

Translation from Finnish

Legally binding only in Finnish and Swedish

Ministry of Transport and Communications, Finland

Ship Safety Control Act

(370/1995; amendments up to 1518/2019 included)

By decision of Parliament, the following is enacted:

Chapter 1

General provisions

Section 1

Scope of application

This Act contains provisions on the monitoring of compliance with the provisions on the safety of ships.

Section 2 (55/2002)

Definitions

For the purposes of this Act and the Decrees issued under it: (543/2004)

- 1) *Safety of ship* shall mean the seaworthiness and safe operation of ships, ship security and arrangements for the safe operation of ships, the shipowner's safety management system, living and working conditions on board, and the prevention of pollution from ships. (1138/2010)
- 2) *Domestic voyages* shall mean voyages between domestic ports. Voyages to Vyborg via the Saimaa Canal and its connecting Russian territorial waters, and voyages between Vichrevoy and Vyborg are considered equivalent to domestic voyages. (1138/2010)
- 3) *Shipowner* shall mean the ship owner or company, any other organisation or person such as the manager who, either on his own or together with others, has assumed effective control in matters relating to the safety of the ship; under this Act, a person who under an agreement or otherwise has assumed effective responsibility for matters relating to the safety of the ship is considered to be equal to a shipowner. (1138/2010)
- 4) *Inspection Directive* shall mean Directive (EU) 2017/2110 of the European Parliament and the Council on a system of inspections for the safe operation of ro-ro passenger ships and high-speed passenger craft in regular service and amending Directive 2009/16/EC and repealing Directive 1999/35/EC. (170/2019)

5) *International conventions* shall mean:

- a) the International Convention for the Safety of Life at Sea, 1974, as amended (*SOLAS Convention*); (170/2019)
- b) the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973, (*MARPOL 73/78 Convention*);
- c) the International Convention on Standards of Training, Certification for Seafarers, 1978, (*STCW Convention*);
- d) the Convention on the International Regulations for Preventing Collisions at Sea, 1972, (*COLREG*);
- e) the International Convention on Tonnage Measurement of Ships, 1969;
- f) the Merchant Shipping (Minimum Standards) Convention, 1976 (ILO No 147);
- g) the Protocol of 1992 to Amend the International Convention on Civil Liability for Oil Pollution Damage, 1969;
- h) the 1966 International Load Line Convention;
- i) the Maritime Labour Convention, 2006;
- j) the International Convention on the Control of Harmful Anti-fouling Systems on Ships, 2001;
- k) the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001;
- l) the Nairobi International Convention on the Removal of Wrecks, 2007 (Nairobi Convention). (861/2016)
- m) the 2010 Protocol to the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, 1996 (1400/2019)

(1403/2019)

Paragraph 5 as amended by Act 1403/2019 will enter into force on a date determined by government decree.

6) *Non-SOLAS Directive* shall mean Directive 2009/45/EC of the European Parliament and of the Council on safety rules and standards for passenger ships, in its up-to-date version. (170/2019)

7) *Ro-ro passenger ship* shall mean a passenger ship carrying more than 12 passengers, having ro-ro cargo spaces or special category spaces, as defined in Regulation II-2/A/2 contained in Annex I of the Non-SOLAS Directive. (1138/2010)

8) *High-speed passenger craft* shall mean a high-speed craft as defined in Regulation 1 of Chapter X of the SOLAS Convention and carrying more than 12 passengers.

9) *Passenger* shall mean every person other than the master and the members of the crew or other persons employed or engaged in any capacity on board a ship on the business of that ship; and a child under one year of age. (1138/2010)

10) *High-speed Craft Code* shall mean the International Code for Safety of High-Speed Craft contained in IMO Resolution MSC.36(63) of 20 May, 1994, (the 1994 HSC Code) and in IMO Resolution MSC.97(73) of 5 December 2000 (the 2000 HSC Code), as amended. (170/2019)

11) *Regular service* shall mean a series of crossings operated so as to serve traffic between two or more ports, or a series of voyages from and to the same port without intermediate calls, either in accordance with a published timetable or with crossings so regular or frequent that they constitute a recognisable systematic series.

12) *Certificates* shall mean:

a) for ships engaged on international voyages, the certificates issued under international conventions by the flag State or on behalf of the flag State and, where appropriate, exemption certificates and permits to operate; (1138/2010)

b) for ro-ro passenger ships and high-speed passenger craft engaged on domestic voyages, the safety certificates issued in accordance with the Non-SOLAS Directive together with the relevant attached records of equipment and, where appropriate, exemption certificates and permits to operate.

13) *Exemption certificate* shall mean a certificate issued under Regulation I B/12(a) (vii) of Chapter I of the Annex to the SOLAS Convention. (1138/2010)

14) *Administration of the flag State* shall mean the competent authorities of the State whose flag a ship is entitled to fly. (1138/2010)

Paragraph 15 was repealed by Act 170/2019.

16) *International voyage* shall mean a voyage by sea from a Finnish port to a port outside Finland, or conversely.

