

Unofficial translation/ Ministry of Social Affairs and Health, Finland

No. 165/1999

Act on the transfer of pension rights between the Finnish earnings-related pension scheme and the pension scheme of the European Communities

Issued in Helsinki on 12 February 1999.

Chapter 1 General provisions

Section 1

Scope of application

This Act applies to the transfer of pension rights between the Finnish earnings-related pension scheme and the pension scheme of the European Communities according to Annex VIII to Regulation (EEC, Euratom, ECSC) No. 259/68 of the Council laying down the Staff Regulations of officials and the conditions of employment of other servants of the European Communities and instituting special measures temporarily applicable to officials of the Commission.

The transfer concerns the pension rights that a person has acquired on the basis of a contractual employment relationship, public service employment relationship or other service relationship or self-employment according to the Acts, the pension guidelines or the pension rules referred to in section 8 (4) or the Employees Pensions Act (395/1961), as it read at the entry into force of the said Act, or according to the Employees Pensions Act 395/2006. (Amended Act 687/2006).

Section 2

Definitions

For the purposes of this Act:

- 1) *competent pension institution* means the pension institution administering the pension provision under the acts referred to in section 1 (2) that decides on a pension application;
- 2) *transferable amount* means the capital value of the pension rights to be transferred referred to in section 5;
- 3) *the date of calculation of the transferable amount* means the day for which the calculated transfer of the pension rights to the pension scheme of the Communities is carried out.

Section 3

Liaison body

The liaison body in charge of the duties under the scope of this Act is the Finnish Centre for Pensions.

As the liaison body the duties of the Finnish Centre for Pensions include, among others:

- 1) to agree with the administration of the European Communities on the measures required by the transfer of pension rights and to undertake them;
- 2) to furnish a summary of the acquired pension rights based on the decisions of the competent pension institutions;
- 3) to issue a decision on both the transferable amount and the interest payable on it and on the competent pension institutions' financial shares;

Subparagraph 4 was repealed by Act 228/2002.

- 5) to collect from the competent pension institution that is responsible for paying the pension its share of the amount to be transferred to the pension scheme of the European Communities; and
- 6) to monitor that the pension rights to be returned in accordance with Chapter 3 will be appropriately returned to the Finnish earnings-related pension scheme.

Notwithstanding confidentiality provisions the Finnish Centre for Pensions has the right obtain from competent pension institutions the information that it needs for managing its duties as the liaison body as well as to submit to the European Communities the information necessary for the enforcement of this Act.

Chapter 2 Transfer of pension rights to the European Communities

Section 4

Right to transfer and transferable pension rights

The persons referred to in the Staff Regulation applicable to officials of the European Communities have the right to transfer, on the basis of the Staff Regulation and this Act, their pension rights referred to in section 1 (2) to the pension scheme of the European Communities. (687/2006)

The transfer applies to the pension rights that the person entitled to the transfer has acquired by the date of calculation of the transferable amount, adjusted in accordance with section 96 of the Employees Pensions Act. The transfer also concerns the additional benefits under section 11 of the Employees Pensions Act, as it read at the entry into force of the said Act; section 11 of the Farmers Pensions Act, as it read at the entry into force of Act 655/2000; and section 11 of the Self-Employed Persons Pensions Act (468/1969), as it read at the entry into force of Act 656/2000; with the exception of burial grant. The transferable pension rights comprise the pension rights under the Acts, the pension guidelines, the pension rules and the Employees Pensions Act referred to in section 8 (4) (3)-(5) and (7)-(9) of the Employees Pensions Act, as they read at the entry into force of the said Act, coordinated and converted to correspond to the pension rights at the age of 63 years in accordance with what is laid down in the provisions on entry into force in the Act Amending the State Employees Pensions Act (679/2004) and in the provisions on entry into force in the Act Amending the Local Government Employees Pensions Act (713/2004). (687/2006)

The Finnish Centre for Pensions may deduct an unpaid insurance contribution under the Self-Employed Persons Pensions Act and the Farmers Pensions Act from the capital value of the pension rights subject to transfer. (Amended Act 228/2002)

Section 5

The amount of the transferable pension rights

The amount of the transferable pension rights is equivalent to the capital value of the pension rights referred to in section 4. The capital value is calculated according to the criteria that the competent ministry confirms upon the submission of the Finnish Centre for Pensions.

Section 6

Interest payable on the transferable amount

An annual interest of 3.5 per cent is payable on the transferable amount from the date of calculation of the transferable amount until the date when the transfer to the European Communities takes place.

Section 7

A calculation of the pension rights

After having received a notification regarding the application for transfer of the pension rights from the administration of the European Communities, the Finnish Centre for Pensions will request the competent pension institutions to issue their decisions on the applicant's pension rights determined according to section 4 and give the applicant a summary and a preliminary calculation of the transferable amount. The Finnish Centre for Pensions will send the preliminary calculation for information to the administration of the European Communities.

Section 8 (228/2002)

Section 8 was repealed by Act 228/2002.

Section 9

Enforcement of the transfer

The Finnish Centre for Pensions issues a decision on the amount to be transferred to the European Communities, including the transferable amount and the interest payable on it calculated according to section 6. The decision is issued after the decisions referred to in section 7 have gained legal force or, in case nullification of a legally valid decision is applied for, after the appeal body has issued its decision on the application for nullification. (687/2006)

The Finnish Centre for Pensions also issues a decision on the shares of financing the transferable amount and the interest payable on it. The financial shares and their payment are determined on the basis of the criteria referred to in section 5.

