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## **Ship Safety Control Act**

(370/1995; amendments up to 1504/2011 included)

### 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 — *Definitions (55/2002)*

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 owner'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) *owner* 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 an owner; (1138/2010)
- 4) *Inspection Directive* shall mean Council Directive 1999/35/EC on a system of mandatory surveys for the safe operation of regular ro-ro ferry and high-speed passenger craft services, as amended by Directive 2002/84/EC of the European Parliament and of the Council; (543/2004)
- 5) *international conventions* shall mean
  - a) the International Convention for the Safety of Life at Sea, 1974, as amended (*SOLAS Convention*);
  - b) the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973, as amended (*MARPOL Convention*),
  - c) the International Convention on Standards of Training, Certification for Seafarers, 1978, as amended, (*STCW Convention*),
  - d) the Convention on the International Regulations for Preventing Collisions at Sea, 1972, as amended (*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, as amended;
  - i) the Maritime Labour Convention, 2006; (1138/2010)
- 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; (1138/2010)
  - 7) *ro-ro ferry* 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 chapter X(1) of the SOLAS Convention, which carries 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; (1138/2010)
  - 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 ferries and high-speed passenger craft engaged on domestic voyages, the safety certificates issued in accordance with the Non-SOLAS Directive together with the relevant 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 the SOLAS Convention; (1138/2010)
  - 14) *flag State administration* shall mean the competent authorities of the state whose flag a ship is entitled to fly; (1138/2010)
  - 15) *host State* shall mean a EU Member State to or from whose port(s) a ro-ro ferry or a high-speed passenger craft is engaged on a regular service;
  - 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 compliance with the relevant mandatory Conventions and regulations; (1138/2010)
- 25) *classification certificate* shall mean a document confirming compliance with SOLAS 74, 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 owner 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 and Paris MOU are entered. (1138/2010)

### Section 3 — *Other legislation*

- (1) 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 owner's safety management system, and the survey of ships. (1679/2009)
- (2) 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 the Prevention of Pollution of the Marine Environment by Ships (1672/2009). (1679/2009)
- (3) Separate provisions apply to occupational health safety and inspections carried out by the occupational health and safety authorities.
- (4) 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 Security Measures on certain Ships and in Ports serving them and on monitoring the Security Measures (485/2004). (1138/2010)
- (5) Provisions on marine equipment the conformity of which is assessed in accordance with international agreements are laid down in the Act on Marine Equipment (1503/2011). (1504/2011)

### Section 4 — *Application of the Act to ships and ship owners*

- (1) This Act applies to:
  - 1) ships engaged in merchant shipping in Finnish waters and to Finnish ships engaged on international voyages, and to the crews of such ships; (1138/2010) and
  - 2) to the Finnish owners of ships referred to in paragraph 1 above and to foreign owners engaged in merchant shipping in Finnish waters.
- (2) This Act applies to government ships and the owners of such ships, where applicable. However, the Act does not apply to ships belonging to the Finnish Defence Forces or the Border Guard Service, unless they are used for public-service transport of passengers or cargo.

## Chapter 2 — **Authorities and their tasks (1138/2010)**

### Section 5 — *Competent authority* (1138/2010)

- (1) The Finnish Transport Safety Agency is the competent authority referred to in this Act.
- (2) 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.
- (3) The officers of the Agency are the inspectors referred to in this Act.

- (4) Inspections under the PSC Directive may be performed by inspectors meeting the requirements of Annex XI to the PSC Directive. Inspections under the Inspection Directive may be performed by inspectors meeting the requirements of Annex V to the Inspection Directive. The inspector shall hold an identity card, 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 — *Rights of inspectors (1138/2010)*

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 owner 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 owner'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 — *Shipboard inspections (1138/2010)*

- (1) Ship safety inspections must be carried out as frequently and efficiently as required for control purposes and as frequently and efficiently as required under national law and international conventions that are binding on Finland.
- (2) 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.
- (3) 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 sufficient information in such a situation.

- (4) Ship safety inspections and detentions shall be carried out in a manner ensuring that they meet the objectives of the measure without causing the ship to be unduly detained or delayed. The owner or master shall be notified of such an inspection. Their absence will not prevent the inspection from being carried out.

