

**Translation from Finnish
Legally binding only in Finnish and Swedish
Ministry of Transport and Communications, Finland**

**Act
on Improving the Competitiveness of Vessels engaged in Maritime Transport
(1277/2007; amendments up to 928/2019 included)**

By decision of Parliament, the following is enacted:

**Chapter 1
General provisions**

**Section 1
Objective**

The objective of this Act is to improve the international competitiveness of the Finnish merchant fleet.

**Section 2
Scope of application**

Aid to improve the competitiveness of the manning costs of vessels engaged in maritime transport shall be granted from State funds in the manner provided in this Act.

**Section 3 (992/2018)
Definitions**

For the purposes of this Act:

- 1) *Passenger ship* means a ship that may carry more than 12 passengers.
- 2) *Cargo ship* means a ship that is not a passenger ship.
- 2a) *Special purpose ship* means a ship that is used for systematic hydrographic survey.
- 3) *Tug or pusher craft* means a cargo ship intended for towing or pushing and which is mainly used for transportation.
- 4) *Maritime transport* means the maritime carriage of passengers or goods as well as towing or pushing or hydrographic surveying by special purpose ships; towing or pushing primarily performed in ports and assisting power-driven ships into harbour shall not constitute maritime transport.
- 5) *Passenger* means 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; however, children under the age of one year shall be excluded from the passenger complement.

- 6) *Vessel primarily engaged in international maritime transport* means a vessel which is engaged in maritime transport between Finland and foreign ports or outside Finnish territorial waters, including transport via the Saimaa Canal, for more than half of its operational time during a calendar year.
- 6a) *Vessel primarily engaged in domestic maritime transport* means a vessel which is engaged in maritime transport in Finnish territorial waters between Finnish ports for more than half of its operational time during a calendar year.
- 7) *Aid year* means one calendar year.
- 8) *Aid granting authority* means the Finnish Transport and Communications Agency.
- 9) *Register of Merchant Vessels* means the register kept by the aid granting authority of vessels eligible for aid under this Act.
- 10) *Operational time* means the part of the calendar year during which the vessel has been entered in the Register of Merchant Vessels, docking periods as well as periods of cold lay-up in port excluded.

Chapter 2

Register of Merchant Vessels

Section 4

Entry of a vessel in the Register of Merchant Vessels

The aid granting authority shall, upon application, enter the following types of vessel in the Register of Merchant Vessels: (338/2018)

- 1) A passenger ship, cargo ship, tug or pusher craft intended primarily for international maritime transport during the aid year.
- 2) A cargo ship of 500 gross tonnage and upwards surveyed for Baltic Sea trade, near-coastal trade, European trade or worldwide trade and intended primarily for domestic maritime transport subject to international competition during the aid year. (967/2008)
- 3) A tug or pusher craft of 300 gross tonnage and upwards surveyed for Baltic Sea trade, near-coastal trade, European trade or worldwide trade and intended primarily for domestic maritime transport subject to international competition during the aid year. (940/2016)
- 4) A special purpose ship of 100 gross tonnage and upwards surveyed for Baltic Sea trade, near-coastal trade, European trade or worldwide trade and intended primarily for domestic maritime transport subject to international competition during the aid year. (940/2016)

(967/2008)

The application may be filed by the Finnish owner of the vessel or by a Finnish employer engaging in shipping using a foreign owner's vessel that is registered in Finland.

The keeper of the Register of Ships in the Åland Islands shall, upon application, enter in the Register of Merchant Vessels a vessel entered in the Register of Ships in the Åland Islands, subject to the conditions laid down in this section.

Section 5

Removal of a vessel from the Register of Merchant Vessels

The aid granting authority shall, upon application or *ex officio*, remove a vessel from the Register of Merchant Vessels if the vessel no longer, or only temporarily, meets the conditions for entry in the Register of Merchant Vessels.

