

Act on the Implementation of the Nagoya Protocol to the Convention on Biological Diversity

Section 1

Purpose of the Act

- (1) This Act implements certain provisions of the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity, done at Nagoya on 29 October 2010 (Treaty Series of the Statutes of Finland 78/1994) (*Nagoya Protocol*).
- (2) This Act also implements certain provisions of the Regulation (EU) No 511/2014 of the European Parliament and of the Council on compliance measures for users from the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization in the Union (*EU Genetic Resources Regulation*).

Section 2

Scope of application

- (1) This Act applies to imported genetic resources and traditional knowledge of indigenous communities associated with them that are subject to the provisions concerning a Party to the Nagoya Protocol implementing the provisions of the Protocol concerning the access to genetic resources and traditional knowledge of indigenous communities associated with them and the sharing of benefits arising out of such knowledge.
- (2) This Act shall not apply to genetic resources that are subject to provisions concerning access to them and sharing of benefits laid down in another international agreement that is binding on Finland. This Act shall not apply to genetic resources that are subject to the conditions of the Multilateral System under the provisions of the International Treaty on Plant Genetic Resources for Food and Agriculture (Treaty Series of the Statutes of Finland 90/2004).
- (3) This Act shall not apply to human genetic resources.

Section 3

Relationship to other legislation

Provisions on the contained use and deliberate release into the environment of genetically modified organisms are laid down in the Gene Technology Act.

Section 4

Definitions

In this Act:

- 1) genetic resources means the genetic resources as defined in Article 3, paragraph 2 of the EU Genetic Resources Regulation;
- 2) traditional knowledge of the Saami people associated with genetic resources means knowledge, skills and competence to be specified in the mutually agreed terms which has evolved and which is being maintained in the Saami culture and which has been passed on from one generation to the next in accordance with the tradition;
- 3) user means a user as defined in Article 3, paragraph 4 of the EU Genetic Resources Regulation;

- 4) mutually agreed terms means the mutually agreed terms as defined in Article 3, paragraph 6 of the EU Genetic Resources Regulation.

Section 5

User's obligation to provide notification

- (1) A user who imports to Finland genetic resources or traditional knowledge of indigenous communities associated with it that are subject to the provisions concerning a Party to the Nagoya Protocol on the access and the sharing of benefits shall provide notification to the competent authority within one month from the import date.
- (2) The notification shall contain the information referred to in section 4, paragraph 3 of the EU Genetic Resources Regulation.

Section 6

Database of the Saami people

- (1) The Saami Parliament manages a database in which traditional knowledge of the Saami people associated with genetic resources intended for research and development purposes can be recorded.
- (2) The Saami parliament shall provide notification to the competent authority of the genetic resources that the knowledge in the database concerns.

Section 7

Access to traditional knowledge of the Saami people associated with genetic resources

- (1) The right to access the knowledge in the database referred to in section 6 is applied for from the competent authority. The application shall specify the genetic resource concerned, the purpose of use of the knowledge associated with it and the user. The competent authority shall notify the Saami Parliament of the application.
- (2) The delivery of knowledge from the database to the user requires that the competent authority approves the mutually agreed terms between the Saami Parliament and the user. The Saami Parliament may require fair and equitable sharing of benefits arising from the utilization of the knowledge to be delivered to the Saami people in a way that this promotes the language and culture of the Saami people and their position as an indigenous people.
- (3) Where necessary, the competent authority shall negotiate with the Saami Parliament on the mutually agreed terms. The provisions on the obligation to negotiate in section 9 of the Sámi Parliament Act (974/1995) apply to the negotiations.

Section 8

Prohibition to weaken the rights of the Saami people

The use of traditional knowledge contained in the database referred to in section 6 above shall not, to more than a minor extent, weaken the opportunities of the Saami people to use their rights as an indigenous people to maintain and develop their culture and to engage in their traditional livelihoods.

Section 9

General steering and supervision

The general steering and supervision of this Act is the responsibility of the Ministry of the Environment.

Section 10

National focal point

- (1) The national focal point referred to in Article 13, paragraph 1 of the Nagoya Protocol in Finland is the Finnish Environment Institute.
- (2) The task of the national focal point is to make information available for the public on access to genetic resources and traditional knowledge of the Saami people associated with them and the related procedure. In addition, the national focal point shall be responsible for liaison with the Secretariat of the Nagoya Protocol.

