

Government proposal to Parliament for amending the Aliens Act and certain related acts

MAIN CONTENTS OF PROPOSAL

The Government proposes that the Aliens Act, the Act on the Conditions of Entry and Residence of Third-Country Nationals for the Purpose of Highly Qualified Employment, the Act on the Conditions of Entry and Residence of Third-Country Nationals in the Framework of an Intra-Corporate Transfer and the Act on the Conditions of Entry and Residence of Third-Country Nationals for Seasonal Work be amended.

According to the proposal, a work-based residence permit would be tied to work so that the residence permit may not be withdrawn within the time limit laid down by law when a foreign worker becomes unemployed. It is proposed that employers be obligated to notify the Finnish Immigration Service of the end of the employment relationship. Failure to meet this obligation would be subject to sanctions. According to the proposal, the right to work related to work-based residence permits would be extended to sectors that have genuinely been identified as suffering from a labour shortage. In addition, it is proposed that the regulation on electronic and paper-based services provided for employers be clarified.

The provisions on requesting review laid down in the Act on the Conditions of Entry and Residence of Third-Country Nationals for Seasonal Work and the Act on the Conditions of Entry and Residence of Third-Country Nationals in the Framework of an Intra-Corporate Transfer would be revised.

The proposed Acts are scheduled to enter into force on . . 2025.

Bills

Act

amending the Aliens Act

By decision of Parliament,
section 71b, subsection 3, section 72b, section 81a, section 81c and section 82 of the Aliens Act (301/2004), such as they stand in section 71b, subsection 3 and sections 72b and 81c of Act 216/2023, section 81a of Acts 216/2023, 389/2023 and 225/2024 and section 82 of Acts 216/2023 and 389/2023 *are amended*, and
a new section 58a in place of the section 58a repealed by Act 720/2018 and a new section 72c *are added* to the Act as follows:

Section 58a

Non-withdrawal of residence permits

If the holder of a residence permit issued based on employment is unemployed, section 58, subsection 5 does not apply if the period of unemployment has lasted for a maximum of:

- 1) three months and the alien has had a residence permit for less than two years;
- 2) six months and the alien has a residence permit for a specialist referred to in section 73, a residence permit for duties in the middle or top management of a company as referred to in section 74, subsection 1, paragraph 4, or a residence permit for a startup entrepreneur referred to in section 80; or
- 3) six months and the alien has had a residence permit issued based on employment for at least two years other than the residence permit referred to in paragraph 2.

If the period of unemployment referred to in subsection 1, paragraph 3 lasts for more than three months, the Finnish Immigration Service may request the alien to provide proof that he or she has sufficient funds to secure his or her livelihood.

Section 71b

Employer's obligation to provide information

The employer shall submit the information under this section electronically to the Finnish Immigration Service using the online service intended for that purpose. For special reasons, the employer may provide the information other than by electronic means using a form approved by the Finnish Immigration Service.

Section 72b

Regional policies on the use of foreign labour

The Centre for Economic Development, Transport and the Environment, together with the social partners, monitors the labour market situation in its area and makes a decision outlining the general conditions for the use of foreign labour in its area of operation.

Section 72c

National list of sectors suffering from labour shortages

The Ministry of Economic Affairs and Employment, in cooperation with the Centre for Economic Development, Transport and the Environment, determines the sectors suffering from labour shortages that have problems with the availability of labour throughout the country. The fields of employment are determined on the basis of statistical data of the labour administration and Statistics Finland on the number of employed and unemployed persons and job vacancies, and by taking into account the regional policies referred to in section 72b. The fields of employment are issued by government decree.

Section 81a

Right to work by virtue of a residence permit

Aliens have an unrestricted right to work if they have been issued with:

- 1) a permanent residence permit, a long-term resident's EU residence permit specified in section 56a or a continuous residence permit on grounds other than employment;
- 2) a residence permit on the basis of family ties;
- 3) a temporary residence permit on the basis of temporary protection or other humanitarian immigration;
- 4) a temporary residence permit under section 52a or 52d;
- 5) a residence permit under section 54b or 75;
- 6) a residence permit under section 51 due to there being an obstacle to leaving the country.

Aliens have a restricted right to work if they have been issued with:

- 1) a residence permit for an employed person, in which case they have the right to work both in one or more fields of employment as specified in the decision under section 72, subsection 3 and in sectors suffering from labour shortages as specified in section 72c;
- 2) a residence permit for a specialist referred to in section 73 or other residence permit for gainful employment referred to in section 74, in which case they have the right to work in accordance with the grounds for the permit.
- 3) a residence permit for employment issued on grounds other than referred to in paragraph 1, in which case the right to work also covers the right to work referred to in section 73 and section 74, subsection 1, paragraphs 4, 5 and 8–10;
- 4) a residence permit referred to in paragraphs 1–3, in which case the alien also has the right to work in a sector suffering from a labour shortage specified under section 72c.

