

MINISTRY OF EMPLOYMENT AND THE ECONOMY

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Consumer Safety Act

(Finnish Statute Book (920/2011))

NB: Unofficial translation

In accordance with the decision of the Finnish Parliament, it is hereby enacted as follows:

Chapter 1

General provisions

Section 1

Object and purpose of the Act

The object and purpose of this Act is:

- 1) to ensure the safety of consumer goods and services;
- 2) to prevent risks to health and property involved in consumer goods and services;
- 3) to ensure that when risks mentioned above in subsection 2 occur, such risks be abolished in a sufficiently efficient manner;
- 4) to secure high-quality consumer safety control;
- 5) to improve, on its part, operators' operating conditions.

Section 2

Scope of application

This Act applies to:

- 1) consumer goods that are manufactured, marketed, sold or otherwise supplied, imported, exported, or transited through Finland, as well as to consumer goods being transferred by an operator acting as an intermediary;

- 2) consumer services that are supplied, performed, marketed, sold or otherwise provided;
- 3) CE markings or absence thereof, unless further provisions on this subject are found elsewhere under law.

Section 3

Definitions

In this Act:

- 1) 'consumer goods' are goods intended for or, to an essential degree, actually used for private consumption;
- 2) 'consumer services' are services intended for or, to an essential degree, actually used for private consumption;
- 3) 'supplier of goods' means a natural person or a private or public legal entity who manufactures, imports, exports, transits through Finland, markets, supplies, sells or otherwise provides or acts as an intermediary in the supply of consumer goods;
- 4) 'service provider' means a natural person or a private or public legal entity who performs, supplies, markets, sells or otherwise provides or acts as an intermediary in the provision of consumer services;
- 5) 'operator' means both the suppliers of goods and the service providers;
- 6) 'risk assessment' means identifying risk factors, assessing the extent of identified risks and evaluating their significance to safety;
- 7) 'surveillance authority' means the authorities referred to in Sections 13-16 and Section 18 hereto;
- 8) 'CE marking' means a marking used by manufacturers to indicate that the good or product is in compliance with the applicable requirements set out in the EU harmonisation legislation concerning the affixing of the marking, as stipulated in Regulation (EC) No 765/2008 of the European Parliament and of the Council setting out the requirements for accreditation and market surveillance relating to the marketing of products and repealing Regulation (EEC) No 339/93.

'Supplier of goods' or 'service provider' shall not mean a natural person who delivers goods or provides services, insofar as he or she delivers goods or provides services provided in the course of an activity other than commercial activity.

Neither shall 'service provider' mean an association or any other institution, insofar as the association or institution in question provides services to its members in the course of an activity other than commercial activity.

Section 4

Secondary and supplementary nature of the Act

The Act applies to consumer goods and services insofar as other legislation does not ensure at least the same level of safety, taking into consideration all factors affecting the safety of the consumer goods and services concerned, in regard to preventing risks to health and property involved in those goods or services.

Chapter 2

Obligations of operators

Section 5

Duty to take care

Operators shall, by observing the care and skills required by the circumstances, ensure that a consumer good or service does not involve any risk to the health or property of any person. Operators shall have sufficient and correct information on the consumer good or service, and shall duly evaluate the risks involved therein.

Section 6

Obligation to notify

Before commencing the provision of the following consumer services, service providers shall make a written notification thereof to the surveillance authorities of the municipality in which they intend to provide the service:

- 1) amusement parks, family parks, zoos, domestic animal zoos, funfairs and circuses;
- 2) gyms;
- 3) downhill skiing centres and other ski slope centres;
- 4) playgrounds and comparable indoor playgrounds;
- 5) skateboarding venues and cycling venues;
- 6) adventure, experience and nature services and other programme services comparable to them, unless the risk involved can be considered insignificant;
- 7) climbing centres;
- 8) horse riding stables and other horse riding services;

- 9) carting tracks;
- 10) indoor and outdoor swimming pools, spas and entertainment spas;
- 11) beaches intended for swimming, and winter bathing and swimming sites;
- 12) tattoo parlours, piercing studios, and other body modification or alteration services;
- 13) safety phone services and other similar services;
- 14) events involving a significant risk that could, should it materialise, endanger someone's safety due to the large number of persons participating in the service, or for some other specific reason.

The following information shall be included in the notification:

- a) the name, domicile and contact information of the service provider;
- b) the place of performance or provision of the service;
- c) a description of the service;
- d) the most significant risks involved in the service and the measures taken to ensure due preparedness for those risks;
- e) information about the drafting of the safety document and the date of its most recent update.

