

Translation from Finnish

Legally binding only in Finnish and Swedish

Ministry of Agriculture and Forestry, Finland

Act on Managing the Risks Caused by Alien Species

(1709/2015; amendments up to 682/2019 included)

Section 1

Purpose of the Act

This Act lays down the supplementary provisions on the application of Regulation (EU) No 1143/2014 of the European Parliament and of the Council on the prevention and management of the introduction and spread of invasive alien species (*IAS Regulation*).

This Act also lays down provisions on certain other measures to prevent and mitigate the adverse impacts of alien species.

Section 2

Definitions

The definitions of alien species, invasive alien species, biodiversity, eradication and containment are laid down in Article 3 of the IAS Regulation.

In this Act:

- 1) *invasive alien species included in the Union list* means an invasive alien species included in the list of invasive alien species of Union concern referred to in Article 4(1) of the IAS Regulation;
- 2) *operator* means a natural or legal person who on a professional basis produces, stores, places on the market, transports, transmits or sells or otherwise conveys a product or material in which an invasive alien species included in the Union list or an invasive alien species of national concern specified by the government decree referred to in section 11, subsection 3 may on the basis of generally available knowledge spread to the environment.

Section 3

Ban on releasing an alien species into the environment

An alien species shall not be kept, bred, planted or sown or otherwise handled in such a way that it may be released into the environment.

The provisions in subsection 1 shall not apply to:

- 1) planting of plant seedlings or sowing plant seed in a yard, enclosure, arable land or built-up area where there is no risk of the species spreading outside the area where it is planted or sown;
- 2) planting of tree seedlings or sowing tree seeds as specified in the Forest Act (1093/1996);
- 3) release of a game animal or game animal strain of foreign origin into the wild with a permit of the Finnish Wildlife Agency as referred to in section 42 of the Hunting Act (615/1993);
- 4) stocking of fish and crayfish or release of fish or crayfish species other than those naturally present in Finland or their stocks or gametes into natural waters where this is allowed under the Fishing Act (379/2015);
- 5) use of a macroorganism to be considered as an alien species in biological prevention or pollination where this is allowed under section 9a and 9b of the Plant Health Protection Act (702/2003).

Section 4

Obligation of a property owner and manager

A property owner or manager shall see that reasonable measures are taken to eradicate or contain an invasive alien species included in the Union list or of national concern present in the property if the presence or spreading of the invasive alien species may cause significant damage to biodiversity or danger to health or safety.

The provisions in subsection 1 shall not apply to birds or mammals.

When assessing what are to be considered as reasonable measures referred to above in subsection 1, the usual means available to eradicate or contain the invasive alien species, costs arising from the measures and the benefit to be gained from the measures relative to the costs shall be taken into account.

Section 5

Obligation of an operator

An operator shall see that the product or material produced, stored, placed on the market, transported, transmitted, sold or otherwise conveyed by the operator does not contain an invasive alien species included in the Union list or of national concern which may spread in the product or material outside the area managed by the operator.

The provisions on the obligation of an operator in subsection 1 shall not apply to the storage or transportation of goods or material on behalf of another party.

Section 6

General steering

The Ministry of Agriculture and Forestry steers and monitors the enforcement of this Act in cooperation with the Ministry of Transport and Communications and Ministry of the Environment.

Section 7 (682/2019)

Authorities

Subject to the provisions below in this section, the Centre for Economic Development, Transport and the Environment shall control the compliance with the IAS Regulation and this Act. The Centre for Economic Development, Transport and the Environment shall decide on the application of rapid eradication measures in accordance with Articles 17 and 18 of the IAS Regulation.

Customs shall control the importation referred to in Article 15 of the IAS Regulation and the compliance with the ban on importation from outside the European Union referred to in section 11, subsection 2, paragraph 2 of this Act.

The Regional State Administrative Agency for Southern Finland shall act as the permit authority referred to in Articles 8 and 9 of the IAS Regulation and be responsible for the control of the establishments specified in the permits.

