

# **Act on the Placing on the Market of Timber and Timber Products**

## **Section 1**

### **Purpose of the Act**

This act implements in Finland Regulation (EU) No 995/2010 of the European Parliament and of the Council laying down the obligations of operators who place timber and timber products on the market, hereinafter the Timber Regulation, and legal acts of the European Union issued by virtue of this Regulation.

## **Section 2**

### **Competent authority**

The competent authority referred to in the Timber Regulation shall be the Agency for Rural Affairs. Additionally, the Finnish Forest Centre, the Finnish Food Safety Authority, the Customs and the Finnish Environment Institute shall perform tasks assigned to them associated with the implementation of this act.

## **Section 3**

### **Definitions**

The following definitions are used in this Act:

- 1) timber and timber products mean timber and timber products referred to in Article 2 a of the Timber Regulation;
- 2) operator means a natural or legal person referred to in Article 2 c of the Timber Regulation;
- 3) a trader means a natural or legal person referred to in Article 2 d of the Timber Regulation;
- 4) illegally harvested timber means timber referred to in Article 2 g of the Timber Regulation;
- 5) due diligence system means a system referred to in Article 4(2) of the Timber Regulation;
- 6) traceability means information on the supply chain of timber or timber products referred to in Article 5 of the Timber Regulation.

## Section 4

### Supervision

The Agency for Rural Affairs shall be responsible for supervising the implementation of the Timber Regulation and organising this supervision.

## Section 5

### Checks

The Agency for Rural Affairs shall have the right to carry out checks to the extent that this is required in order to supervise compliance with the European Union legal acts referred to in section 1 in vehicles as well as on business, storage or other similar premises used for practising a profession or a trade and in other areas where documents related to a due diligence system or traceability, or timber or timber products, are found. The provisions of section 39 of the Administrative Procedure Act (434/2003) shall be complied with while carrying out such checks. Checks may not be conducted on premises used for permanent residence.

When requested to do so by the Agency for Rural Affairs, external experts may provide assistance in the checks. The provisions of the Administrative Procedure Act, the Language Act (423/2003), the Sámi Language Act (1086/1993), the Act on the Openness of Government Activities (621/1999) and sections 14 and 15 of State Civil Servants Act (750/1994) shall apply to an external expert. Provisions on criminal liability for acts in office shall be applied to an expert who is performing tasks referred to in this act. Provisions on liability are contained in the Tort Liability Act (412/1974).

Operators, traders and other persons who are the object of a check shall assist the Agency for Rural Affairs in carrying out the check. When carrying out a check, the Agency for Rural Affairs shall have the right to take possession of documents pertaining to a due diligence system and traceability of timber and timber products or their copies and other material to be inspected if this is essential in order to investigate matters that the check concerns. In addition, the Agency for Rural Affairs shall have the right to carry out tests related to timber or timber products and take the necessary amount of samples for supervision purposes free of charge in connection with a check.

The Finnish Forest Centre and the Finnish Food Safety Agency shall have the right to carry out a check referred to in this section when authorised to do so by the Agency for Rural Affairs.

## Section 6

### Access to information from operators and traders

The Agency for Rural Affairs shall have the right to obtain information from operators and traders that is necessary for supervising compliance with European Union legal acts referred to in section 1.

The same right applies to the Finnish Forest Centre and the Finnish Food Safety Authority when they have been granted authority referred to in section 5(4) by the Agency for Rural Affairs to carry out a check on an operator or a trader.

The right of access to information referred to in subsection 1 above shall also encompass information on private business or the financial position of a private individual that would otherwise be secret.

## **Section 7**

### **Access to information from authorities and other actors performing public administrative tasks**

Regardless of secrecy provisions, the Agency for Rural Affairs, the Finnish Forest Centre, the Finnish Food Safety Agency, the Customs and the Finnish Environment Centre have the obligation to provide each other with the information necessary for supervising compliance with the legal acts of the European Union referred to in section 1. Regardless of secrecy provisions, the aforementioned authorities and the Finnish Forest Centre shall have the right to obtain from other authorities or parties performing public administrative tasks the information necessary for supervising compliance with the legal acts of the European Union referred to in section 1.

The Finnish Forest Centre shall, on its own initiative, notify the Agency for Rural Affairs if it has substantiated grounds to suspect an act or neglect referred to in section 18 of the Forest Act (1093/1996) that is related to submitting a forest use declaration or felling trees. However, the Finnish Forest Centre shall not have an obligation to report in situations where remedial measures related to an illegal measure referred to in section 20 of the Forest Act have been taken, or if under section 22 of the Forest Act, reporting the deed to the police can be waived by the Finnish Forest Centre.

The information referred to in subsections 1 and 2 above may be disclosed using a technical interface. As an exception to section 8(1) of the Act on the Forest Information System of the Finnish Forest Centre (419/2011), the Finnish Forest Centre has the duty to set up a technical interface to the forest information system for the use of the Agency for Rural Affairs in order to disclose information referred to in subsections 1 and 2.

## **Section 8**

### **Issuing a notice**

In the event that shortcomings in compliance with the obligation regarding a due diligence system are observed in the course of supervision activities or otherwise, the Agency for Rural Affairs shall issue the operator with a written notice urging them to rectify the shortcoming or to cease incorrect action as well as set a deadline by which this must be completed. This also applies to supervision of compliance with the obligations related to the traceability of timber and timber products.

