

Unofficial translation
Ministry of Social Affairs and Health, Finland
N.B. Legally valid only in Finnish and Swedish

No. 980 /2012

Act on Supporting the Functional Capacity of the Older Population and on Social and Health Care Services for Older Persons

Chapter 1 – General provisions

Section 1 – Objective

The objective of this Act is:

- 1) to support the wellbeing, health, functional capacity and independent living of the older population;
- 2) to improve the opportunities of the older population to participate in the preparation of decisions influencing their living conditions and in developing the services they need in the municipality;
- 3) to improve the access of older persons to social and health care services of a high quality as well as to guidance in using other services that are available to them in accordance with their individual needs and in good time when their impaired functional capacity so requires; and
- 4) to strengthen older persons' opportunities to influence the content and way of provision of the social and health care services provided for them, and to contribute to deciding on the choices regarding them.

Section 2 – Scope of application and relation to other legislation

This Act lays down provisions on:

- 1) local authorities' responsibility for supporting the wellbeing, health, functional capacity and independent living of the older population and for securing the social and health care services needed by older persons in the municipality;
- 2) investigation of older persons' service needs and responding to them;
- 3) ensuring the quality of services provided for older persons.

This Act is applied to the matters referred to in subsection 1 in addition to what is laid down on them in:

- 1) the Social Welfare Act (710/1982);
- 2) the Health Care Act (1326/2010);
- 3) the Act on Support for Informal Care (937/2005);
- 4) the Services and Assistance for the Disabled Act (380/1987);
- 5) the Act on Special Care for Mentally Handicapped Persons (519/1977);
- 6) the Act on Welfare for Substance Abusers (41/1986);
- 7) the Mental Health Act (1116/1990);
- 8) the Act on the Status and Rights of Social Welfare Clients (812/2000);
- 9) the Act on the Status and Rights of Patients (785/1992);
- 10) the Act on Private Social Services (922/2011); and
- 11) the Private Health Care Act (152/1990).

The provisions of this Act regarding local authorities (municipality) also apply to the local government joint services area referred to in the Act on Restructuring Local Government and Services (169/2007).

Section 3 – *Definitions*

For the purposes of this Act:

- 1) older population means the segment of population that has reached the eligible age for a retirement (old age) pension;
- 2) older person means a person whose physical, cognitive, mental or social functional capacity is impaired due to illnesses or injuries that have begun, increased or worsened with high age or due to degeneration related to high age;
- 3) care unit means a functional entity of services maintained by public or private service providers where social and health care services are offered mainly for older persons so that the services are provided in the facilities of the service provider or in the private home of the older person.

Chapter 2 – Local authorities’ general responsibilities

Section 4 – *Cooperation*

The different spheres of responsibility of the municipality must cooperate to support the wellbeing, health, functional capacity and independent living of the older population.

Moreover, local authorities must cooperate with public bodies, companies, non-governmental organisations representing the older population and other non-profit communities operating in the municipality to support the wellbeing, health, functional capacity and independent living of the older population.

Section 5 – *Plan to support the older population*

Local authorities must draw up a plan on measures to support the wellbeing, health, functional capacity and independent living of the older population as well as to organise and develop the services and informal care needed by older persons. The plan must underpin living in the own home and measures to promote rehabilitation. The plan must be drawn up as a part of the strategic planning of local authorities. The plan is approved by the local council, and it has to be updated every term of office of the council.

The plan referred to in subsection 1 must:

- 1) evaluate the state of wellbeing among the older population, the adequacy and quality of the services available to the older population and factors affecting the service needs of the older population;
- 2) determine the objectives to support the wellbeing, health, functional capacity and independent living of the older population as well as to develop the volume and quality of the services provided for the older population;
- 3) determine the measures by which local authorities must implement the objectives referred to in paragraph 2, as well as estimate the resources needed by local authorities to implement the measures;
- 4) determine the responsibilities of the different spheres of responsibility of the municipality in implementing the measures referred to in paragraph 3; and

5) determine how local authorities must cooperate with the bodies referred to in section 4 (2).

Local authorities must take the plan into consideration when preparing municipal decision-making affecting the status of the older population and the services needed by older persons, the budget and budget plan referred to in section 65 of the Local Government Act (365/1995) and the report and welfare report referred to in section 12 (1) of the Health Care Act.

Section 6 – Evaluation of the adequacy and quality of services

In addition to what is laid down in section 5 (2) (1), the decision-making body responsible for social welfare in the municipality must annually evaluate the adequacy and quality of social services needed by older persons in its area.

