

NB: Unofficial translation

Legally binding texts are those in Finnish and Swedish

Fertiliser Product Act (539/2006, amendments up to 340/2010 included)

Chapter 1 – General provisions

Section 1 – Objective

- (1) The objective of this Act is, with the aim to ensure the quality of plant protection, foodstuffs and the environment, to promote the supply of safe fertiliser products that are of good quality and suitable for plant production, utilisation of by-products suitable for use as such as well as provision of sufficient information on fertiliser products to their buyers and users.

Section 2 – Scope of application

- (1) This Act applies to the manufacture for placing on the market of fertiliser products and, as appropriate, their raw materials, placing them on the market and their use, transport, import and export. As appropriate, this Act also applies to the manufacture of fertiliser products for own use.
- (2) This Act also applies to the control of Regulation (EC) No 2003/2003 of the European Parliament and of the Council relating to fertilisers (Fertiliser Regulation) and other enforcement required under it.
- (3) This Act also applies to the control of Regulation (EC) No 1774/2002 of the European Parliament and of the Council laying down health rules concerning animal by-products not intended for human consumption (Animal By-products Regulation) and other enforcement required under it as far as it applies to fertiliser products.
- (4) This Act does not apply to:
 - 1) experiments carried out by research institutes for scientific or product development purposes;
 - 2) fertiliser products transported via Finland without customs clearance;
 - 3) biogas and composting plants and other similar plants which process organic materials and whose end products are not suitable for fertiliser products or their raw material but they are placed in an approved landfill or incinerated in an approved incineration plant under the environmental legislation; or
 - 4) transport referred to in the Act on the Transport of Dangerous Goods (719/1994).

Section 3 – Relationship to certain statutes

- (1) In addition to the provisions of this Act, the provisions of the Chemicals Act (744/1989) and Act on the Safety in Handling Dangerous Chemicals and Explosives also apply to the requirements concerning fertiliser products, raw materials of fertiliser products as well as chemicals used as such as fertiliser products and their manufacture, storage, packaging and import.
- (2) In addition, provisions on requirements concerning raw materials of fertiliser products and by-products used as such as fertiliser products as well as their

processing, use and disposal are laid down in the Health Protection Act 763/1994), Environmental Protection Act (86/2006), Waste Act (1072/1993) and Land Extraction Act (555/1981) as well as in Council Regulation (EEC) No 259/93 on the supervision and control of shipments of waste within, into and out of the European Community. Provisions on requirements concerning fertiliser products of plant origin and their raw materials are also laid down in the Plant Health Protection Act (702/2003). Provisions on requirements concerning fertiliser products of animal origin and their raw materials are also laid down in the Animal Disease Act (55/1980) and provisions on requirements concerning imports are laid down in the Act on Veterinary Border Inspection (1192/1996).

Section 4 – *Definitions*

(1) In this Act:

- 1) *fertiliser product* means fertilisers, liming materials, soil conditioners substrates, microbe products and by-products used as fertiliser products as such;
- 2) *fertiliser* means substances and products intended for promoting plant growth or improving the quality of the crop whose impact is based on plant nutrients or other substances that are beneficial to plants, humans or animals;
- 3) *EC fertiliser* means fertilisers listed in the Annexes to the Fertiliser Regulation which fulfil the requirements set in the Regulation and labelling and packaging requirements and which carry the marking "EC fertiliser";
- 4) *liming material* means inorganic or organic substances or products containing mainly calcium or magnesium or both elements which usually occur as oxides, hydroxides, carbonates or silicates and which are mainly intended for reducing soil acidity;
- 5) *soil conditioner* means substances added to soil to maintain or improve its physical properties or to increase soil biological activity;
- 6) *substrate means* technically processed solid or liquid substances intended for raising plants to which other fertiliser products have or may have been added;
- 7) *microbe product* means a product which contains one or several known bacterial strains with a proven beneficial impact on plant growth or nutrient intake in specific plant species or plant groups;
- 8) *by-product used as fertiliser product as such* means products created in industrial, incineration or production plants, biogas or composting plants or other plants as well as in wastewater purification plants or in connection with other similar activities;
- 9) *harmful substances, products or organisms* mean substances, products or organisms present in fertiliser products or their raw materials which may cause health or other damage or danger to humans, animals, plants, soil or other environment;
- 10) *technical processing* means composting, digesting, sieving, grinding, milling, heating, drying, granulating, packing or mixing with other substances and other similar processing to productise the product;
- 11) *marketing* means keeping fertiliser products in one's possession for sale, including storage and offering for sale, or other transfer to third parties either free of or subject to charge, as well as sale and other forms of transfer;

