

Finnish Labour Legislation and Industrial Relations



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Contents

1	Introduction.....	4	3	Industrial Peace and the Right to Industrial Action.....	29
2	Labour Legislation.....	5		Interest disputes and legal disputes.....	30
	General	5		Arbitration procedure for conflicts of interest disputes.....	30
	The Employment Contracts Act (55/2001)	6		Negotiations regarding legal disputes	30
	The Pay security Act (866/1998) and The Seamen's Pay Security Act (1108/2000).....	11		The Labour Court.....	30
	The Collective Agreements Act (436/1946)	12	4	Occupational Safety and Health.....	31
	The Posted Workers Act (1146/1999)	13	5	Social Security.....	32
	The Non-Discrimination Act (21/2004) and the Act on Equality between Women and Men (609/1986)	13	6	Organisations Participating in Tripartite Labour Negotiations.....	32
	Young workers.....	16		Wage and salary earners' organisations.....	32
	Protection of privacy in working life	16		Employer organisations.....	33
	The Act on Checking the Criminal Background of Persons Working with Children (504/2002).....	17		Entrepreneur organisations.....	33
	Working hours and annual holiday.....	18			
	The Working Hours Act (605/1996)	18			
	The Annual Holidays Act (162/2005).....	19			
	Job-sharing and studying.....	22			
	The Act on Job Alternation Leave (1302/2002).....	22			
	The Study Leave Act (273/1979)	23			
	Personnel Involvement Systems	24			
	The Act on Cooperation within Undertakings (334/2007)	24			
	Cooperation within groups	26			
	The Act on Personnel Representation in the Administration of Undertakings (725/1990, Act on Administrative Representation)	27			
	The Act on Personnel Funds (934/2010)	28			
	The Act on Employee Involvement in European Companies (SE) and European Cooperative Societies (SCE) (758/2004)	28			

This brochure aims to outline the basic principles of Finnish labour legislation, while giving a general overview of the Finnish labour market system.

1 Introduction

In Finland, the unionisation of workers began in the late 19th century. The Civil War in 1918 interrupted such nascent negotiation practices right after Finland had gained independence in 1917. The strained relations between workers and employers did not relax before the Second World War, with the labour market organisations only acknowledging each other as negotiating parties in 1940.

The number of labour market organisation members started to grow, and the systems developed towards the end of the 1940s. Since the end of 1960s, labour market relations have been shaped through tripartite cooperation, and the labour market system has become an important national institution.

Today, cooperation between the government and labour market organisations is characteristic of Finnish labour market relations. This means that the drafting of almost all labour and social policy legislation related to working life is prepared in a tripartite process in collaboration between the government and labour market organisations representing employers and employees.

There are approximately 2.2 million wage and salary earners in Finland (86.6 per cent of those who are working). The share of women of those employed is only slightly lower than that of men. The rate of unionisation is about 75 per cent, which is one of the highest in Europe.

2 Labour Legislation

General

Labour legislation consists, on one hand, of the norms that regulate the legal relationship, in other words the employment relationship, between the employer and the employee (individual labour legislation) and, on the other hand, the collective labour legislation. The most important acts applying to the employment relationship of an individual employee include the Employment Contracts Act, the Working Hours Act, and the Annual Holidays Act. The key acts representing collective labour legislation are the Collective Agreements Act and the Act on Cooperation within Undertakings.

The starting point for labour legislation is the principle of employee protection. Because of this, labour legislation includes mandatory provisions, which cannot be deviated from by agreement to the disadvantage of the employee. These include provisions created for the employee' protection of against unlawful dismissals, the preconditions of concluding a fixed-term contract, and the duty to apply the provisions of a generally applicable collective agreement.

Labour legislation also includes provisions that can be altered by collective agreement, such as the provision on sick leave compensation, and certain provisions concerning working hours. In addition, these laws contain provisions that become applicable only when no other arrangements have been agreed upon.

Collective agreements play a pivotal role in the system by which the terms of Finnish employment relationships are determined. The Collective Agreements Act governs the rights of employers and their employer organisations on one side and employee organisations on the other to agree on the terms applied to employment relationships in a way that binds employers and employees. The collective agreements cover quite comprehensively, among other things, compensation paid for work carried out and working hours.

The terms of an employment relationship may in practice be determined by several different norms, such as the provisions of a law, the collective agreement, the employment contract or some another agreement concluded at the workplace. The norm applied in each individual case is determined by the order of priority decreed by law. Since both the provisions of law and the regulations of collective agreements have minimum mandatory status, it is always possible to apply norms of a lower degree in order to agree on terms that are more favourable for the employee.

Other regulations than those laid down in the collective labour legislation are supervised by the officials of the Regional State Administrative Agencies' occupational safety and health area of responsibility (occupational safety and health authorities).

The Finnish legislation can be found at www.finlex.fi and English translations of labour legislation are also available on the Ministry of Employment and the Economy's website, at www.tem.fi. The descriptions of legislation given in this publication are based on data from 2011.

The Employment Contracts Act (55/2001)

The Employment Contracts Act is a basic working life law to be applied to work performed in an employment relationship regardless of the nature of that work or the form of employment.

The Employment Contracts Act is applied to employment relationships in which an employee or employees together make a personal commitment to work for the employer under the employer's direction and supervision against a wage or salary or other compensation. The establishment of an employment relationship requires that all of the above-mentioned criteria are fulfilled. In practice, overall consideration is practiced to determine whether an employment relationship exists, taking into account the intentions of the contracting parties, the name of the contract, the contract's terms and the actual working conditions.