A similar notification shall be made before making any substantial changes to the activities referred to in paragraph 1.

The municipal surveillance authority shall be informed of any change of the service provider.

After receiving a notification, the municipal surveillance authority shall promptly send the service provider an acknowledgement of receipt.

Section 7

Safety document

Service providers obliged to make a notification to the supervisory authorities in accordance with Section 6 shall also draw up a safety document containing a plan for identifying and controlling risks, and for providing notification of said risks to parties participating in the provision of the service in question. In drafting the plan, the service provider must take account of the nature of the service and the scale of the activities in question.

Where provided for elsewhere under law that a rescue, preparedness or other such plan shall be drawn up for the same service, it shall not be necessary to draw up a safety document required under paragraph 1. Instead, information corresponding to the information that would otherwise be included in the safety document may be compiled and included in a plan required under another act.

A service provider providing various kinds of services or the same service in various locations may draw up a joint safety document for the services. The special characteristics related to the safety of each service shall, as necessary, be described in the joint document.

The safety document shall be kept up-to-date.

Service providers shall ensure that the persons or parties participating in the provision and performance of the service are familiar with the contents of the safety document. Where necessary, service providers shall organise training for the persons and parties participating in the provision and performance of the service.

The safety document shall be presented and delivered to the surveillance authority whenever the surveillance authority so requests.

Further provisions on the contents of the safety document may be issued by a Government Decree.

Section 8

Notifications concerning dangerous consumer goods and services

If an operator becomes aware or, on the basis of professional knowledge, should be able to draw the conclusion that, a consumer good or consumer service involves a risk to anyone's health or property, he or she shall immediately inform the surveillance authority of said risk. The operator shall at the same time report on the measures he or she has already taken with regard to the risk, such as suspension of operations, suspension of the distribution of the dangerous good or product, or withdrawal of the dangerous good or product from the market.

Concerning dangerous consumer goods and dangerous products used in providing consumer services, the notification required under paragraph 1 above shall be made to the Finnish Safety and Chemicals Agency. Concerning dangerous consumer services, said notification shall be made to the municipal surveillance authority.

Entrepreneurs and service providers shall cooperate with the surveillance authority in order to eliminate a risk whenever the latter so requests.

Further provisions on the form and contents of the notification required under paragraph 1 may be issued by a Government Decree.

Section 9

Providing information to consumers

Operators shall, in a clear and comprehensible manner, provide consumers and persons comparable to consumers with the information necessary for the assessment of possible risks involved in consumer goods and services. The surveillance authority can request the operator to provide consumers with proper instructions for use, other instructions, warnings and other information necessary to preventing or avoiding risks involved in consumer goods or services.

Further provisions on necessary information to be supplied to consumers or persons comparable to consumers in respect of consumer goods and services may be issued by a Government Decree.

Chapter 3

Compliance with requirements

Section 10

Dangerous and safe consumer goods and services

The following are considered hazardous to health:

- 1) any consumer good that can, because of a flaw or imperfection in its structure or composition or because of any false, misleading or inadequate information supplied in respect of said consumer good, or because of its misleading appearance, cause injury, poisoning or illness or pose some other danger to health;
- 2) any consumer service that can, because of a flaw or imperfection either in the way the service is performed or in the structure or composition of any product used in providing the service, or any false, misleading or inadequate information supplied in respect of the service, cause injury, poisoning or illness or pose some other kind of danger to health.

A consumer good shall be deemed to represent a risk to property if it can, owing to the circumstances mentioned in paragraph 1, cause damage to another object or type of property. A consumer service shall be deemed to present a risk to property, if it can, owing to any of the circumstances mentioned in paragraph 1, cause damage to property.

Consumer goods and services that are not dangerous in the way described in paragraphs 1 and 2 above are considered safe.

Section 11

Criteria for assessing the compliance of consumer goods and services with safety requirements

Consumer goods or services shall not be deemed to represent a risk to health or property insofar as they comply with European harmonised standards, the references of which have been published in the Official Journal of the European Union, if not otherwise provided in paragraph 3 below.

In assessing the compliance of a consumer good or consumer service with safety requirements, the surveillance authorities shall also have regard to

- 1) other standards than those international or national safety standards referred to in paragraph 1;
- 2) Recommendations issued by the European Commission containing guidelines on product safety assessment;
- 3) guidelines and recommendations issued by supervising authorities;

- 4) codes of conduct in respect of health and safety in the sector concerned;
- 5) the state of the art and technology.

