

## **Translation from Finnish**

**Legally binding only in Finnish and Swedish**

**Ministry of Transport and Communications, Finland**

### **Maritime Act**

(674/1994; amendments up to 544/2021 included)

By decision of Parliament, the following is enacted:

## **PART I**

### **SHIPS**

#### **Chapter 1**

##### **General provisions on ships**

##### **Section 1 (991/2018)**

###### **Ship's nationality**

A ship is regarded as a Finnish vessel entitled to fly the Finnish flag if a Finnish citizen or legal person owns more than sixty per cent of the ship.

The Finnish Transport and Communications Agency shall approve a ship other than one referred to in subsection 1 as a Finnish vessel if:

- 1) a citizen of a Member State of the European Economic Area or a legal person formed in accordance with the law of such state and having its registered office, central administration or principal place of business within the European Economic Area owns more than sixty per cent of the ship;
- 2) the ship is managed and operated from Finland;

- 3) the ship's owner, if not responsible for the vessel in accordance with paragraph 2, appoints a representative having a permanent municipality of residence and a place of residence in Finland to perform this function; and
- 4) the ship has been removed from the ship register of another state while it is registered in the transport register referred to in the Act on Transport Services (320/2017) or in the register of ships maintained by the State Department of Åland referred to in the Register of Ships Act (512/1993). (544/2021)

An approval referred to in subsection 2 above shall be withdrawn at the request of the owner of the ship.

The Finnish Transport and Communications Agency may approve a ship not referred to in subsections 1 and 2 as a Finnish vessel if:

- 1) the ship's ownership, administration, lending or charter relationships reliably show that its use for shipping is decisively under Finnish control;
- 2) the ship has been removed from the ship register of another state while it is registered in the transport register or in the register of ships maintained by the State Department of Åland; (544/2021)
- 3) the ship meets the requirements set for new vessels in maritime safety provisions; and
- 4) the ship's registration is deemed to promote the Finnish shipping industry and its employment.

Where a ship referred to in subsection 4 has no Finnish owners, it is required, besides the provisions above, that Finnish citizens have representation in the foreign ship-owning entity's administrative organs or the possibility to participate in the exercise of decision-making powers in the ship-owning entity in some other way.

A decision on the approval referred to in subsection 4 above shall include any terms deemed necessary by the Finnish Transport and Communications Agency and an indication of its period of validity. Such decision may be made for a maximum period of two years at a time. A new decision may be made when the period of validity of the previous decision has expired. (544/2021)

Where the conditions for the decisions on approval referred to in subsection 2 or 4 are no longer satisfied, or where the terms set for the approval referred to in subsection 4 are no longer being met, the Finnish Transport and Communications Agency shall withdraw such approval, unless the

derogation can be considered negligible. Prior to withdrawal of an approval, the holder of the approval shall be given an opportunity to provide a clarification on the matter. (544/2021)

Further provisions on how to apply for decisions on approval referred to in subsections 2 and 4, the contents of such applications and clarifications to be appended thereto, and the terms to be set for the approval referred to in subsection 4 may be issued by government decree. (544/2021)

## **Section 1a (991/2018)**

### **Entering a Finnish-owned ship in another state's ship register**

A ship which should be regarded as Finnish under subsection 1 of section 1 may be transferred to the ship register of another state within the European Economic Area in accordance with that state's legislation on registration of vessels owned by citizens or legal persons of other states in the European Economic Area.

The Finnish Transport and Communications Agency may, in order to promote the Finnish shipbuilding industry and employment, issue an approval for a ship which should be regarded as Finnish under subsection 1 of section 1 to be entered in the ship register of another state within the European Economic Area as that country's ship if: (544/2021)

- 1) the ship was built in Finland and is entered in the ship register of such state immediately upon completion;
- 2) a genuine link relating to the ship's ownership, possession or operation exists between the ship and the country of registration; and
- 3) the ship's registration is deemed to involve serious reasons relating to the promotion of the Finnish shipbuilding industry and employment.

An approval referred to in subsection 2 above shall include any terms deemed necessary by the Finnish Transport and Communications Agency and an indication of its period of validity. Such approval is issued for a fixed term, which may not exceed the period of validity of any charter party on the ship's operation or possession. The approval shall include a term prohibiting any further transfer of the ship to a third country's register. (544/2021)

Where the conditions for the issue of an approval referred to in subsection 2 are no longer satisfied or the terms set by virtue of subsection 3 are no longer being met, the Finnish Transport and Communications Agency shall withdraw the approval, unless such derogation can be

considered negligible. Prior to making a decision on withdrawal, the holder of the approval shall be given an opportunity to provide a clarification on the matter. (544/2021)

Any approval referred to in subsection 2 above will lapse if the ship or a share thereof is sold abroad with the result that the ship ceases to be Finnish under subsection 1 of section 1. (544/2021)

Further provisions on how to apply for an approval referred to in subsection 2, the contents of such applications and clarifications to be appended thereto, and the contents of withdrawal decisions referred to in subsection 4 may be issued by government decree. (544/2021)

## **Section 1b (544/2021)**

### **Approval of ships bareboat chartered to Finland**

By way of derogation from the provisions of section 1, the Finnish Transport and Communications Agency may, in accordance with this section, also approve as a Finnish vessel, on the charterer's application, a foreign ship which is bareboat chartered to Finland if:

- 1) the charterer is a Finnish citizen or legal person, or a citizen of a Member State of the European Economic Area or a legal person formed in accordance with the law of such state and having its registered office, central administration or principal place of business within the European Economic Area;
- 2) the ship is managed and operated from Finland;
- 3) the charterer assumes responsibility for all of the obligations arising from the ship's entry in the transport register or in the register of ships maintained by the State Department of Åland for a fixed period of time;
- 4) the ship's owner, mortgagees and lienors have given written consent to the ship's entry in the transport register or in the register of ships maintained by the State Department of Åland;
- 5) the registration authority of the state in which the title to the ship is registered has given written permission to enter the ship in the transport register or in the register of ships maintained by the State Department of Åland; and
- 6) the ship's registration is deemed to promote the Finnish shipping industry and its employment.

If the charterer of a bareboat chartered ship is a citizen or legal person of a Member State of the European Economic Area referred to in paragraph 1 of subsection 1, it is required, besides the provisions above, that the charterer, if not responsible for the vessel in accordance with paragraph 2 of subsection 1, appoint a representative having a permanent municipality of residence and a place of residence in Finland to perform this function.

A decision on the approval referred to in subsection 1 above may be made for the duration of the charter party, but not longer than five years at a time. A new decision may be made when the period of validity of the previous approval has expired.

The Finnish Transport and Communications Agency shall withdraw the approval if the conditions for its issue are no longer satisfied, unless such derogation can be considered negligible. Prior to withdrawal, the charterer of the bareboat chartered ship shall be given an opportunity to provide a clarification on the matter. The Finnish Transport and Communications Agency shall also withdraw the approval at the charterer's written request.

Finnish law applies to any ship entered in the transport register or in the register of ships maintained by the State Department of Åland by virtue of this section, with the exception of matters concerning the ship's ownership and mortgaging, which are subject to the law of the state in which its title is registered. No mortgages shall be granted over the ship in Finland.

Provisions on how to apply for an approval referred to in subsection 1, the contents of such applications and clarifications to be appended thereto are issued by government decree.

## **Section 2 (337/2018)**

### **Registration of ships**

Finnish ships engaged in merchant shipping shall be entered in the transport register in accordance with the Act on Transport Services (320/2017) or in the register of ships maintained by the State Department of Åland in accordance with the Register of Ships Act (512/1993).

## **Section 3**

### **Certificate of Nationality and other certificates and ship's documents**

Any seagoing merchant ship shall have a Certificate of Nationality and other certificates and ship's documents specifically stipulated in keeping with the nature of vessel and trade.

## **Section 4**

### **Ship's home port**

The home port of a ship registered in Finland is the port of this country entered as such in the transport register or in the register of ships maintained by the State Department of Åland in accordance with the owner's declaration. (337/2018)

The home port of any other Finnish ship is considered to be in the owner's domicile or, if he or she does not reside in this country, the City of Helsinki.

## **Section 5**

### **Transfer of a ship**

Any transfer of a ship already registered or to be registered shall be made in writing and in the presence of witnesses.

Separate provisions shall be observed in the transfer of ships being sold in a forced sale.

The provisions of this and section 6 on ships also apply to holdings in a ship.

## **Section 6 (337/2018)**

### **Validity of an acquisition in cases of double transfer**

If a person transfers a ship or a holding in a ship to more than one person, and if the person to whom the latter transfer was made has had his or her acquisition entered in the transport register or the register of ships maintained by the State Department of Åland, the earlier transfer is void against that person, provided that the acquisition was made in good faith and for consideration.

## **Section 7**

### **Condemnation of a ship**

A damaged ship shall be condemned in a survey where its restoration is not possible or, should restoration need to take place in another location, the ship cannot be transported there, and where it is uneconomic to restore the ship.

Where a ship is in a foreign location, its condemnation shall comply with the procedure in place therein.

## **Sections 8–8c**

*Sections 8–8c were repealed by Act 1688/2009.*

## **Section 9**

### **Scope of application of the Act**

The provisions of this Act only apply to vessels not engaged in merchant shipping where appropriate.

## **Chapter 2**

### **Registration of ships**

#### **Section 1 (337/2018)**

##### **Registration of ships in the transport register and the register of ships**

Provisions on the registration of ships are laid down in the Act on Transport Services and the Register of Ships Act.

## **Chapter 3**

### **Ship mortgages and maritime liens**

#### **Section 1**

##### **Ship mortgages**

Provisions on ship mortgages are laid down in the Ship Mortgage Act (211/1927).

## **Maritime liens on ships**

### **Section 2**

#### **Claims secured by maritime liens on a ship**

A maritime lien on a ship stands as security for any claim against the ship operator arising out of:

- 1) wages and other sums due to the master or any other person employed on the ship in respect of his or her employment;
- 2) port, canal and other waterway dues and pilotage dues;
- 3) any compensation for loss of life or personal injury occurring in direct connection with the operation of the ship;
- 4) any compensation payable for loss of or damage to property occurring in direct connection with the operation of the ship, unless the claim can be based on an agreement; and
- 5) any salvage reward, compensation for wreck removal and contribution in general average.

The provisions of paragraphs 3 and 4 of subsection 1 do not apply to any claims for compensation arising out of nuclear damage.

Any maritime lien is also valid where a claim is against a shipowner who is not an operator, or any person operating the ship as a charterer or otherwise in lieu of the ship operator.

### **Section 3**

#### **Priority of claims**

The priority among the claims referred to in paragraphs 1–5 of subsection 1 of section 2 is indicated by the numerical order of the paragraphs. Notwithstanding, any claim referred to in paragraph 5 shall always take priority over any claims referred to in paragraphs 1–4 that have arisen earlier.

The claims referred to in each of the paragraphs of subsection 1 of section 2 have equal rights for payment. Notwithstanding, any subsequently arising claims referred to in paragraph 5 have priority over earlier ones.

## **Section 4**

### **Validity of maritime liens**

With the exception of the case mentioned in section 7, a maritime lien continues to attach to the ship even if the title to the ship is transferred to another or the ship's registration is changed.

If a ship's voluntary transfer to foreign ownership results in the extinction of a maritime lien on a claim for which the previous owner was not personally liable, or in the subordination of priority, the transferor is liable for paying the claim to the extent that it cannot therefore be satisfied out of the ship. If several parties jointly own the ship, the same applies to each who has participated in or consented to the transfer.

## **Section 5**

### **Right of retention**

Anyone in possession of another party's ship or ship under construction for the purposes of repairs or construction is allowed to retain such a ship or ship under construction as security for a claim based on performance of the task. In such cases, the provisions of the Act on the Right of a Self-Employed Person to Sell an Unclaimed Object (688/1988) shall be observed as appropriate.

## **Section 6**

### **Extinction of maritime liens by lapse of time**

Any maritime lien on a ship will extinguish after a period of one year from the date on which the claim arose, unless the ship has been arrested or attached prior to the expiry of such period, resulting in a forced sale. The limitation period may not be extended nor suspended, but it will not, however, run when a ship cannot legally be arrested or attached for a claimant's claim.

## **Section 7**

### **Forced sale**

Should a ship be sold in a forced sale in Finland, any maritime lien and right of retention will cease to attach to the ship after the price has been paid, provided that the sale remains final.

Claimants have the right to receive payments from the sales price in the order provided for attached property. Any claim secured by a maritime lien may be lodged in full, notwithstanding the provisions of chapter 9 on ship operators' limitation of liability, but it shall not receive a dividend in excess of the maximum amount allotted to it under these provisions.

Any forced sale conducted in a foreign state has the impact laid down in subsection 1, if the forced sale was conducted in accordance with that state's law and in compliance with the provisions of the International Convention of 1967 for the Unification of Certain Rules relating to Maritime Liens and Mortgages.

## **Section 8**

### **Ships under construction**

The provisions on maritime liens on ships apply correspondingly to any ship under construction as of the time at which it was launched.

### **Maritime liens on cargo**

## **Section 9**

### **Claims secured by maritime liens on cargo**

A maritime lien on cargo stands as security for:

- 1) any claim for a salvage reward and contribution in general average, or any other costs to be allocated on the same criteria;
- 2) any claim arising out of an agreement concluded or any other action taken by a carrier or master within the authority vested in him or her under this Act, and any claim by a cargo owner on account of goods sold for the benefit of another cargo owner; and
- 3) any claim of a carrier based on a charter party, where it can be made against the person demanding goods to be delivered.

## **Section 10**

### **Priority of claims**

The priority among the claims referred to in paragraphs 1–3 of section 9 is indicated by the numerical order of the paragraphs. The claims mentioned in the same paragraph have equal rights for payment. Notwithstanding, any subsequently arising claims have priority over earlier ones among those arising out of different occurrences as referred to in paragraphs 1 and 2.

## **Section 11**

### **Validity of maritime liens on cargo**

Where the goods standing as security for a claim are delivered or sold for the benefit of the ship or cargo, the maritime lien will cease to attach to the goods.

Should the goods be sold in a forced sale, any maritime lien attaching to the goods will cease to have effect after the price has been paid, provided that the sale remains final.

Any person who delivers the goods which he or she knew or ought to have known to stand as security for a claim without the consent of the claimants, will be liable for paying the claim to the extent that it cannot therefore be satisfied out of the goods. The same liability applies to the consignee for any claim for which he or she would not otherwise be personally liable, if he or she knew about the claim at the time of delivery.

## **Section 12**

### **Extinction of maritime liens on cargo**

Any maritime lien on the goods loaded will extinguish after a period of one year from the date on which the claim arose, unless an action for the recovery of payment has been initiated in accordance with due process of law prior to the expiry of such period, or unless the goods have been arrested or attached, resulting in a forced sale. The limitation period will not, however, run when the goods cannot legally be arrested or attached for a claimant's claim.

Where a claim has been referred to an Average Adjuster, such action is deemed to have been initiated to recover payment.

## **Common provisions**

### **Section 13**

#### **Payment out of pledged assets**

Where a claimant holds a maritime lien on several pledged assets, each asset secures the full amount of the claim.

If a claimant secures payment out of one asset for a part of his or her claim in excess of what was due to that asset out of the value of respective assets at the time when the maritime lien was created, the owner of that asset will be subrogated to the claimant's rights against the other assets in respect of the excess. The same right also applies to any claimant whose claim was severally secured by the asset to the extent that the asset is insufficient to cover his or her claim due to the previous claimant's claim.

### **Section 14**

#### **Ranking of claims**

For a claim secured by a maritime lien on a ship or cargo, the claimant has the right to receive payment out of the object of the lien prior to other claims. For a claim secured by a right of retention referred to in section 5, the claimant has the right to receive payment from the object of the right of retention immediately after the claim mentioned above.

### **Section 15**

#### **Assignment of claims**

Any maritime lien will remain valid even if the claim is assigned or attached, or is otherwise transferred to another.

## **Section 16**

### **Insurance indemnities**

Maritime liens do not apply to indemnities payable for the destruction of or damage to a ship or cargo, whether under an insurance contract or otherwise. Conversely, the right of retention under section 5 may be exercised over such indemnities.

## **Section 17**

### **Bringing of an action**

An action to receive payment out of a ship or cargo for a claim secured by a maritime lien may be brought against the owner of the pledged asset or the master. With regard to cargo, however, the owner or operator of the ship, or anyone operating the ship in lieu of the ship operator shall not bring such action against the master.

## **Section 18**

### **Scope of application of the chapter**

The provisions of this chapter on maritime liens and the right of retention on ships shall be applied where such right is invoked with a Finnish public authority.

Should a right other than a maritime lien or right of retention or another similar right referred to in this chapter be invoked, its effect shall be determined under the national law of the state of the ship's registry. Such rights shall not, however, be granted priority over any maritime lien under this chapter, nor over any mortgage under the International Convention of 1967 for the Unification of Certain Rules relating to Maritime Liens and Mortgages. Nor may such right be otherwise recognised in contravention of the said Convention or be in any other respect more favoured than the closest comparable right under this Act.

## **Section 19**

### **Application of the provisions to ships under construction**

The provisions of section 18 apply correspondingly to any ship under construction as of the time at which it was launched. Prior to such time, the national law of the state in which the ship is being built will apply.

## **Chapter 4 (234/1995)**

### **Arrest of ships**

#### **Section 1 (234/1995)**

##### **Scope of application**

The provisions of this chapter apply to the arrest of ships to secure any maritime claim referred to in this chapter on which an action has been or may be brought in Finland or abroad.

The chapter's provisions apply to any ship entered in the transport register maintained by the Finnish Transport Safety Agency or in the register of ships maintained by the State Department of Åland, or in a corresponding foreign registry. (337/2018)

The provisions of this chapter do not apply:

- 1) to Finnish ships where the applicant's place of residence or principal place of business is in Finland; nor
- 2) to claims concerning taxes and public charges and other public or comparable claims.

#### **Section 2 (234/1995)**

##### **Relation to general provisions on seizure**

The provisions of chapter 7 of the Code of Judicial Procedure and chapters 3, 4 and 7 of the Execution Act on seizure and its enforcement apply to arrests of ships under this Act, unless otherwise provided in this Act.

### **Section 3 (234/1995)**

#### **Conditions for arrests**

A ship may only be arrested in respect of a maritime claim referred to in section 4.

Furthermore, the provisions of sections 1 and 2 of chapter 7 of the Code of Judicial Procedure on the conditions for attachments also apply to arrests.

Where the applicant seeking an arrest has a claim secured by a maritime lien on a ship referred to in section 2 of chapter 3, the ship may be arrested even if sufficient evidence were not presented to establish that there is a risk that the opposing party will take action endangering the applicant's rights.

### **Section 4 (234/1995)**

#### **Maritime claims**

'Maritime claim' means a claim arising out of one or more of the following:

- 1) damage caused by any ship either in collision or otherwise;
- 2) loss of life or personal injury caused by any ship or occurring in connection with the operation of any ship;
- 3) salvage;
- 4) any agreement relating to the use or hire of any ship whether by charter party or otherwise;
- 5) any agreement relating to the carriage of goods in any ship whether by charter party, bill of lading or otherwise;
- 6) loss of or damage to goods including luggage carried in any ship;
- 7) general average;
- 8) bottomry;
- 9) towage;
- 10) pilotage;
- 11) goods or materials wherever supplied to a ship for its operation or maintenance;
- 12) construction, repair or equipping of any ship or dock charges and dues;

- 13) wages and other sums due to the master or any other person employed on the ship in respect of his or her employment;
- 14) disbursements made by the master, any shipper, charterer, consignor or agent on behalf of a ship or its owner;
- 15) disputes as to the title to or ownership of any ship;
- 16) disputes between co-owners of any ship as to the ownership, possession, employment, or earnings of that ship; or
- 17) the mortgage or hypothecation of any ship.

## **Section 5 (234/1995)**

### **Assets subject to arrest**

Arrest is permissible of any ship in respect of which a maritime claim is asserted.

Where a maritime claim is based on circumstances mentioned in paragraphs 1–14 or 17 of section 4, arrest is also permissible of any other ship, instead of the ship referred to in subsection 1, which is owned by the same person who was, when the claim arose, the owner of the ship referred to in subsection 1.

If a person other than the ship's owner is personally liable for a maritime claim referred to in subsection 2, it is permissible to arrest the ship in respect of which the maritime claim is asserted or any ship owned by the debtor.

Notwithstanding the provisions of subsections 1–3, a ship may only be arrested where it can be subjected to enforcement measures in relation to a maritime claim in Finland.

Ships are deemed to be in the same ownership when all the shares therein are owned by the same person or persons.

## **Section 6 (234/1995)**

### **Restrictions on arrest**

A ship may only be arrested once in respect of the same maritime claim at the request of the same claimant.

If security has been provided for a maritime claim to release an arrested ship, the ship shall not be rearrested in respect of the same claim. However, a ship may be arrested if the claimant provides evidence to establish that the security given is no longer valid or that there are otherwise specific reasons for arrest.

## **Section 7 (234/1995)**

### **Operation of arrested ships**

Any arrested ship shall be prevented from sailing.

Where a ship was arrested in respect of grounds mentioned in paragraph 15 or 16 of section 4, however, the Court may, for the period of the arrest:

- 1) permit the person in possession of the ship to continue trading the ship by posting bail or other security; or
- 2) deal with the operation of the ship on other terms.

## **Section 8 (234/1995)**

### **Reference provision**

Provisions on the court having jurisdiction over cases involving arrests of ships under this Act are laid down in chapter 21.

## **PART II**

### **SHIPPING COMPANIES**

#### **Chapter 5**

##### **Shipping partnerships**

###### **Section 1**

###### **Scope of application of the chapter**

The provisions of this chapter apply where two or more parties agree on engaging in merchant shipping in the form of a shipping partnership on a single ship owned by them and entered in the transport register or in the register of ships maintained by the State Department of Åland. (337/2018)

In a shipping partnership, each ship operator is only liable for the obligations arising from the operations referred to in subsection 1 in proportion to his or her share of the ship.

Any foreign national may only own shares in a shipping partnership to the extent that the ship remains Finnish in accordance with section 1 of chapter 1.

###### **Section 2**

###### **Contractual stipulations**

The following provisions apply unless otherwise agreed: section 3, subsection 2; sections 4 and 5; section 6, subsections 2 and 3; sections 7 and 10–13; section 14, subsections 1 and 2; and section 18.

###### **Section 3**

###### **Formation of a shipping partnership**

A written agreement shall be drawn up on the formation of a shipping partnership.

Any amendment to the partnership agreement will only be valid if all of the ship operators have agreed the amendment unanimously.

## **Section 4**

### **Partners' meetings**

The affairs of a shipping partnership are decided at the meetings of its partners. A notice of a meeting shall be sent to each ship operator no later than one week prior to the meeting by registered mail, telegram, telex or in another verifiable manner. The notice shall indicate the matters to be addressed at the meeting.

Partners' meetings shall be convened by the principal operator. A meeting shall also be convened if so requested in writing by ship operators holding at least one tenth of all shares in the ship for the purpose of considering a stated matter. The meeting shall be convened within 14 days of the date on which the request was presented. Where the principal operator is unable or fails to convene a meeting, this may be done by one of the ship operators.

If a decision needs to be made to take urgent action necessary to secure the partnership's rights or prevent impending damage to the partnership or, if ship operators are unanimous, a meeting may be held without a notice referred to in subsection 1.

Minutes shall be kept at partners' meetings. Any ship operator who did not attend a meeting referred to in subsection 3 shall be notified of the decision.

## **Section 5**

### **Decision-making procedure at meetings**

The votes of ship operators shall be calculated in accordance with their holdings in the ship. Subject to the provisions of subsection 2, a motion supported by more than half of the votes cast shall constitute the decision of the shipping partnership. In the event of a tie, the motion favoured by the chairperson shall carry; notwithstanding, an election of the principal operator shall be decided by drawing lots.

Any decision made at a meeting referred to in subsection 3 of section 4 or entailing the dissolution of the partnership, shall only be valid if the motion is supported by more than half of all the votes in the partnership.

A decision made by a partners' meeting shall also bind any ship operator who did not attend the meeting.

## **Section 6**

### **Principal operator**

A shipping partnership shall have a principal operator. The principal operator's place of residence shall be located in the European Economic Area. Where required, the Ministry of Transport and Communications may grant exemptions from the residence requirement. A legal person whose domicile is located in the European Economic Area may also be elected as the principal operator. A principal operator resident or domiciled abroad is obliged to appoint a representative whose place of residence or domicile is located in Finland.

The principal operator shall deal with the partnership's day-to-day management in accordance with the instructions given by the ship operators and act on behalf of the partnership in matters concerning it before courts and other public authorities. The principal operator shall not assign or pledge the ship nor rent or charter the ship to another for a period exceeding one year without specific authorisation. The principal operator is not entitled to hire or terminate the ship master unless given such authorisation by decision of a partners' meeting.

The principal operator is entitled to receive reasonable remuneration for his or her duties.

## **Section 7**

### **Relieving the principal operator of his or her position and liability for damages**

The principal operator may be relieved of his or her position at any time by decision of a partners' meeting. Where the principal operator personally owns at least half of the ship, he or she may be relieved of his or her position by court decision following an action brought by a ship operator if there is a legitimate reason for doing so.

A ship operator and the principal operator are liable to compensate the other ship operators for any damage that they have intentionally or negligently caused in the course of attending to the affairs of the shipping partnership.

The provisions of chapters 2 and 6 of the Tort Liability Act (412/1974) apply to the adjustment of damages as well as to the allocation of liability between two or more liable parties.

## **Section 8**

### **Accounting and financial statements**

Shipping partnerships shall keep accounting records and prepare financial statements on their activities in compliance with the Accounting Act (655/1973), as appropriate. The financial statements shall be dated and signed by the principal operator. The principal operator shall present the financial statements and a report on the management of the shipping partnership's affairs to the partners' meeting for each financial year within the three months following the end of the financial year. The financial year is the calendar year, unless otherwise agreed.

The provisions of section 3 of chapter 9 of the Partnerships Act (389/1988) apply, as appropriate, to the contents of a shipping partnership's financial statements.

Where a shipping partnership is required to conduct an audit under its partnership agreement or where ship operators holding at least one tenth of all ship shares so require, or where the shipping partnership has employed, on average, more than 30 persons over the last two financial years, an audit shall be conducted in compliance with the provisions of sections 2–10 of chapter 10 of the Partnerships Act, as appropriate.

*The Accounting Act (655/1973) was repealed by the Accounting Act (1336/1997).*

## **Section 9**

### **Inspection of accounts and right to access information**

The provisions of section 15 of chapter 2 of the Partnerships Act apply correspondingly to the rights of ship operators to inspect the shipping partnership's accounts and access information about the partnership's activities.

If a ship operator wishes to object to the shipping partnership's financial statements, he or she shall bring an action thereon against the principal operator within the six months following the partners' meeting where the financial statements were presented. Should this period be neglected, the right of action is forfeited, unless the principal operator has acted in bad faith.

## **Section 10**

### **Obligation to contribute to costs**

Each ship operator is obliged to contribute to the partnership's operating costs in proportion to his or her share of the ship. Any ship operator who has failed to contribute, upon request, his or her share of the costs arising from a measure decided is obliged to pay interest for late payment to the principal operator or another ship operator who has covered his or her contribution as provided in the Interest Act (633/1982).

## **Section 11**

### **Distribution of profit and loss**

Any profit and loss from partnership operations for the financial period is distributed among ship operators in proportion to their ship shares.

A ship operator who has paid another ship operator's share of the costs in accordance with section 10 is entitled to receive a share of the profit calculated for the latter ship operator's share of the ship as a deduction of his or her claim.

## **Section 12**

### **Transfer of ship shares**

If a holding in a ship is transferred to another, the transferee or transferor of the ship share shall immediately notify the principal operator of the transfer.

If a ship operator loses his or her Finnish nationality, he or she shall immediately notify the principal operator thereof.

The principal operator is obliged to inform other ship operators of any notification mentioned in subsections 1 and 2 without delay as provided in subsection 1 of section 4.

## **Section 13**

### **Redemption of ship shares**

If a share in a ship has been transferred to a person other than another ship operator in the shipping partnership in a manner other than a public auction, each ship operator has the right to redeem the share. However, there is no right of redemption if the ship share was transferred to the holder's spouse or direct heir or the latter's spouse, except in the case mentioned in subsection 2.

Notwithstanding the provisions of subsection 1, each Finnish ship operator has the right to redeem a share in a ship if a ship operator has lost his or her Finnish nationality or if the ship share has been transferred to another with the consequence that the ship ceases to be of Finnish nationality.

A ship operator wishing to redeem a ship share shall notify the transferee thereof within the two months following the time when he or she was informed of an event mentioned in subsection 1 or 2.

If several persons wish to exercise their right of redemption, each one of them has the right of redemption in proportion to his or her share of the ship. The redemption amount shall be the real value of the ship share.

## **Section 14**

### **Ship operator's liability**

A ship operator whose share in a ship has been transferred to another is liable to the other ship operators for any obligations that he or she had at the time of transfer, and for any obligations arising after the transfer but before the principal operator has received notification of the transfer.

The new ship operator will, immediately upon transfer, become entitled and obliged in relation to the other ship operators in the same way as any ship operator. He or she is bound by any decisions and measures made prior to the transfer as they did his or her predecessor. The other ship operators may deduct from his or her share of the profit any contributions relating to partnership operations that bound his or her predecessor.

The transferor of the ship share is liable for any obligation to a third party based on partnership operations that arose prior to the transfer. He or she is also liable for any obligation arising after the transfer to a third party acting in good faith until the transfer is entered in the transport

register or in the register of ships maintained by the State Department of Åland. The new ship operator is only liable to a third party for any obligation arising after the transfer. (337/2018)

## **Section 15**

### **Dissolution of a shipping partnership**

A ship operator has the right to request that the shipping partnership be dissolved:

- 1) if he or she has given notice to terminate the partnership agreement and the period of notice has ended, or when his or her agreed partnership period has ended;
- 2) if another ship operator is declared bankrupt or his or her share in the ship is attached;
- 3) if a court has dismissed the principal operator;
- 4) if another ship operator materially breaches his or her obligations based on the partnership relationship or continuously abuses his or her position in the shipping partnership against the interests of the partnership, or if the continuation of the partnership's operations were unreasonable for the ship operator due to a substantial change in the circumstances affecting the partnership's operating conditions; or
- 5) if a ship owned by the partnership ceases to be of Finnish nationality and it has been removed from the transport register or from the register of ships maintained by the State Department of Åland. (337/2018)

In addition to the provisions of subsection 1, following the bankruptcy of a ship operator or the attachment of his or her share, the bankruptcy estate or the buyer that acquired the attached share of the ship in a forced sale may request that the partnership be dissolved.

If the ship operator has given notice to terminate the partnership agreement, the shipping partnership shall be dissolved within six months of termination, unless another period of notice was agreed. If the ship operator invokes the end of the partnership period under the partnership agreement, the partnership shall be dissolved upon expiry of the partnership period or, if the redemption period referred to in subsection 3 of section 17 is still running at the end of the agreed partnership period, immediately upon expiry of the redemption period. In a case referred to in paragraphs 2–5 of subsection 1 and in subsection 2, the partnership shall be dissolved immediately upon expiry of the redemption period referred to in subsection 3 of section 17.

Any request to dissolve a shipping partnership or its liquidation referred to in section 16 shall be presented to the principal operator. Notwithstanding, if the grounds for dissolution in a case mentioned in paragraph 3 of subsection 1 and in a case referred to in paragraph 4 concern the principal operator, the request shall be presented to the other ship operators. The principal operator shall inform the other ship operators of the request presented without delay.

## **Section 16**

### **Liquidation of a shipping partnership**

Where a shipping partnership is to be dissolved by virtue of section 15, the partnership shall be liquidated at the request of a ship operator. The provisions of sections 10–17 of chapter 5 of the Partnerships Act apply to the procedure for liquidation, as appropriate, unless the ship operators unanimously agree on some other procedure.

No agreement referred to in subsection 1 above shall be concluded in a case referred to in paragraph 2 of subsection 1 of section 15 without the consent of the bankruptcy estate, attachment claimant or forced sale buyer.

## **Section 17**

### **Redemption of ship shares due to grounds for dissolution**

In lieu of dissolving a shipping partnership, another ship operator may redeem the ship share of the ship operator in respect of whom there are grounds for dissolution referred to in subsection 1 of section 15. If the partnership's dissolution is requested on the grounds of paragraph 5 of subsection 1 of section 15, a redemption request may not be presented by a ship operator who had the right referred to in subsection 2 of section 13 to redeem a transferred ship share before such grounds for dissolution arose.

In a case referred to in paragraph 2 of subsection 1 of section 15, any share in a ship may only be redeemed with the consent of the bankruptcy estate or attachment claimant.

A ship operator shall notify the principal operator or, in the cases referred to in subsection 4 of section 15, the other ship operators of his or her redemption request within one month of being informed of a dissolution request presented by virtue of subsection 1 or 2 of section 15. Unless such notification is made within the specified time frame, the right of redemption is forfeited.

The provisions of subsection 4 of section 13 apply to the redemption procedure under this section.

## **Section 18**

### **Impact of dissolution**

When a shipping partnership is dissolved, the ship owned by the partnership shall be sold.

## **Chapter 6**

### **Ship master**

#### **Section 1**

##### **Master's nationality (1688/2009)**

Only a national of a Member State of the European Union or a state within the European Economic Area may serve as the master of a Finnish merchant ship. (310/2008)

*Subsection 2 was repealed by Act 1688/2009.*

#### **Section 2**

##### **Ship operator's right to serve as the master**

Any ship operator who owns more than a half of a ship has the right to serve in the capacity of its master, provided that he or she has the statutory qualifications required. Unless the terms and conditions of pay are agreed, these are determined by arbitrators or courts.

#### **Section 3**

##### **Ensuring seaworthiness**

Prior to beginning a voyage, the master shall ensure that the ship is seaworthy, considering the itinerary and season, which also entails ensuring that the ship is properly manned, equipped and supplied, and that the holds, refrigerating and cool chambers and all other parts of the ship in

which goods are carried are in good condition to receive, carry and store the goods, and that it has adequate stability.

During the voyage, the master shall ensure that the ship is kept in proper condition.

In the event that there is any defect or deficiency affecting the ship's seaworthiness that cannot be immediately remedied, the master shall promptly notify the ship operator thereof. Should the ship operator be unwilling to remedy such defect or deficiency, the master is entitled to resign immediately.

### **Section 3a (1359/2002)**

#### **Voyage planning**

Prior to beginning a voyage, the master shall ensure that the intended route was planned using appropriate nautical charts and nautical publications for the area concerned.

A voyage plan shall identify the ship's route so as to:

- 1) take into account the traffic separation scheme affecting the voyage;
- 2) ensure sufficient sea room for the safe passage of the ship throughout the voyage;
- 3) anticipate all known navigational hazards and adverse weather conditions; and
- 4) take into account any relevant marine environmental protection measures and, where possible, avoid any actions and activities which could cause damage to the environment.

### **Section 4**

#### **Ship's documentation**

The master shall ensure that the certificates and ship's documents, whether laid down in section 3 of chapter 1 or otherwise necessary, and a copy of this Act are carried on board the ship.

