

## **Translation from Finnish**

**Legally binding only in Finnish and Swedish**

**Ministry of Economic Affairs and Employment, Finland**

### **Act on Checking the Criminal Background of Persons Working with Children**

*(504/2002; amendments up to 926/2012 included)*

#### **Section 1**

##### **Purpose of the Act**

The purpose of this Act is to protect the personal integrity of minors and promote their personal security. The Act contains provisions on the procedure for checking the criminal background of persons appointed to work with minors.

#### **Section 2 (926/2012)**

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

This Act applies to work performed in a contractual employment relationship or a public-service employment relationship which involves, on a permanent basis and to a material degree, and in the absence of any person who has custody of the child, raising, teaching, caring for or looking after a minor, or other work performed in personal contact with a minor.

Under the preconditions laid down in subsection 1, the Act also applies to:

- 1) work service carried out by a person liable for non-military service referred to in section 1 of the Non-Military Service Act (1446/2007);
- 2) work carried out by a person participating in a work trial at a workplace referred to in chapter 4, section 5 of the Act on Public Employment and Business Services (916/2012);
- 3) family care provided by a family carer referred to in section 1 of the Family Carers Act (312/1992);
- 4) a service provider referred to in the Act on Private Social Services (922/2011);
- 5) a service provider referred to in the Act on Private Health Care (152/1990); and
- 6) the acquisition of before-school or after-school activity services referred to in the Basic Education Act (628/1998).

However, this Act does not apply to work referred to in subsections 1 or 2 which lasts for a maximum of three months within one year. Furthermore, a centre for non-military service may not order a person to carry out work covered by this Act if the person does not want to accept such work.

*The Family Carers Act 312/1992 has been repealed by the Family Care Act 263/2015.*

### **Section 3**

#### **Duty of the employer to ask to see an extract from the criminal records**

An employer shall ask a person to produce an extract from the criminal records referred to in section 6, subsection 2 of the Criminal Records Act (770/1993) when the person is employed or appointed for the first time to a contractual employment relationship or public-service employment relationship which includes work referred to in section 2, or when such work is assigned to that person for the first time. For the purposes of this Act, employer also means a centre for non-military service referred to in section 7 of the Non-Military Service Act and an employment and economic development authority that concludes an agreement on a work trial. (926/2012)

If no extract from the criminal records has been produced by the time a municipality or joint municipal authority is appointing a person to a position, the appointment shall be conditional and remain unconfirmed until the extract has been produced. A person who has been appointed to a position conditionally shall produce an extract from the criminal records within 30 days of being notified of the decision on the appointment or within a longer period granted for particular reasons by the authority filling the position; otherwise the appointment is considered cancelled. A decision on whether the appointment is to be confirmed or cancelled is made by the competent authority which made the conditional appointment or, in the case of confirmation, by the competent subordinate executive authority.

The precondition for appointment to a public post or public-service employment relationship under the State Civil Servants Act (750/1994) in cases referred to in section 2 is that the person has, upon request, provided the authority with an extract from the criminal records.

### **Section 4 (932/2011)**

### **Extract from the criminal records of a provider of private social services or private health care services**

If the business of a provider of private social services or private healthcare services includes provision of services for minors, the National Supervisory Authority for Welfare and Health or the Regional State Administrative Agency shall, prior to granting a permit, require any person who is not in a contractual employment relationship and is required to perform tasks referred to in section 2 to produce an extract from the criminal records referred to in section 6, subsection 2 of the Criminal Records Act.

The provisions of subsection 1 also apply to municipalities, which, after receiving a notification referred to in section 11 of the Act on Private Social Services or section 28, subsection 1 of the Children's Daycare Act (36/1973), shall ask the person concerned to produce an extract from the criminal records without delay.

The extract referred to in this section shall also be requested before a person other than the one that is indicated in the permit application or notification is employed for work referred to in section 2. The service provider shall inform the National Supervisory Authority for Welfare and Health, the relevant Regional State Administrative Agency or municipality of the matter.

### **Section 5**

#### **Extract from the criminal records of a family carer**

If the commission agreement referred to in section 1 of the Family Carers Act includes the provision of family care to minors, the municipality or joint municipal authority shall, before the commission agreement is made, ask the person in question to produce an extract from the criminal records referred to in section 6, subsection 2 of the Criminal Records Act.

*The Family Carers Act 312/1992 has been repealed by the Family Care Act 263/2015.*

### **Section 5a (1138/2003)**

#### **Extracts from the criminal records in before-school and after-school activities**

If a municipality or joint municipal authority acquires before-school

or after-school activity services referred to in the Basic Education Act from a public or a private service provider, the municipality or joint municipal authority shall ask the person carrying out tasks referred to in section 2, subsection 1 to produce, without delay, an extract from the criminal records referred to section 6 subsection 2 of the Criminal Records Act, unless the person performs these tasks in a public-service employment relationship or contractual employment relationship with the service provider. An extract from the criminal records shall also be requested before any person other than those defined in the contract is allowed to undertake tasks referred to in section 2. The service provider shall inform the municipality or joint municipal authority in question of the matter.

## **Section 6**

### **Validity period of an extract from the criminal records**

For the purpose of checking a person's criminal background, an extract from the criminal records produced under this Act may not be more than six months old.

## **Section 7**

### **Note on providing an extract from the criminal records and returning the extract**

The only notes that may be made in the personal data file of a person who provided an extract from the criminal records are those stating that an extract from the criminal records has been provided and indicating the identification codes of the extract. No copies may be made by the employer or any other person provided with the extract under this Act. The extract from the criminal records shall be promptly returned to the person who provided it.

## **Section 8**

### **Non-disclosure obligation**

Information in the extract from the criminal records may not be disclosed to persons other than those who necessarily require it for making a decision on whether the person in question is assigned to perform tasks falling within the scope of this Act. Information that is subject to the non-disclosure obligation shall not be disclosed to a third party even if the person no longer performs the work that he or she was performing when receiving the information.

## **Section 9**

## **Advertisements for vacancies**

Whenever a position involving work referred to in this Act is advertised as open for application, the advertisement shall state that any person accepted for the position shall produce an extract from the criminal records referred to in section 6, subsection 2 of the Criminal Records Act.

## **Section 10**

### **Penal provisions**

Anyone who intentionally or through gross negligence

- 1) fails in his or her duty referred to in sections 3, 4 and 5 to ask to see an extract from the criminal records referred to in section 6, subsection 2 of the Criminal Records Act,
- 2) fails in his or her duty laid down in section 4, subsection 3 to notify the Regional State Administrative Agency or municipality of the employment of a person other than the one indicated in the permit application or notification for work referred to in this Act, or  
(1525/2009)
- 3) fails to comply with the duty laid down in section 7 to return the extract from the criminal records promptly to the person in question,

shall be sentenced to a fine for a *criminal background check offence*, unless a more severe punishment is provided elsewhere in the law. The responsibility of an employer or an employer's representative is determined on the grounds laid down in chapter 47, section 7 of the Criminal Code (39/1889).

A punishment for violating the non-disclosure obligation laid down in section 8 shall be imposed in accordance with chapter 38, section 1 or 2 of the Criminal Code, unless the violation is punishable under chapter 40, section 5 of the Criminal Code or a more severe punishment is provided elsewhere in the law.

Provisions on the punishment for a data protection offence are laid down in chapter 38, section 9 of the Criminal Code.

## **Section 11**

### **Entry into force**

This Act enters into force on 1 January 2003.