Even if a consumer good or service meets the criteria for assessing compliance set out in paragraphs 1 and 2 above, the supervising authorities may impose a ban or an obligation referred to in Sections 34–44, if the good or service, despite meeting the criteria, poses a risk to health or property.

Section 12

Requirement concerning the CE marking

Consumer goods that do not have a statutory CE marking may not be placed on the market.

Chapter 4

Surveillance authorities

Section 13

The Finnish Safety and Chemicals Agency

The Finnish Safety and Chemicals Agency is responsible for the surveillance of the compliance with the Act and the provisions and decisions issued by virtue of it, and for the planning of, the guidance on and the development of the surveillance. The Finnish Safety and Chemicals Agency shall also forward the notifications referred to in Article 11 of the Directive 2001/95/EC of the European Parliament and of the Council on general product safety to the European Commission.

Specific provisions shall be issued on notifications to the European Commission of measures taken in order to restrict the placing on the market, marketing and use of goods involving serious risks.

Section 14

Customs

Customs is responsible for the surveillance of compliance with the Act and the provisions and decisions issued by virtue thereof, as concerns consumer goods or products to be used in connection with the performance of consumer services, when:

- 1) goods or products are imported to Finland from outside the European Union;
- 2) goods or products are exported from Finland;
- 3) goods or products are transited through Finland.

Furthermore, Customs is responsible for the surveillance of compliance with the Act and the provisions and decisions issued by virtue of it as concerns consumer goods or products to be used in connection with the performance of consumer services, when goods or products are delivered to Finland from another EU member state at the place of unloading and storage in Finland of the lot.

Section 15

Regional consumer safety surveillance

Regional State Administrative Agencies are responsible for steering consumer safety surveillance activities within their regions, as well as for assessing and monitoring the implementation of municipal consumer safety surveillance plans.

Regional State Administrative Agencies are also responsible for the surveillance of consumer safety within their respective regions.

Section 16

Municipal consumer safety surveillance

Within each municipality, the municipality is responsible for the surveillance of compliance with the Act and the provisions and the decisions issued by virtue of it. In municipalities, this responsibility rests with a Committee or some other collegial body appointed by the municipality. What is provided in this Act concerning municipalities shall also apply to associations of municipalities and to bodies referred to in the Act on the Environmental Health Care Co-operation District (410/2009) in the exercise of their monitoring tasks prescribed in this Act.

The Municipal Council may give the municipal surveillance authority the right to delegate its powers to a subordinate official or section that accordingly may decide to apply measures of administrative compulsion referred to in Sections 34–38 or to impose a threat against default or a threat of suspension referred to in Section 45(1). The municipal supervising authority is not, however, entitled to delegate its powers concerning the approval of the surveillance plan referred to in Section 22 to a subordinate official.

A municipality may agree with another municipality or an association of municipalities that a duty, which according to the Act falls under the responsibility of the municipality or its authorities and whereby powers can be delegated to an official, may be entrusted to an official working with the other municipality or the association of municipalities. An association of municipalities may conclude the above agreement with another association of municipalities, if the member municipalities have given their consent to such an agreement.

Section 17

Urgent action

In urgent matters, regardless of not having been delegated powers to exercise administrative compulsion in accordance with Section 16, municipal officials performing tasks assigned to the municipality under this Act are entitled to apply administrative coercive measures referred to in Sections 34–38.

Decisions made by officials by virtue of paragraph 1 on measures referred to in Sections 34 and 36 shall be brought before the municipal surveillance authority. The municipal surveillance authority shall decide on the matter at its earliest convenience.

Decisions made by officials by virtue of paragraph 1 on measures referred to in Sections 35, 37 and 38 shall be brought before the Finnish Safety and Chemicals Agency. The Finnish Safety and Chemicals Agency shall decide on the matter at its earliest convenience.

Section 18

Other surveillance authorities

With the exception of the provisions of Sections 6 and 7, the provisions of this Act concerning operators' obligations and the surveillance authority's powers and rights shall be applied to authorities who, by virtue of other legislation, monitor the safety of such consumer goods and services, unless such other legislation contains provisions ensuring at least the same level of safety when all factors affecting the consumer goods and services concerned are taken into account.

Chapter 5

Consumer safety surveillance

Section 19

Performing of duties and order of priority

The surveillance authorities shall perform their duties as efficiently as possible, and in a manner that is most appropriate based on the risk assessment. If circumstances so require, the tasks shall be weighed in order of priority.

