



THE ACT ON EQUALITY BETWEEN WOMEN AND MEN 2015



MINISTRY OF SOCIAL AFFAIRS AND HEALTH

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The Act on Equality between Women and Men in a nutshell

The purpose of the Act on Equality between Women and Men is to prevent discrimination based on gender, to promote equality between women and men, and to improve the status of women, particularly in working life. The Act is also intended to prevent discrimination based on gender identity or gender expression.

The Act on Equality between Women and Men applies as a rule to all sectors of society and in all areas of life. The law is not applied to relationships between family members or other relationships in private life, or to activities associated with religious practices.

The Act on Equality between Women and Men contains three types of regulations: those promoting gender equality, those banning discrimination, and those related to legal protection and supervision.

1. The regulations promoting gender equality relate to the responsibility of authorities, of education providers and other bodies providing education and training, and of employers to promote gender equality. Authorities must assess all their activities from different gender perspectives and

create operating practices for the promotion of gender equality. Equality is also promoted through the use of quotas. In educational institutions and in working life, equality is promoted, among other methods, through the use of gender equality plans.

2. In the general bans on discrimination, direct and indirect gender-based discrimination are defined and forbidden. Sexual harassment, gender-based harassment, and any orders or instructions to discriminate are also discrimination. Countermeasures, meaning the less favourable treatment of a person after having appealed to a right, are also classed as discrimination. The ground for discrimination may also be related an individual close to the person, or discrimination may be based on assumption.

The special bans on discrimination define discriminatory practices in working life, educational institutions, organisations representing labour market interests, and in provision of goods and services. The violation of these bans may lead to a demand of compensation. The employer and educational institution has the responsibility, when requested, to give a written report on their actions to anyone suspecting that this kind of discrimination has taken place.

3. Compliance with the Act on Equality between Women and Men is supervised by the Ombudsman for Equality and the National Non-Discrimination and Equality Tribunal.

The Ombudsman for Equality provides, among other things, guidance and advice on application of the Act in matters such as the bans on discrimination and gender equality plans. The Tribunal may, under the threat of imposing a fine, prohibit a discriminatory practice and,

based on a presentation by the Ombudsman for Equality, impose the obligation to prepare a gender equality plan within a certain time frame. In the last resort, the person suspecting discrimination may bring legal action demanding compensation in the district court. According to the principle of divided burden of proof, the burden of proof on the person suspecting discrimination has been reduced. Provisions on discriminatory, employment-related, and sexual crimes are in criminal law.

The Act on Equality between Women and Men (609/1986), hereinafter the Equality Act, came into force on 1.1.1987, and since then a number of changes to it have been made. The Act was most recently updated in connection with the passing of the new Non-Discrimination Act at the beginning of 2015. At this point bans on discrimination based on gender identity or gender expression were added to the Equality Act as well as the responsibility to forestall this kind of discrimination, the gender equality plan requirement was extended to comprehensive schools, regulations regarding employer's gender equality plans and pay surveys were made more precise, regulations regarding the independent position of the Ombudsman for Equality were strengthened, and the new National Non-Discrimination and Equality Tribunal was established.

In the Equality Act, the phrase gender identity refers to an individual's experience of their own gender. The phrase gender expression refers to the expression of one's gender through clothing habits, behaviour, or by other similar means. The regulations on discrimination of the Equality Act apply also to discrimination based on the fact that an individual's physical gender-defining characteristics are not unambiguously female or male.

The Non-Discrimination Act (1325/2014) forbids discrimination based on age, origin, nationality, language, religion, belief, opinion, political activity, trade union activity, family relationships, state of health, disability, sexual orientation or other personal characteristics, and also legislates for the promotion of non-discrimination. Compliance with the Non-Discrimination Act is supervised by the Ombudsman for Non-Discrimination, the occupational safety and health authorities and the National Non-Discrimination and Equality Tribunal.

Promoting gender equality

The responsibility of authorities to promote gender equality

The Equality Act obliges authorities to promote equality between men and women in all their activities purposefully and systematically. This obligation applies to all state and municipal authorities, and holds for all areas of activity. The authorities also have the responsibility to prevent in a purposeful and planned manner all discrimination based on gender identity or gender expression. Administrative activities must be developed in such a way that the required procedures and practices for the consideration of gender equality are created and established. In particular, authorities are obliged to bring change to any circumstances that prevent the attainment of gender equality. Equality must be taken into account in the ways described above in the availability and supply of services.

One way to promote gender equality among authorities is through mainstreaming. This means that, in the planning, preparation, implementation and monitoring of all decisions and measures, particular attention is paid to their impacts separately on both men and women. The goal is to assess the effects of the activities from the perspective of both men and women in all the different stages of the activities and in all areas of social life, and also

to equitably take into account the conditions and interests of both men and women. Authorities must develop and take in use tools for the promotion of gender equality, such as gender impact assessment, indicators of the current state of gender equality, consultation mechanisms and statistics separated according to gender. Consideration must also be made of how monitoring is organised in each body. The removal of barriers to gender equality requires active information acquisition.

