

Ministry of Social Affairs and Health, Finland

N.B. Unofficial translation, legally binding only in Finnish and Swedish

No. 1383/2001
Occupational Health Care Act

Issued in Helsinki on 21 December 2001

Chapter 1

General provisions

Section 1

Purpose of Act

This Act lays down provisions on the duty of an employer to arrange occupational health care and on the content and organization of the occupational health care provided.

The purpose of the Act is to promote the following through cooperation between the employer, the employee and the occupational health care provider:

- 1) the prevention of work-related illnesses and accidents;
- 2) the healthiness and safety of the work and the working environment;
- 3) the health, working capacity and functional capacity of employees at the different stages of their working careers; and
- 4) the functioning of the workplace community.

Section 2

Scope of application

This Act applies to work in which the employer has a duty to comply with the Occupational Safety and Health Act (738/2002). (752/2002)

The organization of occupational health care by entrepreneurs and other self-employed persons shall comply with the provisions of this Act as applicable.

Section 3

Definitions

For the purposes of this Act:

1) *occupational health care* means the activities of occupational health care professionals and experts that the employer has a duty to arrange by law and which are used to promote the prevention of work-related illnesses and accidents, the healthiness and safety of the work and the working environment, the functioning of the workplace community and the health, working capacity and functional capacity of employees;

2) *activities to maintain working capacity* means systematic and purposeful activities concerning work, working conditions and employees organized through cooperation and which occupational health care uses to help promote and support the working capacity and functional capacity of those in working life;

3) *occupational health care service provider* means the organization or person that performs the occupational health care that the employer has a duty to arrange or that he arranges voluntarily under section 7 of this Act;

4) *occupational health care professional* means a health care professional as referred to in the Act on Health Care Professionals (559/1994), who is qualified as an occupational health care specialist or other licensed physician or is qualified as a public health nurse and has the necessary training to perform occupational health care;

5) *occupational health care expert* means a person qualified as a physiotherapist or psychologist and possessing sufficient knowledge of occupational health care or who has occupational hygiene, ergonomics, technical or other similar education or training and sufficient knowledge of occupational health care or who is qualified as a specialist physician in an area other than occupational health care;

6) *entrepreneur or other self-employed person* means a person referred to in the Self-Employed Persons Pensions Act (1272/2006) or in sections 3 and 13 of the Farmers Pensions Act (1280/2006); (1003/2008)

6a) *narcotics test* means a test performed to find out if a person has used narcotics as referred to in section 3 (1)(5) of the Narcotics Act (373/2008) and the statement drawn up on the basis of the test on whether the jobseeker or employee has used narcotics for purposes other than medical purposes. (376/2008)

7) *good occupational health care practice* means the general principles observed in the organization, implementation and development of occupational health care as provided in this Act and having regard to knowledge and experience of occupational health and the general principles of occupational health care.

More detailed provisions on the education and training referred to in paragraph 1(4), the sufficient knowledge referred to in paragraph 1(5) and the principles for implementing good occupational health care practice referred to in paragraph 1(7) may be laid down by Government decree.

Chapter 2

Duties of employer

Section 4

Arranging occupational health care

The employer shall arrange occupational health care at his own expense in order to prevent and control health risks and problems related to work and working conditions and to protect and promote the safety, working capacity and health of his employees.

Occupational health care shall be organized and implemented to the extent required by the work, working arrangements, personnel and workplace conditions, and any changes in these, as provided in this Act.

Section 5

Occupational health care professionals and experts

In matters concerning the planning, implementation, development and monitoring of occupational health care, the employer shall make sufficient use of occupational health care professionals and any experts that these professionals deem essential, as required for organizing occupational health care in accordance with good occupational health care practice.

Occupational health care professionals and experts shall be professionally independent of the employer, the employees and their representatives, and they shall possess the qualifications referred to in section 3 of this Act as well as knowledge and skills that have been maintained through sufficient continuing education.

The employer of an occupational health care professional or expert has a duty to ensure that this person attends continuing education to maintain his professional skills sufficiently often and no less than once every three years. The continuing education duty also concerns a health care professional engaged in occupational health care as an independent professional.

The Ministry of Social Affairs and Health may issue instructions on the content, quality, amount and organization of continuing education.

Section 6

Agreement concerning occupational health care services

The employer and the occupational health care service provider shall draw up a written agreement on the organization of occupational health care, which shall set out the general arrangements for occupational health care and the content and coverage of the services. The agreement shall be revised if there is a material change in circumstances.

If the employer organizes occupational health care services himself, he shall give a description of the points referred to in paragraph 1 in a suitable manner.