Finnish labour legislation, or at least its minimum conditions, will be applicable to work done in Finland, regardless of the nationality of the employee.

The Employment Contracts Act decrees

- entering into an employment contract;
- the obligations of the employer and employee;
- the prohibition of discrimination (both in the employment relationship and the recruitment process);
- the determination of the minimum terms of employment;
- the employee's right to family leaves;
- laying off an employee;
- terminating the employment contract;
- liability for damages;
- employment contracts of an international nature; and
- the position of employee representatives.

Prohibition of discrimination and obligation of equal treatment

During the employment relationship or the recruitment process, the employer may not place employees in a discriminatory position, unless there is a justified reason for doing so. The employer shall also otherwise treat employees equally, unless making an exception is justified on the basis of the tasks and position of the employees.

Minimum terms of employment

The minimum terms of employment to be applied in employment relationships are determined by the mandatory provisions of law and the generally applicable collective agreement. The employer has to at least adhere to the stipulations of the national collective agreement considered representative in the sector in question.

A Commission appointed by the government confirms whether a national collective agreement can be considered generally applicable. The decision of this Commission may be appealed against in the Labour Court. The decision regarding the general validity of a collective agreement will be published in the Regulations Collection maintained by the authorities. Collective agreements confirmed as generally applicable are available free of charge on the Internet at www.finlex.fi/normit.

The duty to comply with generally applicable collective agreements applies mainly to unorganised employers. An employer who, under the Collective Agreements Act, is bound by such a collective agreement where the concluding party is a national employee federation, is not obliged to observe the generally applicable collective agreement of the field, but the collective agreement of the sector in question.

Family leaves

The purpose of family leave is to help employees reconcile their family commitments and the obligations of their employment. They enable parents with small children to take leave from work for a fixed period to take care of their children.

Family leaves include the following:

- maternity, special maternity and paternity leave, as well as full-time and partial parental leave;
- full-time, part-time and temporary childcare leave;
- an employee's right to be absent from work for a compelling family reason; and
- absence from work to take care of a family member or other person close to the employee.

The childcare leave allows a parent to stay at home to take care of children full time for a fixed period. Partial childcare leave makes it easier for parents to combine work and family life by making shorter their daily or weekly working hours. Partial childcare leave is subject to agreement with the employer.

Temporary childcare leave entitles the parent of a child aged under ten to stay at home to take care of a child in case of an acute illness for a maximum of four working days. Absence from work to take care of a family member or other person close to the employee refers to absence from work for a specific period and its use is subject to agreement with the employer.

Termination of an employment relationship and lay-offs

The prerequisite for **terminating** an employment relationship by giving notice is the existence of a proper and weighty reason. This condition applies to giving notice due to reasons relating to the employee's person or arising from changes in the employer's operating conditions. An employment contract can only be **cancelled** for an extremely weighty reason. Such an acceptable reason would be such a serious breach of contract or act of negligence by one of the contractual parties that the other party could not be expected to continue the employment even to observe the period of notice.

Apart from reasons due to the employee, the employer may terminate the employee's contract on the basis of financial or production-related grounds to do with their operations. In such a case, the work that the employer has available must have been reduced both substantially and permanently for financial or production-related reasons or reasons arising from a reorganisation of the employer's operations. Such grounds do not exist if the employer, either before giving notice or soon after the employment contract has been terminated, hires a new employee for tasks similar to those performed by the dismissed employee.

The compensatory system for groundless terminations of employment is uniform. The minimum amount of compensation is equivalent to three months' pay and the maximum to 24 months' pay. The maximum compensation in case of termination of the employment contract of a shop steward, an occupational industrial safety and health representative or an elected representative without grounds can be the amount equal to 30 months' pay. However, the provision concerning the minimum amount of compensation is not applicable if giving notice is based solely on financial or production-related reasons.

The re-employment of employees dismissed for financial or production-related reasons is supported by means of the policy of change security. Under certain conditions, it also concerns fixed-term employees that have worked for the same employer. During the period of notice, employees are entitled to free time on full salary to look for a job or to participate in other measures that promote re-employment. The amount

of this leave depends on the length of the dismissed person's period of notice and can vary from five to 20 working days. The employer also has duties to inform and report to the personnel and the Employment and Economic Development Office.

Furthermore, pursuant to the provisions of the Act on Cooperation within Undertakings, the employer must prepare an action plan in collaboration with the personnel. The purpose of this plan is that during the cooperation negotiations concerning redundancies, the enterprises establish a chain of events that proceed logically, consisting of gathering information, dissemination, joint planning and talks supporting the employment of the employees, which involve the representatives of the employer and employees and the labour authorities. The employment authorities are also tasked with providing information about their services and assistance in the planning of operating principles related to employment. A dismissed employee has, on certain conditions, the right to an individual employment programme. The operating model of change security also includes the right to an employment programme benefit (an increased unemployment benefit) for a maximum of 185 days. The dismissed employee is only entitled to this in case an employment programme has been prepared for him/her and he/she participates in, for example, labour policy adult education as outlined in the employment programme.

Lay-offs refer to the temporary termination of work and payment of salaries on the employer's initiative. Employees can be laid off until further notice on the same grounds as they can be given notice for financial or production-related reasons. If it is deemed that work has only temporarily diminished, the lay-offs can be implemented for a fixed period for the duration the lack of work is expected to last.

