

## **Translation from Finnish**

**Legally binding only in Finnish and Swedish**

**Ministry of Justice, Finland**

### **Act on Representative Actions for Injunctive Measures**

*(1101/2022)*

By decision of Parliament, the following is enacted:

#### **Section 1**

##### **Scope of application**

This Act applies to domestic and cross-border representative actions for injunctive measures referred to in Directive (EU) 2020/1828 of the European Parliament and of the Council on representative actions for the protection of the collective interests of consumers and repealing Directive 2009/22/EC, hereinafter the *Representative Actions Directive*.

#### **Section 2**

##### **Definitions**

In this Act:

- 1) *collective interests of consumers* means the general interest of consumers or the interests of a group of consumers;
- 2) *qualified entity* means any authority or organisation representing consumers' interests which has been designated by a state belonging to the European Economic Area, hereinafter *EEA State*, as qualified to bring representative actions;
- 3) *representative action* means an action for the protection of the collective interests of consumers that is brought by a qualified entity on behalf of consumers to seek an injunctive measure;
- 4) *domestic representative action* means a representative action brought in Finland by a qualified entity designated in Finland;

5) *cross-border representative action* means a representative action brought by a qualified entity in an EEA State other than that in which the qualified entity was designated;

6) *injunctive measure* means an order prohibiting a trader from continuing or repeating a practice.

### **Section 3**

#### **Competent court**

Representative actions referred to in this Act are heard by the Market Court. The Market Court Proceedings Act (100/2013) applies to the hearing of representative actions, unless otherwise provided in this Act.

### **Section 4**

#### **Representative action**

A qualified entity may, by application, bring a representative action against a trader who has acted in violation of the provisions on the protection of the collective interests of consumers laid down in the legal acts listed in Annex I to the Representative Actions Directive, including such provisions as transposed into national law, if the practice in question harms or may harm the collective interests of consumers.

If an authority that is a qualified entity considers that a trader has acted in violation of the provisions referred to in subsection 1, the authority shall notify the trader of the matter before the representative action is brought so that the trader may voluntarily renounce its practice. The authority shall submit the notification to the Finnish Competition and Consumer Authority, unless this is manifestly unnecessary. A failure to submit such a notification does not prevent the hearing of a representative action at the Market Court.

### **Section 5**

#### **Qualified entity for domestic representative actions**

The Consumer Ombudsman, the Finnish Competition and Consumer Authority, the Financial Supervisory Authority, the Finnish Transport and Communications Agency, the Finnish Medicines Agency, the National Supervisory Authority for Welfare and Health, and the Data Protection

Ombudsman may, in the capacity of qualified entities, bring a domestic representative action in a matter falling within their supervisory powers.

An organisation promoting the collective interests of consumers, designated by the Ministry of Justice as a qualified entity for the purposes of domestic representative actions, may bring a domestic representative action in a matter falling within its statutory purpose to protect the collective interests of consumers. Provisions on the designation are laid down in the Act on the Designation of Organisations Promoting the Collective Interests of Consumers as Qualified Entities (1102/2022).

## **Section 6**

### **Qualified entity for cross-border representative actions**

The Consumer Ombudsman, the Finnish Competition and Consumer Authority, the Financial Supervisory Authority, the Finnish Transport and Communications Agency, the Finnish Medicines Agency, the National Supervisory Authority for Welfare and Health and the Data Protection Ombudsman may, in the capacity of qualified entities, bring a cross-border representative action in a matter falling within their supervisory powers in another EEA State, if a practice of a trader infringes the collective interests of consumers in Finland in the manner referred to in section 4.

An organisation promoting the collective interests of consumers, designated by the Ministry of Justice as a qualified entity for the purposes of cross-border representative actions, may, in a matter falling within its statutory purpose, bring a representative action referred to in section 4 in another EEA State, if the practice that is the subject of the injunctive measure infringes the collective interests of consumers protected by the organisation. Provisions on the designation are laid down in the Act on the Designation of Organisations Promoting the Collective Interests of Consumers as Qualified Entities.

## **Section 7**

### **Right to bring a cross-border representative action in Finland**

A qualified entity designated in another EEA State for the purposes of cross-border representative actions and entered in the list referred to in Article 5(1) of the Representative Actions Directive may bring a cross-border representative action in Finland, if the practice that is the subject of the injunctive measure infringes the collective interests of consumers protected by the authority or

organisation designated as the qualified entity. If the qualified entity is an organisation, it may only bring a cross-border representative action in a matter falling within its statutory purpose.

