

Unofficial translation
Ministry of Trade and Industry, Finland

Act on the Right in Employee Inventions

(656/1967; amendments up to 1078/2000 included)

Section 1

The provisions of this Act apply to inventions patentable in Finland and made by a person employed by another, that is, by an employee. This Act shall apply correspondingly to persons employed in the public service.

If the employer claims a right in an employee's invention which restricts the employee's right to apply for or obtain a patent for the invention, such an invention shall in that respect be held to be patentable in Finland, unless the employer gives probable reasons for obstacles to the grant of a patent. (526/1988)

A teacher and a researcher of a university, college or a similar institution of higher education shall not, in such capacity, be regarded as an employee within the meaning of this Act. This Act shall, however, apply to a teacher at a military educational institution who holds an office or a post in the Defence Forces. (526/1988)

This Act is not applicable to a person who is in military service under the Conscription Act. (526/1988)

For the purposes of this Act, a consolidated corporation means a consolidated corporation, a municipality and a joint municipal board under section 6 of Chapter 1 of the Accounting Act (1336/1997) as well as enterprises subject to its authority in the manner referred to in section 5 and section 6(2) of Chapter 1 of the Accounting Act. (1078/2000)

Section 2 (526/1988)

The provisions of this Act shall be applied insofar as nothing else has been agreed upon or can be considered to appear from the employment contract or from other circumstances. However, contractual terms incompatible with section 3, section 6(2), section 7(1) and (3), section 7a, section 8(2) or section 9 are void.

Section 3

An employee shall have the same right in his inventions as other inventors, unless otherwise provided in this Act or any other Act.

Section 4 (1078/2000)

If an invention has ensued from an employee's activity in the performance of his duties or essentially as a result of using his experiences gained in the enterprise or institution of his employer or in an enterprise or an institution belonging to the same consolidated corporation, the employer may acquire the right in the invention, in whole or in part, if the use of the invention falls within the field of activity of the employer's enterprise or of an enterprise belonging to the same consolidated corporation. If the invention is the result of a task assigned to him more specifically, the employer may acquire the right even if the use of the invention is not within the field of activity of the employer's enterprise or of an enterprise belonging to the same consolidated corporation.

If an invention the use of which falls within the field of activity of the employer's enterprise or of an enterprise belonging to the same consolidated corporation but which has been conceived in connection with the employment other than those referred to in the first subsection, the employer is entitled to acquire the right to use the invention.

Should the employer wish to acquire a more comprehensive right in an invention referred to in the second subsection than that provided for therein or should he wish to acquire the right in an invention which has been conceived without any connection to the employment but the use of which falls within the field of activity of the employer's enterprise or of an enterprise belonging to the same consolidated corporation, the employer shall have priority to acquire such a right by agreement with the employee.

Section 5 (526/1988)

An employee who makes an invention referred to in section 4 shall notify the employer of it in writing without delay and at the same time shall communicate such particulars of the invention as to enable the employer to understand it. At the employer's request the employee shall also inform the employer of what he considers to be the connection between the employment and the conception of the invention.

If the employee, before being bound to the obligation referred to in subsection 1 above, has become aware of the field of activity of an enterprise belonging to the same consolidated corporation with the employer, which essentially differs from the employer's field of activity, the employee's notification obligation shall also apply to inventions made in the field of activity of the afore-mentioned enterprise. (1078/2000)

Section 6

An employer who wishes to acquire the right in an invention in accordance with section 4(1) or (2) shall, no later than within four months from his receipt of the notification provided for in section 5, notify the employee in writing that he will claim a specified right in the invention. The employer shall also exercise the priority given to him under section 4(3) within the same period of time.

During the four months following the receipt of the notification under section 5, the employee may not dispose of an invention referred to in section 4 without his employer's permission in writing or make any disclosure which would render the invention public or would enable it to be used for the benefit of another person. After the notification has been made in accordance with section 5, the employee may, however, apply for a patent for the invention in Finland. In this case he may not file the application with the patent authority before one month has elapsed from the day he notified the employer in writing of his intention to apply for a patent for the invention. (1078/2000)

Section 7

Where an employer acquires the right in an invention made by an employee by virtue of section 4 or on other grounds, the employee is entitled to reasonable compensation from the employer even if it was agreed otherwise before the invention was made.

When determining the amount of the compensation, particular attention shall be paid to the value of the invention, the scope of the right which the employer acquires, as well as to the terms and conditions of the employment contract of the employee and the contribution which other circumstances connected with the employment had to the conception of the invention.

