

4.6.2021/487

Act on the Legal Status of Foreigners Picking Natural Products

By decision of Parliament, the following is enacted:

Section 1

Purpose of the Act

The purpose of this Act is to improve the legal status and earning potential of foreigners picking natural products, and to harmonise conditions for business operations in the natural product picking sector.

Section 2

Scope of application

This Act shall govern the legal status of foreigners picking natural products, and the mutual rights and duties of pickers and operators in the natural product picking sector.

In this Act, a *natural product picking sector operator* shall mean a person who, when a visa is requested, invites a picker to Finland, and a person who has not invited a picker to Finland but who, either in person or on behalf of some other party, arranges accommodation, picking tools and equipment or vehicles for a picker with the principal purpose of enabling a purchase from the picker of natural products picked by the picker.

This Act shall apply to the natural products referred to in section 89 of the Income Tax Act ([1535/1992](#)), which may be picked under the right to roam without the consent of the landowner.

Section 3

Relationship to other legislation

The entry into, exit from, and residence and work of an foreigner in Finland are governed by the Foreigners Act ([301/2004](#)).

The rights and duties of a picker and of a natural product picking sector operator during the residence and work of the picker in Finland shall be determined in accordance with the legislation in force and with the provisions of this Act. Any contractual term that derogates from the provisions of this Act to the detriment of the picker shall be null and void.

If the legal relationship between the picker and the natural product picking sector operator fulfils the characteristics of an employment contract laid down in chapter 1, section 1, subsection 1 of the Employment Contracts Act ([55/2001](#)), then the said Act shall apply instead of this Act.

Section 4

Rights of pickers

Pickers shall be entitled to:

- 1) sell the natural products that they have picked to the party of their choice,
- 2) move from accommodation and a food supply service arranged by the natural product picking sector operator to another accommodation and food supply service of their own choosing if there is no change in the purpose of entry into Finland;
- 3) decide the time of their own entry into and exit from Finland;
- 4) decide the timetable of their own picking work.

Section 5

Reliability of a natural product picking sector operator

A natural product picking sector operator shall be reliable. A person who is not reliable may not serve as a natural product picking sector operator referred to in section 2, subsection 2. An operator shall not be considered reliable if:

- 1) the operator has repeatedly shown evident disregard for the provisions of this Act in his or her business operations over the preceding three years;
- 2) the operator has repeatedly or substantially failed to comply with registration, notification or payment obligations related to taxes, statutory pension, accident or unemployment insurance contributions, or charges levied by the Customs over the preceding three years; or
- 3) the operator has outstanding debts subject to recovery proceedings that are more than minimal in relation to the operator's ability to pay, or debts that have been returned from recovery proceedings with a certificate of impediment due to lack of means.

If a natural product picking sector operator is a legal person, then the requirement of reliability shall apply to the CEO and Deputy CEO, a member and deputy member of the board of directors, a member and deputy member of the supervisory board or equivalent body, a responsible partner and other senior management. The requirement of reliability shall also apply to a person who directly or indirectly holds at least 25 per cent of the shares or of the voting rights conferred by shares in a limited liability company, or has equivalent ownership or control of a corporation other than a limited liability company.

An assessment of the reliability of an operator in the natural product picking sector may also consider the factors referred to in subsection 1 with respect to any registered enterprises and corporations referred to in section 3 of the Business Information Act ([244/2001](#)) that are directly

or indirectly linked to the natural product sector operator or to persons referred to in subsection 2.

Section 6

Duties of a natural product picking sector operator

A natural product picking sector operator shall be required to:

1) familiarise a picker with:

- a) the picking of natural products, and conditions in Finland;
 - b) the legal relationship between the natural product picking sector operator and the picker;
 - c) the rights and duties of a picker in Finland;
 - d) the right to roam;
 - e) parties providing advice and legal safeguards;
 - f) matters relevant to picking other than those referred to in paragraphs (a) to (e);
- 2) monitor the yield situation and cooperate in picking to enable picker to maximise their earnings;
- 3) provide accommodation to pickers that satisfies the requirements laid down in the Health Protection Act ([763/1994](#)), and an appropriate food supply service,
- 4) make vehicles with valid certificates of roadworthiness available to pickers for the purpose of accessing collection sites and transporting the natural products picked;
- 5) make picking tools and equipment available to pickers;
- 6) ensure that the current minimum purchase prices of the natural product picking sector operator for natural products and the costs charged to the picker are known to the picker, and even before the picker arrives in Finland in the case of an operator who invites the picker to Finland when a visa is requested;
- 7) ensure that the contact details of public authorities remain available to pickers for the purpose of providing feedback concerning the natural product picking sector operator;
- 8) notify the locations of pickers base camps in advance to an address publicly announced by the Occupational Safety and Health Authority.

