

Translation from Finnish.
Legally binding only in Finnish and Swedish.
Ministry of Justice, Finland

Non-discrimination Act (1325/2014)

Chapter 1 General provisions

Section 1 *Purpose of the Act*

The purpose of this Act is to promote equality and prevent discrimination as well as to enhance the protection provided by law to those who have been discriminated against.

Section 2 *Scope of application*

- (1) This Act applies to both public and private activities.
- (2) This Act does not, however, apply to activities pertaining to private or family life or the practising of religion.

Section 3 *Relationship to other legislation*

- (1) Provisions on prohibition of discrimination based on gender and the promotion of gender equality are laid down in the Act on Equality between Women and Men ([609/1986](#)).
- (2) Sanctions on discrimination, work discrimination and extortionate work discrimination, ethnic agitation as well as aggravated ethnic agitation are laid down in the Criminal Code ([39/1889](#)).
- (3) Provisions on the prohibition against inappropriate marketing are laid down in the Consumer Protection Act ([38/1978](#)).

Section 4 *Definitions*

- (1) In this Act, *an authority* means central and local government authorities, independent bodies governed by public law and parliamentary agencies, as well as authorities in the province of Åland when the latter apply State legislation. The provisions on an authority also apply to other instances discharging a public administrative function.
- (2) In this Act, *an education provider* means the organisation that provides statutory education or training.
- (3) In this Act, *an employer* means the organisation that employs persons in an employment relationship or service relationship under public law. The provisions of this Act on an employer shall also apply to a user enterprise, referred to in section 7, chapter 1 of the Employment Contracts Act ([55/2001](#)) and in section 8, chapter 1 of the Seafarers' Employment Contracts Act ([756/2011](#)) when it exercises the right to direct and supervise temporary agency workers as well to be as a provider of work experience placements and other similar activities insofar as they exercise the right to direct and supervise.

- (4) In this Act, *a provider of goods and services* means an organisation that professionally offers goods or services for general availability.

Chapter 2 Promotion of equality

Section 5 *Authorities' duty to promote equality*

- (1) The authorities shall evaluate the realisation of equality in their activities and take necessary measures to promote the realisation of equality. These measures shall be effective, expedient and proportionate, taking into account the authorities' operating environment, resources and other circumstances.
- (2) The authorities must have a plan of the necessary measures for the promotion of equality. The obligation to draw up a plan does not apply to the Evangelical Lutheran Church, the Orthodox Church or a private actor which discharges public administrative functions and regularly employs fewer than 30 persons.

Section 6 *Duty of the education provider to promote equality*

- (1) The education provider and the educational institution maintained by it shall evaluate the realisation of equality in their activities and take necessary measures to promote the realisation of equality. These measures shall be effective, expedient and proportionate, taking into account the educational institution's operating environment, resources and other circumstances.
- (2) The education provider must ensure that the educational institution has a plan for the necessary measures for promotion of equality.
- (3) The education provider and the educational institution maintained by it must reserve an opportunity for the pupils and their guardians as well as students or their representatives to be heard on the fostering measures.

Section 7 *Employer's duty to promote equality*

- (1) The employer must assess the realisation of equality in the workplace and, taking into account the needs of the workplace, develop the working conditions as well as the methods complied with in the selection of personnel and in making decisions concerning the personnel. These measures shall be effective, expedient and proportionate, taking into account the operating environment, resources and other circumstances.
- (2) An employer who regularly employs at least 30 persons must have a plan for the necessary measures for the promotion of equality. These measures and their effectiveness must be discussed with the personnel or their representatives.
- (3) A shop steward elected on the basis of a collective agreement or a collective agreement for central government, or if one has not been elected, an elected representative as referred to in the Employment Contracts Act, or other representative of the personnel who participated in the planning of non-discrimination measures, has a right to access information, on request, on what actions the employer has taken to promote equality in the workplace. The occupational safety delegate has the same right.