- 12) *import* means import from countries other than the Member States of the European Union, except in section 40 of the Act, where import also means import from other Member States of the European Union to Finland;
 - 13) *export* means export to countries other than the Member States of the European Union;
 - 14) *operator* means a natural or legal person who in connection with professional activity manufactures, technically processes, places on the market, transports, uses, imports or exports fertiliser products or their raw materials;
 - 15) *self-supervision* means the operator's own self-supervision system intended to ensure that the fertiliser product and its processing fulfil the requirements set for them.
- (2) The provisions laid down in this Act concerning the European Community or Member States of the European Union also apply to the European Economic Area and its Member States to the extent required by the Agreement on the European Economic Area.

Chapter 2 – Provisions concerning fertiliser products

Section 5 – General requirements

- (1) Fertiliser products must be of uniform quality and suitable for their purpose of use and they must fulfil the requirements set in the Fertiliser Regulation, Animal By-products Regulation and in this Act as well as under it. A fertiliser product may not contain harmful substances, products or organisms in such quantities that its use in accordance with the instructions for use may cause any danger to human or animal health or safety, plant health or the environment. The raw materials of fertiliser products must be safe and such that the fertiliser products manufactured from them fulfil the quality requirements set for them.
- (2) The operator must have appropriate premises, facilities and implements for the manufacture, storage and transport of fertiliser products and their raw materials. The operator must exercise sufficient diligence and caution in the processing, use, transport and storage of fertiliser products and their raw materials to prevent health, safety and environmental damages.
- (3) Annex XVII to Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC lays down the provisions concerning requirements for fertiliser products containing ammonium nitrate. (2010/340)
- (4) Further provisions on the quality, processing, use, transport and storage requirements of fertiliser products and their raw materials as well as special requirements concerning fertiliser products that may present an explosion or fire hazard are issued by Decree of the Ministry of Agriculture and Forestry.

Section 6 – Type designation of a fertiliser product

- (1) Only fertiliser products whose type designation is included either in the national type designation list of fertiliser products or, in the case of EC fertilisers, to the type designation list of EC fertilisers published as an Annex to the Fertiliser

Regulation may be imported, placed on the market or manufactured for placing on the market.

- (2) A new type designation may be added to the national type designation list of fertiliser products:
 - 1) if fertiliser products included in it contain nutrients in such quantities that they are beneficial for plants or if the other properties of fertiliser products included in it significantly improve plant growth or growing conditions;
 - 2) if fertiliser products included in it can be analysed and samples can be taken from them using a method set out in the EC legislation, or, if relevant EC legislation does not exist, by an internationally approved standardisation method or, if such a method also does not exist, by an equally valid validated method for the analysis and sampling of fertiliser products;
 - 3) if the type designation is appropriate and it is not contrary to accepted principles of morality or misleading.

Section 7 – *Application for a type designation of a fertiliser product*

- (1) The inclusion of a new type designation of a fertiliser product in the national type designation list of fertiliser products or type designation list of EC fertilisers is applied for from the Finnish Food Safety Authority. An application concerning the addition of a new type designation to the national type designation list of fertiliser products must contain the following information:
 - 1) proposal for a new type designation and grounds for it;
 - 2) description of the manufacturing process;
 - 3) account of the principal raw materials used and their origin;
 - 4) account of the main chemical and biological composition and physical properties;
 - 5) sampling and analysis methods for measuring the main properties;
 - 6) recommended dose rate, instructions for use and factors restricting use as well as storage properties, with due account for preventing health, safety and environmental damages; and
 - 7) contact information of the applicant.
- (2) The Finnish Food Safety Authority decides on the approval of a type designation to the national type designation list of fertiliser products and on changing and revoking such approval. The Finnish Food Safety Authority notifies the national type designation of a fertiliser product to the European Commission. The Finnish Food Safety Authority gives a statement on the application concerning the addition of the type designation to the type designation list of the European Union and sees to the notification of this to the European Commission. (2010/340)
- (3) The Finnish Food Safety Authority keeps a national type designation list of fertiliser products. The national type designation list of fertiliser products contains the information for each type designation group and type designation on the required manufacturing method, main raw materials, nutrients and how these are shown, form and solubility of nutrients as well as properties improving plant growth and structure or growing conditions. Provisions on type designation groups of fertiliser products and requirements for each type designation group are laid down by Decree of the Ministry of Agriculture and Forestry. (2010/340)
- (4) Further provisions on the application procedure may be issued by Decree of the Ministry of Agriculture and Forestry.

