

NB: Unofficial translation

ADMINISTRATIVE PROCEDURE ACT

(Act no. 598 of 6 August 1982, as amended by Act no. 473 of 30 April 1987, Act no. 506 of 7 April 1995, Act no. 586 of 21 April 1995, Act no. 589 of 26 July 1996, Act no. 543 of 6 June 1997, Act no. 434 of 26 March 1999, Act no. 447 of 1 April 1999 and Act no. 688 of 21 May 1999)

Section 1

Scope of application

- (1) This Act shall govern administrative procedures. However, sections 14—28 of this Act shall apply only when an administrative procedure involves a decision on the interests, rights or obligations of a person.
- (2) In this Act, the expression "administrative procedure" shall denote the consideration of an administrative matter by a public authority, excluding administrative judicial procedure. Administrative procedure shall not include preliminary criminal investigations, police inquiries and execution proceedings. (Act no. 506 of 7 April 1995)

Section 2

Secondary character of the Act

- (1) The provisions of this Act shall be without prejudice to contrary provisions of any other Act or of any Decree issued prior to the entry into force of this Act.

Section 3

Public authorities

- (1) The public authorities that shall be subject to this Act shall be the administrative authorities of the State, the public authorities of municipalities and federations of municipalities and the organs of the Social Insurance Institution and the University of Helsinki. This Act shall govern the consideration of matters of judicial administration in courts of law.
- (2) This Act shall not apply to the President of the Republic. Sections 1—13 and, where applicable, also sections 14—25 of this Act shall govern the preparation and presentation of the matter when the President of the Republic has to decide on the interests, rights or obligations of a person.

- (3) It may be provided by Decree that this Act shall also govern the consideration of an administrative matter when the said consideration is performed by an independent institution of public law character, by an association of public law character, by a limited company in which the State is the majority shareholder, or by a private individual.

Section 4

Advice

- (1) Where necessary, a public authority shall advise concerned parties and other persons on how to initiate proceedings in a matter falling within its competence and on how to proceed during the consideration of the said matter.

Section 5

Publicity of proceedings

- (1) Matters shall be considered publicly if so provided by law or decided on the basis of a special legal provision.
- (2) The Act on Publicity of the Activities of Public Authorities (Act no. 621 of 1999) contains provisions governing the publicity of documents. (Act no. 688 of 21 May 1999)

Section 6

Representative and assistant

- (1) A representative and assistant may be used in administrative procedures. The principal shall, however, appear in person if this is necessary in order to clarify the matter.
- (2) A representative shall present a written authorisation unless there is no doubt of his right to act on the behalf of the principal even without a written authorisation.
- (3) Should a representative or assistant prove unsuitable for his task, a public authority may prohibit him from appearing in the matter before the said authority. The principal shall be notified of such a prohibition.

Section 6 a

Duty of confidentiality (Act no. 586 of 21 April 1995)

- (1) A representative, an assistant or anyone assisting him shall not without permission disclose a personal or family secret that the principal has entrusted to him, nor any other information of comparable confidential character, of which he has learned in performing his task.
- (2) A breach of the duty of confidentiality provided in paragraph (1) shall be punished in

accordance with sections 1 or 2 of chapter 38 of the Penal Code, unless the said breach is punishable under section 5 of chapter 40 of the Penal Code, or unless a more severe penalty is provided elsewhere in the law.

Section 7

Initiation of proceedings

- (1) Proceedings shall be initiated in writing. With the consent of the authority a matter may be initiated orally.
- (2) The claim of the initiating party and its grounds shall be stated when initiating proceedings.

Section 8

Transfer of a matter

- (1) A public authority to which, through an obvious mistake or ignorance, a document has been submitted in order to initiate proceedings in a matter not falling within the competence of the said public authority shall seek to determine the competent public authority in the matter.
- (2) Where there is no lack of clarity as to competence, the public authority to which the matter was submitted shall immediately transfer the matter to the public authority that it considers competent by sending the document to the said authority. No administrative decision need be made on the dismissal of the matter in such a case. The person who submitted the document to the public authority shall be notified of the transfer.
- (3) The provisions of paragraphs (1) and (2) concerning a document submitted in order to initiate proceedings shall apply, where appropriate, to any other document submitted to the wrong public authority.
- (4) On the transfer of a document to be submitted to a public authority before a deadline, the said deadline shall be considered met if the competent authority receives the document before the expiry of the deadline.