More detailed provisions on the content of the agreement on organizing occupational health care may be laid down by Government decree.

Section 7 (1271/2009)

Provision of services

The employer may organize occupational health care services referred to in this Act by:

- 1) acquiring the services he needs from a health centre referred to in the Primary Health Care Act (66/1972);
- 2) arranging the occupational health care services he needs himself or together with other employers; or
- 3) acquiring the services he needs from another unit or person entitled to provide occupational health care services.

The occupational health care service provider referred to in paragraph 1 (1–3) may also acquire the laboratory and imaging services, clinical-physiological examinations and clinical neurophysiological examinations covered by occupational health care from a unit of the hospital district or a private health care unit referred to in the Private Health Care Act (152/1990).

Section 8

Cooperation

In matters that concern general organizational principles and operational planning of occupational health care in the workplace, including the occupational health care action plan, the content and coverage of occupational health care and the implementation and impact evaluation of occupational health care, the employer shall prepare the necessary decisions for organizing the occupational health care in cooperation with the employees or their representatives, and shall provide the employees or their representatives with the necessary information for dealing with the matters in sufficient time.

Before the employer decides on the start of or a change in the activities referred to in sections 12 and 14 or on another matter with a material impact on the organization of occupational health care referred to in the same sections, the matter shall be discussed by an occupational safety committee referred to in the Act on Occupational Safety and Health Enforcement and Cooperation on Occupational Safety and Health at Workplaces (44/2006) or by some other alternative cooperation procedure or, if there is no occupational safety committee or alternative cooperation procedure, together with an occupational safety delegate. If no occupational safety delegate has been

elected for the workplace, the matters shall be discussed where possible with the personnel. (51/2006)

The employees and their representatives are entitled to put forward suggestions for developing the occupational health care activities. The suggestions and any necessary measures as a result shall be handled through cooperation as laid down in paragraph 1.

Section 9

Compensation for costs of occupational health care

Employers, entrepreneurs and other self-employed persons are entitled to receive compensation for the costs incurred in organizing occupational health care and other health care covered by the provisions of this Act, as provided in the Sickness Insurance Act (364/1963).

What is provided in paragraph 1 does not apply to the costs of performing narcotics tests. (760/2004)

The Health Insurance Act 364/1963 was repealed by the Health Insurance Act 1224/2004.

Section 10

Employee protection

If a medical examination performed on an employee reveals that the employee has an apparent tendency for his health to be put at risk at work due to personal health characteristics, the employee shall not be required to do this work.

Chapter 3

General principles, organization and content of occupational health care

Section 11

Occupational health care action plan and action programme on substance abuse prevention (760/2004)

The employer shall have a written occupational health care action plan, which shall include the general aims of occupational health care and the occupational health care needs based on the workplace conditions together with the associated measures, having regard to what is provided in sections 1, 4 and 12. The action plan shall be revised each year on the basis of workplace visits and other investigations carried out by the occupational health care service provider.

The action plan shall take sufficient account of the multidisciplinary knowledge available on the relationship between work and health and the health effects of work.

The occupational health care action plan may form part of the action plan on occupational safety and health referred to in the Occupational Safety and Health Act or part of another development programme or plan prepared by the employer.

If it is intended to perform a narcotics test referred to in section 3 (1)(6a) on a jobseeker or employee the employer must have a written action programme on substance abuse prevention, which shall include the general objectives of the workplace and the practices observed to prevent substance abuse and for referral of persons with substance abuse problems to treatment. The action programme can be a part of the occupational health care action plan. Prior to approving the action programme the tasks shall be discussed in a cooperation procedure as laid down in the Act on Cooperation within Undertakings (334/2007), the Act on Cooperation in Government Departments and Agencies (651/1988) and the Act on Cooperation between the Employer and Employees in Municipalities (449/2007). Within undertakings and public corporations other than those governed by the cooperation legislation the employer shall prior to decision-making consult the employees or their representative on the task-specific grounds for narcotics tests. (456/2007)

Section 12

Content of occupational health care

The occupational health care that the employer has a duty to arrange as provided in section 4 shall, in accordance with good occupational health care practice, include the following:

- 1) investigation and assessment of the healthiness and safety of the work and the working conditions through repeated workplace visits and using other occupational health care methods, having regard to exposure substances in the workplace, the workload, the working arrangements and the risk of accidents and violence, and taking these factors into account in planning the work, working methods and work spaces and in situations in which the working conditions are changing;
- 2) investigation, assessment and monitoring of work-related health risks and problems, employees' health, working capacity and functional capacity, including any special risk of illness caused by the work and the working environment, and any medical examinations as a result of the aforementioned points, having regard to the individual characteristics of the employee;
- 3) making suggestions for action to improve the healthiness and safety of the work, to adapt the work to the needs of the employee if necessary, to maintain and promote the employees' working capacity and functional capacity and to monitor the implementation of the suggestions for action;
- 4) provision of information, advice and guidance in matters concerning the healthiness and safety of the work and the health of the employees, including investigation of an employee's workload if requested by the employee for good reason;

