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## **Act on Trade in Forest Reproductive Material (241/2002)**

### **Chapter 1 General provisions**

#### **Section 1 *Scope of application***

- (1) The provisions of this act apply to the production, marketing and import of forest reproductive material. This act does not apply to small-scale production, marketing or import of forest reproductive material which is practised on a non-professional basis.
- (2) This Act implements Council Directive 1999/105/EC on the marketing of forest reproductive material.
- (3) This Act also applies to seeds of tree species and artificial hybrids listed in Annex I of the Directive which may be used in the production of both ornamental plants and forest trees.
- (4) In addition to provisions laid down in this Act, provisions laid down in or issued under the Plant Protection Act (1203/1994) shall be complied with.

#### **Section 2 *Restrictions on the scope of application***

This Act does not apply to parts of plants or planting stock which the supplier shows to be intended for other than forestry purposes. Also, this Act does not apply to the production of seeds and seed units which are intended solely for demonstration or research purposes, forest tree breeding or preservation of genetic resources.

#### **Section 3 *Definitions***

- (1) For the purposes of this Act,
  - 1) *forest reproductive material* means seeds or other seed units, parts of plants or planting stock of forest trees;
  - 2) *basic material* means seed source, stand, seed orchard, parents of family, clone or clonal mixture;
  - 3) *genetically modified material* means material which consists of genetically modified organisms as defined in the Gene Technology Act (377/1995) or which contains such organisms;
  - 4) *seed unit* means cones, infructescences, fruits and seeds intended for the production of planting stock;
  - 5) for autochthonous stand or seed sources, *origin* means the place in which the trees are growing and for non-autochthonous stand or seed sources, the place from which the seed or plants were originally introduced; the origin of a stand or seed source may be unknown;
  - 6) *provenance* means the place in which any stand of trees is growing;
  - 7) for a species or sub-species, *region of provenance* means the area or group of areas subject to sufficiently uniform ecological conditions in which stands or seed sources showing similar

phenotypic or genetic characters are found, taking into account altitudinal boundaries where appropriate;

- 8) *production* means all stages in the generation of the seed unit, the conversion from seed unit to seed and the raising of planting stock from seed and parts of plants;
  - 9) *marketing* means display of forest reproductive material for sale, sale or delivery to another person as well as delivery to a third party for distribution or use on the Community market within the territory of the European Union;
  - 10) *supplier of forest reproductive material* means any natural or legal person engaged professionally in the production, marketing or importing of forest reproductive material; and
  - 11) *importing* means import of forest reproductive material from non-EU countries.
- (2) Further provisions on forest reproductive material referred to in subsection 1(1) and basic material referred to in subsection 1(2) are issued by decree of the Ministry of Agriculture and Forestry.

## Chapter 2 **Operation**

### Section 4

#### *Registration of a supplier of forest reproductive material*

Forest reproductive material may be produced, marketed or imported only by suppliers of such material who are registered as suppliers of forest reproductive material at the Plant Production Inspection Centre in accordance with this Act. All suppliers of forest reproductive material referred to in section 3(1)(10) shall be included in the register.

### Section 5

#### *Notification obligation*

- (1) The supplier of forest reproductive material shall notify the Plant Production Inspection Centre in writing of the starting and terminating of operations and any substantial changes in the operations.
- (2) The supplier of forest reproductive material shall notify the Plant Production Inspection Centre of the times and sites of intended collection and import consignments well in advance before starting of seed collection or import of forest reproductive material in accordance with orders issued by the Plant Production Inspection Centre.
- (3) A supplier of forest reproductive material who produces clones or clonal mixtures by vegetative propagation or forest reproductive material from basic material of parents of family – type shall notify the Plant Production Inspection Centre annually of the quality of the material produced.
- (4) Further provisions on the content of the notifications and relevant procedures are issued by a decree of the Ministry of Agriculture and Forestry.

### Section 6

#### *Production accounts*

- (1) The supplier of forest reproductive material shall keep production accounts of the forest reproductive material used as provided by decree of the Ministry of Agriculture and Forestry. Production accounts data shall be kept for at least ten years from the end of the year during which a lot of forest reproductive material has been marketed or used.

- (2) When terminating the operations, the supplier of forest reproductive material or his or her rightholder must ensure that the production accounts data are kept as provided in subsection 1, as well as notify the control authority of who is responsible for keeping the data.