Chapter 3 Prohibition of discrimination and victimisation

Section 8

Prohibition of discrimination

- (1) No one may be discriminated against on the basis of age, origin, nationality, language, religion, belief, opinion, political activity, trade union activity, family relationships, state of health, disability, sexual orientation or other personal characteristics. Discrimination is prohibited, regardless of whether it is based on a fact or assumption concerning the person him/herself or another.
- (2) In addition to direct and indirect discrimination, harassment, denial of reasonable accommodation as well as an instruction or order to discriminate constitute discrimination as referred to in this Act.

Section 9

Positive action

Proportionate different treatment that aims to promote de facto equality, or to prevent or remove the disadvantages attributable to discrimination, does not constitute discrimination.

Section 10

Direct discrimination

Discrimination is direct if a person, on the grounds of personal characteristics, is treated less favourably than another person was treated, is treated or would be treated in a comparable situation.

Section 11

Justifications for different treatment

- (1) Different treatment does not constitute discrimination if the treatment is based on legislation and it otherwise has an acceptable objective and the measures to attain the objective are proportionate.
- (2) Different treatment is however justified even in the case that justifications for the treatment have not been provided for, if the treatment has an acceptable aim in terms of basic and human rights, and the measures to attain the aim are proportionate. However, this provision is not applied in connection with:
 - 1) the use of public authority or the discharge of a public administrative function;
 - 2) conditions for access to self-employment and to occupation or support for industrial and commercial activity;
 - 3) access to education, including further education and retraining, or professional guidance;
 - 4) the membership or involvement in an employees' or employers' organisation or other organisation, the members of which practise a particular profession, or the benefits provided for by the organisation;
 - 5) different treatment on the grounds of ethnic origin.

Section 12

Justifications for different treatment at work and in employing personnel

- (1) Different treatment in employment relationships and service relationships under public law, as well as work experience placements and other equivalent activity and also when employing or engaging into service, is justified if the treatment is founded on genuine and determining

requirements concerning the type of occupational tasks and their performance, and the treatment is proportionate to achieve the legitimate objective.

- (2) Different treatment based on age or domicile is also justified if the treatment has an objectively and appropriately justified employment policy objective or an objective concerning the labour market, or if the different treatment is attributable to the age limits adopted for qualification for retirement or invalidity benefits.

Section 13

Indirect discrimination

Discrimination is indirect if an apparently neutral rule, criterion or practice puts a person at a disadvantage compared with others as on the grounds of personal characteristics, unless the rule, criterion or practice has a legitimate aim and the means for achieving the aim are appropriate and necessary.

Section 14

Harassment

- (1) The deliberate or de facto infringement of the dignity of a person is harassment, if the infringing behaviour relates to a reason referred to in section 8(1), and as a result of the reason, a degrading or humiliating, intimidating, hostile or offensive environment towards the person is created by the behaviour.
- (2) An employer's actions are to be considered discrimination if the employer, after having been informed that an employee in their employment was subjected to harassment as referred to in subsection 1, neglects to take action to remove the harassment.

Section 15

Reasonable accommodation to realise equality of persons with disabilities

- (1) An authority, education provider, employer or provider of goods and services has to make due and appropriate adjustments necessary in each situation for a person with disabilities to be able, equally with others, to deal with the authorities and gain access to education, work and generally available goods and services, as well as to manage their work tasks and to advance their career.
- (2) In assessing the reasonableness of the adjustments, attention shall also be devoted, in addition to the needs of the person with disabilities, to the size, financial position, nature and extent of the operations of an actor, referred to in subsection 1, as well as the estimated costs of the adjustments and the support available for the adjustments.
- (3) On request, the employer shall promptly provide a written report on the grounds of its procedures to a person with disabilities, who considers that they have been discriminated against as a result of the denial of reasonable adjustments in applying for employment or public service employment or in an employment relationship or in an employment relationship under public law.