Section 8 – *Labelling and packaging requirements*

- (1) A fertiliser product placed on a market must have a product description. The product description must show written information on the type designation and trade name, properties, use, composition, manufacturer and importer of the fertiliser product. Other information may also be given in the product description, if this is unambiguous, measurable and justifiable and it cannot mislead the final user of the fertiliser product. The product description must be printed or attached to the fertiliser product package. In case of bulk products, however, the product description may also be attached to the accompanying documents and it must be readily available for control. Further provisions on the more detailed content of the information given in the product description and tolerances allowed for the properties are issued by Decree of the Ministry of Agriculture and Forestry.
- (2) Fertiliser products placed on the market, imported and exported must be safely and appropriately packaged, taking account of the properties of the product. Fertiliser product delivered unpacked in bulk must be transported and kept during transport in an appropriate and safe manner that is suited to the purpose of use. Further provisions on the packaging of fertiliser products, closure of packages and delivery of unpackaged fertiliser products to the final user are issued by Decree of the Ministry of Agriculture and Forestry.
- (3) In addition, requirements of the Fertiliser Regulation and Animal By-products Regulation apply to the labelling and packaging requirements of fertiliser products. The phosphorus, potassium, calcium, sodium, magnesium and sulphur content of EC fertilisers placed on the market must be stated as elements in the product description, but in addition to this they may be stated as oxides as laid down in Article 6 of the Fertiliser Regulation.

Section 10 – *Temporary restrictions*

- (1) If there is reasonable cause to assume that a fertiliser product or its raw material may cause significant danger to human or animal health or safety, plant health or the environment, their manufacture, placing on the market and import may be temporarily prohibited or restricted and the prohibited fertiliser products may be ordered withdrawn from the markets and the stocks of farms by Decree of the Ministry of Agriculture and Forestry.

Chapter 3 – **Practice of operations**

Section 10 – *Practice of operations*

- (1) The operator must organise the practice of operations so that the requirements for the operations laid down in section 5(2) are fulfilled and the operations do not cause any danger to human or animal health or safety, plant health or the environment.

Section 11 – *Notification obligation*

- (1) An operator must give a written notification to the Finnish Food Safety Authority on the operations, essential changes to the operations and termination of operations. The notification must be given before the operations to be notified are started and it must include a description of the organisation of the operations. However, the notification obligation does not apply to operators who practice only wholesale or retail trade or only store, transport or use fertiliser products or their raw materials unless notification is required by the provisions of the

Fertiliser Regulation or Animal By-products Regulation. Further provisions on the content of the notification and the notification procedure are issued by Decree of the Ministry of Agriculture and Forestry.

- (2) An operator who manufactures or technically processes fertiliser products must reserve the control authority the opportunity to perform an inspection before the operations are started.
- (3) An operator referred to in subsection 1 above must give an annual report to the Finnish Food Safety Authority, in accordance with instructions issued by it, on the volumes of fertiliser products manufactured, type designations and trade names, raw materials used in the manufacture of fertiliser products and their origin as well as fertiliser products placed on the market, imported and exported and their volumes and, where necessary, their purposes of use.

