

NB: Unofficial translation; legally binding texts are those in Finnish and Swedish

Act amending the Act on the Approval of Certain Provisions of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction and on its Application

(902/2010)

Section 2 - Authorities

In Finland, the Ministry for Foreign Affairs shall be the supreme authority implementing the Convention, bearing the supreme responsibility for the management of its application and supervision.

The Finnish Institute for Verification of the Chemical Weapons Convention (VERIFIN), hereafter *the Institute*, functioning at the University of Helsinki, shall, under the guidance of the Ministry for Foreign Affairs, act as the National Authority referred to in Article VII of the Convention for the purpose of cooperation with the Organisation for the Prohibition of Chemical Weapons and the other States Parties to the Convention. The Institute shall provide the Ministry for Foreign Affairs with expert assistance in complying with and implementing the provisions of the Convention, and see to the implementation of certain provisions of the Convention in Finland as provided by this Act.

More detailed provisions on the content and the performance of the Institute's tasks related to the Convention and mentioned in this Act may be issued by a Government decree. Provisions on the administration, economy and possible additional tasks of the Institute shall be laid down in the Regulations and the Rules of Procedure of the Institute, taking account of the status of the Institute as a national authority.

The Institute shall have a Governing Board, which shall guide and control its activities. The Governing Board shall have eight members. The Ministry for Foreign Affairs shall appoint three of the members, the Rector of the University of Helsinki three members and the Defence Administration one member of the Governing Board. In addition, the personnel of the Institute shall select one member from amongst the personnel. The term of the Governing Board shall be four years. The Ministry for Foreign Affairs shall select the Chairman, and the Rector of the University of Helsinki shall select the Vice Chairman of the Governing Board.

The Governing Board of the Institute shall determine guidelines for the use of budget appropriations and approve the action plans and budget allocation schemes of the Institute as well as its annual and financial reports.

The Ministry for Foreign Affairs shall be responsible for the export supervision required under the Convention. However, the Ministry of Defence shall be responsible for tasks falling within the scope of application of the Act on the Export and Transit of Defence Materiel (242/1990).

The Finnish Medicines Agency shall function as the licensing authority referred to in section 4.

Section 3 a - Definition of establishment

For the purposes of this Act, *establishment* shall mean an establishment referred to in the Chemicals Act (744/1989).

Section 4 - Activities subject to licence

The production, acquisition, retention and use of chemicals and precursors included in Schedule 1 of the Annex on Chemicals of the Convention shall be allowed in Finland only under a licence issued by the Finnish Medicines Agency, if the total amount of chemicals included in Schedule 1 per establishment and facility exceeds 100 grams per year. Imports and deliveries of chemicals and precursors included in Schedule 1 to the Finnish territory shall, irrespective of amount, be allowed only under a licence issued by the Finnish Medicines Agency. However, a licence is not required of the Institute and the Finnish Defence Forces Technical Research Centre.

Section 4a - Preconditions for and decision on issuing a licence

The Finnish Medicines Agency shall send the licence application to the Institute, which shall give an expert opinion on the fulfilment of the preconditions for issuing a licence.

A decision on issuing a licence shall be made without delay, but not later than 14 days after the date when the Finnish Medicines Agency received the opinion of the Institute and evidence sufficient for issuing a licence.

Section 4b - Obligation of notification

An establishment shall notify the Institute if it produces, acquires, retains and uses chemicals and precursors included in Schedule 1, irrespective of the total annual amount of the chemicals included in Schedule 1. A notification shall be given for each calendar year by the end of the following January.

The establishment shall, annually by the end of January, notify the Institute of the following information from the previous calendar year:

- 1) the volumes of production, processing, consumption, export and import of a chemical included in Schedule 2 of the Annex on Chemicals of the Convention;
- 2) the volumes of production, export and import of a chemical included in Schedule 3 of the Annex on Chemicals of the Convention.

If, during a calendar year, the establishment has produced in total more than 200 tons of a separate organic chemical referred to in the Verification Annex of the Convention or more than 30 tons of a separate organic chemical containing phosphorus, sulphur or fluoride, it shall notify the Institute thereof by the end of January following the expiry of the calendar year.