5) monitoring and supporting the ability of a disabled employee to cope at work, having regard to the health requirements of the employee, provision of advice on rehabilitation and directing for treatment or medical or vocational rehabilitation;

6) cooperation with representatives of other health care services, labour authorities, educational authorities, social insurance, social services and the occupational safety and health authority; where necessary with the different occupational health care providers of the employers in a common workplace and other required parties;

7) participation in organizing the first aid referred to in section 46 of the Occupational Safety and Health Act; (752/2002)

8) assistance in planning and organizing measures to maintain and promote working ability that form part of occupational health care and are defined in this Act, including an investigation of the need for rehabilitation where necessary; and

9) assessment and monitoring of the quality and impact of occupational health care activities.

The duties referred to in paragraph 1 above shall be carried out as applicable in cooperation with the management, line organization, personnel administration and collaborative organizations.

To investigate the factors causing special risk or with widespread health implications in a common workplace, the employers shall act in cooperation as separately provided, making use of the occupational health care expertise.

More detailed provisions on what are considered the conventional methods and means for organizing the duties referred to in paragraph 1 shall be laid down by Government decree.

Section 13

Duty of employee to attend a medical examination

An employee may not without good cause refuse to attend a medical examination referred to in this Act if at the start or at a later stage of the employment the examination is necessary for:

- 1) investigating the employee's health in performing work or being in a working environment that presents a special risk of illness; or
- 2) investigating the employee's working capacity or functional capacity for the purposes of the health requirements associated with the job.

The medical examination shall be performed by mutual agreement with the employee as provided in section 6 of the Act on the Status and Rights of Patients (785/1992).

The certificate written on the basis of the medical examination referred to in paragraph 1 (2) shall include an overall evaluation of the employee's health

qualifications for carrying out the tasks he or she is responsible for or the tasks planned to be assigned to him or her. (760/2004)

Section 14

Other occupational health care services

In addition to the services referred to in section 12, the employer may organize medical treatment and other health care services for employees.

Besides the services referred to in section 12, entrepreneurs and other self-employed persons may organise for themselves medical treatment and other health care services referred to in paragraph 1. (1117/2005)

Chapter 4

Handling information in occupational health care

Section 15

Duty of employer to provide information

The employer shall provide occupational health care professionals and experts with information on the work, working arrangements, occupational diseases, occupational accidents, personnel and workplace conditions, and any changes in these, and other comparable factors, which is needed for assessing and preventing work-related health risks and problems for employees.

Section 16

Duty of employee to provide information

An employee shall on request provide the occupational health care service provider with information on any health-risk factors he observes in his workplace.

Section 17

Duty of occupational health care service provider to provide advice and information

An occupational health care provider shall provide the employees and the employer with necessary information on any health risks and problems emerging in the work and the workplace conditions and the means of controlling them. Each employee shall be provided with information on the occupational health care medical examinations he attends, their purpose, results and interpretation and information on other occupational health care services.

The employer, the workplace occupational safety committee and the occupational safety delegate are entitled to obtain from persons engaged in occupational health care

the information that these persons obtain on account of their position that is important for the health of employees and the development of healthier workplace conditions.

Section 18

Disclosing confidential information

Information designated confidential by law may not be disclosed without the consent of the party for whose benefit the confidentiality obligation is prescribed, as separately provided. Notwithstanding what is provided on the confidentiality of patient records in the Act on the Status and Rights of Patients, an occupational health physician in the service of the occupational health care service provider may supply:

- 1) the employer, in the case of work with a special risk of illness, with a written statement on the conclusions of medical examinations and the appropriate occupational safety and health action on the basis of these, to the extent that they concern occupational safety and health and occupational health care;
- 2) the statement referred to in subparagraph 1 above to the occupational safety and health authority and the expert referred to in section 12 of the Act on Occupational Safety and Health Enforcement and Cooperation on Occupational Safety and Health at Workplaces for the purposes of monitoring occupational safety and health; (51/2006) and
- 3) an occupational health care service provider on request for the purposes of monitoring health risks, with information on the medical examinations of an employee who has been a patient and been engaged in work causing a special risk of illness and who has transferred to work which is similarly dangerous in the service of an employer whose occupational health care is the responsibility of the occupational health care service provider requesting the information.