17) *Domestic voyage* shall mean a voyage in sea areas from a Finnish port to another Finnish port or to the same Finnish port. (1138/2010)

18) *Classification Society Regulation* shall mean Regulation (EC) No 391/2009 of the European Parliament and of the Council on common rules and standards for ship inspection and survey organisations. (1504/2011)

19) *Recognised organisation* shall mean a classification society or any other private organisation which is entrusted with statutory tasks on behalf of the flag state. (1504/2011)

20) *PSC Directive* shall mean Directive 2009/16/EC of the European Parliament and of the Council on port State control. (1138/2010)

- 21) *Flag State* shall mean the state whose flag a ship is entitled to fly. (1138/2010)
- 22) *Paris MOU* shall mean the Memorandum of Understanding on Port State Control, signed in Paris on 26 January 1982, in its up-to-date version. (1138/2010)
- 23) *Expanded inspection* shall mean an inspection which covers the items listed in Annex VII of the PSC Directive. An expanded inspection may include a more detailed inspection whenever there are clear grounds for it in accordance with Article 13(3) of the PSC Directive. (1138/2010)
- 24) *Initial inspection* shall mean an inspection of a ship in order to check, in accordance with Article 13(1) of the PSC directive, compliance with the relevant Conventions and regulations. (1138/2010)
- 25) *Classification certificate* shall mean a document confirming compliance with the SOLAS Convention, Chapter II-1, Part A-1, Regulation 3-1. (1138/2010)
- 26) *More detailed inspection* shall mean an inspection where the ship, its equipment and crew as a whole or, as appropriate, parts thereof are subjected, in the circumstances specified in Article 13(3) of the PSC Directive, to an in-depth examination covering the ship's construction, equipment, manning, living and working conditions and compliance with on-board operational procedures. (1138/2010)
- 27) *Ship/port interface* shall mean the interactions that occur when a ship is directly and immediately affected by actions involving the movement of persons or goods or the provision of port services to or from the ship. (1138/2010)
- 28) *Ship at anchorage* shall mean a ship in a port or another area within the jurisdiction of a port, but not at berth, carrying out a ship/port interface. (1138/2010)
- 29) *Detention* shall mean the formal prohibition for a ship to proceed to sea due to established deficiencies which, individually or together, make the ship unseaworthy. (1138/2010)
- 30) *Stoppage of an operation* shall mean a formal prohibition for a ship to continue an operation due to established deficiencies which, individually or together, would render the continued operation hazardous. (1138/2010)
- 31) *Refusal of access order* shall mean an order issued to the master of a ship, to the shipowner and to the flag State notifying them that the ship will be refused access to all Finnish ports and anchorages. (1138/2010)
- 32) *Night time* shall mean the period between 10 pm and 6 am. (1138/2010)
- 33) *Complaint* shall mean any information or report submitted by any person or organisation with a legitimate interest in the safety of the ship, including an interest in safety or health hazards to its crew, on-board living and working conditions and the prevention of pollution. (1138/2010)

34) *Paris MOU region* shall mean the geographical area in which the signatories to the Paris MOU conduct inspections in the context of the Paris MOU. (1138/2010)

35) *Inspection database* shall mean the information system in which data related to inspections carried out in the EU and the Paris MOU region in accordance with the PSC Directive, Inspection Directive and Paris MOU are entered. (170/2019)

36) *HSSC* shall mean the IMO Survey Guidelines under the Harmonized System of Survey and Certification, in its up-to-date version. (170/2019)

Section 3

Other legislation

Provisions issued in and under the Act on the Technical Safety and Safe Operation of Ships (1686/2009) and the Act on Ships' Crews and the Safety Management of Ships (1687/2009) apply to the seaworthiness and safe operation of ships and their arrangements, the shipowner's safety management system, and the survey of ships. (1679/2009)

In addition, provisions on the monitoring of compliance with the provisions on the prevention of pollution from ships are laid down in the Act on Environmental Protection in Maritime Transport (1672/2009). (1679/2009)

Separate provisions apply to occupational health and safety and inspections carried out by the occupational health and safety authorities.

Provisions on ship and port facility security and the monitoring of it are laid down in Regulation (EC) No 725/2004 of the European Parliament and of the Council on enhancing ship and port facility security and in the Act on the Security of Certain Ships and Associated Port Facilities and on Monitoring Maritime Security (485/2004). (1138/2010)

Provisions on marine equipment the conformity assessment of which is specified internationally are laid down in the Act on Marine Equipment (1503/2011). (1504/2011)

Section 4

Application of the Act to ships and shipowners

This Act applies to:

- 1) ships engaged in merchant shipping in Finnish waters and to Finnish ships engaged on international voyages, and to crews of such ships (1138/2010);
- 2) to Finnish shipowners referred to in paragraph 1 and to foreign shipowners engaged in merchant shipping in Finnish waters.

This Act applies to government-owned and municipally owned vessels and the shipowners of such vessels, where applicable. However, the Act does not apply to vessels belonging to the Finnish Defence Forces or the Finnish Border Guard, unless they are used for public-service transport of passengers or cargo.

Chapter 2

Government authorities and their tasks (1138/2010)

Section 5 (170/2019)

Competent authority

The Finnish Transport and Communications Agency is the competent authority referred to in this Act.

The competent authority monitors compliance with the provisions on the safety of ships and is responsible for inspections, notifications and the provision and exchange of information required under the PSC Directive and the Inspection Directive.

The officers of the competent authority are the inspectors referred to in this Act.

Inspections under the PSC Directive and the Inspection Directive may be performed by inspectors meeting the requirements of Annex XI to the PSC Directive. Inspectors shall hold identity cards, issued by the competent authority, containing the information required by Commission Directive 96/40/EC establishing a common model for an identity card for inspectors carrying out port State control, and proving that the said person is authorised to carry out inspections.