Section 9

Remedying a deficiency in a document

- (1) If a document submitted to a public authority lacks information or an annex referred to in a provision or regulation, or if the said document has not been signed or is formally deficient in some other respect, then the party submitting the document shall be given an opportunity to remedy the deficiency, unless this would be superfluous.

Section 10

Grounds for disqualification

- (1) A public official shall be disqualified:
 - (1) if he or his close relative is a concerned party;
 - (2) if he or his close relative can be expected to derive particular benefit or suffer particular loss as a result of a decision in the matter;
 - (3) if he or his close relative is assisting or representing a concerned party or a person who can be expected to derive particular benefit or suffer particular loss as a result of a decision in the matter;
 - (4) if he is in the service of, or with respect to the subject of the proceedings has been assigned by a concerned party or by a person who can be expected to derive particular benefit or suffer particular loss as a result of a decision in the matter;
 - (5) if he is a member of the board of directors, the supervisory board or a comparable organ or is the managing director or holds a comparable position in a corporation, foundation, institution of public law character or public enterprise which is a concerned party or which can be expected to derive particular benefit or suffer particular loss as a result of a decision in the matter; (Act no. 543 of 6 June 1997)
 - (5 a) if he is a member of the board or a comparable organ of a public authority or institution and the matter pertains to the control and supervision of the said public authority or institution; or (Act no. 543 of 6 June 1997)
 - (6) if confidence in his impartiality is jeopardised for some other special reason.
- (2) The expression "close relative" used in paragraph (1), shall denote the children, parents, grandparents and siblings of the official as well as the spouses and children of the said persons. The provisions regarding a close relative shall also apply to the spouse and cohabitee of the official and to their children, parents, grandparents and siblings, to the spouses and children of such persons and to the official's fiancé(e). A corresponding half-relative shall also be considered a close relative.
- (3) The grounds for disqualification shall also apply to any person who attends to the matter in a public authority in a capacity other than that of a public official.

Section 11

Effects of disqualification

- (1) A disqualified person shall neither consider the matter nor be present at the proceedings, except where the disqualification cannot affect the outcome because of the nature of the matter, or where the proceedings cannot be deferred.
- (2) In case of disqualification, the authority shall take the measures necessary for the consideration of the matter without delay.

Section 12

Request for further information

- (1) When requesting a statement or further information the points to which the statement or information should specifically relate shall be stated.
- (2) All further information shall, where possible, be requested at the same time. A deadline shall be imposed for providing the said further information. Section 21 of this Act contains provisions on a deadline imposed on a concerned party.

Section 13

Notice that a matter is pending

- (1) If the decision in a matter may have a considerable effect over a wide area or on the circumstances of several people, then the fact that the matter is pending shall be announced publicly.
- (2) Any known person who is not a concerned party, but upon whose residential, working or other conditions the decision in a matter may have considerable impact, shall be personally notified that the matter is pending. A public announcement that the matter is pending may be made, however, if the matter concerns several persons who may be assumed to learn of the matter through a public announcement.
- (3) No notice that a matter is pending need be given if such notification would jeopardise realisation of the purpose of the decision or cause other some other appreciable detriment, or if notification would clearly be superfluous.
- (4) The fact that a matter is pending may also be notified by means other than those stipulated in the Act on the Service of Notices in Administrative Matters (Act no. 232 of 1966). The notice shall specify its subject matter and the procedure for submitting relevant information, questions or comments to the authority.

Section 14

Joint proceedings

- (1) When matters are pending at the same time involving claims for an interest or right that cannot be granted to everyone because of the large number of concerned parties, the matters shall be prepared together and decided at the same time unless joint proceedings occasion harmful delay.