Supply of services means the services produced by both public authorities and the private sector, which the state or municipality offers as public services, such as social, educational, training, cultural, employment, transportation, and free-time services. The regulation applies to the provision of both to statutory and discretionary services. In the provision of services, consideration must be given equally to the needs, preferences, and interests of both women and men. The services must also be organised in a way that those belonging to gender minorities can also use them.

Authorities can draw up and implement gender equality plans for their activities and services alongside the gender equality plans provided by law concerning the terms of employment.

Quotas and the principle of equitable representation

One basic goal of the Equality Act is that women and men would be able to participate equally in societal planning and decision-making.

The proportion of both women and men must be at least 40 per cent in government committees, advisory boards, working groups and in

other equivalent preparation, planning and decision-making bodies. The quota regulations are not applied if the advisory board or equivalent body establishes from among its members a unit or working group.

Also, municipal and inter-municipal co-operation bodies, municipal councils excluded, must be comprised of at least 40 per cent of both men and women. The Equality Act's quota regulation do not define in further detail what is meant by a municipal body. According to Section 17 of the Local Government Act, municipal bodies include the council, the municipal board and its sub-committees, and the management boards and their divisions and commissions. The Supreme Administrative Court has affirmed that the municipal bodies covered by the quota regulation may in some situations include bodies other than those listed in the Section 17 above, such as working groups, for example.

Inter-municipal cooperation bodies include joint authority councils, meetings, and executive boards, as well as other joint municipal bodies such as municipal committees, management boards, commissions and local cooperation advisory councils. Often each municipality directly chooses the members of an inter-municipal co-operation body, for example those of a joint municipal authority's joint authority council or the joint body defined in Section 77 of the Local Government Act. In inter-municipal negotiations, it should be ensured beforehand that the body's final composition is in accordance with the Equality Act's quota regulation.

The task of the authorities preparing the formation of the body is to see that the quota regulation is adhered to. The quota regulation applies both to members and deputy members, with the percentage requirements applying to these two groups separately. Already in the candidate proposal

stage it should be seen to that the representation requirement for both genders can be fulfilled and a reminder should be given about the quota when requesting candidates. The authorities and those nominating candidates should, where possible, propose both a man and a woman for every membership position.

Below are listed the minimum numbers of men and women for different sizes of body:

No. of members	Women/men, min	No. of members	Women/men, min
2	1	11	5
3	1	12	5
4	2	13	6
5	2	14	6
6	3	15	6
7	3	16	7
8	4	17	7
9	4	18	8
10	4	19	8
		20	8

If a body exercising public authority, or on the other hand an agency, an institution 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.

The quota and the equitability provision can be set aside only for a special reason. A special reason would be, for example, that there are no women or no men working on the tasks from which the executive bodies are being appointed. All special reasons must be justified.

Implementation of gender equality in education and training

The Equality Act obliges authorities, education providers and other bodies providing education or training to ensure that girls and boys, as well as women and men, have the same opportunities for education, training and vocational development. The same parties also have the obligation to make sure that the teaching, research and instructional material support the realisation of gender equality. Gender equality must be promoted taking into account the age and the level of development of the child. Discrimination based on gender identity and gender expression must be prevented in a purposeful and systematic way.

The above said means, among other things, that the choice of educational path should be based on individual considerations, not gender-related ones. Also, attempts are to be made at all levels of education and training to combat attitudes and practices that encourage to choose education, training and careers on the basis of gender stereotypes. In teacher training, attention must be paid to how the school's practices and the teachers' own actions influence the students' or pupils' ideas of appropriate careers and training for girls and boys. It is important to develop study materials that do not create prejudices or stereotypical gender roles. Awareness

of the individual nature of gender identity and gender expression shall be increased.

The gender equality plan in educational institutions

The goal of planned gender equality work is to ensure that the education and training involves systematic work towards promoting gender equality and preventing gender-based discrimination. One way this work is carried out in the educational institution is with the help of a gender equality plan.

The education provider is responsible for ensuring that the educational institutions annually create gender equality plans. This obligation applies also to comprehensive schools, which must draw up gender equality plans by the beginning of 2017. The goal is that systematic gender equality work will thus be ensured, where the necessary measures are chosen by each educational institution according to their own circumstances. The gender equality plan is drawn up in cooperation with the staff and pupils/students, who should participate in gender equality planning from the very beginning in a way that takes into account the pupils' age and stage of development.

The gender equality plan involves an assessment of the educational institution's gender equality situation and problems, the necessary measures for the promotion of gender equality, and a review of the implementation of the previous plan and its results. When clarifying the gender equality situation it is important to guide pupils and students well in what the assessment is about.