Section 6 (1138/2010)

Rights of inspectors

The inspector has a right to: (1138/2010)

- 1) embark, at any time, a ship submitted to control under this Act;
- 2) access documents and records that, under national provisions on the safety of ships or under international conventions on the operation of ships that are binding on Finland, shall be kept by the shipowner or the master, and obtain copies of such documents and records;
- 3) receive information and assistance from the master and any other person serving on board in order to be able to perform such an inspection;
- 4) use expert assistance whenever necessary for the performing of the inspection;
- 5) use the assistance of a classification society authorised by the competent authority when inspecting the arrangements for the safe operation of the ship and the shipowner's safety management system; (1138/2010)
- 6) carry out an onboard inspection or verification to the extent necessary if the ship does not carry the documents or records referred to in paragraph 2 or whenever there are clear grounds for assuming that the ship is unseaworthy or does not otherwise meet national provisions relating to safety or provisions laid down in international conventions that are binding on Finland;
- 7) perform an inspection to ensure that the crew is capable of carrying out the tasks that are essential for the safety of the ship; and

8) inspect the owner's safety management system to the extent required by the safety of the ship.

Section 7 (170/2019) **Shipboard inspections**

Safety inspections must be carried out as frequently and efficiently as required for control purposes and as frequently and efficiently as required under international conventions that are binding on Finland, EU legislation or national law.

Whenever the flag State of a ship has not ratified the STCW Convention the inspector shall verify the competence of the ship's crew. Crew competence shall also be verified whenever there are clear grounds for assuming that the watchkeeping requirements of the STCW Convention are not complied with.

In addition, the inspector shall verify the communication skills and language proficiency of the crews of foreign passenger ships and tankers to ensure that they are able to exchange safety information amongst themselves and to exchange information with shore-based authorities. The inspector shall also ensure that the persons designated to assist passengers in emergencies on foreign passenger ships are able to provide passengers with enough information in such a situation.

Safety inspections and detentions shall be carried out in a manner ensuring that they meet the objectives of the measure without causing unnecessary disruption of ship operations. In planning shipboard inspections, the competent authority shall take due account of the service and maintenance schedule of the ship. The shipowner or master shall be notified of safety inspections. Their absence will not prevent such an inspection from being carried out.

Section 8 (170/2019) **Inspection report**

The inspector shall draw up an inspection report on every safety inspection. The master shall be provided with a copy of the inspection report.

The inspector shall transfer the information related to the reports drawn up in accordance with Annex IX to the PSC Directive regarding inspections under the Inspection Directive and the PSC Directive to the inspection database within 24 hours of the ship's actual time of departure. The competent authority is responsible for ensuring that the information transferred to the inspection database is validated within 72 hours of the completion of the inspection.

Section 9 (950/2018) **Authorities providing executive assistance**

Port authorities, Customs, Border Guard, police, occupational health and safety authorities, the Finnish Defence Forces and the Finnish Transport Infrastructure Agency, each in their own sphere of authority, have, on request, a duty to provide the Finnish Transport and Communications Agency with executive assistance. Provisions on the executive assistance provided by the Border Guard are laid down in the Border Guard Act (578/2005).

In case of an attempt to prevent or interfere with an inspection or related measure referred to in this Act, the police shall give executive assistance for carrying out the inspection.

Further provisions on the procedure for requesting or giving executive assistance may be issued by the Government.

Section 9a (577/2018)

Duty of vessel traffic service provider to assist competent authority

The vessel traffic service provider referred to in the Vessel Traffic Service Act (623/2005) is obliged to provide information or other assistance to the competent authority carrying out an inspection.

Chapter 3

Verification of the safety of ships and pre-notification to the competent authority (543/2004)

Section 10

Document control

A ship is deemed to meet the national safety provisions and the safety requirements of international conventions that are binding on Finland if it carries on board valid certificates of survey and safety and other certificates required under these provisions and conventions and unless there are clear grounds for assuming that the condition of the ship does not comply with the information provided in the documents.

Section 11 (877/2014)

Inspection or verification of ships

A ship shall be subject to an inspection or verification if it does not carry the documents referred to in section 10 or if there are clear grounds for assuming that the condition of the ship does not substantially comply with the information in the documents.

A more detailed inspection in accordance with the PSC Directive shall be carried out on board a foreign ship, if after an inspection referred to in subsection 1, there are clear grounds for assuming that the condition of the ship or of its equipment does not substantially meet the relevant requirements. A more detailed inspection shall likewise be carried out on board a foreign ship the flag state of which is not a party to an international convention referred to in section 2, paragraph 5. The competent authority shall inform the occupational health and safety authorities of the deficiencies in accordance with the provisions of the Act on the Working and Living Environment and Catering for Seafarers on Board Ships (395/2012), and the national maritime labour market organisations, if substantial deficiencies are discovered in the living and working conditions of the crew or if a complaint referred to in section 20 of this Act has been made.

If it is not possible to verify the safety of the ship from documents, because such documents do not exist, by reason of the international conventions obliging the ship

to carry the documents referred to in section 10 not being binding on the ship's flag State or by reason of the ship not coming under the conventions, it must be verified during the inspection that the safety of the ship does not substantially differ from what is required for a similarly-sized Finnish ship used in similar service.

Section 11a (170/2019) **Pre-notification**

The master or owner of a ship which, in accordance with Article 14(1) of the PSC Directive, is eligible for an expanded inspection is responsible for submitting the information referred to in Annex III to the said Directive on the ship and its call to the competent authority. The information shall be submitted via the PortNet system at least three days before the expected time of arrival in the port or anchorage or before leaving the previous port or anchorage if the voyage is expected to take fewer than three days. The ship's representative or agent is responsible for entering information on the ship's actual time of arrival and departure to the PortNet system.

On receipt of a pre-notification provided by a ship eligible for an expanded inspection, the competent authority shall inform the master or shipowner if no expanded inspection will be carried out.