Prior to taking the decision to remove a vessel from the Register of Merchant Vessels, the aid granting authority shall consult the vessel's Finnish owner or the Finnish employer engaging in shipping using a foreign owner's vessel which is registered in Finland, if the removal is due to a reason other than the removal of the vessel from the Finnish register. (338/2018)

Prior to taking the decision to remove a vessel from the Register of Merchant Vessels, the aid granting authority shall consult the keeper of the Register of Ships in the Åland Islands if the removal concerns a vessel entered in the Register of Ships in the Åland Islands and is due to a reason other than the removal of the vessel from the Finnish register. (338/2018)

Chapter 3

Labour law provisions applicable to vessels entered in the Register of Merchant Vessels

Section 6

Agreement through a collective agreement

Finnish law shall be observed on vessels entered in the Register of Merchant Vessels unless otherwise provided.

Agreement by derogation from the provisions of the Seafarers' Employment Contracts Act (756/2011), the Seamen's Working Hours Act (296/1976), the Seamen's Annual Holidays Act (433/1984) or the Act on Cooperation within Undertakings (334/2007) may be reached through a collective agreement that is applied to the employment relationships on a vessel entered in the Register of Merchant Vessels. The associations entering into the collective agreement shall represent those groups of employees whose terms of employment are covered by the collective agreement. The collective agreement and its appendices shall lay out in detail the terms to be observed instead of the legislative provisions. (770/2011)

A provision in the collective agreement reducing benefits corresponding to employee benefits provided for in the above Acts and confirmed in international conventions binding on Finland or in European Community legislation shall be null and void and the provisions of international conventions or the European Community legislation shall be applied in its stead or, if this is not feasible, those legislative provisions through which the provisions of an international convention or European Community legislation have been implemented.

An employer bound by a collective agreement as referred to above in subsection 2 may apply the provisions of the collective agreement to employees not bound by such an agreement but to whose employment the collective agreement in other respects applies.

Section 7

Standing of a foreign employees' association

By way of derogation from the provisions laid down in section 1, subsection 1 of the Collective Agreements Act (436/1946), a collective agreement to be observed in the employment relationships of a vessel entered in the Register of Merchant Vessels may be concluded, providing that the relevant Finnish labour market parties have not concluded a collective agreement concerning the same work, by a foreign employees' association meeting the conditions laid down in the International Labour Organization's Convention concerning Freedom of Association and Protection of the Right to Organize (Finnish Treaty Series 45/1949) and the International Labour Organization's Convention concerning the Application of the Principles of the Right to Organize and to Bargain Collectively (Finnish Treaty Series 32/1951).

Section 8

Labour law derogations concerning passenger ships

Section 6, subsections 2 to 4, and section 7 above do not apply to Finnish passenger ships carrying more than 120 passengers in regular scheduled service to and from Finland.

Section 9

Competent court in civil and criminal cases concerning employment relationships

Civil and criminal cases concerning employment relationships as referred to in this Act and arising therefrom shall be addressed and resolved by a maritime court as referred to in chapter 21, sections 1 and 3 of the Maritime Code (674/1994).

Civil cases concerning collective agreements as referred to in this Act shall be heard and resolved by a labour court. However, it may be agreed through a collective agreement entered into with a foreign employees' association that a civil case concerning the terms of employment of an employee to whose employment the collective agreement shall apply may be resolved by a court in the home country of the employees' association.

Chapter 4

Aid

Section 10

General conditions for the granting of aid

The aid granting authority shall grant aid referred to in this Act as follows:

- 1) The vessel has been entered in the Register of Merchant Vessels during the period for which aid is sought and it has met the conditions for inclusion in the Register of Merchant Vessels during the period for which aid is sought. (940/2016)
- 2) The vessel's manning costs have, in the manner agreed between the labour market parties, been brought to a level that enables internationally competitive operations in maritime transport, when the aid referred to in this Act is also taken into account.
- 3) During the aid year, the vessel has primarily operated in international maritime transport, or, in the case of a vessel referred to in section 4, subsection 1, paragraph 2 or 3, primarily in domestic maritime transport subject to international competition or in international

maritime transport, or in the case of a vessel referred to in section 4, subsection 1, paragraph 4, primarily in domestic maritime transport subject to international competition or in international maritime transport. (940/2016)

