety and health representative or other representatives appointed by the employees. The representatives of the personnel must have sufficient opportunity to participate and influence the preparation of the plan.

The gender equality plan must include:

- 1) an assessment of the gender equality situation in the workplace, including details of the employment of women and men in different jobs and a pay survey on the whole personnel presenting the classifications of jobs performed by women and men, the pay for those jobs and the differences in pay;
- 2) necessary measures planned for introduction or implementation with the purpose of promoting gender equality and achieving equality in pay; and
- 3) a review of the extent to which measures previously included in the gender equality plan have been implemented and of the results achieved.

Employees must be informed about the gender equality plan and any updates to it.

An agreement can be made locally that the pay survey included in the gender equality plan will be carried out no less than once every three years, provided that the other parts of the gender equality plan are completed annually.

### **Section 6b (1329/2014)**

#### **Pay survey**

The pay survey is used to ensure that there are no unjustified pay differences between women and men who are working for the same employer and engaged in either the same work or work of equal value.

If the analysis of different employee groups of the pay survey, which are defined on the basis of competence, duty or some other ground, reveals clear pay differences between women and men, the employer must analyse the reasons and grounds for these differences. If the workplace has established pay systems in which wages consist of pay components, the central components are inspected in order to clarify the reasons for the differences noted.

If there is no justification for the pay differences, the employer must take appropriate measures to rectify the situation.

### **Section 6c (1329/2014)**

#### **Pre-emptive action against discrimination based on gender identity or gender expression**

Authorities, education providers and other bodies providing education and training as well as employers are obliged to take pre-emptive action in a purposeful and systematic manner against all discrimination based on gender identity or gender expression.

The obligation referred to in subsection 1 must be taken into account in the preparation of the educational institution's and employer's gender equality plans as laid down in sections 5a and 6a and in decisions regarding measures to promote gender equality.

### **Section 7 (1329/2014)**

#### **Prohibition of discrimination**

Direct and indirect discrimination based on gender is prohibited.

In this Act, *direct gender-based discrimination* means:

- 1) treating women and men differently on the basis of gender;

- 2) treating someone differently for reasons of pregnancy or childbirth;
- 3) treating someone differently on the basis of gender identity or gender expression.

In this Act, *indirect gender-based discrimination* means:

- 1) treating someone differently by virtue of a provision, criterion or practice that appears to be gender-neutral in terms of gender, gender identity or gender expression, but where the effect of the action is such that the persons may actually find themselves in a less favourable position on the basis of gender;
- 2) treating someone differently on the basis of parenthood or family responsibilities.

The action referred to in subsection 3 above shall not, however, be deemed to constitute discrimination if it is aimed at achieving an acceptable objective and if the chosen means must be deemed appropriate and necessary in view of this objective.

Discrimination is prohibited regardless of whether it is based on factual or assumed information relating to the individual themselves or to another individual.

Sexual harassment, gender-based harassment and any order or instruction to engage in discrimination based on gender shall be deemed to constitute discrimination under this Act.

In this Act, *sexual harassment* means verbal, non-verbal or physical unwanted conduct of a sexual nature by which a person's psychological or physical integrity is violated intentionally or factually, in particular by creating an intimidating, hostile, degrading, humiliating or offensive atmosphere.

In this Act, *gender-based harassment* means unwanted conduct that is not of a sexual nature but which is related to the gender of a person, their gender identity or gender expression, and by which the person's psychological or physical integrity is intentionally or factually violated and an intimidating, hostile, degrading, humiliating or offensive atmosphere is created.