Where an action for compensation has not been instituted within ten years from the employer's notification of claiming the right in the invention, the right of action shall lapse. If a patent for the invention has been applied for, the action may, however, always be instituted within one year from the grant of the patent. (526/1988)

Section 7a (526/1988)

The employer shall be obligated to provide the employee with information necessary for the determination of the compensation for the invention, specifically the information on the filing and grant of the patents for the invention, as well as on the production quantities and selling prices of the products conforming to the invention, or of the products manufactured by a process conforming to the invention.

The employee shall be obligated to provide the employer with the necessary information on the invention and its utilisation.

Section 8

Where an application for a patent is filed during the six months following the termination of the employment for an invention to which section 4 should be applied if it had been conceived during the course of employment, the invention shall be deemed to have been made during the period of employment unless the inventor can give probable reasons why the invention had been made after the employment had terminated.

Any agreement between an employer and an employee that limits the employee's right to dispose of an invention made more than one year after the termination of the employment shall be void.

Section 9

Notwithstanding any provision in a court judgment or contract concerning compensation under section 7, the court may order otherwise if this is required by a substantial change in circumstances. An employee shall not, however, be obligated to refund a compensation already paid.

The provisions of the Act on legal acts under the law of property (228/1929) shall apply to the adjustment of an unreasonable condition in a contract concerning the right in an employee invention. (961/1982)

Section 10 (526/1988)

Anyone who by virtue of this Act learns about an invention, a trade or professional secret or the financial status of another person shall not without authorisation disclose to any outside third party this information.

Section 11 (526/1988)

An Employee Invention Committee shall be instituted to give opinions on matters concerning the application of this Act; the Committee shall consist of a chairman and eight members.

The chairman and two members shall be appointed by the Government for a fixed term, from among persons who are considered not to represent either employer or employee interests. The chairman and one of the two members referred to, who shall at the same time act as vice-chairman, shall have the qualifications of a judge and be familiar with the work of a judge. The other member shall have a degree in engineering and be familiar with patent issues.

The other members, who shall possess practical working experience and be familiar with invention activities and of whom three shall represent the employers and three the employees, shall be appointed by the Government for two years at a time at the proposal of the respective organisations.

Each member of the Committee shall have an alternate member, appointed by the Government, with the qualifications required of a member.

Section 11a (526/1988)

An opinion from the Inventions Committee may be sought by employers and employees as well as by a court of law when a dispute over an invention has been brought before it. The National Board of Patents and Registration of Finland shall also have the same right if it is handling an application for a patent for the

invention. The party concerned shall notify the Committee whether he intends to observe the opinion. The notification shall be submitted within two months from the end of the month when the party concerned received a copy of the opinion. (1078/2000)

The Committee may also function as an arbitration tribunal if the employer and employee have so agreed. In this case the provisions of the Arbitration Act shall apply, unless otherwise provided in this Act.

The costs ensued from the Committee's activities shall be paid from public funds. Where the Committee functions as an arbitration tribunal, the Ministry of Trade and Industry shall determine the honorarium of the chairman, the members and the secretary.

The Committee shall be entitled to obtain the information necessary for giving the opinion from the employer, an enterprise belonging to the same consolidated corporation and from the employee. The Committee shall issue its opinion and arbitration award, unless it is in whole or in part against the secrecy obligations provided for in the Act on the Openness of Government Activities (621/1999). Where a patent application concerning the employee invention is pending, the opinion may not be published before the documents have become available to the public under section 22 of the Patents Act (1078/2000)

Further provisions on the Committee may be given by Government decree.

Section 12 (1698/1995)

The District Court of Helsinki shall have jurisdiction in disputes concerning employers' or employees' rights under this Act. In such proceedings, the provisions on court proceedings in patent matters shall apply where appropriate.

The District Court of Helsinki shall be the competent court if the dispute concerns the right in an invention within the meaning of this Act for which a European patent referred to in the European Patent Convention (Finnish Treaty Series 8/96) has been applied and if the employee at the time of making this invention principally was working in Finland. If no State can be indicated where the employee principally was working, the District Court of Helsinki shall be the competent court, if the employer at the moment the invention was conceived had in Finland such a place of business with which the employee making the invention was employed. The matter may be heard at the District Court of Helsinki also when the parties to the dispute have, orally or in writing, agreed that the District Court of Helsinki is the competent court in the matter and where such an agreement is permitted in the legislation of the State whose legislation is applied to the employment contract concerned.

Section 13

Further provisions on the application of this Act may be given by Government decree.

Section 14

This Act enters into force on 1 January 1968.

This Act does not apply to inventions made before 1 January 1968.