Section 12 – *Obligation to keep a data set*

- (1) An operator who manufactures or technically processes fertiliser products for placing on the market or places on the market, imports or exports fertiliser products or their raw materials must keep an up-to-date data set on the operations which give access to information needed for the control without difficulty. Information to be entered to the data set includes the purchases and origin of fertiliser products and their raw materials, the volumes of technically processed and manufactured fertiliser products and their raw materials, sales and other types of conveyance of fertiliser products and their raw materials as well as places of storage. In addition, the volumes of imported and exported fertiliser products and their raw materials must also be entered to the data set. Further provisions on the content and organisation of the data set are issued by Decree of the Ministry of Agriculture and Forestry.
- (2) To ensure the traceability of fertiliser products, an operator referred to in subsection 1 above must keep the information on the origin and conveyance of fertiliser products necessary for the control. This information must be accessible to the competent authority for inspection as long as the fertiliser product is delivered to the market and after this for five years after the operator has stopped the delivery of the fertiliser product.
- (3) The obligation to keep a data set does not apply to operators who practice only wholesale or retail trade or only store, transport or use fertiliser products or their raw materials unless keeping a data set is required by the provisions of the Fertiliser Regulation or Animal By-products Regulation.

Section 13 – *Self-supervision obligation*

- (1) An operator must know the critical manufacturing and processing stages in terms of the quality of fertiliser products in order that the operations do not cause any danger to human or animal health or safety, plant health or the environment. The operator must supervise the critical stages in the manufacture and processing on a regular basis (*self-supervision*).
- (2) The self-supervision obligation does not apply to an operator who only transports or uses fertiliser products or their raw materials, unless this is required by the Fertiliser Regulation or Animal By-products Regulation. A written plan must be drawn up on self-supervision and delivered to the Finnish Food Safety Authority. The operator must ensure that the employees who participate in the manufacture and processing are aware of the self-supervision.

- (3) The Finnish Food Safety Authority is obligated to give advice on the preparation and implementation of the self-supervision plan. Further provision on how self-supervision is to be organised and updated may be issued by Decree of the Ministry of Agriculture and Forestry.

Section 14 – *Approved establishments*

- (1) An operator that manufactures, technically processes or stores organic fertiliser products or their raw materials must be approved by the Finnish Food Safety Authority before it starts its operations (*approved establishment*). An application for approval which concerns an establishment other than those approved under the Animal By-products Regulation must contain the following information:
 - 1) an account of the establishment and its operations;
 - 2) an account of the raw materials to be used and final products and their purposes of use;
 - 3) a written self-supervision plan of the establishment;
 - 4) date when the establishment is to be put into operation or a change implemented;
 - 5) environmental permit or application concerning it; and
 - 6) contact information of the applicant.
- (2) An approved establishment must apply for a new approval if it changes its operations in a significant way.
- (3) An establishment must be approved if it fulfils the requirements relating to the operations, structures and equipment set in the Animal By-products Regulation or this Act and provisions issued under it. The approval may also be issued for a set time period. Requirements, restrictions and other conditions concerning the operations may be set for the approved establishment if the operations may cause danger to human or animal health or safety, plant health or the environment. A registration number must be given to the approved establishment.
- (4) Provisions on the approval of establishments practising the manufacture and processing of fertiliser products of animal origin are laid down in the Animal By-products Regulation.
- (5) Provisions on the more detailed content of the information given in an application concerning the approval of an establishment and application procedure may be issued by Decree of the Ministry of Agriculture and Forestry.

Section 15 – *Self-supervision report of an approved establishment*

- (1) An approved establishment must draw up an annual self-supervision report showing the results of the supervision of the critical manufacturing and processing stages and any problems and shortcomings observed in self-supervision as well as how these have been resolved. The self-supervision report must be submitted to the Finnish Food Safety Authority no later than the end of March of the calendar year following the year concerned in the supervision. An approved establishment must also notify the Finnish Food Safety Authority without delay of any discrepancies which significantly impact on the quality of the final product.
- (2) Provisions on the more detailed content of information stated in the annual self-supervision report of an establishment may be issued by Decree of the Ministry of Agriculture and Forestry.

Chapter 4 – **Authorities**

Section 16 – *General guidance and control*

- (1) The general guidance and control of the implementation of the Fertiliser Regulation, Animal By-products Regulation and this Act are the responsibility of the Ministry of Agriculture and Forestry.

Section 17 – *Control authorities (2009/1498)*

- (1) The Finnish Food Safety Authority is responsible for the implementation of the Fertiliser Regulation, Animal By-products Regulation and this Act as well as the control of the compliance with the Fertiliser Regulation, Animal By-products Regulation and this Act and provisions and regulations issued under it and the organisation of the control. In the control the Finnish Food Safety Authority may seek assistance from the Centres for Economic Development, Transport and the Environment. Besides the Finnish Food Safety Authority, import and export of fertiliser products is controlled by the Finnish Customs.
- (2) Further provisions on the control performed by the Finnish Customs are issued by Decree of the Ministry of Agriculture and Forestry.