### Chapter 3

## **Production of forest reproductive material**

### Section 7

#### *Requirements for basic material*

- (1) In the production of forest reproductive material, only basic material which meets the requirements laid down in Annexes II-V to Directive 1999/105/EC on the marketing of forest reproductive material, has been classified accordingly and has been approved by the Plant Production Inspection Centre or a competent authority of another Member State of the European Union may be used.
- (2) Further provisions on the requirements for the quality and classification of basic material, composition and maximum quantity of the forest reproductive material produced as well as clones and clonal mixtures are issued by decree of the Ministry of Agriculture and Forestry.

### Section 8

#### *Requirements for genetically modified basic material*

- (1) In addition to the provisions laid down in section 7, genetically modified basic material may be used in the production of forest reproductive material only if it meets the requirements set out in Annex V to Directive 1999/105/EC on the marketing of forest reproductive material, the necessary studies have been made and measures taken to show and prevent any adverse effects on human health and the environment and the genetically modified basic material has been approved in a procedure which is in accordance with the Gene Technology Act or legislation concerning the implementation of European Community provisions on the production and marketing of basic material.
- (2) As provided by European Community provisions, further provisions on the studies and measures referred to in subsection 1 and their approval are issued by decree of the Ministry of Agriculture and Forestry. Provisions concerning the performance of studies and measures referred to in subsection 1 and the approval procedures other than those provided in the Gene Technology Act may also be issued by decree of the Ministry of Agriculture and Forestry. Statements from the Ministry of Social Affairs and Health and Ministry of the Environment must be requested prior to issuing provisions referred to in this subsection.

### Section 9

#### *Approval and registration of basic material*

- (1) Approval for basic material is applied for by an application addressed to the Plant Production Inspection Centre. Before approving the basic material the Plant Production Inspection Centre must verify that the material meets the requirements laid down in sections 7 and 8 either by inspecting the basic material or based on a reliable account presented by the applicant.
- (2) If the basic material meets the requirements laid down in subsection 1, the Plant Production Inspection Centre must make a decision on its approval and classification as well as enter the approved basic material into the register.
- (3) Further provisions on the application for approval may be issued by decree of the Ministry of Agriculture and Forestry.

Section 10  
*Master certificate*

- (1) The Plant Production Inspection Centre issues a master certificate for forest reproductive material derived from approved basic material. Should lots of forest reproductive material be combined, a new master certificate must be issued for such a lot.
- (2) A master certificate for a seed lot must be applied for from the Plant Production Inspection Centre no more than three months from the end of extraction and purification of the seed lot. Master certificates for clones or clonal mixtures produced by vegetative propagation must be applied for in good time before the marketing of the material.
- (3) As provided by European Community provisions, further provisions on the information to be given in the master certificate are issued by decree of the Ministry of Agriculture and Forestry.

Section 11  
*Separation, combination and identification of lots of forest reproductive material*

Lots of forest reproductive material must be identified and kept separate during all stages of the production process. Seed lots collected from the same seed orchard may, however, be combined. As provided by European Community provisions, further provisions on the identification and separation of lots of forest reproductive material are issued by decree of the Ministry of Agriculture and Forestry.

Chapter 4  
**Marketing of forest reproductive material**

Section 12  
*Fair marketable quality of forest reproductive material*

- (1) Forest reproductive material to be marketed must meet the requirements for material of fair marketable quality set out in Annex VII to Directive 1999/105/EC on the marketing of forest reproductive material as well as the further requirements for the health and external quality to be issued by decree of the Ministry of Agriculture and Forestry.
- (2) Forest reproductive material may be marketed only in lots which comply with section 11. Seed units to be marketed must be shut in a package which shows whether it has been opened before the next production stage or end use of the seed units.

Section 13  
*Information given to the buyer*

The packages of lots of forest reproductive material must be accompanied by labels or other documents which give the buyer the information to be provided by decree of the Ministry of Agriculture and Forestry, as provided by European Community provisions. When marketing imported forest reproductive material this must be accompanied either by a master certificate provided in section 10 or other official certificate from the country of origin and other export documents relating to the imported material.