Section 11

Competent authorities

- (1) The competent authorities referred to in Article 13, paragraph 2 of the Nagoya Protocol and Article 6, paragraph 1 of the EU Genetic Resources Regulation in Finland are the Finnish Environment Institute and Natural Resources Institute Finland.
- (2) In matters that fall within the scope of this Act the responsibilities of the Natural Resources Institute Finland include the genetic resources of livestock and agriculture, forests, game animals and fisheries, the genetic resources of crop wild relatives used in foodstuffs, agriculture or breeding and the traditional knowledge of indigenous communities associated with these. The responsibilities of the Finnish Environment Institute include other genetic resources and the traditional knowledge of indigenous communities associated with these.

Section 12

Functions of the competent authorities

- (1) The competent authorities supervise the compliance with this Act and the EU Genetic Resources Regulation and the provisions issued under these. The competent authorities shall cooperate with each other, as appropriate.
- (2) In addition to the provisions on the functions of the competent authorities in the EU Genetic Resources Regulation, the competent authorities are responsible for the public authority functions referred to in Article 5 of the Regulation, associated with the register of collections.
- (3) The competent authorities shall make the information referred to in Article 14, paragraph 2 of the Nagoya Protocol available to the Access and Benefit-sharing Clearing-House, and bear the responsibility for the monitoring and reporting under Article 29 of the Protocol.

Section 13

Right to obtain information and perform inspections

- (1) The competent authorities have the right to perform inspections required for the supervision. To perform the inspections the competent authorities shall have the right of access to any premises where information that is relevant with regard to the supervision of the compliance with this Act or the EU Genetic Resources Regulation is kept. However, an inspection may not be performed in premises used for a residential purpose of a permanent nature. The provisions laid down in section 39 of the Administrative Procedure Act (434/2003) shall be complied with in the inspections.
- (2) In an inspection the user shall present all the documents requested by the competent authority that are necessary for performing the inspection. In addition, the competent authority shall be provided with copies of the documents requested by the competent authority that are necessary for performing the inspection free of charge. The competent authority also has the right to take photographs and samples during the inspection.
- (3) Provisions on how the information concerning an inspection is to be kept and made available are laid down in Article 10 of the EU Genetic Resources Regulation.

Section 14

Executive assistance

Where necessary, the police shall provide the competent authority with executive assistance in performing the tasks laid down in section 13.

Section 15

Notice of a conditional fine, notice of enforced compliance and notice of enforced suspension

- (1) If a user neglects the obligation to provide notification referred to in section 5, the competent authority may oblige the user to provide the notification by a notice of a conditional fine or notice of enforced suspension of activities either fully or partly.
- (2) Provisions on the notice of a conditional fine, notice of enforced compliance and notice of enforced suspension are laid down in the Act on Conditional Fine (1113/1990).

Section 16

Appeal

A decision of the competent authority referred to in section 7(2) and section 15 may be appealed as laid down in the Administrative Judicial Procedure Act.

Section 17

Violation of the rules on genetic resources

A user who intentionally or through gross negligence

- 1) fails to comply with the obligations laid down for the user in the access and benefit-sharing legislation or regulatory requirements referred to in Article 4, paragraph 1 of the EU Genetic Resources Regulation;
- 2) neglects the obligation laid down in Article 4, paragraph 3 of the EU Genetic Resources Regulation to seek, keep and transfer to subsequent users the information specified in paragraph 3, subparagraphs a and b;
- 3) neglects the obligation laid down in Article 4, paragraph 6 of the EU Genetic Resources Regulation to keep the information referred to in Article 4, paragraph 3 for 20 years after the end of the period of utilisation; or
- 4) neglects the declaration obligation and obligation to submit information laid down in Article 7, paragraph 2 of the EU Genetic Resources Regulation or in the implementing acts adopted under Article 7, paragraph 6 of the Regulation

shall be sentenced to a fine for a violation of the rules on genetic resources, unless the deed is to be considered a minor one or a more severe punishment is laid down in other legislation.

Section 18

Entry into force

- (1) The provisions on the entry into force of this Act are laid down by Government decree.
- (2) This Act shall not apply to genetic resources imported before the entry into force of this Act or traditional knowledge of indigenous communities associated with these.