Section 7

Payment of earnings and prohibitions on charging of costs

An operator in the natural product picking sector shall arrange real time monitoring of the accrual of earnings for a picker and pay all of the picker's earnings before the picker leaves Finland.

An operator in the natural product picking sector may not charge a picker:

- 1) any payment for recruitment or for services related to travel to or from Finland;
- 2) interest on any financing of picker's travel costs;
- 3) any fee for discharging the duties referred to in section 6, paragraphs 1 and 2;
- 4) an unreasonable fee for discharging the duties referred to in section 6, paragraphs 3–5.

An operator in the natural product picking sector shall also be required to provide contractual terms and conditions ensuring that a party or representative acting on behalf of the operator in the natural product picking sector does not collect the fee referred to in subsection 2 from a picker.

Section 8

Functions of the Employment and Economic Development Office

The Employment and Economic Development Office shall assess whether an operator in the natural products picking sector is reliable within the meaning of section 5. The assessment shall be issued at the request of an operator for one year at a time.

The Employment and Economic Development Office shall monitor fulfilment of the conditions laid down in sections 5 and 7, and shall issue an opinion thereupon to a diplomatic or consular mission or to the occupational safety and health authorities on their request.

The Employment and Economic Development Office shall issue advice on the application of sections 4 to 7 together with the occupational safety and health authorities.

Section 9

Supervision

Except where otherwise elsewhere provided by law, compliance with the provisions of this Act shall be supervised by the occupational safety and health authorities in accordance with the provisions of the Act on Occupational Safety and Health Enforcement and Cooperation on Occupational Safety and Health at Workplaces (44/2006).

The Occupational Safety and Health Authority shall be entitled to receive a translation into Finnish, Swedish or English of information and documents that are essential in its supervision if it is unable to perform its supervisory functions on the basis of information or documents in the original language.

If there is probable cause to suspect that an act punishable under section 10 has been committed, then the Occupational Safety and Health Authority shall notify the police thereof for the purpose of pre-trial investigation. The notification may nevertheless be omitted if the act is to be considered minor under the circumstances and the public interest does not require notification.

Section 10

Violation of the Act on the Legal Status of Foreigners Picking Natural Products

An operator in the natural product picking sector who, notwithstanding a request from the Occupational Safety and Health Authority to eliminate or rectify non-compliance:

- 1) neglects the duty laid down in section 6,
- 2) fails to arrange monitoring of earnings in the manner laid down in section 7, subsection 1,
- 3) violates the prohibition on charging a fee or interest laid down in section 7, subsection 2, or
- 4) operates in the manner referred to in section 2, subsection 2 without a valid decision concerning reliability,

shall be sentenced to a fine for a *violation of the Act on the Legal Status of Foreigners Picking Natural Products*, unless a more severe punishment for the act is laid down elsewhere in the law.

The allocation of criminal liability between an operator in the natural product picking sector and a representative thereof shall be governed by chapter 47, section 7 of the Criminal Code of Finland ([39/1889](#)).

Section 11

Right of access to information and duty to retain documents

Notwithstanding provisions on confidentiality, an Employment and Economic Development Office and an Occupational Safety and Health Authority shall be entitled to obtain the information and documents from an operator in the natural products picking sector that are essential for performing the monitoring and supervision laid down in this Act.

Notwithstanding provisions on confidentiality, an Employment and Economic Development Office and an Occupational Safety and Health Authority shall be entitled to obtain information from another public authority and from a party discharging a public function concerning the discharge of registration, notification and payment obligations related to taxes, statutory pension, accident or unemployment insurance contributions, or to charges levied by the Customs, and concerning operations, finances and connections or compliance with duties under this Act, if the information is essential for determining the reliability referred to in section 5.

An operator in the natural product picking sector shall retain the information related to the discharge of his or her duties under this Act in a manner that enables inspection thereof by an Occupational Safety and Health Authority without difficulty if necessary. An operator in the natural product picking sector shall retain the information for a period of two years from the end of the picking year.

Section 12

Review

Correction may be sought of a decision of an Employment and Economic Development Office concerning the reliability of a natural product picking sector operator. Provisions on seeking administrative review are laid down in the Administrative Procedure Act [\(434/2003\)](#).

Provisions on seeking judicial review by an administrative court are laid down in the Administrative Judicial Procedure Act [\(808/2019\)](#).

Section 13

Entry into force

This Act shall enter into force on 14 June 2021.