Section 16

Prohibition of victimisation

A person must not be treated unfavourably or in such a way that they suffer adverse consequences as a result of pleading the rights or obligations provided for in this Act, participating in the clarification of a matter concerning discrimination, or taking other action to safeguard equality.

Section 17

Prohibition of discriminatory work advertisements

When advertising an open position, public service office or post, an employer may not unlawfully require that applicants have the personal characteristics or qualities referred to in this Act.

Chapter 4

Supervision

Section 18

Supervisory authorities

- (1) Compliance with the provisions of this Act shall be supervised by the Non-Discrimination Ombudsman, the National Non-Discrimination and Equality Tribunal, and the occupational safety and health authorities.
- (2) The supervision provisions of this Act shall only apply to parliament and parliament's organs when the parliament or its organ acts as an authority or an employer.
- (3) The provisions of this Act on supervision shall not apply to the actions of the President of the Republic, the general session of the government, the courts and other judicial bodies or the Chancellor of Justice and the Parliamentary Ombudsman.

Section 19

Tasks and powers of the Non-Discrimination Ombudsman

- (1) The Non-Discrimination Ombudsman may within the scope of application of this Act:
 - 1) provide assistance to the victims of discrimination in pursuing their complaints concerning discrimination;
 - 2) assist in the planning of the promotional measures referred to in sections 5–7;
 - 3) give general recommendations to prevent discrimination and to promote equality;
 - 4) take action to reconcile a matter pertaining to compliance with this Act.
- (2) The Ombudsman may, in individual cases, issue a reasoned opinion to prevent actions contrary to this Act, or to prevent continuation or repetition thereof, unless the matter pertains to the supervision of the Occupational Safety and Health Authority, or concerns the interpretation of a collective agreement or a collective agreement for central government.
- (3) The provisions of the Non-Discrimination Ombudsman's other tasks related to the promotion of equality and the prevention of discrimination are laid down in the Act on the Non-Discrimination Ombudsman ([1326/2014](#)).

Section 20

Tasks and powers of the National Non-Discrimination and Equality Tribunal

- (1) The National Non-Discrimination and Equality Tribunal confirms the reconciliation between the parties in matters concerning discrimination or victimisation, unless the reconciliation is contrary to law or clearly unreasonable or infringes upon a rights of a third party. Reconciliation confirmed by the Tribunal shall be enforced similarly as a legally valid judgment.
- (2) The National Non-Discrimination and Equality Tribunal may, on request of a court, the Non-Discrimination Ombudsman or other authority or community promoting equality, issue a statement on a matter significant for the interpretation of this Act, unless the matter pertains to the powers of the Occupational Safety and Health Authority or concerns the interpretation of a collective agreement or a collective agreement for central government. Provisions on the

right of the Occupational Safety and Health Authority to request a statement from the Tribunal are laid down in section 22.

- (3) The National Non-Discrimination and Equality Tribunal may, in other matters than those pertaining to the authority of the Occupational Safety and Health Authority pursuant to section 22, forbid the party in question from continuing or repeating the discrimination or victimisation, or order the person to take action within a reasonable time to fulfil the obligations provided for in this Act. The Tribunal may impose a conditional fine to enhance its prohibition or order.

Section 21

Bringing the matter for handling by the National Non-Discrimination and Equality Tribunal

- (1) The parties to the reconciliation together, or the Non-Discrimination Ombudsman with the consent of the parties, may seek confirmation of reconciliation from the National Non-Discrimination and Equality Tribunal in a matter relating to actions contrary to the prohibition of discrimination or victimisation.
- (2) The person who considers that they have been discriminated against or victimised may bring a matter concerning discrimination or victimisation to be handled by the National Non-Discrimination and Equality Tribunal for measures provided for in section 20(3). The Non-Discrimination Ombudsman or a community fostering equality may also bring such a matter to be handled by the Tribunal, with the consent of the injured party referred to above.
- (3) The Non-Discrimination Ombudsman may bring a matter concerning neglect of planning obligations provided for in sections 5 and 6 to be handled by the National Non-Discrimination and Equality Tribunal for measures provided for in section 20(3).
- (4) Provisions on the handling of the matter in the National Non-Discrimination and Equality Tribunal are laid down in the Act on the National Non-Discrimination and Equality Tribunal of Finland ([1327/2014](#)).