#### Section 8 — *Inspection report (1138/2010)*

- (1) The inspector shall draw up an inspection report on the ship safety inspection. The ship's master shall be provided with a copy of the inspection report.
- (2) The inspector shall draw up an inspection report regarding an inspection under the PSC Directive in accordance with Annex IX to the said Directive. The inspector is responsible for transferring the information contained in the report as soon as the inspection report is completed and for the validation of the information transferred to the inspection database within 72 hours of the completion of the inspection.
- (3) An inspection report in accordance with Article 9 of the Inspection Directive shall be drawn up on inspections performed under the said Directive.

#### Section 9 — *Authorities providing executive assistance*

- (1) The port, Customs, Border Guard, police, occupational safety and health authorities, the Finnish Defence Forces and the Finnish Transport Agency, each in their own sphere of authority, have, on request, a duty to provide the Finnish Transport Safety Agency with executive assistance. Provisions on the executive assistance provided by the Border Guard are laid down in the Border Guard Act (578/2005). (1138/2010)
- (2) 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.
- (3) Further provisions on the procedure for requesting or giving executive assistance may be issued by the Government.

### 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 ship safety provisions and the requirements of international conventions relating to safety and security 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 believing that the condition of the ship does not comply with the information provided in the documents.

### Section 11 — *Inspection or verification of ships*

- (1) 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 believing that the condition of the ship does not substantially comply with the information in the documents.
- (2) 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 paragraph 1, there are clear grounds for believing that the condition of the ship or of its equipment does not substantially meet the relevant requirements. (1138/2010)
- (3) 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 agreements due to its small size, 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 — *Pre-notification (1138/2010)*

- (1) The master or owner of a ship of a category which is eligible for an expanded inspection referred to in Article 14(1) of the PSC Directive shall submit 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 shall record information on the ship's actual time of arrival/departure to the PortNet system.
- (2) On receipt of a pre-notification provided by a ship eligible for an expanded inspection, the competent authority shall inform the master or owner if no expanded inspection will be carried out.

### Section 11b — *Expanded inspection (1138/2010)*

- (1) A ship of a category eligible for an expanded inspection referred to in the PSC Directive shall be subject to such an inspection if it meets the conditions mentioned in Annex I Part II 3A and 3B to the Directive.
- (2) Without prejudice to control measures provided in the Act on Security Measures on certain Ships and in Ports serving them and on monitoring the Security Measures, the ship shall remain in the port until the inspection is completed.

### Section 11c — *Mandatory periodic inspection (1138/2010)*

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

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

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

- (1) The competent authority may postpone a mandatory inspection referred to in section 11c
  - 1) if 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) if 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) if 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.
- (2) The competent authority shall record the postponement of the inspection in the inspection database.

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

- (1) The competent authority may choose not to perform a mandatory inspection
  - 1) if 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) if the ship call takes places during night time and the ship is not engaged in scheduled service;
  - 3) if 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.
- (2) 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

- (1) If it is established by inspection or otherwise that the 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 owner 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 owner or the master of the ship, issue appropriate instructions for rectifying the deficiencies.

- (2) If the owner is unwilling to cooperate or the matter cannot be delayed, the competent authority may, after hearing the parties concerned, order the owner 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 — *Conditional fine and threat of suspension (1293/2009)*

- (1) The Finnish Transport Safety Agency may reinforce an order issued in accordance with section 12(2) with a conditional fine or a threat of suspending the owner's operations. The conditional fine and the threat of suspension may be imposed on the owner or his agent, or both. Provisions in the Penalty Fine Act (1113/1990) apply to the conditional fine and the threat of suspension.
- (2) If the competent authority has clear grounds for suspecting that the owner is trying to avoid adhering to the order by withdrawing the ship from service in Finland, the Finnish Transport Safety Agency may order the owner to give a security equivalent to the conditional fine before the ship leaves a Finnish port. The security deposit shall be restituted to the owner after the measure ordered by the competent authority has been taken.

Section 14 — *Detention, restriction of operation and stoppage of the use of equipment, installations, routines or arrangements on board (543/2004)*

- (1) If the deficiencies are of such nature that the ship's operation in the service for which it is intended poses a risk to human life or a substantial risk for the ship, 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. (1138/2010)
- (2) The competent authority may also issue the order referred to in subsection 1 if the owner or master of the ship tries to prevent the inspection or if the competent authority is not provided access to the documents or records that it has a right to obtain under section 6 or if the owner or master of the ship does not rectify the deficiency within the time limit imposed by the competent authority.
- (3) 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 designated surveyor or the recognised organisations responsible for the issue of classification certificates shall also be notified where relevant. (1138/2010)

- (4) 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 authority concerned, provided that the conditions determined by the competent authority of the flag State and agreed by the competent authority are complied with.

