

Act on Fairway Dues
(1122/2005, amendments up to 1214/2014 included)

Chapter 1 (1214/2014) – **General provisions**

Section 1 – *Scope of application*

- (1) As provided in this Act, fairway dues are payable to the government for ships engaged in merchant shipping in Finnish territorial waters.
- (2) This Act does not apply to ships that:
 - 1) navigate in the Saimaa Canal or Saimaa waters;
 - 2) on their way between foreign ports sail through Finnish territorial waters without calling at Finnish coastal ports;
 - 3) arrive in and depart from Finland via the Saimaa Canal without calling at Finnish coastal ports;
 - 4) have a net tonnage of less than 300 and are cruise ships defined in section 2(3), or cargo ships defined in section 2(4);
 - 5) have a net tonnage of less than 600 and are passenger ships defined in section 2(1);
 - 6) are used for icebreaking in the inner or outer territorial waters of Finland and provide icebreaking services to the Finnish Transport Agency based on contracts or bilateral treaties.

Section 2 – *Definitions*

For the purposes of this Act:

- 1) *Passenger ship* means a ship that may carry at least 120 passengers but is not a cruise ship or a high-speed craft.
- 2) *High-speed craft* means a high-speed craft referred to in Chapter X of the Annex to the International Convention for the Safety of Life at Sea, 1974.
- 3) *Cruise ship* means a ship that may carry more than 12 passengers, is engaged in cruise traffic and, when calling in Finland, does not load or unload cargo, except for the fuel and provisions necessary for the ship's own needs; cruise traffic means sea voyages in which a ship that is not in scheduled liner service calls, in addition to a Finnish port, at no fewer than two foreign ports during the same voyage.
- 4) *Cargo ship* means ships other than those defined in paragraphs 1-3.
- 4a) *Integrated tug-barge combination* means a rigidly connected composite unit of a vessel without propulsion machinery of its own and an associated pushing vessel with propulsion machinery, when the design and integration system is such that the combination is capable of operating as a single ship. (1267/2007)
- 5) *Net tonnage* means the net tonnage specified in the ship's tonnage certificate determined by the formula in Annex I of the International Convention on Tonnage Measurement of Ships, 1969.
- 6) *Merchant shipping* means operations carried out by ships for commercial purposes, such as transport of cargo and passengers, towing, icebreaking, catching fish, etc. or search and rescue, and assistance.
- 7) *Shipowner* means the owner or the charterer of a ship or any other organization or person who has assumed the responsibility for operation of the ship.
- 8) *Ice class* means the ice classes IA Super, IA, IB, IC, II and III defined in the Act on the Ice Classes of Ships and Icebreaker Assistance (1121/2005).

- 9) *Deadweight* means the deadweight defined in Chapter II-2(3) of the International Convention for the Safety of Life at Sea, 1974. (1214/2014)
- 10) *Arrival in Finland* means entry of a ship into Finnish territorial waters or arrival from a Finnish port to another Finnish port. (1214/2014)
- 11) *Finnish port* means a port located in Finland or its water area. (1214/2014)
- 12) *Jointly liable representative* means any natural or legal person, approved by Finnish Customs, who is established in a Member State of the European Union or the European Economic Area and is acting in his own name on behalf of his principal. (1214/2014)
- 13) *Registered customer* means any credit customer approved by Finnish Customs. (1214/2014)
- 14) *Cash customer* means any other customer than registered customers. (1214/2014)

Section 3 (1214/2014) – *Competent authorities*

- (1) Finnish Customs is responsible for charging fairway dues and for supervising the charging process.
- (2) For the processing of applications concerning a person's approval as representative referred to in section 2(12) or approval as customer referred to in section 2(13), Customs has, notwithstanding secrecy provisions, the right to receive from authorities and other institutions discharging public functions, any information necessary for assessment of the applicant's or permit holder's reliability, suitability, capacity or other property to meet the requirements in the permit conditions or other prerequisites for permits. Notwithstanding secrecy provisions, Customs also has the right to receive information for collection purposes on the customer's property and assets, solvency, debts, missed payments, financial arrangements as well as any other information on the customer's financial dealings and financial standing.
- (3) Notwithstanding secrecy provisions, the Finnish Transport Safety Agency shall submit data by electronic means to the information management system referred to in section 20a of the Vessel Traffic Service Act (623/2005) on the vessels registered in the Ice Class Register referred to in section 7 of the Act on the Ice Classes of Vessels and Icebreaker Assistance. The Finnish Transport Safety Agency and the Finnish Transport Agency shall provide Customs with information, details, statements and other documentation necessary for the application of this Act. They shall also provide Customs with other executive assistance, whenever necessary.
- (4) Notwithstanding secrecy provisions, Customs may provide the Ministry of Transport and Communications, the Finnish Transport Safety Agency and the Finnish Transport Agency with information, details, statements and other documentation necessary for the application of this Act. Customs shall also provide the Ministry of Transport and Communications, the Finnish Transport Safety Agency and the Finnish Transport Agency with other executive assistance, whenever necessary.