The obligation to submit a pre-notification does not apply to ro-ro passenger ships nor high-speed passenger craft in regular service inspected in accordance with Article 14a of the Inspection Directive.

Section 11b (170/2019) **Expanded inspection**

A ship which is eligible for an expanded inspection referred to in the PSC Directive shall be subject to such an inspection if it meets the conditions specified in Annex I, Part II 3A and 3B, to the Directive.

Ro-ro passenger ships and high-speed passenger craft inspected in accordance with Article 14a of the Inspection Directive are not submitted to expanded inspections.

Without prejudice to control measures provided in the Act on the Security of Certain Ships and Associated Port Facilities and on Monitoring Maritime Security, the ship shall remain in the port until the inspection is completed.

Section 11c (170/2019) **Mandatory inspection**

The competent authority shall carry out a mandatory periodic inspection of a Priority I ship in accordance with Annex I, Part II 1, to the PSC Directive.

A ship shall be subject to the inspection, regardless of its risk profile, whenever any overriding factor specified in Annex I, Part II 2A, to the PSC Directive applies.

The competent authority shall deem a ro-ro passenger ship or a high-speed passenger craft to be a Priority I ship, if the ship or craft has not been inspected in accordance with Annex XVII, paragraph 2, to the Inspection Directive.

Section 11d (1138/2010) **Postponement of mandatory inspections**

The competent authority may postpone a mandatory inspection referred to in section 11c, if:

- 1) the inspection may be carried out in a Finnish port or anchorage within 15 days and the ship does not call at any other port in the EU or the Paris MOU region in between;
- 2) the inspection may be carried out in another port of call within the EU or the Paris MOU region within 15 days and the State in which such port of call is located has agreed in advance to perform the inspection;
- 3) the ship calls at an anchorage only and the competent authority has made sure that the ship will be inspected within 15 days in another port of call in the EU or the Paris MOU region.

The competent authority shall record the postponement of the inspection in the inspection database.

Section 11e (1138/2010) **Exceptional circumstances**

The competent authority may choose not to perform a mandatory inspection in accordance with the PSC Directive, if:

- 1) in its judgement the conduct of the inspection would create a risk to the safety of the inspector, the ship, its crew or to the port, or to the marine environment;
- 2) the ship call takes place during night time and the ship is not in regular service;
- 3) the ship call takes place only during night time or the duration of its port call or anchorage is too short for the inspection to be carried out satisfactorily.

The competent authority shall record the reason for missing the inspection in the inspection database.

Chapter 4 **Coercive measures and sanctions**

Section 12 **Deficiencies in ship safety**

If it is established by inspection or otherwise that a ship does not in all respects comply with the national ship safety provisions or fulfil the requirements of the international conventions that are binding on Finland or that the shipowner or the master of the ship does not otherwise comply with the above provisions or conventions, the competent authority shall, after having conducted negotiations with the shipowner or the master of the ship, issue appropriate instructions for rectifying the deficiencies.

If the shipowner is unwilling to cooperate or the matter cannot be delayed, the competent authority may, after hearing the parties concerned, order the shipowner or the master to carry out the necessary measures for rectifying the deficiency within a given time limit. If the decision applies to a foreign ship, the hearing of the master in connection with the inspection is considered as the hearing of the parties concerned.

Section 13 (950/2018) **Conditional fine and threat of suspension**

The Finnish Transport and Communications Agency may reinforce an order issued in accordance with section 12, subsection 2, with a conditional fine or a threat of suspending the shipowner's operations. The conditional fine and the threat of suspension may be imposed on the shipowner or his agent, or both. Provisions in the Penalty Fine Act (1113/1990) apply to the conditional fine and the threat of suspension.

If the competent authority has clear grounds for suspecting that the shipowner is trying to avoid adhering to the order by withdrawing the ship from service in Finland, the Finnish Transport and Communications Agency may order the shipowner to give a financial security equivalent to the conditional fine before the ship leaves the Finnish port. The security deposit shall be restituted to the shipowner after the measure ordered by the competent authority has been taken.

Section 14 (877/2014) **Detention, restriction of operation and stoppage of the use of equipment, installations, routines or arrangements on board**

If the deficiencies in the safety of a ship are of such nature that the ship's operation in the service for which it is intended poses an immediate risk to the ship or its crew, human life or a substantial health risk or a substantial risk for other ships or the marine environment, the competent authority shall issue a detention order, a restriction of operation order or a stoppage of operation order regarding a piece of equipment, an installation, a routine or arrangement until the deficiency has been rectified. The written order shall be reasoned and all the circumstances that have led to the detention shall be mentioned.

The competent authority may likewise issue an order referred to in subsection 1 if the shipowner or master of the ship tries to prevent an inspection or if the competent authority is denied access to the documents or records that it has a right to obtain under section 6 or if the shipowner or master of the ship does not rectify the deficiency within the time limit imposed by the competent authority.

A detention order, a restriction of operation order and a stoppage of operation order shall be observed immediately. The master of the ship and, in the case of a foreign ship, the flag State administration or the Consul or the nearest diplomatic representative of that State must be notified of the decision without delay. The inspection report shall be attached to the notification. The nominated surveyor or the recognised organisations responsible for the issue of classification certificates shall likewise be notified where relevant. The competent authority shall summon a representative of the flag State administration, if the decision on detention of the ship is based on substantial deficiencies in the living and working conditions on

board. The competent authority shall also inform the national maritime labour organisations of the deficiencies.

Where the deficiencies referred to in subsection 1 cannot be rectified in the port of inspection, the competent authority may allow the ship to proceed to the nearest appropriate repair yard available, as chosen by the master and the authorities concerned, or to the next port of call, provided that the conditions determined by the administration of the flag State and agreed by the competent authority are complied with.