Aliens who have been issued with a residence permit by the Ministry for Foreign Affairs for the construction, repair or maintenance of a mission under section 69, subsection 3 have the right to carry out the work for which the residence permit was issued.

Aliens who work under a residence permit are, upon application, granted the right to work without any restriction on the field of employment or other restriction if there are reasonable grounds to suspect that their employer has significantly neglected its obligations as an employer or otherwise exploited the alien and if the new employer of the alien appends to the application the information referred to in section 71b, subsection 1 and, if requested by the Finnish Immigration Service, information referred to in subsections 2 and 3.

An entry concerning the right to work under this section shall be made in the alien's residence permit except for the residence permit referred to in subsection 3.

Section 81c

Right to start working and duration of the right

The right to work begins when the residence permit containing the right has been issued and ends when the validity of the residence permit expires. The right under the new residence permit begins when the residence permit is issued.

The right to work under section 81a, subsection 2, paragraph 4 begins when a residence permit based on employment has been issued. The right to work is retained until the end of the employment relationship that started while the decree was in force even if the decree was amended. The right to work ceases upon the expiry of the residence permit's validity period.

If an application for an extended residence permit was lodged while the previous residence permit was still in force, the alien may continue the work referred to in the previous permit until a residence permit has been issued following the new application or a negative decision has become final.

If an alien's residence permit was issued under section 74, subsection 1, paragraphs 1–3 or 11, the right to work will cease upon the expiry of the permit's validity period.

If an alien's right to work is based on a visa or visa exemption, the right will last for no more than the period laid down in section 81b. Applying for a residence permit while a visa or visa exemption is valid will not extend the duration of the right to work. Notwithstanding the provisions of section 81b, the right to work will cease when a decision to deny the person admittance or stay is enforceable.

If the right to work is based on a residence permit and the person is to be deported, the right to work will cease when the deportation decision is enforceable.

If the right to work is based on applying for international protection, the right to work will cease when the decision to remove the alien from the country is enforceable or his or her application for international protection has lapsed.

If the right to work or engage in private business activities is based on an application for temporary protection, the right will cease when the application for temporary protection has been rejected or lapsed.

Section 82

Obligations of the employer and the contractor

The employer shall ensure that an alien entering its service and working in its service has the right to work.

An employer shall:

1) submit to the Finnish Immigration Service information on the person employed, duration of the employment relationship, salary, working hours and the applicable collective agreement when it employs a person other than a Union citizen, similar person or his or her family member;

2) notify the shop steward, the elected representative and the occupational safety and health representative of the workplace about the name of the alien referred to in paragraph 1 and the applicable collective agreement;

3) notify the Finnish Immigration Service about the name and contact details of the foreign worker referred to in paragraph 1 who will stop working or has stopped working, and about the reason for and date of ending the work.

An employer shall retain the information on the aliens in its employment and on the grounds for their right to work easily available at the workplace for inspection by occupational safety and health authorities, if necessary. The employer shall retain the information for two years after the end of the alien's employment relationship.

If employees are working for a foreign contractor or subcontractor or as temporary agency workers or incorporate transferees of a foreign employer, subsections 1 and 3 and the obligation laid down in subsection 2, paragraph 2 to provide information to the shop steward, elected representative and occupational safety and health representative of the workplace also apply to the party awarding the contract or subcontract and to the commissioner of the work.

The general contractor or other principal implementer shall ensure at the construction site and the employer exercising the main authority shall ensure in the shipyard that the alien working in the area has the right to work. The employer's retention obligation referred to in subsection 3 also applies to the general contractor and other principal implementer as well as to the employer exercising the main authority.

Provisions on the obligations of a contractor and a contracting partner in situations where an enterprise established in another State posts workers to Finland are laid down in the Act on the Contractor's Obligations and Liability when Work is Contracted Out (1233/2006). Provisions on the minimum terms of employment of workers posted to Finland, the obligations of the posting undertaking, the contractor's obligations, cooperation and powers of the occupational safety and health authority, and the cross-border enforcement of financial administrative penalties and fines are laid down in the Act on Posting Workers (447/2016).