Section 18 – *Authorised inspectors*

- (1) In addition to provisions laid down in section 17, in the inspection and control tasks the Finnish Food Safety Authority may be assisted by inspectors it has given a written authorisation who operate under the supervision of the Finnish Food Safety Authority. The provisions concerning the liability of civil servants under criminal law apply to the authorised inspectors when performing tasks under this Act. The authorised inspector must have sufficient professional expertise concerning fertiliser products or necessary in terms of other control of the compliance with the law for managing the task concerned in the authorisation.
- (2) If an authorised inspector is disqualified due to conflict of interest under the Administrative Procedure Act (434/2003), the competent authority may assign another party to perform the tasks temporarily. The provisions on the authorised inspector apply to the person assigned on a temporary basis.
- (3) When performing the tasks an authorised inspector must ensure that the operator is allowed to present his or her views in his or her native language Finnish, Swedish or the Sami language. If the operator does not speak a language to be used under the Language Act (423/2003) the inspector must see to the necessary interpretation or translation as laid down in section 26 of the Administrative Procedure Act.
- (4) When demanded by the operator, the authorised inspector must present a written account of the authorisation.

Section 19 – *Approved laboratories*

- (1) The laboratory of the Finnish Food Safety Authority functions as the official laboratory for analyses relating the control of fertiliser products referred to in the Fertiliser Regulation, Animal By-products Regulation and this Act and to self-supervision referred to in the Animal By-products Regulation. Analyses relating to the control of fertiliser products and self-supervision of establishments required by the Animal By-products Regulation may also be performed in

another laboratory approved by the Finnish Food Safety Authority. Another laboratory must be approved if it is qualified to perform the above-mentioned analyses under the EC legislation or, if EC legislation does not exist, by internationally approved standard methods or, where these are also lacking, by equally valid and validated methods which are intended for the analysis and sampling of fertiliser products. Further provisions on the documents showing that the preconditions are fulfilled to be attached to the application are issued by Decree of the Ministry of Agriculture and Forestry.

- (2) The approval may be of a limited duration. Requirements, restrictions and other conditions may be set for the operations of an approved laboratory if the fertiliser products to be analysed may cause danger to human or animal health or safety, plant health or the environment. An approved laboratory must notify the Finnish Food Safety Authority without delay of any changes which may impact on the preconditions for the approval of the laboratory.
- (3) The Finnish Food Safety Authority must keep a list intended for public use on the approved laboratories. The contact information and the area of qualification of the laboratory are entered to the list.
- (4) The testing establishment for the tests of resistance to detonation must be accredited to the specific area of qualification by the Centre for Metrology and Accreditation (MIKES) or an accreditation body of a Member State belonging to the European Economic Area or its qualifications must be ensured in another reliable manner.

Chapter 5 – Control

Section 20 – *General principles of organising the control*

- (1) Fertiliser products and their raw materials must be controlled in an equitable manner and on a regular basis. Control must be intensified if there is any doubt that a fertiliser product or its raw material of the activity of the operator does not fulfil the requirements laid down in the Fertiliser Regulation, Animal By-products Regulation or in this Act or issued under it. The control measures must fit for the purpose and they must be targeted in a suitable manner to the different stages in the manufacture, placing on the market, marketing, transport, storage, use and processing of a fertiliser product and its raw material.
- (2) Where necessary, the control authority must give the operator the necessary instructions and requests concerning the compliance with requirements set under the Fertiliser Regulation, Animal By-products Regulation or this Act. Further provisions on the organisation of the control may be issued by Decree of the Ministry of Agriculture and Forestry.

Section 21 – *Giving advance notification*

- (1) A fertiliser product or its raw material imported from another Member State of the European Union or from outside the Union must be notified to the control authority in advance. The advance notification obligation does not apply to EC fertilisers. Further provisions on the information to be stated on consignments containing fertiliser products or their raw material as well as when and how the operator must give the advance notification may be issued by Decree of the Ministry of Agriculture and Forestry.
- (2) Upon an order by the control authority a consignment containing a fertiliser product or its raw material imported to Finland may be kept under the

supervision of the Finnish Customs in premises approved by the control authority until the control authority has received a sufficient account that the requirements set in the Fertiliser Regulation, Animal By-products Regulation and this Act and under it are fulfilled.