Temporary agencies

The use of the services of temporary agencies refers to a contract-based arrangement by which a private employment agency places its employees at the disposal of a customer company (user company) against a payment, when the work is performed under the user company's direction and supervision. The minimum terms of employment of temporary agency workers are determined primarily in accordance

with the collective agreement binding the temporary agency under the Collective Agreements Act (known as a normally applicable agreement) and the generally applicable collective agreement for temporary agency businesses. If such an agreement does not exist, the terms are determined in accordance with a collective agreement binding the user company either under the Collective Agreements Act or the generally applicable collective agreement.

Mandatory nature of the Act

The Employment Contracts Act is basically mandatory by nature. The employer and the employee may only agree otherwise in an employment contract when it comes to provisions that expressly state the possibility to do so. In addition, national employer and employee organisations may conclude collective agreements deviating from the Act in matters that have been specifically stated in the Act.

The Pay security Act (866/1998) and The Seamen's Pay Security Act (1108/2000)

Pay security is based on the Pay Security Act, in accordance with which the state will ensure payment of employees' claims arising from an employment relationship in the event of the employer's bankruptcy or other insolvency. The maximum amount of pay security for one employee for work carried out for the same employer is EUR 15,200.

The pay security authority will investigate the employer's insolvency and the conditions for paying pay security on the basis of an employee's application. Any claims the employer would be obliged to pay to his or her employee can be paid as pay security. An application for unpaid claims to be paid as pay security must be filed within three months of the date they fall due. Pay security is only paid to workers with a valid employment contract.

The Unemployment Insurance Fund compensates the state annually for the difference between capital paid as pay security and capital collected from employers. The funds needed for the purpose are collected from employers in the form of unemployment insurance contributions.

The Collective Agreements Act (436/1946)

The central principles on collective bargaining have been recorded in the Collective Agreements Act. Collective agreements have two important functions: they guarantee the employees minimum-level terms of employment and, on the other hand, they contain a duty to maintain industrial peace. The Collective Agreements Act includes provisions regarding the conclusion, applicability and observance of collective agreements, as well as a duty to maintain industrial peace. The duty to maintain industrial peace concerns the term of validity of the collective agreement and requires refraining from industrial action against the collective agreement.

The employer party may be one or more employers or a registered association of employers. On the employee's side, only a registered employee union is eligible as a party to the collective agreement. One of the main purposes of these associations must be to look after the interests of either employers or employees in employment relationships.

In collective agreements, the bargaining parties agree on the stipulations to be applied to employment contracts and relationships. A collective agreement must be drawn up in writing and it may be either of a fixed duration or agreement for an indefinite period subject to notice of termination. A collective agreement binds the employers and organisations who concluded the agreement as parties, and is solely binding on the affiliated associations of the parties and their individual members (this is known as normal applicability). It also binds those that endorse it at a later date by the consent of those involved.

Disagreements deriving from the interpretation of the collective agreement and breaches thereof are tried and settled in the Labour Court. If any part of an employment contract is in conflict with the provisions of the collective agreement applicable to the employment relationship, such part of the employment contract shall be null and void and the relevant provisions of the applicable collective agreement shall be observed instead, in cases where this is more advantageous to the employee.

Provisions on the rights of employees and employers to take collective industrial action are laid down in the Act on Mediation in Labour Disputes (420/1962). A national conciliator, assisted by other conciliators, has been appointed for the purpose of mediation of labour disputes between employers and employees and the promotion of relations between labour market parties.

The Posted Workers Act (1146/1999)

The Directive of the European Parliament and Council concerning the posting of employees in another EU Member State when providing services (96/71/EC) implemented in Finland by the passing of the Posted Workers Act. This Act applies to work performed in Finland based on an employment contract. A posted worker refers to a worker who ordinarily works in a Member State other than Finland and whose employer company based in another country has posted him or her in Finland for a limited time while engaged in an employment relationship for the provision of cross-border services. The Act does not apply to seafaring employees on ships practicing merchant shipping.

The purpose of the Act is to ensure the posted worker certain minimum working conditions, such as a salary in accordance with the working conditions of the country in which the work is performed. Regardless of the law otherwise applicable to the employment contract of the worker posted in Finland, certain provisions and regulations of the Finnish legislation shall apply insofar as they are more favourable to the employee than the terms of employment otherwise applicable.

The Non-Discrimination Act (21/2004) and the Act on Equality between Women and Men (609/1986)

The right to equal and non-discriminatory treatment is a basic human right. The purpose of the **Non-Discrimination Act** and the prohibitions of discrimination contained in labour legislation is to ensure equal treatment of all jobseekers and employees and to protect them from discrimination in working life. The Non-Discrimination Act requires authorities to promote equality in all their activities.

The Non-Discrimination Act applies to the basis of recruitment, working conditions, terms of employment, career advancement, education and the prerequisites of enterprising and support for industrial activities.

The Non-Discrimination Act prohibits both direct and indirect discrimination on the basis of

- age;
- ethnic or national origin;
- nationality;
- language;
- religion or belief;
- opinion;
- state of health or disability;
- sexual orientation; or
- other personal characteristics.

Under the Non-Discrimination Act, harassment, an instruction or order to discriminate and counter-actions are also prohibited. The person subjected to discrimination or a counter-action may claim compensation, the maximum amount of which is EUR 16,430 (revised against the certain index every three years).

A person may not be treated differently because of their ethnic origin in social and health care services, social security benefits or other benefits and advantages granted on social grounds. This also applies to the offer or availability of housing and movable and immovable property and services to the general public other than legal actions falling within the scope of private affairs and family life.

The Act on Equality between Women and Men (the Equality Act)

imposes a prohibition of discrimination on the basis of gender. The purpose of the Act is the practical implementation of equality between women and men, and it is aimed in particular at improving the position of women in working life.