## **Section 5**

### **Accepting cargo**

Without the consent of the ship operator, the master shall not take merchandise on board on his or her own or a third party's account. Should there be such occurrence, the master shall pay the freight and cover the damage.

## **Section 6**

### **Master's deputy; prohibition on leaving the ship**

Where the master is absent or unable to serve, the most senior deck officer present shall make any decisions that will not wait.

If the master leaves the ship, he or she shall notify thereof the most senior deck officer present or, if no deck officers are available, some other member of the crew and shall give the necessary instructions.

Where the ship is not moored in port or otherwise at safe anchorage, the master shall not leave the ship, unless it is unavoidable. In case of imminent danger, he or she shall not be absent from the ship.

## **Section 7**

### **Substitution in certain cases**

If the master dies or becomes unable to navigate the ship due to illness or for some other compelling reason, or if he or she resigns, the most senior deck officer will assume command until a new master is appointed. The ship operator shall be notified of such cases without delay.

## **Section 8**

### **Duty to exercise proper care and salvage operations**

The master shall ensure that loading and unloading take place and the voyage is performed with due dispatch.

Prior to engaging in salvage of another vessel or cargo, the master shall carefully consider whether this is consistent with his or her duties towards those whose rights and interests he or she is to protect.

## **Section 9**

### **Observing good seamanship**

The master shall ensure that the ship is navigated and operated in compliance with good seamanship.

No ship operator referred to in section 2 of the Ship Safety Control Act (370/1995) nor any other person shall prevent or restrict the ship's master from taking or executing any decision which, in the master's professional judgement, is necessary to safeguard human life at sea or to protect the marine environment. (13/2007)

## **Section 10**

### **Ship's safe passage**

The master is obliged to obtain information about regulations and instructions in effect in the ship's ports of call.

In the event of war or blockade, the master shall obtain a report on what to take into account in order to secure the ship and cargo.

The master shall call a pilot whenever necessary for the safety of the ship.

## **Section 11**

### **Assistance to persons in distress at sea**

Any master finding a person in distress at sea is obliged, if it can be done without causing serious danger to his or her vessel or crew or other persons on board, to render all assistance possible and necessary to rescue the distressed person.

If the master has otherwise learnt that someone is in distress, or if he or she has become aware of any impending danger to seagoing traffic, he or she is obliged to take action to rescue the

distressed person or avert the danger, provided that this can be done without causing serious danger to his or her vessel or crew or other persons on board.

Provisions on the obligation of the master to render assistance where his or her ship collides with another vessel are laid down in section 5 of chapter 8.

## **Section 11a (1146/2001)**

### **Danger of distress at sea**

If a ship is in any danger of distress at sea that may endanger those on board, the master shall, without delay, report thereon to the maritime rescue coordination centre (MRCC) or the maritime rescue sub-centre (MRSC) referred to in the Maritime Search and Rescue Act (1145/2001), or to some other unit in charge of maritime search and rescue services within the area in question.

## **Section 12**

### **Action in the event of distress at sea**

Where the ship is in distress at sea, the master is obliged to do all in his or her power to rescue those on board and to protect the ship and cargo. As far as possible, he or she shall ensure that the ship's documents are secured and arrange for salvage of the ship and cargo.

The master shall not abandon ship as long as there is reasonable hope of its salvage, unless his or her life is in serious danger.

When engaging in salvage operations, the master shall lead the salvage work, unless prohibited by local law or hindered by a salvage contract. The master shall, personally or with assistance from a deck officer, keep an explicit record of anything salvaged, including the number of persons participating in salvage and transport of goods to a place of storage as well as the work involved. He or she is likewise be obliged to review and sign for any invoices for the costs of salvage.

The master shall, as soon as possible, conduct a survey of the vessel and salvaged goods as provided in section 25 of chapter 18 and ensure that the goods are placed in suitable safekeeping.

## **Section 12a (991/2018)**

### **Master's reporting obligation**

Any ship's master shall report to ships in the vicinity, as well as to the Finnish Transport and Communications Agency when in Finnish waters and to the authority, body or system promoting or monitoring the safety of navigation in another area, information of any dangerous ice, ice accretion or derelict, winds of force 10 or above on the Beaufort scale for which no storm warning has been issued, or any other imminent danger to navigation, as well as any defective or misleading operation, displacement or disappearance of a navigational aid.

## **Section 13**

### **Master's authority to act on behalf of a ship operator**

On behalf of a ship operator, the master is, in that capacity, entitled to:

- 1) enter into any legal transactions to protect the ship or perform a voyage;
- 2) conclude agreements on the carriage of goods on a voyage and on the carriage of passengers where the ship is intended to transport passengers; and
- 3) bring any legal action on behalf of the ship.

Should money be required for such purpose, the master may raise funds by incurring liabilities or selling the ship operator's property or, in case of emergency, cargo.

Even if such legal transaction were not necessary, the ship operator is nevertheless bound in respect of any third party acting in good faith.

## **Section 14**

### **Notifications and requests for instructions**

During a voyage, the master shall notify the ship operator of any important measures that he or she has deemed necessary for the safety of the ship and those on board, the progress of the voyage and any legal transactions undertaken in its course, and on any other details that would otherwise be useful for the ship operator to know. Prior to taking important steps, the master shall, whenever circumstances allow, seek instructions from the ship operator personally or from an agent appointed by the latter. If money is required for the ship and there is no time to wait for

the ship operator's instructions, the master shall raise funds in a manner most advantageous to the ship operator.

If the ship is attached or arrested for a debt while abroad, and if the ship's documents indicate that the ship is mortgaged for a debt, the master shall notify both the ship operator and the registration authority of such action.

## **Section 15**

### **Protecting the interests of cargo owners**

During a voyage, the master shall take good care of the cargo and otherwise protect the rights and interests of the cargo owner.

## **Section 16**

### **Right to represent a cargo owner**

On behalf of the cargo owner, the master is, in that capacity, entitled to enter into any legal transactions and bring any legal action in matters concerning the cargo and as provided on carriers.

## **Section 17**

### **Liability for obligations**

The master is not personally liable for obligations which he or she has undertaken in this capacity on behalf of the ship operator or cargo owner.

The master is liable to compensate for any damage that he or she has, in that capacity, caused through fault or neglect to the ship operator, cargo owner or any other person whose rights and interests he or she is to protect.

The damages payable by the master may be adjusted within reason in view of the degree of proven guilt, the level of damage or other circumstances. Notwithstanding, the provisions of the Tort Liability Act on the liability of employees apply to the liability for damages of a master who is in the position of an employee.

## **Section 18**

### **Accountability**

The master shall render an account whenever a ship operator so requires. If the ship operator wishes to object to the account, he or she shall bring an action thereon within one month following receipt of the account. If the account is not objected to within this period, the ship operator has forfeited the right to object, unless the master has acted in bad faith.

In the account, the master shall credit the ship operator for any specific compensation that he or she has received from a shipper, charterer, cargo owner, suppliers or others with whom he or she had dealings as a master, unless he or she has obtained the ship operator's explicit consent to keep it.

## **Section 19**

### **Master's dismissal**

If the master personally owns more than half of the ship, a court may dismiss him or her following an action brought by a ship operator if there are legitimate reasons for this.

## **Section 20**

### **Application of provisions**

Provisions on the master's duties in the event of collision and in respect of keeping record books, submitting maritime declarations and reports and conducting surveys are laid down in chapter 8 and chapter 18, respectively.

## **PART III**

### **LIABILITY**

#### **Chapter 7**

##### **General provisions on liability**

###### **Section 1**

###### **Ship operator's liability**

Unless otherwise provided in this Act or elsewhere by law, a ship operator is liable for any damage caused by the ship's master, crew, pilot or any other person who, without being a member of the crew, performs work for the ship on the instructions of the ship operator or master through fault or neglect in that capacity. Where the person who caused the damage is also liable alongside the ship operator, he or she is only liable for the amount not recoverable from the ship operator.

A ship operator who has paid compensation for any damage mentioned in subsection 1 is entitled to claim the amount paid from the person who caused the damage in accordance with the basis for that person's liability for damages. On the same grounds, the person who caused the damage is liable for any damage caused to the ship operator.

Provisions on the limitations of ship operators' liability are laid down in chapters 9 and 13–15 and in Regulation (EC) No 392/2009 of the European Parliament and of the Council on the liability of carriers of passengers by sea in the event of accidents, hereinafter referred to as the *Athens Regulation*. (249/2017)

Provisions on shipowners' liability for oil pollution damage from ships and on the limitation of shipowners' liability are laid down in chapter 10. (421/1995)

Provisions on shipowners' liability for damage caused by hazardous and noxious substances carried by water and on limitation of shipowners' liability are laid down in chapter 11. (1401/2019)

*Subsection 5 as added by Act 1401/2019 enters into force on a date to be specified by decree.*

Provisions on registered shipowners' liability for removal of a wreck resulting from a maritime casualty are laid down in chapter 11a. (860/2016)

## **Section 2 (264/2013)**

### **Obligation to insure**

For a Finnish ship of 300 gross tonnage or more, the ship operator shall take out and maintain insurance or provide security referred to in Directive 2009/20/EC of the European Parliament and of the Council on the insurance of ship operators for maritime claims. Such insurance or security shall cover the liability arising to the ship operator by virtue of sections 1–4 of chapter 9 up to the amount mentioned in subsection 1 of section 5 of chapter 9.

The obligation to take out and maintain insurance or provide security referred to in subsection 1 above also applies to any foreign ship of 300 gross tonnage or more, if the ship:

- 1) arrives in or departs from a Finnish port;
- 2) arrives in or departs from an anchorage or waiting area in Finnish waters; or
- 3) uses Finnish waters for a purpose other than carriage.

‘Finnish waters’ refers to the territorial waters and inland water area.

Subsections 1 and 2 above do not apply to warships, auxiliary warships or other state-owned or operated ships used for a non-commercial public service.

## **Section 3 (264/2013)**

### **Certificates issued by insurance or security providers**

Any insurance or security referred to in section 2 above shall be proven by a certificate issued by the insurance or security provider, which shall indicate at least:

- 1) name of ship, its IMO number, and port of registry;
- 2) shipowner’s name and principal place of business;
- 3) type and duration of the insurance or security; and
- 4) name and principal place of business of the provider of the insurance and, where appropriate, the place of business where the insurance is established.

If the language used in the certificates referred to in subsection 1 above is neither English nor French nor Spanish, the text shall include a translation into one of these languages.

The master is obliged to ensure that the certificate referred to in subsection 1 is carried on board the ship.

## **Chapter 8**

### **Damage caused by collision between vessels**

#### **Section 1**

##### **Provisions on avoidance of collisions**

Provisions on what vessels shall comply with in order to avoid collision are laid down separately.

#### **Section 2**

##### **General provision on compensation for damage**

If vessels collide so as to cause damage to either or both of the vessels or to any goods or persons on board, and if one of the parties is solely at fault, that party shall cover all damage and loss that it has thereby caused.

If both of the parties are at fault, they shall compensate for damage to each other in proportion to the degree and consequences of the faults respectively committed and, subject to the provisions of section 3, shall only be liable for their respective proportions of the compensation. Should circumstances give no grounds for any definite apportionment, each shall cover half of the damage.

When determining the question of fault resulting in the collision, the court shall specifically consider whether or not there was time for deliberation.

#### **Section 3 (249/2017)**

##### **Compensation for loss of life or personal injury**

In respect of damages for loss of life or personal injuries caused by the collision, the parties at fault are jointly and severally liable. If one of the liable parties has paid more than his or her fair share, the excess may be collected from the other. Against such a claim, the latter has the right to

invoke the same basis for exoneration from or limitation of liability which he or she could invoke against the injured party under this Act, the Athens Regulation or corresponding provisions of foreign law, or a contractual term based thereon. No contractual term shall, however, be invoked for exoneration from or limitation of liability beyond what is provided in chapters 13–15, the Athens Regulation or corresponding foreign law.

## **Section 4**

### **Compensation for accidental damage**

Where a collision was accidental or it cannot be established that it was caused by fault of either one of the parties, each party bears its own damages.

## **Section 5**

### **Master's obligations**

Where a ship has collided with another, a master is obliged, if he or she can do so without serious danger to his or her own ship or its crew or other persons on board, to render to the other vessel and those on board all assistance necessary to rescue them from the danger arising from the collision. The master shall also inform the master of the other vessel of his or her ship's name and home port, the locations or ports from which the vessel is coming and to which it is bound.

## **Section 6**

### **Certain other damage**

The provisions of this Act on collision shall also be observed where a ship, due to manoeuvring or otherwise, causes damage to another vessel or any persons or goods on board of the latter, even if no collision actually takes place.

## **Chapter 9**

### **General provisions on limitation of liability (421/1995)**

#### **Section 1**

##### **Right to limitation of liability**

A ship operator has the right to limit his or her liability in accordance with the provisions of this chapter. The same right also applies to a shipowner who is not an operator, anyone operating the vessel in lieu of the ship operator, its charterer and shipper, and anyone who performs tasks directly related to salvage. 'Salvage operations' also includes the measures referred to in section 2, subsection 1, paragraphs 4–6.

If a claim for liability is made against any person for whom the ship operator or any other person referred to in subsection 1 is responsible, that person also has the right to limit his or her liability in accordance with the provisions of this chapter.

Any insurer who has issued insurance to cover limited liability under this chapter has the same right to limit liability as the insured party.

#### **Section 2**

##### **Claims subject to the right to limitation of liability**

The right to limitation of liability applies to claims, regardless of the basis of liability, arising out of:

- 1) loss of life or personal injury or loss of or damage to property occurring on board or in direct connection with the operation of the ship or with salvage operations;
- 2) loss resulting from delay in the carriage by sea of cargo, passengers or their luggage;
- 3) any other loss resulting from infringement of non-contractual rights and occurring in direct connection with the operation of the ship or salvage operations;
- 4) operations undertaken for the purpose of raising, removing, destroying or rendering harmless a ship which is sunk, wrecked, stranded or abandoned, including anything that is or has been on board such ship;
- 5) operations undertaken for the purpose of removing, destroying or rendering harmless the cargo of the ship; and

- 6) measures taken in order to avert or minimise damage subject to limitation of liability and any further damage caused by such measures.

If a person entitled to limitation of liability has a counterclaim against the claimant arising out of the same occurrence as the claim, the limitation only applies to the claim to the extent that it exceeds the counterclaim.

### **Section 3**

#### **Claims excepted from the right to limitation of liability**

The right to limitation of liability does not apply:

- 1) to any salvage reward, including the specific compensation referred to in section 9 of chapter 16, contribution in general average, or contractual compensation for measures referred to in paragraph 4, 5 or 6 of subsection 1 of section 2; (1363/2006)
- 2) to any claim for oil pollution damage subject to the provisions of subsection 1, section 2 of chapter 10; (421/1995)
- 2a) to any claim for damage caused by hazardous and noxious substances carried by water which is subject to the provisions of subsection 1, section 2 of chapter 11; (1401/2019)

*Paragraph 2a as added by Act 1401/2019 enters into force on a date to be specified by decree.*

- 3) to any claim subject to an international convention or national law governing or prohibiting limitation of liability for nuclear damage;
- 4) to any claim for nuclear damage caused by a nuclear ship;
- 5) to any claim for damage caused to the ship's master, crew, pilot or anyone who, without being a member of the crew, performs work for the ship on the instructions of the ship operator or master, or anyone whose tasks are related to the operation of the ship or salvage operations; nor
- 6) to any interest or compensation for legal costs.

## **Section 4**

### **Forfeiture of the right to limitation of liability**

The right to limitation of liability does not apply to anyone who is proven to have personally caused the damage intentionally or through gross negligence, knowing that such damage was likely to occur.

## **Section 5**

### **Amounts of liability**

Where the right to limitation of liability exists, the amount of liability is determined as follows:

- 1) The limit of liability for claims arising out of loss of life or personal injury of passengers of a ship is 250,000 Special Drawing Rights (*SDR*) multiplied by the number of passengers that the ship is authorised to carry according to its certificate. (249/2017)
- 2) The limit of liability for claims other than those based on loss of life or personal injury referred to in paragraph 1 is SDR 3.02 million for ships with a gross tonnage not exceeding 2,000; if the ship's gross tonnage exceeds 2,000, the limit of liability is raised:
  - a) by SDR 1,208 for each additional unit of tonnage from no less than 2,001 to no more than 30,000;
  - b) by SDR 906 for each additional unit of tonnage from no less than 30,001 to no more than 70,000;
  - c) by SDR 604 for each additional unit of tonnage in excess of 70,000.
- 3) The limit of liability for claims other than those referred to in paragraphs 1 and 2, which the amounts mentioned in paragraph 2 are insufficient to cover, is SDR 1.51 million for ships not exceeding 2,000 units of tonnage; if the ship's unit of tonnage exceeds 2,000, the limit of liability is raised:
  - a) by SDR 604 for each additional unit of tonnage from no less than 2,001 to no more than 30,000;
  - b) by SDR 453 for each additional unit of tonnage from no less than 30,001 to no more than 70,000;
  - c) by SDR 302 for each additional unit of tonnage in excess of 70,000.

(872/2015)

The limits of liability provided in subsection 1 above apply to the sum of all of the claims arising out of the same occurrence against the ship operator, a shipowner who is not an operator, anyone operating the vessel in lieu of the ship operator, its charterer and shipper, or anyone for whose activities these are responsible.

For salvors not operating from any vessel or who operate solely on the ship being salvaged, the liability limits shall be equivalent to those applicable to ships of 1,500 units of tonnage. The limits of liability apply to the sum of all of the claims arising from the same occurrence and made against a salvor referred to in this subsection, or anyone for whose activities he or she is responsible.

'Ship's tonnage' refers to the gross tonnage calculated in accordance with the provisions of Annex I to the International Convention of 1969 on Tonnage Measurement of Ships (Treaty Series of the Statute Book of Finland 31/1982). 'Special Drawing Right' means the unit of account determined in section 2 of chapter 23.

## **Section 6**

### **Distribution of liability amounts**

Each amount of liability is distributed among claimants in proportion to the level of claims in respect of which the liability limit applies.

Where the amounts referred to in paragraph 2 of subsection 1 of section 5 are insufficient to pay the claims mentioned therein, the remaining balance shall be paid from the amount referred to in paragraph 3 of subsection 1 of section 5 with the same rights as the claims mentioned therein.

If the ship operator or any other person has, prior to the distribution of the amounts of liability, paid the claim in part or in full, he or she will obtain the rights of a claimant in respect of the amount paid.

Where the ship operator or any other person proves that he or she may have to pay, at a later date, in part or in full any claim that he or she could have demanded to be paid out of the amount of liability under subsection 3, had the claim been paid prior to the distribution of the amount of liability, the court may order funds to be provisionally set aside to enable such person to bring his or her claim at a later date.

## **Section 7**

### **Constitution of a limitation fund**

A limitation fund may be constituted if legal proceedings are instituted in Finland in respect of claims subject to limitation, or if an arrest or other legal actions are requested here. Such fund shall be constituted with the Maritime Court in which legal proceedings are instituted or which has jurisdiction in the locality where the arrest or other legal actions are requested in accordance with chapter 21.

A fund is deemed constituted for all persons entitled to invoke limitation of liability. Any fund is only deemed constituted for the payment of claims subject to limitation of liability. (771/2000)

After a limitation fund has been constituted in Finland, any action against a claim subject to limitation of liability may only be brought in connection with limitation proceedings. The same also applies to any legal action on whether the creator of the fund is entitled to limitation of liability, as well as any action on the distribution of the fund.

The creator of a fund, his or her insurer and anyone with a claim subject to limitation of liability are entitled to initiate limitation proceedings.

Provisions on limitation funds and limitation proceedings are laid down in chapter 12.

## **Section 8**

### **Impact of the constitution of a limitation fund**

No person who has brought a claim against a limitation fund constituted in Finland or in any other State Party to the Protocol may, on the grounds of such a claim, be granted an arrest, any other precautionary measure or attachment against a ship or other property belonging to a person on behalf of whom the fund has been constituted and who is entitled to limitation of liability. (771/2000)

After a limitation fund has been constituted in Finland, Norway, Sweden or Denmark, no ship or other property belonging to a person on behalf of whom the fund has been constituted and who is entitled to limitation of liability may be subjected to arrest, any other precautionary measure or attachment for a claim which may be raised against the fund. If such precautionary measure or attachment has already been enforced, this measure shall be revoked. Any security provided to avoid arrest, any other precautionary measure or attachment or to revoke such measure shall be released.

If a limitation fund has been constituted in a state other than those mentioned in subsection 2, which has acceded to the Convention mentioned in subsection 1, it is possible to deny any request for arrest, another precautionary measure or attachment, revoke such measure or release any security provided. Such request shall be denied and, where the fund was constituted before the measure was initiated or the security was provided, any measure shall be revoked and any security provided shall be released if the fund was constituted:

- 1) at the port where the occurrence on which the claim is based took place or, if it took place out of port, at the first port of call thereafter;
- 2) at the port of disembarkation in respect of a claim for loss of life or personal injury of a person on board; or
- 3) at the port of discharge in respect of a claim for damage to cargo.

The provisions of subsections 1 and 3 apply correspondingly where a limitation fund was constituted in Finland in accordance with this Act or, as long as Finland is party to the 1976 Convention, in any other State Party to 1976 Convention but not party to its Protocol. The provisions of subsection 1 and 3 may be applied correspondingly if it is proven that a limitation fund constituted in a state not party to the Convention or Protocol mentioned above can be assimilated to a limitation fund referred to in section 7. (771/2000)

The provisions of this section only apply if a claimant may bring claims against a limitation fund in the court or with the authority which manages the limitation fund, and if he or she has the ability to withdraw the amount of his or her claim from the fund and transfer it to another country.

## **Section 9**

### **Invoking limitation of liability without constitution of a limitation fund**

Limitation of liability may be invoked even if no limitation fund were constituted.

When action against a claim subject to limitation of liability is brought, the court shall, if no limitation fund has been constituted, only consider the claim that the case concerns when applying the provisions of this chapter. If the defendant wishes that another claim in respect of which the same amount of liability applies also be considered for limitation of liability, a condition to this effect shall be included in the judgement.

In respect of enforcement of a judgement that does not include a condition referred to in subsection 2, the provisions of the Execution Act apply. If the judgement includes such condition,

the judgement may be enforced regardless, unless a limitation fund is constituted and the court finds, by virtue of section 8, that the application for enforcement of the judgement is to be rejected.

Where no limitation fund has been constituted, the parties may refer the question of the level and apportionment of the amount of liability to the Average Adjuster in compliance with the provisions of section 7 of chapter 17 on average adjustment. (480/2021)

## **Section 10**

### **Warships, state-owned ships and drill ships (771/2000)**

The limits of liability of a warship or any other ship which was, at the time of occurrence of the damage on which the claim is based, owned or operated by a state and which is used only on government non-commercial service shall not be lower than those of a ship of 5,000 gross tonnage. If a claim concerns compensation for damage resulting from the special characteristics or special operation of such ship, however, no right to limitation of liability exists. Notwithstanding, the provisions of this subsection do not apply to vessels primarily used for ice-breaking or salvage operations. (771/2000)

The limit of liability of a ship constructed or adapted for the purpose of extracting seabed natural resources by drilling is SDR 36 million for claims referred to in subsection 2 of section 5 and SDR 60 million for those referred to subsection 3 of section 5, where such claims concern damage caused while using the ship for drilling operations. Provisions on compensation for oil pollution damage are laid down separately. (771/2000)

Any platforms constructed for the purpose of exploring or extracting the natural resources of the seabed are considered ships in the context of applying the provisions of this chapter. However, the limits of liability in respect of such ships shall always be equivalent to the amounts laid down in subsection 2.

## **Section 11**

### **Scope of application of the chapter**

The provisions of sections 1–10 apply where limitation of liability is sought in a Finnish court or with another Finnish authority. If the claim is referred to in paragraph 5 of section 3 and if the law of a state which has acceded to the Convention mentioned in subsection 1 of section 8 is to be

applied to the contract of service, the question of application of limitation of liability and the limit of liability shall, however, be resolved under said law.

The provisions of sections 1–10 do not prevent the application of any provisions otherwise in force on adjustment of the liability of a party liable for damages.

## **Chapter 10 (421/1995)**

### **Liability for oil pollution damage**

#### **Section 1 (421/1995)**

##### **Definitions**

For the purposes of this chapter:

- 1) *oil* means crude oil and all oil products derived thereof;
- 2) *persistent oil* means any persistent mineral oil such as crude oil, heavy fuel and diesel oil, lubricating oil and any oils of comparable persistence;
- 3) *oil pollution damage* means pollution damage caused outside the ship by contamination resulting from the escape of oil from the ship as well as loss or damage caused by preventive measures; however, any loss or damage related to impairment of the environment other than loss of profit is limited to costs of reasonable measures of reinstatement of the environment actually undertaken or to be undertaken;
- 4) *preventive measures* means any appropriate measures taken after an incident has occurred to prevent or minimise pollution damage;
- 5) *incident* means any occurrence, or series of occurrences having the same origin, which causes oil pollution damage or creates a grave and imminent threat of causing such damage;
- 6) *owner* means the person registered as the owner of the ship or, in the absence of registration, the person owning the ship; if a company is registered as the operator of a state-owned ship, such company is considered the ship's owner;
- 7) *ship* means any watercraft of any type whatsoever and any other floating craft propelled by its own engines or suitable for towing by another ship;

- 8) *1992 Liability Convention* means the International Convention of 1969 on Civil Liability for Oil Pollution Damage (Treaty Series of the Statute Book of Finland 80/1980), as amended by the Protocol of 1992 to amend the International Convention of 1969 on Civil Liability for Oil Pollution Damage;
- 9) *Contracting State* means a state which has acceded to the 1992 Liability Convention; and
- 10) *Finnish exclusive economic zone* means the area defined in the Act on the Exclusive Economic Zone of Finland (1058/2004). (686/2008)

## **Section 2 (421/1995)**

### **Scope of application**

The provisions of this chapter apply to oil pollution damage caused in Finland or within the Finnish exclusive economic zone, or in another Contracting State or within the exclusive economic zone of another Contracting State, if such damage resulted from the escape of persistent oil from a ship constructed or adapted for the carriage of persistent oil in bulk as cargo. Notwithstanding, the provisions only apply to a ship capable of carrying persistent oil and other cargoes when it is actually carrying persistent oil in bulk as cargo and during any voyage following such carriage unless it is proven that it has no residues of such carriage of persistent oil in bulk aboard. The provisions also apply to any damage and cost of preventive measures, wherever taken, to prevent any contamination resulting from above-mentioned oil pollution damage threatening Finland or the Finnish exclusive economic zone, or the territory or exclusive economic zone of another Contracting State. (686/2008)

The provisions of subsection 1 on the exclusive economic zone of another Contracting State also apply, if a Contracting State has not established such a zone, to an area beyond and adjacent to the territorial sea of that Contracting State in accordance with international law, which extends not more than 200 nautical miles from the baselines used to measure the breadth of its territorial sea.

Provisions on application of this Act to oil pollution damage caused by any warship or any other ship used only on government non-commercial service, or on any vessel other than those referred to in subsection 1, as well as to oil pollution damage resulting from non-persistent oil, are laid down in section 16. The provisions of section 17 apply to oil pollution damage caused by any ship constructed or adapted for the carriage of persistent oil in bulk as cargo, which has no link to any Contracting State referred to in subsection 1.

The provisions of this chapter apply notwithstanding other provisions on the application of foreign law in a Finnish court.

No provision of this chapter applies where its application would conflict with Finland's obligations arising from international treaties.

### **Section 3 (421/1995)**

#### **Liability for oil pollution damage**

The owner of a ship is liable to compensate for any oil pollution damage referred to in subsections 1 and 3 of section 2 even when such damage was not caused personally by the owner or by anyone operating under his or her responsibility. Where an incident consists of several occurrences having the same origin, the owner of the ship at the time of the first such occurrence is liable for any damage.

Notwithstanding, the owner of the ship is exempt from liability if he or she proves that the damage was caused:

- 1) by an act of war, hostilities, civil war, insurrection or a natural phenomenon of an exceptional, inevitable and irresistible character;
- 2) in whole by an act or omission done with intent to cause damage by a third party; or
- 3) in whole by the fault or negligence of any authority responsible for the maintenance of lights or other navigational aids in the exercise of that function.

Compensation shall also be paid under this chapter to anyone obliged to take preventive measures on the basis of a provision issued by virtue of law.

If the injured party contributed to the damage, the damages may be adjusted within reason.

### **Section 4 (421/1995)**

#### **Channelling of liability and right of recourse**

No action for compensation for any oil pollution damage referred to in subsections 1 and 3 of section 2 may be brought against the owner of a ship otherwise than by virtue of this chapter.

No claim for compensation for any oil pollution damage referred to in subsections 1 and 3 of section 2 may be made against:

- 1) any person in the service of the owner of the ship or any agent of the owner, or any member of the crew;
- 2) the pilot or any other person who, without being a member of the crew, performs work for the ship;
- 3) any manager who is not the owner of the ship, or any other person operating the ship in lieu of the owner, any charterer, shipper, consignor, consignee or cargo owner;
- 4) any person performing salvage operations with the consent of the ship's owner, manager or master or on the instructions of a public authority;
- 5) any person taking preventive measures; or
- 6) any person who is in service or an agent of those mentioned in paragraphs 2–5;

unless that person has caused the damage intentionally or through gross negligence, knowing that such damage was likely to occur.

No claim for compensation for damage caused by any person referred to in paragraphs 1, 2 and 4–6 of subsection 2 above may be made against the person who caused the damage, unless that person has caused the damage intentionally or through gross negligence, knowing that such damage was likely to occur. In such cases, however, the provisions of the Tort Liability Act and the Employment Contracts Act (320/1970) on the liability of employees or public officials for damages apply to awarding compensation payable by an employee or public official.

## **Section 5 (421/1995)**

### **Limitation of liability and amounts of liability**

The owner of a ship is entitled to limit his or her liability under this chapter for each incident to an amount equivalent to SDR 4,510,000 for a ship with a unit of tonnage not exceeding 5,000. If the unit of tonnage is in excess of 5,000, the limit of liability is raised by SDR 631 for each additional unit of tonnage. Notwithstanding, the maximum amount of liability is SDR 89,770,000. The right to limitation of liability does not apply to any interest or legal costs. (336/2002)

The owner of a ship is not entitled to limit his or her liability if he or she has personally caused the damage intentionally or through gross negligence, knowing that such damage was likely to occur.

'Ship's tonnage' refers to the gross tonnage calculated in accordance with the provisions of Annex I to the International Convention of 1969 on Tonnage Measurement of Ships.

## **Section 6 (421/1995)**

### **Constitution of a limitation fund**

The owner of a ship may only limit his or her liability as provided in subsection 1 of section 5 if he or she or his or her insurer, or any other person acting on his or her behalf, constitutes a limitation fund equivalent to the amount of the owner's liability in accordance with chapter 12 or corresponding law in force in another Contracting State.

In Finland, such limitation fund is constituted with the court in which legal proceedings were or may be instituted in respect of damages in accordance with section 3a of chapter 21. After a limitation fund is constituted, the owner of a ship or any other party involved may bring an action on a case of limitation in order to determine the liability and distribute the fund.

## **Section 7 (421/1995)**

### **Distribution of a limitation fund**

Should the amount of liability provided in subsection 1 of section 5 be insufficient to cover compensation for those entitled to damages, the funds in the limitation fund are distributed in proportion to their claims.

## **Section 8 (421/1995)**

### **Amounts of compensation payable from a limitation fund in certain cases**

If any person has paid compensation for oil pollution damage referred to in subsections 1 and 3 of section 2 prior to the distribution of the limitation fund, he or she will subrogate the injured party in respect of the amount paid in accordance with this Act or corresponding law in force in another Contracting State.

If the owner of a ship or any other person proves that he or she will have to pay, at a later date, any compensation that he or she could have demanded to be paid out of the limitation fund under subsection 1, had the compensation been paid prior to the distribution of the limitation fund, the court may order funds sufficient for this purpose to be set aside to enable such person to bring his or her claim against the limitation fund at a later date.

If the owner of a ship has voluntarily paid costs or suffered any loss or damage due to preventive measures, he or she is entitled to the same compensation from the limitation fund as any other injured party.

## **Section 9 (421/1995)**

### **Impact of a limitation fund**

Where a limitation fund was constituted in accordance with section 6 and the case is not referred to in subsection 2 of section 5, the owner of a ship is not liable with his or her other property for any damages that can be claimed from the limitation fund. The provisions of this subsection do not, however, apply to any interest or legal costs.

Where property belonging to the owner of the ship has been arrested or subjected to another measure to secure attachment for a claim which may only be raised against a limitation fund, such arrest or other precautionary measure shall be revoked after a limitation fund has been constituted. If the owner has given security to avoid arrest or any other precautionary measure, the security shall be returned to him or her.

If a limitation fund was constituted in another Contracting State, the provisions of subsections 1 and 2 only apply if an injured party is entitled to bring an action in the court or with the authority which manages the limitation fund, and if he or she has the ability to receive the contribution due to him or her from the fund.

## **Section 10 (991/2018)**

### **Obligation to insure a Finnish ship**

For a Finnish ship carrying more than 2,000 tonnes of persistent oil in bulk as cargo, the owner shall take out and maintain insurance or provide security covering the liability due to the owner by virtue of this chapter or corresponding law in force in another Contracting State to the amount mentioned in subsection 1 of section 5. Notwithstanding, a state is not obliged to take out insurance or provide security.

The insurance or security referred to in subsection 1 above shall be approved by a competent authority as specified by decree.

When the owner of a ship has fulfilled the obligation referred to in subsection 1, he or she is entitled to receive a certificate attesting that the obligation has been satisfied from the authority approving the insurance or security. A state-owned ship is provided with a certificate by the above-mentioned authority, indicating that the ship is owned by the Finnish Government and that its liability is covered to the amount mentioned in subsection 1 of section 5. The certificate shall be carried on board the ship and a copy thereof shall be deposited with the Finnish Transport and Communications Agency.

Further provisions on the certificates referred to in subsection 3 are issued by decree.

## **Section 11 (421/1995)**

### **Obligation to insure a foreign ship**

Any foreign ship calling on a Finnish port or using port facilities in Finnish waters at the time when it is carrying more than 2,000 tonnes of persistent oil in bulk as cargo shall have insurance or security covering the liability of the owner for damage referred to in this chapter to the amount mentioned in subsection 1 of section 5. The provisions of this subsection do not apply to state-owned ships.

Any ship referred to in subsection 1 above shall carry on board a certificate attesting that insurance or security referred to in subsection 1 is in force. If the ship is not registered in any of the Contracting States, such certificate may be issued by a public authority referred to in subsection 3 of section 10. If the ship is owned by a state, the ship shall carry on board a certificate indicating that the ship is owned by the said government and that its liability is covered to the amount mentioned in subsection 1 of section 5.

Further provisions on the certificates referred to in subsection 2 are issued by decree.

## **Section 12 (421/1995)**

### **Claims made against insurers**

Any person entitled to damages may bring his or her claim for compensation based on insurance referred to in sections 10 and 11 directly against the insurer.

Notwithstanding, the insurer is not liable for any damage in the cases referred to in subsection 2 of section 3 or when such damage was intentionally caused by the ship's owner himself or herself. In no event does the insurer's liability exceed the amount mentioned in subsection 1 of section 5.