The establishment shall, annually by 15 September, notify the Institute of the following information concerning the next calendar year:

- 1) the estimated volumes of production, processing and consumption of a chemical included in Schedule 1 or 2 of the Annex on Chemicals of the Convention;
- 2) the estimated volumes of production of a chemical included in Schedule 3 of the Annex on Chemicals of the Convention.

Provisions on the content of the notifications to be made to the Institute and the documentation to be attached therewith may be issued by a Government decree.

Section 4c - Obligation to give information

The establishment shall provide the Institute with other information that may be necessary for the supervision of compliance with the obligations laid down in the Convention. The Institute shall request the information referred to in this section in writing, reserve a reasonable time for providing the information, and mention in its request the provision of the Convention on which the request is based.

Section 5 - Inspection and monitoring rights

In order to carry out an inspection provided in Articles VI and IX of the Convention, the Ministry for Foreign Affairs and the Institute mentioned in section 2, subsection 2 and, in the presence of a representative of the Ministry for Foreign Affairs, the inspectors of the Organization for the Prohibition of Chemical Weapons and the Observer referred to in Article IX, paragraph 12 of the Convention shall, in accordance with the Convention, have the right

- 1) to have access to an area, a building, a factory or another facility which may be subject to an inspection under the Convention,
- 2) to stop and inspect goods traffic to and from the inspection site,
- 3) to receive or take samples and photographs or other visual records of the inspection site,
- 4) to bring to the inspection site measuring devices or other technical devices necessary for the acquisition or registration of information, and to use such devices therein, and
- 5) to obtain from the establishment operating in the inspection site or from a person in its employ the information necessary for the carrying out of the inspection.

However, inspections shall not be carried out in premises used for permanent residence.

The Institute shall have background checks conducted for the inspection staff of the Organisation for the Prohibition of Chemical Weapons, approve the inspection staff proposed by the Organisation for inspections carried out in Finland, represent the Ministry for Foreign Affairs in inspections referred to in Article VI of the Convention and attend, in addition to a representative of the Ministry for Foreign Affairs, inspections referred to in Article IX and, if necessary, propose to the Ministry for Foreign Affairs that inspections be conducted in cases where non-compliance with the Convention is suspected.

If the Institute considers that it cannot approve the inspection staff proposed by the Organisation or a background check, it shall refer the matter to the Ministry for Foreign Affairs for decision. The conduct of background checks is regulated by the Act on Background Checks (177/2002).

Section 8 - Secrecy obligation

Information received from the Organization for the Prohibition of Chemical Weapons and defined as confidential shall not be disclosed or used contrary to the Convention. In addition to what is provided in the Act on the Openness of Government Activities (621/1999), any information received by the authorities referred to in section 2 from the Organization for the Prohibition of Chemical Weapons and defined as confidential by the Organization shall be kept secret and shall not be disclosed or used contrary to the Convention.

Section 10 - Imports and exports of chemicals

Chemicals and precursors included in Schedule 1 or 2 of the Annex on Chemicals of the Convention shall not be imported from States not party to the Convention. However, this prohibition does not concern samples that the Institute or the Finnish Defence Forces Technical Research Centre, after consulting the Ministry for Foreign Affairs in advance, receive for the purpose of examinations related to the verification of chemicals falling under the Convention. Chemicals included in Schedule 1 of the Annex on Chemicals shall not be exported or delivered to States not party to the Convention. Chemicals

and precursors included in Schedule 2 of the Annex on Chemicals may be exported or delivered to States not party to the Convention only in exceptional cases provided for in the Act on the Control of Exports of Dual-Use Goods (562/1996) and in Council Regulation (EC) No 428/2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items.

Chemicals and precursors included in Schedule 1 of the Annex on Chemicals of the Convention may be exported outside the European Union and delivered to other Member States of the European Union only for research purposes, medical or pharmaceutical purposes or protection purposes, under an export licence issued by the Ministry of Defence. However, an export licence issued by the Ministry for Foreign Affairs is required for exports and deliveries of ricin and saxitoxin. The export licences shall be applied for at least 45 days before the intended date of export or delivery.

Section 11 - Prohibitions and orders by supervising authority

If the establishment violates the provisions of section 4, the Ministry for Foreign Affairs or the competent supervising authority, with the exception of the Institute referred to in section 2, subsection 2, may prohibit the establishment from continuing the operations in violation of the provisions or order the establishment otherwise to meet the obligations set out in the provisions.

This Act enters into force on 3 November 2010.