The provisions of section 88 of the Hunting Act concerning the control of the compliance with the law apply to the control of the compliance with the provisions issued in this Act or under it concerning the capturing and killing of a bird or mammal species released into the environment.

The provisions on the control of the compliance with provisions concerning animal welfare are laid down in the Animal Welfare Act (247/1996).

Section 8 (682/2019)

Duties of the Natural Resources Institute Finland, Finnish Environment Institute and Finnish Wildlife Agency

The Natural Resources Institute Finland shall manage the duties laid down for it concerning the enforcement of this Act.

The Finnish Environment Institute and Finnish Wildlife Agency shall produce the necessary expert services for the enforcement of this Act in their respective spheres of operations. The Finnish Wildlife Agency shall also manage the public administration duties under the Hunting Act related to the enforcement of section 16 of this Act.

Section 9

Plans

The Ministry of Agriculture and Forestry approves the action plan referred to in Article 13 of the IAS Regulation and the plan concerning the management measures referred to in Article 19 of the IAS Regulation. When preparing the plans, the authorities and parties whose operations or interest are in particular concerned by the matter and national associations and foundations referred to in section 186 of the Environmental Protection Act (527/2014) shall be given the opportunity to give their statement on the draft plans. The draft shall be published in a public information network and the public shall be given the opportunity to express their opinion at a sufficiently early stage. An approved plan and how the opinions presented have been taken into account shall be communicated in a public information network.

Section 10

Authorisations

The Ministry of Agriculture and Forestry may apply to the European Commission for the authorisation referred to in Article 9 of the IAS Regulation.

Section 11

Invasive alien species of national concern

Invasive alien species to be considered as species of national concern are invasive alien species not included in the Union list which on the grounds of available scientific evidence may cause damage to biodiversity or other damage to wild fauna or risk to health or safety.

An invasive alien species of national concern may not be:

- 1) released into the environment;
- 2) intentionally imported from outside the European Union or a Member State of the European Union, kept, bred, transported, placed on the market, transmitted or sold or otherwise conveyed.

Further provisions on the species that are invasive alien species of national concern or taxonomic groups of such species are laid down by government decree. Provisions may be issued by government decree that a ban laid down in subsection 2, paragraph 2 or obligation laid down in section 4 or 5 does not apply to an invasive alien species or a certain use of the species in a certain or any part of the country if the ban or obligation is not to be considered justified to reduce the damage or risk referred to in subsection 1. Provisions may also be laid down by government decree that, within a transitional period to be laid down by decree, a ban referred to in subsection 2, paragraph 2 does not apply to specimens of a species one has gained possession of before the entry into force of the decree. The transitional period to be laid down by decree shall be no more than two years from the entry into force of the decree. If a ban referred to in subsection 2, paragraph 2 concerns an animal species, provisions may be laid down by decree that the owner may keep the animal in his or her possession until its natural death.

Section 12

Permit application and provisions to be issued in the permit

Further provisions may be issued by government decree on the content of the application referred to in Article 8(4) of the IAS Regulation and the evidence necessary for the consideration of the permit to be attached to the application.

Further provisions may be issued by government decree on the terms and conditions to be issued in the permits referred to in sections 8 and 9 of the IAS Regulation.

Section 13

Withdrawal of a permit

The Regional State Administrative Agency for Southern Finland may withdraw a permit granted under Article 8 or 9 of the IAS Regulation if the terms and conditions of the permit have been violated in an essential way or the operations have not been rendered compliant with the permit.

In addition to the provisions in subsection 1, provisions on the withdrawal of a permit granted under Articles 8 and 9 of the IAS Regulation are laid down in Article 8(5) of the IAS Regulation.

Further provisions may be issued by government decree on the procedure to be followed in the withdrawal of a permit.