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

The appropriate ministry shall make the decision on suspending the operation of a ship owner'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).

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

- (1) 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)
- (2) The competent authority shall also detain a foreign ship to which the ISM Code applies if it is established by inspection that the vessel 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)
- (3) In order to alleviate port congestion, the competent authority may allow that the ship is moved to another part of the port provided that it is made safely. (1138/2010)

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

- (1) 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 twice in the course of the preceding 36 months in a port or anchorage in the EU or the Paris MOU region.

- (2) The competent authority shall, on the owner's or operator'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 owner or operator has presented documentary evidence that the conditions in paragraphs 3 to 9 of Annex VIII to the PSC Directive are met.

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

- (1) 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 mentioned in section 14c (1)(1) or (2) are met, the competent authority shall deny the ship entry to its ports and anchorages.
- (2) The competent authority shall, on the owner's or operator'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 owner or operator has presented documentary evidence that the conditions in paragraphs 3 to 9 of Annex VIII to the PSC Directive are met.

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

- (1) 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.
- (2) The competent authority shall, on the owner's or operator'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 owner or operator has presented documentary evidence that
  - 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 a 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 paragraphs 3 to 9 of Annex VIII to the PSC Directive are met.

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

- (1) Any ship not meeting the criteria specified in section 14e (2) (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.
- (2) 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 — *Refusal of access in certain other instances (1138/2010)*

- (1) 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(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 by not calling into the indicated repair yard.
- (2) Such refusal shall be maintained until the owner or operator 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 — *Procedures for refusal of access (1138/2010)*

- (1) 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.
- (2) 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.
- (3) 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 owner, the operator or the master of the ship to ensure safe entry.

Section 15 — *Notification for bringing charges*

- (1) 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)
- (2) 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.
- (3) 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 — *Ship safety control violation (216/2008)*

An owner, 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(2) or section 14(2), or an owner or a master 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 has been provided elsewhere in the law.

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

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

### Chapter 4a — **Ensuring the safety of regular ro-ro ferry and high-speed craft passenger services (55/2002)**

#### Section 17a — *Scope of application (55/2002)*

- (1) This chapter applies to ro-ro ferries and high-speed passenger craft engaged on a regular service to or from a Finnish port.
- (2) However, this chapter does not apply to ships referred to in subsection 1 that operate exclusively in the sea areas covered by Classes B, C and D, referred to in section 5 of the Decree on the Safety of Certain Passenger Vessels Engaged on Domestic Voyages (1307/1999), or in Finnish inland waters.

#### Section 17b — *Initial verifications of ships (55/2002)*

- (1) Prior to the start of operation by a ro-ro ferry or high-speed passenger craft on a regular service, the competent authority shall check 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 standards specified for classification by the rules 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.
- (2) The competent authority shall also check that a Finnish ro-ro ferry and a ro-ro ferry flying the flag of another State signatory meets the criteria 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 — *Initial verifications required in relation to owners and flag States (55/2002)*

- (1) Prior to the start of operation, the competent authority shall ensure that owners who operate or intend to operate a ro-ro ferry or a high-speed craft on regular service take the necessary measures to ensure that the specific requirements laid down in Annex I to the Inspection Directive and the provisions in section 17b of this Act are complied with.
- (2) The competent authority shall also ensure that the owners will agree in advance that the host States and other substantially interested EU Member States can carry out investigations into marine casualties or incidents, participate fully in or cooperate with any investigation in accordance with Article 12 of the Inspection Directive. The competent authority shall also ensure that owners gives it access to information retrieved from the voyage data recorder of their ferry or craft involved in such a casualty or incident.
- (3) The competent authority shall also check for such a ferry or craft flying a flag other than that of a EU Member State, the concurrence of that flag State that it has accepted the owner's commitment to meet the requirements of subsections 1 and 2.

Section 17d — *Initial specific surveys (55/2002)*

- (1) Prior to the start of operation by a ro-ro ferry or high-speed passenger craft on a regular service, the competent authority shall carry out an initial specific survey, in accordance with Annexes I and III to the Inspection Directive, to satisfy itself that the ferry or craft meets the requirements for safe operation of a regular service.
- (2) The competent authority shall set a date for the survey which is no more than one month after receipt of the evidence necessary to complete the verification under sections 17b and 17c.