Section 14  
*Exemption procedure*

- (1) Based on an application, the Plant Production Inspection Centre may grant a supplier of forest reproductive material a temporary permission to market reproductive material which does not meet the requirements laid down in this Act if there is not enough material which meets the requirements available within the Community and the relevant institution of the European Union approves the exemption. Granting a temporary licence is subject to the further condition that the material is suitable for the intended site in terms of its origin.
- (2) The application for exemption must be submitted in good time before the need for marketing the forest reproductive material arises. The Plant Production Inspection Centre forwards the application and a statement on the matter to the Ministry of Agriculture and Forestry for further measures.
- (3) Further provisions on the content of the application and the application procedure are provided by decree of the Ministry of Agriculture and Forestry as provided by European Community provisions concerning the production and marketing of forest reproductive material.

Chapter 5  
**Authorities**

Section 15  
*General steering and control*

The Ministry of Agriculture and Forestry is responsible for the general steering and control of the implementation of this Act.

Section 16  
*Control authorities*

- (1) The Plant Production Inspection Centre is responsible for the implementation of this Act, the control of the compliance with this Act and the provisions and regulations issued under this Act as well as the control arrangements.
- (2) Forestry Centres may assist in the control of the compliance with this Act for the part of inspections relating to the production and marketing of seeds of forest trees. Further provisions concerning the duties of the Forestry Centres under this Act may be issued by decree of the Ministry of Agriculture and Forestry.

Chapter 6  
**Inspections and control**

Section 17  
*General principles for organising the control*

- (1) The control of the production, marketing and import of forest reproductive material must be fair and equal as well as regular. Control measures must be relevant and they must be appropriately targeted at the different stages of the production and marketing of forest reproductive material as well as import.
- (2) The Customs Act (1466/1994) and provisions issued under the Customs Act apply, as appropriate, to the control of the import of forest reproductive material.

- (3) Further provisions on the organisation of the control may be issued by decree of the Ministry of Agriculture and Forestry.

Section 18  
*Inspection right*

During the approval procedure of basic material as well as the production, marketing and import of forest reproductive material the control authority has the right to carry out inspections without advance notification in seed orchards, seed collection stands, seed-extraction plants, forest-tree nurseries and other production sites as well as the points where forest reproductive material is collected, packaged, stored and purchased, including the taking of the necessary samples free of charge. The control authority also has the right to inspect the production accounts of the supplier of forest reproductive material. However, inspections may not be carried out in places covered by the domiciliary peace.

Section 19  
*Right of access to information*

The control authority has the right to obtain free of charge the necessary information and documents for the inspections and control referred to in this Act from the supplier of the forest reproductive material.

Section 20  
*Inspectors of the European Community*

The provisions concerning the right of inspections and access to information of the Finnish authorities laid down in sections 18 and 19 also apply to the inspectors of the European Community.

Section 21  
*Control registers*

- (1) The Plant Production Inspection Centre keeps registers for control purposes of the suppliers subject to the notification obligation referred to in section 5 and approved basic materials referred to in section 7, basic materials whose approval has been withdrawn as well as master certificates referred to in section 10.
- (2) Only information necessary for carrying out the duties provided in this Act as well as administrative information relating to the use of the register may be entered into the control register. In connection with keeping the registers information may also be collected for statistical purposes.
- (3) The following information on the suppliers of forest reproductive material shall be entered into the control registers:
  - 1) the name or business name of the supplier of forest reproductive material as well as personal identification code or business and corporation code, address and domicile;
  - 2) sector and line of business; and
  - 3) locations and addresses of seed-extraction plants and seed warehouses as well as nurseries and warehouses for planting stock.
- (4) Further provisions on the registers and information to be entered into the registers may be issued by decree of the Ministry of Agriculture and Forestry. Information is removed from the control

register within five years from the notification of terminating the operations as laid down in section 5(1).

- (5) The provisions laid down in Personal Data Act (523/1999) and Act on the Openness of Government Activities (621/1999) apply to the collection and recording of personal data into registers referred to in subsection 1 as well as to the use and disclosure of information recorded in the registers.

## Section 22

### *Disclosure of confidential information*

- (1) Notwithstanding the provisions on confidentiality laid down in the Act on the Openness of Government Activities, information concerning the financial position of a private person or corporation or business or professional secret obtained in connection with carrying out duties referred to in this Act may be disclosed to authorities referred to in sections 15 and 16 of this Act for carrying out duties as laid down in this Act.
- (2) Notwithstanding confidentiality, an authority involved in the implementation of this Act may disclose confidential information necessary to control that the European Community legislation has been complied with to the Ministry of Agriculture and Forestry to be forwarded to the relevant institutions of the European Community.