The Equality Act includes a general prohibition of direct and indirect discrimination based on gender.

Discrimination under the Equality Act means

- treating women and men differently on the basis of gender;
- treating women differently for reasons related to pregnancy or childbirth; or
- treating women and men differently on the basis of parenthood, family responsibility or any other gender-related reason.

Discrimination also includes actions which, because of the above reasons, in real terms result in people ending up with unequal status.

The Equality Act specifically defines what constitutes discrimination in working life. Prohibited discrimination may be manifested, for example, in recruitment, selecting employees for different tasks or training, working conditions, compensation and other terms of employment, neglecting the duty to eliminate sexual harassment and molestation, deteriorated working conditions or terms of employment after the employee has made an appeal to the rights provided in the Equality Act, or terminations or lay-offs. An employee who has been discriminated against has the right to claim compensation from the employer, amounting to a minimum of EUR 3,230 but not exceeding EUR 16,210 (revised against the certain index every three years).

The Act also imposes the general duty on every employer to make focused and systematic efforts to promote equality. Employers are obliged to promote the equal positioning of women and men in different jobs and provide them with equal opportunities to advance in their careers. Workplaces with more than 30 employees must prepare an equality plan.

Compliance with the Equality Act is supervised by the Ombudsman for Equality and the Council for Equality.

Young workers

Special provisions for the protection of young workers are enacted in the Young Workers' Act (998/1993). This Act applies to work carried out by a young person under 18 years of age (a young worker) in an employment or civil service relationship. The occupational safety and health provisions of the Act also apply to students aged under 18 in an apprenticeship or training exercises carried out at school. Furthermore, general labour legislation shall apply to the employment of young people, unless specifically stated otherwise in the above-mentioned special law concerning young people.

The Act includes provisions concerning

- the conditions of admitting young people to work;
- the regular working hours of young workers;
- the maximum working hours;
- the distribution of working hours;
- the periods of rest given to young workers and occupational safety and health;
- the employers' responsibilities to provide training and guidance;
- special responsibilities concerning specific safety measures; and
- arranging medical examinations.

In terms of their permissibility, jobs can be divided into prohibited jobs, hazardous jobs, work to which no specific provisions are applicable and duties suitable for young workers. Other legislation applicable to young workers includes the Government Decree on Work Especially Harmful and Hazardous to Young Workers (475/2006), the Decree of the Ministry of Social Affairs and Health on the List of Work Hazardous to Young Workers (302/2007), and the Decision of the Ministry of Labour on light duties suitable for young workers (1431/1993).

Protection of privacy in working life

The aim of the Act on the Protection of Privacy in Working Life (759/2004) is to implement the protection of privacy in working life.

This Act lays down provisions on what kind of personal data the employer is allowed to process about employees. The Act complements the Personal Data Act (523/1999), which is a general Act on the processing of personal data, and the Act on Data Protection in Electronic Communications (515/2004).

The employer may only process personal data that is directly necessary for the employee's employment relationship and concerns the rights and duties of the parties in the employment relationship or the benefits offered by the employer for the employee or arises from the special nature of the job's duties. The employer may not make exceptions to this provision of necessity, even with the employee's consent.

The Act prescribes the procedures to be followed by the employer when collecting and processing personal data relating to the employment or civil service relationship. The Act also lays down provisions on personality and aptitude assessments and other testing and examinations, as well as the processing of information concerning the employee's state of health and personal credit data. Furthermore, the Act contains provisions on drug tests, camera surveillance, and the protection of e-mail messages. The employer has no right to handle any genetic testing results of the employee.

In accordance with the law, issues to be handled in the cooperation procedure between the employer and the employees include the data collected at the beginning and during the employment relationship as well as procedures for the technical monitoring of the employees, and the employees' use of data network and e-mail.

The Act on Checking the Criminal Background of Persons Working with Children (504/2002)

The purpose of the Act on Checking the Criminal Background of Persons Working with Children is to protect the personal integrity of minors. The Act provides a procedure by which the criminal background of persons selected to work with minors, i.e. persons under 18 years of

age, is checked. This procedure for checking the criminal background is part of the aptitude assessments of jobseekers.

This procedure is applied to work performed both in employment and civil service relationships which involve, on a permanent basis and to a material degree, raising, teaching, caring for or looking after minors, or other work performed in personal contact with minors, without the attendance of a guardian. In order to be recruited for a job involving work with children, a private person can obtain information concerning him/herself in the criminal record free of charge.

An employer should ask the person selected for the above duties to show the extract from the criminal record referred to in the Criminal Records Act, showing whether the person concerned has been sentenced to punishments for sexual, violent or drug offences. The entry in the extract from the criminal record does not prevent the recruitment of the person, but the aptitude of the person will always be assessed by the employer.

Working hours and annual holiday

The Working Hours Act (605/1996)

The Working Hours Act shall be applied to all work performed in an employment or civil service relationship. The Act also includes a list of types of work it shall not apply to. The Act is basically mandatory by nature, but national labour market organisations may deviate by collective agreements from several provisions of the Working Hours Act.

According to the Act, regular working hours may be based either on the general provision of an eight-hour working day or 40-hour working week, the provisions of a collective agreement, or agreements based on them relating to a particular workplace. The employer and an individual employee may also agree on regular working hours within certain limits. Regular working arrangements can be based on the average use of working hours, which means that the daily and weekly hours may vary as long as the working hours average 40 hours a week over a predetermined period. This period may be no longer than 52 weeks in duration.

Work may also be organised in periods so that the total working hours amount to 80 hours in two weeks or 120 hours in three weeks. The fields in which work in periods is possible are listed in the Working Hours Act. In addition, the use of periodic work may also be allowed by provisions of the workers' or civil servants' collective agreement or contract.