Section 4 (1214/2014) – *Party liable to pay*

- (1) The shipowner is liable for paying the fairway dues. If a shipowner established in a Member State of the European Union or the European Economic Area has a jointly liable representative, the shipowner and his representative are jointly and severally liable for paying the fairway dues.

- (2) A shipowner established in a state outside the European Union or the European Economic Area must have a jointly liable representative established in a Member State of the European Union or the European Economic Area who has been approved as such by Customs. In this case the shipowner and his representative are likewise jointly and severally liable for paying the fairway dues.
- (3) Customs may approve a reliable, financially sufficiently solvent natural or legal person who is familiar with the legislation on fairway dues and related procedures and who is not guilty of serious or recurrent violation of customs or tax laws as a jointly liable representative.

Chapter 2 – **Charging principles**

Section 5 (1214/2014) – *Fairway dues*

- (1) Fairway dues are payable when a ship enters Finnish territorial waters from abroad or arrives in a Finnish port from another Finnish port.
- (2) Fairway dues are not payable when a ship arrives in a port in the Saimaa waters or when a ship calls for cargo in another port in the Saimaa waters. However, fairway dues are payable when a ship arrives from the Saimaa Canal to a coastal seaport.
- (3) If a ship on an international voyage, during that voyage, calls for cargo or passengers at a Finnish port in order to carry the cargo or passengers to another Finnish port, the ship is required to pay fairway dues for every call at a Finnish port.
- (4) If a ship, during a voyage, unloads cargo or leaves passengers from abroad at more than one Finnish port or loads cargo or takes passengers destined for abroad from more than one Finnish port, the fairway dues are payable only once.
- (4) If a ship, during a voyage, between loading operations carried out in Finnish ports, calls at a foreign port in order to load additional cargo for reasons of loading or stowing optimisation, the fairway dues are payable only once.
- (5) No fairway dues are payable for a ship that calls at a Finnish port solely for the sake of repairs on the ship, for assessing the need for repairs or for the sake of bunkering or for similar compelling reasons without loading or unloading cargo or taking or leaving passengers.

Section 6 (1214/2014) – *Unit price for fairway dues*

- (1) The unit price for fairway dues payable for cargo ships and passenger ships is determined in accordance with the ice class of the ship, as follows:

Ice class	Cargo ship Unit price (EUR)	Passenger ship Unit price (EUR)
IA Super	0.470	0.625
IA	1.098	1.294
IB, IC	2.578	2.358
II, III	4.381	4.169

- (2) The unit price for a cruise ship is EUR 0.911, for a high-speed craft EUR 5.381 and for a vessel without propulsion machinery of its own EUR 2.107.

Section 7 – *Amount of fairway dues*

- (1) The fairway dues payable for cargo ships and passenger ships are calculated by multiplying the net tonnage by the unit price for fairway dues laid down in section 6(1). However, if a cargo ship has a net tonnage of more than 25,000, the net tonnage in excess of this amount is multiplied by a figure that is half the unit price laid down in section 6(1). The net tonnage of an integrated tug-barge combination is the combined net tonnage of the two vessels. (1267/2007)
- (2) The fairway dues payable for cruise ships and high-speed craft are calculated by multiplying the net tonnage by the unit price laid down in section 6(2).

Section 8 (1214/2014) – *Maximum fairway dues for one call*

Fairway dues may not exceed EUR 53,875. However, for a passenger ship, fairway dues may not exceed EUR 16,215, and for a cruise ship, they may not exceed EUR 22,250.

Section 9 (1309/2009) – *Certifying the ship's net tonnage*

If the ship has no tonnage certificate, the tonnage specified in the tonnage certificate does not correspond to the actual tonnage of the ship or the ship is, under the tonnage measurement regulations in force, not authorized to use the net tonnage specified in the tonnage certificate, the Finnish Transport Safety Agency shall certify the ship's net tonnage for the purpose of determining the fairway dues in accordance with the tonnage measurement regulations in force.

Section 9a (1214/2014) – *Want of or termination of validity of ice class notation in the ice class register*

If a cargo ship or passenger ship has no ice class notation in the record of ice classes or the notation is no longer valid, the price per unit applicable when calculating the fairway dues is the price per unit determined for the lowest ice class.