Section 20

National surveillance programme

For the steering and coordination of surveillance of this Act's enforcement, the Finnish Safety and Chemicals Agency shall draw up a national surveillance programme. The programme shall define inspections to be conducted, the frequency of inspections of different types of surveillance subjects, and present a national sampling plan. The programme shall also state the grounds for risk assessment of different types of surveillance subjects, and methods for the follow-up of the implementation of the programme.

Further provisions on the national surveillance programme and its contents may be issued by a Government Decree.

The national surveillance programme governed by this Act constitutes part of a national programme for the surveillance of environmental health care that, for its part, also includes national surveillance programmes governed by other legislation on environmental health care.

Section 21

Plans of the Regional State Administrative Agencies

Each Regional State Administrative Agency shall draw up a plan for the implementation of tasks assigned to it. The plan shall take account of the national surveillance programme drawn up by the Finnish Safety and Chemicals Agency, and the Regional State Administrative Agencies shall steer the surveillance activities of the municipalities in this respect.

The plan shall be revised each year.

Section 22

Municipal surveillance plans

For the surveillance of consumer safety, each municipality shall draw up a surveillance plan ensuring that surveillance measures comply with general requirements for surveillance measures and prevent such risks to health and property that are involved in consumer goods and services. The municipal surveillance plan shall take account of the national surveillance programme drawn up by the Finnish Safety and Chemicals Agency. The surveillance plan shall be revised by a municipal panel every three years and also otherwise, when considered necessary.

Further provisions on the contents of the surveillance plan referred to in paragraph 1 may be issued by a Decree of the Council of State.

Section 23

Customs surveillance plan

Customs shall draw up a plan for the implementation of surveillance duties assigned to it, taking into account the national surveillance programme drawn up by the Finnish Safety and Chemicals Agency, and the Customs shall steer the surveillance activities in this respect.

The surveillance plan shall be revised each year.

Section 24

Preparing for special circumstances

The Finnish Safety and Chemicals Agency shall draw up a plan for the protection of the lives and health of consumers and persons comparable to consumers in cases of major accidents and in other similar special circumstances.

The municipal surveillance authorities shall plan all contingency and precautionary measures necessary to prevent, determine, and eliminate health risks caused by special circumstances, and they shall cooperate with other authorities in order to prepare in advance for such circumstances.

Further provisions on the contents and drafting of plans concerning preparedness for special circumstances may be issued by a Government Decree.

Section 25

Official communications

Surveillance authorities may, where necessary, publish notices and communications on matters relevant to the safety of consumers and persons comparable to consumers.

Section 26

Surveillance authorities' obligation to notify and to provide information

Should special circumstances referred to in Section 24 arise, the municipal surveillance authorities shall notify the Finnish Safety and Chemicals Agency of such circumstances and, where necessary, of any other circumstances which are detected while carrying out surveillance duties and which could have a significant impact on the safety of consumers.

The municipal surveillance authorities and the Regional State Administrative Agencies shall, upon request and free of charge, submit information to the Finnish Safety and Chemicals Agency concerning inspections, surveillance measures, fees, and staff responsible for carrying out surveillance tasks, as well as other information concerning surveillance activities to enable the Finnish Safety and Chemicals Agency to carry out its tasks under this Act with regard to steering, surveillance, reporting, and compiling statistics.

The surveillance authorities shall submit the information referred to in paragraphs 1 and 2 in the manner prescribed by the Finnish Safety and Chemicals Agency.

Further provisions on the surveillance authorities' obligation to notify and to provide information may be issued by a Decree of the Ministry of Employment and the Economy.

Section 27

Right to receive information

Surveillance authorities are entitled to receive from both state and municipal authorities, as well as from the operators and other parties obligated by the provisions of this Act, any and all information necessary for carrying out the surveillance authorities' surveillance duties.

The right to receive information also applies to information that would otherwise be confidential due to the fact that it concerns private business or professional activity or the financial status or state of health of a private party, if such information is necessary for carrying out a task or duty assigned under this Act.

Section 28

Right to carry out inspections

Surveillance authorities shall have access to any area, premises or other space where it is necessary, with a view to discharging their surveillance function, to carry out inspections and take any other measures required by their surveillance function. The surveillance functions may, however, be extended to premises used as residences of a permanent nature only if there is reason to believe that a health offence referred to in Chapter 44, Section 1, of the Criminal Code (39/1889) has been committed. The right to inspect premises used as residences of a permanent nature may not be given to an outside expert referred to in Section 30 below.