## **Section 8 (1329/2014)**

### **Discrimination in working life**

The action of an employer shall be deemed to constitute discrimination prohibited under this Act if the employer:

- 1) upon employing a person or selecting someone for a particular task or training, bypasses a more qualified person of the opposite sex in favour of the person chosen, unless the employer's action was for an acceptable reason and not due to gender, or unless the action was based on weighty and acceptable grounds related to the nature of the job or the task;
- 2) upon employing a person, selecting someone for a particular task or training, or deciding on the duration or continuation of an employment relationship or the pay or other terms of employment acts in such a way that the person finds themselves in a less favourable position on the basis of pregnancy or childbirth or for some other gender-related reason;
- 3) applies the pay or other terms of employment in such a way that one or more employees find themselves in a less favourable position based on their gender than one or more other employees in the employer's service performing the same work or work of equal value;
- 4) manages the work, distributes tasks or otherwise arranges the working conditions in such a way that one or more employees find themselves in a less favourable position than other employees on the basis of gender;
- 5) gives notice on, terminates or otherwise discontinues an employment relationship, or transfers or lays off one or more employees on the basis of gender.

The action referred to above in subsection 1(2–5) is deemed to constitute discrimination prohibited under this Act also if it is based on gender identity or gender expression.

The action referred to above in subsection 1(2–5) does not, however, constitute discrimination if the matter concerns a situation referred to in section 7(4) and there is an acceptable reason under that provision.

#### **Section 8a (1023/2008)**

##### **Prohibition of countermeasures**

The action of an employer shall be deemed to constitute discrimination prohibited under this Act if a person is given notice or otherwise treated less favourably after they have appealed to a right or obligation laid down in this Act or taken part in investigating a matter concerning gender discrimination.

It is also deemed to constitute discrimination prohibited under this Act if a provider of goods or services treats a person less favourably or otherwise treats the person in such a way that they are subject to negative consequences after they have appealed to a right or obligation laid down in this Act or taken part in investigating a matter concerning gender discrimination.

#### **Section 8b (915/2016)**

##### **Discrimination in educational institutions**

The action of an educational institution or any other body providing training or education shall be deemed to constitute discrimination prohibited under this Act if a person is treated less favourably than others on the basis of gender in student selections, the organisation of teaching, the evaluation of study performance or in any other regular activity of the educational institution or body, or is otherwise treated in the manner referred to in section 7.

#### **Section 8c (232/2005)**

##### **Discrimination in organisations representing labour market interests**

An action shall be deemed to constitute discrimination prohibited under this Act if a person is treated less favourably than others on the basis of gender in the activities of a labour market organisation or other organisation representing labour market interests, in the membership admittance to such an organisation or in the provision of the benefits it offers, or if they are otherwise treated in the manner referred to in section 7.

#### **Section 8d (232/2005)**

##### **Harassment in the workplace**

The action of an employer shall be deemed to constitute discrimination prohibited under this Act if, upon receiving information that an employee has been a victim of sexual or other gender-based harassment in the workplace, the employer neglects to take the steps available to eliminate the harassment.

#### **Section 8e (1023/2008)**

##### **Discrimination in the access to and provision of services**

The action of a provider of goods or services shall be deemed to constitute discrimination prohibited under this Act if a person is treated less favourably than others on the basis of gender in the provision of goods and services available to the public in the public or private sector, or if the person is otherwise treated in the manner referred to in section 7.

Provision of goods and services exclusively or mainly to representatives of one gender is, however, allowed if it is justified in order to achieve a legitimate objective and this objective is sought to be achieved by appropriate and necessary means.

This section is not applied to the content of the media and advertising nor to education and training.

The provisions of the Insurance Companies Act (521/2008), the Act on Insurance Associations (1250/1987) and the Act on Foreign Insurance Companies (398/1995) shall apply to use of gender as a factor affecting insurance contributions and benefits.

### **Section 9 (232/2005)**

#### **Action that shall not be deemed to constitute discrimination**

In this Act, the following shall not be deemed to constitute discrimination based on gender:

- 1) special protection of women because of pregnancy or childbirth;
- 2) enacting legal provisions on compulsory military service for men only;
- 3) admittance of either women or men only as members of an association other than an actual labour market organisation if this is based on an express provision in the rules of the association; if the association is another type of organisation representing labour market interests, a further condition is that the organisation must strive to implement the objectives of this Act; and
- 4) temporary, special actions based on a plan and which are for the purpose of promoting effective gender equality and are aimed at implementing the objectives of this Act.