## Section 23

### *Exchange of information between Member States of the European Union*

A control authority may disclose information required for the control of Directive 1999/105/EC on the marketing of forest reproductive material to the authorities of the other Member States of the European Union. The provisions of the Personal Data Act shall be complied with when disclosing such information. Information on the financial position of a private person or corporation or business or professional secret may, however, not be disclosed.

## Section 24

### *Charges*

Charges to the State for performances provided in this Act are collected as laid down in the Act on the Charge Criteria of the State (150/1992).

## Chapter 7

### **Administrative coercive means**

## Section 25

### *Withdrawal of approval of basic material*

- (1) If basic material is no longer used or it cannot be used for the production of propagating material, the owner of the basic material or the applicant for the approval of basic material must notify the Plant Production Inspection Centre of this for the withdrawal of the approval.
- (2) Should the control authority discover that the basic material no longer meets the requirements laid down in this Act, it may also withdraw the approval of the basic material concerned. In such a case the Plant Production Inspection Centre must caution the owner of the basic material concerned or the applicant for approval provided in section 7 and, when necessary, set a time limit during which the basic material must meet the requirements laid down in the legislation. If

the basic material does not meet the requirements laid down in the legislation within the set time limit, the Plant Production Inspection Centre must withdraw the approval.

#### Section 26

##### *Marketing prohibition on forest reproductive material*

- (1) The Plant Production Inspection Centre may prohibit the marketing of a certain lot of forest reproductive material or prohibit a supplier engaged in the marketing and import of forest reproductive material to market forest reproductive material if the material, package or labelling of the material do not meet the requirements laid down in this Act or provisions issued under the Act. Prohibition may also be issued for the duration of necessary studies concerning the compliance with the requirements, if there is reasonable cause to suspect that the forest reproductive material, its package or labelling may not meet the relevant requirements. The Plant Production Inspection Centre may label the forest reproductive material in an appropriate manner to prevent its marketing.
- (2) Prohibition referred to in subsection 1 above must be temporary if the shortcoming it is based on can be corrected. Prohibition must be withdrawn without delay if the shortcoming has been removed or it is no longer relevant in terms of issuing a prohibition. If the shortcoming concerns only the package, labelling of forest reproductive material or similar technical detail, instead of a prohibition the Plant Production Inspection Centre must caution the supplier of the forest reproductive material and, when necessary, set a time limit during which the shortcoming is to be removed. If the shortcoming is not removed during the set time limit, the Plant Production Inspection Centre must prohibit the marketing of the material concerned.
- (3) If the use of forest reproductive material is found to have or there is reasonable cause to suspect that it may have adverse effects on forestry, the environment, genetic resources or biological diversity due to its phenotypic or genetic characteristics, the Ministry of Agriculture and Forestry may prohibit the marketing of the material concerned to the end user and impose conditions on its use, subject to the condition that the relevant institution of the European Union has issued a separate decision concerning the matter.

#### Section 27

##### *Regulation concerning the use, destroying or export of forest reproductive material*

If the marketing of forest reproductive material is prohibited under section 26, the Plant Production Inspection Centre may allow the use of forest reproductive material for other than forestry purposes or order it exported or destroyed. Further conditions may be attached to the decision concerning the procedures to be followed in its implementation.

#### Section 28

##### *Penalty payment and ordering a measure at the defaulter's expense*

- (1) The Plant Production Inspection Centre may reinforce a prohibition referred to in section 26 or an order concerning the use, destroying or export of forest reproductive material referred to in section 27 by a conditional imposition of a fine or ordering a measure taken at the defaulter's expense.
- (2) The provisions laid down in the Act on Conditional Imposition of a Fine (1113/1990) apply to matters concerning the penalty payments and ordering a measure at the defaulter's expense.



Chapter 8  
**Miscellaneous provisions**

Section 29  
*Appeal*

- (1) A decision of the Plant Production Inspection Centre issued on the grounds of this Act may be appealed to the Appeals Boards for Rural Industries, subject to the provisions concerning appeal laid down in the Administrative Judicial Procedure Act (586/1996).
- (2) A decision of the Appeals Board for Rural Industries may be appealed to the Supreme Administrative Court, subject to the provisions concerning appeal laid down in the Administrative Judicial Procedure Act. Provisions concerning the appeal of a decision of the Ministry of Agriculture and Forestry are also laid down in the Administrative Judicial Procedure Act.