The insurer may, in order to be exempt from liability to anyone other than the ship's owner, only invoke the circumstances referred to in subsection 2.

### **Section 13 (421/1995)**

#### **Insurance coverage**

Unless otherwise specified by the insurer, insurance is also valid for the owner of a ship as cover against any liability due to him or her under this chapter or corresponding law in force in another Contracting State.

### **Section 14 (421/1995)**

#### **Other security**

The provisions of sections 12 and 13 on insurance apply correspondingly to any security referred to in sections 10 and 11.

### **Section 15 (421/1995)**

#### **Supervision of compliance with the obligation to insure**

Provisions on supervision of compliance with sections 10 and 11 and on the supervisory authority are issued by decree.

The supervisory authority is entitled to forbid a ship's departure and interrupt its passage if the ship does not carry on board the certificate required under section 10 or 11.

### **Section 16 (686/2008)**

#### **Application of the Act in certain cases**

The provisions of this chapter do not apply to any warship or any other ship used only on government non-commercial service at the time of the incident. Notwithstanding, if such ship has

caused oil pollution damage in Finland or within the Finnish exclusive economic zone, or if preventive measures have been taken, the following provisions apply: sections 1 and 3–5 of this chapter; chapter 19, section 1, subsection 1, paragraph 7, and subsection 4; as well as chapter 21, section 3a, subsections 3 and 4.

Where a ship which is not referred to in subsection 1 nor subject to subsection 1 of section 2 of this chapter or chapter 10a or 11 has caused oil pollution damage in Finland or within the Finnish exclusive economic zone, or if preventive measures have been taken, the following provisions apply: section 1, subsection 4 of section 2, section 3, and subsection 3 of section 8 of this chapter; chapter 19, section 1, subsection 1, paragraph 7, and subsection 4; as well as chapter 21, section 3a, subsections 3 and 4. In such cases, chapter 9 applies to the right of the ship's owner to limit his or her liability. The amount of liability is determined in accordance with section 5 of chapter 9. (1401/2019)

*Subsection 2 as amended by Act 1401/2019 enters into force on a date to be specified by decree.*

*Previous form of wording:*

Where a ship not referred to in subsection 1 nor subject to the provisions of subsection 1 of section 2 of this chapter or chapter 10a has caused oil pollution damage in Finland or within the Finnish exclusive economic zone, or if preventive measures have been taken, the following provisions apply: section 1, subsection 4 of section 2, section 3, and subsection 3 of section 8 of this chapter; chapter 19, section 1, subsection 1, paragraph 7, and subsection 4; as well as chapter 21, section 3a, subsections 3 and 4. The same provisions also apply where oil pollution damage was caused by non-persistent oil. In such cases, the provisions of chapter 9 apply to the right of the ship's owner to limit his or her liability. The amount of liability is determined in accordance with section 5 of chapter 9.

## **Section 17 (421/1995)**

### **Liability for oil pollution damage on the high seas**

If a ship constructed or adapted for the carriage of persistent oil in bulk as cargo causes oil pollution damage in a non-Contracting State or within the exclusive economic zone of a non-Contracting State, or on the high seas, the liability for such damage may be limited to the amount mentioned in subsection 1 of section 5. In such cases, the amount of liability also applies to any costs arising from preventive measures.

The provisions of subsection 3 of section 8 of this chapter; chapter 9; paragraph 7 of subsection 1 of section 1 and subsection 4 of chapter 19; and subsections 3 and 4 of section 3a of chapter 21 otherwise apply, as appropriate, to limitation of liability. Where a limitation fund is constituted, it shall be equivalent to the amount of liability mentioned in subsection 1, and the provisions of chapter 12 apply thereto. Furthermore, the provisions of subsections 2 and 3 of section 4 also apply if the limitation fund prevents an arrest, any other precautionary measure or attachment under section 8 of chapter 9.

## **Section 18 (421/1995)**

### **Reference provisions**

Provisions on the time bars for claims for oil pollution damage are laid down in section 1 of chapter 19.

Provisions on the court having jurisdiction over cases involving liability for oil pollution damage are laid down in section 3a of chapter 21.

Provisions on the enforcement of foreign judgements in cases involving liability for oil pollution damage and on the impact of a limitation fund constituted abroad on the enforcement of judgements issued in Finland in cases involving oil pollution damage are laid down in sections 6 and 7 of chapter 22.

Provisions on the right to receive compensation from the International Fund for Compensation for Oil Pollution Damage are laid down in the Act on the Adoption and Application of Certain Provisions of the Protocol of 1992 to amend the International Convention of 1971 on the Establishment of an International Fund for Compensation for Oil Pollution Damage (424/1996).

Provisions on the right to receive compensation from the 2003 International Oil Pollution Compensation Supplementary Fund are laid down in the Act on the Implementation and Application of the Provisions of a Legislative Nature in the Protocol of 2003 to the International Convention of 1992 on the Establishment of an International Fund for Compensation for Oil Pollution Damage (324/2004). (325/2004)

## **Chapter 10a (686/2008)**

### **Liability for bunker oil pollution damage**

#### **Section 1 (686/2008)**

##### **Definitions**

For the purposes of this chapter:

- 1) *ship* means any watercraft, of any type whatsoever;
- 2) *shipowner* means the owner of a ship, including the registered owner, a bareboat charterer, a ship operator and any person operating the ship in lieu of the ship operator;
- 3) *registered owner* means the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship; however, in the case of a ship owned by a state and operated by a company which is registered as the ship's operator in that state, 'registered owner' means such company;
- 4) *bunker oil* means any hydrocarbon mineral oil, including lubricating oil, used or intended to be used for the operation or propulsion of the ship, and any residues of such oil;
- 5) *preventive measures* means any appropriate measures taken after an incident has occurred to prevent or minimise pollution damage;
- 6) *incident* means any occurrence, or series of occurrences having the same origin, which causes pollution damage or creates a grave and imminent threat of causing such damage;
- 7) pollution damage means:
  - a) loss or damage caused outside the ship by contamination resulting from the escape or discharge of bunker oil from the ship, wherever such escape or discharge may occur, provided that compensation for impairment of the environment other than loss of profit from such impairment shall be limited to costs of reasonable measures of reinstatement actually undertaken or to be undertaken, and
  - b) the costs of preventive measures and further loss or damage caused by preventive measures;
- 8) *State Party* means a state which has acceded to the International Convention on Civil Liability for Bunker Oil Pollution Damage (Treaty Series of the Statute Book of Finland 4/2009);

9) *Finnish exclusive economic zone* means the area defined in the Act on the Exclusive Economic Zone of Finland.

## **Section 2 (686/2008)**

### **Scope of application**

The provisions of this chapter apply to pollution damage caused by bunker oil in Finland or within the Finnish exclusive economic zone, or in another State Party or within the exclusive economic zone of another State Party.

The provisions of this chapter also apply to any damage and cost of preventive measures, wherever taken, to prevent any contamination resulting from above-mentioned damage threatening Finland or the Finnish exclusive economic zone, or the territory or exclusive economic zone of another State Party.

The provisions of subsections 1 and 2 on the exclusive economic zone of another State Party also apply, if a State Party has not established such a zone, to an area beyond and adjacent to the territorial sea of that State Party determined by that state in accordance with international law and extending not more than 200 nautical miles from the baselines from which the breadth of its territorial sea is measured.

The provisions of this chapter do not apply to warships, naval auxiliary or other ships owned or operated by a state and used, for the time being, only on non-commercial service.

Notwithstanding, if such ship has caused pollution damage in Finland or within the Finnish exclusive economic zone, or if preventive measures have been taken, the following provisions apply: sections 1 and 3–5 of this chapter; chapter 19, section 1, subsection 1, paragraph 7, and subsection 4; as well as chapter 21, section 3c, subsections 3 and 4.

The provisions of this chapter do not apply to any oil pollution damage under chapter 10 in cases referred to in subsection 1 of section 2 of the said chapter.

The provisions of this chapter apply notwithstanding any provisions on the application of foreign law in a Finnish court.

No provision of this chapter apply if application conflicts with Finland's obligations arising from international treaties.

### **Section 3 (686/2008)**

#### **Shipowners' liability for bunker oil pollution damage**

The owner of a ship is liable to compensate for any damage referred to in section 2 even when such damage was not caused personally by the owner or by anyone operating under his or her responsibility. If an incident consists of several occurrences having the same origin, the owner of the ship at the time of the first such occurrence is liable for any damage.

If more than one person is liable for damage under subsection 1, their liability is joint and several.

Notwithstanding, the owner of the ship is exempt from liability if he or she proves that the damage was caused:

- 1) by an act of war, hostilities, civil war, insurrection or a natural phenomenon of an exceptional, inevitable and irresistible character;
- 2) in whole by an act or omission done with intent to cause damage by a third party; or
- 3) in whole by the fault or negligence of any authority responsible for the maintenance of lights or other navigational aids in the exercise of that function.

If the injured party intentionally or negligently contributed to the damage, the damages may be adjusted.

### **Section 4 (686/2008)**

#### **Channelling of liability and right of recourse**

No action for compensation for any pollution damage referred to in section 2 may be brought against the shipowner otherwise than by virtue of this chapter.

No claim for compensation for any pollution damage referred to in section 2 may be made against:

- 1) any person in the service of the owner or any agent of the owner, or any member of the crew;
- 2) the pilot or any other person who, without being a member of the crew, performs work for the ship;
- 3) any person performing salvage operations with the consent of the ship's owner, manager or master or on the instructions of a public authority;

- 4) any person taking preventive measures; nor
- 5) any person who is in service or an agent of those mentioned in paragraphs 2–4, unless that person has caused the damage intentionally or through gross negligence, knowing that such damage was likely to occur.

No claim for compensation for damage caused by any person referred to in paragraphs 1–5 of subsection 2 above may be made against the person who caused the damage, unless that person has caused the damage intentionally or through gross negligence, knowing that such damage was likely to occur. In such cases, however, the provisions of the Tort Liability Act and the Employment Contracts Act (55/2001) on the liability of employees or public officials for damages apply to awarding compensation payable by an employee or public official.

## **Section 5 (686/2008)**

### **Limitation of liability**

The provisions of this chapter do not affect the right of a shipowner or provider of insurance or other security to limit his or her liability in accordance with the provisions of chapter 9.

## **Section 6 (991/2018)**

### **Obligation to insure a Finnish ship**

The registered owner of a Finnish ship with a gross tonnage in excess of 1,000 entered in the transport register maintained by the Finnish Transport and Communications Agency or in the register of ships maintained by the State Department of Åland shall take out and maintain insurance or other financial security covering the liability of the owner under this chapter or corresponding law in force in another State Party to the amount referred to in section 5 of chapter 9.

## **Section 7 (686/2008)**

### **Obligation to insure a foreign ship**

Any foreign ship with a gross tonnage in excess of 1,000, calling on a Finnish port or using port facilities in Finnish waters, shall have insurance or other financial security covering the liability of the owner for damage under this chapter to the amount referred to in section 5 of chapter 9.

Any ship referred to in subsection 1 above shall carry on board a certificate issued by the competent public authority or authorised organisation of the State Party in which the ship is registered, attesting that insurance or other security referred to in subsection 1 is in force. If the ship is owned by a state, the ship shall carry on board a certificate indicating that the ship is owned by the said government and that its liability under this chapter is covered to the amount referred to in section 5 of chapter 9.

## **Section 8 (991/2018)**

### **Certificates of insurance or security**

The Finnish Transport and Communications Agency issues, on application, a certificate attesting that insurance or security referred to in section 6 is in force to the registered owner of a ship entered in the transport register or the register of ships maintained by the State Department of Åland. The Finnish Transport and Communications Agency may also issue a certificate attesting that the obligation to insure has been satisfied in a case referred to in subsection 1 of section 7, if the ship is not registered in any of the States Parties.

An account shall be appended to the application, indicating:

- 1) that the insurance or security covers the liability referred to in this chapter; and
- 2) that the insurance or security may, during the period of validity of the certificate, cease no sooner than three months following the date of receipt of written notice of its termination by the Finnish Transport and Communications Agency, unless the certificate has been submitted to the Finnish Transport and Communications Agency or a new certificate has been issued to the ship.

The Finnish Transport and Communications Agency shall withdraw a certificate where the conditions of issue of the certificate are no longer satisfied.

The certificate shall be carried on board the ship and a copy of the certificate shall be deposited with the Finnish Transport and Communications Agency. No ship shall be used for maritime operations without a certificate.

The certificates referred to in this section are issued for a fee as provided in the Act on Criteria for Charges Payable to the State (150/1992).

Further provisions on the certificates referred to in this section are issued by government decree.

## **Section 9 (686/2008)**

### **Claims made against insurance or security providers**

Any person entitled to damages may bring his or her claim for compensation based on pollution damage under this chapter directly against the provider of insurance or security referred to in sections 6 and 7.

Notwithstanding, the insurance or security provider is not liable to compensate for any damage in the cases referred to in subsection 3 of section 3 or when such damage was intentionally caused by the ship's owner himself or herself.

The insurance or security provider may, in order to be exempt from liability to anyone other than the ship's owner, only invoke the circumstances referred to in subsection 2.

The insurance or security provider has, in any event, the right to require the shipowner to be joined in the proceedings.

## **Section 10 (991/2018)**

### **Supervision of compliance with the obligation to insure**

The Finnish Transport and Communications Agency supervises compliance with sections 6 and 7.

The Finnish Transport and Communications Agency is entitled to forbid a ship's departure and interrupt its passage if the ship does not carry on board the certificate of insurance or security required under section 6 or 7.

## **Section 11 (686/2008)**

### **Reference provisions**

Provisions on the time bars for claims under this chapter are laid down in subsection 1 of section 1 of chapter 19.

Provisions on the court having jurisdiction over cases under this chapter are laid down in section 3c of chapter 21.

Provisions on the enforcement of foreign judgements in cases under this chapter are laid down in section 8 of chapter 22.

## **Chapter 11 (1401/2019)**

### **Liability for damage caused by hazardous and noxious substances carried by water**

#### **Section 1 (1401/2019)**

##### **Definitions**

For the purposes of this chapter:

- 1) *ship* means any watercraft, of any type whatsoever;
- 2) *owner* means the person registered as the owner of the ship or, in the absence of registration, the person owning the ship; if a company engaged in shipping on a state-owned ship is entered in the register, such company is considered the ship's owner;
- 3) hazardous and noxious substances means:
  - a) oils carried in bulk referred to in Regulation 1 of Annex I to the Protocol of 1978 relating to the International Convention of 1973 for the Prevention of Pollution from Ships (Treaty Series of the Statute Book of Finland 51/1983), hereinafter referred to as the *MARPOL 73/78 Convention*,
  - b) noxious liquid substances carried in bulk referred to in Regulation 1.10 of Annex II to the MARPOL 73/78 Convention, and those substances and mixtures provisionally categorised as falling in pollution category X, Y or Z in accordance with Regulation 6.3 of the said Annex II,

- c) dangerous liquid substances carried in bulk referred to in chapter 17 of the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (IBC Code) of the International Maritime Organisation, hereinafter referred to as the *IMO*, and the dangerous products for which the preliminary suitable conditions for the carriage have been prescribed by the flag state administration and port administrations involved in accordance with paragraph 1.1.6 of the said Code,
  - d) dangerous, hazardous and harmful substances, materials and articles in packaged form covered by the IMO International Maritime Dangerous Goods Code (IMDG Code), hereinafter referred to as the *IMDG Code*,
  - e) liquefied gases referred to in chapter 19 of the IMO International Code for the Construction and Equipment of Ships carrying Liquefied Gases in Bulk (IGC Code), and the products for which preliminary suitable conditions for the carriage have been prescribed by the flag state administration and port administrations involved in accordance with paragraph 1.1.6 of the said Code,
  - f) liquid substances carried in bulk with a flashpoint not exceeding 60 degrees Celsius measured by a closed-cup test,
  - g) solid bulk materials possessing chemical hazards covered by the IMO International Maritime Solid Bulk Cargoes Code (IMSBC Code), hereinafter referred to as the *IMSBC Code*, to the extent that these substances are also subject to the provisions of the 1996 IMDG Code, and
  - h) residues from the previous carriage in bulk of substances referred to in subparagraphs a–c and e–g;
- 4) *bulk hazardous and noxious substances* means any hazardous and noxious substances referred to in subparagraphs a–c and e–h of paragraph 3;
- 5) *packaged hazardous and noxious substances* means any hazardous and noxious substances referred to in subparagraph d of paragraph 3;
- 6) *damage* means:
- a) loss of life or personal injury caused by hazardous and noxious substances,
  - b) loss of or damage to property caused by hazardous and noxious substances outside the ship carrying those substances,

- c) loss or damage by contamination of the environment caused by the hazardous and noxious substances; however, any loss or damage related to impairment of the environment other than loss of profit from such impairment is limited to costs of reasonable measures of reinstatement of the environment actually undertaken or to be undertaken, and
  - d) the costs of preventive measures and further loss or damage caused by preventive measures;
- 7) *preventive measures* means any appropriate measures taken after an incident has occurred to prevent or minimise damage;
  - 8) *incident* means any occurrence, or series of occurrences having the same origin, which causes damage or creates a grave and imminent threat of causing such damage;
  - 9) *carriage by water* means the period from the time when the hazardous and noxious substances enter any part of the ship's equipment, on loading, to the time they cease to be present in any part of the ship's equipment, on discharge; if no ship's equipment is used, the period begins and ends respectively when the hazardous and noxious substances cross the ship's rail;
  - 10) *HNS Convention* means the Protocol of 2010 to the International Convention of 1996 on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea (1400/2019);
  - 11) *State Party* means a state which has acceded to the HNS Convention;
  - 12) *Finnish exclusive economic zone* means the area referred to in the Act on the Exclusive Economic Zone of Finland;
  - 13) *ship's tonnage* refers to the gross tonnage calculated in accordance with the provisions of Annex I to the International Convention of 1969 on Tonnage Measurement of Ships.

Where it is not reasonably possible to separate damage caused by the hazardous and noxious substances from that caused by other factors, all such damage is deemed to be caused by the hazardous and noxious substances.

The provisions of subsection 2 do not apply to oil pollution damage under section 1 of chapter 10 or to damage caused by a radioactive material of class 7 referred to in the IMDG Code or in the IMSBC Code.

*Section 1 as amended by Act 1401/2019 enters into force on a date to be specified by decree.*

## **Section 2 (1401/2019)**

### **Scope of application**

The provisions of this chapter apply to:

- 1) any damage caused by hazardous and noxious substances carried as cargo by water in Finland or in another State Party;
- 2) any damage by contamination of the environment referred to in subparagraph c of paragraph 6 of subsection 1 of section 1, caused by the carriage of hazardous and noxious substances by water within the Finnish exclusive economic zone or that of another State Party;
- 3) any damage caused by hazardous and noxious substances carried as cargo by water, other than damage by contamination of the environment referred to in section 1, subsection 1, paragraph 6, subparagraph c, outside the territory of any state, if such damage has been caused by a substance carried as cargo on board a ship registered in Finland or another State Party or, in the case of an unregistered ship, on board a ship flying the flag of Finland or another State Party; and
- 4) any damage and cost of preventive measures, wherever taken, to prevent such damage as referred to in paragraphs 1–3.

The provisions of subsection 1 on the exclusive economic zone of another State Party also apply, if a State Party has not established such a zone, to an area beyond and adjacent to the territorial sea of that State Party determined by that state in accordance with international law and extending not more than 200 nautical miles from the baselines from which the breadth of its territorial sea is measured.

However, the provisions of this chapter do not apply:

- 1) to any oil pollution damage under chapter 10 in cases referred to in subsection 1 of section 2 of the said chapter;
- 2) to any damage caused by a radioactive material of class 7 referred to in the IMDG Code or in the IMSBC Code;
- 3) to ships not exceeding 200 gross tonnage and carrying hazardous and noxious substances only in packaged form, while such ships are engaged on voyages between ports located in Finland;

- 4) to claims arising out of any contract for the carriage of goods and passengers; nor
- 5) to the extent that these are incompatible with those of the applicable law relating to workers' compensation or social security schemes.

The provisions of this chapter do not apply to warships, naval auxiliary or other ships owned or operated by a state and used, for the time being, only on non-commercial service.

Notwithstanding, if such ship has caused damage referred to in this chapter in Finland or within the Finnish exclusive economic zone, or if preventive measures have been taken, the following provisions apply: sections 1 and 3–5 of this chapter; chapter 19, section 1, subsection 1, paragraph 8, and subsection 5; as well as chapter 21, section 3e, subsections 3 and 4.

The provisions of this chapter do not apply if application conflicts with Finland's obligations arising from international treaties.

*Section 2 as amended by Act 1401/2019 enters into force on a date to be specified by decree.*

### **Section 3 (1401/2019)**

#### **Liability for damage caused by hazardous and noxious substances**

The owner of a ship is liable to compensate for any damage referred to in section 2 even when such damage was not caused personally by the owner or by anyone operating under his or her responsibility. If an incident consists of several occurrences having the same origin, the owner of the ship at the time of the first such occurrence is liable for any damage.

If more than one owner is liable for damage under subsection 1, their liability is joint and several.

Notwithstanding, the owner of the ship is exempt from liability if he or she proves that:

- 1) the damage resulted from an act of war, hostilities, civil war, insurrection or a natural phenomenon of an exceptional, inevitable and irresistible character;
- 2) the damage was wholly caused by an act or omission done with intent to cause damage by a third party;
- 3) the damage was wholly caused by the fault or negligence of any authority responsible for the maintenance of lights or other navigational aids in the exercise of that function; or
- 4) the failure of the consignor or any other person to furnish information concerning the hazardous and noxious nature of the substances shipped either has caused the damage,

wholly or partly, or has led the owner not to obtain insurance in accordance with section 10 or 11; however, the owner is only exempt from liability if neither the owner nor those in his or her service or his or her agents knew or ought reasonably to have known of the hazardous and noxious nature of the substances shipped.

If the injured party intentionally or negligently contributed to the damage, the damages may be adjusted.

*Section 3 as amended by Act 1401/2019 enters into force on a date to be specified by decree.*

## **Section 4 (1401/2019)**

### **Channelling of liability and right of recourse**

No action for compensation for any damage referred to in section 2 may be brought against the shipowner otherwise than by virtue of this chapter.

No claim for compensation for any damage referred to in section 2 may be made against:

- 1) any person in the service of the owner or any agent of the owner, or any member of the crew;
- 2) the pilot or any other person who, without being a member of the crew, performs work for the ship;
- 3) any manager who is not the owner of the ship, or any other person operating the ship in lieu of the owner, any charterer, shipper, consignor, consignee or cargo owner;
- 4) any person performing salvage operations with the consent of the owner, manager or master or on the instructions of a public authority;
- 5) any person taking preventive measures; nor
- 6) any person who is in service or an agent of those mentioned in paragraphs 2–5, unless that person has caused the damage intentionally or through gross negligence, knowing that such damage was likely to occur.

By way of derogation from subsection 2, however, a claim for compensation may be made against a consignor or any other person who failed to furnish information concerning the hazardous and noxious nature of the substances shipped, which has led the owner being exempt from liability in accordance with section 3, subsection 3, paragraph 4.

No claim for compensation for damage caused by any person referred to in paragraphs 1, 2 and 4–6 of subsection 2 above may be made against the person who caused the damage, unless that person has caused the damage intentionally or through gross negligence, knowing that such damage was likely to occur. In such cases, however, the provisions of the Tort Liability Act and the Employment Contracts Act on the liability of employees and public officials for damages apply to awarding compensation payable by an employee and public official.

*Section 4 as amended by Act 1401/2019 enters into force on a date to be specified by decree.*

## **Section 5 (1401/2019)**

### **Limitation of liability and amounts of liability**

The owner of a ship is entitled to limit his or her liability under this chapter in respect of damage caused by bulk hazardous and noxious substances for each incident to an amount equivalent to SDR 10,000,000 for a ship with a unit of tonnage not exceeding 2,000. If the unit of tonnage is in excess of 2,000, the limit of liability is raised by SDR 1,500 for each additional unit of tonnage from 2,001 to 50,000 units. If the unit of tonnage is in excess of 50,000, the limit of liability is raised by another SDR 360 for each additional unit of tonnage in excess of 50,000.

Notwithstanding, the maximum amount of liability is SDR 100,000,000.

The owner of a ship is entitled to limit his or her liability under this chapter in respect of damage caused by packaged hazardous and noxious substances for each incident to an amount equivalent to SDR 11,500,000 for a ship with a unit of tonnage not exceeding 2,000. If the unit of tonnage is in excess of 2,000, the limit of liability is raised by SDR 1,725 for each additional unit of tonnage from 2,001 to 50,000 units. If the unit of tonnage is in excess of 50 000, the limit of liability is raised by another SDR 414 for each additional unit of tonnage to 50,000 units. Notwithstanding, the maximum amount of liability is SDR 115,000,000.

The provisions of subsection 2 also apply to any damage caused by both packaged and bulk hazardous and noxious substances and to any damage in respect of which it is not possible to determine whether the damage was caused by packaged or bulk hazardous and noxious substances.

The right to limitation of liability does not apply to any interest or legal costs.

The owner of a ship is not entitled to limit his or her liability if he or she has personally caused the damage intentionally or through gross negligence, knowing that such damage was likely to occur.

*Section 5 as amended by Act 1401/2019 enters into force on a date to be specified by decree.*

## **Section 6 (1401/2019)**

### **Constitution of a limitation fund**

The owner of a ship may only limit his or her liability as provided in subsections 1 and 2 of section 5 if he or she or his or her insurer, or any other person acting on his or her behalf, constitutes a limitation fund equivalent to the amount of the owner's liability in accordance with chapter 12 or corresponding law in force in another Contracting State.

In Finland, such limitation fund is constituted with the Court in which legal proceedings were or may be instituted in respect of damages in accordance with section 3e of chapter 21. After a limitation fund is constituted, the owner of a ship or any other party involved may bring an action on a case of limitation in order to determine the liability and distribute the fund.

*Section 6 as amended by Act 1401/2019 enters into force on a date to be specified by decree.*

## **Section 7 (1401/2019)**

### **Distribution of a limitation fund**

Should the amount of liability provided in subsections 1 and 2 of section 5 be insufficient to cover compensation for those entitled to damages, the funds in the limitation fund are distributed in proportion to the amounts of their claims. Notwithstanding, claims in respect of death or personal injury have priority over other claims to the extent that the aggregate of such claims does not exceed two thirds of the total amount of liability provided in subsections 1 and 2 of section 5.

*Section 7 as amended by Act 1401/2019 enters into force on a date to be specified by decree.*

## **Section 8 (1401/2019)**

### **Amounts of compensation payable from a limitation fund in certain cases**

If any person has paid compensation for damage caused by the carriage of hazardous and noxious substances by water referred to in section 2 prior to the distribution of the limitation fund, he or she will subrogate the injured party in respect of the amount paid in accordance with this Act or corresponding law in force in another State Party.

If the owner of a ship or any other person proves that he or she will have to pay, at a later date, any compensation that he or she could have demanded to be paid out of the limitation fund under subsection 1, had the compensation been paid prior to the distribution of the limitation fund, the court may order funds sufficient for this purpose to be set aside to enable such person to bring his or her claim against the limitation fund at a later date.

If the owner of a ship has voluntarily paid costs or suffered any loss or damage due to preventive measures, he or she has the same right to compensation from the limitation fund as any other injured party.

*Section 8 as amended by Act 1401/2019 enters into force on a date to be specified by decree.*

## **Section 9 (1401/2019)**

### **Impact of a limitation fund**

If a limitation fund was constituted in accordance with section 6 and the case is not referred to in subsection 5 of section 5, the owner of a ship is not liable with his or her other property for any damages that can be claimed from the limitation fund. The provisions of this subsection do not, however, apply to any interest or legal costs.

If property belonging to the owner of a ship has been arrested or subjected to another measure to secure attachment for a claim which may only be raised against a limitation fund, such arrest or other precautionary measure shall be revoked after a limitation fund has been constituted. If the owner has given security to avoid arrest or any other precautionary measure, the security shall be returned to him or her.

If a limitation fund was constituted in another State Party, subsections 1 and 2 only apply if an injured party is entitled to bring an action in the court or with the authority which manages the limitation fund and has the ability to receive the contribution due to him or her from the fund.

*Section 9 as amended by Act 1401/2019 enters into force on a date to be specified by decree.*

## **Section 10 (1401/2019)**

### **Obligation to insure a Finnish ship**

The registered owner of a Finnish ship carrying hazardous and noxious substances as cargo shall take out and maintain insurance or other financial security covering the liability of the owner under

this chapter or corresponding law in force in another State Party to the amount referred to in subsections 1 and 2 of section 5.

*Section 10 as amended by Act 1401/2019 enters into force on a date to be specified by decree.*

## **Section 11 (1401/2019)**

### **Obligation to insure a foreign ship**

Any foreign ship carrying hazardous and noxious substances as cargo while calling on a Finnish port or using port facilities in Finnish waters shall have insurance or other financial security covering the liability of the owner for damage under this chapter to the amount referred to in subsections 1 and 2 of section 5.

Any ship referred to in subsection 1 above shall carry on board a certificate attesting that insurance or security referred to in subsection 1 is in force. If the ship is owned by a state, the ship shall carry on board a certificate indicating that the ship is owned by the said government and that its liability under this chapter is covered to the amount referred to in subsections 1 and 2 of section 5.

*Section 11 as amended by Act 1401/2019 enters into force on a date to be specified by decree.*

## **Section 12 (1401/2019)**

### **Certificates of insurance or security**

The Finnish Transport and Communications Agency issues, on application, a certificate attesting that insurance or security referred to in section 10 is in force to the owner of a ship entered in the transport register or the register of ships maintained by the State Department of Åland. The Finnish Transport and Communications Agency may also issue a certificate attesting that the obligation to insure has been satisfied in a case referred to in subsection 1 of section 11, if the ship is not registered in any of the States Parties.

An account shall be appended to the application, indicating that such insurance or security:

- 1) covers the liability referred to in this chapter; and
- 2) may, during the period of validity of the certificate, cease no sooner than three months following the date of receipt of written notice of its termination by the Finnish Transport and

Communications Agency, unless the certificate has been submitted to the Finnish Transport and Communications Agency or a new certificate has been issued to the ship.

The Finnish Transport and Communications Agency shall withdraw a certificate where the conditions of issue of the certificate are no longer satisfied.

The ship's master is obliged to ensure that the certificate is carried on board the ship, and a copy thereof shall be deposited with the Finnish Transport and Communications Agency. No ship shall be used for water traffic without a certificate.

The certificates referred to in this section are issued for a fee. Provisions on such fees are laid down in the Act on Criteria for Charges Payable to the State.

Further provisions on the certificates referred to in this section and their application procedure may be issued by government decree.

*Section 12 as amended by Act 1401/2019 enters into force on a date to be specified by decree.*

## **Section 13 (1401/2019)**

### **Claims made against insurance or security providers**

Any person entitled to damages may bring his or her claim for compensation based on damage under this chapter directly against the provider of insurance or security referred to in sections 10 and 11.

Notwithstanding, the insurance or security provider is not liable to compensate for any damage in the cases referred to in subsection 3 of section 3 or if such damage was intentionally caused by the ship's owner himself or herself. In no event does the liability of the insurance or security provider exceed the amount referred to in subsections 1 and 2 of section 5.

The insurance or security provider may, in order to be exempt from liability to anyone other than the ship's owner, only invoke the circumstances referred to in subsection 2.

The insurance or security provider has, in any event, the right to require the shipowner to be joined in the proceedings.

*Section 13 as amended by Act 1401/2019 enters into force on a date to be specified by decree.*

## **Section 14 (1401/2019)**

### **Reference provisions**

Provisions on the time bars for claims under this chapter are laid down in subsection 1 of section 1 of chapter 19.

Provisions on the court having jurisdiction over cases under this chapter are laid down in section 3e of chapter 21.

Provisions on the enforcement of foreign judgements in cases under this chapter and on the impact of a limitation fund constituted abroad on the enforcement of judgements issued in Finland in cases under this chapter are laid down in sections 9 and 10 of chapter 22.

Provisions on the right to receive compensation from the International Hazardous and Noxious Substances Fund referred to in Article 13 of the HNS Convention are laid down in the Act on the Protocol of 2010 to the International Convention of 1996 on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea (1400/2019).

*Section 14 as amended by Act 1401/2019 enters into force on a date to be specified by decree.*

*Chapter 11 as amended by Act 1401/2019 enters into force on a date to be specified by decree.*

*Previous form of wording:*

## **Chapter 11**

### **Liability for nuclear damage**

#### **Section 1**

##### **Liability for nuclear damage caused by a ship**

Provisions on liability arising out of nuclear damage are laid down in the Nuclear Liability Act (484/1972).

## **Chapter 11a (860/2016)**

### **Liability for removal of wrecks resulting from maritime casualties**

#### **Section 1 (860/2016)**

##### **Application of the Nairobi Convention in Finland**

Provisions on the removal of wrecks resulting from maritime casualties are set forth in the Nairobi International Convention of 2007 on the Removal of Wrecks (Treaty Series of the Statute Book of Finland 13–14/2017), hereinafter referred to as the *Nairobi Convention*.

The Nairobi Convention and the provisions of this chapter apply in Finland and in the Finnish exclusive economic zone. The provisions of the Nairobi Convention and this chapter concerning the obligations of the registered owner, master and operator of a ship also apply to Finnish ships in the exclusive economic zone of another State Party and in the corresponding area referred to in paragraph 1 of Article 1 of the Convention.

The provisions of this chapter do not apply where the provisions of chapter 10, 10a or 11 apply to the removal of wrecks resulting from maritime casualties. (1401/2019)

*Subsection 3 as amended by Act 1401/2019 enters into force on a date to be specified by decree.  
Previous form of wording:*

The provisions of this chapter do not apply where the provisions of chapter 10 or 10a apply to the removal of wrecks resulting from maritime casualties.

The Act on Oil Pollution Response (1673/2009) applies to the prevention of risks of oil and chemical spills relating to wrecks resulting from maritime casualties.

#### **Section 2 (991/2018)**

##### **Reporting obligation of the ship's master and operator**

If a Finnish ship has been involved in a maritime casualty resulting in a wreck, the ship's master or operator shall submit a report under Article 5 of the Nairobi Convention without delay to the Finnish Transport and Communications Agency or, if the wreck is in the Convention area of another State Party, to the competent authority of the said State Party.

The Finnish Transport and Communications Agency shall notify the relevant maritime and environmental authorities of any report submitted to it by virtue of subsection 1 and of any report referred to in Article 5 of the Nairobi Convention submitted to it.

### **Section 3 (991/2018)**

#### **Warning and locating of a wreck**

Upon receipt of a report referred to in section 2 or Article 5 of the Nairobi Convention, the Finnish Transport and Communications Agency shall warn mariners and the states concerned of the nature and location of the wreck without delay in accordance with Article 7 of the Nairobi Convention.

If there is reason to believe that a wreck poses a hazard, the Finnish Transport and Communications Agency shall advise the registered owner to take all practicable steps to establish the precise location of the wreck and set a deadline for this purpose. If the registered owner fails to establish the location within the deadline set, the Finnish Transport and Communications Agency shall take all practicable steps to locate the wreck at the expense of the registered owner.