When making the gender equality plan, special attention must be given to the pupil or student selections, teaching organisation, learning differences and evaluation of study performance, and the prevention and elimination of sexual harassment and gender-based harassment. The prevention of discrimination based on gender identity and gender expression must be taken into account when preparing the plan and making decisions on equality-promoting measures.

In place of an annual plan, the plan may be drawn up at a maximum interval of every three years.

Promoting gender equality in the workplace

The Equality Act obliges every employer to promote gender equality in a purposeful and systematic manner. This applies to both public- and private-sector employers regardless of the number of employees. Workers' experience of equal and fair treatment influences the level of motivation and well-being at work.

According to the Equality Act, the employer must, with due regard to the resources available and any other relevant factors,

- act in such a way that job vacancies attract applications from both women and men;
- promote the equitable recruitment of women and men in the various jobs and create for them equal opportunities for career advancement;

- promote equality between women and men in the terms of employment, especially in pay;
- develop working conditions to ensure they are suitable for both women and men;
- facilitate the reconciliation of working life and family life for women and men by paying attention especially to working arrangements; and
- act to prevent the occurrence of discrimination based on gender.

Employers also have the responsibility to prevent in a purposeful and systematic manner all discrimination based on gender identity or gender expression.

The employer may not neglect their obligations to promote gender equality by appealing to negative attitudes. For example, customers' expectations or opposition from one's own employees must not prevent equal treatment.

The workplace gender equality plan

If an employer regularly has a personnel of at least 30 employees, the employer is to draw up a gender equality plan at least once every two years that deals particularly with pay and other terms of employment, according to which the gender equality measures are implemented.

The gender equality plan is to be drawn up in cooperation with the shop steward, the elected representative, the occupational safety and health

representative or other representatives appointed by the employees, and these people must have sufficient opportunity to participate in and influence the preparation of the plan. This means that the employee representatives must be guaranteed real opportunities to participate in plan preparations and influence on the content of the plan in the different stages of its development. The employer must give the employee representatives sufficient information for dealing with the task in hand.

The gender equality plan clarifies the gender equality situation in the workplace, and it shall pay particular attention to wages and other terms of employment. Also, the prevention of discrimination based on gender identity and gender expression must be taken into consideration. The plan may contain both short- and long-term goals. It may be incorporated as part of the personnel and training plan, an occupational safety and health action plan, or it may be drawn up together with the non-discrimination plan. The employer is responsible for ensuring that the gender equality plan fulfils the requirements of the Equality Act, and that it contains a listing of the distribution of women and men according to different work tasks and a pay survey.

The gender equality plan must also contain an assessment on the workplace's gender equality situation, measures for improving the situation, as well as a review of the results of the previous plan.

I Assessment on workplace gender equality situation

Part of the assessment must comprise a breakdown of the distribution of women and men across different work tasks and a

survey on the whole personnel of the work task categories, wage levels and wage differentials for women and men (pay survey).

The necessary information on the gender equality situation of the workplace must be acquired for the assessment. The assessment of the equality situation can focus on matters such as the application process; the distribution of men and women across different work tasks; career advancement; working conditions; training of personnel; participation in project groups or working groups; options for reconciliation of work and family life, such as use of family leave and the supporting work arrangements for this; the working atmosphere; attitudes to gender equality, management, and labour protection measures.

In addition to using statistics, it is also worth gathering information using questionnaires and reports. Information can also be gathered by adding questions on gender equality to work well-being questionnaires and other workplace questionnaires and then analysing the answers received from both the male and female perspective. When making the assessment, one helpful tool could be the gender equality questionnaire available at <https://www.tasa-arvokysely.fi>.

Pay survey

The pay survey is used to ensure that there are no unjustified wage differentials between women and men working for the same employer and engaged in either the same work or work of the equal value. The goal is to examine whether women and men are treated

equally as far as pay is concerned and whether they receive equal treatment when doing equally demanding work. The employer is, however, always responsible for ensuring non-discriminatory wage policy, even if a gender-based wage differential is not revealed by the pay survey.

When conducting the pay survey, the wage systems in use by the employer, the coverage of them and how they are applied are examined. It is important that the wage systems are as clear and transparent as possible. The pay survey must cover all employees in the service of the employer, including part-time and temporary workers. All employees must be included into the same pay survey.

The pay survey looks at wages in their entirety. By wages is meant all the financial benefits received from the employer for the work carried out. The wage information of individual employees can be used in the survey, but the final pay survey is to be written up so that the wage figures cannot be connected with particular individuals.

At the start of the pay survey it is established how the work of women and men is positioned on the scale of work task difficulty used by the employer in their assessment system, or any other grouping system used by the employer to determine wage levels. When making this grouping system, the purpose of the pay survey must be taken into consideration. Since the Equality Act requires that women and men be paid the same wage for the same work or work of the same value, there is a need to assess whether equally demanding jobs are in fact positioned on the same level in the wage

system. When determining which jobs are of the same value, the use of special systems for calculating work task difficulty levels is recommended. In this way, one can best compare the demands of the work of employees also under different collective agreement and their wage levels by gender.