## Section 9

### Order to take remedial action, prohibition and conditional fine

If shortcomings in a due diligence system have not been rectified as set out in a notice referred to in section 8 and by the set deadline, the Agency for Rural Affairs shall order the operator to take remedial action to rectify the shortcomings within a deadline set by the Agency. This order may only be issued if:

- 1) an operator has placed timber or timber products on the market without a due diligence system, or
- 2) significant shortcomings have been repeatedly found in the operator's due diligence system.

The Agency for Rural Affairs may prohibit an operator from placing on the market timber or timber products for the part of which the operator has not complied with an order to take remedial action referred to in subsection 1. The prohibition shall be issued for a fixed period, and its period of validity may not exceed three months. In the event that the operator places timber or timber products on the market seasonally, however, the prohibition may be valid for no more than one year. The prohibition shall be revoked immediately once the shortcomings in the due diligence system have been rectified in a manner approved by the Agency for Rural Affairs.

The Agency for Rural Affairs may enforce a prohibition laid down in subsection 2 with a conditional fine. Provisions on conditional fines are contained in the Act on Conditional Fines (1113/1990). The Agency for Rural Affairs shall supervise compliance with the prohibition. As regards imports, however, compliance with a prohibition shall be supervised by the Customs.

## Section 10

### Executive assistance

The Agency for Rural Affairs has the right, where necessary, to obtain executive assistance from other authorities in order to carry out supervision and checks referred to in this act.

## Section 11

### Reporting to a pre-trial authority and hearing of the Agency for Rural Affairs

If the Agency for Rural Affairs has substantiated grounds to suspect that an act referred to in section 12 has been committed, it is obliged to report this to a pre-trial investigation authority in order for a pre-trial investigation to be conducted. However, the Agency for Rural Affairs may waive submitting the report if the act is minor considering the circumstances and a closer investigation of the matter for reasons of public interest is not required.

Before bringing charges for a timber infringement or a timber offence, the prosecutor shall consult the Agency for Rural Affairs. When hearing a case that concerns such an infringement or offence, a court shall reserve the Agency for Rural Affairs an opportunity to be heard.

## **Section 12**

### **Penalties**

Penal provisions on a timber offence are contained in Chapter 48a, section 3b of the Criminal Code (39/1889).

A person who deliberately violates

1) the obligation of following a due diligence system referred to in Article 4 of the Timber Regulation, or

2) the obligation of traceability referred to in Article 5 of the Timber Regulation,

shall be, unless a more severe punishment has been provided for the act elsewhere in the law, for a timber infringement to a fine.

Sentencing a person who has violated a prohibition subject to a conditional fine issued under section 9 to a punishment may be waived if the conditional fine has been ordered to be paid under an enforceable decision.

## **Section 13**

### **Forfeiture and costs of confiscation**

Provisions on forfeiture are contained in Chapter 10 of the Criminal Code. Illegal timber or timber products that are ordered to be forfeited to the state may be sold in a public auction.

The operator shall reimburse the state for the costs incurred for storing the timber or timber products while they were confiscated.

The costs referred to in subsection 2 above may be deducted from the price of timber or timber products sold in a public auction. However, the operator shall reimburse the state for any costs that cannot be covered as the timber or timber products are sold in a public auction.

## **Section 14**

### **Guidance and supervisory tasks of the Ministry of Agriculture and Forestry**

The Ministry of Agriculture and Forestry shall supervise the activities of the Agency for Rural Affairs regarding the performance of the tasks imposed on the Agency in this act. Regardless of secrecy provisions, the Ministry shall have the right to obtain information necessary for this supervision from the Agency for Rural Affairs and to carry out inspections of the activities of the Agency for Rural Affairs that are necessary for supervising compliance with this act.

The Agency for Rural Affairs shall prepare the report referred to in Article 20(1) of the Timber Regulation and submit it to the Ministry of Agriculture and Forestry four weeks before the deadline referred to in the aforementioned regulation. The Agency for Rural Affairs may only submit the report to the Commission after it has been approved by a decision of the Ministry of Agriculture and Forestry.

## **Section 15**

### **European Union inspectors**

The provisions in sections 5—7 on the rights of Finnish authorities to carry out checks and access information shall also apply to European Union institutions and the competent authorities of European Union Member States when these authorities carry out checks in cooperation with the Agency for Rural Affairs. The provisions in sections 5—7 shall in this case also apply to the Ministry of Agriculture and Forestry.

## **Section 16**

### **Entry into force**

This act shall enter into force on of 20 .

2.

### **Act amending Chapter 48a of the Criminal Code**

A new section 3b shall be added to Chapter 48a of the Criminal Code (39/1889) as follows:

Chapter 48a

Natural resources offences

Section 3b

## Timber offence

A person who, in violation of Regulation (EU) No 995/2010 of the European Parliament and of the Council laying down the obligations of operators who place timber and timber products on the market, in a professional capacity places on the market illegally harvested timber or timber products made from such timber shall be, unless a more severe penalty has been provided elsewhere in law, sentenced for a timber offence to a fine or to imprisonment for at most six months.