Section 22 – *Approved customs posts and border crossings*

- (1) Further provisions on the customs posts and border crossings via which the import of fertiliser products and their raw materials is allowed may be issued by Decree of the Ministry of Agriculture and Forestry.

Section 23 – *Control plan*

- (1) The Finnish Food Safety Authority must draw up an annual control plan on the organisation of control.
- (2) The control plan must define the minimum inspections to be performed, types of objects of control and inspection frequency. In addition, the plan must present the grounds for the risk assessment of the types of objects of control and grounds for evaluating the implementation of the plan.
- (3) Further provisions on the control plan and its content may be issued by Decree of the Ministry of Agriculture and Forestry.

Section 24 – *Inspection right*

- (1) The control authority and authorised inspectors have the right to access any premises where fertiliser products or their raw materials or documents concerning these are processed, used or kept, inspect means of transport, operator's bookkeeping and data set referred to in section 12 and to take, free of charge, necessary samples from the soil, raw materials of fertiliser products and fertiliser products. In premises within the sphere of domiciliary peace the inspection may be performed only by the authority and only if there is reasonable cause to suspect that someone has been guilty of conduct that is punishable under this Act and an inspection is necessary for clearing up an offence.
- (2) Further provisions on the inspection and control procedure and taking and examination of samples are issued by Decree of the Ministry of Agriculture and Forestry.

Section 25 – *Right of access to information*

- (1) The control authority and authorised inspectors have the right to obtain any information and documents necessary for an inspection or control referred to in the Fertiliser Regulation, Animal By-products Regulation or this Act from the operator.

Section 26 – *European Community inspectors*

- (1) The provisions on the inspection right and right of access to information of Finnish authorities in sections 24 and 25 also apply to EC inspectors. The Finnish Food Safety Authority must collaborate with the EC inspectors in such inspections.

Section 27 – *Provision of secret information*

- (1) The secrecy obligation laid down in the Act on the Openness of Government Activities (621/1999) notwithstanding, information on a business or professional

secret or financial position of a private party or corporation obtained when performing a task referred to in this Act may be provided:

- 1) to prosecution and police authority for clearing up an offence referred to in Chapter 5, section 1 of the Coercive Measures Act (450/1987);
- 2) to an authority referred to in section 17 and inspectors referred to in section 18(1) for performing tasks under this Act; and
- 3) to foreign bodies and inspectors referred to in EC legislation or other international agreement binding on Finland when required by the EC legislation or agreement.

Section 28 – *Official assistance*

- (1) The control authority has the right to obtain official assistance from the Finnish Border Guard and police and rescue authorities for performing tasks under the Fertiliser Regulation, Animal By-products Regulation or this Act and provisions and regulations issued under it.

Section 29 – *Control register*

- (1) The Finnish Food Safety Authority keeps a national register on operators subject to the notification obligation referred to in section 11(1) for control purposes. The information to be entered to the register includes:
 - 1) operator's name and address and other necessary contact information;
 - 2) addresses and contact information of the places of business;
 - 3) operator's field of business;
 - 4) in case of an approved establishment referred to in section 14, its registration number; and
 - 5) information on a prohibition, penalty and other coercive measure or sanction imposed to the operators under sections 32-37.
- (2) Information is removed from the register after three years from the date when the operator terminates the activity.
- (3) In other respects the provisions laid down in the Personal Data Act (523/1999) and Act on the Openness of Government Activities apply to the compilation, processing and recording of personal data and use and provision of information entered to the register.

Section 30 – *Obligation to give information*

- (1) If the control authority knows or has reason to suspect that a fertiliser product, its raw material or their use may cause danger to human, animal or plant health or the environment, the control authority must, notwithstanding the provisions concerning secrecy, report this immediately to the competent environmental, food, veterinary, health protection, rescue or police authority, depending on the nature of the danger.

Section 31 – *Publication of control results*

- (1) The Finnish Food Safety Authority publishes the control results. Information to be kept secret referred to in section 27 above may, however, not be published.
- (2) Further provisions on the publication of the control results may be issued by Decree of the Ministry of Agriculture and Forestry.