In accordance with the Act, overtime may be carried out per day or per week. Daily overtime refers to work that goes beyond what is permitted by law to be the regular daily working hours. Correspondingly, weekly overtime means work that exceeds the regular weekly working hours as decreed by the Act, done during days off, for instance. Daily overtime normally begins after a person has worked for eight hours during the daily 24-hour period. Weekly overtime consists of any hours exceeding a 40-hour week and excluding daily overtime. Overtime is compensated with a higher rate of pay.

The Act also determines limitations on overtime. The employer can have the employees working a maximum of 138 hours of overtime during each four-month period. During a calendar year, the employer can have the employee do a maximum of 250 hours of overtime. In addition, it is also possible to agree at the workplace on doing an additional 80 hours of overtime. Even in this case, the 138-hour limit over four months must be observed. The specific consent of the employee is required each time overtime is required. The specific consent of the employee is required each time overtime is required.

Besides regular and overtime working hours, the employer may have the employees work emergency hours based on certain provisions in the Act. The reason for emergency work has to be an unforeseen event which has interrupted the normal operation of a business, a plant or an establishment or seriously threatens to lead to such an interruption or constitutes a serious threat to life, health or property.

The Annual Holidays Act (162/2005)

The Annual Holidays Act applies with certain restrictions to work in an employment or civil service relationship. The Act lays down provisions on the length of annual leave, holiday pay, holiday compensation

and the granting of annual leave. The Annual Holidays Act is mainly based on the principle of earning: the leave is earned by working during the holiday credit year, i.e. the period starting on 1 April and ending on 31 March. There are two rules governing the accrual of annual leave. Those who work for a minimum of 14 days during all months according to their contract are within the scope of the 14-day rule. Those who work for a minimum of 35 hours during at least one month according to their contract and who are outside the scope of application of the 14-day rule are covered by the 35-hour rule.

The accrual of annual leave is calculated according to the holiday credit months and it is dependent on the length of the employment relationship. In employment relationships that have lasted for less than a year, two working days of leave and in employment relationships having lasted at least a year, two and a half working days are earned for each full holiday credit month before the end of the holiday credit year. A full holiday credit month is considered to be a calendar month during which workers covered by the 14-day rule have accrued at least 14 working days or days comparable to working days, and persons covered by the 35-hour rule have accrued at least 35 working hours or hours comparable to working hours.

When calculating a full holiday credit month, specifically detailed days of absence are considered comparable to working days or hours. These include periods such as annual leave or sick leave, maternity, paternity or parental leave, days of temporary childcare leave, study leave, and lay-offs with restrictions prescribed in the Act.

Those employees falling outside the scope of the earning rules (in other words those who, based on their contracts, work for less than 35 hours every month) are entitled to a leave equivalent to the annual leave. Two working days of leave can be obtained for each month the employment relationship has been valid. In employment relationships that have lasted at least a year, the employee has the right to four weeks' leave. For the time of the leave, holiday compensation is paid.

Those employees within the 14-day rule that work for a weekly wage or monthly salary receive their normal pay during the annual leave.

The holiday pay of those employees within the 14-day rule being paid by the hour is determined based on coefficients determined by the average daily wage and the duration of the holiday in number of days.

Those employees within the 35-hour rule receiving a weekly wage or a monthly salary, who according to their contract work a minimum of 35 hours a month during all months, also receive their normal pay during the annual leave. The holiday pay of employees covered by the 35-hour rule being paid by the hour or receiving performance pay is determined as a percentage share of the wages paid during the holiday credit year. If the employment relationship has lasted for a year by the end of the leave qualifying year, the holiday compensation is 11.5 per cent, and in employment relationships shorter than this, it is nine per cent of the earnings. The percentage-based calculation of holiday pay also includes those employees covered by the 35-hour rule who receive a weekly or monthly salary who, according to their contracts, only work a minimum of 35 hours in some months.

On top of the basic holiday pay calculated on percentage-based manner, any pay not received during absences due to maternity, special maternity, paternity and paternal leave and temporary childcare leave or absence due to a compelling family reason is payable. In these calculations, pay not received during sick leave or rehabilitation and periods of lay-offs up to the amount prescribed in the law is also taken into consideration.

The holiday pay must be paid before the start of the holiday. Holiday pay for no more than six days of leave (such as the pay for a winter holiday) may be paid on the usual pay day.

Holiday compensation paid to the employee at the end of the employment relationship for any holiday entitlement earned but not yet received is calculated in accordance with the rules concerning holiday pay as described above.

The annual leave is earned and taken in working days. 24 working days of annual leave, or the summer holiday, shall be taken during the holiday season, the period between 2 May - 30 September. The remainder of the leave, the winter holiday, must be granted no later than by the beginning of

the following holiday season. The employer and the employee may agree on the time of the annual leave within the limits prescribed in the Act.

The employee has the right to save the part of leave exceeding 24 days as carried-over leave. The employer may forbid the saving of the leave for a justified reason only. In addition, the employer and the employee may agree on saving the part of the leave that exceeds 18 days and taking the part of leave exceeding twelve working days by no later than in connection with the annual leave of the following holiday season.

Job-sharing and studying

The Act on Job Alternation Leave (1302/2002)

The purpose of the Act on Job Alternation Leave is to promote the worker's well-being at work through short-term absence from work, simultaneously providing an unemployed jobseeker an opportunity of acquiring work experience through fixed-term employment. It also gives the employer an opportunity to provide the working community with new skills.