The information referred to in subsection 2 shall be provided and the notification submitted no later than on the seventh day. The information in paragraphs 1 and 3 of the same subsection shall be submitted electronically to the Finnish Immigration Service using the online service intended for that purpose. For special reasons, the employer may provide the information and submit the notification other than by electronic means using a form approved by the Finnish Immigration Service. By derogation from the provisions on the time limits laid down above, the time limit for providing information by using a form is ten days instead of seven days.

This Act enters into force on XX Xxxx 20XX.

2.

Act

amending the Act on the Conditions of Entry and Residence of Third-Country Nationals for the Purpose of Highly Qualified Employment

By decision of Parliament,
section 9, subsections 4 and 5 of the Act on the Conditions of Entry and Residence of Third-Country Nationals for the Purpose of Highly Qualified Employment (/) are amended, and
a new section 9a is added to the Act as follows:

Section 9

Withdrawal of or refusal to renew EU Blue Cards

If the holder of an EU Blue Card is unemployed, subsection 1, paragraphs 2 and 4 and subsection 2, paragraph 3 do not apply if the period of unemployment has lasted for no more than six months.

If the Finnish Immigration Service applies subsection 2, paragraph 2 or 5, it shall hear the holder of the EU Blue Card and set a six-month time limit for applying for a new job.

Section 9a

Employer's obligation to notify

If the holder of an EU Blue Card becomes unemployed, the employer shall notify the Finnish Immigration Service of this no later than on the seventh day.

The notification shall be submitted to the Finnish Immigration Service electronically using the online service intended for that purpose. For special reasons, the employer may submit the notification other than by electronic means using a form approved by the Finnish Immigration Service. By derogation from the provisions on the time limit laid down in subsection 1, the time limit for providing information by using a form is ten days instead of seven days.

This Act enters into force on XX Xxxx 20XX.

3.

Act

amending the Act on the Conditions of Entry and Residence of Third-Country Nationals in the Framework of an Intra-Corporate Transfer

By decision of Parliament,
section 31 of the Act on the Conditions of Entry and Residence of Third-Country Nationals in the Framework of an Intra-Corporate Transfer (908/2017) *is amended*
a new section 9a *is added* to the Act as follows:

Section 9a

Non-withdrawal of an intra-corporate transferee residence permit

Section 9, subsection 3 does not apply if:

1) the holder of an intra-corporate transferee residence permit (ICT residence permit) who is a trainee is unemployed and the period of unemployment has lasted for no more than three months, or six months if the trainee has had a residence permit for at least two years; or

2) the holder of an ICT residence permit who is a manager or a specialist is unemployed and the period of unemployment has lasted for no more than six months.

Section 31

Request for review

Section 192, subsections 1 and 2 of the Aliens Act apply to requesting a review of the determination of the competent administrative court. In addition, section 194 of the said Act on the employers' right of appeal, section 196, subsection 4 on granting leave to appeal to the Supreme Administrative Court and section 197, subsections 1 and 3 on delivering an appeal document apply to requesting a review. In other respects, the provisions of the Administrative Judicial Procedure Act (808/2019) apply to requesting a judicial review by an administrative court.

This Act enters into force on XX Xxxx 20XX. _____

4.

Act

amending section 23 of the Act on the Conditions of Entry and Residence of Third-Country Nationals for Seasonal Work

By decision of Parliament,
section 23 of the Act on the Conditions of Entry and Residence of Third-Country Nationals for Seasonal Work (907/2017) *is amended* as follows:

Section 23

Request for review

Section 192, subsection 1 of the Aliens Act apply to requesting a review of the determination of the competent administrative court. In addition, section 194 of the said Act on the employers' right of appeal, section 196, subsection 4 on granting leave to appeal to the Supreme Administrative Court and section 197, subsections 1 and 3 on delivering an appeal document and section 199 on deciding on petition against enforcement apply to requesting a review. In other respects, the provisions of the Administrative Judicial Procedure Act (808/2019) apply to requesting a judicial review by an administrative court.

This Act enters into force on XX Xxxx 20XX. _____

Government Decree

on the Sectors Suffering from Labour Shortages Nationwide

By decision of the Government, the following is enacted under section 72c of the Aliens Act (301/2004):

Section 1

The fields of employment that have problems with the availability of labour throughout the country are:

- 1) nurses;
- 2) practical nurses;
- 3) general practitioners;
- 4) early childhood educators;
- 5) home care assistants (home services);
- 6) application designers;
- 7) senior specialists in social work;
- 8) special needs teachers.

Section 2

This Decree enters into force on the [day] of [month] 202.

Helsinki, 202.

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Arto Satonen

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Jarmo Tiukkanen