Section 29

Sampling for surveillance purposes

Surveillance authorities are entitled to sample consumer goods and products used in providing consumer services, and to use consumer services, where deemed necessary for surveillance compliance with this Act and the provisions and regulations issued by virtue thereof.

Any samples taken and consumer services used pursuant to paragraph 1 shall, upon demand by the operator, be remunerated to the operator at an equitable price, except if the investigation shows that the consumer good or service does not comply with this Act or the provisions issued by virtue thereof. If, however, a fee is charged for the sample or analysis thereof, as separately required by law, no remuneration shall be paid for the sample.

If a consumer good or service does not meet the requirements set out in this Act or the provisions issued by virtue of the Act, the surveillance authority may oblige the operator to pay the costs incurred by purchasing, testing and analysing the consumer good or service.

In regard to the taking of samples, the provisions of Section 28 on the extension of surveillance functions to premises used as residences of a permanent nature shall apply.

Section 30

Outside experts

The surveillance authority may appoint outside experts to assist the authority in its monitoring duty. Such outside experts may, upon the surveillance authority's request, carry out inspections, surveys and investigations for official control under this Act. Outside experts who carry out inspections, surveys and investigations must have the particular knowledge and competence required for the job. Outside experts must be able to prove their competence and the reliability of the inspection and research methods used by them to the authority commissioning the service.

With regard to the outside experts, the provisions of the Administrative Procedures Act (434/2003), the Language Act (423/2003), the Sámi Language Act (1086/2003), the Act on the Openness of Government Activities (621/1999), and the Act on Electronic Services and Communication in the Public Sector (13/2003) shall apply. In the performance of their duties under this Act, provisions on the criminal responsibility of officials for the legality of their actions shall be applied to persons

employed by and holding managerial positions in the organisations of such outside experts. Provisions on liability for damages are laid down in the Tort Liability Act (412/1974).

A laboratory that carries out tests or analyses necessary for the surveillance of compliance with this Act or provisions issued by virtue of said Act shall have the expertise and preparedness necessary for carrying out such tests or analyses. The laboratory shall have an appropriate quality assurance scheme and must be able to demonstrate the reliability of the determinations made by it.

Further provisions on the competence of the outside experts referred to in paragraph 1 and on the laboratories referred to in paragraph 3 that carry out tests and analyses relating to product safety may be issued by a Decree of the Ministry of Employment and the Economy.

Section 31

The competence of officials performing consumer safety surveillance tasks

Municipal officials that perform consumer safety surveillance tasks must hold a suitable academic degree. The municipality and the Regional State Administrative Agency shall ensure that officials performing consumer safety surveillance tasks participate in suitable updating training with sufficient frequency.

Further provisions on the qualifications of and updating training for officials performing consumer safety surveillance tasks may be issued by a Government Decree.

Section 32

Fees charged for the performance of measures by the municipal surveillance authorities

In accordance with a tariff approved by the municipality, the municipality shall charge each operator a fee for inspections carried out in accordance with the surveillance plan referred to in Section 22, for inspections concerning compliance with decisions issued, as well as for receiving notifications referred to in Section 6 on the commencement of the provision of services, on substantial changes to the activities, and on any change of the service provider. Fees shall also be charged, in accordance with the aforementioned tariff, for informing the operators of the receiving of aforementioned notifications.

Each municipality shall determine the fees for its performance of measures so that these fees are limited in amount to the costs incurred.

The state shall reimburse the municipalities for any and all costs incurred by inspections, sampling, surveys and investigations delegated to the municipalities by the Finnish Safety and Chemicals Agency, where such measures are assigned to the sole responsibility of the Finnish Safety and Chemicals Agency under this Act.

Section 33

Criteria for and collection of fees

Provisions on fees payable for government services provided under this Act are laid down in the Act on Criteria for Charges Payable to the State (150/1992).

The fees referred to in this Act may be collected without a judgement or decision in the order prescribed in the Act on Enforcement of Taxes and Charges (706/2007).

Penalty interest shall be charged for the late payment of fees charged for measures undertaken by virtue of this Act in accordance with the interest rate specified in Section 4(1) of the Interest Act (633/1982) when the fee has fallen due and has not been paid by the deadline. The due date may not be earlier than two (2) weeks from the performance of the service based on which the fee was determined. Instead of charging penalty interest, the authorities may charge a penalty payment to the amount of five (5) euros if the amount of penalty interest would be lower than that.