The Finnish Centre for Pensions transfers the transferable amount with interest to the European Communities after the decisions referred to in this section have gained legal force. In view of the transfer the Finnish Centre for Pensions collects the transferable amount with interest from the competent pension institutions.

Section 10

Legal effects of the transfer

When applying the acts, the pension guidelines or the pension rules referred to in section 1 (2) a contractual employment relationship, a public service relationship or other service relationship or self-employment on which the transferred pension rights have been based is considered to have ceased at the latest at the end of the day preceding the date of calculation of the transferable amount. The period of time preceding the termination of employment does not entitle to pension from the Finnish pension scheme once the transfer of the pension rights to the pension scheme of the European Communities has been implemented.

Section 11

Appeal and nullification of decision (687/2006)

A party that is not satisfied with the pension institution's decision or the Finnish Centre for Pensions' decision on the transferable pension rights and their financing may appeal the decision as laid down in the acts, the pension guidelines or the pension rules referred to in section 1 (2). The appeal shall be submitted within the period of appeal to the Finnish Centre for Pensions. If the appeal concerns the decision of the pension institution, the period of appeal is counted from the date when the party was informed of the summary referred to in section 7. In that case the Finnish Centre for Pensions must forward the appeal to the pension institution that issued the decision.

If the decision referred to in this Act by the pension institution on the amount of the pension rights or by the Finnish Centre for Pensions on the transferable pension rights and financial shares is based on an incorrect or defective report or is obviously contrary to the law, the Insurance Court may upon application of the Finnish Centre for Pensions or the relevant pension institution or the party that has applied for the transfer, after having provided the other parties concerned an opportunity to be heard, nullify the decision and order that the issue be reconsidered. (687/2006)

If new information emerges in a matter regarding granting of a rejected benefit or increase of a granted benefit, the Finnish Centre for Pensions or the relevant pension institution shall reconsider the matter. Notwithstanding a previous legally valid decision, the pension institution may grant the benefit rejected before or grant a higher amount of the benefit. The relevant appeal board and the Insurance Court may also proceed in the same way when considering an appeal matter. A decision referred to in this paragraph may be appealed as laid down in paragraph 1. (687/2006)

Chapter 3 Returning pension rights from the European Communities

Section 12

Returning pension rights

A person is entitled to have his or her pension rights returned to the Finnish earnings-related pension scheme if the person's service in the European Communities ceases without his or her acquiring a right to a future pension on the basis of the said service. (228/2002)

The sum to be returned from the European Communities (*returnable amount*) is equivalent to the capital value (*fund transfer*) of the pension rights acquired under the entire pensions scheme of the European Communities. (228/2002)

The returnable amount is used as the capital value of the pension rights to be returned to Finland according to paragraph 1. The pension rights are calculated based on the capital value according to the criteria referred to in section 5. The State Treasury administers these pension rights. The returnable amount is entered as an income item to the State Pensions Fund.

Section 13 (687/2006)

Legal effects of returning the pension rights

Based on the returned pension rights a person is entitled, as applicable, to a pension according to the provisions regarding new benefit recipients in section 1 (4) of the State Employees Pensions Act (280/1966), but not to an old-age pension until the age of 63 years and neither to an early retirement pension until the age of 62 years. When determining the pension to be granted on the basis of the returned pension rights, as the time entitling to pension is not counted the projected pensionable service referred to in section 5a of the State Employees Pensions Act, and the returnable amount is not taken into account in the earnings for pensionable service.

Section 14 (687/2006)

Appeal

If the pension recipient considers that the pension granted him or her on the basis of this Chapter is not in compliance with this Act, the person may appeal the decision or apply for nullification of the legally valid decision as laid down in the State Employees Pensions Act.

Chapter 4 Miscellaneous provisions

Section 15

Agreement with the administration of the European Communities

The relevant Ministry has the right to conclude an agreement with the administration of the European Communities agreeing on the measures related to the transfer.

Section 16

Entry into force

This Act enters into force on 1 March 1999.

The agreement referred to in this Act with the administration of the European Communities can be concluded after this Act has entered into force.

What is provided in this Act on the transfer of pension rights to the European Communities is applicable retroactively as from 1 January 1995 to a person who, at the entry into force of this Act, is employed in the service of an institution of the European Communities.

Entry into force and application of amended provisions:

(228/2002)

This Act enters into force on 4 April 2002.

This Act is applicable to the transfer of pension rights that has been applied for after the entry into force of this Act. Section 4 (3) of this Act is however also applied to those decisions referred to in section 7 that are made after the entry into force of this Act even in case the application for the transfer was submitted earlier.

Persons who have applied for the transfer of pension rights prior to the entry into force of this Act may, with the permission of the Finnish Centre for Pensions, return to the Finnish pension scheme the part of the redundancy payment under article 12 of Annex VIII to the Regulation of the European Communities, referred to in section 1, that corresponds to the transferable amount paid to the Communities increased by the technical rate of interest referred to in section 12a (5) of the Employees Pensions Act. The application for returning the part of the redundancy payment must be submitted in writing to the Finnish Centre for Pensions within three months from the date when the person's service in the European Communities ended. However, only those persons who have made an agreement with the Finnish Centre for Pensions in accordance with section 8, which is repealed by this Act, are entitled to be returned the pension rights referred to in this provision.

(687/2006)

This Act enters into force on 1 January 2007.

This Act is applied to the transfer and returning of pension rights if the date of calculation or returning of the transferable amount is 1 January 2005 or thereafter.

A person is also entitled to the pension referred to in section 13 (1) at the earliest at the age of 63 years and to an early retirement pension at the earliest at the age of 62 years based on the pension rights returned prior to the entry into force of this Act.