Section 15

Hearing of concerned parties

- (1) Before a matter is decided a concerned party shall be given an opportunity to comment on the claims made by others and on any evidence in the matter that may affect the decision (*hearing of concerned parties*).
- (2) A matter may be decided without hearing a concerned party:
 - (1) if the claim is dismissed without prejudice or immediately rejected, or if a claim is approved that does not affect another concerned party, or if a hearing is obviously superfluous for some other reason,
 - (2) if the matter concerns entry into a service relationship or voluntary training, or the granting of some benefit based on an assessment of the qualities of an applicant,
 - (3) if a hearing would jeopardise realisation of the purpose of the decision, or
 - (4) if a decision in the matter cannot be postponed.
- (3) For the purpose of submitting comments a concerned party shall also be furnished with information from non-public documents if the concerned party is entitled to receive information from such documents pursuant to the Act on Publicity of Actions of Public Authorities (Act no. 688 of 21 May 1999).

Section 16 (Act no. 447 of 1 April 1999)

Right of legally incompetent persons to be heard

- (1) The right of a legally incompetent person to be heard shall be exercised by his trustee, by his guardian, or by some other lawful representative unless otherwise provided in this section.
- (2) A legally incompetent person shall be entitled to exercise alone his right to be heard in a matter relating to such income or property that he has the right to administer.
- (3) A legally incompetent person who has attained the age of 18 years shall himself alone exercise his right to be heard in a matter concerning his person if he is capable of understanding the significance of the matter. A minor who has attained the age of 15

years and his guardian or other lawful representative shall both be individually entitled to exercise the right to be heard in a matter concerning the person or the personal interests or rights of the minor.

Section 16 a (Act no. 447 of 1 April 1999)

Right of a trustee to be heard

- (1) A trustee who has been appointed for a legally competent person shall, in addition to speaking on behalf of his principal, exercise an independent right to be heard in matters pertaining to his assignment. If a trustee and his principal disagree when exercising the right to be heard, then the view of the principal shall decide the matter if the principal is capable of understanding the significance of the matter.
- (2) If the competence of the principal is limited in some other manner than by being declared legally incompetent, then the trustee shall alone exercise the right to be heard on behalf of the principal in matters upon which the principal is not entitled to decide. The trustee and his principal shall, however, jointly exercise the right to be heard in matters that they must jointly decide.

Section 16 b (Act no. 447 of 1 April 1999)

Hearing of a trustee and principal

- (1) When a trustee exercises the right to be heard, then his principal shall be heard and when a principal exercises the right to be heard then the trustee shall be heard if a hearing is necessary in the interests of the principal or to clarify the matter.

Section 17

Duty of investigation

- (1) The public authority shall ensure that the facts in the matter are established.
- (2) The concerned party shall, where necessary, submit evidence in support of his claim. It shall be the business of the authority to procure any other evidence.
- (3) In a matter subject to joint proceedings and in a matter involving several concerned parties the public authority shall ensure that the matter is investigated in a manner not prejudicial to the equality of the concerned parties.

Section 18

Oral statement by a party

- (1) If a concerned party seeks to present a claim orally or produce oral evidence when a matter is pending, he shall, where practicable, be given an opportunity to do so. Where warranted, the other concerned parties shall be invited to attend at the same time.

Section 19

Inspection and oral submission of evidence

- (1) The public authority may perform an inspection. The concerned parties shall be given an opportunity to attend the inspection.
- (2) Where warranted on account of a special reason, a witness may be heard under oath and a concerned party may be heard under affirmation* in administrative proceedings. The hearing shall be conducted by the Administrative Court where such a hearing can most conveniently take place. In matters pertaining to judicial administration considered by a court of law, however, the hearing shall be conducted by the court in question. The concerned parties shall be given an opportunity to attend the hearing of a witness or a concerned party, and shall be entitled to question a witness and to comment on the testimony of a witness. (Act no. 434 of 26 March 1999)
- (3) Compensation shall be paid to a witness pursuant to the applicable provisions of the State Compensation to Witnesses Act (Act no. 666 of 1972). The compensation shall be paid from the funds available to the public authority. Where warranted, the public authority may order a concerned party to reimburse any payments made from such funds in whole or in part.