In order to be able to evaluate the quality and adequacy of services, local authorities must on a regular basis gather feedback from service users, their family members and other persons close to them, and municipal staff. Furthermore, local authorities must collect information of the financial resources used for services and the number and educational qualifications of the staff. The observations presented by the municipal social services ombudsman in his or her annual report must also be taken into consideration in the evaluation.

Section 7 – Availability of and access to services

Local authorities must provide social services for their older population so that the services in terms of content, quality and extent conform to what is required for the wellbeing, social security and functional capacity of the older population in the municipality. Services must be provided so as to be available to the older population in the municipality on an equal basis.

Local authorities must provide the social services referred to in subsection 1 near to clients, unless it is justified to centralize them in order to ensure their quality and safety.

Section 8 – Language of services

Unilingual municipalities and joint municipal authorities must provide the services promoting the wellbeing of the older population referred to in this Act as well as the services related to investigating the service needs of older persons and responding to them in the language of the municipality or joint municipal authority. Bilingual municipalities and joint municipal authorities consisting of bilingual or both Finnish- and Swedish-speaking municipalities must provide these services in Finnish and Swedish so that the service user will obtain services in the language of his or her choice. Provisions on the right to use Finnish or Swedish, to be heard and to obtain documents containing decisions in Finnish or Swedish and on the right to interpretation when using these languages before authorities are laid down in sections 10, 18 and 20 of the Language Act (423/2003).

Local authorities and joint municipal authorities must also see to it that Nordic citizens can, if necessary, use their own language, i.e. Finnish, Danish, Icelandic, Norwegian or Swedish, when using services referred to in subsection 1. Municipal authorities and the joint municipal authority for a hospital district must in that case, as far as possible, see to it that Nordic citizens will obtain necessary interpretation and translation assistance.

Provisions on the right to use the Saami language are laid down in the Saami Language Act (1086/2003).

Section 9 – *Resources of local authorities*

In addition to what is laid down in section 4(1) of the Health Care Act on assigning resources for health and welfare promotion and for the provision of health care services, local authorities must assign adequate resources for implementing the plan referred to in section 5 in order to support the functional capacity and independent living of the older population, as well as for providing the social services for older persons on the basis of which central government transfers to local government basic services are paid.

Furthermore, local authorities must support the wellbeing, health, functional capacity and independent living of the older population by assigning resources also for actions other than those referred to in subsection 1.

Section 10 – *Expertise*

Local authorities must have sufficient and diversified expertise for supporting the wellbeing, health, functional capacity and independent living of the older population as well as for providing such social and health care services of a high quality as are needed by older persons. Special expertise must be available at least in the field of promotion of wellbeing and health, gerontological care and social work, geriatrics, pharmacotherapy, nutrition, multiprofessional rehabilitation and oral health care.

Section 11 – *Council for older people*

In addition to what is laid down in section 27 of the Local Government Act on municipal residents' opportunities to participate and exert influence, local authorities must establish a council for older people to ensure the older population's opportunities to participate and exert influence as well as see to it that the council has the necessary prerequisites for its operation.

The council for older people must be included in the preparation of the plan referred to in section 5 and the evaluation referred to in section 6. The council must even otherwise be provided an opportunity to influence the planning, preparation and monitoring of actions in the different spheres of responsibility of the municipality in regard to matters that are of significance for the wellbeing, health, inclusion, living environment, housing, mobility and daily activities of older persons or for the services needed by the older population.

Section 12 – *Services promoting wellbeing*

Local authorities must provide advice services that support the wellbeing, health, functional capacity and independent living of the older population.

Furthermore, local authorities must offer health examinations, appointments and home visits that support wellbeing, health, functional capacity and independent living in particular for those members of the older population whose living conditions and life situations are on the basis of research results or general life experience considered to involve risk factors increasing their need for services.

The services referred to in subsections 1 and 2 above must include:

- 1) guidance aiming to promote wellbeing, healthy lifestyles and functional capacity as well as to prevent illness, accident injuries and accidents;
- 2) identification of any social and health problems caused by the impaired health and functional capacity of the older population, and provision of early support related to that;
- 3) guidance regarding social welfare and other social security;
- 4) guidance regarding medical care, multiprofessional rehabilitation and safe pharmacotherapy; and
- 5) guidance for using the services promoting wellbeing, health, functional capacity and independent living available in the municipality.

Chapter 3 – Older persons’ service needs and responding to them

Section 13 – General principles for responding to service needs

Local authorities must provide older persons with social and health care services of a high quality that are timely and adequate to their needs.