For each group considered in the pay survey, the mean value is calculated for women's wages and men's wages. These mean values can be expressed either in euros or as women's mean wages as a percentage of men's mean wages. If the group analysis shows clear differences between women's and men's wages, the employer must establish the reasons and grounds for these differences. By clear differences is meant here that the mean values for the wages of women and men of the groups are unambiguously different. Systematically recurring differences give grounds for further inspection of even smaller wage differentials. In order to clarify the reasons for the differences noted, the central components of the wages are inspected. Each and every wage component, including both the job-specific wage component as well as the different bonus such as individual performance- or competence-related bonuses and merit pay, must separately be of a non-discriminatory nature.

It must also be assessed whether the grounds for the wage differentials are justified under the provisions of the Equality Act, in other words do they count as justification for wage differentials as defined in the Equality Act. If there is no justification for the wage differentials, the employer must take appropriate measures

to rectify the situation. Situations of wage discrimination must be clarified and corrected quickly. Also, cases of discrimination indicated by wage statistics must be corrected. It is good to include other corrective actions in the gender equality plan. These include, among others, a timetable for the removal of wage differentials, for example in situation where the wages of a particular worker group have not risen in line with general wage increases. The pay survey can also be used more widely as a base for equality planning, with attention being paid where necessary to career advancement, for example.

2 Measures for promoting gender equality and achieving equality in pay

Based on the assessment, it is decided what actions need to be taken in order to promote gender equality. Agreement is made about goals, methods, timetables and monitoring procedures. According to law, measures for promoting gender equality and achieving equality in pay must be presented. If unjustified wage differentials have been detected, methods for correcting them are presented, as well as the methods for monitoring the process. Agreement on monitoring is needed as a foundation for later assessment of the results.

3 Review of the results of the previous plan

The review relates to the implementation of and results achieved by the previous plan. By reviewing the results, important information is obtained on matters such as how wage correction mechanisms function, in particular, and where there is still room for improvement. The review is of use for further developing of effective activities and is also used as a base for the next plan.

It is important that there is close monitoring in the workplace of the effects of increase of wage flexibility and wage system development and application on the development of wage equality, and that developments are steered such that the demands of, and qualities required for, female-dominated work tasks carry appropriate weight in the wage system. Wages should respond to changes in both women's and men's work such that a quantitative increase in either the workload or its level of difficulty is also reflected in the wage level.

The whole personnel must be actively informed about the gender equality plan and any updates to it. The plan must also be easily accessible to all workers.

At the local level, the employer and employee may make an agreement that the pay survey included in the gender equality plan will be carried out at least once every three years provided that the other parts of the gender equality plan are completed annually.

Prohibitions on discrimination

General prohibitions on discrimination

In the Equality Act, gender-based discrimination is defined and prohibited. This prohibition applies to all areas covered by the Act, meaning as a general rule all sectors of society and all situations in which discrimination may arise.

Direct and indirect discrimination

Direct gender-based discrimination means treating women and men differently on the basis of gender, for reasons of pregnancy or childbirth, or for reasons of gender identity and gender expression.

Indirect gender-based discrimination means 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 person may actually find themselves in a less favourable position on the basis of gender. Indirect discrimination can also mean treating someone differently on the basis of

parenthood or family responsibilities. In this case the treatment of two individuals of the same gender can be compared.

Indirect discrimination is connected in law with concept of legal justification. According to this, the action is not counted as discrimination if it is aiming towards an acceptable objective and if the chosen methods are held to be appropriate and necessary for the achievement of the objective.

Discrimination is prohibited regardless of whether it is based on the factual or assumed information relating to the individual themselves or to another individual (discrimination by association or discrimination based on assumption). It is prohibited, for example, to harass an individual on the basis that they are a transgender's family member, or to treat someone differently because it is assumed in a work interview that they are pregnant.

The order or instruction to engage in discrimination based on gender, gender identity or gender expression is prohibited as discrimination in the Equality Act.

Sexual harassment and gender-based harassment

Sexual harassment and gender-based harassment are counted as discrimination under the Equality Act.

The Act defines sexual harassment as 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.

Sexual harassment can for example be expressed in the following ways:

- sexually suggestive gestures or expressions
- indecent talk, suggestive jokes , and comments or questions concerning the body, clothing or private life
- sexually slanted material, messages, or phone calls
- physical contact
- suggestions or demands for sexual intercourse or other kinds of sexual activity
- rape or attempted rape.

The Equality Act defines gender-based harassment as 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.

Gender-based harassment can for example be expressed in the following ways:

- degrading the individual's gender, gender identity or gender expression
- workplace or school bullying, when this is based on the victim's gender, gender identity or gender expression.