An employer and the workers can agree that the worker takes job alternation leave to be used in the way the worker wishes. The requirement for getting job alternation leave is that the employers bind themselves to recruiting an unemployed jobseeker from the employment office as a substitute during the job alternation leave. Another prerequisite for getting job alternation leave is that the person is a full-time employee (working time exceeds 75 per cent of the working time for full-time workers in the field) and that his or her time at work and employment relationship with the employer have lasted a consecutive period of at least 13 months before the beginning of job alternation leave. In addition, the employee should have a work history of at least ten years as prescribed by the employment pension legislation.

The job alternation leave must last no less than 90 and no more than 359 calendar days. After the leave, the employee has the right to return to his or her previous job or a job comparable to it. An employee may not be dismissed because of the job alternation leave, but in other respects the job alternator's protection from termination is no better than that

of any other employee. The employee will receive job alternation allowance for the period of the leave. The full amount of this allowance is 70 per cent of the amount the employee would receive as unemployment benefit in the case of unemployment. If the employee has a work history of at least 25 years, the allowance is 80 per cent.

In the recruitment of substitutes, priority should be given to young people, the long-term unemployed, or an unemployed person who has recently attained an academic or vocational qualification. The unemployed person need not be employed for the same duties from which the job alternator has taken leave.

The Study Leave Act (273/1979)

The purpose of the statutory study leave system is to improve the opportunities for training and studying available to the working population. Studies do not need to relate to the employer's operations, and the employee may freely choose what to study. In accordance with the Act, study leave is unpaid. However, it is possible to receive financial aid for vocational studies or training as decreed under the Act on Adult Education Allowance (1276/2000). The aid is paid by the Education Fund. An employee taking study leave has the right to return to the same or corresponding job, but there is no special protection from termination to guarantee the return.

The right to take study leave concerns all employees, whether in an employment or civil service relationship. Employees whose full-time employment with the same employer has lasted for one year in one or more periods are entitled to study leave.

The maximum length of study leave is two years over a period of five years, and it can be taken in one or more instalments. If the employment has lasted for less than a year but at least three months, the maximum length of study leave is five days.

In principle, during study leave the employee does not accumulate benefits that would otherwise be part of the employment relationship. Study leave can be interrupted on certain conditions.

Personnel Involvement Systems

The Act on Cooperation within Undertakings (334/2007)

The purpose of the Act on Co-operation within Undertakings (the Act on Co-operation) and its various provisions concerning co-operation procedures emphasise the spirit of co-operation and seeking consensus. The Act is applied, subject to certain exceptions, to undertakings that normally employ at least 20 persons.

All enterprises and other organisations and foundations, regardless of whether their operations are intended to make a profit, and of which party finances them, fall within the scope of the Act on Co-operation. However, the Act does not apply to the State or municipalities. Parties to co-operation include the employer and personnel of the enterprise, and, in certain cases, the employee him- or herself. The Act defines personnel groups and their representatives, who, in general, are either shop stewards or elected representatives as referred to in the Employment Contracts Act. In certain cases, it is also possible to elect a specific co-operation representative. Hence, personnel representatives' rights to represent employees in co-operation negotiations are clearly based on the Act. However, the Act does not oblige the personnel or the enterprises to elect personnel representatives.

The Act on Co-operation is divided into chapters in line with different co-operation procedures, as follows:

- Information provided to representatives of personnel groups
- Undertaking's general plans, principles, and objectives
- Agreement and decisions by personnel
- Changes in business operations affecting the personnel and arrangement of work
- Co-operation procedure in connection with a business transfer
- Co-operation procedure in reducing the use of personnel
- Miscellaneous provisions

The Act is divided into chapters, for clarity. Special attention has been paid to the broad scope of co operation, because undertakings must engage in co-operation on a number of issues, not only during the procedure in dismissals.

In co-operation negotiations, the undertaking shall each year prepare a plan related to personnel and training objectives. In addition to the development of the breakdown and number of personnel in the undertaking, these must include at least the principles for use of various forms of employment relationships and assessment of any changes occurring in the employees' professional skills requirements and reasons for them, as well as annual training objectives based on this assessment. Realisation of the plan, and attainment of objectives, must also be monitored in co-operation. In addition, the employer must each quarter provide personnel groups' representatives with information on the number of employees in fixed-term and part-time employment relationships in the undertaking.

In addition to information on the financial position of the undertaking, the employer shall each year, at regular intervals, present the representatives of personnel groups with a report of the principles applied within the undertaking for the use of subcontracted labour insofar as subcontracted work is performed on the employer's work premises or work site. If the use of external labour (subcontracted labour and temporary-agency work) is estimated to affect the personnel, this must be handled separately in a co operation procedure. The Act also includes provisions on co-operation procedure for matters having to do with the use of temporary-agency work.

Each chapter of the Act includes provisions on negotiation procedures for co-operation, from initiation of negotiations to their termination. The employer must provide personnel representatives both with an initiative to commence negotiations and with information on each matter at hand in time to enable, depending on the matter, employees or personnel group representatives to prepare for negotiations and handle matters among themselves and/or with the employees they represent, before the negotiations commence. In cases of reduction in workforce, the initiative must be presented five days before the negotiations commence. No provisions on other time limits are given.

The minimum period for negotiations concerning the notice of termination, layoffs, or reduction of a contract of employment to a part-time contract is 14 days, if such negotiations affect fewer than 10 employees. If they concern at least 10 employees, the negotiation period is six weeks. In enterprises employing 20–29 employees, the negotiation period is 14 days even in the latter cases.

