

Act on Certain Proceedings before the Market Court

(1528/2001)

Chapter 1 — **General provisions**

Section 1 — *Scope of application*

- (1) This Act contains provisions on the initiation and hearing of cases referred to in section 1(1)(3) and 1(1)(4) of the Market Court Act (1527/2001; *markkinaoikeuslaki*) in the Market Court.
- (2) Further provisions on proceedings before the Market Court may be enacted by an Act of Parliament.

Section 2 — *Matters subject to the jurisdiction of the Market Court*

The Market Court shall hear cases that have been subjected to its jurisdiction in:

- (1) the Consumer Protection Act (38/1978; *kuluttajansuojalaki*);
- (2) the Unfair Business Practices Act (1061/1978; *laki sopimattomasta menettelystä elinkeinotoiminnassa*);
- (3) the Act on the Regulation of Contract Terms between Businesses (1062/1993; *laki elinkeinonharjoittajien välisten sopimusehtojen sääntelystä*);
- (4) the Act on the Consumer Agency (1056/1998; *laki Kuluttajavirastosta*);
- (5) the Securities Markets Act (495/1989; *arvopaperimarkkinlaki*);
- (6) the Act on Credit Institutions (1607/1993; *laki luottolaitostoiminnasta*);
- (7) the Act on Mutual Funds (48/1999; *sijoitusrahastolaki*);
- (8) the Co-operatives Act (1488/2001; *osuuskuntalaki*); (1497/2001)
- (9) the Broadcasting Act (744/1998; *laki televisio- ja radiotoiminnasta*);
- (10) the Act on the Collection of Debts (513/1999; *laki saatavien perinnästä*);
- (11) the Alcohol Act (1143/1994; *alkoholilaki*);
- (12) the Act on Measures for the Restriction of Tobacco Smoking (693/1976; *laki toimenpiteistä tupakoinnin vähentämiseksi*);
- (13) the Act on Cross-Border Injunction Proceedings (1189/2000; *laki rajat ylittävästä kieltomenettelystä*);
- (14) the Insurance Companies Act (1062/1979; *vakuutusyhtiölaki*);
- (15) the Act on Foreign Insurance Companies (398/1995; *laki ulkomaisista vakuutusyhtiöistä*);
- (16) the Act on Insurance Associations (1250/1987; *vakuutusyhdistyslaki*);
- (17) the Act on Insurance Intermediaries (251/1993; *laki vakuutuksenvälittäjistä*);
- (18) some other Act.

Chapter 2 — **Proceedings**

Section 3 — *Initiation of cases*

- (1) A case shall be initiated in the Market Court as follows:

- (1) if the case is to be heard by virtue of the Consumer Protection Act, the Act on the Consumer Agency, section 13(1) of the Act on the Collection of Debts or the Broadcasting Act, by petition of the Consumer Ombudsman;
 - (2) if the case is to be heard by virtue of chapter 2, section 8a, of the Consumer Protection Act, by petition of a business;
 - (3) if the case is to be heard by virtue of the Unfair Business Practices Act, by petition of a business which is affected by the conduct referred to in sections 1—3 of the said Act or whose operations may be harmed thereby, or whose business secrets, technical models or technical instructions another business has used or disclosed in violation of section 4 of the said Act, or by petition of a registered association looking after the interests of businesses;
 - (4) if the case is to be heard by virtue of the Act on the Regulation of Contract Terms between Businesses, by petition of a registered association looking after the interests of businesses or by petition of a business which is affected by the contract term;
 - (5) if the case is to be heard by virtue of the Securities Markets Act or the Act on Mutual Funds, by petition of the Finance Supervision Authority;
 - (6) if the case is to be heard by virtue of the Act on Credit Institutions, by petition of a credit institution;
 - (7) if the case is to be heard by virtue of the Co-operatives Act, by petition of an auditor auditing savings fund operations or by petition of a registered association looking after the interests of member depositors, if at least one half of the members of the association are member depositors; (1497/2001)
 - (8) if the case is to be heard by virtue of section 13(2) of the Act on the Collection of Debts, by petition of a business which is affected by the conduct referred to in section 4 of the said Act, or by petition of a registered association looking after the interests of businesses.
- (2) However, a case pertaining to the enforcement of a threat of a fine imposed as a reinforcement for an injunction shall in the events referred to in paragraph (1)(2) be initiated by petition of the Consumer Ombudsman and in the events referred to in paragraph (1)(6) by petition of the Financial Supervision.