Chapter 3 – **Waiver of payment and reduced fairway dues**

Section 10 – *Maximum amount of fairway dues payable for one year and additional dues*

- (1) When, for a passenger ship or a high-speed craft, fairway dues have been paid 30 times, and, for a cargo ship, 10 times, the ship's fairway dues shall be waived for the rest of the calendar year. The number of fairway dues to be paid for an integrated tug-barge combination is calculated on the basis of the port calls of the pushing vessel. (1267/2007)
- (2) If the circumstances affecting the amount of the fairway dues change during the calendar year so that the fairway dues laid down in section 7 increase, additional dues must be paid for the ship. In that case, the fairway dues payable in the calendar year equal the 30 highest fairway dues payable for a passenger ship or a high-speed craft and, correspondingly, the 10 highest fairway dues payable for a cargo ship in the calendar year.

Section 11 – *Reducing fairway dues on the basis of the loading capacity utilization rate*

- (1) The fairway dues for a cargo ship are reduced by 75 per cent if the ship's loading capacity utilization rate is 15 per cent or less, and by 50 per cent if the loading capacity utilization rate is more than 15 per cent but not higher than 30 per cent.
- (2) The loading capacity utilization rate is calculated by comparing the figure showing the combined total of cargo imported to and exported from Finland, as indicated in metric tonnes, with a figure that is 90 per cent of the ship's deadweight. When the ship's utilization rate is calculated, the ship's cargo in transit is added both to the cargo imported to and to the cargo exported from Finland. (1214/2014)

Section 12 – *Reducing fairway dues on other grounds*

- (1) The fairway dues for a cargo ship are reduced by 50 per cent if, in connection with a voyage to the Saimaa Canal, the ship carries cargo from abroad to a Finnish coastal port or if, in connection with a voyage to the Saimaa Canal, the ship takes cargo destined for abroad from a Finnish coastal port.
- (2) The fairway dues for a cargo ship are reduced by 75 per cent if the ship carries cargo from abroad that because of compelling reasons relating to the ship's large size must be transported from the port of call to another Finnish port by other ships.
- (3) The fairway dues for a cargo ship collecting transit goods for export from a Finnish port are reduced by 50 per cent, if the entire cargo of the ship consists of transit cargo.

Chapter 4 – **Notification for payment and charging and collecting fairway dues**

Section 13 (1214/2014) – *Notification for payment*

- (1) The party liable to pay shall provide Customs with a notification for the purpose of determining the fairway dues. The notification shall contain the information necessary for determining the dues.

- (2) The notification shall be submitted by electronic means or by other means suitable for data processing. Customs may issue more detailed regulations on the contents and form of the notification for payment, and the notification procedure.

Section 14 (1214/2014) – *Payment of fairway dues*

- (1) Cash customers shall pay the fairway dues into the relevant Customs account within ten days of the date of issue of the decision on fairway dues, unless the time has not been extended by Customs.
- (2) Registered customers shall pay the fairway dues to the relevant Customs account on Friday seven weeks after the week when the decision on the fairway dues was issued.
- (3) Customs may rule that collateral be given. In determining the amount of collateral Customs takes into consideration the customer's reliability, the extent of the customer's activities and the customer's financial ability to pay the fairway dues. Customs may change the amount of collateral in consideration of changes in the customer's activities.

Section 15 – *Paying fairway dues in advance*

The fairway dues referred to in section 10(1) above may be paid in advance as a lump sum.

Section 16 – *Charging estimated fairway dues*

- (1) If the party liable to pay has failed to submit the notification for payment referred to in section 13 or the notification is incomplete, the customs authorities shall, by imposing a threat of charging estimated fairway dues, request the party liable to pay to submit a notification for payment or complete the incomplete notification within a specified time.
- (2) If, despite the request, no notification for payment has been submitted or it is not possible to collect the fairway dues even on the basis of the completed notification, the charging shall be based on an estimate. In that case, the grounds for the estimate shall be mentioned in the payment decision.
- (3) Before the charging of estimated fairway dues, the party liable to pay shall be given an opportunity to be heard.

Section 17 – *Payment increase*

- (1) The fairway dues may be increased:
 - 1) by a maximum of 30 per cent, if the party liable to pay has submitted the information necessary for charging the fairway dues in an incomplete or incorrect form or neglected its notification obligation in full or in part; or
 - 2) by a maximum of 50 per cent, if the party liable to pay has, deliberately or through gross negligence, submitted an incomplete, misleading or false notification or other incomplete, misleading or false information or documents for charging fairway dues, failed to submit information for

charging fairway dues or otherwise neglected the obligation to provide information and the procedure is likely to have resulted in a situation where not all of the fairway dues payable by the party liable to pay have been charged.

