

ACT ON EQUALITY BETWEEN WOMEN AND MEN

(609/1986; amendments up to 232/2005 included)

Section 1 – *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.

Section 2 – *Limits to the scope of application*

- (1) 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.
- (2) 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 – *Definition of the parties in an employment relationship (232/2005)*

- (1) 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.
- (2) 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

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company exercises the authority of an employer as referred to in the Employment Contracts Act (55/2001).

- (3) 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.

Section 4
– Duty of authorities to promote gender equality
(232/2005)

- (1) 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.
- (2) In particular, circumstances which prevent the attainment of gender equality must be changed.
- (3) 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 & 2.

Section 4a
– Composition of public administration bodies and bodies exercising public authority (232/2005)

- (1) 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.
- (2) 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.

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- (3) 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

– Implementation of gender equality in education and training (206/1995)

Authorities, educational institutions and other bodies providing education and training shall ensure that women and men have equal opportunities for education, training and professional development, and that teaching, research and instructional material support attainment of the objectives of this Act.

Section 6

– Employer's duty to promote gender equality (232/2005)

- (1) Every employer must promote equality between women and men within working life in a purposeful and systematic manner.
- (2) 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

– Measures to promote gender equality (232/2005)

- (1) If an employer regularly has a personnel of at least 30 employees working in employment relationships, the employer shall implement measures that promote gender equality as set out in a gender equality plan to be produced annually that deals particularly with pay and other terms of employment. The

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gender equality plan may be incorporated into a personnel and training plan or an occupational safety and health action plan.

- (2) The gender equality plan shall be prepared in cooperation with personnel representatives and 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 survey of the grade 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.
- (3) Instead of the annual review referred to in subsection 1 above, agreement may be made locally allowing the measures referred to in subsection 2(1) to be undertaken no less than once every three years.

Section 6b

– Measures to promote gender equality in educational institutions (232/2005)

- (1) Educational institutions must prepare a gender equality plan annually in cooperation with staff and student representatives. The plan must include a survey of the gender equality situation within the institution and of related problems, and the necessary measures that are planned for implementation with the purpose of promoting gender equality. Special attention must be given to the attainment of gender equality in student selections and when organizing teaching and evaluating study performance, and to measures to ensure the prevention and elimination of sexual harassment and gender-based harassment.
- (2) The gender equality plan must include an assessment of the extent to which measures previously included in it have been implemented and of the results achieved.
- (3) The gender equality plan may be incorporated into the curriculum or some other plan drawn up by the educational institution. Instead of an annual review, agreement may be made within the institution that the gender equality plan will be prepared no less than once every three years.
- (4) This section does not apply to the education providers and schools referred to in the Basic Education Act (628/1998).

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Section 7
– *Prohibition of discrimination (232/2005)*

- (1) Direct and indirect discrimination based on gender is prohibited.
- (2) In this Act, direct discrimination means:
 - 1) treating women and men differently on the basis of gender; or
 - 2) treating someone differently for reasons of pregnancy or childbirth.
- (3) In this Act, indirect discrimination means:
 - 1) treating someone differently by virtue of a provision, justification or practice that appears to be gender-neutral but where the effect of the action is such that the person may actually find herself/himself in a less favourable position on the basis of gender; or
 - 2) treating someone differently on the basis of parenthood or family responsibilities.
- (4) The action referred to in subsection 3(1-2) 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.
- (5) 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.

Section 8
– *Discrimination in working life (232/2005)*

- (1) 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 herself/himself in a less favourable position on the basis of pregnancy or childbirth or for some other gender-related reason;

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- 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 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.
- (2) An employer shall not, however, be deemed to have violated the discrimination prohibition referred to in subsection 1(2-5) if the matter concerns a situation referred to in section 7(4) and there is an acceptable reason under that provision.

Section 8a

– Countermeasures by the employer (232/2005)

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 she/he has appealed to a right or obligation laid down in this Act or taken part in investigating a matter concerning gender discrimination.