### **Section 9a (232/2005)**

#### **Burden of proof**

If a person considers that they have been a victim of discrimination under the provisions of this Act and presents a matter referred to in this Act to a court of law or to a competent authority and the facts give cause to believe that the matter is one of gender discrimination, the defendant must prove that there has been no violation of gender equality but that the action was for an acceptable reason and not due to gender. This provision does not apply to the consideration of criminal cases.

### **Section 10 (1023/2008)**

#### **Obligation of employers to report on their actions**

Upon request, the employer shall, without delay, provide any person who considers that they have been bypassed in the manner referred to in section 8(1)(1) with a written report on its actions. The report must indicate the grounds for the employer's choice, the education, training, work and other experience of the person chosen, and any other clearly demonstrable merits and considerations that have influenced the choice.

Likewise, the employer shall, without delay, provide a job applicant or an employee who considers that they have been the victim of discrimination as referred to in section 8(1)(2–5) or section 8a or section 8d with a written report on the grounds for its actions.

The employer shall provide an employee with a report on the grounds for their pay and other necessary information concerning the employee which could be used to assess whether the prohibition of pay discrimination referred to in section 8(1)(2) or 8(1)(3) has been complied with.

A local union representative elected on the basis of a collective agreement or an elected representative referred to in Chapter 13, section 3 of the Employment Contracts Act, or some other employee representative in accordance with what has been agreed upon at the workplace in question, shall have independent right of access to information on the pay and terms of employment of an individual employee with the latter's consent, or of a group of employees, or as agreed in the collective agreement for the sector, if there is reason to suspect pay discrimination based on gender. If the information concerns the pay of only one individual, the person concerned shall be informed that the information has been disclosed. The local union representative, elected representative or other employee representative may not disclose information on pay or terms of employment to others.

Information on someone's state of health or other personal circumstances may not be entered in the report without the consent of the person concerned.

### **Section 10a (232/2005)**

#### **Obligation of educational institutions to report on their actions**

Upon request, an educational institution or other body providing training or education shall, without delay, provide a student who considers that they have been discriminated against in the manner referred to in section 8b with a written report on its actions.

Information on someone's state of health or other personal circumstances may not be entered in the report without the consent of the person concerned.

### **Section 11 (369/2009)**

#### **Compensation**

Anyone who has violated the discrimination prohibition referred to in section 8 or sections 8a–8e will be liable to pay compensation to the affected person.

The compensation payable shall amount to no less than EUR 3,240. In cases concerning employee recruitment, the compensation payable shall not exceed EUR 16,210 for an employee in regard to whom the employer is able to show that she/he would not have been chosen for the job even if the choice would have been made on non-discriminatory grounds. When the amount of compensation is being determined, the nature and the extent and duration of the discrimination shall be taken into account, as well as any financial penalty imposed or ordered for payment based on an offence against the person arising from the same action by virtue of other legislation.

The compensation may be reduced beyond the minimum amount prescribed above, or the liability to pay compensation may be waived completely, if this is deemed reasonable in view of the offender's financial situation and attempts to prevent or eliminate the effects of the action, and other circumstances of the case.

Payment of compensation does not prevent the injured party from further claiming compensation for financial loss under the Tort Liability Act (412/1974) or any other legislation.

**Section 12 (1023/2008)**  
**Claims for compensation**

Compensation shall be claimed by legal action brought at the district court within whose judicial district the employer, the educational institution, the organisation representing labour market interests, or the provider of goods or services has its general forum.

Action for compensation shall be brought within two years of the discrimination prohibition being violated. In cases concerning employee recruitment, however, the action shall be brought within one year of the discrimination prohibition being violated.

When an action for compensation on the basis of discrimination has been brought and more than one person is entitled to demand compensation on the grounds of the same act or omission, all claims for compensation shall be dealt with in the same proceedings as far as possible.

**Section 13 (232/2005)**

Section 13 has been repealed by Act 232/2005.