- (2) If, in light of the benefits that may have been obtained thereby and other material circumstances, the action referred to in subsection 1(2) must be considered aggravated, the fairway dues shall be increased by at least 50 per cent and not more than 100 per cent.

Section 18 – *Penalty charge*

- (1) If in a situation referred to in section 17(1) the fairway dues are not charged or if the amount of fairway dues is small and no payment increase has been ordered, a penalty charge of at least EUR 10 and not more than EUR 2,500 may be collected.
- (2) Reprehensibility and frequency of the action and other comparable factors shall be taken into account when the penalty charge is determined.

Section 18a (1214/2014) – *Preventing or stopping ships from departing*

While performing the duties referred to in section 3, Finnish Customs has the right to prevent or stop a ship from departing from a Finnish port or leaving Finnish territorial waters, if the party liable to pay has neglected the duty referred to in section 4(2) or section 13.

Chapter 5 - **Adjustment for the benefit of the payee and retrospective charges**

Section 19 – *Adjustment for the benefit of the payee*

- (1) If, through no fault of the party liable to pay, there has been a failure to charge the fairway dues in full or in part because of a calculation error or a comparable error or because the customs authorities have not examined all aspects of the matter or the refunded amount is too high, the customs authorities shall rectify their decision unless the matter is pending for some other reason or has been settled by a decision on appeal.
- (2) The rectification shall be made within a year of the beginning of the calendar year following the calendar year during which the fairway dues or the refund were ordered to be paid or should, on the basis of the notification by the party liable to pay, have been ordered to be paid.

Section 20 – *Retrospective charges*

- (1) If there has been a failure to charge the fairway dues in full or in part because the party liable to pay has, in full or in part, neglected its notification obligation or submitted an incomplete, misleading or false notification or other incomplete, misleading or false information or documents for charging fairway dues, or if, for the same reason, the refunded amount is too high the customs authorities shall order that the party liable to pay pays the fairway dues not charged.

- (2) Retrospective charging must be carried out within three years of the beginning of the calendar year following the calendar year during which the fairway dues or the refund were ordered to be paid or should have been ordered to be paid.
- (3) If the shipowner's representative established in a member State of the European Union or the European Economic Area who has been approved by the customs authorities did not know and could not have known that the notification, documents or other information submitted for charging fairway dues are incomplete, misleading or false, the retrospective charging for such shipowner's representative must be carried out within eighteen months of the occurrence of the claim. (750/2008)

Section 21 – *Right of the party liable to pay to be heard*

The party liable to pay must be given an opportunity to be heard before an adjustment for the benefit of the payee and before a retrospective charging of the fairway dues.

Chapter 6 – **Instruments of legal protection**

Section 22 – *Preliminary ruling*

- (1) Customs may, on application, issue a preliminary ruling concerning the application of the provisions on fairway dues if the matter is of special importance for the applicant. No preliminary ruling shall, however, be issued on a ship's ice class or net tonnage or on the amount of the fairway dues. (1214/2014)
- (2) The application shall specify the matter referred to for a preliminary ruling and give the details necessary for issuing a ruling on the matter.
- (3) The preliminary ruling is issued for a specific period. A preliminary ruling that has become legally valid shall, as requested by the applicant, be observed as a binding decision as laid down in the preliminary ruling.
- (4) Matters concerning preliminary rulings shall be considered urgently.

Section 23 (1214/2014) – *Reduction and postponement of dues*

- (1) If, under the circumstances, collecting fairway dues in their entirety would be manifestly unreasonable, Customs may, on application, reduce the fairway dues, the payment increase or the penalty interest paid or to be paid, or the interest to be paid because of the postponement or cancel it altogether.
- (2) Customs may, on application, grant a postponement of the payment of fairway dues. The postponement is granted on condition that collateral equal to the postponed amount is given for the payment of the postponed amount. The postponement may, however, be granted without requesting collateral if the sum payable is small or the postponement period is short. Interest is charged on fairway dues for the payment of which postponement has been granted in accordance with the Act on Surtax and Penalty Interest (1556/1995). However, for particularly weighty considerations of reasonability the postponement may be granted interest-free.

Section 24 – *Adjustment for the benefit of the party liable to pay*

- (1) If Customs determines that the amount charged as fairway dues is too high or that the refunded amount is too low, the decision shall be rectified and the over- or underpaid dues be refunded. (1214/2014)
- (2) The rectification may be made within three years of the beginning of the calendar year following the ordering of the payment of the fairway dues or the refund or it may also be made at a later date on the basis of a written request made during the period in question.