Section 19 (760/2004)

Narcotics test and certificate on it

A positive test result from the narcotics test performed on a jobseeker or employee must be confirmed in a quality controlled laboratory. Notwithstanding what is provided elsewhere in the law, the tested person is always entitled to obtain the test result in writing.

Provisions on the content of the certificate on a narcotics test are laid down in the Act on the Protection of Privacy in Working Life (759/2004). The certificate must be given to the tested person who shall forward it to the employer.

Further provisions on the quality control of narcotics tests and on the taking, analysis and interpretation of samples related to the performing of tests in accordance with good occupational health care practice and the quality standards applied to laboratories may be given by Government decree.

Section 20

Right of authorities to obtain information

The Ministry of Social Affairs and Health and any expert institution appointed by it are entitled to obtain the necessary information to perform their duties under this Act from the health care units and health care professionals supplying occupational health care services.

Section 21

Preparing and storing occupational health care documentation

What is provided in the Act on the Status and Rights of Patients shall apply to the preparation and storage of patients' occupational health care documents.

The Ministry of Social Affairs and Health may issue instructions on the preparation of occupational health care documentation.

Chapter 5

Miscellaneous provisions

Section 22

Advisory Board on Occupational Health Care

Operating in conjunction with the Ministry of Social Affairs and Health for the purposes of planning and development of occupational health care is the Advisory Board on Occupational Health Care, whose composition, duties and function are prescribed in more detail by Government decree.

Section 23

Penalties

An employer or his representative who deliberately or through carelessness fails to observe what is provided in section 8(2) on cooperation shall be sentenced to pay a fine for *violating the duty to cooperate in occupational health care*.

An employer or his representative who deliberately or through carelessness fails to observe what is provided in section 4(1) on arranging occupational health care services or does not comply with an occupational safety and health authority decision on the nature of the duty to arrange the services shall be sentenced to pay a fine for *neglecting to arrange occupational health care services*.

The penalty for violating occupational safety regulations, for causing a defect or fault to occur that contravenes the occupational safety regulations or enabling the prolonging of a situation that contravenes occupational safety regulations is prescribed in chapter 47, section 1, of the Penal Code (39/1889).

Before the public prosecutor brings charges for violating provisions of this Act or those issued under it, he shall acquire a statement on the matter from the occupational safety and health authority unless the occupational safety and health authority has announced the preferring of charges for the offence. The public prosecutor shall provide notification of the case to the relevant occupational safety and health authority in good time before the case is taken to court.

Section 24

Supervision (1559/2009)

Supervision of the activities of the occupational health care services of health centres, occupational health care service providers and occupational health care professionals providing occupational health care that the employer has a duty to arrange under the provisions of this Act or those issued under it and medical supervision of occupational health care services are the responsibility of the Ministry of Social Affairs and Health, the National Supervisory Authority for Welfare and Health and the relevant Regional State Administrative Agency, as separately provided.

The occupational safety and health authorities shall, as prescribed in the Act on Occupational Safety and Health Enforcement and Cooperation on Occupational Safety and Health at Workplaces (44/2006), ensure that the employer has arranged occupational health care as referred to in this Act or in legislation issued under it.

If the employer has neglected to arrange occupational health care services prescribed for the duty of the employer under the provisions of this Act or those issued under it and a dispute arises on the content of the employer's duty, the occupational safety and health authority shall request a statement from the National Supervisory Authority for Welfare and Health before taking any decision imposing liability on the employer referred to in the Act on Occupational Safety and Health Enforcement and Cooperation on Occupational Safety and Health at Workplaces.

Provisions on the supervision of activities under section 14 above shall be laid down separately.

Section 25

Prominent display of legislation and agreements or descriptions concerning occupational health care

The employer shall ensure that this Act and the legislation issued under it, the agreement on organizing occupational health care drawn up by the employer and the occupational health care service provider or a description prepared by the employer concerning the occupational health care he provides, and the workplace investigation referred to in section 12(1)(1) are kept on display at the workplace for employees to read.

Section 26

Entry into force

This Act enters into force on January 1, 2002. The Act repeals the Occupational Health Care Act (743/1978) issued on September 29, 1978 and its later amendments.

Those health care professionals and experts who are qualified to operate in occupational health care when this Act comes into force shall remain qualified for present and similar occupational health care duties, notwithstanding the provisions of this Act.

Entry into force of amended Act

22.12.2009/1559

This Act enters into force on 1 January 2010. Measures necessary for the implementation of this Act may be undertaken before its entry into force.