Section 4 — *Secondary right to institute proceedings*

- (1) If the Consumer Ombudsman refuses to file a petition with the Market Court for the hearing of a case, referred to in section 3(1)(1), pertaining to the enjoining of an advertising measure, contract term or collection measure, the petition may be filed by a registered association looking after the interests of employees and consumers.
- (2) If the Financial Supervision decides not to file a petition with the Market Court for the hearing of a case pertaining to conduct in the advertising or acquisition of securities, the advertising of shares in a foreign mutual fund vehicle in violation of section 150 of the Act on Mutual Funds, or the enjoining of a contractual stipulation, the petition may be filed by a registered association looking after the interests of investors.

Section 5 — *Initiation of injunction cases*

The Act on Cross-border Injunction Proceedings governs the standing of foreign organisations and authorities before the Market Court. If a case is to be heard by virtue of the said Act, it shall be initiated by petition of the foreign organisation or authority.

Section 6 — *Initiation of insurance cases*

- (1) If a case is to be heard by virtue of the Insurance Companies Act, the Act on Foreign Insurance Companies, the Act on Insurance Associations or the Act on Insurance Intermediaries, it shall be initiated in the Market Court by petition of the Finnish or foreign insurance company, insurance association or insurance

intermediary which is affected by the prohibition issued by the Insurance Supervisory Authority.

- (2) A case pertaining to the enforcement of a threat of a fine imposed as a reinforcement for a prohibition by the Insurance Supervisory Authority shall be initiated by petition of the Authority.

Section 7 — Initiation of cases pertaining to advertising of alcohol and tobacco products

A case to be heard by virtue of the Alcohol Act or the Act on Measures for the Reduction of Tobacco Smoking shall be initiated in the Market Court as separately provided.

Section 8 — Petition

- (1) The petition shall contain the following information:
 - (1) the name, domicile and address of the business or other person at whom the demand is directed;
 - (2) the demand and the grounds for the same;
 - (3) the facts and the documents referred to by the petitioner;
 - (4) the name and contact information of the petitioner.
- (2) If the case is initiated after an authority has made a decision, also that decision shall be annexed to the petition in the original or as a copy, as shall a certificate of the date of service of the document on the petitioner.
- (3) The petitioner or the petitioner's attorney shall sign the petition.

Section 9 — Service of the petition

- (1) The Market Court shall serve the petition on the business or other person at whom the demand is directed. If the petition pertains to a decision or order of an authority, the petition shall also be served on the authority to whose decision or order it pertains.
- (2) When serving the petition, the Market Court shall exhort the recipient to respond to the petition within a set period. The response shall contain a comment on the demand of the petitioner and the grounds for the comment. The response shall also refer to the facts and documents on which the response is based and the respondent shall mention the evidence that he or she refers to.
- (3) The service shall proceed as provided in chapter 11, section 3 and 4, of the Code of Judicial Procedure.

Section 10 — Proceedings in a case pertaining to unfair business practices

- (1) The Market Court shall serve a petition referred to in section 3(1)(3) at once on the Consumer Ombudsman. Within 30 days of having been served the petition, the Consumer Ombudsman shall notify the Market Court whether he or she will undertake measures in the case by virtue of the Consumer Protection Act or the Act on the Consumer Agency.
- (2) If the Consumer Ombudsman notifies that he or she will undertake measures in the case, the Market Court shall stay the preparation of the case until such time that the Consumer Ombudsman notifies that he or she has concluded the measures in the case.
- (3) If the Consumer Ombudsman initiates a case in the Market Court, the petition of the business or the association of businesses shall be heard jointly with it.

Section 11 — Service of the petition in a savings fund case (1497/2001)

The Market Court shall serve a petition of an association referred to in section 3(1)(7) on the auditor auditing the savings fund.

Section 12 — Service of the petition in an injunction case

- (1) The Market Court shall serve a petition referred to in section 5 at once to the Consumer Ombudsman, the National Product Control Agency for Welfare and Health, the Finnish Communications Regulatory Authority, the Financial

Supervision or the Insurance Supervisory Authority, in a case falling within the supervisory authority of the same.

- (2) The authority on whom the petition is served shall be reserved an opportunity to be heard, provided that the hearing does not cause undue delay in the decision of the case.

Section 13 — *Interim injunction proceedings*

- (1) A petition for the issue of an interim injunction in a case referred to in section 3(1)(1) shall be taken up for a hearing in the Market Court no later than on the eighth day after the arrival of the petition.
- (2) A matter pertaining to an interim injunction may be taken up for a hearing even if it has not been possible to serve the summons to the hearing on the person or body concerned by the petition.

Section 14 — *Preparation of the case*

- (1) Before the main hearing, the case shall be prepared under the direction of the Chief Judge or a Market Court Judge so that it can be resolved without delay.
- (2) The preparation may be conducted orally or in writing. It shall be a specific aim of the preparation to separate disputed points from the points that are not under dispute in the case.