Section 30  
*Implementation*

In decisions based on this Act it may be provided that the decision shall be complied with before its finality, unless otherwise ordered by the appeals authority.

Section 31  
*Penal provision and right to institute criminal proceedings*

- (1) A person who intentionally or due to gross negligence infringes against
  - 1) requirements for basic material used in the production of forest reproductive material laid down by decree of the Ministry of Agriculture and Forestry pursuant to section 7(1) and 7(2),
  - 2) requirements for the use of genetically modified material for the production of forest reproductive material laid down by decree of the Ministry of Agriculture and Forestry pursuant to section 8(2),
  - 3) in the production or marketing the requirements for forest reproductive material or lots of forest reproductive material laid down in sections 11 or 12 or by decree of the Ministry of Agriculture and Forestry pursuant to section 12(1) and in marketing the exemption procedure laid down in section 14,
  - 4) production accounts obligation or the obligation to keep the production accounts data laid down in section 6 and by decree of the Ministry of Agriculture and Forestry pursuant to section 6,
  - 5) notification obligation laid down in section 5 or section 6(2) or right of access to information laid down in section 13 or by decree of the Ministry of Agriculture and Forestry pursuant to section 13,
  - 6) marketing prohibition on forest reproductive material issued pursuant to section 26 or conditions on marketing issued pursuant to section 26(3) or order concerning the use, destroying or export of forest reproductive material issued pursuant to section 27,shall be sentenced to pay a fine for *infringement against trade in forest reproductive material*, unless a more severe punishment is provided by other legislation.
- (2) The provisions laid down in sections 39-41 of the Gene Technology Act apply to a person who infringes against the requirements concerning the use of genetically modified material in the production of forest reproductive material laid down in section 8(1).
- (3) The Plant Production Inspection Centre may decide not to notify the prosecutor of an infringement referred to in subsection 1 if the infringement as a whole may be considered a minor one and the public interest is not considered to call for prosecution. In such a case the

Plant Production Inspection Centre may caution the person who committed the infringement in writing, urging the person concerned to correct the detected irregularities.

- (4) The Plant Production Inspection Centre must be given the opportunity to be heard when an infringement referred to in subsection 1 is dealt with in the pre-trial investigation and District Court.

## Section 32

### *Forfeiture*

Forest reproductive material marketed in violation of this Act or provisions issued pursuant to this Act, together with the packages, or its value may be adjudged forfeit to the State in full or partly, unless this is not obviously unreasonable considering the circumstances. The provisions laid down in Chapter 10 of the Penal Code (39/1889) apply to the financial profit from an infringement of trade in forest reproductive material or adjudging an object or other property used for committing offences forfeit to the State.

## Section 33

### *Executive assistance*

When necessary the control authority has the right to executive assistance from other authorities for carrying out control and inspection duties laid down in this Act and in provisions issued pursuant to this Act.

## Section 34

### *Executive assistance between authorities of Member States of the European Union*

The control authority shall provide executive assistance to the authorities of other Member States of the European Union as provided by decree of the Ministry of Agriculture and Forestry, taking into consideration the European Community provisions concerning the production and marketing of forest reproductive material.

## Section 35

### *Entry into force*

- (1) This Act enters into force on 1 January 2003.
- (2) This Act repeals the Act of 24 August 1979 on Trade in Forest Reproductive Material (684/1979), as amended (*repealed Act*).
- (3) Measures necessary for the implementation of this Act may be undertaken before the Act's entry into force.

## Section 36

### *Transitional provisions*

- (1) A supplier of forest reproductive material who has been registered into a register of the Ministry of Agriculture and Forestry under the repealed Act is considered to be registered under this Act.
- (2) Basic material which has been approved before the entry into force of this Act and which meets the requirements laid down in sections 7-8 may be considered approved by virtue of section 9 of this Act, if the Plant Production Inspection Centre is notified of the basic material concerned no later than 31 March 2003. However, a master certificate referred to in section 10 must be applied for forest reproductive material produced from such basic material by the said date.

- (3) The provisions laid down in section 7 do not, however, concern a seed lot collected before the entry into force of this Act or planting stock or other forest reproductive material whose raising has been started before the entry into force of this Act. When marketing such forest reproductive material after the entry into force of this Act, the buyer must be notified that the forest reproductive material concerned is material referred to in this Act.

Helsinki, 5 April 2002