The maximum amount of indemnification as sanction for dismissing or laying off an employee or reducing the employee's contract to a part-time contract without complying with co-operation procedure is 30,000 euros. In 2011, adjusted by index, this value comes to 31,570 euros. Factors influencing the amount of indemnification include the degree of neglect and the size of the undertaking. The employee is further entitled to other compensation due to illegal termination of employment. The indemnification is exempt from tax.

In addition to imposing a fine as a penalty, the Act on Co-operation includes a coercive measure in case the employer neglects to provide information falling within the scope of the duty to inform, such as financial statements or a report on the undertaking's financial situation or fixed-term and part-time employees, or salary information. Personnel group representatives may require a decision by a court of law to oblige the employer to provide such information under threat of penalty payment (fine). If an employee fails to prepare a plan regarding personnel, or training objectives, the co-operation ombudsman supervising the law may apply for a corresponding decision.

International regulations that are binding for Finland – in particular, the EU Directive on informing and consulting employees (2002/14/EC) – have been observed in the preparation of the Act.

The co-operation ombudsman supervises compliance with the Act on Co-operation and other acts pertaining to the involvement of employees.

Cooperation within groups

In accordance with the **Act on Cooperation within Finnish and Community-wide Groups of Undertakings (335/2007)**, a Finnish

group that has at least 500 employees in Finland has to conclude an agreement on cooperation within the group with those affiliated companies that have at least 20 employees. The agreement may involve the management of all arrangements necessary for cooperation within the group, such as dissemination of information, negotiation procedures, personnel representation, and realising inter-personnel interaction. If an agreement regarding cooperation within the group cannot be reached, the cooperation has to be arranged following the minimum requirements included in the Act (national cooperation within groups).

In addition, in accordance with the European Council Directive 45/94/EC, the above-mentioned Act also applies to the establishment of a European Works Council or another procedure for informing and consulting with the employees in multinational undertakings (international cooperation within groups).

The Act on Personnel Representation in the Administration of Undertakings (725/1990, Act on Administrative Representation)

The Act on Administrative Representation gives the personnel the right to take part in the handling of matters that involve company business and the position of personnel on the administrative board, the board of directors or the management group of the company. The representation is to be agreed between the company and the personnel. If no agreement can be reached regarding personnel representation, representation nevertheless has to be organised in compliance with the minimum requirements of the Act. The Act is applicable to companies that have at least 150 employees.

The personnel representatives have basically the same rights, duties and responsibilities as the members elected by the company in the relevant organ. However, they do not have the right to take part in the handling of matters that involve the election or dismissal of the company management, the terms of managerial contracts, the terms of personnel employment relationships or measures in case of industrial action.

The Act on Personnel Funds (934/2010)

The purpose of personnel funds is to reward the entire personnel for the achievement of goals and to improve the productivity, efficiency and competitiveness of the company. The establishment of personnel funds is voluntary and requires, in practice, mutual understanding between the employer and personnel on the matter. The personnel decide on the establishment of the fund, and the employer on the performance or profit bonus system. The scope of application of the Act is wide, as it is possible to establish funds quite comprehensively regardless of the field of operation of the employer, as long as the employer has at least ten employees.

Various performance and profit bonus items may be deposited into the personnel fund. The Act prescribes the personnel fund contribution, which the employer decides in advance after cooperation negotiations with the personnel on the grounds for bonuses. The personnel fund contribution must concern all employees, and its maximum amount will be determined on the basis of equal conditions for all. The personnel fund contribution may also be determined as a personal share of the total, if the determination conditions meet the above criteria. A special supplement to a personnel fund contribution may also be deposited into the fund if it concerns all employees or a clearly specified part of the organisation. The supplement to a personnel fund contribution may not exceed one month's pay. Annually, a maximum of 15 per cent of the employee's capital is transferred into the funds that can be withdrawn.

A personnel fund is not liable to pay taxes. For the company, performance and profit bonus items are tax deductible expenses. The items withdrawn from the personnel fund capital by the member are taxed during the year of withdrawal. The member will pay income tax for 80 per cent of the item, and a share of 20 per cent of the withdrawn funds is left untaxed.

The Act on Employee Involvement in European Companies (SE) and European Cooperative Societies (SCE) (758/2004)

A European company is a company form through which it is possible to engage in business over the whole European Economic Area in the

name of one company. In Finland, the Act on Employee Involvement in European Companies (SE) and European Cooperative Societies (SCE) imposes the European Union Directive on complementing the regulations on European Companies with personnel representation. Personnel representation refers to a system through which staff representatives can influence decisions made in the company.

For the purposes of negotiating personnel representation, a specific negotiation group representing the staff of the European company is set up. The task of this group is to negotiate an agreement concerning personnel representation. If no agreement is reached within the time limit or if the parties so agree, the secondary provisions of the Act shall be applied in personnel representation.

Similar provisions also apply to European Cooperative Societies.

3 Industrial Peace and the Right to Industrial Action

The employer and employee parties bound by a collective agreement may not, during its validity, take industrial action that is directed against the collective agreement as a whole or any of its provisions. The parties and their subordinate associations have the duty to supervise the preservation of industrial peace. A single employer and/or an employer and employee association may be ordered to pay a compensatory fine for breaking the industrial peace.

Once the collective agreement has expired, i.e. during a period with no valid agreement, the employees' party may put pressure on the employer through strikes or other measures of industrial action. The employer, on the other hand, may use a lockout. Political strikes and sympathy strikes are permitted.