The employer, educational institution, organisation representing labour market interests, or provider of goods or services is guilty of discrimination if it neglects to take action to eliminate harassment that it has become aware of.

Provisions regarding criminal harassment are outlined in the Criminal Code.

What does not constitute discrimination?

Actions not counted as discrimination under the Equality Act include special protection of women because of pregnancy or childbirth and enacting legal provisions on compulsory military service for men only. An association other than an actual labour market organisation is not guilty of discrimination if it admits either only men or only women as members provided that this is stated 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 the Equality Act. Also not counted as discrimination are temporary, special actions, based on a plan, which are for the purpose of promoting factual gender equality and are aimed at implementing the objectives of the Equality Act.

Special prohibitions of discrimination and rules regarding compensation

The special prohibitions of discrimination supplement the general prohibitions and define discriminatory practices in working life, educational institutions, organisations representing labour market interests and the provision of goods and services. The contravening of these bans may demand compensation. The employer and educational institution has the responsibility, when requested, to give a written report of their actions to anyone suspecting that discrimination has taken place.

Discrimination in working life

Discrimination in recruitment and selection of employees

The employer is guilty of discrimination if, upon employing a person or selecting someone for a particular task or training, they bypass 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.

The employer may choose precisely a man or a woman for the task if this is based on weighty and acceptable grounds related to the nature of the job or the task. For example, in certain situations specifically a man or a woman can be sought for the position of safety inspector. The employment relationship can also be of such a personal nature, such as

the care of an elderly person at home, that specifically either a man or a woman is wanted for the position.

The Equality Act does not limit the right of the employer to choose the person who is in their opinion most suited for the position; instead it seeks to prevent employers from choosing people on the basis of their gender without justification and thus bypassing a better qualified applicant. In the same way, the Act seeks to prevent the preference of either gender when workers already present in the workplace are chosen for new tasks and training.

When there are both male and female applicants, the employer is to carry out a comparison of merits. Of central importance in the comparison of merits is the employer's own previously set selection criteria. Attention is usually given to applicants' education, training, previous work experience, and any qualities, knowledge and skills that could prove useful in the job and that can therefore be considered as additional merits. On the whole, if the most qualified applicant is not chosen this must be for a reason that is acceptable by common standards. Such reason could be, for example, related to a difference in the individual suitability between the chosen and not-chosen applicant. It is the employer's duty to show the existence of such a reason.

In addition, employees may not be discriminated against in selection procedures based on gender identity or gender expression.

Discrimination on the basis of pregnancy and family leave

Gender-based discrimination includes treating someone differently for reasons of pregnancy or childbirth or treating someone differently on the basis of parenthood or family responsibilities. When employing a person or selecting someone for a particular task or training, the employer may not bypass an individual for reasons of pregnancy, childbirth or family leave. Nor it is not permitted on the basis of the above reasons to dismiss the employee or limit the length or continuation of their employment relationship. It is also prohibited to treat someone differently with regards to decisions on wages and other employment conditions for reasons of pregnancy, childbirth or family leave.

In practice these regulations are particularly relevant to temporary employment relationships. For example, the employer may not bypass a pregnant applicant when choosing an applicant for a temporary contract. Also, a temporary contract cannot be limited so as to last only until the beginning of the period of maternal, paternal or parental leave, nor can a decision be made not to renew a contract because of pregnancy or family leave if the work itself is to continue.

Discrimination regarding wages and other terms of employment

The employer is acting in a discriminatory manner if they apply 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, gender

identity or gender expression than one or more other employees in the employer's service performing the same work or work of equal value.

By 'same work' is meant equivalent or nearly equivalent work. Work of equal value, according to the definition given in the Act, may also refer to jobs that are very different from each other. When assessing whether work is of equal value, attention must be given to the nature and content of the tasks, the demands that these tasks place on the worker, and the working conditions.

The discrimination prohibition applies to all payments that the employee receives from the employer for the work or tasks performed, either directly or indirectly and whether in the form of money or fringe benefits.

All wage components must separately be of a non-discriminatory nature. If employees are engaged in the same work or work of equal value, the wage components based on the requirements of the work must be equal. Also, various wage supplements must be non-discriminatory, and there must be an acceptable reason for any possible wage differentials arising from the supplements.

An acceptable reason for wage differentials could be, for example, the employee's education, training, professional skills, level of initiative, or in certain situations competition resulting from a shortage of qualified workers. If the employer provides an acceptable reason for the wage differentials, it still has to be assessed whether the reason presented accounts for the wage differential in its entirety, or only for part of it. For example, a collective bargaining agreement or administrative order does not in itself count as an acceptable reason.

The employees whose wages are being compared do not have to be working for the employer during the same period. An employee's wages can also be compared to those of their predecessor.

Discrimination in management, division of work tasks and working condition arrangements

The employer is guilty of discrimination if they manage the work, distribute tasks or otherwise arrange 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, gender identity or gender expression.