Section 22

Tasks and powers of the occupational safety and health authorities

- (1) Compliance with this Act in employment relationships and service relationships under public law, and in traineeships and other comparable activities in the workplace as well as in employing persons, shall be supervised by the occupational safety and health authorities in accordance with the provisions of this Act as well as the Act on Occupational Safety and Health Enforcement and Co-operation on Safety and Health at Workplaces ([44/2006](#)).
- (2) The Occupational Safety and Health Authority shall take action provided for in the Act on Occupational Safety and Health Enforcement and Co-operation on Safety and Health at Workplaces that is required as a result of a complaint about discrimination made in an individual case, and notify the complainant of the Non-Discrimination Ombudsman's task to assist the victims of discrimination.
- (3) The Occupational Safety and Health Authority may request a statement on the interpretation and application of this Act from the Non-Discrimination Ombudsman or the National Non-Discrimination and Equality Tribunal.

Chapter 5

Legal protection and sanctions

Section 23

Compensation

- (1) A person who has been discriminated against or victimised is entitled to receive compensation from the authority, employer or education provider or supplier of goods or services who has discriminated against or victimised the person contrary to this Act.
- (2) Receipt of compensation does not preclude receipt of compensation by virtue of the Tort Liability Act ([412/1974](#)) or other legislation.

Section 24

Amount of compensation

- (1) The compensation must be equitably proportionate to the severity of the act. The severity of the act is assessed by taking into account the type, extent and duration of the infringement.
- (2) In determining the level of compensation, due consideration shall be given to compensation imposed or ordered to be paid by virtue of other legislation for the same act of infringement against the person.
- (3) Compensation may be made more reasonable or not imposed at all if compensation would be unreasonable, taking into account in particular the offender's attempts to preclude or remove the consequences of the actions and the offender's financial position.

Section 25

Discriminatory contract terms

- (1) A discriminatory contract term or a term contrary to the prohibition of victimisation, as well as a discriminatory provision or a provision contrary to the prohibition of victimisation, of the by-laws of a company, association and foundation shall be void.
- (2) A court may amend a contract or declare it void if a contractual term referred to in subsection 1 is such that it would be unreasonable to continue the contract otherwise unaffected after the offending term is no longer taken into account.

Section 26

Claim concerning compensation or discriminatory contract terms

- (1) The person who considers having been discriminated against or victimised may claim for compensation and for the discriminatory terms to be declared void in a district court.
- (2) Compensation and declaration of the discriminatory terms as void shall be claimed within two years from the discriminatory actions or actions contrary to the prohibition of victimisation. In employing a person, the claim must, however, be made within a year from when the discriminated applicant received notice of the selection decision.

Chapter 6

Miscellaneous provisions

Section 27

Hearing of the Non-Discrimination Ombudsman

A court must, in a matter handled by it concerning the application of this Act, reserve an opportunity for the Non-Discrimination Ombudsman to be heard insofar as the matter pertains to the authority of the Ombudsman. The prosecutor must reserve an opportunity for the Ombudsman to be heard prior to bringing charges for an offence referred to in chapter 11, section 11 of the Criminal Code.

Section 28

Burden of proof

The person instituting the proceedings must present an account of facts, which the claim is based on, in the proceedings of the matter concerning discrimination or victimisation in a court or other authority. If it can be assumed on the basis of the clarification provided in the proceedings of the matter that the prohibition of discrimination or victimisation has been violated, in order to revoke the assumption, the adverse party must prove that the prohibition was not violated. The provisions of this section are not applied to criminal proceedings.

Section 29

Entry into force

The entry into force of this Act shall be separately laid down by an Act.