Interest disputes and legal disputes

A permanent arbitration procedure for labour disputes has been created to deal with interest disputes arising from working life by the **Act on Mediation in Labour Disputes (42/1962)**. Legal disputes concerning the contents of collective agreements or breaches thereof can be taken to the Labour Court. Legal labour disputes that do not concern collective agreements can be taken to public courts.

Arbitration procedure for conflicts of interest disputes

The purpose of the arbitration procedure is to help labour market organisations reach a collective agreement when the negotiations have stalled. At the moment, there is one Public Conciliator and six part-time regional conciliators appointed by him or her to arrange the arbitration procedures. By law, the parties have the duty to be present at the arbitration, but they do not have the duty to accept the arbitration proposal the conciliator may present.

Negotiations regarding legal disputes

If disagreements arise at workplaces regarding the contents of the collective agreement or its interpretation, or if it appears that the agreement may have been breached, attempts are usually made to solve the dispute in workplace level negotiations. If the matter cannot be resolved between the employees and the employer, negotiations will continue between the employer and the shop steward representing the trade union. If the negotiations still do not produce a solution, the matter will be forwarded to be negotiated between the employer's associations and trade unions. If no solution can be found at this level, either one of the unions may take the matter to the Labour Court.

The Labour Court

The Labour Court was established in 1947. Its jurisdiction comprises the settling of matters concerning the legitimacy, validity, contents and scope of collective agreements and contracts, as well as the correct

interpretation of a certain provision. The Labour Court also decides on the amount of a compensatory fine for an illegal strike. The decision of the Labour Court is final.

Furthermore, the Labour Court handles certain complaints concerning derogation permits related to working hours, as well as appeals on committee decisions concerning the general applicability of a collective agreement.

4 Occupational Safety and Health

Supervision of compliance with the provisions of labour legislation is mainly the statutory duty of the occupational safety and health authorities. The Ministry of Social Affairs and Health manages the occupational safety and health administration at the national level. At the local level, the Regional State Administrative Agencies' occupational safety and health areas of responsibility supervise occupational safety and health.

The inspectors of occupational safety and health carry out inspections as often and as efficiently as necessitated by the supervision. A written inspection report is given in connection with the inspection. Depending on the nature of any shortcomings, the inspectors may also give written guidance and advice or give an order to eliminate or mend the state of affairs failing to meet occupational safety and health regulations. As the final measure, the occupational safety and health authority may oblige the employer to take measures ordered in an inspection within the stipulated deadline and enforce the order with a conditional imposition of a fine. The occupational safety and health authority may also interrupt a work process or prohibit it completely.

The central laws relating to occupational safety and health include the Occupational Safety and Health Act (738/2002), several more specific regulations issued on the basis of this, and the Occupational Health Care Act (1383/2001).

The Ministry of Social Affairs and Health (www.stm.fi and www.tyosuojelu.fi) is responsible for the preparation of national legislation related to occupational safety and health.

5 Social Security

The Finnish social security system covers the entire population. The social security system is divided into earnings-related social security and basic social security. Central earnings-linked social security benefits include pension security, sickness benefit, maternity, paternity, parental and special maternity benefits, as well as unemployment benefit. In cases where an employee has not accrued earnings-related social security, he or she will be paid a minimum amount allowance; in unemployment allowance it will be labour market support; in health insurance, the minimum allowance and in the pension system, the national pension.

The Ministry of Social Affairs and Health (www.stm.fi) is responsible for the preparation of social security legislation.

6 Organisations Participating in Tripartite Labour Negotiations

Wage and salary earners' organisations

Central Organisation of Finnish Trade Unions – SAK was founded in 1907. With some 1.04 million members, it is the biggest central organisation in terms of membership. It has 21 affiliated organisations. Members include workers in the industries, the public sector (municipalities and the state), the transport sector and private service industries. Less than one-half of all SAK members work in the industrial sector, about one-third in private services and a quarter in the public sector. Some 46 per cent of SAK members are women. (www.sak.fi)

The Finnish Confederation of Professionals STTK was founded in 1946. It has some 615,000 members and 20 affiliated unions. STTK's membership consists of white-collar employees of the state, municipi-

palities, parishes, the services sector and industries. About two-fifths of the members work in the municipal sector, two-fifths in the private sector, and one-fifth in state administration. Approximately two-thirds of the members are women. (www.sttk.fi)

AKAVA – The Confederation of Unions for Professional and Managerial Staff in Finland was founded in 1950. It is the central labour market organisation for highly educated salary earners and professionals. It has 34 affiliated associations with 552,000 members. Some 55 per cent of the members work in the private sector and 45 in the public sector. 42 per cent of its members are women. (www.akava.fi)

Employer organisations

The Confederation of the Finnish Industries EK started operating in 2005, when the Confederation of Finnish Industry and Employers and the Employers' Confederation of Service Industries united to form one organisation. EK has 27 affiliated associations with some 16,000 member companies. These companies have some 950,000 employees. EK offers blanket representation for all private industries and companies of all sizes.

Public sector employer organisations include **The Local Government Employers KT** (there are 431,000 civil servants and employees working in the municipal sector), the **Office for the Government as Employer VTML** (the government sector has some 86,000 civil servants and employees), and **The Commission for Church Employers KiT** (slightly over 21,000 civil servants and employees).

Entrepreneur organisations

The Federation of Finnish Enterprises FFE has been operating in its current form since 1996. It is an organisation for small and medium-sized companies, involved in entrepreneurship, economic, and employer policy. It has more than 400 local associations of companies, 21 regional organisations, and 53 trade organisations, and through the affiliated organisations the membership amounts to 112,000 enterprises. Of these, some 45,000 are employer companies with about 450,000 employees.

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