Included under work management are matters such as use of work time and work supervision, work space arrangements, distribution of work equipment, and development of employees' work tasks and professional skills. For example, it is counted as discrimination if work tasks are divided such that the most monotonous and boring tasks are given solely to employees of one gender. It is also counted as discrimination if the opportunity to work overtime is given only to men, or if only women's working hours are changed to be part-time. The significance of the division of work is particularly high in situations where the quality of work tasks is decisive in regards to opportunities to advance into new and better paid positions.

According to the Employment Contracts Act, a person returning from family leave has the right to return primarily to their former job. If this is not possible, the employee must be offered work under a contract of employment that corresponds to his or her former job, and if this is not

possible either, some other contracted employment must be offered. Provisions on the right of persons returning from family leave to return to their former job are also laid out in European Union directives.

Discrimination in dismissals, ending an employment relationship and lay-offs

The employer may not give notice on, terminate or otherwise discontinue the employment relationship of one or more employees on the basis of gender, gender identity or gender expression. Likewise, none of the above reasons may be the basis for transferring or laying off an employee. The employer may not allocate the above-mentioned measures such that their implementation would contravene the prohibitions on direct and indirect discrimination. Provisions on employment relationship security for pregnant workers or those on family leave are also laid down in other laws regarding the employment relationship.

Prohibition of countermeasures

The Equality Act prohibits the employer from taking any kind of countermeasures if an employee has appealed to the Equality Act. Countermeasures are defined as the less favourable treatment of an individual through actions such as changing their work tasks or terms of employment, not applying to them general wage increases, an unfounded increase in supervision of work or working hours, burdening the employee with unreasonable additional tasks, or making difficult the arrangement

of their working hours and holiday. At their most extreme such countermeasures involve the termination of the employment relationship.

The protection afforded by the prohibition of countermeasures applies both to the individual appealing to the Equality Act as well as any witnesses and other individuals who have assisted in the matter. Compensation demands may result from the employer's countermeasures even if they take place after the employment relationship has been terminated. The employer must also see to it that other employees do not engage in countermeasures against individuals who have appealed to the Equality Act.

Harassment in the workplace

The employer is guilty of discrimination as defined in the Equality Act if, upon receiving information that an employee has been a victim of sexual or gender-based harassment in the workplace, they neglect to take the steps available to eliminate the harassment.

The employer must see to it that the employee does not become a target of sexual or gender-based harassment in their working life. It is the responsibility of the victim of the harassment to make the perpetrator aware that their actions are not desired. The harassment may also be reported to the employer representative, local union representative, or occupational safety delegate. The person primarily responsible for the harassment is the perpetrator themselves. The responsibility for eliminating the harassment is transferred to the employer at the point when they receive information about the harassment.

If there is reason to suspect sexual or gender-based harassment, the employer is to take the necessary actions to eliminate the harassment. Only the employer has sufficiently effective authority and means to take action against the perpetrator of the harassment. These actions include notifying the perpetrator of the situation, warning them, and as a last resort dismissing them or terminating their contract. The measures may include rearranging work tasks and working areas, but they must not weaken the position of the victim. The employer must also seek to take pre-emptive action against harassment through use of the gender equality plan, for example.

The Occupational Safety and Health Act lays down provisions on harassment targeted at an employee which causes danger or harm to his or her health, as well as other inappropriate treatment of employees. The employer is responsible for taking action to remove any faults that come to their attention.

Provisions regarding criminal harassment are outlined in the Criminal Code.

Employer's report to the employee

If an individual suspects that they have been discriminated against in working life, the employer is to give without delay, on the employee's request, a written report of the grounds for their actions. In this way the employee can evaluate whether there is reason to continue with their case and possibly refer it to a court of law. The giving of such a report helps to prevent unnecessary legal actions.

If the matter relates to a recruitment situation, the report must include the grounds for selection, the education, training and work experience and other experience of the chosen candidate, and any other factors influencing the selection. If there is reason to suspect wage discrimination, the employee is to be given details on the grounds for their pay, as well as any other necessary information.

The right of the employee's representative to receive wage information

A local union representative or other employee representative has 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.

Upon the request of an employee suspecting wage discrimination, the local union representative or other employee representative has the right to receive from the Ombudsman for Equality information on the pay and terms of employment of an individual employee in situations where there are justified grounds for the suspicion. The Ombudsman for Equality must deliver the information to the representative no later than two months from the time when the request is received. This regulation is applied only in situations where the individual employee has not given their consent to disclosure of the information, or where the local union representative does not otherwise have the right to receive the wage information. The regulation is of significance to private sector employees.

The wage information for public sector employees is publicly available. If the Ombudsman for Equality refuses to provide the requested information, the employee's representative may refer the matter to the National Non-Discrimination and Equality Tribunal.