Chapter 6 – **Administrative coercive measures and sanctions**

Section 32 – *Order*

- (1) If an operator does not comply with the Fertiliser Regulation, Animal By-products Regulation or this Act or provisions issued under it and the shortcomings do not meet the preconditions for issuing a prohibition referred to in section 33, the control authority may order the operator to fulfil his or her obligations within a set time period that is appropriate as regards the nature of the matter.

Section 33 – *Prohibition*

- (1) As regards a fertiliser product or its raw material, the Finnish Food Safety Authority may prohibit their:
 - 1) manufacture if the manufacturing or storage facility used in the manufacture, manufacturing method or implement, manufacturer's self-supervision method or product does not fulfil the requirements set for it in this Act or under it or in the Fertiliser Regulation or Animal By-products Regulation;
 - 2) processing if the processing or storage facility, processing method or implement, operator's self-supervision method or product does not fulfil the requirements laid down in this Act or under it or set in the Fertiliser Regulation or Animal By-products Regulation;
 - 3) placing on the market or use if the fertiliser product, its packaging or information given in it do not fulfil the requirements laid down in this Act or issued under it or set in the Fertiliser Regulation or Animal By-products Regulation or the fertiliser products is used against the instructions for use;
 - 4) transport or storage if the transport equipment or storage facility do not fulfil the requirements laid down in this Act or issued under it or set in the Fertiliser Regulation or Animal By-products Regulation;
 - 5) import or export if it is detected in the inspection that the fertiliser product does not fulfil the quality requirements laid down in this Act or issued under it or laid down in the Fertiliser Regulation or Animal By-products Regulation;
 - 6) placing on the market if no test of resistance to detonation has been performed on a fertiliser product which may cause a fire or explosion in accordance with the requirements laid down in this Act or statutes issued under it or the Fertiliser Regulation.
- (2) A prohibition must be cancelled immediately if the shortcoming has been removed or defects corrected so that the prohibition is no longer necessary.
- (3) If the matter does not allow any delay, another control authority besides the Finnish Food Safety Authority referred to in section 17 may order a temporary prohibition concerning a fertiliser product batch. A temporary prohibition must be submitted to the Finnish Food Safety Authority for resolution without delay. The prohibition lapses if the Finnish Food Safety Authority has not made the decision referred to in subsection 1 within a week from the issue of the prohibition.
- (4) The Finnish Food Safety Authority must notify a prohibition concerning EC fertilisers immediately to the Ministry of Agriculture and Forestry.

Section 34 – *Revoking an approval*

- (1) The Finnish Food Safety Authority must revoke the approval of an establishment referred to in section 14 or laboratory referred to in section 19 if the establishment or laboratory terminates the activity on the basis of which it has

been approved. The Finnish Food Safety Authority may also revoke the approval if a laboratory or establishment violates in an essential way the requirements set in this Act or under it or if the activity no longer fulfils the preconditions laid down for granting the approval and these shortcomings cannot be corrected within a time limit to be considered reasonable set by the Finnish Food Safety Authority. The approval may, however, be revoked immediately if this is necessary due to the danger of unreasonable damage caused by the activity to human or animal health or safety, plant health or the environment.

Section 35 – *Disposal and export order*

- (1) If the manufacture, processing, placing on the market, use, import or export of a fertiliser product or its raw material is prohibited under section 33, the Finnish Food Safety Authority may order it reprocessed in an approved manner, disposed of or returned to the country of dispatch at the cost of the operator. Regulations on the procedure to be followed in the enforcement may be attached to the decision.

Section 36 – *Periodic penalty payment and action at defaulter's expense (2009/1498)*

- (1) The Finnish Food Safety Authority may intensify an order referred to in section 32, prohibition referred to in section 33(1) or an order concerning disposal or export referred to in section 35 by a periodic penalty payment or threat that the neglected measure will be taken at defaulter's expense. A decision concerning periodic penalty payment or action at defaulter's expense can also be made by the Centre for Economic Development, Transport and the Environment.
- (2) Other provisions on periodic penalty payment, threat of action at defaulter's expense and action at defaulter's expense are laid down in the Act on Periodic Penalty Payment (1113/1990).

