

Translation from Finnish**Legally binding only in Finnish and Swedish****Ministry of Economic Affairs and Employment, Finland****Act on the Registration of Debt Collectors****(411/2018)**

By decision of Parliament, the following is enacted:

Section 1**Debt collection**

For the purposes of this Act, debt collection means the collection of receivables on account of another and collection of one's own receivables in cases where it is apparent that the receivables have been received solely for the purpose of collection.

Section 2**Limitations of scope of application**

This Act shall not apply to:

- 1) incidental debt collection when the debt collection not marketed;
- 2) debt collection carried out, on account of another corporation or foundation in the same position or on account of the State, a municipality, a joint municipal authority or a parish, by a corporation or foundation controlled, within the meaning of chapter 1, section 5 of the Accounting Act (1336/1997), by the State, a municipality, a joint municipal authority or a parish;
- 3) collection of the receivables of a corporation or foundation when the client and the debt collector belong the same group within the meaning of the Accounting Act or when the client and the debt collector are controlled by the same natural person;
- 4) collection by a supervised entity referred to section 4 of the Act on the Financial Supervisory Authority (878/2008);

- 5) collection by an advocate or an advocate's assistant;
- 6) collection of the receivables of a decedent's estate carried out by a shareholder of the estate or by the estate administrator;
- 7) collection of the receivables of a bankruptcy estate carried out by the estate administrator;
- 8) a trader established in another EEA Member State that temporarily collects debts in Finland.

However, the provisions laid down in subsection 1, paragraphs 3, 6 and 7 shall not apply when it is apparent that the receivable has been assigned to the client, decedent's estate or bankruptcy estate solely for the purpose of collection.

Section 3

Right to collect debts

Debts may only be collected by a private trader or legal person that has been registered as a debt collector in accordance with this Act.

Section 4

Person in charge

A debt collector shall have in its employ a person in charge of debt collection. This person must be of legal age and fit and proper and may not be bankrupt or subject to any restriction of competence or to guardianship. The person in charge shall possess the knowledge of legislation, demonstrated by an applicable qualification, that is necessary for debt collection. Where the debt collector is a natural person, they may themselves serve as the person in charge referred to in this section.

The person in charge shall be obligated to ensure compliance with good collection practice in the collection of debts as well as compliance with the law in other respects. The person in charge shall additionally ensure that the persons taking part in the collection of debts possess the sufficient professional competence required for the task.

Section 5

Register of debt collectors

The Regional State Administrative Agency of Southern Finland, hereinafter the Regional State Administrative Agency, shall keep a register of debt collectors (*register of debt collectors*).

The following shall be recorded in the register of debt collectors:

- 1) for a private trader, their full name and personal identity code or, in the absence of one, their date of birth, as well as their business name, auxiliary business name, if any, Business ID or other equivalent identifier, and the street addresses of the offices where the debt collection is carried out;
- 2) for a legal person, their business name, auxiliary business name, if any, Business ID or other equivalent identifier, and the street addresses of the offices where the debt collection is carried out;
- 3) the full name and personal identity code, or in the absence of one, the date of birth of the person in charge of debt collection and of the persons referred to in section 9, subsection 3;
- 4) the date of registration;
- 5) any warnings as well as requests and prohibitions, compliance with which has been enforced with a conditional fine, issued to the debt collector pursuant to section 16, subsection 2;
- 6) the reason for and date of removal from the register.

Details of those to whom the prohibition referred to in section 16, subsection 1 to carry out debt collection without registration shall also be entered in the register. This information and information of the sanctions referred to in subsection 2, paragraph 5 shall be removed from the register after five years have elapsed from the end of the year in which the prohibition or other sanction was imposed.

Section 6

Disclosure of data

Notwithstanding the provisions laid down in section 16, subsection 3 of the Act on the Openness of Government Activities (621/1999), personal data may be disclosed from the register of debt collectors or made generally available by means of an electronic data network or otherwise disclosed in electronic form. The data under section 5, subsection 2, paragraph 5 concerning a natural person may only be retrieved via a public network in the form of individual queries using the name of the person as the search criterion.

However, details of a personal identity code may only be disclosed pursuant to this Act when the disclosure is made in the form of a printout or technical recording and when the party to which the disclosure is made has the right to process the personal identity code pursuant to section 13 of the the Personal Data Act (523/1999) or another Act.

Section 7

Register notification and notification of changes

Anyone who intends to carry out debt collection must submit a notification to the Regional State Administrative Agency for entry in the register (*notifying party*). The register notification shall contain:

- 1) the information referred to in section 5, subsection 2, paragraphs 1 and 2;
- 2) the full name and personal identity code, or in the absence of one, the date of birth of the person in charge of debt collection and details of that person's knowledge of legislation on which provisions are laid down in section 4, subsection 1;
- 3) the consent of the person in charge for the position;
- 4) an account of the persons referred to in section 9, subsection 3;

5) an account of the manner in which the notifying party intends to attend to the segregation of funds collected on account of a client (*client funds*) and its own funds and maintain client funds in a reliable manner;

6) an account of the manner in which the notifying party intends to attend to the appropriate protection of client and debtor data.