**Section 14**  
**Prohibition of discriminatory vacancy announcements**

Announcements of job vacancies or education or training places may not invite applications from exclusively either women or men, unless there is a weighty and acceptable reason for doing so related to the nature of the job or task, or unless it is based on implementation of a plan referred to in section 9(2)(4). (624/1992)

**Section 14a (691/1995)**  
**Penal provisions**

The punishment for discrimination in working life is laid down in Chapter 47, section 3 of the Criminal Code.

Anyone who violates the confidentiality obligation laid down in section 10(4) shall be sentenced under Chapter 38, section 2(2) of the Criminal Code, unless the act is punishable under Chapter 40, section 5 of the Criminal Code or a more severe punishment is prescribed elsewhere than in Chapter 38, section 1 of the Criminal Code.

Anyone who violates the prohibition concerning announcements of education or training places laid down in section 14 shall be sentenced to a fine for discriminatory announcement. The public prosecutor may bring charges concerning a discriminatory announcement only on the basis of a notification from the Ombudsman for Equality. (488/2011)

**Section 15 (1329/2014)**  
**Requesting opinions from the National Non-Discrimination and Equality Tribunal**

A court may request an opinion from the National Non-Discrimination and Equality Tribunal concerning the application of sections 7, 8, 8a–8e and 14 in matters that are important in terms of this Act's objectives.

## **Section 16 (1329/2014)**

### **Supervision**

The Ombudsman for Equality and the National Non-Discrimination and Equality Tribunal shall supervise compliance with this Act in private activities and in public administration and public business in accordance with this Act's provisions given below and other legislation.

## **Section 17 (1329/2014)**

### **Provision of information to the Ombudsman for Equality**

Notwithstanding the regulations concerning public disclosure of matters or documents, the Ombudsman for Equality has the right to receive from the authorities, free of charge, necessary information for the supervision of compliance with this Act.

Within a reasonable period specified by the Ombudsman for Equality, the latter shall have the right to receive from any person necessary information in order to supervise compliance with this Act and to demand that any document in the person's possession be submitted, unless the person has a legal right or obligation to refuse to give evidence or to present a document.

Upon the request of an employee who suspects that pay discrimination has occurred, the employee's representative referred to in section 10(4) has the right to obtain information from the Ombudsman for Equality on the pay and terms of employment of an individual employee if there are justified grounds for the suspicion. The Ombudsman for Equality must supply the information to the representative without delay and no later than two months after receipt of the request. If the Ombudsman for Equality refuses to provide the information requested, the employee's representative may place the matter before the National Non-Discrimination and Equality Tribunal.

Separate provisions are made on the public disclosure of church and parish documents of the Evangelical Lutheran Church of Finland.

## **Section 18 (1023/2008)**

### **Inspections and executive assistance**

The Ombudsman for Equality has the right to carry out necessary inspections at a workplace, educational institution, organisation representing labour market interests, or the business facilities of a provider of goods or services, if there is reason to suspect that actions have been taken that are contrary to this Act or that the obligations concerning equality laid down in this Act have not otherwise been complied with.

In carrying out an inspection, the Ombudsman for Equality is entitled to receive executive assistance from other authorities.

Inspections shall be carried out without causing unnecessary inconvenience or costs.

## **Section 19 (1329/2014)**

### **Provision of guidance and advice and promotion of reconciliation (915/2016)**

Anyone who suspects that they have become the victim of discrimination referred to in this Act may request guidance and advice in the matter from the Ombudsman for Equality.

Upon finding that the obligations laid down in this Act are not being complied with or that the provisions of the Act are otherwise being violated, the Ombudsman for Equality shall provide guidance and advice so as to prevent the continuation or recurrence of such unlawful practice.

Upon finding that an education provider or an employer is neglecting its obligation to prepare a gender equality plan as laid down under section 5a or 6a despite the guidance and advice referred to in subsection 2, the Ombudsman for Equality may impose a reasonable time limit within which the obligation must be met.