If the decision referred to in subsection 1 is based on substantial deficiencies in the living and working conditions on board, the detention order or restriction of operation order must not be revoked until the deficiencies have been rectified or the plan for rectification of the deficiencies has been approved by the competent authority.

Section 14a (461/1996) **Suspension of operation**

The decision on suspending the operation of a shipowner's service referred to in Article 7 of Council Regulation (EC) No 3051/95 on the safety management of roll-on/roll-off passenger ferries (ro-ro ferries) is made by the appropriate ministry.

Section 14b (543/2004) **Absence of voyage data recorder or documents required under the ISM Code**

The competent authority shall detain a foreign ship that is not equipped with a functioning voyage data recorder when use of such recorder is compulsory in accordance with Directive 2002/59/EC of the European Parliament and of the Council establishing a Community vessel traffic monitoring and information system and repealing Council Directive 93/75/EEC. If the deficiency cannot be readily rectified in the port of detention, the competent authority may either allow the ship to proceed to the appropriate repair yard nearest to the port of detention where it may be readily rectified, or suspend the detention on condition that the deficiency is rectified within a maximum period of 30 days. (1138/2010)

The competent authority shall also detain a foreign ship to which the ISM Code applies if it is established by inspection that the ship does not have a Document of Compliance or Safety Management Certificate issued in accordance with the International Management Code for the Safe Operation of Ships and for Pollution Prevention (*ISM Code*). (1138/2010)

In order to alleviate port congestion, the competent authority may allow that the ship is moved to another part of the port, if it is made safely. (1138/2010)

Section 14c (1138/2010) **First refusal of access order**

The competent authority shall refuse a foreign ship access to its ports and anchorages, if:

1) the ship flies the flag of a State whose detention rate falls into the grey list as published annually by the Commission and has been detained or has been issued with a restriction of operation order under the Inspection Directive twice in the course of the preceding 24 months in a port or anchorage in the EU or the Paris MOU region; or

2) the ship flies the flag of a State whose detention rate falls into the black list as published annually by the Commission and has been detained or has been issued with a restriction of operation order under the Inspection Directive twice in the course of the preceding 36 months in a port or anchorage in the EU or the Paris MOU region.

The competent authority shall, on the shipowner's request, lift the refusal of access order only after a period of three months has passed from the date of issue of the order and the shipowner or company has presented documentary evidence that the conditions in Annex VIII, paragraphs 3 to 9, to the PSC Directive are met.

Section 14d (1138/2010) **Second refusal of access order**

If the competent authority detains a foreign ship in a port or anchorage and the ship previously has been issued one refusal of access order and the conditions specified in section 14c, subsection 1, paragraph 1 or 2 are met, the competent authority shall deny the ship entry to its ports and anchorages.

The competent authority shall, on the shipowner's request, lift the refusal of access order only after a period of twelve months has passed from the date of issue of the order and the shipowner has presented documentary evidence that the conditions in Annex VIII, paragraphs 3 to 9, to the PSC Directive are met.

Section 14e (1138/2010) **Third refusal of access order**

If the competent authority detains a foreign ship in a port or anchorage and the ship previously has been issued two refusal of access orders, the competent authority shall refuse the ship access to its ports and anchorages.

The competent authority shall, on the shipowner's request, lift the refusal of access order only after a period of 24 months has passed from the date of issue of the order, if the shipowner has presented the following documentary evidence:

- 1) The ship flies the flag of a State whose detention rate falls neither into the black list nor the grey list as published annually by the Commission;
- 2) The statutory and classification certificates of the ship are issued by a competent authority or by an organisation recognised in accordance with the Classification Society Regulation in an EU Member State or a State signatory of the Paris MOU; (1504/2011)
- 3) The ship is managed by a company with a high performance as determined by its ships' deficiency and detention rates;

4) The conditions in Annex VIII, paragraphs 3 to 9, to the PSC Directive are met.

Section 14f (1138/2010)
Permanent refusal of access

Any ship not meeting the criteria specified in section 14e, subsection 2, paragraphs 1 to 4 after a period of 24 months has passed from the issue of the third order referred to in section 14e, shall be permanently refused access to Finnish ports and anchorages by the competent authority.

If the competent authority detains a foreign ship in a port or anchorage and the ship has previously been issued three refusal of access orders, the ship shall be permanently refused access to any Finnish port or anchorage.

Section 14g (265/2013)
Expulsion from port and refusal of access in certain other instances

If a foreign ship does not have an insurance certificate referred to in chapter 7, section 3 of the Maritime Code (674/1994) the competent authority may issue an expulsion order to the ship. The order by which the ship is expelled shall be addressed to the shipowner and it shall be adhered to immediately. The Commission and other Member States shall also be notified of the order. The competent authority may, in individual cases decide not to issue an expulsion order, although the reasons for detention are fulfilled, if the shipmaster provides a substantiated reason for the ship not having a certificate or if the shipowner or the shipmaster has taken relevant remedial action approved by the competent authority. In individual cases, the competent authority may also decide not to issue an expulsion order on the grounds laid down in section 14h, subsection 3, i.e. on similar grounds as it may give a ship right of access to port although the grounds for refusal of access exist.

The competent authority shall refuse a foreign ship that proceeds to sea access to ports and anchorages, if the ship does not in the cases referred to in section 14, subsection 4 and Article 21(4) of the PSC Directive meet the conditions set by the competent authority or by the competent authorities in a port of inspection of another Member State or refuses to meet relevant requirements in the Convention by not calling into the indicated repair yard or if another Member State has expelled the ship from port due to lack of a certificate issued by the insurer or the party providing financial security referred to in chapter 7, section 3 of the Maritime Code.

