



[Login](#)

EMCC

European Monitoring Centre on Change

## Finland: Employment protection in relation to business transfers

[Go to list page](#)

Finland

Phase:

Management

Type: Employment protection in relation to business transfers

Last modified: 11 April, 2019

Native name:	Laki yhteistoiminnasta yrityksissä (334/2007), Työsopimuslaki (55/2001), Työehtosopimuslaki (436/1946)
English name:	Act on Co-operation within Undertakings (334/2007), Employment Contracts Act (55/2001), Collective Agreements Act (436/1946)

### Article

334/2007: Ch. 7, Sec. 41-43; 55/2001: Ch.1, Sec. 10; Ch. 6, Sec. 6; Ch. 7, Sec. 5-6; Ch. 13, Sec. 4

### Description

In Finland, legislation surrounding a transfer of undertaking applies during:

- the transfer of an economic entity which retains its identity after the transfer (e.g. the sale of a business or merger), and
- a 'service provision change' (i.e. outsourcing, bringing activities in-house, or a change of contractors).

The Finnish Employment Contracts Act (55/2001) does not exhaustively define the concept of a 'transfer of an undertaking' and therefore its existence will be determined on a case-by-case basis. In general, the deciding factors are:

- the legal relationship, e.g. contract for sale or statutory merger, between the transferor and the transferee (this relationship can also be implied);
- the concept of 'operative identity' of the business;
- the continuity of operations without interruption after the transfer (the business should continue without any major delay but not necessarily immediately) and
- a change of employer.

The sale or purchase of shares does not qualify. Mergers and de-mergers may be comparable to a transfer of undertaking and thus, be regulated under this legislation. However, the death of an entrepreneur or bankruptcy do not constitute transfers of undertaking.

The transferee may not dismiss an employee merely on the grounds of the transfer. In general, all affected employees (including those on fixed-term contracts) are protected by this legislation. Employees on parental (or other) leave are also transferred, however employees whose main duties and activities are outside the business or department being transferred, or those temporarily seconded to such activities will not be transferred.

The transferee must assume all rights and obligations laid out in the employees current employment contract or collective agreements. This includes the employment history of the employee so that the actual length of time in the position which they continue to fill is taken into consideration when determining benefits based on length of service. As pensions in Finland are mandatory, the employer is not required to pay any contributions to individual pension funds other than the mandatory TyEL-pension insurance to which all employers are liable. Employees also retain a special termination right which allows them to terminate the contract upon or immediately after a transfer if the conditions do not seem beneficial to them.

The transferee and transferor are jointly liable regarding employee claims that derive from the employment period up to and during the transfer.

The new employer is not entitled to make changes to general employment contracts. Explicit and informed consent by the employee can in some cases result in a change of employment contract, however if such changes are seen to be detrimental to the employee they can be considered void. Changes may be implemented in lieu of termination if grounds for termination exists.

Collective agreements are regulated by the Finnish Collective Agreements Act (436/1946) which states that the terms of a binding collective bargaining agreement supersede conflicting terms which are detrimental to the employee. In many sectors, unorganised employers are also bound by collective agreements based on the principle of general applicability of collective agreements.

Pre-existing contracts can only be terminated by the transferee or transferor according to the employers' normal right to maintain or terminate a contract. The employee has the right to terminate the contract, however if it is seen that a contract is terminated due to a substantial weakening in the contract agreed upon by the transferee, this termination can be viewed as a result of the transfer.

## Comments

The legislation related to business transfers is considered to be rather difficult. Especially the local government sector, where privatisations, corporatisations and tendering procedures frequently reshuffle the service structure, is often affected, and the Trade Union for Public and Welfare Sectors (JHL) claims that employment protection disputes related to public sector business transfers are relatively frequent. However, the Local Government Employers (KT) argues that considering the size of the local government sector (nearly half a million employees), and the 250-300 dismissals annually, the phenomenon is rather insignificant.

### Cost covered by

Not applicable








### Involved actors other than national government

National government only

### Thresholds

No, applicable in all circumstances

### Sources

-  [Act on Cooperation within Undertakings \(334/2007\)](#)
-  [Laki yhteistoiminnasta yrityksissä \(334/2007\)](#)
-  [Employment Contracts Act \(55/2001\)](#)
-  [Työsopimuslaki \(55/2001\)](#)
-  [Collective Agreements Act \(436/1946\)](#)
-  [Työehtosopimuslaki \(436/1946\)](#)
-  [YLE, 'Työntekijät haastoivat kaupungin oikeuteen Järvenpäässä ja vaativat puolen miljoonan euron korvauksia', 26 January 2017](#)

Useful? Interesting? Tell us what you think. 

Eurofound welcomes feedback and updates on this regulation

Your name \*

E-mail \*

More information?

Homepage

Subject

Comment \*

Save

Preview

[About EMCC](#)

**European Restructuring Monitor**

- › [About the European Restructuring Monitor](#)
- › [Restructuring events database](#)
- › [Restructuring support instruments](#)
- › [Restructuring related legislation](#)
- › [Restructuring case studies](#)
- › [ERM publications](#)

**European Jobs Monitor**

**Labour market research**

**Case studies**

**Future of Manufacturing in Europe (FOME)**

European Observatory on Quality of Life - EurLIFE

European Observatory of Working Life - EurWORK

## Quick links

- Legal information
- Data protection
- Environmental policy
- Cookies
- Subscriptions
- Multilingualism
- Templates for Eurofound reports
- Eurofound style guide
- Management Board extranet
- Map - how to get to Eurofound
- FAQ
- Sitemap



## Contact us

Eurofound, Wyattville Road, Loughlinstown, Co. Dublin, D18 KP65, Ireland

Phone: (00) 353 1 2043100

E-Mail: [information@eurofound.europa.eu](mailto:information@eurofound.europa.eu)

Press: [media@eurofound.europa.eu](mailto:media@eurofound.europa.eu)



MEMBER OF THE NETWORK OF EU AGENCIES



EUROFOUND ACHIEVES EMAS REGISTRATION



EUROFOUND IS AN AGENCY OF THE EUROPEAN UNION



[Access to internal documents](#) | [Financial information](#) | [Archives](#) | [Information centre](#) | [RSS feeds](#)

© EUROFOUND 2023

