

NB: Unofficial translation
Ministry of Labour, Finland

ACT ON PERSONNEL REPRESENTATION IN THE ADMINISTRATION OF UNDERTAKINGS (725/90)

(as amended by the Acts No. 238/93, 676/95, 724/1997 and 68/2001)

GENERAL PROVISIONS

1. Purpose of the Act.

To advance the functioning of the undertaking, to intensify cooperation between the undertaking and its personnel and to increase the personnel's possibilities to exert influence in the undertaking, the personnel shall have the right to participate in decision-making in executive, supervisory or advisory bodies of the undertaking when they are handling matters of importance to the business operations, finances, and the personnel's position in the undertaking. Personnel representation shall be arranged as provided by this Act.

2. Scope of application.

This Act shall be applied to Finnish joint-stock companies, cooperatives and other economic societies, insurance companies, commercial banks, cooperative banks and savings banks that have a regular staff of at least 150 working in Finland.

3. Choice of the personnel representation system.

Personnel representation can be arranged through an agreement, as provided in section 4. If no agreement can be reached on representation, the personnel is entitled to demand that representation be implemented in accordance with section 5.

AGREEMENT ON PERSONNEL REPRESENTATION

4. Personnel representation based on agreement.

Personnel representation in the administration of undertakings may be implemented as agreed in a meeting as referred to in section 7, paragraph 4 of the Act on Cooperation Within Undertakings (725/1978), or in the committee referred to in section 4 of said Act, between the employer and at least two personnel groups as referred to in section 3 of the said Act that together represent

the majority of the personnel. The outcome of negotiations shall be recorded as provided in section 8a of the Act. (724/1997)

The agreement mentioned above in paragraph 1 cannot, however, be used to deviate from the provisions of sections 6, 11, 12 and 15 or from what has specifically been stipulated about the qualifications and responsibility of the members of the body in question.

PERSONNEL REPRESENTATION BASED ON LAW

5. Personnel representation arranged in accordance with legal provisions.

If no agreement is reached on personnel representation in the manner mentioned in section 4, and no provisions to the contrary are set below, and if a minimum of two personnel groups that together form the majority of the personnel so demand, the personnel shall have the right to nominate their representatives, with personal deputies, to one or more administrative bodies, selected by the undertaking from among the supervisory board, the board of directors, or such management groups or similar bodies that together cover the profit units of the undertaking.

Personnel representatives shall be nominated in addition to the members elected by the undertaking to the body in question. The number of personnel representatives may total one quarter of the number of the rest of the members in the body in question; the minimum number of representatives shall, however, be one and the maximum number four. Personnel representatives shall have the same term of office as the rest of the members in the body, unless otherwise agreed in the manner referred to in section 4. If the maximum duration of the term has not been set or agreed, it shall last three years.

Unless otherwise agreed as referred to in section 4, personnel representation shall be implemented within one year after the conditions laid down in section 2 have been met and representation has been demanded. When an undertaking that has implemented personnel representation alters its administrative structure, the representation shall also be altered to correspond to the new structure. If the change comes about as a result of a transfer of business, or a merger or demerger of companies, personnel representation may be altered later, but not beyond one year after the alteration of personnel representation has been demanded. (724/1997)

Notwithstanding the provisions of this section, agreement may be reached on changing personnel representation so as to be governed by an agreement under the provisions of section 4.

REPRESENTATIVES OF THE PERSONNEL (238/93)

6. Qualifications of a personnel representative.

A personnel representative must be a legally competent person, who is employed by the undertaking and is not bankrupt or under a ban on business operations. (238/93)

7. Election of personnel representatives.

If personnel groups cannot agree amongst themselves on the election of personnel representatives, the representatives shall be elected, whenever applicable, following the procedure laid down for the election of a labour protection representative in the Act (No. 131 of 1973) on the supervision of labour protection and on appeal procedure in matters concerning labour protection and Decree (No. 954 of 1973) on the supervision of labour protection.