Section 30 – *Penal provision*

- (1) Anyone who intentionally or through gross negligence
 - 1) manufactures, technically processes, places on the market, uses, imports or exports a fertiliser product or raw material which does not fulfil the requirements or special requirements for a fertiliser product, its raw material or their packaging or labelling set in sections 5-8 and provisions and regulations issued under them;
 - 2) violates a temporary restriction issued under section 9;
 - 3) neglects a notification obligation referred to in section 11 or keeping a data set referred to in section 12;
 - 4) neglects the approval of an establishment referred to in section 14;
 - 5) violates an order issued under section 32 or prohibition issued under section 33; or
 - 6) violates a disposal and export order issued under section 35,
 must be sentenced to a fine for *violating the Fertiliser Product Act*, unless a more severe penalty is laid down elsewhere in the law.
- (2) The Finnish Food Safety Authority gives the notification for initiating the consideration for charges concerning a violation referred to in subsection 1 on behalf of the control authorities referred to in Chapter 4. Notification may be waived in case of a violation which as a whole is to be considered as a minor one. In such a case the Finnish Food Safety Authority may issue the operator guilty of

the violation a written reminder, urging the operator to correct the defects observed.

Chapter 7 – Miscellaneous provisions

Section 38 – *Charges to be collected*

- (1) Charges to the State for action by the authorities under the Fertiliser Regulation, Animal By-products Regulation or this Act are collected in accordance with the criteria laid down in the Act on Criteria for Charges Payable to the State (150/1992).

Section 39 – *Fees and reimbursement of costs*

- (1) The Finnish Food Safety Authority pays fees and reimbursements of costs to authorised inspectors for inspections and sampling under this Act.

Section 40 – *Obligation to compensate for damages*

- (1) The manufacturer, contractor or importer of a fertiliser product must compensate for any damage to the buyer caused by the fertiliser product in professional use due to the fact that the fertiliser product does not fulfil the requirements set in the Animal By-products Regulation, Fertiliser Regulation and this Act or under it or the fertiliser product differs from the information given to the buyer in the product description more than what is allowed under the above-mentioned statutes. The compensation must be paid even if the damage had not been caused intentionally or through negligence.
- (2) However, the compensation obligation referred in subsection 1 above does not exist if the party from whom the compensation is claimed proves likely that the defect which caused the damage was not present in the fertiliser product when it was placed on the market.
- (3) Provisions on the obligation of a manufacturer, contractor or importer to compensate for damage caused to a person or to property intended for private use or consumption and mainly used for such purpose by the party suffering the damage are laid down in the Product Liability Act (694/1990).

Section 41 – *Appeal*

- (1) A decision by a control authority issued under this Act is appealed to the Appeals Board for Rural Industries, in compliance with provisions laid down in the Administrative Judicial Procedure Act (586/1996). A letter of appeal concerning a decision may also be delivered to the control authority which must forward the letter of appeals together with documents accumulated on the matter and a statement on the appeal to the Appeals Board without delay.
- (2) A decision concerning temporary prohibition referred to in section 33(3) above may not be appealed separately.

Section 42 – *Enforcement*

- (1) A decision made under this Act may include an order that the decision must be complied with before it has gained legal force, unless otherwise ordered by the appellate authority.

Section 43 – *Entry into force*

- (1) This Act enters into force on 1 July 2006.

- (2) This Act repeals the Fertiliser Act of 26 February 1993 (232/1993) with subsequent amendments. Decisions and Decrees of the Ministry of Agriculture and Forestry issued under the repealed Act shall, however, remain in force, as far as they do not conflict with this Act, until otherwise provided.
- (3) Measures necessary for the implementation of this Act may be undertaken before the Act's entry into force.

Section 44 – *Transitional provisions*

- (1) An operator who is subject to the notification obligation under section 11(1) of this Act and who already practices an activity referred to in this Act upon the entry into force of this Act must give the notification referred to in section 11(1) within six months from the entry into force of this Act.
- (2) An approval granted to an establishment under the Animal By-products Regulation before the entry into force of this Act which corresponds to the approval referred to in section 14 of this Act remains in force. Other establishments referred to in section 14 of this Act which upon the entry into force of this Act practice an activity referred to in section 14 must apply for the approval within no more than 24 months from the entry into force of this Act. The Finnish Food Safety Authority must process these applications within four months from the last date of submission of the applications.