Chapter 6

Administrative coercive measures

Section 34

Order for remedial or corrective action

If a risk to health or property connected to a consumer good or service can be effectively countered or prevented or the extent of the risk essentially reduced by a remedial or corrective action, the surveillance authority may impose on the operator an obligation to take the aforementioned action within the time and in the manner determined by the surveillance authority.

If the obligation to make a notification in accordance with Section 6 or the obligation to draw up a safety document in accordance with Section 7 has been neglected to an extent that cannot be considered insignificant, and the obligation has not been complied with regardless of the operator's receipt of a reminder thereof, the surveillance authority may order the operator to fulfil its obligation within a prescribed time.

Section 35

Provisional prohibition

If it is obvious that a consumer good or service may involve a health risk in the manner referred to in Section 10, paragraph 1, and if the danger cannot be eliminated in any other way, the surveillance authority may impose a provisional prohibition under Section 36 for the duration of the investigation into the matter. The provisional prohibition shall apply until the case has been brought to a final decision.

Regional State Administrative Agencies and municipal surveillance authorities shall refer the matter for a decision by the Finnish Safety and Chemicals Agency immediately and in no event later than seven (7) days after the date of issuance of a decision on a provisional prohibition. The Finnish Safety and Chemicals Agency shall decide on whether to issue a prohibition referred to in Section 36 at its earliest convenience and ensure, for its part, that the necessary investigations into the matter are conducted without delay.

Section 36

Prohibition

If a consumer good or service is dangerous to health or property as intended in Section 10 and such danger cannot be eliminated in any other way, the surveillance authority may prohibit an operator from manufacturing or supplying, marketing, importing, selling or otherwise providing said good or service.

Upon imposing a prohibition referred to in paragraph 1, the surveillance authority may further order the operator to withdraw any dangerous consumer goods from the market immediately and in an efficient manner, and may oblige the operator to demonstrate that dangerous consumer services are no longer being provided to consumers. Within the time fixed by the authority that imposed the prohibition, the operator shall provide the authority with clarification of how he or she has executed the order relating to the prohibition referred to in this section.

If a consumer good has to have a CE marking in order to comply with legislation issued by the European Union but does not have the required marking, or if the CE marking fails to comply with the requirements concerning the CE marking, the surveillance authority may order the operator to withdraw the consumer good from the market.

Section 37

Suspension of operations

Where it is obvious that a consumer good or service is hazardous to health in the meaning of Section 10(1) and if the danger is imminent and cannot be eliminated in any other way, the surveillance authority is entitled to immediately suspend the operations insofar as necessary in order to eliminate the risk.

If a decision referred to in Sections 34-36 has not been given, the matter shall be decided upon without delay as soon as a suspension of operations has been imposed.

Regional State Administrative Agencies and municipal surveillance authorities shall refer the matter for a decision by the Finnish Safety and Chemicals Agency immediately and, in no event, later than seven (7) days after the date of issuance of a decision on the suspension of operations. The Finnish Safety and Chemicals Agency shall decide the matter at its earliest convenience and ensure, for its part, that the necessary investigations into the matter are conducted without delay.

Section 38

Commissioning of measures

If it is obvious that a consumer good or service may involve a health risk in the way referred to in Section 10(1) and if the danger is imminent and cannot be eliminated in any other way, the surveillance authority is entitled to carry out the necessary measures to eliminate the risk at the operator's expense.

Regional State Administrative Agencies and municipal surveillance authorities shall refer the matter for a decision by the Finnish Safety and Chemicals Agency immediately and in no event later than

seven (7) days after the date of issuance of a decision on the commissioning of measures. The Finnish Safety and Chemicals Agency shall decide the matter at its earliest convenience and ensure, for its part, that the necessary investigations into the matter are conducted without delay.

Section 39

Export prohibition

If a consumer good or service involves a serious health risk as per the meaning of Section 10(1), the Finnish Safety and Chemicals Agency or Customs may prohibit the exportation or transit of the consumer good or the exportation or transit of a product used in providing a consumer service.

The Finnish Safety and Chemicals Agency may impose the prohibition referred to in paragraph 1 as a provisional prohibition if it is obvious that the consumer good or other product referred to in paragraph 1 can impose an imminent danger to health.

Section 40

Destruction orders

If prohibitions and orders referred to in Sections 34–39 cannot be considered sufficient, the Finnish Safety and Chemicals Agency or Customs or other authority referred to in Section 18 may require that the products held by the operator, or a product that the consumer has returned to the operator in accordance with Section 41 or Section 42, be destroyed or, if this is not considered appropriate, decide upon other measures in respect of the product.