### **Section 4 (991/2018)**

#### **Determination of hazard posed by a wreck and marking of the wreck**

Upon becoming aware of a wreck, the Finnish Transport and Communications Agency shall determine whether the wreck poses a hazard in accordance with Article 6 of the Nairobi Convention. In order to determine the matter, it shall request the Finnish Environment Institute and the Finnish Defence Forces to provide an assessment of the hazard posed by the wreck.

If the wreck is considered to pose a hazard under subsection 1, the Finnish Transport and Communications Agency shall take all reasonable steps to mark the wreck.

### **Section 5 (991/2018)**

#### **Measures concerning the removal of a wreck**

If the wreck is considered to pose a hazard under section 4, the Finnish Transport and Communications Agency shall immediately inform the registered owner and, if the ship is flying a foreign flag, also the competent authority in the state of the ship's registry.

The Finnish Transport and Communications Agency shall set a reasonable deadline within which the registered owner must remove the wreck and inform the owner in writing of the deadline as provided in paragraph 6 of Article 9 of the Nairobi Convention.

If the wreck is considered to pose a hazard under section 4, the registered owner shall provide the Finnish Transport and Communications Agency with evidence of insurance or other security referred to in section 7.

In order to ensure the safety and protection of the marine environment, the Finnish Transport and Communications Agency may lay down the necessary conditions for the removal of the wreck in accordance with paragraph 4 of Article 9 of the Nairobi Convention and intervene in the removal in accordance with paragraph 5 of the said Article. Prior to making a decision on the matter, the Finnish Transport and Communications Agency shall consult the Finnish Environment Institute and the Finnish Defence Forces.

The Finnish Transport and Communications Agency may remove a wreck at the expense of the registered owner in the cases referred to in paragraphs 7 and 8 of Article 9 of the Nairobi Convention when the wreck is located in Finland or within the Finnish exclusive economic zone.

The Finnish Transport and Communications Agency is entitled to receive any necessary executive assistance from the Finnish Defence Forces, Finnish Customs and rescue departments to perform the functions under this section.

## **Section 6 (860/2016)**

### **Obligation to insure**

For a Finnish ship of 300 gross tonnage or more, the registered owner shall take out and maintain insurance or other security covering the liability under Article 10 of the Nairobi Convention to the amount referred to in subsection 1 of section 5 of chapter 9.

The obligation to take out and maintain insurance or other security referred to in subsection 1 above also applies to any foreign ship of 300 gross tonnage or more, if the ship calls on a Finnish port or uses port facilities in Finnish waters.

The provisions of subsections 1 and 2 above do not apply to warships or other ships owned or operated by a state and used only on non-commercial service.

## **Section 7 (991/2018)**

### **Certificates of insurance or security**

The Finnish Transport and Communications Agency issues, on application, a certificate attesting that insurance or security referred to in section 6 is in force to the registered owner of a ship entered in the Finnish register of ships. The Finnish Transport and Communications Agency may also issue a certificate attesting that the obligation to insure has been satisfied if the ship is not registered in any of the States Parties to the Nairobi Convention.

The Finnish Transport and Communications Agency shall withdraw a certificate where the conditions of issue of the certificate are no longer satisfied.

The ship's master is obliged to ensure that the certificate referred to in subsection 1 is carried on board the ship, and a copy thereof shall be deposited with the Finnish Transport and Communications Agency. No ship shall be used for maritime operations without a certificate.

The certificates referred to in this section are issued for a fee as provided in the Act on Criteria for Charges Payable to the State.

Further provisions on the certificates referred to in this section may be issued by government decree.

## **Section 8 (991/2018)**

### **Implementation**

Any decision made by the Finnish Transport and Communications Agency by virtue of sections 3–5 may be implemented immediately even if it has not become final, unless otherwise ordered in the decision or by the appeal authority.

## **Chapter 12**

### **Limitation fund and limitation proceedings**

#### **Section 1**

##### **Scope of application of the chapter**

The provisions of this chapter apply to any limitation fund constituted in accordance with section 7 of chapter 9 (the *limitation fund*) and to any limitation fund constituted in accordance with section 6 of chapter 10 or section 6 of chapter 11. (1401/2019)

*Subsection 1 as amended by Act 1401/2019 enters into force on a date to be specified by decree.*

*Previous form of wording:*

The provisions of this chapter apply to any limitation fund constituted in accordance with section 7 of chapter 9 (hereinafter referred to as the *limitation fund*) and, as appropriate, to any limitation fund constituted in accordance with section 6 of chapter 10. (421/1995)

'Limitation proceedings' means legal proceedings to determine liability and its limitation, the claims filed as well as the distribution of the fund.

Subject to the provisions of this chapter, the provisions applicable to maritime litigation under chapter 21 apply to limitation proceedings.

#### **Section 2**

##### **Fund size**

The size of any limitation fund under this Act shall be equivalent to:

- 1) the aggregate of the amounts of money constituting the limit of liability under section 5 of chapter 9 for claims arising out of the same occurrence, in respect of which limitation of liability is sought; and
- 2) interest on the amounts referred to in paragraph 1 above for the period between the dates of occurrence and constitution of the fund, calculated in accordance with section 3 of the Interest Act.

The size of any limitation fund in respect of oil pollution damage shall be equivalent to the amount of liability provided in section 5 of chapter 10. (421/1995)

The size of any limitation fund in respect of damage caused by hazardous and noxious substances shall be equivalent to the amount of liability provided in section 5 of chapter 11. (1401/2019)

*Subsection 3 as added by Act 1401/2019 enters into force on a date to be specified by decree.*

### **Section 3**

#### **Application for constitution and its explanatory appendix**

When a limitation fund is being constituted, a sum of money equivalent to the amount of liability shall be deposited with the State Provincial Office competent in the seat of the court, or a security approved by the State Provincial Office shall be provided to cover it.

The applicant shall append to his or her written application details of the reasons on which the application is based and the names and addresses of all persons who can be expected to wish to raise claims against the limitation fund.

### **Section 4**

#### **Constitution of a fund**

The court shall determine the size of the fund and decide whether the security tendered can be approved.

In its decision, the court shall, unless there are specific reasons to the contrary, also rule on the constitution of the limitation fund as well as on any additional amount to be deposited to cover costs arising from the proceedings and interest, or on the security to be provided for the equivalent amount. In respect of a limitation fund under chapter 9, the above provisions on interest only apply to the interest payable for the period following the fund's constitution.

If the decision indicates that the required amount has been deposited or security has been provided, the limitation fund is considered to have been constituted on the date of decision. Otherwise, the fund is considered to have been constituted on the date when the court indicates on the decision that the amount has been deposited or the security has been lodged.

A decision referred to in subsections 1 and 2 above remains in force until further notice. If the decision orders a higher amount to be paid to the limitation fund or an additional security to be provided, the court shall fix a time limit for the creator of the fund to pay the remaining balance or

provide the security. In the event of failure to comply with the order, the court shall determine that the fund no longer has the impact referred to in section 8 of chapter 9.

Any appeal against decisions referred to in subsections 1, 2 and 4 may be lodged separately.

## **Section 5**

### **Public notice of the constitution of a fund**

When a limitation fund is constituted, the Court shall immediately issue a public notice to this effect. Such public notice shall invite all claimants to file their claims to the fund within a fixed period of at least two months. The public notice shall include information on the provisions of this chapter as well as section 15 of chapter 8 and subsection 3 of section 7 of chapter 9.

The public notice shall be published in the Official Gazette and, at the court's discretion, in a local newspaper. If there is reason to do so, a public notice on the constitution of a limitation fund shall also be issued in another state.

The creator of the limitation fund and its known claimants shall be given a separate notice.

## **Section 6**

### **Fund administrator**

If deemed necessary in view of the nature of the case or other circumstances, the court may appoint an administrator for a limitation fund. Such administrator shall possess the knowledge and experience required for the position. In addition to the duties provided in subsection 2 of section 11, the administrator shall also assist the fund in handling matters concerning the fund as well as dealing with limitation proceedings and in negotiations between parties.

The administrator's remuneration is determined by the court.

## **Section 7**

### **Submission of claims**

Upon submission of his or her claim, the claimant shall inform the court of the amount of and basis for the claim. If a court decision has been issued on the claim or separate proceedings on the claim are pending, this shall also be declared.

## **Section 8**

### **Late submission**

Any claim not filed with the court before a decision on the distribution of the fund has been made in the court of first instance may only be paid in accordance with the provisions of section 14.

## **Section 9**

### **Dissolution of a fund**

No limitation fund shall be dissolved before the period fixed under subsection 1 of section 5 has lapsed. After the said fixed period, the fund may be dissolved without a court decision by agreement between the creator of the fund and the claimants who have brought claims against the fund.

## **Section 10**

### **Initiating limitation proceedings**

Limitation proceedings commence when the creator of a limitation fund, his or her insurer or a claimant files an application for distribution of the fund with the court in which the fund was constituted.

## **Section 11**

### **Fund meeting**

After limitation proceedings have been initiated, the court shall summon the limitation fund administrator, the creator of the fund, the person initiating the limitation proceedings and the claimants to a fund meeting. Any other interested person shall also be summoned. The fund meeting shall deal with liability and its limitation, the amount of liability, as well as any matters concerning the claims filed.

Prior to the fund meeting, the limitation fund administrator shall review the claims filed and, to the extent possible, prepare proposals for decisions on matters to be addressed at the meeting and on

the distribution of the fund. Such proposal shall be submitted to those summoned to the meeting. If no administrator has been appointed, the court shall undertake these measures.

If at the conclusion of the meeting no objections are raised to the proposal or to any amendments that may have been made to the proposal at the meeting, the proposal shall be adopted as the basis for distribution of the fund. Where necessary, the fund meeting may resume at a later date.

If any person wishes to maintain his or her objection at the conclusion of the fund meeting, the court shall fix a period within which he or she shall request the court to consider the matter concerning the objection. Should no such request be made within the fixed period, the objection will be deemed to have lapsed. If the objection is maintained, the court shall decide the matter as expeditiously as possible.

## **Section 12**

### **Initiating a separate action**

After a request referred to in subsection 4 of section 11 to consider a matter has been made, the limitation fund administrator shall be summoned to join the proceedings. Where an objection concerns the right to limit liability or the amount of liability, the creator of the limitation fund shall also be summoned to join the proceedings. If the objection concerns a claim filed, the claimant who filed the claim shall be summoned to join the proceedings in addition to the fund administrator.

## **Section 13**

### **Advance payment**

After the period fixed by virtue of subsection 1 of section 5 above, the court may order that only part of the claims confirmed for the time being may be paid.

## **Section 14**

### **Distribution of a fund**

After all disputes have been resolved, the Court shall decide on the distribution of the fund.

The court may set aside a specific sum to cover any claims not filed before a decision on the distribution of the fund is taken up for final proceedings in the court of first instance. This amount is distributed when all of the claims filed have been considered and no further claims can be expected to arise.

The limitation fund shall be distributed even if the creator of the fund were not entitled to limitation of liability. In such cases, the court may, on request, issue a decision on the part of the claim which is not to be paid out of the fund.

## **Section 15**

### **Legal effect of a decision**

A final decision on the right to limit liability, the amount of liability, the claims filed and the distribution of the fund is effective in respect of all those entitled to bring claims against the limitation fund, regardless of whether any claims have been filed.

## **PART IV**

### **CONTRACTS OF CARRIAGE BY SEA**

#### **Chapter 13**

##### **Carriage of general cargo**

##### **General provisions on the carriage of general cargo**

###### **Section 1**

###### **Definitions**

For the purposes of this chapter:

- 1) *carrier* means any person who concludes a contract for the carriage of general cargo by sea with a shipper;

- 2) *actual carrier* means any person who performs the carriage, or part thereof, on behalf of the carrier;
- 3) *shipper* means any person who concludes a contract for the carriage of general cargo by sea with a carrier;
- 4) *consignor* means any person who consigns goods for carriage;
- 5) *transport document* means a bill of lading or any other document provided as evidence of a contract of carriage;
- 6) *Convention* means the Protocol of 1968 to Amend the International Convention for the Unification of Certain Rules of Law Relating to Bills of Lading, 1924 (the 'Hague-Visby Rules'; Treaty Series of the Statute Book of Finland 9/1985), and its Protocol of 1979 (Treaty Series of the Statute Book of Finland 10/1985); and
- 7) *Contracting State* means a state bound by the Convention.

## **Section 2**

### **Scope of application of the chapter**

The provisions of this chapter apply to contracts for the carriage of general cargo by sea in Finland's domestic trade and in trade between Finland, Norway, Sweden and Denmark. Any contracts for the carriage of general cargo by sea in domestic trade within Norway, Sweden and Denmark are subject to the national law of the state in which the carriage is performed.

In any other trade, the provisions apply to contracts for the carriage of general cargo by sea between two states when:

- 1) the agreed port of loading is located in a Contracting State;
- 2) the agreed port of discharge is located in Finland, Norway, Sweden or Denmark;
- 3) the contract mentions several ports of discharge, one of which is the actual port of discharge and such port is located in Finland, Norway, Sweden or Denmark;
- 4) the transport document is issued in a Contracting State; or
- 5) the transport document stipulates that the provisions of or legislation based on the Convention must be applied.

Notwithstanding, where the agreed port of loading or the agreed and actual port of discharge is not located in Finland, Norway, Sweden or Denmark, it may be agreed that the law of another, specified Contracting State is to be applied to the contract of carriage by sea.

### **Section 3**

#### **Charter-party shipping**

The provisions of this chapter do not apply to charter parties concerning full or partial chartering of ships. However, where a bill of lading is issued under a charter party, the provisions of this chapter shall apply to the bill of lading when it determines the relations between the carrier and the holder of the bill of lading.

If a contract provides for carriage of goods by sea in a series of shipments during an agreed period, the provisions of this chapter apply to each shipment. However, where a shipment is made under a charter party, the provisions of subsection 1 apply.

### **Section 4**

#### **Contractual stipulations**

Any stipulation in a contract of carriage or transport document is null and void to the extent that it derogates from the provisions of this chapter or those of chapter 19, section 1, subsection 1, paragraph 4, and subsection 2. Such nullity does not affect the validity of the contract or document in other respects. A clause assigning benefit of insurance of the goods in favour of the carrier, or any similar clause, is null and void.

However, none of the provisions referred to in subsection 1 apply to sections 5, 8–11 and 14–23; nor do they prevent inclusion of provisions in the contract of carriage regarding general average. A carrier may also extend his or her responsibilities and obligations under this chapter.

If the Convention or the national law of a Contracting State based thereon is applicable to a contract of carriage, the transport document shall indicate this and the fact that any terms derogating from the provisions of the Convention or law to the detriment of the shipper, the consignor or the consignee is null and void.

If it is reasonable to contractually limit the carrier's liability or extend his or her rights under this chapter, due to the exceptional nature or state of the goods, or to special circumstances, such a contract is valid.

## **Delivery and receipt of goods for carriage**

### **Section 5**

#### **Delivery of goods**

The consignor shall deliver the goods to the place and at the time indicated by the carrier. The goods shall be handed over in such a manner and condition that they can be conveniently and safely loaded on board the ship, stowed, transported and unloaded.

### **Section 6**

#### **Inspection of packaging**

The carrier shall reasonably inspect whether the goods are packed so as to prevent any damage to the goods or risk of harm to persons or property. However, if the goods are delivered for carriage in a container or similar article of transport, the carrier is not obliged to inspect its interior, unless there is reason to suspect that the article has been deficiently packed.

The carrier shall notify the shipper of any deficiencies detected. The carrier is not obliged to carry the goods if he or she cannot render these fit for carriage with reasonable effort.

### **Section 7**

#### **Dangerous goods**

Dangerous goods shall be marked as dangerous in a suitable manner. The shipper shall give the carrier and the actual carrier to whom the goods are being delivered timely notice of the dangerous character of the goods and of any precautions that may be necessary.

If the shipper is otherwise aware of the goods being of such nature that the carriage may pose danger or significant harm to persons, the ship or cargo, he or she shall also give notice thereof.

## **Section 8**

### **Goods requiring special care**

Where the goods require special care, the shipper shall give timely notice thereof and indicate any measures that may be necessary. Where necessary, such goods shall be marked in a suitable manner.

## **Section 9**

### **Receipt for goods received**

The consignor is entitled to obtain a receipt for the goods received as and when they are delivered.

Provisions on the issue of bills of lading and other transport documents are laid down in sections 42–59.

## **Section 10**

### **Freight**

If no freight can be deemed to have been agreed, the freight payable shall be the rate current at the time of delivery of the goods for carriage. Freight shall be payable when the goods are received.

The freight for any goods unaccounted for upon completion of carriage shall only be payable if the goods were lost as a result of their specific nature, deficient packaging or fault or neglect on the part of the shipper, or if the carrier has sold the goods on behalf of the owner or unloaded, rendered harmless or destroyed them in accordance with section 41.

Any prepaid freight shall be refunded, unless the carrier is entitled to the freight under subsection 2.

## **Section 11**

### **Withdrawal and breach of contract**

Where a shipper withdraws from a contract of carriage before the carriage commences, the carrier is entitled to compensation for loss of freight and any other loss.

If the goods are not delivered in due time, the carrier may cancel the contract of carriage where the delay constitutes a material breach of contract. Should the carrier wish to cancel the contract, he or she shall give notice thereof within a reasonable time after the shipper has enquired after it, but not later than upon receipt of the goods for carriage. Failing this, he or she will forfeit the right to cancel. If the contract is cancelled, the carrier is entitled to compensation for loss of freight and any other damage.

If the shipper or consignee requests that the carriage be suspended and the goods be delivered in a place other than the place of destination, the carrier is entitled to compensation for loss of freight and any other damage. No suspension of carriage shall be requested where such suspension would cause material loss or inconvenience to the carrier or to another shipper.

The provisions of subsections 2–4 of section 32 of chapter 14 on the elements relevant to the determination of compensation apply correspondingly to the carriage of general cargo.

## **Carriage**

### **Section 12**

#### **Carrier's obligation to protect the cargo owner's interests**

The carrier shall perform the carriage with due diligence and dispatch, care for the goods, as well as protect the cargo owner's interests in other respects from receipt to delivery of the goods.

The carrier shall ensure that the ship used for carriage is seaworthy, which also entails ensuring that the ship is properly manned and equipped, and that the holds, refrigerating and cool chambers and all other parts of the ship in which goods are carried are in good condition to receive, carry and preserve the goods.

Where the goods have been lost, damaged or delayed, the carrier shall immediately give notice thereof to the person nominated by the shipper. If notice cannot be given to that person, it shall be given to the cargo owner or, if unknown, to the shipper. The same shall apply if the carriage cannot be performed as intended.

## **Section 13**

### **Deck cargo**

Goods may only be carried on deck if such carriage is permitted under the contract of carriage, in accordance with usage or other custom of the particular trade, or where it is required by an act, decree or official decision.

If the contract stipulates that the goods shall or may be carried on deck, this shall be indicated on the transport document. If this is not the case, the carrier shall prove that an agreement for carriage of goods on deck has been entered into. The carrier may not invoke such an agreement against a third party who has acquired the bill of lading in good faith.

Provisions on liability for deck cargo are laid down in section 34.

## **Section 14**

### **Breach of contract by the carrier**

The shipper may cancel the contract of carriage due to a delay or some other breach of contract on the part of the carrier if such breach is material. The shipper shall not cancel the contract after the goods have been delivered for carriage where restitution of the goods would cause material loss or inconvenience to another shipper.

Should the shipper wish to cancel the contract, he or she shall give notice thereof within a reasonable time after he or she can be expected to have been informed of the breach of contract. Failing this, he or she will forfeit the right to cancel.

## **Section 15**

### **Interruption of carriage and distance freight**

Where a ship used for the carriage of goods is wrecked or condemned following an incident, the carrier's obligation to perform the carriage will not, however, cease on the basis thereof.

In the event of an obstacle preventing the ship from reaching the port of discharge to unload the cargo, or if this cannot be done without unreasonable delay, the carrier may instead choose another suitable port of discharge.

Sections 38 and 40 of chapter 14 apply to withdrawal from contracts of carriage due to war risk.

Where a part of the carriage has been performed when the contract of carriage is cancelled or expires, or where the goods are unloaded in a port other than the agreed port of discharge for any other reason, the carrier is entitled to distance freight according to the provisions of section 21 of chapter 14.

## **Section 16**

### **Carrier's right to act on behalf of the cargo owner**

If it becomes necessary to take any particular measures to preserve or carry the goods or otherwise protect the cargo owner's interests, the carrier shall request instructions from the cargo owner.

If time constraints or other circumstances do not allow a request for instructions, or if such instructions do not arrive in time, the carrier may take the necessary measures on behalf of the cargo owner and represent the latter in matters concerning the goods. Even if such measure were not necessary, the cargo owner is bound in respect of any third party acting in good faith.

Notice of such measures taken shall be given according to the provisions of subsection 3 of section 12.

## **Section 17**

### **Cargo owner's liability for the measures taken by the carrier**

The cargo owner is liable for any measures taken by the carrier and the expenses covered by the latter due to the cargo. However, if the carrier has acted without instructions, the cargo owner is not liable for any amount in excess of the value of the goods affected by the measures or payments at the beginning of the voyage.

Delivery of goods

## **Section 18**

### **Delivery of goods by the carrier**

At the port of destination, the consignee shall take over the goods at the location and time indicated by the carrier. The goods shall be handed over in such a manner that they can be conveniently and safely received.

The person entitled to receive the goods has the right to inspect them before receipt.

## **Section 19**

### **Consignee's obligation to pay freight and other claims**

If goods are delivered against a bill of lading, the consignee is obliged upon receipt of the goods to pay freight and any other claims that the carrier may have under the bill of lading.

If the goods have been delivered otherwise than against a bill of lading, the consignee is obliged to pay freight and any other claims according to the contract of carriage only if he or she was apprised of the claims upon delivery or otherwise realised or ought to have realised that the carrier had not received payment.

## **Section 20**

### **Right to retain goods**

If the carrier has claims under section 19 or any other claims secured by maritime liens on the goods under section 9 of chapter 3, he or she is not obliged to release the goods before the consignee has either paid the claims or provided security therefor. When the goods have been delivered, the carrier may enforce the security, unless prohibited by a court at the request of the consignee.

## **Section 21**

### **Storage of goods**

If the goods are not collected within the time indicated by the carrier or otherwise in a reasonable time, they may be placed in safekeeping on behalf of the consignee.

Notice of storage of goods shall be given in accordance with subsection 3 of section 12. Such notice shall specify a reasonable period of time after which the goods may be sold or otherwise disposed of as provided in section 22.

## **Section 22**

### **Carrier's disposal of uncollected goods**

After the period prescribed under subsection 2 of section 21 has expired, the carrier is entitled to sell any goods in storage to the extent necessary to cover the costs of sales and claims referred to in section 20. The carrier shall arrange the sale with due diligence.

If the goods cannot be sold or if it is apparent that the sales costs cannot be covered by the proceeds, the carrier may take some other suitable action to dispose of the goods.

## **Section 23**

### **Shipper's liability for claims**

If the goods are delivered to the consignee without payment of any claim against the shipper that the consignee should have paid, the shipper remains liable for the claim, provided that the delivery does not cause any damage to the shipper that the carrier ought to have realised.

The carrier is not obliged to sell stored goods to cover any claims against the shipper that the consignee should have paid. However, if the goods are sold without the claims being covered, the shipper remains liable for the remaining balance.

### **Carrier's liability for damages**

## **Section 24**

### **Period of responsibility**

The carrier is responsible for the goods while he or she is in charge of the goods at the port of loading, during the carriage and at the port of discharge.

The carrier is deemed to be in charge of the goods in accordance with subsection 1 from the time he or she has received the goods from the consignor, a public authority or any other party to

whom the goods are to be handed over pursuant to law or regulations applicable at the port of loading.

The carrier is deemed no longer to be in charge of the goods according to subsection 1:

- 1) when he or she has delivered the goods to the consignee;
- 2) in cases where the consignee does not receive the goods from the carrier, when the goods are placed in storage on behalf of the consignee in accordance with the contract or the law or usage at the port of discharge; or
- 3) when the carrier has handed over the goods to a public authority or any other third party to whom, pursuant to law or regulations applicable at the port of discharge, the goods must be handed over.

## **Section 25**

### **Liability for loss of or damage to goods**

The carrier is liable for loss resulting from loss of or damage to the goods that took place while the goods were in his or her charge on board or ashore, unless the carrier proves that neither he or she personally, nor anyone acting on his or her responsibility caused or contributed to the loss or damage through fault or neglect.

The carrier is not liable for any loss or damage resulting from measures to save life or from reasonable measures to save a vessel or other property at sea.

Where fault or neglect on the part of the carrier combines with another cause to produce loss or damage, the carrier is liable only to the extent that the loss or damage is attributable to such fault or neglect. The carrier shall prove the extent to which the loss or damage did not result from any fault or neglect on his or her part.

## **Section 26**

### **Liability for damage caused by error in navigation and fire**

The carrier is not liable if he or she proves that the damage was caused by:

- 1) fault or neglect in the navigation or management of the ship committed by the master, any crew member, a pilot or any other person performing work for the ship; or

2) fire not attributable to his or her personal fault or neglect.

Notwithstanding, the carrier is liable for any loss or damage resulting from failure on his or her part or on the part of any other person acting on his responsibility to exercise due diligence to ensure that the ship was seaworthy prior to the start of the voyage. In order to be exonerated from liability, the carrier shall prove that such diligence was exercised.

## **Section 27**

### **Liability for live animals**

The carrier is not liable for loss of or damage to live animals resulting from any special risks inherent in that kind of carriage.

If the carrier proves that he or she has complied with any special instructions given and that the loss or damage can be attributed to risks referred to in subsection 1, he or she is not liable, unless such loss or damage resulted, in full or in part, from fault or neglect on his or her part or on the part of anyone acting on his or her responsibility.

## **Section 28**

### **Liability for loss or damage caused by delay**

The carrier is liable for loss or damage caused by delay in delivery of goods in accordance with sections 25–27.

Delay in delivery of goods occurs when the goods have not been delivered at the port of discharge provided for in the contract of carriage within the time agreed or, in the absence of such agreement, within the time which it would be reasonable to require of a diligent carrier, having regard to the circumstances of the case.

If the goods have not been delivered as required within 60 days following the day on which they should have been delivered according to subsection 2, a claim for compensation may be brought in the same manner as for loss of goods under section 25.

## **Section 29**

### **Calculation of compensation for loss of or damage to goods**

The compensation payable for loss of or damage to the goods is calculated by reference to the value of goods of the same kind at the place and time where the goods were or should have been delivered in accordance with the contract.

The value of the goods is fixed according to the exchange price or, if there is no such price, according to their market price. If there is no exchange price nor market price, the price is determined by reference to the normal value of the goods of the same kind and quality.

## **Section 30**

### **Limits of liability**

The carrier's liability is limited to 667 Special Drawing Rights (SDRs) per package or other shipping unit, or to SDR 2.5 per kilogramme of gross weight of the goods in question, whichever is the higher. 'Special Drawing Right' is determined in section 2 of chapter 23.

## **Section 31**

### **Limitation of liability for unitised cargo**

Where a container, pallet or similar article of transport is used to consolidate goods, each package or other shipping unit enumerated in the transport document as packed in such article of transport is deemed, in the application of section 30, one package or shipping unit. Otherwise, the goods in such article of transport are deemed one unit. Where the article of transport itself has been lost or damaged, that article of transport, if not owned or otherwise supplied by the carrier, is considered one separate shipping unit.

## **Section 32**

### **Liability not based on a contract of carriage**

The provisions of this chapter on the carrier's exoneration from and limitation of liability apply even if an action raised against him or her were not based on a contract of carriage.

The provisions of this chapter on the carrier's exoneration from and limitation of liability apply correspondingly if an action is raised against a person on the carrier's responsibility and that person proves that he or she acted within the scope of his or her employment or on behalf of another.

The aggregate liability determined for the carrier and those acting on his or her responsibility shall not exceed the limits of liability under section 30.

### **Section 33**

#### **Forfeiture of the right to limitation of liability**

No person is entitled to limitation of liability if it is proven that he or she has personally caused the loss or damage intentionally or through gross negligence, knowing that such loss or damage was likely to occur.

### **Section 34**

#### **Liability for deck cargo**

If the goods are carried on deck contrary to the provisions of section 13, the carrier is, notwithstanding the provisions of sections 25–28, liable for any loss or damage resulting solely from the carriage on deck. The provisions of sections 30 and 31 apply to the extent of liability.

If the goods have been carried on deck contrary to express agreement for carriage under deck, the right to limit liability in accordance with this chapter does not exist.

### **Section 35**

#### **Carrier's liability for an actual carrier**

Where the carriage or part thereof is performed by an actual carrier, the carrier's liability under this chapter remains as if he or she had personally performed the entire carriage.

If it has been expressly agreed that a certain part of the carriage is to be performed by a named actual carrier, the carrier may exonerate himself or herself from liability for any loss or damage caused by an occurrence that took place while the goods were in the charge of the actual carrier. The carrier shall prove that the loss or damage was caused by such an occurrence.

Any clause referred to in subsection 2 above is, however, null and void, unless an action can be brought with the court referred to in section 60.

## **Section 36**

### **Actual carrier's liability**

The actual carrier is liable for the carriage performed by him or her under the same rules as the carrier. The provisions of sections 32 and 33 apply correspondingly to the actual carrier.

Where the carrier has assumed broader liability than provided in this chapter or has waived rights conferred by this chapter, the actual carrier is bound thereby only if he or she has given written consent.

## **Section 37**

### **Joint and several liability**

Where both the carrier and the actual carrier are liable, their liability is joint and several.

The aggregate liability determined for the carrier and actual carrier and those acting on their responsibility shall not exceed the limits of liability under section 30, subject to section 33.

Nothing in this chapter prevents the carrier and the actual carrier from agreeing on the right of recourse.

## **Section 38**

### **Complaints**

Unless the consignee, at the time of delivery of the goods, has given written notice of loss of or damage to the goods that he or she had or ought to have detected, specifying the general nature of such loss or damage, the goods are deemed delivered as described in the document of transport, unless otherwise shown. If the loss or damage could not be detected at the time of delivery, the same applies, unless notice is given within three days after the day when the goods were handed over.

No notice in writing need be given of loss or damage ascertained during a joint survey or inspection of the goods.

The carrier is not liable for any loss or damage resulting from delay in delivery of goods unless a notice has been given in writing to the carrier within 60 days after the day when the goods were handed over to the consignee.

Such notice may be given to the actual carrier who delivered the goods, or to the carrier.

## **Section 39**

### **Contribution in general average**

The provisions of sections 24–38 on the carrier's liability for loss of or damage to goods also apply to the consignee's right to refuse contribution in general average and the carrier's obligation to indemnify the consignee in respect of such contribution made or any salvage paid by the consignee.

### **Shipper's liability for damages**

#### **Section 40**

##### **General provision on liability for damages**

The shipper is not liable for loss sustained by the carrier or the actual carrier, including damage sustained by the ship, unless such loss or damage was caused by fault or neglect on his or her part or on the part of anyone acting on his or her responsibility. Nor is anyone acting on the shipper's responsibility liable for such loss or damage unless caused by fault or neglect on his or her part or on the part of anyone acting on his or her responsibility.

#### **Section 41**

##### **Dangerous goods**

If the shipper hands over dangerous goods to the carrier or an actual carrier without giving notice of the dangerous character of the goods and of the necessary precautions to be taken in accordance with section 7, and if the person receiving the goods does not otherwise have knowledge of their dangerous character, the shipper is liable to the carrier and any actual carrier for the costs and any other loss resulting from the shipment of such goods. In such cases, the

carrier or actual carrier may unload, destroy or render such goods harmless, as the circumstances may require, without liability for damages.

Notwithstanding, no person who has taken the goods in his or her charge with knowledge of their dangerous character may invoke the provisions of subsection 1.

Any goods which become an actual danger to persons or property may be unloaded, destroyed or rendered harmless, as the circumstances may require, by the carrier or actual carrier without liability for damages.

## **Bills of lading and other transport documents**

### **Section 42**

#### **Bills of lading**

*Bill of lading* means a document which:

- 1) evidences a contract of carriage by sea and the taking over or loading of the goods by the carrier; and
- 2) is named 'bill of lading' or contains an obligation by which the carrier undertakes to deliver the goods only against surrender of the document.

A bill of lading may be drawn to a named person, or to a named person or to order, or to bearer. A bill of lading drawn to a named person is considered an order bill of lading, unless it includes a reservation against transfer in terms of 'non-negotiable' or similar.

A bill of lading lays out the terms of carriage and delivery of goods between the carrier and any bearer of the bill of lading other than the shipper. No terms of the contract of carriage not included in the bill of lading shall be invoked against such bearer, unless the bill of lading includes a reference thereto.

### **Section 43**

#### **Through bills of lading**

'Through bill of lading' means a bill of lading indicating that the carriage of goods is performed by more than one carrier.

Any person issuing a through bill of lading shall ensure that each particular bill of lading issued for a certain part of the carriage indicates that the carriage of goods is based on a through bill of lading.

## **Section 44**

### **Consignor's right to receive a bill of lading**

When the carrier has taken the goods in his or her charge, he or she shall, on demand of the consignor, issue a received-for-shipment bill of lading.

After the goods have been loaded on board, a shipped bill of lading shall be issued on the consignor's demand. If any received-for-shipment bill of lading has been issued, it shall be surrendered in exchange for a shipped bill of lading. Such a received-for-shipment bill of lading is good for a shipped bill of lading once such document states the named ship or ships on board of which the goods are loaded and the date of loading.

The consignor is entitled to receive separate bills of lading for parts of a consignment where this is possible without causing material harm.

## **Section 45**

### **Bills of lading signed by the ship's master**

A bill of lading signed by the master of the ship carrying the goods is deemed to have been signed on behalf of the carrier.

## **Section 46**

### **Contents of bills of lading**

The bill of lading shall include the following particulars:

- 1) the nature of the goods as furnished by the consignor, including details as to the dangerous character of the goods, the marks necessary for identification of the goods, the number of packages or pieces, and the weight of the goods or their quantity otherwise expressed;
- 2) the apparent condition of the goods and packaging;

- 3) the name and principal place of business of the carrier;
- 4) the name of the consignor;
- 5) the consignee if named by the consignor;
- 6) the port of loading under the contract of carriage and the date on which the goods were taken over by the carrier at that port;
- 7) the port of discharge under the contract of carriage and any possible agreement on the date of delivery of the goods at that port;
- 8) the number of originals of the bill of lading, if more than one was issued;
- 9) the place of issuance of the bill of lading;
- 10) the amount of freight to the extent payable by the consignee or other indication that freight is payable by the consignee, as well as any other terms of carriage and delivery of the goods;
- 11) a statement that the carriage is subject to the provisions of the Convention in accordance with subsection 3 of section 4;
- 12) a statement that the goods shall or may be carried on deck in the specific case; and
- 13) any increased limit of liability that may have been agreed by the parties.

Furthermore, the shipped bill of lading shall state the name and nationality of the ship, the place of loading and the completion date of loading.

The bill of lading may be signed by the carrier or anyone acting on his or her behalf. The signature may be made by any mechanical or electronic means.