Section 14

Right to obtain information and perform inspections

Notwithstanding the provisions on secrecy, the Centre for Economic Development, Transport and the Environment, Customs and Regional State Administrative Agency for Southern Finland have the right to obtain information necessary for the control of the compliance with the IAS Regulation and this Act from each other, an operator and a party engaged in operations subject to a permit under the IAS Regulation or referred to in section 11, subsection 2, paragraph 2 of this Act.

To perform their duties, the Centre for Economic Development, Transport and the Environment and the Regional State Administrative Agency for Southern Finland or a public servant or public office holder designated by these have the right to:

- 1) move about in the area of another party;
- 2) gain access to premises where operations subject to a permit under Article 8 or 9 of the IAS Regulation or operations referred to in section 11, subsection 2, paragraph 2 of this Act are practised;
- 3) conduct inspections and analyses, perform measurements and take samples.

The provisions in section 39 of the Administrative Procedure Act (434/2003) shall be complied with in the inspections.

The provisions in subsection 2 do not apply to premises used for residential purposes on a permanent basis.

Provisions on the powers of Customs are laid down in the Customs Act (1466/1994).

Section 15

Use of an assistant in control

When performing a duty under section 14, subsection 2, an authority may also seek assistance of a person other than one in the position of a public servant or public office holder. The assisting person shall have sufficient qualifications with regard the nature of the duty.

The assisting person is subject to the provisions on criminal liability for acts in office when performing duties referred to in this section. Provisions on the liability for damages are laid down in the Tort Liability Act (412/1974).

Section 16 (682/2019)

Capturing and killing of a bird or mammal species released into the environment

Subject to provisions in this section, a bird or mammal species released into the environment that is included in the Union list or is of national concern may be captured and killed in compliance with the provisions on the capturing and killing of an unprotected bird or mammal laid down in the Hunting Act or under it.

The provisions in subsection 1 also apply to another bird or mammal species to be considered as an alien species that is not covered by the Hunting Act or Nature Protection Act (1096/1996).

By derogation from section 25, subsection 1 of the Hunting Act, a mammal referred to in this section may be shot in a trap used to capture it.

Hunting devices and hunting methods referred to in section 33, subsection 1, paragraphs 1–3 and 6-14 shall not be used in the capturing and killing of a bird and mammal referred to in this section.

In addition to the provisions in subsection 4, restrictions may be laid down by government decree concerning:

- 1) a certain hunting device or hunting method;
- 2) an area or time for using a hunting device or hunting method;
- 3) the animal species to be captured.

In addition to the provisions in subsection 4, restrictions may be laid down by government decree concerning:

- 1) the characteristics and use of firearms and cartridges referred to in section 6 of the Firearms Act (1/1998);
- 2) the characteristics and use of a hunting bow and arrow;
- 3) the characteristics and use of air guns.

Provisions on the prohibition to inflict undue pain and distress on animals are laid down in section 3 and provisions on the killing of animals in section 32 of the Animal Welfare Act.

Section 17

Rectifying an infringement or negligence

The Centre for Economic Development, Transport and the Environment may:

- 1) prohibit one who in violation of Article 7(1) of the IAS Regulation or this Act or a provision issued under it keeps, breeds, transports, places on the market, transmits or sells or otherwise conveys an invasive alien species included in the Union list or of national concern from continuing or repeating a procedure that is in violation of the said provisions;
- 2) order one who intentionally or through negligence releases into the environment an invasive alien species included in the Union list or of national concern to eradicate the species released into the environment;
- 3) order one who intentionally or through negligence violates the ban on the release into the environment laid down in section 3, subsection 1 to eradicate the species released into the environment as a consequence of the violation of the ban;
- 4) order a property owner or manager to fulfil the obligation laid down in section 4;
- 5) order an operator to fulfil the obligation laid down in section 5.

The Centre for Economic Development, Transport and the Environment shall, when issuing an order referred to in subsection 2, paragraph 2 or 3, also issue an order on how the bird or mammal species to be considered as an alien species or invasive alien species is to be eradicated.

