

**NB: Unofficial translation**

# **Tort Liability Act**

(412/1974)

## **Chapter 1 — Scope of application**

### Section 1

This Act applies to liability for damages. However, unless otherwise provided in this or another Act, this Act does not apply to liability for damages under contract or as provided in another Act.

## **Chapter 2 — Liability of the person causing injury or damage**

### Section 1

- (1) A person who deliberately or negligently causes injury or damage to another shall be liable for damages, unless otherwise follows from the provisions of this Act.
- (2) The damages may be adjusted if the liability is deemed unreasonably onerous in view of the financial status of the person causing the injury or damage and the person suffering the same, and the other circumstances. However, if the injury or damage has been caused deliberately, full damages shall be awarded unless it is deemed that there are special reasons for a reduction in the damages.

### Section 2

If the injury or damage has been caused by a person under eighteen years of age, he/she shall be liable for damages to an amount that is deemed reasonable in view of his/her age and maturity, the nature of the act, the financial status of the person causing the injury or damage and the person suffering the same, and the other circumstances.

### Section 3

An insane, retarded or mentally disturbed person shall be liable for damages for injury or damage that he/she has caused to an amount that is deemed reasonable in view of his/her condition, the nature of the act, the financial status of the person causing the injury or damage and the person suffering the same, and the other circumstances. However, a temporary, self-inflicted mental disturbance of the person causing the injury or damage shall not in itself be deemed a reason for reducing his/her liability for damages.

## Chapter 3 — **Vicarious liability of employers and public corporations**

### Section 1

- (1) An employer shall be vicariously liable in damages for injury or damage caused by an employee through an error or negligence at work. A person shall also be deemed to be an employer where he/she assigns work to an independent entrepreneur who, in view of the permanent nature of the assignment, the nature of the work and the other circumstances is to be paralleled an employee.
- (2) The provisions in paragraph (1) on an employer apply correspondingly to the state, a municipality and another public corporation or institution where the injury or damage has arisen through an error or negligence on the part of an employee of the public corporation, a public official or a person in a comparable service relationship with the public corporation in activities that are not to be deemed the exercise of public authority.
- (3) If a person who on orders of the authorities, as an elected official or on assignment for another is performing a statutory task or a task in employment-like circumstances, and not as independent entrepreneur, causes injury or damage through an error or negligence, the party on whose behalf the task was being performed shall be liable for damages. If a student in an educational establishment causes injury or damage through an error or negligence while at work pertaining to the instruction, or if a patient in an institution causes comparable injury or damage while at work therapy, the

party on whose behalf the work was being performed shall likewise be liable for damages. (1423/1991)

## Section 2

- (1) A public corporation shall be vicariously liable in damages for injury or damage caused through an error or negligence in the exercise of public authority. The same liability shall apply also to other corporations that perform a public task on the basis of an Act, a Decree or an authorisation given in an Act.
- (2) However, the liability of the corporation referred to in paragraph (1) arises only if the performance of the activity or task, in view of its nature and purpose, has not met the reasonable requirements set for it.

## Section 3 (repealed by 857/1978)

## Section 4

If a person who has suffered injury or damage owing to an erroneous decision by a state or municipal authority has without an acceptable reason failed to appeal against the said decision, he/she shall not be entitled to damages from the state or the municipality for injury or damage that could have been avoided by appealing.

## Section 5

- (1) No action for damages can be brought for injury or damage caused by a decision of the Government, a Ministry, the Cabinet Office, a court of law or a judge, unless the decision has been amended or overturned or unless the person committing the error has been found guilty of misconduct or rendered personally liable in damages. Where a decision of an administrative authority has been appealed against in the Government or the Supreme Administrative Court, no action in damages can be brought for injury or damage caused by the decision in so far as it has been allowed to stand.

## Section 6

If the liability in damages referred to in this chapter is deemed manifestly unreasonable or if, in view of the extent of the injury or damage and the other circumstances, there is a special reason for the same, the damages may be adjusted.

## Section 7

The state and the municipalities shall not be liable in damages for injury or damage caused in maritime piloting.

## Chapter 4 — **Liability of employees and public officials**

### Section 1

- (1) An employee shall be liable in damages for injury or damage caused by him/her through an error or omission at work to an amount deemed reasonable in view of the extent of the injury or damage, the nature of the act, the status of the person causing the injury or damage, the needs of the person suffering the same, and other circumstances. If the negligence of the employee has been merely slight, he/she shall not be rendered liable in damages. The same applies if the injury or damage is caused by an independent entrepreneur, as referred to in chapter 3, section 1(1). If a student in an educational establishment causes injury or damage while at work pertaining to the instruction, he/she shall be liable for damages in accordance with the provisions in this section. The same applies to the liability for damages for injury or damage caused by a patient in an institution while undergoing work therapy or by a prisoner while undertaking prison work. (1423/1991)
- (2) If the injury or damage has been caused deliberately, full damages shall be awarded unless it is deemed that there are special reasons for reducing the damages.
- (3) Separate provisions apply to the liability for damages of an employee towards the employer for injury or damage caused at work. (1423/1991)