The Consumer Ombudsman may, at their discretion, act as an attorney or counsel for a qualified entity designated in another EEA State when a representative action referred to in subsection 1 is being heard by a court.

## **Section 8**

### **Bringing a representative action**

A qualified entity may bring a representative action by submitting a written application to the Market Court.

The application shall state:

- 1) a specified claim;
- 2) the circumstances that the claim concerns;
- 3) the general interest of consumers that the claim concerns, if the claim does not concern a clearly definable group of consumers;
- 4) sufficient information to define the group of consumers that the representative action concerns, if the claim relates to a practice affecting a specific group of consumers and if the pendency of the representative action results in interruption of the limitation period of a debt arising from the practice as provided in section 11;
- 5) where possible, the evidence that the qualified entity intends to present in support of its action and what it intends to prove with each piece of evidence.

The application shall indicate the names, contact details and domiciles of the parties, the contact details of their legal representative or attorney, and the postal address and any other address to which the pertinent invitations, exhortations and notices may be sent. If any of the information changes, the qualified entity shall notify the Market Court of this without delay.

The application shall be signed by the qualified entity or, if the qualified entity has not prepared it, by the person who has prepared it. The person who has prepared the application shall also mention their occupation and place of residence.

## **Section 9**

### **Information on representative actions**

The Consumer Ombudsman, the Finnish Competition and Consumer Authority, the Financial Supervisory Authority, the Finnish Transport and Communications Agency, the Finnish Medicines Agency, the National Supervisory Authority for Welfare and Health, the Data Protection Ombudsman and any organisation designated as a qualified entity shall provide information to the public, on their website, about the representative actions they have brought, the status of the representative actions, and any decisions issued as a result.

## **Section 10**

### **Issuing an injunction**

At the request of a qualified entity, the Market Court may prohibit a trader from continuing or repeating a practice that violates the provisions on the protection of the collective interests of consumers laid down in the legal acts listed in Annex I to the Representative Actions Directive or a practice comparable to such a practice. A conditional fine shall be imposed to reinforce the injunction, unless this is, for a special reason, unnecessary. If there are special reasons for this, the injunction may also be issued against a person in the service of a trader or against another person acting on the trader's behalf.

A temporary injunction may also be issued, in which case the injunction shall be in force until a final decision has been reached in the case or until otherwise ordered.

When issuing an injunction, the Market Court may, at the request of the qualified entity, oblige the trader against whom the injunction is issued to publish a corrective statement, if this is deemed necessary because of the manifest harm caused to consumers. A conditional fine may be imposed to reinforce the order.

At the request of the qualified entity, the Market Court may oblige the trader against whom the injunction is issued to inform the consumers concerned by the representative action of the final decision on the injunctive measure. A conditional fine may be imposed to reinforce the order.

An application for the enforcement of a conditional fine imposed by the Market Court may be filed by the qualified entity that sought the injunctive measure.

## **Section 11**

### **Interruption of limitation period for a debt**

The pendency of a representative action interrupts the limitation period of a debt arising from the practice that is the subject of an injunctive measure in respect of the consumers concerned by the representative action. The limitation period is interrupted for the duration of the hearing of the representative action. The limitation period resumes running once the hearing has been concluded. In this case, however, the debt becomes time-barred one year after the conclusion of the hearing at the earliest.

## **Section 12**

### **Duty to notify**

The Ministry of Justice shall communicate to the European Commission the names of the authorities referred to in section 6, subsection 1 and their duties for the purpose of compiling the list referred to in Article 5(1) of the Representative Actions Directive. Provisions on providing information about the organisations referred to in section 6, subsection 2 are laid down in section 7 of the Act on the Designation of Organisations Promoting the Collective Interests of Consumers as Qualified Entities.

## **Section 13**

### **Entry into force and transitional provisions**

This Act enters into force on 25 June 2023.

This Act repeals the Act on Cross-Border Injunction Proceedings (1189/2000).

The provisions in force at the time of the entry into force of this Act apply to injunctive proceedings that became pending before the entry into force of this Act.

Section 11 of this Act does not apply to a debt the grounds for which have arisen before the entry into force of this Act.