The Centre for Economic Development, Transport and the Environment shall, unless this is manifestly unnecessary, strengthen the ban or order issued under subsection 1 by a notice of a conditional fine or notice of enforced compliance at the defaulter's expense.

Unless a matter referred to in subsection 1 has been initiated by the Centre for Economic Development, Transport and the Environment, the matter can be initiated in writing by the municipality or joint municipal authority in whose territory the infringement or negligence is detected or to whose territory the impacts of the infringement or negligence may extend, as well as by an authority supervising the general interest or by another party managing a public administration duty.

Section 18

Seizure and destruction

The Centre for Economic Development, Transport and the Environment or a public servant or public office holder designated by this may order an invasive alien species kept in possession in violation of the IAS Regulation or this Act or a provision issued under it to be seized and destroyed.

The right laid down in subsection 1 above also applies to the Regional State Administrative Agency for Southern Finland or a public servant or public office holder designated by this when they are performing a control duty referred to in section 7, subsection 3.

Provisions on the seizure of goods are laid down in the Coercive Measures Act (806/2011).

Section 19

Appeal

A decision of the Centre for Economic Development, Transport and the Environment and Regional State Administrative Agency for Southern Finland may be appealed against to the Administrative Court as provided in the Administrative Judicial Procedure Act (586/1996). A decision of the

Administrative Court may be appealed against only if the Supreme Administrative Court grants permission to appeal.

A decision made by Customs is appealed against as provided in the Customs Act.

Section 20

Notification of a pre-trial investigation authority

If the Centre for Economic Development, Transport and the Environment has probable cause to suspect that an act referred to in section 21 has occurred, it shall notify the police or Customs of the matter for pre-trial investigation. Notification may, however, be waived if the act is a minor one considering the circumstances and general interest does not demand further inquiry into the matter.

Section 21 (682/2019)

Penalties

One who in violation of Article 7 of the IAS Regulation or section 11, subsection 2, paragraph 2 of this Act or a permit granted under or Article 8 or 9 of the IAS Regulation intentionally

- 1) keeps, breeds or sells or otherwise conveys,
- 2) uses or transports on one's own account or conveys to be transported on his or her account or
- 3) places on the market

an invasive alien species included in the Union list or of national concern shall be sentenced to a fine *for violating the provisions on invasive alien species*, unless a more severe punishment is provided elsewhere in the law.

Unless a more severe punishment is provided elsewhere in the law, one who in violation of the IAS Regulation or section 3, subsection 1 or section 11, subsection 2, paragraph 1 of this Act intentionally or through negligence releases into the environment an invasive alien species included in the Union list or of national concern or an alien species referred to in section 3, subsection 1 shall also be sentenced for violating the provisions on invasive alien species.

Unless a more severe punishment is provided elsewhere in the law, one who intentionally or through negligence captures or kills a bird or mammal referred to in section 16 in violation of the provisions in section 16, subsections 1–4 or in violation of a provision of a government decree issued under section 16, subsection 5 or 6 shall also be sentenced for violating the provisions on invasive alien species.

A punishment imposed under section 17 on one who violates a ban or order strengthened by a notice of conditional fine may be waived regarding the same act if an order has been issued by a final decision concerning the payment of the conditional fine.

The punishment for a regulation offence is provided in chapter 46, sections 1–3 of the Criminal Code (39/1889). The punishment for smuggling is provided in chapter 46, sections 4 and 5 of the Criminal Code. The punishment for unlawful dealing in imported goods is provided in chapter 46, sections 6 and 6a of the Criminal Code.

Section 22

Decree of the Ministry of Agriculture and Forestry

Provisions of the qualifications of the person referred to in Article 8(2)(b) of the IAS Regulation are laid down by decree of the Ministry of Agriculture and Forestry.

Section 23

Entry into force

This Act enters into force on 1 January 2016. However, sections 4 and 5 of the Act enter into force on 1 January 2017.

682/2019:

This Act enters into force on 1 June 2019.