Discrimination in educational institutions

The action of an educational institution or any other body providing training or education is counted as discrimination if a person is treated less favourably than others on the basis of gender, gender identity or gender expression for example in student selections, the organisation of teaching, the evaluation of study performance or in any other regular activity of the educational institution or body.

This regulation applies also to harassment. The responsibility of the educational institution of other body to eliminate harassment begins when the representative responsible for dealing with such matters is notified about the situation. The educational institution must eliminate the harassment using the measures at its disposal. The actions of the educational institution are counted as discrimination if it neglects this responsibility. Furthermore, the compensation responsibility remains with the educational institution or other education-providing body even in situations where the perpetrator is a single teacher or student.

The prohibition of discrimination applies to both public and private education providers. It applies to both general and vocational education. The prohibitions of discrimination which are subject to compensation claims are not applied to comprehensive schools, where only the general

discrimination prohibitions of the Equality Act apply. Comprehensive school pupils also have the right to a safe study environment. This is implemented in line with the Equality Act and legislation on primary education.

Any person suspecting discrimination has the right to receive from the educational institution, without delay, a written report of the institution's actions. For example, if discrimination in study place selection is suspected, explanation must be given of the selection criteria, and if discrimination is suspected in grading and assessment, the assessment and grading criteria must be explained. If there is suspicion of harassment, the report must make clear what action have been taken to eliminate the harassment.

Discrimination in organisations representing labour market interests

It is counted as prohibited discrimination if a person is treated less favourably than others on the basis of gender, gender identity or gender expression 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 a manner covered by the prohibitions of the Equality Act.

Discrimination in the provision of goods and services

The action of a provider of goods or services is counted as discrimination if a person is treated less favourably on the basis of gender, gender identity or gender expression in the provision of goods and services generally available to the public. Also counted as discrimination is any sexual or gender-based harassment committed by the provider of goods or services and, for example, the refusal to offer goods or services to someone who has claimed discrimination or to their witnesses. This prohibition is not applied to the content of the media and advertising nor to education and training.

The pricing system used by a trader cannot be based on the customer's gender. For example, a barber or hairdresser may offer their customers a service in accordance with their business idea and professional skills, but the pricing of the services must not be based on the customer's gender, but instead on the actions carried out as part of the service. It is also prohibited for there to be any gender-based differences in the pricing or benefits for insurances offered to customers, nor in general can housing services be offered according to gender. The goal is not to block all kinds of differential treatment, but to prevent unfair treatment. Among other things, discounted offers for mothers' or fathers' day are possible, as are temporary and small discounts offered by sports clubs or other associations to only one gender.

The provision of goods or services solely to representatives of one gender is permissible by law if it is justified by a legitimate aim, and appropriate and necessary means are used in order to achieve that

objective. Such objectives would include, for example, the protection of victims from gender-based violence, reasons of privacy or decency, or the organising of sports activities.

Compensation for discrimination

The breaking of special prohibitions of discrimination may lead to demands for compensation. The compensation is to be paid regardless of whether or not the discrimination has incurred any financial loss, since the payment constitutes compensation for the offence caused by the discrimination. The person who pays the compensation is the one who violated the prohibition. In determining the level of compensation, the purpose has been to ensure that the consequences are strong enough to encourage the victim to appeal to their rights, and also strong enough to discourage acts of discrimination.

The amount of compensation is set by the court, with the decision process taking into account the nature, extent and duration of the discrimination. The minimum level of compensation is €3,570 (June 2015). The court may reduce the minimum amount stated above or waive the compensation requirement completely if this is deemed reasonable in view of the offender's financial situation, attempts to prevent or eliminate the effects of the action and other circumstances. For example, the employer may reverse the dismissal or arrange a new, equivalent work position for the applicant who was discriminated against.

As a general rule, a maximum level of compensation has not been set. As an exception to this, the compensation payable to an job applicant

shall not exceed €17,840 (June 2015) in recruitment situations where the employer is able to show that the individual would not have been chosen for the job even if the choice would have been made on non-discriminatory grounds.

Compensation is to be claimed by legal action brought at the district court within whose judicial district the employer, the educational institution, organisation representing labour market interests, or the provider of goods or services has its general forum. The legal action must be brought within two years of the discrimination prohibition being violated, except in cases concerning employee recruitment, where the action must be brought within one year.

During the legal action, the principle of divided burden of proof is applied, meaning that the burden of proof on the person suspecting discrimination is reduced. According to this principle, the person suspecting discrimination must show that it is probable that the opposite party has violated the special prohibitions of discrimination. This then gives rise to a presumption of discrimination. The defendant must then demonstrate that there has been no gender-based violation but that the action was taken for an acceptable reason and not due to gender.

Payment of compensation does not prevent the injured party from further claiming compensation under the Employment Contracts Act or the Tort Liability Act, for example.