Section 41

Prevention of risks in respect of consumer goods

After having issued a prohibition under Section 36 concerning a consumer good, the Finnish Safety and Chemicals Agency or other authority referred to in Section 18 may order that the operator take measures to prevent the risk of damage in respect of the consumer good already in the possession of one or more consumers, and to safeguard the consumer's legal position.

By an order issued under paragraph 1 the operator may be obliged to:

- 1) repair the good or product so as to remove the risk because of a flaw or imperfection in its structure or composition or because of any false, misleading or inadequate information supplied in respect of it;
- 2) take back from the consumer a good or product that is dangerous in the sense of Section 10(1), and to replace it with an identical or equivalent risk-free product; or
- 3) rescind the transaction.

Where a prohibition under Section 36 cannot be issued for the reason that the operator no longer has the relevant consumer goods in his or her possession, the Finnish Safety and Chemicals Agency or other authority referred to in Section 18 may nevertheless issue an order under paragraph 1 if there are serious reasons for so doing.

Section 42

Prevention of risks in respect of consumer services

After having issued a prohibition under Section 36 concerning a consumer service, the Finnish Safety and Chemicals Agency or other authority referred to in Section 18 may order that the operator shall take measures to prevent the risk of damage in respect of the consumer service already provided to one or more consumers, and to safeguard the consumer's legal position.

By an order issued under paragraph 1 the operator may be obliged to:

- 1) correct the flaw in the service so as to remove the risk involved by the flaw or imperfection in the way it has been performed or in the structure or composition of any product used in conjunction with it, or by the false, misleading or inadequate information provided in respect of it; or
- 2) rescind the contract regarding the consumer service.

Where a prohibition under Section 36 cannot be issued for the reason that the operator no longer performs the services in question, the Finnish Safety and Chemicals Agency or other authority referred to in Section 18 may nevertheless issue an order under paragraph 1 if there are serious reasons for so doing.

Section 43

Consumers' rights regarding the recall procedure

In addition to what is provided in Sections 41 and 42, provisions concerning the rights and obligations of the consumer and the operator who sold the goods or the service are laid down or issued by virtue of the Consumer Protection Act (38/1978) and the Sale of Goods Act (355/1987). However, the consumer is entitled to a benefit arising through a remedy based on an order issued under Sections 41 and 42, even if he or she has failed to notify the operator of a defect in the good or service or if he or she fails to return the good fundamentally unchanged and intact.

Section 44

Information

The surveillance authority may impose an obligation on the operator to inform the consumer, within the time set out and in the way provided by the surveillance authority, of any prohibition or order issued, or the risk, as defined under Section 10, involved in the goods, services or their use and the rights devolving on the consumer.

The surveillance authority may, at the operator's expense, issue information referred to in paragraph 1, if the operator has failed to follow an order issued by the authority or if, due to the urgency of the circumstances, there are weighty reasons for issuing information in this manner.

Section 45

Conditional fine, threat against default and threat of suspension of operations

The surveillance authority may intensify the effect of an order or prohibition by imposing a conditional fine, or by having measures taken at the expense of the defaulting respondent ('threat against default'), or by imposing a threat of suspension of operations. Provisions on conditional fine, threat against default and threat of suspension of operations are laid down in the Act on Conditional Imposition of Fines (1113/1990).

The surveillance authority is authorised to reinforce the obligation to provide information referred to in Section 9, the obligation to notify and to provide information referred to in Section 26, the obligation to provide information and present the documents referred to in Section 27, and the obligation to comply with an order referred to in Section 34(2) by imposing a conditional fine.

The payment of a conditional fine imposed under paragraph 1 or 2 is ordered by a decision of the Administrative Court.

Chapter 7

Miscellaneous provisions

Section 46

Executive assistance

Provisions on the duty of the Police to provide executive assistance are laid down in Section 40 of the Police Act (493/1995).

Section 47

Right to disclose confidential information

Notwithstanding the provisions of the Act on the Openness of Government Activities on secrecy, when performing duties under this Act information covered by the obligation of secrecy may be disclosed to the surveillance authority for performance of duties and to the prosecutor and the police for the prevention or investigation of a crime.

Section 48

Appeal

No appeal shall lie against decisions made under Sections 17, 35, 37 and 38.

No appeal shall lie against a decision made under this Act by a municipal official. In the case of decisions other than those made under Sections 35, 37 and 38, the party who is dissatisfied with the

decision may bring the matter before a committee or other body referred to in Section 16. A claim for correcting the decision shall be made in writing and filed within fourteen (14) days after the decision has been served on the party concerned. Instructions on how to make such a claim shall be annexed to the decision. A claim for correcting a decision shall be examined without delay.