The services must be provided so as to support the wellbeing, health, functional capacity, independent living and inclusion of older persons. In order to prevent other service needs attention must be paid in particular to services promoting rehabilitation and services provided in the old person’s own home.

Guidance referred to in section 12(3) must be included in all social and health care services provided for older persons, as necessary.

Section 14 – Principles for the provision of long-term care and attention

Local authorities must organise long-term care and attention for older persons principally by means of social and health care services that are provided in the person’s private home or other home-like place of residence, and that are adapted in terms of content and volume to suit the older person’s service needs at the given time. Long-term care and attention can be provided in the form of institutional care only if there are medical grounds for doing so, or if it is otherwise justified to ensure a dignified life and safe care for the older person.

Social and health care services securing long-term care and attention must be provided so that the older person can feel that he or she is living a safe, meaningful and dignified life and can maintain social contacts and participate in meaningful activities promoting and maintaining his or her wellbeing, health and functional capacity. Older married and cohabiting couples must be offered the opportunity of cohabitation.

Local authorities must ensure the permanence of long-term care arrangements for an older person, unless it is necessary to alter an arrangement as wished by the older person or on account of the person’s changed services needs or for some other particular reason.

Section 15 – Investigating service needs

Local authorities are responsible for seeing to it that an older person’s need for social and health care services supporting his or her wellbeing, health, functional capacity and independent living will be investigated comprehensively together with the older person and, as necessary, his or her

family members, other persons close to him or her, or a guardian appointed for him or her. An employee with extensive expertise and appropriate qualifications as referred to in the Act of Qualification Requirements for Social Welfare Professionals (272/2005) or in section 2 of the Health Care Professionals Act (559/1994) is responsible for investigating the service needs. The employee responsible for investigating the service needs must cooperate with other experts referred to in section 10, taking into account the older person's needs.

The investigation must be started immediately and completed without unnecessary delay

- 1) after the older person has asked for the social service needs assessment referred to in section 40a of the Social Welfare Act;
- 2) after the older person has submitted to local authorities an application for obtaining social services to support his or her functional capacity or coping with his or her ordinary daily routines;
- 3) in connection with the activities referred to in section 12, after it has been considered together with the older person that the person is in need of regular help to support his or functional capacity or coping with ordinary daily routines;
- 4) after a notification of the older person's service needs referred to in section 25 has been submitted and the older person or his or her family members, other persons close to him or her or the guardian appointed for him or her consider that it is necessary to make the investigation on account of it; or
- 5) when there occur essential changes in the circumstances of the older person obtaining social services provided by local authorities on a regular basis.

In the context of investigating service needs the older person's functional capacity must be examined comprehensively using reliable assessment tools. When assessing the person's functional capacity it has to be explored in which respects the person is able to cope with his or her ordinary daily routines in the present housing and living environment and in which respects the person needs support and help. The older person's physical, cognitive, psychological and social functional capacity as well as factors related to the accessibility of the environment, safety of housing and access to community services must be taken into account in the assessment.

Section 16 – *Service plan*

Local authorities are responsible for seeing to it that the plan (service plan) referred to in section 7 of the Act on the Status and Rights of Social Welfare Clients will be drawn up for an older person. The plan must be drawn up without unnecessary delay once the older person's service needs have been investigated, unless it is question of temporary advice or guidance or if it is obvious that it is not necessary to draw up a plan.

The service plan must determine on the basis of the assessment of the older person's functional capacity what kind of social and health care services are needed to support the person's wellbeing, health, functional capacity and independent living and to ensure a good care of the person. The older person and, as necessary, his or her family members, other persons close to him or her or the guardian appointed for him or her must discuss the options to ensure a comprehensive set of services. The views of the older person on those options must be recorded in the plan.

The service plan must be revised without unnecessary delay always when essential changes occur in the older person's functional capacity that affect the person's service needs.

Section 17 – *Responsible employee*

Local authorities must appoint an employee responsible for an older person if the older person needs help in matters regarding the provision of services and their coordination.

The tasks of the responsible employee include:

- 1) monitoring together with the older person and, as necessary, his or her family members, other persons close to him or her or the guardian appointed for him or her the implementation of the service plan and any changes in the older person's service needs;
- 2) as necessary, being in contact with the bodies responsible for the provision of social and health care services and with other relevant bodies in order to ensure that the needs of the older person are met; and
- 3) advising and helping the older person in matters relating to access to services and benefits.

The responsible employee must fulfil the qualification requirements referred to in the Act on Qualification Requirements for Social Welfare Professionals or in section 2 of the Health Care Professionals Act that are appropriate in view of the set of services provided for the older person.