Section 17e — *Special provisions (55/2002)*

- (1) When a ro-ro ferry or high-speed passenger craft is to be engaged on regular service from/to a Finnish port, as referred to in this chapter, the competent authority shall take the utmost account of verifications and surveys previously carried out for that ferry or craft for operation on a previous regular service similar to the one covered by this chapter. Provided that the competent authority is satisfied with these previous verifications and surveys and that they are relevant to the new operational conditions, sections 17b to 17d need not be applied prior to the ro-ro ferry or high-speed passenger craft starting operation on the new regular service.
- (2) Sections 17 b to 17d need not apply when a ro-ro ferry or high-speed passenger craft already operating a regular service covered by this chapter transfers to another regular service where the route characteristics are agreed by the competent authority and the other host States to be similar, and the host States all agree that the ferry or craft fulfils all the requirements for safe operation on that service. At the request of the owner, the competent authority may confirm in advance that in its view the characteristics of the routes are similar.

- (3) In cases where, on account of unforeseen circumstances, a replacement ro-ro ferry or high-speed passenger craft must be introduced rapidly to ensure continuity of service, and subsections 1 or 2 are not applicable, the competent authority may allow the ferry or craft to start operating provided that a visual inspection and document check raise no concerns that the ferry or craft does not fulfil the necessary requirements for safe operation. In that case, the competent authority shall complete the verifications and surveys under sections 17b to 17d within one month of the replacement.

Section 17f — *Regular specific surveys and other surveys (55/2002)*

- (1) The competent authority shall, once in every 12-month period, carry out a specific survey of the ro-ro ferry or high-speed passenger craft in accordance with Annex III to the Inspection Directive and a survey during a regular service, which shall cover enough items listed in Annexes I, III and IV to the Inspection Directive to satisfy itself that the ferry or craft continues to fulfil all the necessary requirements for safe operation.
- (2) The competent authority shall carry out a specific survey in accordance with Annex III to the Inspection Directive each time the ro-ro ferry or high-speed passenger craft undergoes repairs, alterations and modifications of a major character, or when there is a change in management or flag, or transfer of class. However, in case of change in management or flag, or transfer of class, the competent authority may, after taking account of verifications and surveys previously issued for the ferry or craft, and provided that the safe operation of the ferry or craft is not affected by this change or transfer, dispense the ferry or craft from the specific survey required by this subsection.
- (3) Should the surveys referred to in subsection 1, confirm or reveal deficiencies in relation to the requirements of this chapter warranting a restriction of operation, all costs relating to the surveys shall be covered by the owner.

Section 17g — *Cooperation between host States and the flag State (55/2002)*

- (1) When applying the provisions of this chapter, the competent authority shall cooperate with the administration(s) of the other host State(s) of the ro-ro ferry or high-speed passenger craft operating the regular service and, in case of a non-Finnish ferry or craft, with the administration of the flag State.
- (2) Any disagreements concerning the accuracy of the exemption certificate issued or recognised by the competent authority shall be resolved prior to the initial specific survey.
- (3) For a foreign high-speed passenger craft, the competent authority shall ensure that the flag State takes into account the Finnish traffic restrictions imposed for protecting human life, natural resources and activities in coastal areas before the high-speed craft is granted a permit to operate in accordance with the High-Speed Craft Code.

Section 17h — *Prevention of operation (55/2002)*

- (1) Unless otherwise provided in subsection 2, the competent authority shall issue an order preventing the operation of a ro-ro ferry or high-speed passenger craft on a regular service from/to a Finnish port:
  - 1) when it has been unable to confirm compliance with the relevant requirements during the verifications referred to in sections 17b and 17c;
  - 2) whenever deficiencies are found during the surveys referred to in sections 17d and 17f which pose an immediate risk to human life, the ferry or craft, its crew and passengers;
  - 3) when there is an established failure to comply with the Decree on Reporting Procedures of Ships Carrying Dangerous or Polluting Goods (869/1994), applicable provisions of the Decree on the Manning of Ships, Certification of Seafarers and Watchkeeping (1256/1997), or Council Regulation (EC) No 3051/95 on the safety management of roll on/roll of passenger ferries (ro-ro ferries), as amended by Commission Regulation (EC) No 179/98, which poses an immediate risk to human life, the ferry or craft, its crew and passengers;
  - 4) whenever it has not been consulted by the flag State on the matters referred to in section 17g(2) and (3).
- (2) However, where the ro-ro ferry or high-speed passenger craft is already operating a regular service from/to a Finnish port and deficiencies are established during the surveys, the competent authority shall require the owner to take the necessary measures for their prompt rectification or within a well-defined or reasonable period of time, provided that they do not pose an immediate risk to human life, the ferry or craft, its crew and passengers. After rectification of the deficiencies, the competent authority shall verify that the rectification has been carried out to its full satisfaction. If this is not the case, the competent authority shall issue an order preventing the ferry or craft from operating to/from Finnish ports.
- (3) The competent authority shall inform the owner in writing of the order to prevent that ro-ro ferry or high-speed passenger craft from operating, giving full reasoning.