Section 8b

– Discrimination in educational institutions (232/2005)

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 organization 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. This section does not apply to the education providers or schools referred to in the Basic Education Act.

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Section 8c

*– Discrimination in organizations representing labour market interests
(232/2005)*

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 organization or other organization representing labour market interests, in the membership admittance to such an organization or in the provision of the benefits it offers, or if she/he is otherwise treated in the manner referred to in section 7.

Section 8d

– Harassment in the workplace (232/2005)

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 9

– Action that shall not be deemed to constitute discrimination (232/2005)

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 organization if this is based on an express provision in the rules of the association; if the association is another type of organization representing labour market interests, a further condition is that the organization 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

– Burden of proof (232/2005)

If a person considers that she/he has been a victim of discrimination under the provisions of this Act and presents a matter referred to in the Act to a court of law

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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 the equality between women and men 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

– Obligation of employers to report on their actions (232/2005)

- (1) Upon request, the employer shall, without delay, provide any person who considers that she/ he has been discriminated against 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.
- (2) Likewise, the employer shall, without delay, provide a job applicant or an employee who considers that she/he has been the victim of discrimination as referred to in section 8(1) (2) with a written report on the grounds for its actions.
- (3) The employer shall provide an employee with a report on the grounds for her/his 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.
- (4) 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.
- (5) 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.

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Section 10a

– *Obligation of educational institutions to report on their actions (232/2005)*

- (1) Upon request, an educational institution or other body providing training or education shall, without delay, provide a student who considers that she/he has been discriminated against in the manner referred to in section 8b with a written report on its actions.
- (2) 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

– *Compensation (232/2005)*

- (1) Anyone who has violated the discrimination prohibition referred to in section 8 or sections 8a-8d will be liable to pay compensation to the affected person.
- (2) The compensation payable shall amount to no less than EUR 3,000. In cases concerning employee recruitment, the compensation payable shall not exceed EUR 15,000. 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.
- (3) 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. If the severity and other circumstances of the discrimination provide grounds for so doing, the maximum amount of compensation may be exceeded.
- (4) 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.

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Section 12
– *Claims for compensation (232/2005)*

- (1) Compensation shall be claimed by legal action brought at a court of law in the place of domicile of the employer, the educational institution or organization representing labour market interests.
- (2) 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.
- (3) 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.

Section 14
– *Prohibition of discriminatory vacancy announcements*

Announcements of job vacancies or education or training places may not invite exclusively applications from 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
– *Penal provisions (691/1995)*

- (1) The punishment for discrimination at work life is laid down in Chapter 47, section 3 of the Penal Code.
- (2) Anyone who violates the confidentiality obligation laid down in section 10(4) shall be sentenced under Chapter 38, section 2(2) of the Penal Code, unless the act is punishable under Chapter 40, section 5 of the Penal Code or a more severe punishment is prescribed elsewhere than in Chapter 38, section 1 of the Penal Code.
- (3) Anyone who violates the prohibition concerning announcements of education or training places laid down in section 14 shall be sentenced to a fine for

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discriminatory announcement. The public prosecutor may bring charges concerning a discriminatory announcement only on the basis of a notification from the Ombudsman for Equality.

Section 15

– Requesting opinions from the Equality Board (232/2005)

A court may request an opinion from the Equality Board concerning the application of sections 7, 8, 8a-8d and 14 in matters that are important in terms of the Act's objectives.

Section 16

– Supervision

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

Section 17

– Provision of information to the gender equality authorities (232/2005)

- (1) Notwithstanding the provisions and regulations concerning public disclosure of matters or documents, the Ombudsman for Equality and the Equality Board have the right to receive from the authorities, free of charge, all information necessary for the supervision of compliance with this Act.
- (2) Within a reasonable period specified by the Ombudsman for Equality, the latter shall have the right to receive from any person information needed 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.
- (3) Upon the request of an employee who suspects that pay discrimination has occurred, her/his 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 individual employees 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 Equality Board.

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- (4) Separate provisions have been made on the public disclosure of church and parish documents of the Evangelical Lutheran Church of Finland.