A decision made under this Act by a municipal committee or other body referred to in Section 16 may be appealed to the Administrative Court in accordance with the procedure laid down in the Administrative Judicial Procedures Act (586/1996).

A decision made by a municipality on the surveillance plan referred to in Section 22 may be appealed in accordance with the procedure of appeal laid down in the Municipalities Act (365/1995). The decision on a surveillance plan is enforceable notwithstanding any appeal if not otherwise provided by the appeal authority.

In other respects, appeal shall be governed by the provisions of the Administrative Judicial Procedures Act.

Section 49

Enforcement

Notwithstanding an appeal, any decision made by the surveillance authority under sections 22–30 shall be complied with unless the appellate body requires otherwise.

Section 50

Penal provisions

Penalties for a health offence committed in violation of the provisions of this Act or provisions or regulations issued by virtue of it are included in Chapter 44, Section 1, of the Criminal Code.

Anyone who deliberately or through gross negligence violates a prohibition or order referred to in Sections 34–44 shall be issued with a fine for a consumer safety offence, unless a more severe punishment is provided for the offence elsewhere under law.

Anyone who violates a prohibition or an order, imposed under Sections 34–44, that has been intensified by a conditional fine need not be sentenced to a penalty for the same act.

Section 51

Provision on state subsidy

Activities run by municipal authorities under this Act are governed by the Act on the Planning of and Governmental Aid toward Social Welfare and Health (733/1992), as well as the Act on the Planning and State Contribution to Social Welfare and Health Care (1704/2009), unless otherwise prescribed through another act.

Section 52

Authority to issue Decrees

Further provisions on requirements to be imposed on consumer goods and services for the protection of health and property may be issued by a Government Decree.

Chapter 8

The Advisory Council

Section 53

The Advisory Council on Consumer Safety

In conjunction with the Ministry of Employment and the Economy, there is a standing Advisory Council on Consumer Safety.

The Advisory Council shall be responsible for monitoring the implementation and surveillance of consumer safety legislation, for giving opinions and making proposals, for initiating the development of the legislation and relevant surveillance, and for dealing with any other matters relating to the enforcement of this Act or to the advancement of safety of consumer goods and services. The Advisory Council shall also work out measures for the arrangement of any cooperation needed by the various bodies dealing with matters concerning environmental health care, labour protection, rescue services, the Police, standardisation, research and testing, and other safety aspects involving consumer goods and consumer services.

Further provisions on the Advisory Council on Consumer Safety may be issued by a Government Decree.

Section 54

Composition of the Advisory Council on Consumer Safety

The Advisory Council on Consumer Safety consists of a chairman and a vice-chairman, both of whom are appointed by the Council of State for three years, and eighteen other members at most. The Council of State appoints personal substitutes for the vice-chairman and each member.

The chairman, vice-chairman and six (6) other members of the Advisory Council, as well as their substitutes, shall be persons who cannot be regarded as representatives of the interests of operators nor of consumers.

Should a member or a substitute leave the Advisory Council during his or her term, a successor shall be appointed for him or her by the Ministry of Employment and the Economy for the rest of the term, after due account is taken of the requirements in paragraph 2 above.

Chapter 9

Entry into force

Section 55

Provisions on entry into force

This Act shall enter into force on 1 January 2012.

Service providers providing services referred to in Section 6 on the date of the entry into force of this Act must draw up a safety document within six (6) months of said date.

An official performing tasks in the environmental health care surveillance at the time of the entry into force of this Act, is competent to perform tasks in consumer safety surveillance, notwithstanding the provisions of section 31.

This Act repeals the Act on the Safety of Consumer Products and Services (75/2004). Where references to the Act on the Safety of Consumer Products and Services are made in other legislation, the provisions of this Act shall apply instead of those of the Act on the Safety of Consumer Products and Services after the entry into force of this Act.

However, provisions and regulations issued by virtue of the Act on the Safety of Consumer Products and Services shall remain valid.

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

Government proposal, [HE 99/2010](#)

Report of the Commerce Committee, TaVM 43/2010

Parliamentary reply, EV 316/2010

Directive of the European Parliament of the Council 01/95/EC
(32001L0095); *Official Journal L 011, 15/01/2002 P. 4*

In Naantali on 22 July 2011

President of the Republic
TARJA HALONEN

Minister of Labour
Lauri Ihalainen