Such refusal shall be maintained until the shipowner provides evidence to the satisfaction of the competent authority of the Member State where the ship was found defective, demonstrating that the ship fully complies with all applicable requirements of the Conventions.

Section 14h (1138/2010)
Procedures for refusal of access

The refusal of access order shall become applicable immediately after the foreign ship has been allowed to leave the port or anchorage where it has been detained and where it has been issued a refusal of access order.

If the competent authority of an EU Member State or a State signatory to the Paris MOU has refused a foreign ship access to its ports or anchorages, the competent authority shall ensure that the ship is not given access to Finnish ports or anchorages.

Although the conditions for refusal of access are met, the competent authority may, by way of derogation, allow a ship to call at a specific port in the event of *force majeure*, or overriding safety considerations, or to have deficiencies rectified or to reduce or minimise the risk of pollution, provided that adequate measures to the satisfaction of the competent authority have been implemented by the shipowner or the master of the ship to ensure safe entry.

Section 15 **Notification for bringing charges**

If there are reasons to suspect that ship safety provisions have been violated, the competent authority shall notify a prosecutor of the matter. (476/2011)

The notification of the matter may be waived if the offence is slight and if it is established that, in light of the circumstances, the act has been the result of excusable negligence or thoughtlessness and there is no need for notification on grounds of public interest.

The competent authority shall be given an opportunity to be heard during the pre-trial investigation and lower court proceedings in a matter that it has notified a prosecutor of.

Section 16 (216/2008) **Ship safety control violation**

A shipowner, his representative, a master of a ship or any other person responsible for the operation of a ship who fails to comply with a decision or an order issued by the competent authority under section 12, subsection 2, or section 14, subsection 2, or a shipowner or a master of a ship who fails to make a pre-notification under section 11a, shall be sentenced to a fine *for a ship safety control violation* unless a more severe penalty for the act is provided elsewhere by law.

Section 17 (643/1999) **Violation of the confidentiality obligation**

The penalty for violating the confidentiality obligation laid down in section 20 is imposed in accordance with chapter 40, section 5 of the Criminal Code unless the act is punishable under chapter 38, section 1 or 2 of the Criminal Code, or unless a more severe penalty for the act is provided elsewhere by law.

Chapter 4a

Ensuring the safety of regular ro-ro passenger ship and high-speed craft passenger services (55/2002)

Section 17a (170/2019)

Scope of application

This chapter applies to ro-ro passenger ships and high-speed passenger craft engaged on a regular service to or from a Finnish port.

However, this chapter does not apply to Class B, C or D passenger ships referred to in section 2, paragraph 38a of the Act on the Technical Safety and Safe Operation of Ships nor vessels that operate exclusively in Finnish inland waters.

Section 17b (170/2019)

Initial inspections

Before a ro-ro passenger ship or high-speed passenger craft starts to operate on a regular service, the competent authority shall verify that it meets the following requirements:

- 1) It carries valid certificates, issued by the administration of the flag State or by a recognised organisation acting on its behalf;
- 2) It has been surveyed for the issue of certificates in accordance with the relevant procedures and guidelines annexed to IMO Assembly Resolution A.746(18) on survey guidelines under the harmonised system of survey and certification, as they stood on 29 April, 1999 or in accordance with procedures designed to achieve the same goal;
- 3) It complies with the classification requirements specified in the rules and regulations of a recognised organisation, or rules accepted as equivalent by the administration of the flag State for construction and maintenance of its hull, machinery, and electrical and control installation; and
- 4) It is fitted with a voyage data recorder.

The competent authority shall also verify that a Finnish ro-ro passenger ship and a ro-ro passenger ship flying the flag of another State signatory meets the requirements laid down in the Agreement concerning specific stability requirements for ro-ro ferries undertaking regular scheduled international voyages between or to or from designated ports in north west Europe and the Baltic Sea (Finnish Treaty Series 20/1997).

Section 17c (170/2019)

Section 17c was repealed by Act 170/2019.

Section 17d (170/2019) **Pre-commencement inspections**

Before a ro-ro passenger ship or high-speed passenger craft starts to operate on a regular service, the competent authority shall carry out a pre-commencement inspection, in accordance with Annexes I and II to the Inspection Directive, to satisfy itself that the ship or craft meets the requirements for safe operation of a regular service.

When requested by the competent authority, the shipowner shall provide evidence of compliance with the requirements of Annex I to the Inspection Directive in advance of but not earlier than 1 month before the pre-commencement inspection.

Section 17e (170/2019) **Exceptions to the pre-commencement inspection obligation**

In the case of pre-commencement inspections, the competent authority may decide not to apply certain requirements or procedures in Annexes I and II to the Inspection Directive relevant to any annual flag State survey or inspection carried out within the previous 6 months, provided that relevant procedures and guidelines for surveys in HSSC or procedures designed to achieve the same goal have been followed. The competent authority shall transfer the relevant information to the inspection database. At the request of the shipowner, the competent authority may confirm in advance that they agree that the previous inspections and surveys are relevant to the new operational conditions.

Section 17d need not be applied when a ro-ro passenger ship or high-speed passenger craft operating on a regular service covered by this chapter is transferred for operation on another regular service where the route characteristics are agreed by the competent authority to be similar, and the ship or craft fulfils all the requirements for safe operation on that service. At the request of the shipowner, the competent authority may confirm in advance that in its view the characteristics of the routes are similar. At the request of the shipowner, the competent authority may confirm in advance that they agree that the previous inspections and surveys are relevant to the new operational conditions.