## Section 2

- (1) A public official shall be liable for damages for injury or damage caused by him/her through an error or omission at service in accordance with the provisions in section 1 of this chapter. (1423/1991)
- (2) A person acting on orders based on the National Service Act (452/1950) or other comparable orders shall be liable for damages in the same manner as a public official. The provisions in chapter 2 apply to the liability for damages towards the state for damage to or loss of equipment given to the personal use of conscripts or civilian servicemen, where this is not proven to have arisen while on duty. (373/1979)
- (3) A person subject to military criminal provisions and in charge of the safety of a state vessel or aircraft shall not be liable for damages towards the state for damage caused negligently to the vessel or aircraft under his/her control, unless criminal charges are brought against him/her for the act in question, or if no penalty is passed on him/her for the act or if he/she is sentenced only to a disciplinary punishment or a fine. (1423/1991)
- (4) The provisions in section 1 apply to the liability for damages of an elected official of a public corporation, for injury or damage caused in office. The same provisions apply also if another person, while not in a service relationship to a public corporation referred to in chapter 3, section 2, causes injury or damage in the exercise of public authority. (1423/1991)

### Section 3 (1423/1991)

A person liable in damages under this chapter may be rendered liable towards a party liable under chapter 3 for the recovery of payments made by that party in accordance with that chapter and chapter 6, section 2; this liability shall be subject to the provisions in section 1 of this chapter.

## Chapter 5 — **Damages**

### Section 1

Damages shall constitute compensation for personal injury and damage to property. Where the injury or damage has been caused by an act punishable by law or in the exercise of public authority, or in other cases, where there are especially weighty reasons for the same, damages shall also constitute compensation for economic loss that is not connected to personal injury or damage to property.

### Section 2

A person who has suffered a bodily injury or other personal injury shall be entitled to damages to cover medical costs and the other costs arising from the injury, as well as loss of income and maintenance, pain and suffering, invalidity and other permanent handicap.

### Section 3

Damages covering funeral expenses as well as the other burial costs of a person who has died shall be paid to a reasonable amount.

### Section 4

If a person entitled to maintenance or child support is deprived of the necessary maintenance because the person liable for maintenance has died, he/she shall be awarded damages to an amount that is needed until such time that he/she can support himself/herself, taking into account the assets

and circumstances of the person liable for damages. The damages may be ordered payable as a lump sum or in instalments.

#### Section 4a (61/1999)

- (1) The parents, children and spouse of a person who has died, as well as another comparable person who was especially close to that person, shall be entitled to damages for the anguish arising from the death, if the death has been caused deliberately or by a grossly negligent act and if the awarding of the damages is deemed reasonable in view of the close relationship between the deceased and the person seeking the damages, the nature of the act, and other circumstances.
- (2) The provisions in paragraph (1) shall not restrict the right of a close relation to damages for personal injury under section 2 of this chapter.

#### Section 5

Damages for property damage shall cover the costs of repair of the damaged object, the other costs arising from the damage, the reduction in value or the value of an object that has been destroyed or lost, as well as the loss of income and maintenance.

#### Section 6

The provisions of this Act on personal injury apply also to damages for the anguish arising from an offence against liberty, honour or the domestic peace or from another comparable offence.

### Chapter 6 — **Allocation of liability**

#### Section 1

If there has been a contribution to the injury or damage from the side of the person sustaining it or if a circumstance external to the act giving rise to the injury or damage has also been involved, the damages may be adjusted as is reasonable.

## Section 2

Where the injury or damage has been caused by two or more persons, or they otherwise are liable in the same damages, the liability shall be joint and several. However, a person who has not been rendered liable in full damages shall be liable only to the amount of the award, and a person who is liable in accordance with the provisions in chapter 4, section 1(1) shall be liable only to the amount not recoverable from the party liable under chapter 3.

## Section 3

- (1) The damages payable shall be allocated to those liable as is deemed reasonable in view of the guilt apparent in each person liable, the possible benefit accruing from the event and other circumstances.
- (2) A person who has paid damages beyond his/her allocated share shall have the right to recover from the other persons liable the amount paid on behalf of that person. If one of the persons liable is evidently insolvent or if his/her whereabouts are unknown, the others shall also be liable for their share of the shortfall.

## Chapter 7 — **Miscellaneous provisions**

### Section 1

A term in a contract of employment or other contract, a term in rules of service or other comparable stipulation increasing the liability in damages of an employee or a public official from that provided in this Act shall be void.

### Section 2

A claim for damages shall be made within ten years of the occurrence of the injury or damage, unless a shorter limitation period has been prescribed. If the injury or damage has been caused by a criminal offence and the limitation period for the bringing of charges for that offence is longer, the claim for damages may also be made within that longer limitation period.

### Section 3

If the person suffering the injury or damage has died, the parties to the estate shall not have the right to bring an action for damages for anguish, pain and suffering, invalidity or other permanent handicap.

### Section 4

- (1) An action for damages under this Act against a public corporation shall be brought in civil proceedings in the district court in whose jurisdiction the act giving rise to the injury or damage was carried out, the omitted act should have been carried out or the injury or damage occurred. If no competent court can be determined on the basis of the above provision, the action shall be brought in the District Court of Helsinki. An action against the state can also be brought in the district court in the residence of the plaintiff.
- (2) The provisions in paragraph (1) shall not preclude a claim for damages from a public corporation in criminal proceedings.

### Section 5 (1423/1991)

In court proceedings concerning a claim for damages under chapter 3 or 4 of this Act, a party whose liability is governed by the provisions in the said chapters, but who has not been named as a defendant, shall be reserved an opportunity to be heard in the matter.

*Entry into force:* This Act enters into force on 1 September 1974. It repeals chapter 9 of the Penal Code and section 47(2) and (5) and section 49 of the Military Criminal Code, as later amended.

If an Act or a Decree contains a reference to a provision superseded by a provision in this Act, the latter shall be applied.

Damages for injury or damage occurring before the entry into force of this Act shall be subject to the previous provisions.