Discriminatory vacancy announcements

Job vacancies and education and training places may not be advertised as being open only to either women or men. A job or training announcement can be directed to members of one gender only in exceptional circumstance, if there is a weighty and acceptable reason arising from the nature of the work as to why either a woman or a man is required. This can sometimes be applicable also as a temporary positive action within the gender equality plan, provided that the measure is aimed at achieving an equal personnel structure.

The Equality Act does not apply to advertising. Discriminatory advertising is supervised by the Consumer Ombudsman. The Council of Ethics in Advertising issues statements on the ethical acceptability of advertisements, but not on their illegality.

Supervising compliance with the Equality Act

The Ombudsman for Equality and the National Non-Discrimination and Equality Tribunal supervise compliance with the Equality Act.

The Office of the Ombudsman for Equality

The duties of the Ombudsman for Equality are to:

- supervise compliance with the Act on Equality between Women and Men, and particularly the prohibition of discrimination and discriminatory vacancy announcements
- promote the purpose of the Act by means of initiatives, advice and guidance
- provide information about the gender equality legislation and its application
- monitor the implementation of equality in different sectors of society.

An individual who suspects that they have been subject to discrimination as defined in the Equality Act may request from the Ombudsman for Equality guidance and advice on the matter. If the Ombudsman for Equality notices that the obligations of the Act are not being observed, or that the regulations of the Act are otherwise being violated, they must seek to prevent this by providing guidance and advice. If it is observed that, despite the guidance and advice provided, an education provider or employer is neglecting their responsibilities to draw up a gender equality plan, the Ombudsman may set a reasonable time limit for the preparation of the plan.

The Ombudsman for Equality has the right to obtain necessary information for use in their supervisory activities and, based on certain conditions, to carry out an inspection of a workplace, educational institution, organisation representing labour market interests, or the business facilities of a provider of goods or services. The Ombudsman may assist a person who has been the subject of discrimination in a legal action regarding compensation or reimbursement provided that the matter is of significant importance for the application of the Equality Act.

Contact details for the Ombudsman for Equality

Information helpline: 0295 666 842

Email: tasa-arvo@oikeus.fi

Internet: www.tasa-arvo.fi

The National Non-Discrimination and Equality Tribunal

The National Non-Discrimination and Equality Tribunal supervises compliance with both the Non-Discrimination Act and the Equality Act. The Ombudsman for Equality and the central labour market organisations may bring matters regarding discrimination under the Equality Act to the National Non-Discrimination and Equality Tribunal, and the Ombudsman may also bring matters regarding gender equality plans. In matters of importance for the goals of the Equality Act, a court may request a statement from the National Non-Discrimination and Equality Tribunal regarding the application of discrimination prohibition regulations under the Act.

The National Non-Discrimination and Equality Tribunal may prohibit the continuation or renewing of activities that violate the Equality Act. Upon the Ombudsman for Equality's proposal, the Tribunal may also oblige an educational provider or employer to draw up a gender equality plan within a set time frame. If necessary, the Tribunal may set a conditional fine to enforce its ruling. Changes to the Tribunal's decision may be requested by making a complaint to the administrative court.

The Tribunal has the right to obtain from the party being inspected any information necessary for the resolution of the case, as well as an account of any matters requiring explanation for the supervision of compliance with the Equality Act.

All matters are handled by the Tribunal in written form. No administrative charge is applied, and all copies of judgements are provided

without charge to the parties concerned. The parties are responsible, however, for their own costs.

Contact details for the National
Non-Discrimination and Equality Tribunal
Tel: 0295 150 159
Email: yvtltk@oikeus.fi
Address: Vuorikatu 24, 00100 Helsinki

Unofficial

Translation from Finnish

Legally binding only in Finnish and Swedish

Act on Equality between Women and Men (609/1986)

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 (232/2005)
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. This section does not apply to the education providers or schools referred to in the Basic Education Act.

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 II (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 the 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**

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.

Section 20 (1329/2014)

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).

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.

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.

Secton 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.

The United Nations` Convention on the Elimination of all Forms of Discrimination against Women and the Gender Equality Directives of the EU

The Convention on the Elimination of all forms of Discrimination against Women (CEDAW) (collection of treaties 67–68/1986) and its optional protocol (collection of treaties 20–21/2001).

Council Directive 79/7/EEC on the progressive implementation of the principle of equal treatment for men and women in matters of social security.

Council Directive 92/85/EEC on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding.

Council Directive 2004/113/EC implementing the principle of equal treatment between men and women in the access to and supply of goods and services.

Directive 2006/54/EC of the European Parliament and of the Council on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast).

Council Directive 2010/18/EU implementing the revised Framework Agreement on parental leave concluded by BUSINESSEUROPE, UEAPME, CEEP and ETUC and repealing Directive 96/34/EC (Text with EEA relevance).

Directive 2010/41/EU of the European Parliament and of the Council on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity and repealing Council Directive 86/613/EEC.

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