Section 15 — *Hearing*

- (1) The petitioner and the opposing party, as well the other persons with party standing and the supervisory authorities, shall be summoned to the hearing of the Market Court. If the case has been initiated by petition of a business, as referred to in section 3(1)(2), the Consumer Ombudsman shall be invited to the hearing in the capacity of supervisory authority.
- (2) If the petitioner is absent from the hearing, the case shall be dismissed without prejudice. If the opposing party is absent, the case may be resolved regardless of the absence.
- (3) The case may be dismissed by the decision of the presiding Judge, if the parties state that they have settled the case in full or if the parties have otherwise stated that they no longer have such demands against each other that would be in the jurisdiction of the Market Court.
- (4) The summons to the hearing shall be served as provided in chapter 11, sections 3 and 4, of the Code of Judicial Procedure.

Section 16 — *Consideration of the case*

- (1) The Market Court may obtain information in the case on its own motion, as well as compel businesses to provide information necessary for the consideration of the case. However, there shall be no compulsion to provide information on business or professional secrets, unless there is a special reason for the same. The compulsion may be reinforced by the threat of a fine.
- (2) The case may be ordered to be considered in a closed hearing, as provided in the Act on the Publicity of Court Proceedings (945/1984; *laki oikeudenkäynnin julkisuudesta*).
- (3) In other respects, the provisions on civil procedure apply, in so far as appropriate, to the consideration of the case.

Section 17 — *Ruling*

- (1) The ruling of the Market Court shall consist of a statement of facts, a statement of reasons and a resolution.
- (2) If the ruling contains an injunction or an order to undertake remedial measures, the ruling shall designate the parties bound by it and the time as from which the injunction or order becomes binding on the same.

Chapter 3 — **Miscellaneous provisions**

Section 18 — *Service of the ruling*

If the ruling is not pronounced in open court, it shall be served on the parties by a process server or against a certificate of receipt. If the ruling cannot be served regardless of attempts to do so, and the failure of service has ensued from a reason referred to in chapter 11, sections 7–9, of the Code of Judicial Procedure, the service may be carried out applying the relevant provisions of chapter 11 of the Code, in so far as appropriate.

Section 19 — *Compensation from state funds*

- (1) A person who has been heard in the Market Court as a witness or an expert witness in a matter referred to in section 3(1)(1), 3(1)(2), 4(1) or 5 shall be paid compensation from state funds as provided in the Act on Costs of Evidence Payable from State Funds (666/1972; *laki valtion varoista maksettavista todistelukustannuksista*).
- (2) In its ruling, the Market Court may obligate a party, other than the Consumer Ombudsman or the foreign authority or organisation referred to in section 5, to reimburse the state for the costs referred to in paragraph (1).

Section 20 — *Parties' legal costs*

- (1) The parties shall self bear their legal costs in the Market Court. In cases under the Act on Unfair Business Practices, the provisions in the Code of Judicial Procedure on the compensation of legal costs shall be observed.
- (2) The charges collected in the Market Court shall be subject to separate provisions. The parties and the persons summoned to be heard shall not be charged for copies of the court record or the ruling supplied to them.

Section 21 — *Appeal*

- (1) The rulings of the Market Court shall be open to appeal in the Supreme Court, provided that the Supreme Court grants a leave to appeal, as provided in chapter 30, section 3, of the Code of Judicial Procedure.
- (2) The letter of appeal, comprising the request for leave and the appeal proper, shall be delivered to the registry of the Market Court together with the ruling of the Market Court. In other respects, the procedure regarding the leave to appeal and the appeal proper shall be governed by the provisions of chapter 30 of the Code of Judicial Procedure on matters that the Court of Appeal has heard in an appellate capacity.
- (3) The ruling of the Market Court shall be enforced in accordance with the provisions on the enforcement of *res judicata* judgments. However, the Supreme Court may decide on a temporary stay of enforcement of the ruling.
- (4) In respect of extraordinary appeal, the provisions of chapter 31 of the Code of Judicial Procedure on civil cases apply in so far as appropriate, with the exception that also a complaint shall be addressed to the Supreme Court.

Section 22 — *Urgency*

The cases referred to in this Act shall be heard as a matter of urgency.

Chapter 4 — **Entry into force and transitional provisions**

Section 23 — *Entry into force*

- (1) This Act shall enter into force on 1 March 2002.
- (2) Measures necessary for the implementation of this Act may be undertaken before it enters into force.

Section 24 — *Transitional provisions*

- (1) Cases pending in the prior Market Court at the entry into force of this Act shall be heard in the Market Court in accordance with the provisions that were in force at the entry into force of the Act.
- (2) The interim orders and other measures by the presiding judge of the prior Market Court or the prior Market Court shall remain in effect, until the Market Court decides the case or otherwise orders.