## **Section 47**

### **Absence of particulars in a bill of lading**

Any document that meets the requirements of subsection 1 of section 42 is considered a bill of lading even in the absence of any particulars mentioned in section 46.

## **Section 48**

### **Carrier's duty to inspect**

The carrier shall make reasonable efforts to check that the particulars to be noted on a bill of lading under paragraph 1 of subsection 1 of section 46 are correct. If the carrier has reasonable grounds to suspect the accuracy of the particulars or if he or she had no reasonable means of checking the accuracy thereof, he or she shall insert in the bill of lading a reservation to this effect.

## **Section 49**

### **Evidentiary effect of a bill of lading**

A bill of lading is evidence that the goods were taken over or, where a shipped bill of lading is issued, loaded as described in the bill of lading, in the absence of evidence to the contrary or unless any reservation in accordance with section 48 has been entered. If the bill of lading contains no note of the apparent condition of the goods, it is deemed to indicate that the goods were in apparent good condition, in the absence of evidence to the contrary.

A bill of lading which does not set forth the freight or otherwise indicate that freight is payable by the consignee under paragraph 10 of subsection 1 of section 46, is evidence that no freight is payable by the consignee, unless otherwise shown. The provision applies correspondingly where no amount payable as demurrage is set forth in the bill of lading.

If a third party has taken up a bill of lading in good faith in reliance on the accuracy of the particulars thereon, no evidence to the contrary under subsections 1 and 2 is admissible. If the carrier realised or ought to have realised that the particulars provided of the goods were inaccurate, he or she may not invoke any reservation referred to in section 48, unless the reservation contains a specific note of such inaccuracies.

## **Section 50**

### **Liability for misleading particulars on a bill of lading**

Should a third party incur loss as a result of taking up a bill of lading in reliance on the accuracy of the particulars thereon, the carrier is liable if he or she realised or ought to have realised that the contents of the bill of lading could mislead the third party. No right to limitation of liability under this chapter exists in such cases.

If the goods do not correspond with the particulars on a bill of lading, the carrier is, on demand of the consignee, obliged to inform the consignee of whether the consignor has undertaken to ensure that the carrier will not incur any loss resulting from inaccurate or incomplete particulars (letter of guarantee), as well as of the contents of such a letter of guarantee.

## **Section 51**

### **Consignor's guarantees**

The consignor is liable to the carrier for the accuracy of the particulars concerning the goods inserted into the bill of lading on his or her request.

Notwithstanding, if the consignor has undertaken to indemnify the carrier against loss resulting from the issuance of a bill of lading furnished with inaccuracies or without any reservation, he or she is not liable if this was done with the intention to mislead the recipient of the bill of lading. In such cases, the consignor is also not liable under subsection 1.

## **Section 52**

### **Right to take over goods**

Anyone who presents a bill of lading and is its rightful holder according to its contents or, if it is an order bill of lading, an uninterrupted series of endorsements extending to him or her or an endorsement is entitled to receive the goods.

Where more than one original of the bill of lading was issued, it is sufficient for the delivery of the goods at the destination that the consignee proves his or her right by presenting one original of the bill of lading. If the goods are delivered in another place, any other originals shall also be surrendered, or security shall be provided for any claims that a holder of an original in circulation may assert against the carrier.

## **Section 53**

### **Several holders of a bill of lading**

If several consignees come forward presenting separate originals of a bill of lading, the carrier shall place the goods in safekeeping on behalf of the rightful consignee. A notice of such measure shall be issued as soon as possible to those who came forward.

## **Section 54**

### **Delivery against a bill of lading**

The consignee is only entitled to take the goods in his or her charge if he or she deposits the bill of lading and issues a receipt as and when the goods are delivered.

After all the goods have been delivered, the bill of lading, duly receipted, shall be surrendered to the carrier.

## **Section 55**

### **Delivery in the event of a lost bill of lading**

If an application to cancel a lost bill of lading has been submitted, the applicant may, after the court has decided on issue of a public notice, demand delivery of the goods, provided that he or she gives security for any compensation that the carrier may have to pay due to the lost bill of lading.

## **Section 56**

### **Acquisition of a bill of lading in good faith**

If the rightful holder of a bill of lading under section 52 surrenders more than one original of an order or bearer bill of lading to different persons, the one who first received his or her original in good faith has the right to the goods. Should the goods have been released to the holder of another original at the destination, that person does not have to hand back anything of which he or she has already taken charge in good faith.

No person who has got hold of an order or bearer bill of lading in good faith is obliged to surrender the bill of lading to the person who misplaced it.

## **Section 57**

### **Right of stoppage in transit**

The seller's right to prevent delivery of the sold goods to the buyer or require returning them due to the buyer's insolvency or failure to fulfil his or her contractual obligation, applies even if the bill of lading for the goods were surrendered to the buyer.

The right mentioned in subsection 1 above shall not be invoked against a third party who has acquired an order or bearer bill of lading in good faith.

## **Section 58**

### **Sea waybills**

*Sea waybill* means a document which:

- 1) evidences a contract of carriage by sea and the taking over of the goods by the carrier; and
- 2) contains an obligation by which the carrier undertakes to deliver the goods to the consignee named in the document.

The shipper may, even after the issue of the sea waybill, determine that the goods are to be delivered to a consignee other than the one named in the document, unless he or she has surrendered this right in respect to the carrier, or unless the consignee has already exercised his or her right.

A bill of lading may be demanded in accordance with section 44, unless the shipper has waived his or her right to determine another consignee.

## **Section 59**

### **Contents and evidentiary effect of a sea waybill**

A sea waybill shall include the particulars of the goods handed over for carriage; the shipper, the consignee and the carrier; the terms of carriage; as well as freight and other costs payable by the consignee. The provisions of subsection 3 of section 46 and section 48 apply correspondingly to sea waybills.

In the absence of evidence to the contrary, a sea waybill evidences a contract of carriage by sea and the taking over of the goods as described in the document.

## **Dispute resolution**

### **Section 60**

#### **Contractual jurisdiction clauses**

Any agreement which was concluded prior to a dispute arising and which limits the plaintiff's right to judicial review of a dispute arising from carriage of general cargo under this chapter is null and void to the extent that it limits the plaintiff's right to, at his or her option, institute an action in a court which is situated in:

- 1) the principal place of business or, in the absence thereof, the habitual residence of the defendant;
- 2) the place where the contract of carriage was made provided that the defendant has there a place of business, branch or agency through which the contract was made; or
- 3) the place where the agreed port of loading or the agreed or actual port of discharge is located.

Notwithstanding the provisions of subsection 1, any interested party may institute an action in a court having jurisdiction in a place mentioned in the contract of carriage. In the event of a dispute, the parties are free to agree on how the dispute is to be addressed.

Where a bill of lading was issued pursuant to a charter party containing a provision on the competent court or arbitration proceedings, and the bill of lading does not contain a specific stipulation providing that such provisions are also binding on the holder of the bill of lading, the carrier shall not invoke such provisions against any person having acquired the bill of lading in good faith.

The provisions of subsection 1 do not apply if neither the agreed port of loading nor the agreed port of discharge is located in Finland, Norway, Sweden or Denmark. (396/1999)

## **Section 61**

### **Arbitration clauses**

The parties may, notwithstanding the provisions of subsection 1 of section 60, agree in writing that disputes may be referred to arbitrators. In such cases, language providing that the arbitration proceedings shall, at the option of the claimant, be instituted in a state in which a place referred to in subsection 1 of section 60 is situated, and that the arbitrators shall apply the provisions of this chapter shall always be included as part of any arbitration agreement.

Regardless of the provisions of the arbitration agreement, however, the provisions of subsections 2 and 3 of section 60 apply correspondingly.

The provisions of subsection 1 do not apply if neither the agreed port of loading nor the agreed or actual port of discharge is located in Finland, Norway, Sweden or Denmark.

## **Chapter 14**

### **Ship chartering**

#### **General provisions**

##### **Section 1**

#### **Scope of application and definitions**

The provisions governing charter parties apply to full and partial chartering of ships. The provisions governing voyage charter parties also apply to consecutive voyages, unless otherwise provided by law.

For the purposes of this chapter:

- 1) *carrier* means any person who, under a contract, charters out a ship to another, the *charterer*;
- 2) *consignor* means any person who consigns goods for loading;
- 3) *voyage chartering* means chartering where freight is determined per voyage;
- 4) *consecutive voyages* means a certain number of voyages performed one after another under a charter party for a specific ship;

- 5) *time chartering* means chartering where hire is determined per unit of time; and
- 6) *partial chartering* means chartering under a charter party which only concerns a certain part of a whole ship or full cargo.

The provisions of this chapter apply to contracts for chartering of ships in Finland's domestic trade and between Finland, Norway, Sweden and Denmark. Any contracts for chartering in domestic trade within Norway, Sweden and Denmark are subject to the national law of the state in which the carriage is performed.

The provisions of this chapter apply to chartering in trade not referred to in chapter 3 where Finnish law is applicable.

## **Section 2**

### **Freedom of contract**

The provisions of this chapter do not apply if otherwise provided in an agreement, practice established by the contracting parties or usage or other custom of the trade to be considered binding on the parties.

In respect of voyage chartering in Finland's domestic trade and in trade between Finland, Norway, Sweden and Denmark, the provisions of section 27 shall not be derogated from by agreement to the detriment of the consignor, voyage charterer or consignee. The same applies to the provisions of paragraph 4 of subsection 1 of section 1 and section 2 of chapter 19. Notwithstanding, provisions regarding general average may be included in charter parties. Any limitations on freedom of contract in domestic trade within Norway, Sweden and Denmark are subject to the national law of the state in which the carriage is performed.

In respect of chartering in trade referred to in subsections 1 and 2 of section 2 of chapter 13, the provisions of section 18 on the issue of bills of lading shall not be derogated from by agreement to the detriment of the consignor.

Furthermore, none of the provisions of this chapter shall be derogated from by agreement where this follows from the provisions of section 5.

### **Section 3**

#### **Chartering of a specific ship**

If a charter party is for a specific ship, the carrier shall not use any other ship to fulfil the charter party. If the charter party entitles the carrier to use a ship other than the one agreed on or to otherwise use other ships, the carrier may exclusively use ships which are as suitable for the purpose as the ship under the charter party. Such right may be exercised more than once.

If the charter party covers the whole ship or full cargo, the carrier shall not take goods on board on behalf of any person other than the charterer. This shall be observed even when the ship is sailing in ballast to commence a new voyage.

### **Section 4**

#### **Transfer of a charter party**

If a charterer transfers the rights under the charter party to another or sub-charters the ship, he or she will, however, remain responsible for fulfilling the charter party.

The carrier shall not transfer the charter party to another without the charterer's consent. If the charterer has consented to such transfer, the carrier will cease to be liable under the charter party.

### **Section 5**

#### **Tramp bills of lading**

If the carrier issues a bill of lading for the goods to be carried on the ship, the bill of lading lays out the terms of carriage and delivery of goods between the carrier and any third party bearing the bill of lading. No provisions of the charter party not included in the bill of lading shall be invoked against such third party, unless the bill of lading includes a reference thereto.

The provisions of sections 45–57 of chapter 13 also apply to any bills of lading referred to in subsection 1. Where it follows from section 3 of chapter 13 that the provisions on the carriage of general cargo are applicable to a bill of lading, the carrier's liability and rights in respect of a third party are determined in accordance with sections 4 and 24–40 of chapter 13.

## **Voyage chartering**

### **Preliminary provisions on voyage chartering**

#### **Section 6**

##### **Freight**

If no freight is determined under the charter party, the freight payable shall be the rate current at the time of conclusion thereof.

Where goods other than or in excess of what was agreed have been loaded on board, the freight payable shall be the rate current at the time of loading, provided that it is not less than the agreed freight.

#### **Section 7**

##### **Seaworthiness**

The carrier shall ensure that the ship is seaworthy, which also entails ensuring that the ship is properly manned and equipped, and that the holds, refrigerating and cool chambers and all other parts of the ship in which goods are carried are in good condition to receive, carry and preserve the goods.

#### **Section 8**

##### **Voyage charterer's choice of loading and discharge ports**

If the charter party entitles the voyage charterer to choose the port of loading or discharge, the ship shall go to the port nominated by the charterer, provided that it is accessible and allows the ship to lie freely and safely afloat and enter or depart without hindrance with cargo on board. The choice of discharge port shall be made no later than upon completion of loading.

If the voyage charterer has ordered the ship to an unsafe port, he or she is liable for any damage thereby sustained by the ship, unless he or she proves that such damage was not caused by fault or neglect on his or her part nor on the part of anyone acting on his or her responsibility.

In respect of consecutive voyages, the right to choose the voyages which the ship is to perform shall be exercised such that the aggregate length of both laden voyages and ballast voyages under

the charter party remains essentially the same. Otherwise, the voyage charterer is liable to pay compensation for loss of freight.

The voyage charterer shall not change his or her choice of port or voyage.

## **Section 9**

### **Place of loading**

If no specific place of loading has been agreed, the ship shall be berthed at the loading place nominated by the voyage charterer, provided that it is accessible and allows the ship to lie freely and safely afloat and depart without hindrance with cargo on board.

If no place of loading is nominated in time, the ship shall be berthed at any customary loading place. If this is not possible, the carrier shall choose a berth where loading can reasonably take place.

The voyage charterer is, whether or not a specific place of loading was agreed, entitled to have the ship shifted from one loading place to another, if he or she covers the costs involved.

### **Loading time**

## **Section 10**

### **Loading time**

The carrier is obliged to let the ship lie for loading for a specific loading time, which comprises *laytime* and any *time on demurrage*. Where chartering is performed on *liner terms*, the loading time does not include any time on demurrage.

## **Section 11**

### **Duration of laytime**

Laytime is the time which, at the time of conclusion of the charter party, loading can reasonably be expected to take. Laytime shall be calculated taking account of the nature and size of the ship and cargo, the loading gear on board and in the port as well as other similar circumstances.

Laytime is calculated:

- 1) under the *FAC* clause (*fast as can*) such that loading shall be performed as fast as the ship can receive the cargo without damaging the loading gear;
- 2) under the *FACCOP* clause (*fast as can custom of the port*) such that loading shall be performed as fast as the customary way of loading in the port permits; and
- 3) under the *liner terms* clause such that loading shall be performed as fast as customary for loading in the port in liner shipping, plus any time lost due to congestion.

If an overall time has been specified for loading and discharge, laytime will only end when such overall time has expired.

Laytime is calculated in terms of working days and working hours. Every weekday on which the number of hours worked is customary for weekdays in a specific port is counted as a working day. Every hour which can be used for loading on weekdays is counted as a working hour. For days on which the number of hours worked is lower than on weekdays, the number of hours commonly used for loading is counted.

## **Section 12**

### **Commencement of laytime**

Laytime does not begin to run until the ship is at its loading place, ready to receive cargo, and the carrier has given notice thereof.

Notice may be given in advance, but not before the ship has entered the loading port. Should it subsequently appear that the ship was not ready for loading, the time lost to make the ship ready does not count as laytime.

The notice shall be given to the consignor or, if he or she cannot be reached, to the voyage charterer. Where neither the consignor nor the voyage charterer can be reached, the notice is deemed to have been given when sent as appropriate.

The time is either calculated from the hour when work normally begins at the port in the morning, or from the end of the lunch break. The notice shall be made on the previous day no less than one hour prior to the end of office hours in the former case and no later than at ten o'clock in the morning on the same day in the latter.

## **Section 13**

### **Hindrances**

If the ship cannot be berthed at the loading place owing to a hindrance on the part of the voyage charterer, the notice of readiness for loading may still be given with the effect that the laytime starts to run. The same applies to congestion as well as any other hindrance that the carrier could not have reasonably taken into account at the time of concluding the charter party.

No time lost owing to a hindrance on the part of the carrier is counted as laytime. The same applies to any time lost as a result of berthing the ship at a loading place other than the customary one for a reason that the carrier must have reasonably taken into account at the time of concluding the charter party. Conversely, any delay due to shifting the ship is counted towards laytime.

## **Section 14**

### **Time on demurrage**

Time on demurrage is the time after the expiry of laytime that the ship has to remain at the port in order to be loaded, unless the length of time on demurrage is specified by agreement.

Time on demurrage is calculated in terms of running days and hours from the expiry of laytime. The provisions of subsection 2 of section 13 apply correspondingly to any time on demurrage.

## **Section 15**

### **Demurrage charges**

The carrier is entitled to a separate compensation for any time on demurrage. The amount of demurrage is determined with regard to the freight and the increase or reduction of costs incurred by the carrier due to the ship's idle time.

Payment is due on demand.

In the event of failure to pay demurrage or provide security to cover it, the carrier may make a note of the claim on the bill of lading. Failing this, he or she may set a specific additional period of time for the voyage charterer to make the payment. If the period is not unreasonably short and

the claim is not paid within the additional period, the carrier may cancel the charter party and demand compensation for loss due to non-performance of the voyage.

## **Loading**

### **Section 16**

#### **Loading and stowage**

Subject to any custom of the port, the voyage charterer shall deliver the goods for loading alongside the ship and the carrier shall take it on board.

Under the clause:

- 1) *FIO (free in and out)*, the voyage charterer shall arrange for the loading; and
- 2) *liner terms*, the carrier shall arrange for the loading.

The carrier shall arrange for the ceiling and anything else necessary for stowage and carry out the stowage.

The provisions of section 13 of chapter 13 apply correspondingly to deck cargo.

If the ship is berthed at a loading place other than the customary one for a reason that the carrier must have reasonably taken into account at the time of concluding the charter party, the carrier is liable for any additional costs in consequence thereof.

### **Section 17**

#### **Delivery of goods**

The goods shall be delivered and loaded with due dispatch. They shall be handed over in such a manner and condition that they can be conveniently and safely loaded on board the ship, stowed, transported and unloaded.

The provisions of sections 6–9 of chapter 13 apply correspondingly to the delivery and loading of goods in voyage chartering.

## **Section 18**

### **Shipped bills of lading**

After the goods have been loaded, the carrier or master, or any other person otherwise authorised by the carrier for this function, shall issue a shipped bill of lading on the consignor's demand, provided that the necessary documents and particulars are available.

The consignor is entitled to receive separate bills of lading for parts of a consignment where this is possible without causing material harm.

If a bill of lading is issued under the charter party and contains terms in contravention thereof, thereby extending the carrier's liability, the voyage charterer shall be liable for any loss that this may cause to the carrier.

## **Voyages**

### **Section 19**

#### **Carrier's duty of care**

Voyages shall be performed with due dispatch and in an otherwise acceptable manner. The provisions of subsections 1 and 3 of section 12 and section 16 of chapter 13 on the carrier's obligation and right to act on behalf of the cargo owner and those of section 17 on the cargo owner's liability for the measures taken apply correspondingly to voyage chartering.

### **Section 20**

#### **Deviations from route and substitute ports**

Any deviation is only allowed for the purpose of saving human life, a vessel or goods, or on other reasonable grounds.

In the event of an obstacle preventing the ship from reaching the port of discharge to unload the cargo, or if this cannot be done without unreasonable delay, the carrier may instead choose another suitable port of discharge.

## **Section 21**

### **Distance freight**

Where a part of the voyage has been performed when the charter party is cancelled or expires, or where the goods are unloaded in a port other than the agreed port of discharge for any other reason, the carrier is entitled to distance freight. The provisions of section 24 apply correspondingly to distance freight.

Distance freight is the agreed freight minus an amount calculated according to the ratio of the lengths of the remaining and agreed voyages. In such cases, the duration of such voyages and the specific costs involved shall also be taken into account. Distance freight shall not amount to more than the value of the goods.

Any disputes over distance freight may be referred for review and resolution by an Average Adjuster. In such cases, the provisions governing general average on the adjustment of loss or damage shall be observed as appropriate.

## **Section 22**

### **Dangerous goods**

In the event that dangerous goods have been loaded on board without the carrier's knowledge of their dangerous character, the carrier may unload, destroy or render such goods harmless, as the circumstances may require, without liability for damages. The same applies even if the carrier was aware of the dangerous character of the goods, if any danger to persons or property subsequently arises that makes it untenable to keep the goods on board.

### **Discharge and delivery of goods**

## **Section 23**

### **Discharge**

The provisions of sections 9–17 apply correspondingly to the discharge place, discharge time and discharge of the goods. In this context, the provisions laid down herein on voyage charterers apply to the consignee.

The person entitled to receive the goods has the right to inspect them before receipt.

If the goods carried under the same charter party have several consignees, they may only jointly nominate the place of discharge or demand that the ship be shifted.

The voyage charterer shall cover the additional costs of any damage to or disposal of the goods as a result of an incident, if such loss or damage arose from the nature of the goods or from fault or neglect on the part of the voyage charterer. Where the *FIO* clause (*free in and out*) is used, the voyage charterer shall cover the costs, unless the carrier is liable for loss or damage under section 27.

## **Section 24**

### **Freight for goods unaccounted for**

The freight for any goods unaccounted for upon completion of the voyage shall only be payable if the goods were lost as a result of their specific nature, deficient packaging or fault or neglect on the part of the voyage charterer, or if the carrier has sold the goods on behalf of the owner or unloaded, rendered harmless or destroyed them in accordance with section 22.

Any prepaid freight shall be refunded, unless the carrier is entitled to the freight under subsection 1.

## **Section 25**

### **Liability of the consignee and voyage charterer for freight**

The consignee is obliged upon receipt of the goods to pay freight and any other claims in accordance with the provisions of section 19 of chapter 13.

The carrier may, in any event, demand payment from the voyage charterer in accordance with the provisions of section 23 of chapter 13.

The carrier is entitled to retain the goods in accordance with the provisions of section 20 of chapter 13.

## **Section 26**

### **Storage of goods**

If the consignee fails to satisfy the conditions for taking charge of the goods or delays the discharge of the ship to the extent that it cannot be completed within the agreed or otherwise reasonable period of time, the carrier may unload the goods and place them in safekeeping on behalf of the consignee. The consignee shall be given notice of such storage.

If the consignee refuses to accept the goods, or if the consignee is not known or found, the carrier shall inform the voyage charterer thereof as soon as possible. If the consignee fails to come forward in sufficient time to allow the goods to be discharged in time, the carrier shall unload the goods and place them in safekeeping. The consignee and the voyage charterer shall be given notice of such storage.

Any notice under subsections 1 and 2 above shall specify a reasonable period of time after which the carrier is entitled to sell or otherwise dispose of the stored goods. The provisions of section 22 of chapter 13 apply correspondingly to the sale or other disposal of goods.

## **Section 27**

### **Cargo loss and damage and delayed delivery**

The carrier is liable for the loss of, damage to or delay in delivery of any goods in his or her charge in accordance with sections 24–35 and 37–39 of chapter 13. The provisions of section 36 of chapter 13 on the actual carrier's liability apply correspondingly.

A consignee other than the voyage charterer is also entitled to compensation under subsection 1. If the consignee holds a bill of lading issued by the carrier, he or she may also invoke the provisions of section 5.

Breach of contract and hindrances on the carrier's part

## **Section 28**

### **Cancellation time**

Where the ship needs to be ready to take on cargo within a prescribed period of time (*cancellation time*), the voyage charterer may cancel the charter party if the ship is not ready to take on cargo or a notice of readiness has not been given by the end of the prescribed period.

If the carrier gives notice that the ship will arrive after the prescribed period and states the time at which the ship will be ready to take on cargo, the voyage charterer is entitled to cancel the charter party, provided that this is done within a reasonable period of time. If the charter party is not cancelled, the stated time will become the new discharge time.

## **Section 29**

### **Delay and other breaches of contract**

The voyage charterer may cancel the charter party due to a delay or some other breach of contract on the part of the carrier if such breach is material.

The voyage charterer shall not cancel the charter party after the goods have been loaded where unloading the goods would cause material loss or inconvenience to another charterer. In respect of consecutive voyages, the voyage charterer shall not cancel the charter party for an individual voyage, unless performance of that voyage is immaterial to the carrier in relation to remaining voyages.

Should the voyage charterer wish to cancel the charter party, he or she shall give notice thereof within a reasonable time after he or she can be expected to have been informed of the breach of contract. Failing this, he or she will forfeit the right to cancel.

## **Section 30**

### **Destruction of a ship**

Where the charter party is for a named ship and the ship is wrecked or condemned following an incident, the carrier is not obliged to perform the voyage. In such cases, he or she is also not entitled to perform the voyage with a ship which is not the one chartered, even if the charter party permits him or her to replace the chartered ship with another one.

## **Section 31**

### **Carrier's liability for damages**

Where a delay or some other breach of contract on the part of the carrier results in loss or damage not covered by section 27, the provisions of sections 25 and 26 of chapter 13 on liability for loss of or damage to goods and for damage caused by error in navigation and fire apply correspondingly.

Breach of contract and hindrances on the voyage charterer's part

## **Section 32**

### **Withdrawal prior to completion of loading**

Where the voyage charterer withdraws from the charter party before loading commences, or where he or she, after indicating this in some way, has not handed over all of the goods under the charter party by the completion of loading, the carrier is entitled to compensation for loss of freight and any other loss. In respect of consecutive voyages, withdrawal from an individual voyage is only allowed where performance of that voyage is immaterial to the carrier in relation to remaining voyages.

Compensation shall be determined with due consideration for whether the carrier has failed to take on other goods without a reasonable cause.

No right to compensation exists if the handover, carriage or delivery of the goods to the destination must be considered impossible due to circumstances which the voyage charterer would not have been expected to take into account at the time of concluding the charter party, such as export or import bans or other measures adopted by public authorities, accidental destruction of all goods of the kind covered by the charter party, or comparable circumstances. The same applies where the charter party concerns specific goods which are accidentally destroyed.

Should the voyage charterer wish to invoke circumstances mentioned in subsection 3, he or she shall give reasonable notice thereof to the other party. Failing this, he or she is obliged to compensate for any loss or damage that could have been avoided, if the notice had been given in time.

## **Section 33**

### **Right of cancellation**

If the voyage charterer is allowed to withdraw from the charter party without liability for damages under subsection 3 of section 32, the carrier is also entitled to withdraw from the charter party, provided that he or she gives notice thereof within a reasonable period of time.

If the voyage charterer fails to hand over all of the goods under the charter party for loading, the carrier may set a specific additional period of time for the carrier to pay compensation or provide security. If the period is not unreasonably short and no compensation is paid nor security provided for it within the additional period, the carrier may cancel the charter party. He or she is also entitled to claim compensation under section 32.

## **Section 34**

### **Withdrawal after loading**

After the goods have been loaded, the voyage charterer is neither entitled to have the cargo unloaded nor the voyage suspended, should this cause material loss or inconvenience to the carrier or to another charterer. In such cases, the provisions of sections 32 and 33 on withdrawal prior to completion of loading and the right of cancellation apply correspondingly.

## **Section 35**

### **Delay in loading**

If a time on demurrage has been agreed and the voyage charterer has failed to hand over all or some of the goods by the end of the loading time, the provisions of sections 32 and 33 on withdrawal prior to completion of loading and the right of cancellation apply correspondingly. The same applies when the charter party contains a *liner terms* clause and the laytime has expired.

If no length of time on demurrage has been agreed, and if loading is delayed to such extent as to result in material loss or inconvenience to the carrier, he or she may, even if demurrage were paid, cancel the charter party or, where goods have already been handed over for loading, declare the loading completed. In such cases, the provisions of sections 32 and 33 apply correspondingly.

## **Section 36**

### **Other delays**

If the ship is delayed after loading or during the voyage due to circumstances on the part of the voyage charterer, the carrier is entitled to damages, unless the voyage charterer proves that neither he or she personally nor anyone acting on his responsibility is guilty of fault or neglect. The same applies where the ship's discharge is delayed because it is impossible for the carrier to store the goods in accordance with section 26.

If the freight or demurrage for consecutive voyages or any other claims under the charter party are not paid when due, the carrier may set a specific additional period of time for payment. If the period is not unreasonably short and no claim is paid within the additional period, the carrier may suspend the performance of or cancel the charter party. The carrier is entitled to compensation for loss arising from such suspension of performance or, if the charter party is cancelled, of cancellation of the remaining voyages.

## **Section 37**

### **Loss or damage caused by goods**

Where the goods have caused any loss to the carrier or damage to the ship, the voyage charterer is liable to pay damages, if such loss or damage resulted from fault or neglect on his or her part or on the part of anyone acting on his or her responsibility. The same applies to partial chartering if the goods have caused damage to other goods on board.

### **Expiry of a charter party**

## **Section 38**

### **War risk**

If it appears after the conclusion of a charter party that the voyage might entail damage to the ship, persons on board or the cargo in consequence of war, blockade, insurrection, civil commotion or piracy or some other type of armed violence, or that such a risk has materially increased, both the carrier and the voyage charterer are entitled to withdraw from the charter party without liability for damages, even if the voyage had commenced. The party wishing to withdraw shall give

the other party reasonable notice thereof. Failing this, he or she is obliged to compensate for any loss or damage that could have been avoided, if the notice had been given in time.

If the risk can be averted by leaving behind or discharging some of the goods, withdrawal from the charter party is only allowed in this respect. The carrier is nevertheless entitled to withdraw from the entire charter party, provided that this does not cause any material loss or inconvenience to another voyage charterer, if damages are not paid or security provided for loss of freight and any other loss despite requests.

## **Section 39**

### **Consecutive voyages**

In respect of consecutive voyages, withdrawal from the charter party for an individual voyage in accordance with section 38 is only allowed where performance of that voyage is immaterial in relation to remaining voyages.

Where the charter party entitles the voyage charterer to choose the voyages which the ship is to perform, withdrawal from the charter party is only allowed under section 38 if the risk is of material significance for its fulfilment.

## **Section 40**

### **Costs of delay**

If the ship is delayed at the loading port or in another port on the voyage after loading has commenced because of a risk referred to in section 38, the costs of the delay shall be regarded as general average expenditure and apportioned between the ship, the freight and the cargo as provided on general average. In the event of withdrawal from the charter party, however, this does not apply to any subsequent costs.

## **Section 41**

### **Expiry of the charter period for consecutive voyages**

If the ship has been chartered for as many voyages as it can perform within a specific period, and if, prior to the expiry of that period, the voyage charterer has received notice that the ship is ready

to take on cargo, the voyage shall be performed even if this took place wholly or partly after the expiry of the charter period.

If it is evident that the ship cannot reach the port of loading and be ready to receive cargo prior to the expiry of the charter period, the carrier is not obliged to send the ship to the port of loading.

If the carrier gives notice that the ship may arrive late at the loading port and requests instructions, the voyage charterer may decide either that the voyage shall be performed under the charter party, or that the charter party will expire. The charter party expires if the voyage charterer fails to request the performance of the voyage within a reasonable period of time after receiving the notice.

## **Contracts of affreightment**

### **Section 42**

#### **Scope of application**

The provisions on contracts of affreightment apply to the carriage of a specific quantity of goods by sea in a series of shipments during an agreed period.

However, the provisions do not apply if it has been agreed that the shipments are to be made consecutively on a specific ship.

### **Section 43**

#### **Choice of quantity**

Where the contract allows the total quantity of goods to be chosen, the charterer is entitled to decide the quantity.

Where the choice of quantity applies to the quantity of goods to be carried on a specific voyage, the carrier is entitled to decide the quantity.

## **Section 44**

### **Shipping schedules**

The charterer shall prepare shipping schedules suitably spread over the period of time covered by the contract of affreightment and inform the carrier of the schedules in good time.

The charterer shall ensure that the quantity of goods included in the contract is appropriately divided over the contract period. In this context, he or she shall take the size of the ships being used into account.

## **Section 45**

### **Notice of shipment**

The charterer shall give reasonable notice of shipment prior to loading. The notice shall indicate the time by which the goods will be ready for loading at the latest.

## **Section 46**

### **Nomination of a ship**

After the notice of shipment has been submitted, the carrier shall provide a ship which is suitable to perform the voyage in due time. The carrier shall give reasonable notice of the ship which will perform the voyage, its cargo carrying capacity and the estimated time of arrival at the loading port.

The carrier is not obliged to provide a ship for goods which are not ready for loading prior to the expiry of the contract period, unless such overrun is caused by circumstances beyond the control of the charterer and is not material.

## **Section 47**

### **Performance of voyages**

When the charterer has submitted a notice referred to in section 46, the provisions on voyage chartering or carriage of general cargo apply to the carriage.

Where the carrier's obligation to perform a certain voyage expires due to circumstances on the part of the carrier, the charterer is entitled to demand carriage of the goods or a corresponding quantity of new goods.

If the expiry of the voyage gives reason to expect that subsequent voyages will not be performed without material delay, the charterer may cancel the contract for the remaining period.

## **Section 48**

### **Late submission of notice of shipment and shipping schedules**

If the charterer fails to submit the notice of shipment in time, the carrier may set a specific additional period of time for submission thereof. If the period is not unreasonably short and no notice of shipment is given within the additional period, the carrier may either nominate a ship on the basis of the shipping schedule in effect under section 46 or cancel the contract for the voyage in question.

If the delay gives reason to expect material delays in notices of subsequent shipments, the carrier may cancel the contract for the remaining period.

The carrier is entitled to damages, unless the delay was due to circumstances referred to in subsection 3 of section 32.

If the charterer fails to give the carrier timely notice of the shipping schedules, the carrier may set a specific additional period of time. If the period is not unreasonably short and it is not honoured, the carrier may cancel the contract for the remaining period. In such cases, the provisions of subsection 3 apply correspondingly to the right to damages.

## **Section 49**

### **Delayed nomination of the ship**

If the carrier fails to give timely notice of the ship, the charterer may set a specific additional period of time. If the period is not unreasonably short and no notice is given within the additional period, the charterer may cancel the contract for the voyage affected by the additional period.

If the delay gives reason to also expect material delays in notices of ships for subsequent shipments, the charterer may cancel the contract for the remaining period.

The charterer is entitled to damages, unless the delay was caused by an obstacle beyond the carrier's control, which the carrier cannot reasonably be expected to have foreseen at the time of concluding the contract and the consequences of which he or she could not reasonably have averted or overcome.

## **Section 50**

### **Overdue payment of freight**

If the freight, demurrage or any other claims under the contract are not paid when due, the carrier may set a specific additional period of time for payment. If the period is not unreasonably short and no claim is paid within the additional period, the carrier may suspend the performance of the contract or, if such delay constitutes a material breach of contract, cancel the contract.

The carrier is entitled to compensation for loss arising from such suspension of performance or, if the contract is cancelled, of non-performance of the remaining voyages.

Upon completion of every voyage under the contract, the carrier is entitled to retain the cargo as security for the claims covered by the contract. In relation to a third party, this may only be done if such a claim has been entered on the bill of lading.

## **Section 51**

### **War risk**

Should war break out or warlike conditions or a significant increase in the risk of war arise during the contract period, and should this be of material significance for the fulfilment of the contract, both the carrier and the charterer are entitled to withdraw from the contract without liability for damages.

The party wishing to withdraw shall submit reasonable notice thereof to the other party. Failing this, he or she is obliged to compensate for any loss or damage that could have been avoided, should the notice have been given in time.

## **Time chartering**

### **Delivery of a ship**

#### **Section 52**

##### **Condition and equipment of the ship**

The carrier shall place the ship at the time charterer's disposal at the agreed place and time.

The carrier shall, upon ship delivery, ensure that its condition, required documentation, manning, provisions and other equipment satisfy the requirements of conventional charter trade in the trading area stipulated in the charter party.