- 4) The taxes and employer's contributions for the social protection of the seafarers employed on board the vessel have been paid in Finland.
- 5) No other aid except aid granted pursuant to this Act or the Act on Government Compensation of Seafarers' Travel Expenses (1068/2013) are paid during the aid period to reduce the vessel's manning costs. (940/2016)

In the case of passenger ships engaged in regular passenger services between ports in the European Union, aid shall be granted only in respect of citizens of EU Member States and EEA States. (940/2016)

In the case of tugs, pusher craft and special purpose ships, the aid granted out of the total amount of aid referred to in sections 11 and 12 shall be equivalent to the share of the vessel's activities during the aid period which constituted maritime transport. (940/2016)

If the owner of the vessel or another employer who engages in shipping using the vessel under charter party lacks controlling influence over the operations of the vessel during the contract period, aid is also granted for that waiting time which is to be considered as maritime transport, when the vessel due to reasons beyond its influence is in full readiness with the required minimum safe manning standing by in expectation of a commission to transport goods or passengers or, in the case of a special purpose ship, a maritime transport commission in line with the type of vessel concerned. However, in the case of tugs, pusher craft and special purpose ships the aid granted shall be equivalent to the share of days on which the vessel has been involved in maritime transport. (940/2016)

Section 11 (298/2015)

Amount of aid payable in respect of the seafarer's income of a fully taxable seafarer

In respect of a seafarer who is fully taxable in accordance with section 9 of the Income Tax Act (1535/1992), an amount of aid shall be paid which equals the following payments for the aid period:

- 1) The tax withheld from the seafarer's income, as referred to in section 74 of the Income Tax Act, which has been withheld according to the tax rate determined for seafarer's income; however, no aid is paid for the amount by which the withholding tax rate has been increased by virtue of section 17 of the Prepayment and Withholding Tax Act (1118/1996).
- 2) The employer's contribution to the seafarer's pension scheme in accordance with section 141 of the Seafarers' Pensions Act (1290/2006); the amount by which the employer's contribution has been increased or decreased in accordance with section 141a of the Seafarer's Pensions Act is not taken into account when determining the amount of aid to be paid.
- 3) The employer's share of the accident insurance premium.

Section 12 (940/2016)**Amount of aid payable for work performed on board by a seafarer with limited tax liability**

In respect of income earned by a seafarer with limited tax liability in accordance with section 9 of the Income Tax Act from a vessel entered in the Register of Merchant Vessels, an amount of aid shall be paid which equals the following payments for the aid period:

- 1) tax at source; and
- 2) employer's share of the health insurance contribution.

If instead of tax at resource tax has been withheld from the earned income, section 11 shall apply.

Chapter 5**Procedures for granting aid****Section 13****Aid period (940/2016)**

The aid periods run from 1 January to 30 June and from 1 July to 31 December. The aid year comprises a calendar year.

Upon application, the aid granting authority shall determine the aid period to comprise one calendar month in respect of passenger ships allowed to carry more than 120 passengers, provided that the granting of aid is based on monthly payroll accounting for each specific vessel and tax returns filed with the tax administration.

Section 14**Applying for aid**

An application for aid may be filed by the Finnish owner of a vessel entered in the Register of Merchant Vessels or, if the owner is a foreigner, by the Finnish employer engaging in shipping using the vessel concerned. An application for aid may also be filed by the Finnish owner of a vessel entered in the Register of Merchant Vessels in the Åland Islands or, if the owner is a foreigner, by a Finnish employer engaging in shipping using the vessel concerned.

The application shall be made to the aid granting authority in writing. The application shall indicate the amount of aid claimed and its grounds. The application shall be signed by the applicant. The applicant shall provide correct and adequate information on all the facts necessary for granting the aid. The applicant may also sign the application electronically.