At the request of the Regional State Administrative Agency, the notifying party shall supply all other information and reports necessary in order to assess the fulfilment of the requirements for registration.

The notifying party shall notify the Regional State Administrative Agency, without delay, of any changes in the information entered in the register. A change in the person in charge of debt collection shall be notified no later than within one month of the termination of the earlier person's position. In addition, a debt collector shall notify the cessation of its activities to the Regional State Administrative Agency.

Section 8

Requirements for registration

The Regional State Administrative Agency shall register the notifying party as a debt collector when:

- 1) the notifying party has the right to conduct business in Finland;
- 2) the notifying party is not bankrupt and, where the notifying party is a natural person, the notifying party is of legal age and not subject to any restriction of competence or to guardianship;
- 3) the notifying party is fit and proper;
- 4) the notifying party is solvent;
- 5) the notifying party has notified a person in charge of debt collection who fulfils the requirements laid down in section 4, subsection 1;

6) the notifying party is capable of caring for client funds;

7) the notifying party is capable of attending to the appropriate protection of client and debtor data.

The Regional State Administrative Agency may refuse the registration when, taking into account the circumstances, it is apparent that the notifying party intends to collect debts as an intermediary for a third party.

Section 9

Fitness and propriety

A notifying party and a person in charge of debt collection shall not be deemed fit and proper when:

1) they have been sentenced, by a final judgment, to imprisonment within the five years preceding the assessment or to a fine within the three years preceding the assessment for a crime that may be considered to demonstrate them to be manifestly unfit to collect debts, to hold a corporation or foundation that collects debts, or to serve as such an entity's member or deputy member of the Board, managing director or deputy managing director or in another senior management position or as the person in charge of debt collection;

2) they have otherwise by prior actions demonstrated that they are manifestly unfit to hold a position referred to in paragraph 1.

A notifying party shall also not be deemed fit and proper when in the three years preceding the assessment they have repeatedly or to a significant extent failed to comply with registration, notification and payment obligations relating to taxes, statutory pension, accident or disability insurance contributions or fees charged by Customs.

Where the notifying party is a legal person, the fitness and propriety requirement shall apply to the managing director and the deputy managing director, a member and deputy member of the board of directors, a member and deputy member of a supervisory board or equivalent body, a general

partner and other members of senior management as well as anyone who directly or indirectly holds more than 25% of the shares in a limited liability company or the votes conferred by shares or has equivalent holding or control in another corporation. For the assessment of fitness and propriety, the details referred to in subsection 2 may be determined for such registered enterprises and corporations referred to in section 3 of the Business Information Act (244/2001) that are directly or indirectly linked to the notifying party or to another person referred to above in this subsection.

Section 10

Solvency

When assessing solvency, the Regional State Administrative Agency shall take into account the financial standing of the notifying party.

A notifying party shall not be deemed solvent when, based on information in the enforcement register or other information obtained, the notifying party is unable to meet its financial obligations.

Where the notifying party is a legal person, the solvency requirement shall apply besides to the legal person also to the managing director and the deputy managing director, a member and deputy member of the board of directors, a member and deputy member of a supervisory board or equivalent body, a general partner and other members of senior management as well as anyone who directly or indirectly holds more than 25% of the shares in a limited liability company or the votes conferred by shares or has equivalent holding or control in another corporation.

Section 11

Audit and registration of financial statements and annual report

A debt collector shall have an audit performed. The provisions laid down in the Auditing Act (1141/2015) shall apply to the audit.

Besides what is provided in the Auditing Act, the auditor's report shall contain a specific statement on whether the holder of the authorisation has segregated funds collected by it on account of a client from its own funds and maintained these in a reliable manner.

A debt collector shall submit its financial statements and annual report to the Trade Register for registration within two months of the adoption of the financial statements. The notification shall be accompanied by a copy of the auditor's report. However, where the debt collector is a limited liability company, cooperative or foundation, the provisions laid down in the Limited Liability Companies Act (624/2006), Cooperatives Act (421/2013) and Foundations Act (487/2015) shall apply, respectively, to the registration of the financial statements and annual report.

Section 12

Retention of documents and information relating to debt collection

A debt collector shall retain documents and information relating to debt collection for a period of five years from the ending of the collection measures unless a longer retention period is provided for elsewhere in law.

Section 13

Non-disclosure obligation

Anyone who in the course of debt collection learns details about the financial standing or personal circumstances of a client, debtor or third party or a trade or business secret of a client, debtor or third party may not disclose such information to any third party unless the party for the benefit of whom the non-disclosure obligation is laid down gives its consent to the disclosure, or unless otherwise provided by law.

Section 14

Supervision and the right of the supervisory authority to obtain information

Compliance with this Act shall be supervised by the Regional State Administrative Agency. Secrecy provisions notwithstanding, a debt collector shall, upon request, provide the Regional State Administrative Agency with the documents and information necessary for supervision.