Section 17i — *Planning for emergency situations (55/2002)*

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

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

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

- 1) notification obligations of the competent authority relating to the verifications and surveys referred to in this chapter;
- 2) procedures related to surveys and those participating in them;
- 3) survey 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 emergency situations;
- 6) voyage data recorders and exemptions from them.

## Chapter 5 — **Claim for rectification and appeal procedure (1138/2010)**

### Section 18 — *Claim for rectification and appeal (1138/2010)*

- (1) A party not satisfied with a decision made by the competent authority under this Act may submit a written claim for rectification. The decision may not be appealed against. The claim for rectification shall be filed to the unit in charge of matters relating to the safety of ships within the Finnish Transport Safety Agency. The claim shall be considered without delay. (1138/2010)
- (2) A decision made on the basis of the claim for rectification may be appealed against to the Supreme Administrative Court as laid down in the Administrative Judicial Procedure Act (586/1996). (1138/2010)
- (3) The petition of appeal shall be submitted to the body that has made the decision on rectification, 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. (1138/2010)
- (4) The claim for rectification and the appeal shall be made within 30 days of the service of the decision notice. In case of detention or refusal of access, the claim for rectification shall, however, be made within 14 days of the date on which the master or the owner has received notification of the detention order referred to in section 14 or 14b, or the refusal of access order referred to in sections 14c to 14h. (1138/2010)

### Section 19 — *Effect of the claim for rectification and the appeal on the decision (1138/2010)*

- (1) A claim for rectification or appeal does not prevent:
  - 1) implementation of a detention order, restriction or stoppage of an operation, referred to in section 14 or 14b;
  - 2) implementation of a refusal of access order to a port referred to in sections 14c to 14h; or
  - 3) implementation of a prevention of operation order for a ro-ro ferry or a high-speed passenger craft referred to in section 17h, unless otherwise ordered by the body making the decision on rectification or the appellate authority.
- (2) When, as a result of a claim for rectification 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, amend the information in the inspection database accordingly.

## Chapter 6 — **Miscellaneous provisions**

### Section 20 — *Complaints and keeping the identity of the complainant secret (1138/2010)*

- (1) 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.
- (2) The identity of the complainant referred to in subsection 1 shall not be revealed to the master, owner or operator of the ship concerned. If an inspection is carried out on the basis of a complaint, the inspector may not disclose that the inspection is carried out on the basis of a complaint. The inspector shall ensure confidentiality during any interviews of crew members.
- (3) The competent authority shall inform the flag State administration and the Finnish occupational safety and health authority 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 the reasons therefor.
- (4) If authorities mentioned in section 9 or port operators, 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 — *Handing over confidential information (643/1999)*

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 — *Reimbursement of costs (543/2004)*

- (1) Should the inspections referred to in sections 10, 11 and 11b reveal deficiencies warranting the detention of a ship, all costs relating to the inspections shall be covered by the owner or the operator or by his representative. (1138/2010)
- (2) If the ship is detained in accordance with section 14(2) on account of absent or incomplete documents, all costs accruing to the competent authority because of the detention shall be borne by the owner or operator of the ship.
- (3) All costs relating to inspections for repealing the access refusal measures referred to in section 14c(2), 14d(2), 14e(2)(4) and 14g(2) shall be charged to the owner or operator of the ship. (1138/2010)
- (4) The detention 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*

- (1) 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 (412/74).
- (2) The Helsinki District Court is the competent (maritime) court in matters settled in accordance with subsection 1.

Section 23 — *Further provisions (543/2004)*

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) examination of documents 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 flag State administration.

Section 24 — *Entry into force*

- (1) This Act enters into force on a date laid down by Decree.
- (2) Measures necessary for the implementation of this Act may be undertaken before its entry into force.

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