Where, due to unforeseen circumstances, there is an urgent need for the rapid introduction of a replacement ro-ro passenger ship or high-speed passenger craft to ensure continuity of service, and subsection 2 does not apply, the competent authority may allow the ship or craft to start operating provided that a visual inspection and document check raise no concerns that the ship or craft does not fulfil the necessary requirements for safe operation. In that case, the competent authority shall complete the inspection under section 17d within one month of the replacement.

Section 17f (170/2019) **Regular inspections**

The competent authority shall once in every 12-month period carry out an inspection, in accordance with Annex II to the Inspection Directive, and an inspection during regular service, taking place not before 4 months but not later than 8 months after the inspection in accordance with Annex II to the Inspection Directive. The

inspection shall cover the items listed in Annex III to the Inspection Directive and what, in the professional judgment of the inspector, constitutes a sufficient number of the items listed in Annexes I and II to ensure that that the ship or craft continues to fulfil all the necessary requirements for safe operation.

The inspection in accordance with Annex II to the Inspection Directive may, at the discretion of the competent authority, be carried out at the same time as, or in conjunction with, the annual flag State survey provided that the relevant procedures and guidelines for surveys as specified in HSSC or procedures designed to achieve the same goal are followed.

The competent authority shall carry out an inspection in accordance with Annex II to the Inspection Directive each time the ro-ro passenger ship or high-speed passenger craft undergoes repairs, alterations and modifications of a major character, or when there is a change of management or flag, or a transfer of class. However, in the case of a change of management, or transfer of class, the competent authority may, after taking account of inspections previously carried out in respect of the ship or craft, and provided that the safe operation of the ship or craft is not affected by this change or transfer, exempt the ship or craft from the inspection required by this section.

Section 17g (170/2019) **Cooperation between port States and the flag State**

When applying the provisions of this chapter, the competent authority shall cooperate with the administration(s) of the other port State(s) of the ro-ro passenger ship or high-speed passenger craft operating the regular service and, in case of a non-Finnish ship or craft, with the administration of the flag State. At the request of the flag State, the competent authority shall invite a representative of the flag State to attend the inspection as an observer.

Section 17h (170/2019) **Rectification of deficiencies, prohibition of departure and suspension of inspection**

The competent authority shall ensure that any deficiencies confirmed and revealed by an inspection carried out in accordance with the Inspection Directive are rectified.

Where the deficiencies are clearly hazardous to health or safety or pose an immediate danger to health or life, the ro-ro passenger ship or high-speed passenger craft, its crew and passengers, the competent authority shall ensure that the ship or craft is subject to an order prohibiting its departure.

The prohibition of departure order shall not be lifted until the deficiency has been rectified and until the competent authority has established that the ship or craft can, subject to any necessary conditions, proceed to sea or resume operation without risk to the safety and health of passengers or crew, or risk to the ship or craft or other ships.

If a deficiency referred to in subsection 2 cannot be readily rectified in the port in which the deficiency has been confirmed or revealed, the competent authority may agree to allow the ship or craft to proceed to an appropriate repair yard where the deficiency can be readily rectified.

In exceptional circumstances, where the overall condition of a ro-ro passenger ship or high-speed passenger craft is obviously substandard, the competent authority may suspend the inspection of that ship or craft until the shipowner takes the steps necessary to ensure that the ro-ro passenger ship or high-speed passenger craft is no longer clearly hazardous to safety or health or no longer poses an immediate danger to the life of its crew and passengers or to ensure that it complies with the relevant requirements of applicable international conventions.

Where the competent authority suspends the inspection in accordance with subsection 5, the ro-ro passenger ship or high-speed passenger craft shall be automatically placed under a prohibition of departure order. The prohibition of departure order shall be lifted where the inspection has been resumed and successfully completed and where the conditions set out in subsection 3 have been complied with and full payment has been made or a sufficient guarantee has been given for reimbursement of the costs.

In order to alleviate port congestion, the competent authority may allow a ro-ro passenger ship or high-speed passenger craft subject to a prohibition of departure order to be moved to another part of the port if it is safe to do so. However, the risk of port congestion shall not be a consideration when deciding whether to impose or to lift a prohibition of departure order. Port authorities or bodies shall facilitate the accommodation of such ships.

Section 17i (55/2002) **Contingency plan**

The competent authority shall ensure that the owner of a ro-ro passenger ship or a high-speed passenger craft maintains and implements an integrated shipboard contingency plan for emergencies.

Section 17j (55/2002) **Further provisions on ensuring safety of ro-ro passenger ships and high-speed passenger craft**

Provisions on the following are issued by government decree in connection with what is laid down in this chapter:

- 1) Notification obligations of the competent authority relating to the inspections referred to in this chapter;
- 2) Procedures related to inspections and those participating in them;
- 3) Inspection reports and notification of them;
- 4) Notifications to be made to the European Commission and non-EU Member States in accordance with the Inspection Directive;

- 5) Contingency plans for emergencies;
- 6) Voyage data recorders and exemptions from them.

Chapter 5

Claim for revised decision and appeal (1251/1997)

Section 18 (1518/2019)

Claim for revised decision and appeal

A party not satisfied with a decision made by the competent authority under this Act may submit a claim for a revised decision as laid down in the Administrative Procedure Act (434/2003). A claim for a revised decision on a detention order referred to in sections 14 and 14b of this Act and a refusal of access order referred to in sections 14c to 14h shall be considered without delay.

Provisions on appeal to the Administrative Court are laid down in the Administrative Judicial Procedure Act (808/2009).