The ship shall also carry enough bunker fuel to enable it to reach the nearest convenient bunkering port. The time charterer shall take over the bunker fuel and pay for it at the price current at that port.

#### **Section 53**

##### **Surveys**

On delivery of the ship, both the carrier and the time charterer may request a normal survey of the ship, its equipment and its fuel supply.

Each of the parties shall pay half the costs, including those due to time lost due to the survey.

Unless otherwise shown, the survey report is evidence of the condition of the ship and its equipment and fuel supply.

#### **Section 54**

##### **Delivery of a ship at sea**

Where the parties have agreed that the ship is to be delivered at sea, the carrier shall notify the time charterer of the delivery, stating the position of the ship and the time of the delivery.

The survey referred to in section 53 above is carried out at the ship's first port of call after delivery. If any deficiencies are found in the survey, hire is not payable for the time lost in correcting such deficiencies. If the time charterer cancels the charter party in accordance with section 56, the carrier is not entitled to hire as from the time of delivery.

## **Section 55**

### **Cancellation time and delayed delivery of the ship**

Where the ship needs to be ready to take on cargo within a prescribed period of time (*cancellation time*) under the charter party, the time charterer may cancel the charter party if the ship is not ready to take on cargo or if a notice of readiness has not been given by the end of the prescribed period. If the ship is to otherwise be delivered within a specified time, the time charterer may cancel the charter party if the period is exceeded.

If the carrier gives notice that the ship will arrive late while also stating the time at which the ship will be ready to take on cargo or ready for delivery, the time charterer may cancel the charter party, provided that this is done within a reasonable period of time. If the charter party is not cancelled, the stated time will become the new discharge time.

If the ship is otherwise delivered too late, the time charterer may cancel the charter party where the delay constitutes a material breach of contract.

## **Section 56**

### **Defects in the ship**

If the ship or its equipment has any defects upon delivery, the time charterer is entitled to claim a reduction of hire or, if the breach of contract is material, to cancel the charter party. However, no right to reduce the hire and cancel the charter party exists if the carrier repairs the defects without such delay as would entitle the time charterer to cancel the contract according to section 55.

## **Section 57**

### **Liability for damages**

The time charterer is entitled to damages for loss arising from a delay or defect upon delivery. Where the carrier proves that such delay or defect did not result from fault or neglect on his or her part nor on the part of anyone acting on his or her responsibility, no right to such damages exists. The time charterer is also entitled to damages for loss resulting from the ship's lack of characteristics or equipment at the time of conclusion of the charter party which may be deemed to have been guaranteed.

Performance of voyages

## **Section 58**

### **Time charterer's right of disposal**

During the charter period, the carrier shall perform the voyages required by the time charterer in accordance with the charter party. In this context, the provisions of subsection 2 of section 52 on the ship's condition and equipment apply correspondingly.

The carrier is not obliged to perform a voyage during which the ship, persons on board or the cargo would be exposed to danger in consequence of war, warlike conditions, ice or any other hazard, or which causes material inconvenience which he or she cannot reasonably be expected to have foreseen at the time of concluding the charter party.

The carrier is not obliged to take on board any easily flammable, combustible, corrosive or otherwise dangerous goods unless they are delivered in such a condition that they can be carried and delivered in accordance with the requirements and recommendations of the authorities of the country of the ship's registry, the country of the ship operator's principal place of business, and the ports of call included in the voyage. Nor is the carrier obliged to carry live animals.

## **Section 59**

### **Obligation to inform**

The carrier shall inform the time charterer of any details concerning the ship and voyages that are of importance to the time charterer. The time charterer shall inform the carrier of planned voyages.

## **Section 60**

### **Fuel**

The time charterer shall ensure that the ship is supplied with fuel and water for its engines. He or she is responsible for ensuring that the fuel supplied meets the agreed specifications.

## **Section 61**

### **Loading and discharge**

The time charterer shall arrange for the receipt, loading, stowage, trimming, securing, discharge and delivery of the cargo. The cargo shall be stowed so as to ensure that the ship is stable and the cargo is secure. The time charterer shall follow the carrier's instructions for the distribution of the cargo as required for the safety and stability of the ship.

The time charterer may require the ship's master and crew to participate in the work as customary in the trade in question. Overtime and any other special compensation for such work shall be payable by the time charterer.

If the carrier is liable for any loss or damage resulting from the loading, stowage, trimming, securing, discharge or delivery of the cargo, the time charterer shall nevertheless undertake to ensure that the carrier will not suffer from such loss or damage unless it was due to the participation of the master or crew or to other circumstances for which the carrier is responsible.

## **Section 62**

### **Bills of lading in time chartering**

The carrier shall issue on request a bill of lading for the goods loaded for the voyage to be performed on terms customary in the trade in question. If the carrier's liability to the holder of the bill of lading thereby exceeds what is stipulated in the charter party, the time charterer shall undertake to ensure that he or she will not suffer any loss or damage.

The carrier is not obliged to honour any request by the time charterer to deliver the goods to a consignee who fails to prove his or her right to the goods, or otherwise in contravention of the bill of lading, if doing so would be contrary to honour and conscience. The carrier may in any event demand security for any compensation that may arise from such delivery.

## **Section 63**

### **Cargo loss and damage and delayed delivery**

The carrier is liable to the time charterer for the loss of, damage to or delay in delivery of any goods in his or her charge in accordance with sections 24–35 and 37–39 of chapter 13. The provisions of section 36 of chapter 13 on the actual carrier's liability apply correspondingly.

A consignee other than the time charterer is also entitled to compensation under subsection 1. If the consignee holds a bill of lading issued by the carrier, he or she may also invoke the provisions of section 5.

## **Section 64**

### **Delay and other breaches of contract on the carrier's part**

If the ship is not kept seaworthy or otherwise in the agreed condition or if the voyages are performed late, or if there are any other breaches of contract on the part of the carrier, the time charterer may cancel the charter party if its purpose would be essentially frustrated. Should the time charterer wish to cancel the charter party, he or she shall give notice thereof within a reasonable period of time after he or she can be expected to have been informed of the breach of contract. Failing this, he or she will forfeit the right to cancel.

The time charterer is entitled to damages in the event that the ship is wrecked or condemned following an incident, or that the ship is not regarded as being seaworthy or otherwise in the agreed condition, if such loss or damage resulted from the fault or neglect on the carrier's part or on the part of anyone acting on his or her responsibility. The same applies to any loss or damage resulting from fault or neglect as the master or crew participated in the work referred to in subsection 2 of section 61, compliance with the time charterer's instructions or any other breach of contract.

## **Section 65**

### **Damage to the ship**

The carrier is entitled to compensation for damage to the ship resulting from fault or neglect on the time charterer's part or on the part of anyone acting on his or her responsibility.

If such damage arose because the time charterer ordered the ship to an unsafe port, he or she is liable for damages, unless he or she proves the absence of fault or neglect.

## **Section 66**

### **General average and salvage**

The time charterer shall pay the general average contribution in respect of the hire. The same applies to the contribution apportioned to the fuel and equipment on board belonging to the time charterer. If compensation for expenses and losses incurred by the time charterer is ordered in general average, such compensation shall be payable to himself or herself.

The carrier may rescue persons without the time charterer's consent. He or she may also save vessels or any other property, unless this unreasonably affects the time charterer. The time charterer is entitled to one third of the carrier's share of the net salvage reward referred to in subsection 2 of section 11 of chapter 16 and, correspondingly, of the special compensation referred to in section 9 of chapter 16. (1363/2006)

## **Section 67**

### **Voyage expenses**

The time charterer shall bear any expenses arising from the performance of voyages not payable by the carrier under the provisions of this chapter.

Redelivery of the ship

## **Section 68**

### **Redelivery and surveys**

The time charterer shall redeliver the ship to the carrier at the agreed place and time.

The provisions of subsection 3 of section 52, section 53, as well as subsection 1 and the first sentence of subsection 2 of section 54 apply correspondingly to redelivery. The same applies to a situation where the charter party was cancelled or otherwise expired prior to the end of the charter period.

## **Section 69**

### **Overrun of the charter period**

The carrier is obliged to allow the ship to depart for a new voyage even if the agreed time for redelivery were thereby exceeded. Notwithstanding, no such obligation exists if the overrun is longer than what can be considered reasonable or if a specific time interval was agreed for redelivery.

The time charterer shall pay the agreed time charter hire for any overrun permitted under subsection 1. For any other overrun, he or she shall pay the current time charter hire, however, not less than the agreed hire, as well as compensation for any loss incurred by the carrier as a result of the delay.

### **Time charter hire**

## **Section 70**

### **Payment of time charter hire**

Time charter hire is payable in advance for a period of 30 days at a time.

If the time charterer demands deduction out of any amount in dispute, he or she is nevertheless obliged to pay the hire if the carrier provides security for the claim. However, the time charterer shall not demand security for an amount in excess of the hire paid.

## **Section 71**

### **Overdue payment of time charter hire**

If time charter hire is not paid when due, the time charterer shall pay interest for late payment under the Interest Act no later than in connection with the next payment of hire.

If hire is not paid when due, the carrier shall give the time charterer notice thereof. When the notice has been sent, the carrier is entitled to suspend performance of the charter party, as well as to refuse to load the goods or to issue a bill of lading. If payment is not received within 72 hours of dispatch of the notice, the carrier may cancel the charter party.

If the carrier has suspended the performance of or cancelled the charter party, he or she is entitled to damages, unless the time charterer proves that the delay in payment resulted from a

legal provision, interruption in communications or other similar force majeure, which the charterer cannot reasonably be expected to have foreseen at the time of concluding the charter party and the consequences of which he or she could not reasonably have averted or overcome.

If the time charterer fails to pay hire which has fallen due, the carrier may demand the time charterer to assign to him or her any hire receivable by the charterer from sub-chartering of the ship.

## **Section 72**

### **Off-hire**

Hire is not payable for time lost to the time charterer due to salvage, maintenance of the ship, or the repair of any damage for which the time charterer bears no responsibility, or otherwise due to circumstances on the part of the carrier.

The time charterer's obligation to cover expenses arising from the operation of the ship is limited correspondingly.

### **Expiry**

## **Section 73**

### **Destruction of a ship**

Where the ship is wrecked or condemned following an incident, the charter party expires even if it permits the carrier to replace the chartered ship with another one. The same applies to requisition or similar interventions which are of material significance for the fulfilment of the charter party.

If the ship was destroyed and the time of the occurrence cannot be ascertained, time charter hire shall be payable for 24 hours following the time when the ship was last heard from.

## **Section 74**

### **War risk**

If a ship is in a port or any other area where war breaks out, warlike conditions arise, or the risk of such circumstances materially increases, the carrier may immediately relocate the ship from the area to safety.

In addition to the time charter hire, the time charterer shall reimburse the carrier for any increase in the ship's war insurance premium and war risk bonuses payable to crew which arise from the voyages that the time charterer demands the ship to perform.

Should war break out or warlike conditions or a significant increase in the risk of war arise during the charter period, and should this be of material significance for the performance of the charter party, both the carrier and the time charterer are entitled to withdraw from the contract without liability for damages.

The party wishing to withdraw shall give the other party reasonable notice thereof. Failing this, he or she is obliged to compensate for any loss or damage that could have been avoided, if the notice had been given in time.

## **Chapter 15**

### **Carriage of passengers and their luggage**

#### **Section 1 (249/2017)**

##### **Athens Regulation and domestic passenger transport**

Provisions on the carriage of passengers and their luggage are laid down in the Athens Regulation. Provisions on passenger rights are laid down in Regulation (EU) No 1177/2010 of the European Parliament and of the Council concerning the rights of passengers when travelling by sea and inland waterway and amending Regulation (EC) No 2006/2004, hereinafter referred to as the *Maritime Passenger Rights Regulation*.

The Athens Regulation also applies to passenger transport within the Finnish territory if carriage takes place with a ship which:

- 1) is classified as other than Class A or B under Directive 2009/45/EC of the European Parliament and of the Council on safety rules and standards for passenger ships; and
- 2) has been approved to carry more than twelve passengers.

The provisions of Article 4bis of Annex I and paragraph 2 of Annex II to the Athens Regulation do not apply to ships referred to in subsection 2 above in respect of war risk insurance. Such ships are also not required to carry a certificate of liability insurance referred to in paragraph 2 of Article 4bis of Annex I to the Athens Regulation.

## **Section 2 (249/2017)**

### **Provisions applicable to the carriage of passengers and their luggage**

Besides the provisions of section 1, provisions on the carriage of passengers and their luggage are laid down in this chapter, in section 5 of chapter 21, section 9 of chapter 22, and the Protocol of 2002 to the Athens Convention of 1974 relating to the Carriage of Passengers and their Luggage by Sea (Treaty Series of the Statute Book of Finland 69–70/2017), hereinafter referred to as the *2002 Athens Convention*.

The provisions of this Act referred to in subsection 1 above do not apply to any carriage subject to civil liability by virtue of an international convention other than the Convention referred to in subsection 1 governing the carriage of passengers or luggage in other modes of transport in accordance with the provisions of such convention, if such provisions are applicable as mandatory to carriage by sea.

If any person on board a ship who is not a passenger nor employed by the carrier or performing work for the ship sustains damage referred to in the Athens Regulation or suffers loss or damage resulting from a delay referred to in section 11 of this chapter, the provisions on the limitation of and exoneration from liability of the carrier laid down in the Athens Regulation and this chapter apply to every person on the ship operator's side who may be subject to liability.

## **Section 2a (249/2017)**

### **Definitions**

In this chapter, *carrier* means a person who, under a contract, commercially or in return for consideration, undertakes to carry passengers or passengers and luggage on board a ship.

*Passenger* means any person who is being or is to be carried in a ship under a contract for the carriage of passengers, and any person who, with the consent of the carrier, is accompanying a vehicle or live animals which are covered by a contract for the carriage of goods.

*Luggage* means any article, including vehicles, carried on behalf of a passenger, provided that such carriage is not subject to a charter party, bill of lading or any other document commonly used for the carriage of goods.

*Cabin luggage* means luggage which the passenger carries with him or her, has in his or her cabin or is otherwise in his or her charge during the voyage, or in or on his or her vehicle.

### **Section 3**

#### **Ensuring the ship's seaworthiness**

The carrier shall ensure that the ship is seaworthy, which also entails ensuring that the ship is properly manned, provisioned and equipped, and that the passengers and their luggage will be speedily and safely carried to the destination. The carrier shall also otherwise take due care of the best interests of the passengers. (249/2017)

Luggage shall not be carried on deck.

Any deviation from the route is only allowed for the purpose of saving human life, a vessel or goods, or on other reasonable grounds.

If a contract of carriage is for a specific ship, the carrier shall not use any other ship to perform the carriage. (249/2017)

### **Section 4**

#### **Passengers' obligations**

*Subsection 1 was repealed by Act 249/2017.*

Passengers are obliged to comply with regulations issued on order and safety on board during carriage.

Provisions on forcible measures are laid down in sections 18 and 19 of chapter 13 of the Seafarers' Employment Contracts Act (756/2011). The provisions of the said section 19 on employees also apply to passengers. (768/2011)

Passengers may carry a reasonable amount of luggage. If a passenger knows that his or her luggage is of a character that might cause danger or material harm to persons or property, the passenger shall inform the carrier thereof prior to the start of the voyage. Correspondingly, he or she shall give notice if luggage other than cabin luggage requires special care and shall, as far as possible, mark this on such luggage before the voyage begins. (249/2017)

## **Section 5 (249/2017)**

### **Dangerous luggage**

The carrier is entitled to forbid a passenger to bring luggage that may cause danger or material harm to persons or property.

In the event that such luggage has been brought on board without the carrier's knowledge of its character, the carrier may unload, destroy or render it harmless, as the circumstances may require, without incurring liability for damages. The same applies to luggage taken on board with the carrier being aware of its character but subsequently found to cause danger or material harm to persons or property that makes it untenable to keep it on board.

Where luggage has caused any loss to the carrier or damage to the ship, the passenger is liable for damages, if such loss or damage resulted from fault or neglect on his or her part or on the part of anyone acting on his or her responsibility.

## **Section 6 (249/2017)**

Section 6 was repealed by Act 249/2017.

## **Section 7 (249/2017)**

### **Destruction of a ship and interruption of the voyage**

Should the ship's voyage be interrupted to the extent that passengers cannot reasonably be expected to continue travel, or if the ship is wrecked or condemned following an incident, the carrier shall ensure that passengers and their luggage are carried to the destination by some other appropriate means and cover the costs involved. If the carrier fails to do so, passengers are entitled to cancel the contract.

Where passengers need to stay ashore due to average or other circumstances pertaining to the ship, the carrier shall suitably arrange for their upkeep and cover the costs thereof, unless otherwise provided in the Maritime Passenger Rights Regulation.

## **Section 8 (249/2017)**

### **Withdrawal and breach of contract on the passenger's part**

If a passenger fails to embark on or abandons a voyage, the agreed fare shall nevertheless be payable, unless such failure to embark on or abandonment of the voyage was due to the passenger's illness or death or other reasonable grounds and the carrier was informed thereof within a reasonable period of time.

If the passenger is liable to pay the agreed fare under subsection 1, it shall nevertheless be reduced by a reasonable amount if the carrier has taken another passenger in his or her stead, or if the carrier has or could have otherwise limited his or her loss.

## **Section 9**

### **War risk**

If it appears after the conclusion of a contract of carriage that performing the voyage might entail risk to passengers or the ship because of war, blockade, insurrection, civil commotion or piracy or some other type of armed violence, or that such a risk has materially increased, both contracting parties are entitled to withdraw from the contract of carriage, even if the voyage had commenced. In the event of withdrawal from the contract, however, each party shall bear his or her own costs and losses.

## **Section 10 (249/2017)**

### **Reduction of carriage fares**

Where a passenger abandons a voyage on the grounds referred to in subsection 1 of section 8, or if the contract of carriage is cancelled under subsection 1 of section 7 or under section 9 after the voyage commenced, the carriage fare shall be reduced by an amount determined by taking into account the lengths of the remaining and agreed voyages as well as the time and costs involved in each.

If the carrier has received a fare in excess of what was due to him or her according to subsection 1, he or she shall refund the excess.

## **Section 11 (249/2017)**

### **Carrier's liability for delay**

The carrier is liable for damage caused to passengers due to delay, if it resulted from fault or neglect on the carrier's part or on the part of anyone acting on his or her responsibility.

If a passenger was awarded damages under the Maritime Passenger Rights Regulation, this portion shall be deducted from the amount of damages referred to in subsection 1.

## **Section 12 (249/2017)**

### **Carrier's liability for delay in delivery of luggage**

The carrier is liable for loss or damage resulting from delay in delivery of luggage, if it resulted from fault or neglect on the carrier's part or on the part of anyone acting on his or her responsibility.

## **Section 13**

### **Adjustment of damages**

If the passenger contributed to the loss or damage referred to in section 11 or 12, the damages may be adjusted as provided in section 1 of chapter 6 of the Tort Liability Act.

## **Section 14 (249/2017)**

### **Carrier's exoneration from liability**

In order to be exonerated from liability, the carrier shall prove that the loss or damage referred to in section 11 or 12 did not result from any fault or neglect on his or her part or on the part of anyone acting on his or her responsibility.

## **Section 15 (249/2017)**

### **Amounts of liability for delay**

The carrier's liability for any loss or damage resulting from delay referred to in section 11 is limited to 4,150 Special Drawing Rights (SDRs) for each passenger.

Liability for delay in delivery of luggage shall not exceed:

- 1) SDR 1,800 per passenger for cabin luggage;
- 2) SDR 10,000 per vehicle;
- 3) SDR 2,700 per passenger for luggage not referred to in paragraphs 1 and 2.

The amounts of liability mentioned in subsections 1 and 2 refer to the aggregate liability for all loss and damage arising during the same voyage. The amounts do not include any interest or legal costs.

'Special Drawing Right' means the unit of account referred to in section 2 of chapter 23.

## **Section 16 (249/2017)**

### **Increased amounts of liability and the passenger's deductible**

The carrier and the passenger may agree, expressly and in writing, to higher limits of liability than those provided in section 15.

The carrier is entitled to deduct no more than SDR 20 for loss or damage resulting from delay in delivery of luggage as the passenger's deductible.

## **Section 17 (249/2017)**

### **Forfeiture of the right to limitation of liability**

The carrier is not entitled to invoke the provisions of section 15 or 16 on limitation of liability, if he or she is proven to have personally caused the loss or damage resulting from delay intentionally or through gross negligence, knowing that such loss or damage was likely to occur.

## **Section 18 (249/2017)**

### **Carrier's liability for an actual carrier**

Where the carriage or part thereof is performed by anyone other than the carrier, the carrier is still liable for any loss or damage referred to in sections 11 and 12 as if he or she had personally performed the entire carriage. In such cases, the provisions of this chapter shall be observed as appropriate.

Any person performing the carriage in cases referred to in subsection 1 is liable for the carriage performed by him or her under the same provisions as apply to the carrier. Where the carrier has undertaken obligations not referred to in this chapter, this does not bind the person performing the carriage unless agreed by him or her in writing.

Where both the carrier and the person referred to in subsection 1 are liable, their liability for loss or damage is joint and several.

## **Section 19 (249/2017)**

### **Claims not based on a contract of carriage**

The provisions of this chapter on the carrier's exoneration from or limitation of liability also apply to any action for compensation not based on a contract of carriage.

If an action for compensation is brought against a person acting on the carrier's responsibility under section 1 of chapter 7 or section 18 of this chapter, that person has the same rights of exoneration from or limitation of liability as the carrier. The aggregate amount of compensation that the carrier and the person acting on his or her responsibility may be obliged to pay shall not exceed the limits of liability laid down in section 15.

The provisions of subsection 2 do not apply to anyone who is proven to have personally caused the loss or damage intentionally or through gross negligence, knowing that such loss or damage was likely to occur.

## **Section 20**

### **Persons entitled to assert claims for compensation**

The right to assert a claim for compensation for loss or damage sustained by a passenger or for delay in his or her carriage is only available to that passenger personally or his or her beneficiary or, where the passenger has died, to a person entitled to damages by virtue of chapter 5 of the Tort Liability Act.

## **Section 21 (249/2017)**

### **Contractual stipulations**

Any contractual stipulation is null and void where it derogates from the provisions of subsections 2 and 3 of section 4 of this chapter, or limits the passenger rights laid down in subsection 3 of section 5 or sections 7–20 of this chapter, paragraph 3 or 5 of subsection 1 of section 1 of chapter 19, or section 5 of chapter 21. Any other provisions of this chapter only apply unless otherwise agreed and subject to custom.

The mandatory provisions on passenger rights laid down in Annex I to the Athens Regulation and in this Act apply to any contract of carriage performed in Finland's domestic trade regardless of the national law otherwise applicable to the contract.

## **Section 22 (249/2017)**

### **Carrier's right to exoneration from liability for delay**

Notwithstanding the provisions of section 21, the carrier is entitled to exonerate himself or herself from liability under sections 11 and 12 for the periods preceding the time when the passenger embarks and following the time that he or she disembarks the ship. No such agreement is permitted for the carriage by sea between the ship and the shore if such carriage is included in the ticket price or performed using a means of transport made available by the carrier.

In respect of cabin luggage not kept in or on a vehicle brought on board by the passenger, the carrier may exonerate himself or herself by agreement from liability under section 12 for the periods preceding the time when the cabin luggage was brought on board and following the time that it was taken ashore. Notwithstanding, exoneration from liability is not allowed in respect of carriage to and from the ship referred to in subsection 1, nor for any period during which the cabin

luggage is in the carrier's charge while the passenger is in a terminal building, on a quay or in other port facilities.

If it has been agreed that a specific part of the carriage is to be performed by a named ship operator other than the carrier, the carrier may exonerate himself or herself from liability for any loss or damage due to delay caused by occurrences that took place during the part of the carriage performed by the other ship operator. The same applies to cases where the contract of carriage entitles passengers to use another carrier for part or whole of the carriage.

## **Section 23**

### **Reference provision**

Provisions on the court having jurisdiction over disputes involving liability under contracts of carriage for passengers and their luggage are laid down in section 5 of chapter 21.

Provisions on the time bars for claims are laid down in section 1 of chapter 19.

## **Section 23a (249/2017)**

### **Obligation to insure foreign ships**

Any foreign ship licensed to carry more than twelve passengers which enters or leaves a port within Finland's territory shall maintain insurance or security under Article 4bis of Annex I to the Athens Regulation, unless otherwise provided in subsection 3 of section 1 of this chapter. The obligation to insure does not, however, apply to any ship owned by a foreign state.

## **Section 24 (991/2018)**

### **Certificates of insurance or security**

The Finnish Transport and Communications Agency issues, on application, a certificate attesting that insurance or security referred to in Article 4bis of Annex I to the Athens Regulation is in force to the registered owner of a ship entered in the transport register or the register of ships maintained by the State Department of Åland. The Finnish Transport and Communications Agency may also issue a certificate attesting that the obligation to insure has been satisfied, if the ship is not registered in any of the States Parties.

The Finnish Transport and Communications Agency shall withdraw a certificate where the conditions of issue of the certificate are no longer satisfied.

The certificate shall be kept on board the ship and a copy of the certificate shall be deposited with the Finnish Transport and Communications Agency. No ship shall be used for maritime operations without a certificate.

The certificates referred to in this section are issued for a fee as provided in the Act on Criteria for Charges Payable to the State.

Further provisions on the certificates referred to in this section are issued by government decree.

## **Section 25 (991/2018)**

### **Supervision of compliance with the obligation to insure**

The Finnish Transport and Communications Agency supervises compliance with Article 4bis of Annex I to the Athens Regulation.

The Finnish Transport and Communications Agency is entitled to forbid a ship's departure and interrupt its passage if the ship does not carry on board the certificate of insurance or security required under Article 4bis of Annex I to the Athens Regulation.

## **Sections 26–28**

*Sections 26–28 were repealed by Act 337/2018.*

## **PART V**

### **MARITIME CASUALTIES**

#### **Chapter 16 (1363/2006)**

##### **Salvage**

##### **Section 1 (1363/2006)**

###### Definitions

For the purposes of this chapter:

- 1) *salvage* means any action undertaken to assist a vessel or any other property which is foundering or in danger in any waters;
- 2) *vessel* means any watercraft and any other equipment capable of navigation;
- 3) *property* means any property not permanently and intentionally attached to the shoreline;
- 4) *damage to the environment* means substantial physical damage to human health, marine life or natural resources in coastal or inland waters or areas adjacent thereto, caused by pollution, contamination, fire, explosion or similar serious incidents.

##### **Section 2 (1363/2006)**

###### **Scope of application**

The provisions of this chapter apply to disputes as to salvage considered in Finnish court or arbitration proceedings in Finland.

The provisions of this chapter also apply where both the salvaged vessel and the vessel performing the salvage operations belong to the same owner.

The provisions of this chapter only apply to salvage operations performed by public authorities subject to other legal provisions elsewhere. However, any salvor who has taken part in such salvage operations is entitled to a salvage reward or special compensation in accordance with the provisions of this chapter.

The provisions of this chapter do not apply to fixed or floating platforms or to mobile offshore drilling units when such platforms or units are on location engaged in the exploration, exploitation or production of seabed mineral resources.

Furthermore, the provisions of this chapter do not apply to vessels and property referred to in the Antiquities Act (295/1963), unless individually agreed.

### **Section 3 (1363/2006)**

#### **Freedom of contract, capacity to contract and adjustment of contracts**

The provisions of this chapter may be derogated from by contract. Notwithstanding, no contract may limit the obligation of salvors, masters, operators or owners of vessels or other property under the provisions of this chapter to prevent or minimise damage to the environment.

Subsection 5 of section 11 below lays down provisions on the validity of certain contracts concerning the apportionment of salvage rewards.

The master of a vessel has the authority to conclude salvage contracts on behalf of the owner of the vessel. The owner, operator and master of the vessel each has the authority to individually conclude salvage contracts on behalf of the owner of the property which is or was on board the vessel.

A contract for salvage operations or any term thereof may be adjusted or disregarded if the contract has been entered into under undue influence or the influence of danger and the contract or its terms are inequitable, or if the salvage reward or special compensation under the contract is not reasonably proportionate to the salvage operations performed.

The provisions of subsection 3 of section 10 shall be observed even when a contract for salvage operations exists.

### **Section 4 (1363/2006)**

#### **Duties of the salvor, owner, operator and master**

The salvor owes a duty to the owner and operator of the vessel and the owner of other property subject to salvage:

- 1) to carry out the salvage operations with due care;

- 2) to exercise due care to prevent or minimise damage to the environment during the course of the salvage operations;
- 3) to seek assistance from other salvors whenever circumstances reasonably require; and
- 4) to allow other salvors to take part in the salvage operations if requested to do so by the owner, operator or master of the vessel or the owner of other property in danger and such request is deemed reasonable; should such request prove unreasonable, the amount of the reward is not affected by the participation of others.

The owner, operator and master of the vessel and the owner of other property subject to salvage owe a duty to the salvor:

- 1) to cooperate fully with the salvor during the course of the salvage operations;
- 2) to exercise due care to prevent or minimise damage to the environment while carrying out the salvage operations; and
- 3) to accept redelivery of the vessel or other property when reasonably requested by the salvor to do so after it has been brought to a place of safety.

## **Section 5 (1363/2006)**

### **Right to a salvage reward**

The salvor has the right to a salvage reward if the salvage operations produced a useful result. The salvage reward shall not be fixed at a higher level than the value of the salvaged vessel and other property. No interest or legal costs are included in the salvage reward.

Saving human life does not as such give the right to a salvage reward. However, anyone who saved human lives during salvage operations is entitled to a fair share of the salvage reward or special compensation due to the salvor.

Notwithstanding subsection 1 above, claims may be asserted for the special compensation referred to in section 9.

## **Section 6 (1363/2006)**

### **Fixing the amount of salvage reward**

The amount of salvage reward shall be fixed with a view to encouraging salvage operations, taking into account the following criteria:

- 1) the value of the salvaged vessel and other property;
- 2) the skill and efforts of the salvors in saving the vessel, other property and human life;
- 3) the skill and efforts of the salvors in preventing and minimising damage to the environment;
- 4) the measure of success obtained by the salvors;
- 5) the nature and degree of the danger;
- 6) the time used and expenses and losses incurred by the salvors;
- 7) the risk of liability and other risks run by the salvors or their equipment;
- 8) the speed of the salvage operations;
- 9) the availability and use of vessels or other equipment intended for salvage operations;
- 10) the state of readiness and efficiency of the salvors' equipment and the value thereof.

## **Section 7 (1363/2006)**

### **Liability for the salvage reward**

The owner of the vessel and other property shall pay the salvage reward in proportion to the respective value of the salvaged property belonging to them.

## **Section 8 (1363/2006)**

### **Apportionment of the salvage reward between several salvors**

The apportionment of a salvage reward between salvors shall be made taking into consideration the criteria mentioned in section 6.

## **Section 9 (1363/2006)**

### **Special compensation**

If the salvor has carried out salvage operations in respect of a vessel which by itself or its cargo threatened damage to the environment, he or she shall be entitled to special compensation for his or her expenses from the owner and operator of the vessel. However, such special compensation is only payable to the extent that it exceeds the salvage reward fixed in accordance with section 6.

If, in the circumstances referred to in subsection 1, the salvor has prevented or minimised damage to the environment, the special compensation may be increased by an amount equivalent to a maximum of 30% of the expenses incurred by the salvor. However, if deemed fair, such special compensation may be increased to no more than 100% of the expenses incurred by the salvor. In such cases, the criteria mentioned in section 6 shall be taken into consideration.

'Salvor's expenses' means the out-of-pocket expenses reasonably incurred by the salvor in the salvage operation and a fair rate for equipment and personnel justifiably used in the salvage operation. Compensation shall be determined taking into consideration the criteria mentioned in paragraphs 8–10 of section 6.

If the salvor has been negligent and has thereby failed to prevent or minimise damage to the environment, he or she may be deprived of the whole or part of any special compensation.

## **Section 10 (1363/2006)**

### **Right to compensation in certain cases**

Anyone acting in accordance with a contract entered into before the danger arose is only entitled to a salvage reward or special compensation if the operations performed cannot be reasonably considered as due performance of the contract.

No person who has taken part in salvage operations notwithstanding the express and justifiable prohibition of the owner, operator or master of the vessel is entitled to a salvage reward or special compensation. Nor does the right to a salvage reward or compensation exist if the owner of any other property in danger which is not and has not been on board the vessel has expressly and justifiably prohibited participation in the salvage operations.

A salvage reward or special compensation may be denied in full or in part if the salvage operations have resulted from or been made more difficult because of fault or neglect on the salvor's part or if the salvor has been guilty of fraud or other dishonest conduct during the salvage operations.

## **Section 11 (1363/2006)**

### **Apportionment of the salvage reward between the operator and crew**

If a vessel registered in Finland has salvaged something while underway, payment shall first be made from the salvage reward to cover any loss or damage caused to the vessel, cargo or any other property on board as a result of the salvage operations, any costs of fuel and the wages and provisions of the master and crew arising from the salvage operations, as well as any compensation referred to in subsection 3.

The operator will receive one fifth of the remaining share of the salvage reward (*net salvage reward*), and the master and actual crew will respectively receive one third and two thirds of the remainder. The share of the crew members will be apportioned in proportion to their wages. However, the master's share shall always be at least twice that of the highest-paid sailor. Any pilot on board the vessel will receive a portion of the salvage reward as if he or she were a crew member and, unless he or she is in service of the operator, were paid wages equivalent to the highest-ranking deck officer.

If a sailor has excelled in taking part in the salvage operations or exposed himself or herself to special danger, he or she may be awarded compensation in addition to the share provided in subsection 2. Any sailor asserting a claim for such compensation shall inform the operator or master of the vessel thereof within three months of completion of the salvage operations.

If called for by special circumstances, such as the purpose of the vessel's voyage or the manner of calculating wages or remuneration for those in service of the vessel, the salvage rewards may be apportioned otherwise than specified in paragraphs 1–3.

Any contract stipulating that the share payable to the master or crew of any salvage reward that may be earned on board the vessel is smaller than provided in this section is null and void, unless the vessel is engaged in professional salvage services and is specifically equipped for this purpose, or unless the contract was concluded for specific salvage operations upon signing up.

The provisions of this section apply to apportionment of a salvage reward due to a vessel owned by the Finnish Government even when the vessel is used only on government non-commercial service. However, the master's share of the salvage reward is payable to the master's supervisor or equivalent if that person assumed command of the vessel upon undertaking salvage operations. The regular master will receive his or her portion of reward out of the portion due to the crew members in proportion to his or her wages. The Government may waive the salvage reward in full

without incurring liability to those on board the vessel. Further provisions on the wages to be taken into account in the apportionment of the share of a salvage reward due to those on board the vessel, the apportionment of the share between different government-owned vessels and the waiver of the salvage reward due to a vessel are laid down by government decree.

A vessel not registered in Finland is subject to the national law of the state of its registry in respect of the apportionment of a salvage reward. If the salvage has not been carried out from a vessel, the apportionment is determined by the law applicable to the contract between the salvor and those on his or her service.