Section 20 (Act no. 473 of 30 April 1987)

Documentation of certain information

- (1) Written notes shall be kept of claims submitted orally and of orally presented statements, observations made in inspections and data obtained from a personal data file referred to in the Personal Data File Act (Act no. 471 of 1987), where the said information may affect the decision in the matter.

* Translator's note: The difference between hearing a witness 'under oath' [valan nojalla] and a concerned party 'under affirmation' [totuusvakuutuksen nojalla] is explained in the government bill (no. 88 of 1981, p. 44). Essentially a concerned party may refuse to testify while a witness may not.

Section 21

Deadlines imposed upon concerned parties

- (1) Where necessary, a reasonable deadline shall be imposed upon a concerned party to remedy a deficiency in a document, to submit a comment or to produce evidence, and at the same time the concerned party shall be notified that failure to meet the deadline will not preclude a decision in the matter.

Section 22 (Act no. 589 of 26 July 1996)

Interpretation and translation

- (1) The authority shall arrange for interpretation and translation in cases where a concerned party in a matter that may be initiated by the authority does not know the language to be used before the public authority pursuant to the Language Act (Act no. 148 of 1922), or where he cannot make himself understood due to a sensory handicap or speech disorder.
- (2) For a special reason, the public authority may also arrange for interpretation and translation in cases other than those referred to in paragraph (1).
- (3) The public authority shall ensure that citizens of the other Nordic countries receive the necessary interpretation and translation assistance in matters considered by the said public authority.

Section 23

Content of a decision

- (1) A decision shall clearly specify the rights that it confers on a concerned party, the obligations that it imposes on a concerned party, or the manner in which the case has otherwise been resolved.

Section 24

Statement of reasons for a decision

- (1) Reasons shall be given for a decision by stating the principal facts and the provisions and regulations upon which the decision is based.
- (2) A statement of reasons may be omitted:
 - (1) if the decision approves a claim that does not affect another concerned party, or if a statement of reasons is obviously superfluous for some other reason;
 - (2) if the matter concerns entry into a service relationship or voluntary training, or the granting of some benefit based on an assessment of the qualities of an applicant; or

- (3) if a statement of reasons cannot be prepared without considerably delaying the decision.

Section 24 a (Act no. 589 of 26 July 1996)

Instructions for exercising corrective remedies

- (1) If, before lodging an appeal, correction of a decision must be claimed, the decision is to be submitted to a public authority, or some other similar correction procedure is to be observed in the matter, then instructions for exercising the corrective remedy shall be provided with the decision.
- (2) Chapter 3 of the Administrative Judicial Procedure Act (Act no. 586 of 1996) contains provisions on annexing appeal instructions to a decision.

Section 25

Service of the decision

- (1) The decision shall be served on the concerned parties. Service shall be performed in the manner separately provided.

Section 26

Correction of an error of substance

- (1) If a decision is based on obviously incorrect or deficient information or on an incorrect application of the law, then the public authority may annul its erroneous decision and decide the matter again (*correction of an error of substance*).
- (2) An error of substance may not be corrected without the consent of the concerned parties.

Section 27

Correction of a clerical error

- (1) If a decision contains an obvious clerical error or miscalculation, then the authority that made the decision shall correct it (*correction of a clerical error*). The error may not be corrected, however, if the correction leads to an unreasonable outcome for a concerned party.

Section 28

Correction procedure

- (1) If amendment proceedings are pending concerning a decision, then the authority considering the said amendment proceedings shall be informed that a decision on the correction of the matter is pending and shall be sent a copy of the decision.
- (2) When considering the correction of a substantive or clerical error, the public authority may prohibit enforcement of the decision until further notice.
- (3) A correction shall be entered in the deposit copy of the decision. The party shall be given a corrected or a new instrument free of charge.
- (4) Amendment to a decision of an authority rejecting a claim for the correction of an error may not be sought by appeal.

Section 29

Entry into force

- (1) This Act shall enter into force on 1 January 1983.