The appeal document shall be submitted to the body that has made the revised decision, which shall submit the documents accumulated during the case and its own statement to the appellate authority without delay. The appeal shall be considered without delay.

Section 19 (1138/2010)

Effect of a claim for a revised decision and appeal on the decision

Unless otherwise ordered by the body making the decision on revision or the appellate authority, a claim for a revised decision or appeal does not prevent the following:

- 1) Enforcement of a detention order, restriction of operation order or order to stop the use of equipment, installations, routines or arrangements, referred to in sections 14 and 14b;
- 2) Enforcement of a refusal of access order, referred to in sections 14c to 14h; or
- 3) Enforcement of an order to prohibit the departure of a ro-ro passenger ship or a high-speed passenger craft.

When, as a result of a claim for a revised decision or an appeal, a detention order or refusal of access order made in accordance with the PSC Directive is revoked, the competent authority shall, within 24 hours of such a decision, rectify the information in the inspection database accordingly.

Chapter 6

Miscellaneous provisions

Section 20 (577/2018)

Complaints and keeping the identity of the complainant secret

Complaints regarding violations of ship safety provisions shall, whenever possible, be made to the competent authority in writing. An oral complaint may only be submitted if, on account of the urgency of the matter or for some other reason, it is not possible to submit a written complaint.

The identity of the complainant referred to in subsection 1 shall not be revealed to the master or owner of the ship concerned. If an inspection is carried out based on a complaint, the inspector must not disclose that the inspection is carried out because of a complaint. The inspector shall ensure confidentiality during any interviews of crew members.

The competent authority shall inform the administration of the flag State and, where appropriate, the Finnish occupational health and safety authorities of complaints not manifestly unfounded and of follow-up actions taken. If appropriate, the latter shall inform the International Labour Organisation of such complaints. Where the competent authority deems the complaint to be manifestly unfounded, it shall inform the complainant of its decision and its justification.

The competent authority shall notify the administration of the flag State without delay of any complaint concerning violation of the provisions on seafarers' living and working conditions that has not been resolved on board in accordance with international obligations binding on Finland and request a plan for corrective action. The competent authority shall submit its inspection report concerning such a complaint together with the statement of the flag State to the International Labour Organisation and the national maritime labour market organisations.

If the authorities referred to in section 9 or the vessel traffic service provider or port authority referred to in section 9a, in the course of their normal duties, learn that a ship has apparent anomalies which may prejudice the safety of the ship or poses an unreasonable threat of harm to the marine environment, such authority or body shall immediately inform the competent authority in writing. The information shall be reported in electronic format whenever possible. Oral reports may be submitted, if, on account of the urgency of the matter or for some other reason, it is not possible to submit a written report. The report should contain at least the following information:

- 1) Name of ship;
- 2) IMO identification number;
- 3) Call sign;
- 4) Flag;
- 5) Last port of call;

- 6) Port of destination;
- 7) Description of apparent anomalies found on board.

Section 21 (666/2018)
Handing over confidential information

Notwithstanding the confidentiality obligation laid down in the Act on the Openness of Government Activities (621/1999), information on the financial status of an individual or a corporation, on business or professional secrets, on the state of health of an individual, or on the identity of a complainant referred to in section 20 obtained when carrying out duties laid down in this Act may be given to prosecuting and police authorities for criminal investigation purposes.

Section 21a (170/2019)
Reimbursement of costs

Should the inspections referred to in sections 10, 11, 11b and 11c reveal deficiencies warranting the detention of a ship, all costs relating to the inspections shall be covered by the shipowner or by his representative. Should the inspections referred to in section 17f reveal deficiencies warranting a restriction of the operation of the ship, all costs relating to the inspections shall be covered by the shipowner or his representative.

If the ship is detained in accordance with section 14, subsection 2 on account of absent or incomplete documents, all costs arising from the detention shall be covered by the shipowner.

All costs associated with inspections for lifting the refusal of access orders referred to in section 14c, subsection 2, 14d, subsection 2, 14e, subsection 2, paragraph 4 and 14g, subsection 2 shall be covered by the shipowner.

The detention order shall not be lifted until full payment is made or a sufficient guarantee is given for reimbursement of the costs.

Section 22
Compensation for damage

Any damage resulting from an error or neglect by the competent authority carrying out a task laid down in this Act is compensated in accordance with the Damages Act (412/1974).

The District Court of Helsinki is the competent (maritime) court in matters settled in accordance with subsection 1.

Section 23 (543/2004)
Further provisions

For implementing the PSC Directive, provisions on the following may be given by Government decree:

- 1) The number of ships to be inspected and ships selected for inspection;

- 2) Mandatory inspections of certain ships;
- 3) Document control and determination of the overall condition of the ships;
- 4) Control of the qualifications, communication skills and language proficiency of the crew, considering the provisions on the matter contained in Directive 2001/25/EC of the European Parliament and of the Council on the minimum level of training for seafarers;
- 5) More detailed inspections and expanded inspections of certain ships;
- 6) Inspection reports;
- 7) Ship categories subject to expanded inspections and mandatory expanded inspections of certain ships;
- 8) Grounds for detaining ships;
- 9) Procedures for refusal of access to ports;
- 10) Follow-up to inspections and detentions; and
- 11) Data to be provided and exchange of information between the competent authority, the European Commission, relevant authorities and bodies of the EU Member States and the administration of the flag State.

Section 24

Entry into force

This Act enters into force on a date laid down by Decree.

Measures necessary for the implementation of this Act may be undertaken before its entry into force.

The Ship Safety Control Act (370/1995) entered into force on 1 March 1996 (Decree 61/1996).