## **Section 12 (1363/2006)**

### **Security**

A person liable for payment under the provisions of this chapter shall provide security for payment of the salvage reward and special compensation at the request of the salvor. Such security shall also cover interest and legal costs. When such security has been provided, the salvor shall not enforce his or her maritime lien in respect of salvage reward claims.

The owner and operator of the salvaged vessel shall contribute to ensuring that the owner of the cargo provides security for the claims against him or her before the cargo is released. Such security shall cover interest and legal costs.

The salvaged vessel or any other salvaged property shall not, without the consent of the salvor, be removed from the port or place at which such property first arrives after the completion of the salvage operations, if no security has been put up for the salvor's claims.

If the vessel is delayed or the owner of the property is unable to take charge thereof because the salvor refuses to accept the security tendered, but the security tendered is deemed to have been satisfactory and sufficient, the salvor shall compensate for any and all loss caused thereby.

## **Section 13 (1363/2006)**

### **Advance payment**

The court or arbitration tribunal having jurisdiction over the claims of the salvor may, at the salvor's request, issue an interlocutory order stating that the salvor be paid a reasonable advance out of a salvage reward or special compensation. Where required by the nature of the matter,

such advance may be made on condition that the salvor provide security for the amount receivable or other terms that are reasonable in view of the circumstances.

## **Section 14 (1363/2006)**

### **Salvage reward claims in respect of cargo**

Where a vessel has salvaged another vessel belonging to the same owner or its cargo, the master of the salvaged vessel shall not represent the cargo owner when a salvage reward claim for the cargo is raised.

If the owner of the cargo cannot be immediately established, the court shall appoint a qualified and competent trustee to represent the cargo owner in all matters concerning salvage reward claims in respect of the cargo. The same applies if the cargo owner cannot be reached without difficulty or loss of time.

## **Section 15 (1363/2006)**

### **State-owned and humanitarian cargoes**

No provision of this chapter gives rise to any right to arrest cargo owned by a foreign state or to take any other precautionary measures in respect thereof if the cargo is used only on non-commercial service and enjoys immunity during salvage operations under generally recognised principles of international law.

No provision of this chapter gives rise to any right to arrest cargo donated by a state for humanitarian purposes or to take any other precautionary measures in respect thereof, if such state has undertaken to pay for salvage operations performed in respect of such cargoes.

## **Chapter 16a (480/2021)**

### **Average Adjuster's duties, decision-making procedure and compensation**

#### **Section 1 (480/2021)**

##### **Appointment of the Average Adjuster**

For the purposes of preparing indemnity adjustments based on marine insurance and other duties laid down in section 3, there is a position of the Average Adjuster, which is autonomous and independent of shipping and insurance businesses. The Average Adjuster is appointed by the Government.

The qualifications required for the Average Adjuster's position include any Master's degree in law other than international and comparative law, a certificate of competence as an Average Adjuster, good knowledge of insurance and tort law and the duties relevant to the job description, as well as proficiency in Finnish, Swedish and English required for the position.

No person who is in bankruptcy or whose legal competency has been limited can be appointed as the Average Adjuster.

The Average Adjuster shall be impartial and independent in this capacity. The provisions on criminal liability for acts in office apply to the Average Adjuster. Provisions on liability for damages are laid down in the Tort Liability Act (412/1974).

#### **Section 2 (480/2021)**

##### **Average Adjuster's deputy**

The Average Adjuster has a deputy to consider and resolve matters in which the Average Adjuster is disqualified. The provisions on the Average Adjuster apply to the Average Adjuster's deputy.

#### **Section 3 (480/2021)**

##### **Average Adjuster's duties**

Unless otherwise agreed, the Average Adjuster's duties are to:

- 1) draw up indemnity adjustments based on marine insurance on application by policyholders, insured parties or insurers;
- 2) draw up indemnity adjustments based on boat insurance on application by policyholders, insured parties or insurers, where such insurance was taken out for a boat used for commercial purposes;
- 3) resolve questions of the level and apportionment of the amount of liability of ship operators referred to in subsection 4 of section 9 of chapter 9 at the request of the parties involved;
- 4) resolve and issue decisions on disputes over distance freight referred to in subsection 3 of section 21 of chapter 14 at the request of the parties involved;
- 5) conduct the adjustment and apportionment of general average referred to in subsection 1 of section 2 of chapter 17;
- 6) conduct the adjustment and apportionment of particular average referred to in subsection 3 of section 6 of chapter 17 on demand of a party in average.

Where an insurer and a policyholder have agreed as part of the terms and conditions of insurance that any disputes relating to boat insurance may be referred to the Average Adjuster for indemnity adjustment, the Average Adjuster shall also issue an indemnity adjustment at the request of the insurer, policyholder, or insured party. After the entry into force of this Act, insurers shall inform the policyholders or insured parties of the possibility of including in the insurance contract a term stipulating in accordance with this section that any disputes are to be resolved by an indemnity adjustment issued by the Average Adjuster.

The Average Adjuster also issues, at the request of policyholders, insured parties or insurers, opinions on matters relating to boat insurance other than those referred to in paragraph 2 of subsection 1 or in subsection 2.

## **Section 4 (480/2021)**

### **Indemnity adjustment procedure**

The Average Adjuster shall draw up the indemnity adjustments referred to in paragraphs 1 and 2 of subsection 1 and subsection 2 of section 3 in compliance with this chapter.

Subject to the provisions of this chapter, the Average Adjuster shall draw up indemnity adjustments in compliance with the provisions of the Arbitration Act (967/1992) on the procedure to be observed in arbitration proceedings.

## **Section 5 (480/2021)**

### **Applications for indemnity adjustment**

Cases concerning indemnity adjustment are instituted by an application submitted to the Average Adjuster. An application shall include:

- 1) the contact details of the applicant;
- 2) the contact details of the other parties;
- 3) the insurance policy and its terms and conditions, as well as any other documents concerning the insurance contract;
- 4) the applicant's claims;
- 5) any clarifications made on the basis of the insurance, invoices and other material which the applicant wishes to invoke;
- 6) an authorisation.

Submission of an application interrupts the limitation period of the debt referred to therein in accordance with section 11 of the Act on the Limitation of Liability for Debts (728/2003).

## **Section 6 (480/2021)**

### **Indemnity adjustments**

The Average Adjuster shall draw up an indemnity adjustment within 60 days of receipt of all of the information from the parties involved that he or she considers necessary. The Average Adjuster may extend the time limit in extensive and difficult cases.

An indemnity adjustment drawn up by the Average Adjuster shall include:

- 1) the date of issue of the indemnity adjustment;
- 2) the contact details of the parties involved;

- 3) an account of the claims and responses of the parties, including their reasoning;
- 4) a list of evidence presented;
- 5) rationale;
- 6) the legal provisions and rules applied;
- 7) the decision on the claim and the decision on compensation demanded by the parties for expenses.

The Average Adjuster shall sign the indemnity adjustment and submit it to the parties. Provisions on appeals are laid down in section 8 of chapter 21. The indemnity adjustment shall be accompanied by instructions for appeal.

## **Section 7 (480/2021)**

### **Average Adjuster's opinions**

Requests for opinion addressed to the Average Adjuster in cases referred to in subsection 3 of section 3 shall include:

- 1) the contact details of the party requesting an opinion;
- 2) the contact details of the other parties involved;
- 3) the insurance policy and its terms and conditions, as well as any other documents concerning the insurance contract;
- 4) an account of the matters that the request for opinion concerns and any documents on the basis of which the opinion is being requested;
- 5) an authorisation.

The Average Adjuster issues an opinion after having heard the parties to the insurance contract and the insured party and having studied the material presented by the parties. The Average Adjuster shall issue the opinion within 30 days of receipt of all of the information from the parties that he or she considers necessary. The Average Adjuster may extend the time limit in extensive and difficult cases.

Any opinion issued by the Average Adjuster shall contain an account of the case subject to the request for opinion and a legal assessment thereof, including rationale. The Average Adjuster shall

sign the opinion and submit it to the parties. Such opinions are neither binding on the parties nor enforceable. Opinions are not open to appeal.

## **Section 8 (480/2021)**

### **Procedures in other cases**

Provisions on the procedures in cases referred to in paragraphs 3–6 of subsection 1 of section 3 are laid down in section 7 of chapter 17.

The Average Adjuster shall make the decisions referred to in paragraphs 3 and 4 of subsection 1 of section 3 within three months of receipt of all of the information from the interested parties that he or she considers necessary. The Average Adjuster may extend the time limit in extensive and difficult cases.

## **Section 9 (480/2021)**

### **Compensation payable to the Average Adjuster**

The Average Adjuster confirms the amount of compensation payable for his or her work and expenses in the cases which he or she has considered. The amount of compensation shall be reasonable considering the scope and difficulty of the case.

The insurer is obliged to pay the Average Adjuster's compensation for drawing up the indemnity adjustments referred to in paragraphs 1 and 2 of subsection 1 and subsection 2 of section 3, unless the application submitted by the insured party or policyholder was manifestly unfounded, and the requesting party is obliged to pay for drawing up an opinion referred to in subsection 3 of section 3. Compensation for conducting the adjustment and apportionment of general average referred to in paragraph 5 of subsection 1 of section 3 shall be jointly and severally payable by the parties in general average.

In any other cases, the Average Adjuster decides how the liability for compensation is to be distributed between the interested parties in compliance with chapter 21 of the Code of Judicial Procedure, as applicable.

Provisions on appeals are laid down in section 8 of chapter 21 of this Act.

## **Section 10 (480/2021)**

### **Publicity in cases considered by the Average Adjuster**

Cases considered by the Average Adjuster shall be conducted in compliance with the Act on the Publicity of Court Proceedings in General Courts (370/2007).

## **Chapter 17**

### **Average**

#### **Section 1**

##### **General average**

The 1974 York-Antwerp Rules apply, unless otherwise agreed, to any damage, loss and expense arising from general average and the apportionment thereof as specified by decree.

#### **Section 2 (480/2021)**

##### **Average adjustment and the Average Adjuster**

General average shall, unless otherwise agreed, be adjusted and apportioned by an average adjustment in the country and place determined by the operator of the ship. In Finland, average adjustments are carried out by the Average Adjuster.

#### **Section 3**

##### **Damage assessment**

Any damage to a ship or its accessories in general average shall, unless otherwise agreed, be assessed by surveyors appointed in accordance with section 17 or chapter 18 in the port where repairs are carried out, if performed underway, but otherwise in the port of destination of the voyage. Damage to cargo shall be assessed, at the latest, in the port of discharge.

## **Section 4**

### **Request for average adjustment**

The ship operator or any person operating the ship in lieu of the operator shall request the Average Adjuster to carry out an average adjustment without delay while providing the names and addresses of any known interested parties.

Every person affected by the average is obliged, without delay, to provide the Average Adjuster with any documents deemed necessary by the latter for the purpose of adjustment and apportionment of loss or damage, and to otherwise provide him or her with any necessary information.

## **Section 5**

### **Owner's liability for average contribution and the operator's right of retention**

If the average contribution is payable out of cargo or other goods, the owner is liable *in rem* but not *in personam*.

Provisions on the right of the operator to retain the goods liable for the average contribution are laid down in section 20 of chapter 13 and in section 14 of chapter 25. If such goods are released without their owner undertaking personal liability for the average contribution and, where required, providing security for it, the operator is liable for the average contribution to all of the other parties in average.

## **Section 6**

### **Particular average**

Any loss, damage or expense sustained by a ship or cargo as a result of an incident, which is not to be allowed in general average, nor to be apportioned according to similar criteria under subsection 3 of section 15 of chapter 13 or section 40 of chapter 14, shall be regarded as particular average and fall upon the items which sustained the loss or damage or caused the expense.

If expenses allowed in particular average have been incurred jointly in respect of a ship and cargo or any part of the cargo, or parts thereof belonging to different owners, such expenses shall be apportioned between the items out of which they arose in accordance with the criteria applicable

to general average. Costs for salvage of cargo are apportioned between the value of cargo and the freight payable for the goods.

The average adjustment and apportionment provided in subsection 2 shall be made by the Average Adjuster upon request by any party in average.

## **Section 7**

### **Carrying out an average adjustment**

Upon request for average adjustment, the Average Adjuster shall, without delay, invite the parties in average by public notice in the Official Gazette to present in writing, within a short period of time specified by the Average Adjuster, what they consider necessary to protect their rights and to produce the documents they wish to invoke to the Average Adjuster. Should the Average Adjuster find the documents submitted to be incomplete, he or she shall request the relevant parties to provide the necessary clarifications as soon as possible.

Upon expiry of the period specified in the public notice or, in the event of failure to submit complete documentation within the said period, as soon as this is done, the Average Adjuster shall, without delay and no later than within three months thereafter, complete the average adjustment in two copies and accompanied by instructions for appeal on a date announced by public notice posted on the district court noticeboard and in the Official Gazette. The Average Adjuster may extend the time limit in extensive and difficult cases. Provisions on appeals are laid down in section 8 of chapter 21. (480/2021)

The Average Adjuster shall give notice to the interested parties or their agents, if their places of residence are known, of the public notice referred to in subsection 1 above and of the date of publication referred to in subsection 2.

Any notice referred to in subsection 3 of this section and subsection 2 of section 8 of chapter 21 may be submitted by letter.

## **Section 8**

### **Rectification of average adjustment**

If goods allowed as a loss to be made good in average adjustment are recovered, or if a liable party has subsequently made good any loss, damage or expense included in the apportionment,

the average adjustment shall be rectified accordingly by an additional statement. However, the preparation of an average adjustment shall not be delayed merely because of hopes for recovery of a sacrifice or compensation for a loss, damage or expense.

## **Chapter 18**

### **Record books, maritime declarations and surveys (98/1997)**

#### **Record books**

##### **Section 1 (991/2018)**

###### **Obligation to keep record books**

The record books referred to in this Act are a ship's logbook, an engine logbook, a combined ship and engine logbook, a journal, a fishing vessel log and a radio logbook. The penal provisions of chapter 20 do not apply to journals and radio logbooks. Provisions on the record books relating to prevention of environmental pollution are laid down in the Act on Environmental Protection in Maritime Transport (1672/2009).

Ships of 500 gross tonnage and more engaged on international voyages shall keep a ship's logbook and an engine logbook. If a ship engaged on international voyages has a gross tonnage below 500, a combined ship and engine logbook may be kept instead of separate ship's and engine logbooks. Ships with a gross tonnage below 100 engaged on international voyages may keep a journal instead of the record books mentioned above.

Ships engaged on domestic voyages with a gross tonnage of 300 or more or carrying 100 or more passengers shall keep a combined ship and engine logbook or separate ship's and engine logbooks. If a ship's voyage between ports takes no more than 20 minutes, it may keep a journal instead of the record books mentioned above. Ships engaged on domestic voyages with a gross tonnage of 150 or more but below 300 shall keep at least a journal.

Fishing vessels of 24 meters or more in length shall keep a combined ship and engine logbook or separate ship's and engine logbooks. Fishing vessels of 15 metres and over but no more than 24 metres in length shall keep at least a fishing vessel log.

Ships that must be equipped with radio installations under international conventions or under regulations issued by the Finnish Transport and Communications Agency in force shall keep a radio logbook.

## **Section 2 (991/2018)**

### **Format of record books and preservation of information**

Record books are kept using an electronic system approved by the Finnish Transport and Communications Agency or manually. Any radio, cargo, oil, garbage or equivalent record books kept on the ship may be integrated into an electronic record book.

The entries made in a record book shall be processed so as to ensure the availability and accessibility of the information. The information shall remain intact and unchanged for the entire period of retention. The preservation of an electronic record book shall be reliably ensured in order to prevent the loss or corruption of the entries made in the records due to a power cut or some other technical failure.

The ship operator is responsible for preserving the record book. Entries made in the record book shall be stored for at least three years after the final entry has been made. Any attachments to the record book shall be stored for at least three years as from the date of the final entry. If judicial proceedings have been initiated due to an event recorded in the record book within the said period, the record book shall be preserved until the decision on the matter is final.

The manufacturer of the system used by the electronic record book shall seek approval for the system from the Finnish Transport and Communications Agency. The Finnish Transport and Communications Agency may issue further orders on the format of the record books and preservation of information and the conditions for approval of an electronic record book system in compliance with the requirements of international conventions.

## **Section 3 (991/2018)**

### **Keeping a record book**

The ship's master shall ensure that a record book referred to in section 1 is kept on the ship. The record book is kept by the officer of the crew on watchkeeping duty. The record book shall be kept in the working language of the ship or in English.

Entries shall be made in the record book in chronological order for every watch. The person in charge of keeping the record book shall verify the entries made by his or her endorsement. The ship master shall also endorse the entries in the record book, with the exception of the engine logbook, which is endorsed by the ship's chief engineer officer.

An entry made in the record book or an attachment included therein may not be deleted or obscured. The person keeping the record book shall correct any erroneous entries he or she has made by making a new entry in the relevant place in the book or its attachment or by attaching a correct attachment to an erroneous one. Any correction made to the record book or its attachment shall indicate the time, content and author of the correction.

The Finnish Transport and Communications Agency may issue further orders on keeping record books as well as on entries to be made therein and endorsement thereof.

## **Section 4 (991/2018)**

### **Details entered in record books**

Information about all incidents on board a ship during its voyage and port call shall be entered in the ship's logbook. Entries in the logbook shall also include any details that may be useful for the ship operator, cargo owner, insurer or some other party whose rights may be affected by the events occurring during the voyage.

Entries in the engine logbook shall include details relating to operating the machinery and the ship's fuel supplies.

Entries in a combined ship and engine logbook, a journal and a fishing vessel log shall include details equivalent to what is provided in subsections 1 and 2 on the details entered in the ship's logbook and engine logbook to the extent required for the record book in question.

Entries in a radio logbook shall include information about any distress, urgency and safety traffic as well as about other incidents related to radio operations.

The Finnish Transport and Communications Agency may issue further orders on entries to be made in the record books and on the attachments thereto.

## **Section 5**

### **Disclosure of information (482/2017)**

No person shall be denied access to information on the contents of a record book on which his or her right depends. In respect of collision between vessels, this shall only be observed in judicial proceedings involving an action brought on the basis of such collision.

The provisions of subsection 1 also apply to record books kept on Norwegian, Swedish or Danish ships when such ship is at a Finnish port.

Sensitive personal data may only be disclosed from the record book at the consent of the person concerned or if necessary to establish, exercise or resolve legal claims. (482/2017)

*Subsection 4 was repealed by Act 482/2017.*

## **Maritime declarations**

### **Section 6 (991/2018)**

#### **Obligation to submit a maritime declaration**

The master of a Finnish ship shall submit a maritime declaration whenever:

- 1) any person has or can be assumed to have died or sustained serious bodily injury in connection with ship operations while at sea;
- 2) any person employed or otherwise carried on the ship has or can be assumed to have died or sustained serious bodily injury otherwise in connection with ship operations;
- 3) any person has died on board the ship;
- 4) a serious case of poisoning has or can be assumed to have occurred on board the ship;
- 5) the ship has collided with another vessel or run aground;
- 6) the ship has been abandoned at sea;
- 7) substantial loss or damage has or can be assumed to have been caused to the ship in connection with its operations or, while at sea, to property outside the ship; or
- 8) a substantial fire, explosion or shifting of cargo has occurred.

In respect of Finnish ships, a maritime declaration shall also be given when, following an incident that has or can be assumed to have taken place in connection with ship operations, ordered by the Finnish Transport and Communications Agency or requested by the master or operator of the ship or, in the event of substantial loss of or damage to the goods, requested by the cargo owner or cargo insurer.

If submission of a maritime declaration is ordered by the Finnish Transport and Communications Agency or requested by the cargo owner or insurer, notice thereof shall be given to the master or operator of the ship, who shall submit a declaration in accordance with subsection 2 of section 7.

Provisions on exemptions from the obligation to submit a maritime declaration in certain cases are laid down in subsection 2 of section 11 and subsection 2 of section 14.

## **Section 7 (991/2018)**

### **Submission and deferral of a maritime declaration and the master's duty to report**

A maritime declaration is submitted in accordance with section 1 of chapter 21 to the Maritime Court of the place where the incident took place or where the ship or its master first arrives. Submission of a maritime declaration may be deferred until the ship arrives at another port if considerable savings in costs or other material benefits can thereby be achieved for the ship without disregarding the purpose of the maritime declaration. The master or operator of the ship shall promptly notify the Finnish Transport and Communications Agency in writing of any such deferral and its reasons.

For the purposes of submitting a maritime declaration, the master shall report, either in person or through an agent, to the Maritime Court having jurisdiction under subsection 1 or its chairperson as soon as possible. Such a report shall be made in writing and be accompanied by a copy of the notification mentioned in section 8 and details of the ship's whole crew and any persons assumed to be in a position to clarify the matter and, where possible, anyone whom the matter may concern, or their agents.

In Norway, Sweden and Denmark, maritime declarations in respect of Finnish ships are submitted to the court having jurisdiction under national law. Otherwise, maritime declarations are submitted abroad to a Finnish diplomatic or consular mission authorised by the Ministry for Foreign Affairs to accept maritime declarations. Where convenient, assistance for receipt of a maritime declaration may be provided by two persons versed in maritime issues summoned by the mission, preferably Finnish, Norwegian, Swedish or Danish nationals, who are not disqualified from acting as judges.

In the absence of a Finnish diplomatic or consular mission authorised to perform this function, a maritime declaration may be submitted to the Norwegian, Swedish, or Danish mission authorised to accept maritime declarations under the law of its home country.

Where a maritime declaration is submitted abroad, or if a foreign authority has performed the investigation of the causes of the incident, the master shall ensure that a copy of the record of the proceedings certified by the relevant authority is submitted to the Finnish Transport and Communications Agency and the Safety Investigation Authority.

Where a ship is missing or wrecked without survivors, the investigation following the incident shall be conducted in the ship's home port, unless the Finnish Transport and Communications Agency orders the proceedings to be conducted elsewhere.

Further provisions on the application of the provisions governing maritime declarations are issued by decree.

## **Section 8 (991/2018)**

### **Written notification for a maritime declaration**

In cases referred to in section 6, the ship's master shall submit a written notification for a maritime declaration without delay to the Finnish Transport and Communications Agency or, if the ship is abroad, to the nearest Finnish diplomatic or consular mission referred to in subsection 3 of section 7.

A written notification on collision between vessels shall not be disclosed to the other party until the maritime declaration to be submitted on the incident has been taken up by a court or some other appropriate authority for consideration.

A Finnish domestic or consular mission which has received a written notification referred to herein shall, once the notification is no longer needed, send it to the Finnish Transport and Communications Agency without delay.

The Finnish Transport and Communications Agency may issue further orders on written notifications referred to herein and on the contents thereof.

## **Section 9 (991/2018)**

### **Scheduling a session for a maritime declaration**

Where a report for submission of a maritime declaration is made as provided in section 7, the Maritime Court shall determine, as far as possible according to the master's preference, a time for a session for submission of the maritime declaration to the Court and order the master to, at that time, present the ship's record books and any notebooks related thereto in original copies, if such books were kept and are still available, and any other documents or items that may shed light on the case, as well as to state the persons assumed to be in the best position to clarify the case for the purpose of hearing them before the Court. The time of the session shall be announced by public notice posted on the Court's noticeboard or, where possible without delay, separately notified to any persons whom the matter may concern, or to their agents in location, as well as to the Finnish Transport and Communications Agency and also to a public prosecutor.

The presentation obligation referred to in subsection 1 above may be ordered subject to a penalty payment, where deemed necessary.

The experts shall be informed of the report for submission of a maritime declaration without delay. They shall examine the documents accompanying the report and, if time permits, explain to the Maritime Court prior to the session the issues on which information is required in marine technological or mechanical engineering or some other terms in order to establish the nature of the incident.

## **Section 10**

### **Consideration in the Maritime Court**

While considering a maritime declaration, the Court shall seek to obtain a full account of the casualty and its causes. At the beginning of the proceedings, the contents of the ship's record books and notebooks shall, where necessary, be compared with each other and with the copy of the notification referred to in section 8 accompanying the report. Thereafter, first the master and then the persons summoned to court to clarify the matter shall, each separately where possible, give consistent accounts of the incident. If any person's account is incomplete or vague, the Court shall seek to find out what he or she has actually observed. When all of the accounts have been given, the master and any parties present shall be given an opportunity to give a statement thereon. Thereafter, the Court shall request the master and those summoned to the Court to

clarify the matter, in the absence of any legal constraints, to confirm their respective accounts by oath or affirmation after these have been read back from the record.

The Court may also summon to the hearing other members of the crew besides those named by the master, as well as persons who are not crew members and, where necessary, hold an inspection on the ship or at the scene of the incident and obtain expert opinions on issues the evaluation of which requires special expertise. Any person summoned to be heard or used for assistance is compensated out of central government funds at the Court's discretion.

If a maritime declaration is submitted in a place other than that mentioned in subsection 1 of section 7, the Court shall note the reason in the record.

## **Section 11 (991/2018)**

### **Submission of a maritime declaration following collision between vessels**

If a maritime declaration concerns a ship's collision with another vessel, the Maritime Court may allow the submission of the maritime declaration to be deferred if the maritime declaration can thereby be submitted concurrently with the maritime declaration or a corresponding declaration to be submitted on the part of the other vessel. Such deferral shall not be granted for a period longer than absolutely necessary. Where the purpose of the deferral is not attainable, the Court shall, when requested by the master or operator of the ship for which a maritime declaration is first submitted and in the absence of any particular reasons for not doing so, order that the maritime declaration be submitted wholly or partly in camera and that the occasion be attended by no person other than the ship operator and the public prosecutor as well as the competent representatives of the Finnish Transport and Communications Agency, the Finnish Customs and the Safety Investigation Authority.

Where the ship has collided with a foreign vessel in respect of which no declaration equivalent to a maritime declaration is to be submitted, a maritime declaration is not required, unless otherwise ordered by the Finnish Transport and Communications Agency.

## **Section 12 (991/2018)**

### **Receipt of a maritime declaration in certain cases**

For a ship with a home port in Norway, Sweden or Denmark, a competent Finnish court shall receive a maritime declaration where considered necessary by the master or operator of the ship

or the competent public authority of the ship's flag state. In respect of other foreign ships, maritime declarations are received in such cases, if there is reason to do so.

If the Finnish Transport and Communications Agency considers that an incident occurring in connection with the operations of a foreign ship requires investigation for maritime safety considerations and the ship is at a Finnish port, the Finnish Transport and Communications Agency may order a maritime declaration to be submitted.

If the public authority mentioned in subsection 1 considers a maritime declaration necessary or if the Finnish Transport and Communications Agency orders its submission, notice thereof shall be given to the master or operator of the ship. The maritime declaration is submitted upon notification made by either of them in accordance with subsection 2 of section 7.

### **Section 13 (991/2018)**

#### **Maritime declaration submitted to a Finnish diplomatic or consular mission**

The provisions of sections 10–12 on maritime declarations submitted to a court also apply, as appropriate, to maritime declarations submitted to Finnish diplomatic or consular missions. A mission may not, however, administer an oath or affirmation nor issue a notice of a conditional fine.

An extract of the record of the maritime declaration proceedings shall be submitted free of charge to the Finnish Transport and Communications Agency. Such record extract is given to the operator or master of the ship on request.

### **Section 14 (991/2018)**

#### **Supplementation and non-submission of a maritime declaration**

Should a maritime declaration be found to be incomplete in some respects, the Finnish Transport and Communications Agency may order it to be supplemented. In such cases, the provisions of subsection 3 of section 6 and section 7 apply correspondingly.

If a satisfactory account of an incident referred to in section 6 has been or can be expected to be attainable in some other way, the Finnish Transport and Communications Agency may waive submission of a maritime declaration or allow deferral of its submission while waiting for such an account.

## **Reporting casualties and incidents (482/2017)**

### **Section 15 (991/2018)**

#### **Reporting casualties and incidents during ship operations to the Finnish Transport and Communications Agency**

The master or operator of the ship shall promptly notify the Finnish Transport and Communications Agency in writing of any casualties and incidents that have occurred on board a Finnish ship in connection with the operations of the ship and that have come to his or her attention.

Provisions on secrecy of the information referred to in subsection 1 above are laid down in section 24 of the Act on the Openness of Government Activities (621/1999).

Provisions on notification of accidents and incidents to the Safety Investigation Authority are laid down in the Safety Investigation Act (525/2011).

The Finnish Transport and Communications Agency may issue further orders on the submission and contents of the notifications referred to in subsection 1.

### **Section 15a (482/2017)**

#### **Use of information concerning casualties or incidents**

No public authority shall undertake legal action on any unplanned or unintentional infringement that comes to its attention only because it was notified under section 15, unless it involves dereliction of duty deemed to constitute gross negligence or conduct punishable under the Criminal Code of Finland (39/1889).

No shipping company, ship operator, master or any other party referred to in this Act shall discriminate against any employee in their service or any other person who submits a notification of a potential incident of which he or she has knowledge.

Surveyors and conduct of surveys

## **Section 16**

### **Surveyors**

Any surveys and assessments which are provided in this Act or which ship operators, masters or interested parties otherwise wish to invoke as evidence in cases to be adjudicated under this Act shall be conducted by public surveyors, unless otherwise agreed by the interested parties or if public surveyors cannot be used without significant inconvenience.

## **Section 17**

### **Appointing public surveyors**

The Maritime Court appoints the necessary number of competent persons as public surveyors for fixed term of no longer than three years at a time. The Maritime Court may, where reason arises, cancel its appointment. The surveyors appointed by the Maritime Court have competence throughout the country with the exception of the Region of Åland.

## **Section 18**

### **Procedure for appointing surveyors**

When appointing surveyors, attention shall be paid, where possible, to ensure representation of expertise in ship and engine building and knowledge of the goods and the ability of the executing surveyors to issue written statements.

In order to appoint surveyors, the Maritime Court shall request relevant trade associations or other suitable parties to propose for the role persons who have the skills for such a role and are willing to accept the role.

## **Section 19**

### **Number, qualifications and rights of executing surveyors**

There shall be at least two executing surveyors, who shall be qualified and appointed from among public surveyors with the expertise required for the procedure.

If several interested parties demand a survey without agreeing on the executing surveyors, each shall appoint an equal number.

The executing surveyors are entitled to handle the ship and cargo to the extent necessary for the procedure to be conducted diligently.

## **Section 20**

### **Assisting experts**

Should those invited to conduct the survey and assessment consider that the proper conduct of the survey requires specific expertise, they may call in experts to assist in the procedure. In such cases, assistance may also be sought from persons who are not surveyors.

## **Section 21**

### **Procedure for condemning a ship**

If a ship's survey raises the question whether the ship should be condemned as beyond repair, the executing surveyors shall give notice thereof to the Maritime Court, which will then order one of its members to consider and decide the matter with the executing surveyors. The same applies if an interested party informs the Maritime Court that the executing surveyors should consider such a question.

If the ship is condemned, the Maritime Court shall be notified thereof without delay.

## **Section 22**

### **Dissatisfaction with a survey**

If an interested party is dissatisfied with the survey and assessment conducted by the surveyors appointed by him or her or by another interested party, he or she may request the Maritime Court to order a new survey to be conducted, if still possible. In such cases, the Maritime Court orders one of its members and, in addition to the surveyors referred to above, an equal number of other public surveyors to jointly conduct a new procedure.

## **Section 23**

### **Record of procedure**

Public surveyors are obliged, in respect of the procedures to which they have been appointed, to keep a record indicating the time of procedure, the surveyor or surveyors who conducted the procedure with them, and which of them will keep the original copy of the record of procedure.

A copy of the record of procedure shall be provided, for a fee, to any interested party on request.

## **Section 24**

### **Surveys conducted abroad**

If a ship is abroad when a survey or assessment becomes necessary, the practice in place therein for such procedures shall be observed.

## **Section 25**

### **Damage assessment in certain cases**

If a ship has, during its voyage, suffered damage requiring substantial repairs or a longer delay, the master shall arrange the ship's survey and assessment. The surveyors shall assess the damage and the damaged value of the ship while issuing a statement on the steps to be taken to repair such damage, as well as calculating the necessary costs incurred as a result thereof. If the ship is repaired, a new survey shall be conducted upon completion of such work to establish whether the ship is in such condition that the planned voyage can be performed.

If the cargo has suffered substantial damage during the voyage, or if reason arises to suspect that the cargo is in such condition as to require special preservation measures, or if it is necessary to discharge the cargo due to the ship being damaged, the master shall arrange a cargo survey. Where the cargo is deemed damaged, the executing surveyors shall issue a statement on the cause that may be considered to have resulted in such damage, while proposing measures to be taken.

## **Section 26**

### **Master's obligation to arrange a survey**

If the master finds that there is reason to certify that any possible damage to the cargo did not result from deficiencies in hatch battens, stowage, side shell covering or the ceiling, or from any other such reason, he or she shall arrange a survey.

If it appears or there is reason to suspect, upon opening the hatches or subsequently unloading the cargo, that goods have suffered damage, its cause and, if necessary, its scale, shall be established, if and where possible, prior to moving the goods on board the ship.

The consignee of the cargo shall be invited to attend such a survey, if this can be done without inconvenience.

## **PART VI**

### **FINAL PROVISIONS**

#### **Chapter 19**

##### **Time bars for claims**

##### **Section 1 (860/2016)**

##### **Time bars for claims**

Any action to recover payment for the following claims shall, whether liability is limited or unlimited, be initiated:

- 1) for any claim for a salvage reward or a special contribution referred to in section 9 of chapter 16, within two years of termination of salvage operations and, for any claim for a portion of salvage reward under section 11 of chapter 16, within one year of the person in question being informed by the ship operator of the amount of salvage reward and portion; the person against whom the claim is made may, however, extend this period by a declaration to the claimant;

- 2) for any claim for compensation arising out of a collision or an incident mentioned in section 6 of chapter 8, within two years of the date when the damage was sustained and, where the claim arises out of any person having paid more than his or her fair share under section 3 of chapter 8, within one year of the date when he or she paid the amount;
- 3) for any claim based on delayed carriage of a passenger, within two years of disembarkation or the date on which it should have taken place; (249/2017)
- 4) for any claim for compensation based on loss of, damage to or delay in delivery of goods or inaccurate or incomplete particulars provided on a bill of lading, within one year of the date on which the goods were or should have been delivered;
- 5) for any claim for compensation based on delay in delivery of luggage, within two years of the date on which cabin luggage was brought ashore or other luggage was delivered; (249/2017)
- 6) for any claim arising out of a contribution in general average or any other costs to be allocated on the same criteria, within one year of the date on which the average adjustment became final;
- 7) for compensation for oil pollution damage referred to in chapter 10 or bunker oil pollution damage referred to in chapter 10a, within three years of the date on which the damage occurred;
- 8) for compensation for costs arising from locating, marking and removing a wreck under the Nairobi Convention, within three years of the date on which the wreck was considered to pose a hazard under section 4 of chapter 11a; (1401/2019)

*Paragraph 8 as amended by Act 1401/2019 enters into force on a date to be specified by decree.*

*Previous form of wording:*

- 8) for compensation for costs arising from locating, marking and removing a wreck under the Nairobi Convention, within three years of the date on which the wreck was considered to pose a hazard under section 4 of chapter 11a.
- 9) for compensation for damage caused by hazardous and noxious substances referred to in chapter 11, within three years of the date on which the injured party knew or ought reasonably to have known of the damage and the identity of the owner of the ship. (1401/2019)

*Paragraph 9 as added by Act 1401/2019 enters into force on a date to be specified by decree.*

In respect of any action for compensation based on paragraph 4 of subsection 1, the interested parties may agree on extending the period provided therein following the occurrence giving rise to the action. A recourse action may be instituted even after the expiry of the said period, however, not later than within one year of the time when the principal claim is satisfied or an action in respect thereof is instituted.

