

Unofficial translation

Ministry of Finance, Finland

Act on Limiting the Use of Index Clauses

(1195/2000; amendments up to 936/2007 included)

By decision of Parliament, the following is enacted:

Section 1 – Prohibited and permissible clauses

- (1) Inclusion of an index or other corresponding engagement tied to trends in prices, wages, earnings or other costs is prohibited, unless otherwise provided by law.
- (2) Under this Act, however, clauses are deemed permissible under which:
 - 1) the price of a commodity or a part thereof is determined based on a price of the said commodity, material used in it or source material which the contracting party has no significant opportunity to influence;
 - 2) compensation for use of the commodity or right in business activity is determined as a share of the proceeds or turnover of the business activity;
 - 3) prices or other payments are reassessed if value added tax or other tax or public charge affecting the price or payment is altered during the contractual period;
 - 4) interest rates are determined in relation to another interest rate or to trends in the price of shares quoted on a securities exchange referred to in the Securities Markets Act (495/1989) or in other public trading, or in a comparable, authorized securities exchange operating in another state;
 - 5) payments referred to in the agreement are tied to a foreign currency exchange rate.

Section 2 – Exceptions

This Act does not apply to:

- 1) agreements concerning pensions, alimony, annuity or funeral allowance;
- 2) insurance contracts, with the exception of pure endowment assurances where premiums are paid under the contract for less than five years;
- 3) supply contracts concerning electricity, district heating, district cooling energy, steam, natural gas or gas used to replace natural gas; (1059/2006)
- 4) has been repealed by Act 1059/2006;
- 5) agreements on the provision of public development aid;
- 6) agreements concerning the sale of goods and services abroad, the procurement of goods and services from abroad, or international money or freight markets or markets otherwise international in nature, even if Finnish law is otherwise applicable to said agreements;
- 7) a security as referred to in chapter 1 section 2 of the Securities Markets Act (495/1989), a standardized derivative contract as referred to in chapter 1(2) of the Act on Trading in Standardized Options and Futures (772/1988), nor to any other standardized derivative contract whose underlying instrument is that referred to in section 4(1)(2) in the Act on Investment Firms (992/2007) or which is linked to indexes in accordance with paragraph 8 of the same subsection; (936/2007)
- 8) indefinite leases on dwellings or leases which will be in force for at least three years;
- 9) a lease on other than a dwelling which is indefinite or made for at least three years;

- 10) plot leases referred to in chapter 2 of the Land Tenancy Act (258/1966);
- 11) other land tenancy agreements which are made for a specified period of at least 10 years and on which the lessor cannot give notice before the end of the said specified period other than on grounds laid down in the Land Tenancy Act or if the tenant has not fulfilled a duty to build laid down in the agreement;
- 12) purchase contracts concerning regular and publicly available passenger traffic referred to in the Act on Licensed Passenger Transport by Road (343/1991) which are of indefinite validity or made for at least three years;
- 13) agreements made for at least 10 years by which the State, a local authority or other body governed by public law commissions the comprehensive maintenance service on public roads, railways, ports or icebreaking; (1059/2006)
- 14) maintenance subcontracts made for at least three years concerning the maintenance of public roads, streets and other similar public spaces; (1059/2006)
- 15) ferry-traffic service contracts made for at least three years. (1059/2006)

Section 3 – *Allowing index clauses in building contracts*

- (1) Index clauses may be allowed by Government decree in building contracts that come into force after the decree has entered into force and where the contract period is at least 12 months. Wage costs included in a contract price agreed on in the contract agreement may not be revised, as laid down in more detail by decree.
- (2) When revising another element in a contract price, no more than two thirds of the index change may be taken into account. Other terms concerning the application of index clauses will be laid down by Government decree.
- (3) The provisions of subsection 1 do not apply to building contracts concerning the building of housing other than those where the building work has been approved for lending or interest subsidy under the Act on State-Subsidized Housing Loans (1189/1993), Act on Interest Subsidy for Rental Housing Loans (867/1980), Act on Interest Subsidy for Owner-Occupied Housing Loans (1204/1993), Act on Interest Subsidy for Right-of-Occupancy Housing Loans (1205/1993), Act on Interest Subsidy for Rental Housing and Right-Of-Occupancy Housing Loans (604/2001), Act on Interest Subsidy for Housing Company Building Loans (205/1996) or Act on State and Municipal Guarantee Loans for Right-Of-Occupancy or Rental Housing Production (126/2003). The contract period concerning such work may be less than is provided in subsection 1. (1037/2003)

Section 4 – *Allowing index clauses in other instances*

- (1) In addition to the instances referred to in section 3, the inclusion of index clauses may be allowed by Government decree in specific agreements that come into force after the decree has entered into force and are made for at least a year and cannot be terminated before that.
- (2) If special causes exist, the Ministry of Finance may, on application, allow an index clause that it approves to be included in an individual agreement or several agreements based on a standard agreement irrespective of their duration.
- (3) However, the decree referred to in subsection 1 above or the decision referred to in subsection 2 above may not allow index clauses to be used in debt relationships based on the grant of credit or leaving owing a remuneration based on the agreement.

Section 5 – *Consequences*

- (1) Index clauses contrary to this Act or provisions issued under it shall be annulled.
- (2) In the event that annulment of an index clause is unreasonable, the clause may be taken into account partly or in full or the agreement be otherwise adjusted as referred to in section 36 of the Contracts Act (228/1929).

Section 6 – *More detailed provisions*

More detailed provisions on the implementation of this Act will be issued by Government decree, as necessary.

Section 7 – *Entry into force*

- (1) This Act enters into force on 1 January 2001 and will remain in force until the end of 2009. (1059/2006)
- (2) Provisions in effect when this Act enters into force will be applied to agreements made before this Act enters into force.

Government proposal 162/2000, Finance Committee report 41/2000, Parliamentary reply 214/2000

Entry into force and application of amendments:

607/2001

- (1) This Act enters into force on 1 January 2002.
- (2) Government proposal 181/2000, Environment Committee report 3/2001, Parliamentary reply 55/2001

1037/2003

- (1) This Act enters into force on 1 January 2004.
- (2) Provisions in effect when this Act enters into force will be applied to agreements made before this Act enters into force.
- (3) Government proposal 109/2003, Finance Committee report 26/2003, Parliamentary reply 66/2003.

1059/2006

- (1) This Act enters into force on 1 January 2007.
- (2) Provisions in effect when this Act enters into force will be applied to agreements made before this Act enters into force.
- (3) Government proposal 190/2006, Finance Committee report 26/2006, Parliamentary reply 162/2006.

936/2007

- (1) This Act enters into force on 1 November 2007.
- (2) Government proposal 43/2007, Commerce Committee report 4/2007, Parliamentary reply 39/2007, Directive 2004/39/EC of the European Parliament and of the Council (320004L0039); OJ No L 145, 30 April 2004, p. 1, Commission Directive 2006/73/EC (32006L0073); OJ No L 241, 2 September 2006, p. 26.