Section 25 (1214/2014) – *Appeal against decisions made by Customs*

- (1) A claim for a revised decision with regard to any decisions made by Customs with the exception of preliminary rulings may be lodged as laid down in the Administrative Procedure Act (434/2003).
- (2) Decisions made on the basis of a claim for a revised decision and preliminary rulings may be appealed to the Helsinki Administrative Court as laid down in the Administrative Judicial Procedure Act (586/1996).
- (3) Revision of a decision not to issue a preliminary ruling cannot be claimed. Likewise, such a decision cannot be appealed.
- (4) An appeal against an Administrative Court decision may be appealed only if the Supreme Administrative Court grants leave of appeal.
- (5) The appeal period is three years from the beginning of the calendar year following the year when the fairway due or the refund was determined; however, it is always at least 60 days from the receipt of the decision. The appeal period for appeals against other decisions is 30 days from the receipt of the decision. When appeal is made on behalf of the government the appeal period is 30 days from the receipt of the decision. Appeal to the Supreme Administrative Court shall, however, be made within 60 days of the receipt of the decision.
- (6) The right to appeal on behalf of the government rests with the customs attorney.

Section 26 (1214/2014)

Section 26 has been repealed by Act 1214/2014.

Section 27 (1214/2014) – *Paying fairway dues despite appeal*

The fairway dues shall be paid within the specified time despite pending appeal.

Section 28 – *Interest payable on the refunded amount*

- (1) If fairway dues are refunded as a result of a payment rectification or an appeal, interest is payable on the refunded amount. The interest is calculated as annual interest that, for the six-month period preceding each calendar year, is equal to the reference rate referred to in section 12 of the Interest Act less two

percentage points, however no less than 0.5 per cent. The interest is calculated from the payment date. (1257/2009)

- (2) No interest is payable on refunds smaller than EUR 17. The interest paid on the refund is not taxable income in income taxation.

Chapter 7 – **Miscellaneous provisions**

Section 29 – *Other provisions applied in the collection of fairway dues*

- (1) Unless otherwise provided in this Act, provisions in the Act on Surtax and Penalty Interest (1556/1995) apply to consequences of default concerning the payment of fairway dues. Applicable provisions laid down in and under the Tax Collection Act (609/2005) apply to the collection, recovery and refunding of fairway dues.
- (2) Unless otherwise provided in this Act, provisions in the Act on the Recovery of Taxes and Fees by Recovery Proceedings (367/1961) and the Act on the Securing of the Recovery of Taxes and Fees (395/1973) apply to the collection of fairway dues by recovery proceedings and the securing of the recovery.

Section 30 (1214/2014) – *The smallest chargeable and payable amount*

The smallest chargeable and payable amount of fairway dues is EUR 10.

Section 31 – *Obligation to provide information*

The party liable to pay must, on request, provide the customs authorities with the information and documents necessary for the collection, supervision and verification of fairway dues.

Section 32 - *Payment evasion*

If a circumstance or a measure has been given a legal form that is not in accordance with the actual nature or purpose of the matter, the procedure observed in the charging of fairway dues must be in accordance with the correct form.

Section 33 – *Electronic provision of information*

The decision of the customs authorities may also be communicated by electronic means by using the address for electronic business given by the party liable to pay. In that case and unless proven otherwise, the decision is considered to have been received by the party liable to pay on the day the electronic message was sent.

Section 34 – *Penal provision*

The punishment for tax fraud, aggravated tax fraud and petty tax fraud is laid down in Chapter 29, section 1-3 of the Penal Code (39/1889).

Section 35 – *Entry into force*

- (1) This Act enters into force on 1 January 2006.
- (2) This Act repeals the Act on Fairway Dues (708/2002) of 16 August 2002 and the Government Decree on Fairway Dues (719/2002) of 22 August 2002.
- (3) Measures necessary for the implementation of this Act may be undertaken before its entry into force.

Section 36 – *Transitional provisions*

- (1) Provisions that were in force at the entry into force of this Act shall apply to fairway dues based on the grounds that have arisen before the entry into force of this Act.
- (2) Finnish Maritime Administration regulations issued under section 12(3) of the repealed Act on Fairway Dues and the list approved by the Finnish Maritime Administration shall remain in force unless other provisions on them are issued under the Act on the Ice Classes of Ships and Icebreaker Assistance.

Act 1320/2011 enters into force on 1 January 2012.

Act 1214/2014 enters into force on 1 January 2015. Sections 6 and 8 of the Act are in force until 31 December 2017.

The provisions in force at the time of the entry into force of this Act shall apply to appeals against administrative decisions made before the entry into force of this Act.