The provisions of Finnish law on extension or suspension of a limitation period referred to in this section apply in Finland even if the legal relationship were otherwise subject to foreign law. In no event shall the periods mentioned in paragraphs 3 and 5 of subsection 1 be extended beyond three years of the date of disembarkation or when luggage was brought ashore or when these should have taken place.

In cases referred to in paragraph 7 of subsection 1, no action shall be brought after six years from the date on which the incident took place or, if the damage was caused by a series of occurrences, from the date of the first such occurrence.

In cases referred to in paragraph 8 of subsection 1, no action shall be brought after six years from the date on which the maritime casualty resulting in the wreck took place or, if the maritime casualty arose out of a series of occurrences, from the date of the first such occurrence.

If the debtor, in cases not mentioned in subsection 1, is liable for compensation or any other claim for which the ship operator enjoys limited liability or which is only secured by the goods loaded on board, any action to recover payment of claims for compensation shall be instituted within two years of the date on which the damage occurred and, in respect of any other claim, within one year of the date on which such claim became due. If the debtor also enjoys the right to demand payment from the ship operator, cargo owner or anyone else, where liability is not limited, the general provisions on retention of the right of action shall be observed.

Where a claim mentioned in this section has been referred to an Average Adjuster, such action is deemed to have been initiated to recover payment.

In cases referred to in paragraph 9 of subsection 1, however, no action shall be brought after ten years from the date on which the incident took place or, if the damage was caused by a series of occurrences, from the date of the last such occurrence. (1401/2019)

*Subsection 8 as added by Act 1401/2019 enters into force on a date to be specified by decree.*

## **Chapter 20**

### **Penal provisions**

#### **Section 1**

##### **Failure to ensure seaworthiness**

If a master has, when not in distress, proceeded to sea on a ship which had such deficiencies in frame, machinery or equipment, or which was so poorly manned or so heavily or improperly laden or in such improper ballast that he or she ought to have realised that the voyage would manifestly endanger the lives of those on board, he or she shall be sentenced to a fine or to imprisonment for a period of no more than one year.

A ship operator or any other person shall be sentenced to a punishment referred to in subsection 1 if he or she has intentionally led the master to commit such violation or furthered it through advice or action, as shall a ship operator or any other person acting on behalf of the ship in lieu of the operator if he or she, with knowledge of such deficiencies and faults as mentioned above, has neglected, if within his or her power, to prevent the ship from proceeding to sea.

If a master neglects the duties assigned to him or her under section 3 of chapter 6, and the case is dissimilar to those mentioned in subsection 1, he or she shall be sentenced to a fine or to imprisonment for a period of no more than six months.

A ship operator or any other person shall be sentenced to a punishment referred to in subsection 3 if he or she has intentionally led the master to commit such violation or furthered it through advice or action, as shall a ship operator or any other person acting on behalf of the ship in lieu of the operator if he or she, with knowledge of such faults or deficiencies in the seaworthiness and equipment of the ship, has neglected, if within his or her power, to eliminate such fault or deficiency.

If a master has failed to comply with what is assigned to him or her under section 9 of chapter 6, he or she shall be sentenced to a fine.

If any act or omission referred to in this section has caused harm, the perpetrator shall be sentenced, unless a more severe punishment for the act is provided elsewhere by law, to imprisonment for a period of no more than two years in cases mentioned in subsections 1 and 2 and to imprisonment for a period of no more than one year in cases mentioned in subsections 3 and 4.

## **Section 2**

### **Failure to observe good seamanship**

If a master, in a manner not referred to in section 1, or a chief engineer officer, deck officer, engineer officer or any other person performing a function of material importance to maritime safety, neglects his or her duties as a good sailor in respect of preventing maritime casualties, he or she shall, unless a more severe punishment for the act is provided elsewhere by law, be sentenced to a fine or to imprisonment for a period of no more than one year.

## **Section 3**

### **Failure to comply with obligations concerning the ship's documents**

If a master has failed to comply with his or her obligations under section 4 of chapter 6, he or she shall be sentenced to a fine.

If a master or ship operator fails to provide any person entitled to it with information on the contents of the ship's logbook or the notebook kept for it, or on the entries made by technical means on the ship's navigation and the running of its machinery, he or she shall be sentenced to a fine.

If a ship operator neglects his or her duty to preserve the ship's logbook or the notebook kept for it, or the entries made as provided in subsection 2, he or she shall be sentenced to a fine.

## **Section 4**

### **Dishonesty in keeping record books**

If a master fails to comply with the provisions of chapter 18 on keeping and disclosure of record books, he or she shall be sentenced to a fine.

If a master has, for the purposes of benefiting himself or herself or another or causing harm, kept a record book or modified, destroyed, hidden or rendered it illegible, he or she shall, unless a more severe punishment for the act is provided elsewhere by law, be sentenced to a fine or to imprisonment for a period of no more than two years or, under highly extenuating circumstances, to a fine.

If the master otherwise enters false or misleading information in the record book, he or she shall be sentenced to a fine, unless a more severe punishment for the act is provided elsewhere by law.

A chief engineer officer, deck officer, engineer officer or radio operator who has committed an act referred to in subsection 1, 2 or 3 shall be sentenced as provided therein.

## **Section 5**

### **Maritime declaration violations**

A master who fails to report in accordance with subsection 2 of section 7 of chapter 18 to submit a maritime declaration or causes deferral of submission thereof, without the existence of the criteria for doing so mentioned in subsection 1 of section 7 of chapter 18, shall be sentenced to a fine.

If a master fails to submit the notification as provided in section 8 of chapter 18, he or she shall be sentenced to a fine. If the master intentionally provides false or misleading information in such a notification, he or she shall also be sentenced to a fine, unless a more severe punishment for the act is provided elsewhere by law.

## **Section 6**

### **Omissions in the event of collision**

A master who neglects any of his or her obligations under section 5 of chapter 8 in the event of collision or an incident mentioned in section 6 of chapter 8 shall be sentenced to a fine or to imprisonment for a period of no more than two years.

A master who neglects any of his obligations under section 11 of chapter 6 shall be sentenced to a fine or to imprisonment for a period of no more than six months.

## **Section 7**

### **Misuse of a position of trust in shipping**

If a master intentionally acts dishonestly towards a ship operator, cargo owner, insurer or any other person whose rights and interests he or she is to protect under this Act, he or she shall, unless a more severe punishment for the act is provided elsewhere by law, be sentenced to imprisonment for a period of no more than two years.

Where an offence referred to in subsection 1 was committed out of gross negligence, the perpetrator shall be sentenced to a fine or to imprisonment for a period of no more than one year.

A ship operator who has neglected his or her obligation under subsection 2 of section 4 of chapter 22, thereby causing harm to a mortgagee, shall be sentenced to a fine or to imprisonment for a period of no more than two years.

## **Section 8**

### **Abandonment of ship**

If a master resigns and abandons a ship entrusted to him or her, he or she shall be sentenced to a fine or to imprisonment for a period of no more than two years.

If a master abandons a ship in danger, without complying with the provisions of section 12 of chapter 6, or with what is otherwise his or her duty as a good sailor, he or she shall be sentenced to a fine or to imprisonment for a period of no more than one year.

## **Section 9 (1688/2009)**

Section 9 was repealed by Act 1688/2009.

## **Section 9a (1401/2019)**

### **Failure to comply with the obligation to insure under the Maritime Act**

A ship operator, owner, registered owner or carrier who wilfully neglects an obligation to take out insurance or lodge security, as provided in section 2 of chapter 7, section 10 or subsection 1 of section 11 of chapter 10, section 10 or subsection 1 of section 11 of chapter 11, section 6 of chapter 11a, section 23a of chapter 15 or Article 4bis of Annex I to the Athens Regulation, or based on subsection 2 of section 1 of chapter 15 herein, shall be sentenced to a fine for *failure to comply with the obligation to insure under the Maritime Act*.

A ship manager who allows the ship to be used for shipping, although he or she knew or ought to have known that the obligation to take out insurance or lodge security, as provided in section 10 or subsection 1 of section 11 of chapter 10, or section 10 or subsection 1 of section 11 of chapter 11, or section 6 of chapter 11a, had not been satisfied, shall also be sentenced for failure to

comply with the obligation to insure under the Maritime Act. The same applies to any person operating the ship in lieu of the owner, as well as to the ship's master.

*Section 9a as amended by Act 1401/2019 enters into force on a date to be specified by decree.*

*Previous form of wording:*

## **Section 9a (860/2016)**

### **Failure to comply with the obligation to insure under the Maritime Act**

A ship operator, owner, registered owner or carrier who wilfully neglects an obligation to take out insurance or lodge security, as provided in section 2 of chapter 7, section 10 or subsection 1 of section 11 of chapter 10, section 6 of chapter 11a, section 23a of chapter 15 or Article 4bis of Annex I to the Athens Regulation, or based on subsection 2 of section 1 of chapter 15 herein, shall be sentenced to a fine for *failure to comply with the obligation to insure under the Maritime Act*. (249/2017)

A manager of a ship who allows the ship to be used for shipping, although he or she knew or ought to have known that the obligation to take out insurance or lodge security provided in section 10 or subsection 1 of section 11 of chapter 10 had not been satisfied, shall also be sentenced for failure to comply with the obligation to insure under the Maritime Act. The same applies to any person operating the ship in lieu of the owner, as well as to the ship's master.

## **Section 9b (1401/2019)**

### **Failure to comply with the obligation to carry a certificate of insurance**

A ship's master who wilfully neglects the obligation to ensure that a certificate of insurance or security is carried on board the ship, as provided in subsection 3 of section 3 of chapter 7, subsection 3 of section 10 or subsection 2 of section 11 of chapter 10, subsection 2 of section 11 or subsection 4 of section 12 of chapter 11, subsection 3 of section 7 of chapter 11a, or subsection 3 of section 24 of chapter 15, shall be sentenced to a fine for *failure to comply with the obligation to carry a certificate of insurance*.

*Subsection 9b as amended by Act 1401/2019 enters into force on a date to be specified by decree.*

*Previous form of wording:*

## **Section 9b (249/2017)**

### **Failure to comply with the obligation to carry a certificate of insurance**

A master who wilfully neglects the obligation to ensure that a certificate of insurance or security is carried on board the ship, as provided in subsection 3 of section 3 of chapter 7, subsection 3 of section 10 or subsection 2 of section 11 of chapter 10, subsection 3 of section 7 of chapter 11a, or subsection 3 of section 24 of chapter 15, shall be sentenced to a fine for *failure to comply with the obligation to carry a certificate of insurance*.

## **Sections 9c–9d**

*Sections 9c–9d were repealed by Act 860/2016.*

## **Section 10**

### **Forfeiture of certificate for competency**

A master sentenced to a punishment for an offence mentioned in sections 1, 2, 4, 8 or 9, or for waterway traffic intoxication, may at the same time be sentenced to forfeit his or her right to be a ship's master for a fixed period, where specific qualification standards have been provided by law for this purpose. If the offence demonstrates that the master is unsuitable to serve in any other capacity on board a ship, he or she may also be sentenced to forfeit such competency.

The provisions of subsection 1 apply correspondingly to any chief engineer officer, deck officer, engineer officer or radio operator sentenced to a punishment for an offence mentioned in section 2 or subsection 2 of section 4, or for waterway traffic intoxication, and if the offence demonstrates that he or she is unsuitable for his or her position.

The court shall notify of any sanction referred to in this section without delay to the Finnish Maritime Administration and, in respect of a radio operator, also to the Telecommunications Administration Centre.

## **Section 11**

### **Master's deputy**

The provisions of this chapter on offences committed by a master also apply when such an offence was committed by any person designated in place of the master.

## **Section 12 (549/1999)**

### **Reference provision**

Provisions on punishments for waterway traffic intoxication and relinquishing a vehicle to an intoxicated person are laid down in sections 5 and 8 of chapter 23 of the Criminal Code of Finland.

## **Section 13**

### **Right to bring charges**

The public prosecutor shall not bring charges for any offence referred to in section 7, unless the injured party reports the offence for prosecution.

## **Chapter 21**

### **Competent jurisdiction and proceedings in maritime cases**

## **Section 1 (862/2017)**

### **Maritime Courts**

The courts of first instance considering the matters referred to in this Act (*Maritime Courts*) are the District Courts of Åland and Helsinki.

The jurisdiction of the Maritime Court of Åland is the Region of Åland and the jurisdiction of the Maritime Court of Helsinki covers the rest of Finland.

## **Section 1a (862/2017)**

### **Quorum in the Maritime Court**

The provisions of chapter 2 of the Code of Judicial Procedure on quorum in the District Court apply to quorum in the Maritime Court.

Notwithstanding the provisions of subsection 1, in consideration of maritime declarations, ship arrests under chapter 4, and matters referred to in sections 21 and 22 of chapter 18, the Maritime Court shall have a quorum with only the chairperson present.

## **Section 2 (862/2017)**

### **Experts in maritime law**

In the Maritime Court, the Court is assisted by two experts knowledgeable of and well versed in maritime matters, who are present in the proceedings. However, the presence of the experts is not necessary if the chairperson of the Maritime Court so decides due to the minor importance of the case or its nature.

An expert shall assist the Maritime Court with any necessary clarifications about issues of shipping and marine technology if requested by the Maritime Court or if the expert personally considers it necessary to clarify the matter. An expert is entitled, via or at the consent of the chairman of the Maritime Court, to pose questions to the interested parties, witnesses or any persons summoned to court to provide clarification. If the Maritime Court requests an expert to issue a statement on a particular issue, he or she shall provide it for the record.

The Maritime Court appoints the experts and four alternates for them for a period of two years at a time. Prior to such appointment, an expert shall give an affirmation before the Maritime Court corresponding to the judge's solemn affirmation of office referred to in subsection 4 of section 6 of chapter 19 of the Courts Act (673/2016).

Experts are entitled to a reasonable fee separately determined by the Maritime Court for each session. In civil cases, the plaintiff pays the fee in advance, but it will ultimately be payable by the losing party. In any other matters and in consideration of maritime declarations, the fee for assistance is payable from government funds in compliance with the provisions of section 22 of chapter 17 of the Courts Act.

### **Section 3 (862/2017)**

#### **Maritime Court having jurisdiction over disputes**

Any disputes referred to in this Act are heard by the Maritime Court within the jurisdiction of which the defendant has a domicile or permanent business establishment, or the ship is located. A shipping partnership's domicile is considered to be in the ship's home port.

Where a public authority has been given security for a claim in order to release a ship subject to arrest or any other precautionary measure, the matter may also be considered by the Maritime Court within the jurisdiction of which such security was given. Any action for a claim for which security has been provided may be heard by that Maritime Court even if the security were released.

### **Section 3a (1401/2019)**

#### **Maritime Court having jurisdiction over cases involving oil pollution damage**

A Finnish court of law has jurisdiction to consider a claim for damages under chapter 10 if the oil pollution damage occurred in Finland or within the Finnish exclusive economic zone, or if preventive measures to prevent or minimise such damage were performed in Finland or within the Finnish exclusive economic zone.

Where a Finnish court has jurisdiction under subsection 1, any claim for damages for other oil pollution damage arising out of the same incident may be considered by the same court.

The competent court in cases referred to in subsections 1 and 2 is the District Court of Helsinki.

If a limitation fund referred to in section 6 of chapter 10 has been constituted in Finland following an incident and the ship owner or insurer against whom an action has been brought in a court in Finland or another Contracting State is entitled to limit liability, the District Court of Helsinki considers claims relating to the distribution of the limitation fund between those entitled to damages.

*Section 3a as amended by Act 1401/2019 enters into force on a date to be specified by decree.*

*Previous form of wording:*

### **Section 3a (686/2008)**

#### **Maritime Court having jurisdiction over cases involving oil pollution damage**

An action for damages under chapter 10 may be brought in a Finnish court if the oil pollution damage occurred in Finland or within the Finnish exclusive economic zone referred to in paragraph 10 of section 1 of the said chapter, or if preventive measures to prevent or minimise such damage were performed within the Finnish territory or exclusive economic zone.

### **Section 3b (862/2017)**

#### **Maritime Court having jurisdiction over salvage operations**

Besides the provisions of section 3, claims involving a salvage reward or special compensation referred to in chapter 16 may be considered by the Maritime Court within the jurisdiction of which the salvage operations were carried out or salvaged property was brought ashore.

If the case referred to in subsection 1 concerns salvage operations not performed in Finland, any action may, in addition to the provisions of section 3, be brought in the District Court of Helsinki.

### **Section 3c (686/2008)**

#### **Maritime Court having jurisdiction over cases involving bunker oil pollution damage**

An action for damages under chapter 10a may be brought in a Finnish court if the damage occurred in Finland or within the Finnish exclusive economic zone, or if preventive measures to prevent or minimise such damage were performed in Finland or within the Finnish exclusive economic zone.

Where an action may be brought in a Finnish court under subsection 1, any action for damages for other pollution damage arising out of the same incident may be brought in the same court.

Any action for compensation that may be brought in a Finnish court under subsections 1 and 2 is heard by the District Court of Helsinki.

If a limitation fund referred to in section 7 of chapter 9 has been constituted in Finland following an incident and the registered owner or insurer against whom an action is pursued in Finland or another Contracting State is entitled to limit liability, the District Court of Helsinki considers matters relating to the distribution of the limitation fund between those entitled to damages.

### **Section 3d (860/2016)**

#### **Maritime Court having jurisdiction over cases involving wrecks resulting from maritime casualties**

If an action for compensation for costs arising from locating, marking and removing a wreck under chapter 11a or the Nairobi Convention may be instituted in a Finnish court, the action is heard by the District Court of Helsinki.

If a limitation fund referred to in section 7 of chapter 9 has been constituted in Finland following an incident and the registered owner or insurer against whom an action is pursued in Finland or another Contracting State is entitled to limit liability, the District Court of Helsinki considers cases relating to the distribution of the limitation fund between those entitled to damages.

### **Section 3e (1401/2019)**

#### **Maritime Court having jurisdiction over cases involving damage caused by hazardous and noxious substances**

A Finnish court of law has jurisdiction to consider a claim for damages under chapter 11 if the damage occurred in Finland or within the Finnish exclusive economic zone, or if preventive measures to prevent or minimise such damage were performed in Finland or within the Finnish exclusive economic zone. A Finnish court also has jurisdiction to consider a claim for damages under chapter 11 in cases referred to in paragraph 3 of subsection 1 and subsection 2 of chapter 2 where the damage occurred outside the territory of any state if:

- 1) the ship is registered in Finland or, if the ship is not registered, sailing under the Finnish flag;
- 2) the shipowner's domicile or principal place of business is in Finland; or
- 3) a limitation fund referred to section 6 of the said chapter has been constituted in Finland.

Where a Finnish court has jurisdiction under subsection 1, any claim for damages for other damage arising out of the same incident may be considered by the same court.

Any claim that may be considered by a Finnish court under subsections 1 and 2 is heard by the District Court of Helsinki.

If a limitation fund referred to in section 6 of chapter 11 has been constituted in Finland following an incident and the ship owner or insurer against whom an action has been brought in a court in Finland or another Contracting State is entitled to limit liability, the District Court of Helsinki considers claims relating to the distribution of the limitation fund between those entitled to damages.

*Section 3e as added by Act 1401/2019 enters into force on a date to be specified by decree.*

## **Section 4**

### **Maritime Court having jurisdiction over carriage of general cargo**

Any action in respect of liability based on a contract for the carriage of general cargo may only be instituted in the Maritime Court which is situated in:

- 1) the principal place of business or, in the absence thereof, the habitual residence of the defendant;
- 2) the place where the contract of carriage was made provided that the defendant has there a place of business, branch or agency through which the contract was made;
- 3) the place where the agreed port of loading or the agreed and actual port of discharge is located; or
- 4) the place determined in the contract of carriage.

An action may also be instituted in the Maritime Court within the jurisdiction of which the ship carrying the goods was subjected to arrest or any other precautionary measure. Where a public authority has been given security in order to release a ship subject to arrest or any other precautionary measure, the action may also be brought in the Maritime Court situated in the place where such security was given. Any action for a claim for which security has been provided may be brought in the latter court even if the security were released.

The provisions of subsections 1 and 2 do not prevent any provisional measures.

## **Section 5 (249/2017)**

### **Maritime Court having jurisdiction over carriage of passengers**

Any action based on a contract for the carriage of passengers or luggage may only be instituted in the Maritime Court within the jurisdiction of which:

- 1) the defendant's permanent residence or principal place of business is located;
- 2) the port of departure or destination according to the contract of carriage is located;
- 3) the plaintiff's domicile or permanent residence is located, provided that the defendant has a place of business and is subject to the Court's jurisdiction in Finland; or
- 4) the contract of carriage was made, provided that the defendant has a place of business and is subject to the Court's jurisdiction in Finland.

Notwithstanding the provisions of subsection 1, the parties may, after the occurrence of the dispute, agree on the competent Maritime Court or on referral of the matter to arbitrators.

The Maritime Court having jurisdiction under subsections 1 and 2 of this section also has jurisdiction to consider disputes of international character, unless otherwise provided in Article 17 of the 2002 Athens Convention.

## **Section 6**

### **Agreement on the competent court**

Subject to section 60 of chapter 13 and section 4 of this chapter, disputes may be considered by any court as agreed by those concerned besides the Maritime Court having jurisdiction under section 3.

Disputes may also be heard by a court other than the Maritime Court referred to in sections 3 and 4 where the defendant, upon appearing in court, has not, prior to responding to the principal claim, raised an objection to being summoned to present a defence to the case in a court other than the legally competent Maritime Court.

## **Section 7**

### **Actions against the master and ship operator**

If any person wishes to bring an action to enforce a claim based on an act or omission by the master against both the master and the ship operator at the same time, he or she is entitled to institute an action against both in the Maritime Court in which either is obliged to respond.

## **Section 8 (480/2021)**

### **Appeals and enforcement**

The Average Adjuster's decisions may be appealed to the Maritime Court. Appeals shall be made in compliance with the provisions of sections 12–14, 14a–14c and 15–18 of chapter 25 of the Code of Judicial Procedure on appeals against district court decisions.

A maritime court decision may be appealed to the Supreme Court if the Supreme Court grants leave to appeal. Appeals shall be made in compliance with the provisions of chapter 30 of the Code of Judicial Procedure concerning appeals in cases considered by the Court of Appeal as a court of second instance.

The Average Adjuster's decisions that have not been appealed are enforced in the same manner as any final judgement.

## **Section 8a (249/2017)**

### **Application of European Union law and international conventions**

The provisions of this Act on competent jurisdiction shall be observed subject to the provisions of European Union law and any conventions relating to jurisdiction and protocols thereto which are binding on Finland.

## **Section 9 (862/2017)**

### **Maritime Court having jurisdiction over criminal cases**

Any criminal cases considered by virtue of this Act, as well as any cases involving regulations for prevention of collision between vessels are heard by the Maritime Court within the jurisdiction of which the offence was committed. If the offence was committed while underway, the case is heard

by the Maritime Court within the jurisdiction of which the defendant first arrives on the ship or he or she is otherwise found, or the ship's home port is situated.

Minor criminal cases may be considered and resolved in connection with a maritime dispute if these cannot be separated or are closely linked.

## **Section 10**

### **Exchange of written pleadings in maritime cases**

In maritime cases not referred to in sections 8 and 9, the interested parties shall conduct a preliminary exchange of written pleadings to develop each party's claims and to establish the extent to which the arguments made by either side are disputed. To that end, each party shall, within the period of time determined in the summons, submit to the Maritime Court or the office thereof a written pleading, and another copy on the part of the plaintiff, as well as the documents invoked in the written pleadings, in two copies, one of which may be taken by the opposing party. For specific reasons, the Maritime Court may, upon request by one of the parties, grant that party an extension for submission of written pleadings. Following expiry of the period for exchanging written pleadings, the Maritime Court shall fix the date on which the case will be heard in court.

If the Maritime Court considers the case to be of such simple character that it can immediately be considered in an oral hearing, the summons may determine that no preliminary exchange of pleadings be conducted.

## **Section 11**

### **Compensation for postponement of a case**

If an interested party has failed to comply with the provisions of section 10, resulting in postponement, he or she shall cover any costs involved.

## **Section 12**

### **Reference provision on legal proceedings**

Unless otherwise provided herein, the provisions on proceedings in the District Court shall be observed in proceedings in the Maritime Court.

## **Section 13 (862/2017)**

### **Appeals**

Appeals against decisions issued by the Maritime Court, excluding those referred to in section 8, may be made to the Helsinki Court of Appeal as provided in the Code of Judicial Procedure.

## **Section 14**

### **Appeals against Maritime Court judgements on average adjustments**

Any person who wishes to appeal a judgement of the Maritime Court in a case mentioned in section 8 shall, under threat of forfeiting his or her right of action, submit to the Maritime Court an appeal document addressed to the Supreme Court in two copies no later than on the 30<sup>th</sup> day from the day when the judgement was handed down. The appeal document shall be accompanied by any documents that he or she considers necessary to present.

The opposing party may take one of the copies of the appeal document and shall provide the Maritime Court with his or her account and any documents that he or she wishes to invoke within one month of the expiry of the appeal period. Failing this, he or she will forfeit the right to be heard.

Following submission of the account or expiry of the period for submission thereof with no account submitted, the Maritime Court shall, without delay, deliver all of the appeal documents submitted to the Supreme Court, including all of the relevant documents, as well as the case file and recordings, complete with a copy of the judgement or the court order drawn up as a separate document.

## **Section 15**

### **Arbitration**

Where a dispute is to be resolved by arbitrators under this Act, the provisions of the Arbitration Act (967/1992) shall be observed in addition to what is provided in section 61 of chapter 13.

## **Chapter 22**

### **Implementation**

#### **Section 1**

##### **Applications for payment out of a ship or cargo**

Where payment of a claim is sought out of a ship or cargo pledged as security for the claim, the action shall be considered by the court having jurisdiction in the home port of the ship or the place in which the pledged asset is situated.

The operator or master of the ship, as well as the cargo owner, if the latter resides or is staying in such a place, shall be given an opportunity to be heard.

Any person with a lien on a share in a ship under this Act shall bring an action for payment of the claim out of the asset pledged as security against the owner in the court of the place in which the owner has a place of residence. If this person does not reside in Finland, subsection 1 applies.

#### **Section 2**

##### **Confirmation of payment out of pledged assets**

If the court upholds an action referred to in section 1, the court shall confirm the claim referred to in section 1 to be payable out of the pledged asset on pain of attachment.

#### **Section 3**

##### **Distribution of the sales price of a ship sold by way of enforcement**

Where a ship is sold by way of enforcement, those holding liens on the ship are entitled to immediate payment out of the sales price, if sufficient, and the ship shall be transferred to the buyer free from any liens, excluding any mortgaged debt capital which the mortgagee has, prior to distribution of the price, authorised to remain attached to the ship and for which the buyer has assumed liability. The distribution of the sales price shall otherwise comply with the provisions of the Execution Act.

No share in a ship shall be sold without retaining any valid liens on the ship.

## **Section 4**

### **Selling a ship in certain cases**

Where a ship is condemned and is subsequently sold, every lien on the ship will lapse and the claimant will have an equal right to the sales price instead, if it is still unpaid or in possession of an agent of the master or operator of the ship.

If a ship is, while abroad, attached or wrecked, or condemned, the mortgagee is entitled to immediate payment of his or her claim, even if it were not otherwise due. The ship operator shall immediately notify of such occurrence both to the registration authority and the mortgagee. Failing this, he or she shall compensate the mortgagee for any loss and expenses in full.

## **Section 5**

### **Prohibition of attachment or arrest**

No goods loaded on a ship ready to sail shall be attached or arrested where such a measure would cause a delay and violate the rights of a third party.

Nor shall the master or any other person in the service of the ship be prevented from proceeding to sea due to debt after the ship has been cleared and is otherwise ready to sail, nor shall anything brought on board by him or her in that capacity be attached or arrested.

## **Section 6 (421/1995)**

### **Enforcement of foreign judgements in cases involving oil pollution damage**

If a judgement on compensation for oil pollution damage has been rendered in another Contracting State and has become final and enforceable therein, it shall, subject to the provisions of section 9 of chapter 10 or subsection 4 of section 3a of chapter 21, be enforced in Finland without further proceedings in the matter, if the courts of the Contracting State concerned had jurisdiction over the matter in accordance with the 1992 Liability Convention. Notwithstanding, no obligation to enforce a foreign judgement exists where the amount of the ship owner's liability would thereby be exceeded.

Applications for enforcement shall be made to the Helsinki Court of Appeal and accompanied by:

- 1) the judgement in an original copy or as a copy certified by the relevant authority;
- 2) a statement issued by the relevant authority of the state where the judgement was given to the effect that the judgement concerns compensation under the 1992 Liability Convention and that it has become final and enforceable in the said state; and
- 3) where the documents mentioned above are not in Finnish or Swedish, a Finnish or Swedish translation thereof, certified ex officio.

Any documents mentioned in paragraphs 1 and 2 of subsection 2 shall include a certificate attesting that the documents were issued by a public authority entitled to issue such documents. Such certificates are issued by a Finnish diplomatic or consular mission or the highest judicial authority in the state where the judgement was given.

No application for enforcement shall be approved without providing the opposing party with an opportunity to submit his or her response.

If such an application is approved, the judgement is enforced in the same manner as any final judgement rendered by a Finnish court, unless the Supreme Court orders otherwise on grounds of an appeal document.

## **Section 7 (421/1995)**

### **Impact on enforcement of a limitation fund constituted abroad**

If a limitation fund under the 1992 Liability Convention has been constituted in another Contracting State in accordance with the laws in force therein, and if the ship owner or insurer against whom an action for compensation has been brought in a Finnish court is entitled to limit his or her liability, the court shall order that the judgement may only be enforced after any matters concerning the distribution of the limitation fund are resolved in the relevant state in accordance with its laws.

## **Section 8 (686/2008)**

### **Recognition and enforcement of judgements on bunker oil pollution damage**

Subject to the provisions of subsection 2, the provisions of section 6 of this chapter apply, as appropriate, to enforcement of judgements rendered in another Contracting State on compensation for pollution damage referred to in chapter 10a.

Judgements rendered in a Member State of the European Community are subject to Council Regulation (EC) No 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.

### **Section 9 (249/2017)**

#### **Recognition and enforcement of judgements on loss or damage caused to passengers or luggage**

Any judgement on compensation for loss or damage caused to a passenger or his or her luggage rendered in another State Party to the 2002 Athens Convention which has become final and enforceable therein shall be enforced in Finland, if the court of the State Party concerned had jurisdiction over the matter. There shall be no review of the merits of the judgement given. Notwithstanding, no judgement may be recognised nor enforced where it was obtained by fraud or where the defendant was not given reasonable time and a fair opportunity to arrange for his or her defence.

The provisions of subsections 2–4 of section 6 of this chapter apply to enforcement of judgements.

The provisions of subsections 1 and 2 apply, unless otherwise provided by European Union law or any international treaty binding on Finland.

### **Section 10 (1401/2019)**

#### **Recognition and enforcement of judgements on damage caused by hazardous and noxious substances**

Any judgement on compensation for damage caused by hazardous and noxious substances referred to

Chapter 11 rendered in another State Party to the HNS Convention which has become final and enforceable therein shall be enforced in Finland, if the court of the State Party concerned had jurisdiction over the matter under the said Convention. There shall be no review of the merits of the judgement given. Notwithstanding, no judgement may be recognised nor enforced where it was obtained by fraud or where the defendant was not given reasonable time and a fair opportunity to arrange for his or her defence.

The provisions of subsections 2–4 of section 6 apply to enforcement of judgements.

The provisions of subsections 1 and 2 apply, unless otherwise provided by European Union law or any international treaty binding on Finland.

*Section 10 as added by Act 1401/2019 enters into force on a date to be specified by decree.*

## **Chapter 22a (482/2017)**

### **Inspections and evaluations**

#### **Section 1 (482/2017)**

##### **Audits and evaluations by the International Maritime Organisation**

The International Maritime Organisation is entitled to evaluate and audit how Finland is complying with and implementing the international shipping obligations based on international conventions on shipping and the resolutions by the International Maritime Organisation. In order to carry out this function, the International Maritime Organisation is entitled to conduct audits on all premises under the jurisdiction of the state.

The Ministry of Transport and Communications is responsible for cooperation between the Finnish Government and the International Maritime Organisation and for the arrangements of the above-mentioned audits in Finland.

#### **Section 2 (482/2017)**

##### **Inspections by the European Commission and the European Maritime Safety Agency**

The European Commission and the European Maritime Safety Agency are entitled to conduct inspections in accordance with the policy determined by the Administrative Board of the European Maritime Safety Agency and review the operations of the Finnish public authorities to comply with and implement European Union regulations on maritime safety, marine environment and maritime security.

The Ministry of Transport and Communications is responsible for the general arrangements of the inspections by the European Maritime Safety Agency in Finland.

The general arrangements for inspections concerning safety investigations in Finland are the responsibility of the Safety Investigation Authority.

## **Chapter 23**

### **Miscellaneous provisions**

#### **Section 1 (862/2017)**

Section 1 was repealed by Act 862/2017.

#### **Section 2**

##### **Special Drawing Right**

For the purposes of this Act, *Special Drawing Right (SDR)* refers to the Special Drawing Right as defined by the International Monetary Fund.

Special Drawing Rights shall be converted into the Finnish currency according to the exchange rate at the date on which security for liability is provided or, if no security is provided, on which payment is made. Notwithstanding, the amounts of liability referred to in section 15 of chapter 15 above are converted at the rate on the date of payment. In conversion, the value of the Finnish mark shall be determined in accordance with the method of evaluation applied by the International Monetary Fund in effect at the date in question for its operations.

#### **Section 3 (991/2018)**

##### **Competent authority**

The Finnish Transport and Communications Agency functions as the competent national authority referred to in the Conventions and Resolutions of the International Maritime Organisation, unless otherwise provided in this or another act.

## **Chapter 24**

### **Transitional provisions and entry into force**

#### **Section 1**

##### **Entry into force**

This act enters into force on a date to be specified by decree.

This Act repeals the Maritime Act of 9 July 1939 (167/1939), as amended.

Notwithstanding, the decrees issued by virtue of the repealed Act remain in force, unless otherwise provided by decree.

*This Act entered into force in accordance with Decree 677/1994 on 1 October 1994.*

#### **Section 2**

##### **Transitional provisions**

The provisions of law in force at the time of the entry into force of this Act apply to contracts for the carriage of goods concluded before the Act's entry into force. However, where a bill of lading or sea waybill is issued under such contract after the entry into force of this Act, this Act shall apply in respect of a third party.

Notwithstanding, the provisions of this Act apply to contracts for the carriage of passengers concluded before this Act's entry in force if the occurrence on which liability is based took place after this Act's entry into force.

#### **Section 3**

##### **Reference provision**

Any reference elsewhere in legislation to the provisions of the repealed Act shall be taken to mean a reference to the corresponding provisions of this Act.