Section 18

– Inspections and executive assistance (232/2005)

- (1) The Ombudsman for Equality has the right to carry out necessary inspections at a workplace, educational institution or organization representing labour market interests 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.
- (2) In carrying out an inspection, the Ombudsman for Equality is entitled to receive executive assistance from other authorities.
- (3) Inspections shall be carried out without causing unnecessary inconvenience or costs.

Section 19

– Provision of guidance and advice (232/2005)

- (1) Anyone who suspects that she/he has become the victim of discrimination referred to in this Act may request guidance and advice in the matter from the Ombudsman for Equality
- (2) 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.
- (3) Upon finding that the employer or educational institution is neglecting its obligation to prepare a gender equality plan under section 6a or 6b 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.

Section 20

– Placing a matter before the Equality Board (232/2005)

- (1) The Ombudsman for Equality or a central organization of employers' associations or of trade unions may place a matter involving an action contrary

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to the provisions of sections 7, 8, 8a-8d or 14 before the Equality Board for the purposes of the procedure referred to in section 21.

- (2) The Ombudsman for Equality may place a matter involving an action contrary to sections 6a and 6b before the Equality Board for the purposes of the procedure referred to in section 21(4).
- (3) Matters relating to the activities of Parliament or its organs, the President of the Republic, the Government, a ministry, the Prime Minister's Office, the Parliamentary Ombudsman, the Chancellor of Justice, the Supreme Court or the Supreme Administrative Court may not, however, be placed before the Equality Board.
- (4) Provisions on the handling of matters by the Equality Board are laid down in the Act on the Ombudsman for Equality and the Equality Board. (610/1986)

Section 21

– Authority of the Equality Board in regard to unlawful action (232/2005)

- (1) The Equality Board may prohibit anyone who has acted contrary to the provisions of sections 7, 8, 8a-8d or 14 from continuing or repeating the practice, under threat of a penalty if necessary.
- (2) (2) The threat of a penalty may be imposed on the party to whom the prohibition applies, or on the party's representative, or both.
- (3) 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.
- (4) On the proposal of the Ombudsman for Equality, the Equality Board may, under threat of a penalty if necessary, impose an obligation on the employer or educational institution that has neglected the obligation under section 6a or 6b to prepare a gender equality plan within a defined period.
- (5) The order to pay a penalty payment is a decision taken by the Equality Board.

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Section 21a

– Right of the Ombudsman for Equality to impose a penalty payment (232/2005)

- (1) The Ombudsman for Equality may impose a penalty payment 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 penalty payment is a decision taken by the Equality Board.
- (2) Penalty payments are otherwise subject to the provisions of the Act on Penalty Payments (1113/1990).

Section 22

– Appeal (232/2005)

- (1) Appeals against decisions of the Equality Board shall be submitted to an Administrative Court. Appeals are subject to the provisions of the Administrative Judicial Procedure Act (586/1996).
- (2) A prohibition or obligation decision made by the Equality Board by virtue of section 21 shall be complied with immediately, even if the decision has not yet obtained the force of law, unless otherwise ordered by the Equality Board or Administrative Court.

Section 23

*– Adjustment of compensation
sum (232/2005)*

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

– Transitional provisions and entry into force (406/1988)

- (1) This Act enters into force on 1 January 1987.

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(2) Measures necessary for the implementation of this Act may be undertaken before the Act's entry into force.

(3) The provisions of this Act shall not apply 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 government committees, advisory boards or other corresponding bodies appointed prior to the Act's entry into force.

624/1992:

This Act enters into force on 1 August 1992.

196/1995:

This Act enters into force on 1 April 1995.

206/1995:

This Act enters into force on 1 March 1995.

The quota principle referred to in section 4(2) of the Act applies to bodies established after the Act's entry into force.

691/1995:

This Act enters into force on 1 September 1995.

1037/1997:

This Act enters into force on 1 December 1997.

71/2001:

This Act enters into force on 1 June 2001.

232/2005:

This Act enters into force on 1 June 2005.

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