Section 18 – *Decision on granting social services and right to services*

Local authorities must make a decision on granting social services urgently needed by an older person on account of a written or oral application and provide the granted services without delay so that the older person's right to necessary care is not jeopardised.

A decision on granting social services other than urgent services must be made without unnecessary delay after a written or oral application has been taken under consideration. An older person has the right to obtain the social services other than urgent services granted to him or her without unnecessary delay and at the latest after three months have elapsed from making the decision.

What is laid down in sections 13 and 14 must be taken into account when making the decision. The criterion for determining the adequacy of social services is the investigation of service needs referred to in section 15, if such an investigation has been made.

Chapter 4 – Ensuring the quality of services

Section 19 – *Quality of services*

Social and health care services provided for older persons must be of a high quality and ensure a good care and attention for them.

Section 20 – *Personnel*

Care units must have personnel whose number, educational qualifications and task structure correspond to the number of older persons obtaining services of the unit so as to be able to meet the service needs required by the older persons' functional capacity and to guarantee services of a high quality.

If the functional capacity of an older person cared for in the facilities of the care unit is impaired to the extent that the older person may need attention at any hour, the care unit must have a sufficient number of personnel on 24-hour basis.

Section 21– *Management*

A care unit must have a manager who is responsible for seeing to it that the principles laid down in sections 13, 14 and 19 are followed in the work with clients and that the services also meet the other requirements set for them.

The operation of the unit must be led so that it supports client-oriented social and health care services of a high quality, promotion of a rehabilitative approach, cooperation between different authorities and professional groups and development of the methods of operation.

Section 22 – *Facilities*

The service provider must see to it that the facilities of the service provider that are at the disposal of older persons are adequate, safe, accessible, homelike and even otherwise such that the conditions there are appropriate for their needs.

Section 23 – *Self-monitoring*

The manager of the care unit must see to it that self-monitoring is organised in the unit to ensure the quality, safety and appropriateness of the services. For that purpose the unit must draw up a self-monitoring plan, which must be kept on public display. The implementation of the plan must be monitored and the services must be developed on the basis of the feedback gathered on a regular basis from the older persons obtaining services of the unit, their family members and other persons close to them as well as from the staff of the unit.

The National Supervisory Authority for Welfare and Health may issue further regulations on the content and drawing up of the self-monitoring plan and how to follow its implementation.

Section 24 – *Supervision by authorities*

What is laid down in sections 55–57 of the Social Welfare Act, Chapter 4 of the Act on Private Social Services, sections 42–45 of the Primary Health Care Act (66/1972) and in Chapters 4 and 5 of the Act on Private Health Care shall apply to the supervision of services meant for older persons and to the measures to remedy any deficiencies observed in connection with supervision.

Chapter 5 – Miscellaneous provisions

Section 25 – *Informing of an older person's service needs*

If a health care professional referred to in the Health Care Professionals Act or a person employed by the social service system of the municipality, rescue services in the area, the Emergency Response Centre or the police has been informed of an older person in need of social or health care services who is obviously unable take care of himself or herself, his or her health or safety in the future, the health care professional or employee must confidentiality provisions notwithstanding notify thereof the authority responsible for municipal social welfare.

In addition to what is laid down in subsection 1, health care professionals must notify the authority responsible for municipal social welfare of discharging an older person from a care unit providing

institutional health care. The notification must be made in good time before discharging the older person.

Persons other than those referred to in subsection 1 can make the notification notwithstanding the confidentiality provisions concerning them.

Section 26 – Making the waiting lists public

Local authorities must publish at least every six months information on how long an older person must wait to obtain the social services he or she has applied for. The information must be published using such methods that the older persons concerned actually have an opportunity to obtain the information.

Section 27 – Planning and financing

Unless otherwise laid down by law the Act on Planning and Government Grants for Social Welfare and Health Care (733/1992) and the Act on Central Government Transfers to Local Government for Basic Public Services (1704/2009) shall apply to the operations organised by local authorities on the basis of this Act.

Section 28 – Entry into force

This Act enters into force on 1 July 2013.

Sections 5 and 6 of the Act will however be applied as from 1 January 2014 and sections 17 and 23 as from 1 January 2015.

Special expertise in the fields referred to in section 10 must be available to local authorities by 1 January 2015 at the latest.

The council for older people referred to in section 11 must be established so that it can begin operation on 1 January 2014 at the latest.

Measures necessary for the implementation of this Act may be undertaken before the Act's entry into force.