The Ombudsman for Equality may take measures to reconcile a discrimination matter referred to in this Act. (915/2016)

### **Section 20 (915/2016)**

#### **Placing a matter before the National Non-Discrimination and Equality Tribunal**

The Ombudsman for Equality or a central labour market organisation may place a matter involving an action contrary to the provisions of sections 7, 8, 8a–8e or 14 before the National Non-Discrimination and Equality Tribunal for the purposes of the procedure referred to in section 21.

The Ombudsman for Equality may place a matter involving an action contrary to sections 5a and 6a before the National Non-Discrimination and Equality Tribunal for the purposes of the procedure referred to in section 21(4).

The parties to the reconciliation in a discrimination matter together, or the Ombudsman for Equality with the consent of the parties, may apply for confirmation of reconciliation in a discrimination matter referred to in this Act. The application shall be made to the National Non-Discrimination and Equality Tribunal.

However, matters relating to the activities of the President of the Republic, the Government plenary session, courts or other judicial bodies, the Chancellor of Justice of the Government or the Parliamentary Ombudsman may not be placed before the National Non-Discrimination and Equality Tribunal. A matter relating to the Parliament may be placed before the Tribunal only if the Parliament or a parliamentary body is acting as an authority or employer in the matter.

Provisions on the handling of matters by the National Non-Discrimination and Equality Tribunal are laid down in the Act on National Non-Discrimination and Equality Tribunal (1327/2014).

### **Section 21 (1329/2014)**

#### **Authority of the National Non-Discrimination and Equality Tribunal in regard to unlawful action**

The National Non-Discrimination and Equality Tribunal may prohibit anyone who has acted contrary to the provisions of sections 7, 8, 8a–8e or 14 from continuing or repeating the practice, under the threat of imposing a fine if necessary.

The threat of a fine may be imposed on the party to whom the prohibition applies, or on the party's representative, or both.

When issuing a prohibition, it may at the same time be decided that the prohibition shall be complied with only from a date specified in the decision if it is justified that the party under

obligation be reserved a reasonable period to change the circumstances or practice giving rise to the prohibition.

If an education provider or employer has neglected the obligation referred to in section 5a or 6a, the National Non-Discrimination and Equality Tribunal may, on the proposal of the Ombudsman for Equality and under threat of a fine if necessary, impose an obligation on said education provider or employer to prepare a gender equality plan within a defined period.

The National Non-Discrimination and Equality Tribunal confirms the reconciliation between the parties in a discrimination matter referred to in this Act if the reconciliation is not contrary to law or clearly unreasonable and does not violate the right of a third party. A reconciliation confirmed by the Tribunal shall be enforced in the same manner as a final judgment. [\(915/2016\)](#)

### **Section 21a (1329/2014)**

#### **Right of the Ombudsman for Equality to impose a conditional fine**

The Ombudsman for Equality may impose a conditional fine as a means of enforcing the obligation referred to in section 17(2) concerning the disclosure of information and presentation of documents. The order to pay a conditional fine is a judgement given by the National Non-Discrimination and Equality Tribunal.

Conditional fines are legislated otherwise in the Act on Conditional Fines (1113/1990).

### **Section 22 (1329/2014)**

Section 22 has been repealed by Act 1329/2014.

### **Section 23 (232/2005)**

#### **Adjustment of compensation sums**

The compensation sums in euros specified in section 11(2) above shall be adjusted by Government decree once every three years in accordance with changes in monetary value.

### **Section 24**

#### **Right to issue decrees**

Further provisions on the implementation of this Act shall be issued by decree when necessary.

### **Section 25**

#### **Entry into force and transitional provisions (406/1988)**

This Act enters into force on 1 January 1987.

Measures necessary for the implementation of this Act may be undertaken prior to the Act's entry into force.

The provisions of this Act shall not be applied if they are inconsistent with a collective agreement in the private or public sector that was concluded before this Act enters into force. The provision laid down in section 4(2) of this Act does not require any changes to be made in the composition of

State committees, advisory boards or other corresponding bodies appointed prior to the Act's entry into force.