The personnel groups referred to in the Act on co-operation within undertakings shall nominate the candidates in the election mentioned in paragraph 1.

8. Personnel representative's incapacity and resignation.

If a personnel representative loses the qualifications referred to in section 6, resigns, or is prevented from carrying out his duties, he shall be replaced by his personal deputy until a new regular member is elected or the representative's incapacity ends.

9. Personnel representative's rights, duties and responsibility.

The personnel representatives and the members elected by the undertaking to the administrative body shall have the same rights and duties, unless otherwise stipulated below. Whenever applicable, the provisions set forth elsewhere for the administrative body shall also apply to a body supplemented with personnel representatives.

Personnel representatives and their deputies shall have the right to examine the materials on any issue at hand to the same extent as the other members in the administrative body. Personnel representatives shall not, however, have the right to participate in the handling of matters that concern the election, dismissal and contract terms of the management of the undertaking, the personnel's terms of employment, or industrial actions. The personnel representative's voting rights may be restricted through an agreement referred to in section 4.

If only one personnel representative is nominated to the undertaking's board of directors, his deputy shall also be entitled to participate in meetings and voice his opinions.

MISCELLANEOUS PROVISIONS

10. Release from work and compensations.

The undertaking shall grant a personnel representative, referred to in this Act, release from his regular work for the time that he needs for the representation duties referred to in section 4 or 5 and for the directly related preparation work carried out by the personnel representatives together, and the undertaking shall compensate him for the resulting loss of income. Any other

time off and compensations shall be agreed upon between the undertaking and the personnel representative separately in each individual case.

If the personnel representative participates in the meeting of an administrative body, referred to in this Act, outside his working hours, the undertaking shall compensate him for the relevant expenses and pay a fee for attending the meeting.

11. Personnel representatives' protection against dismissals. (68/2001)

The provisions of chapter 7, section 10, of the Employment Contracts Act (55/2001) on the termination of a shop steward's or an elected representative's employment contract also apply to the termination of personnel representatives' and their deputies' employment contracts.

12. Confidentiality.

Unless otherwise stipulated elsewhere on the obligation of the members or deputy members of the administrative bodies to maintain confidentiality, any information that has been announced by the undertaking to constitute trade or professional secrets and deemed potentially harmful to the undertaking or its contracting parties if disclosed to outsiders, may only be discussed by the workers, employees and personnel representatives who are affected by the said information. Even then, the information may not be disclosed to outsiders.

Information that concerns an individual's financial position, state of health or other private matters shall also be kept confidential unless the person in question has granted permission to disclose the information.

13. Supervision.

Compliance with this Act is supervised by the Ministry of Labour. In this work, the Ministry is assisted by the manpower districts.

14. Penalty of fine.

On application, the Provincial Government may order an undertaking, under penalty of fine, to meet the requirements laid down in this Act. The application may be filed either jointly by the representatives of a minimum of two personnel groups, which together represent the majority of the personnel of the undertaking, or by associations representing these personnel groups. The Ministry of Labour may also file an application for the imposition of a threat of a fine.

15. Penalties (676/95)

The punishment for violating section 11 is prescribed in chapter 47, section 4, of the Penal Code.

The punishment for violating the confidentiality duty prescribed in section 12 shall be pronounced in accordance with chapter 38, section 2, paragraph 2, of the Penal Code, unless more severe

punishment for the act is prescribed elsewhere in the law other than in chapter 38, section 1, of the Penal Code.

16. Commencement.

This Act shall come into effect on January 1, 1991. The obligations referred to in section 5, or related obligations, shall, however, be applied as of the first annual general meeting, or a similar meeting, to be held after July 1, 1992.

Any arrangements for personnel representation that have been carried out before the Act takes effect shall be considered arrangements based on section 4, unless at least two personnel groups that together represent the majority of the personnel of the undertaking demand that these arrangements be changed.