Section 15

Right to obtain information from certain registers of the authorities

Secrecy provisions notwithstanding, the Regional State Administrative Agency shall have the right to obtain from the register of fines referred to in section 46 of the Act on the Enforcement of Fines (672/2002) any information necessary for the determination of the fitness and propriety of a notifying party and a person in charge debt collection as well as a person referred to in section 9, subsection 3, or for the removal from the register referred to in section 17. The provisions on the right to obtain information from criminal records are laid down in the Criminal Records Act (770/1993).

Secrecy provisions notwithstanding, the Regional State Administrative Agency shall be entitled to obtain, free of charge, from an authority and a body performing a public task such information on the notifying party's compliance with registration, notification and payment obligations relating to taxes, statutory pension, accident or disability insurance contributions or fees charged by Customs and on the notifying party's activities, finances and links that is necessary in order to assess the fitness and propriety referred to in section 9 and the solvency referred to in section 10 or for the removal from the register referred to in section 17.

The Regional State Administrative Agency shall have the right to obtain information corresponding to that referred to in subsection 2 also on an organisation referred to in section 2 of the Act on the Grey Economy Information Unit (1207/2010) associated with the notifying party and on the persons referred to in section 9, subsection 3 and section 10, subsection 3 of this Act.

The information referred to in subsections 2 and 3 above may be retrieved by means of a technical interface or by other electronic means without the consent of the party for the protection of whose interests the secrecy obligation is provided.

Section 16

Coercive measures

The Regional State Administrative Agency shall prohibit any debt collection carried out contrary to this Act without registration. When there is a special reason, the prohibition may also be directed at a person in the employ of a party that carries on such activity or another person or party acting on its account.

Where a debt collector fails to comply with the obligation to notify provided in section 7, subsection 3 or with the provision of section 11, subsection 1, the Regional State Administrative Agency may request the debt collector to fulfil its obligation within a deadline. Where a person in charge of debt collection fails to comply with the duty of care provided in section 4, subsection 2 or where a debt collector fails to comply with the obligation provided in section 12 or in section 14, subsection 2, the Regional State Administrative Agency may issue a warning to the debt collector. Where the failures are serious or repeated in spite of a request or warning issued, the Regional State Administrative Agency may prohibit the operations of the debt collector, either in part or in full, for a fixed period not to exceed six months.

The Regional State Administrative Agency may enforce a request or prohibition referred to in subsection 2 by imposing a conditional fine. However, the prohibition referred to in subsection 1 above shall be enforced by imposing a conditional fine unless this is unnecessary for a special reason.

Section 17

Removal from the register

The Regional State Administrative Agency shall remove a debt collector from the register of debt collectors when:

- 1) the debt collector has ceased to operate;
- 2) the requirements for registration provided in section 8, subsection 1, paragraphs 1–4, 6 or 7 are no longer fulfilled;
- 3) the debt collector collects debts as an intermediary for a third party;
- 4) the debt collector no longer has in its employ the person in charge of debt collection referred to in section 8, subsection 1, paragraph 5, and the debt collector fails to notify a new equivalent person within the deadline imposed in the request of the Regional State Administrative Agency;

5) the debt collector or its person in charge is seriously or repeatedly non-compliant and a fixed-term prohibition on operations has already earlier been imposed on the debt collector on the same grounds.

Section 18

Appeal against a decision of the Regional State Administrative Agency

A decision of the Regional State Administrative Agency in a matter referred to in sections 16 and 17 may be appealed to an administrative court in the manner provided in the Administrative Judicial Procedure Act (586/1996).

In respect of other decisions of the Regional State Administrative Agency, a claim for a revised decision may be filed in the manner provided in the Administrative Procedure Act (434/2003). A decision issued on a claim for a revised decision may be appealed to an administrative court in the manner provided in the Administrative Judicial Procedure Act. The provisions on appeal against the imposition of a conditional fine and an order to pay a conditional fine are laid down in the Act on Conditional Fines (1113/1990).

Appeal against a decision of an administrative court may only be lodged when the Supreme Administrative Court grants leave to appeal.

A decision on removal from the register and fixed-term prohibition of operations referred to in this Act shall be complied with regardless of appeal unless otherwise ordered by the appellate authority.

Section 19

Entry into force and transitional provisions

This Act enters into force on 1 January 2019.

This Act repeals the Act on Debt Collection Licences (517/1999).

A register notification may be admitted for processing prior to this Act's entry into force and the notifying party may be registered in the register of debt collectors upon this Act's entry into force.

A party which, at the time of this Act's entry into force, on the basis of a licence carries out debt collection which under this Act requires registration, may continue its activities until the decision on entry in the register has been issued when the register notification is submitted within six months of the Act's entry into force.

Upon request, the Regional State Administrative Agency may register a debt collector referred to in subsection 4 even if at the time of this Act's entry into force, the person in charge of debt collection employed by the debt collector does not possess the knowledge of legislation on which provisions are laid down in section 4, subsection 1 when the debt collector is a licence-holder referred to in section 1, subsection 1 of the Act on Debt Collection Licences.