An application shall be made for each aid period separately. The application shall be filed with the aid granting authority within four months of the end of the aid period concerned.
(940/2016)

Section 15 (940/2016)
Payroll accounting

The employer shall organise the company's payroll accounting in such a manner that it allows the determination, by vessel and employee, of the amount of seafarer's income and the withholding tax, tax at source, the employer's share of the health insurance contribution withheld and paid thereon, as well as the amounts of the employer's contributions to the seafarer's pension scheme and of the accident insurance premium.

Section 16
Requisite information and statements

The applicant shall ensure that the aid granting authority has at its disposal all the information concerning the vessel and its operations necessary for determining the conditions for the aid and the amount of aid. At the request of the aid granting authority, an extract from the ship's log, the charter party and other statements countersigned by the applicant shall be submitted for each aid period to confirm the operations of the vessel. (450/2013)

The applicant shall forward to the aid granting authority copies of all returns filed with the tax administration as well as a statement as to which part of the income referred to in the tax returns is seafarer's income and which part of the employer's contributions is based on seafarer's income, information on the breakdown between the employer's various vessels of the items referred to and paid in the tax returns, and on the allocation of the payments to payments constituting the grounds for the aid and other payments. (940/2016)

For each aid period, the applicant shall supply the aid granting authority with a vessel-specific statement on pension insurance contributions paid to the Seafarers' Pension Fund and the earned income which they are based on. (940/2016)

For each aid period, the applicant shall supply the aid granting authority with a vessel-specific statement issued by an insurance company on the pension contributions based on seafarer's income, referred to in section 11, which have been paid during the aid period. (940/2016)

Section 17 (992/2018)
Aid granting authority's right to obtain information

Non-disclosure provisions and other restrictions on access to information notwithstanding, the aid granting authority is entitled to obtain:

- 1) from the tax administration, for purposes of determining and monitoring the amount of the aid referred to in this Act, the necessary information the earned income of the seafarers;
- 2) from the Seamen's Pension Fund, the vessel-specific information on pension contributions made to the Seamen's Pension Fund, for purposes of determining and monitoring the aid referred to in this Act;
- 3) from Customs, the information on the vessel's operations necessary for the purposes of determining and monitoring the amount of aid as referred to in this Act;

- 4) from the Finnish Transport and Communications Agency, information on the surveys, manning and register entries of the vessel, for purposes of determining and monitoring the conditions for entering the vessel in the Register of Merchant Vessels and granting of aid.

Subsection 2 was repealed by Act 928/2019.

The aid granting authority shall be entitled to obtain the information referred to in subsection 1 free of charge.

Section 18

Consultation of national labour market organisations

Prior to deciding a matter, the aid granting authority shall consult the relevant national labour market organisations if it is considering refusing the aid in full or for the most part. Consultation shall take place once during the aid year prior to making the first decision by which aid is refused in full or for the most part, unless further consultation is necessary due to altered circumstances or other special reasons. (940/2016)

The aid granting authority may consult the relevant labour market organisations in consequence of an application for an advance ruling.

In this consultation, the provisions of the Act on the Openness of Government Activities (621/1999) shall be observed.

Section 19

Granting the aid

The aid shall be granted upon application *ex post facto* on the basis of the information and reports referred to in sections 14, 16 and 17 when the general conditions for granting the aid as referred to in section 10 are fulfilled.

The conditions for granting the aid are provisionally examined in the context of the processing of an application concerning the aid period but resolved *ex post facto* for the full aid year.

Section 20

Advance ruling

Upon application, the aid granting authority may issue an advance ruling on whether a vessel, under the circumstances referred to in the application, can be entered in the Register of Merchant Vessels and whether the aid may be granted for the vessel under this Act. The issue of an advance ruling is conditional upon the matter being of particular importance to the applicant's financial activities. The application shall give a detailed question on which the advance ruling is sought, and the information necessary to resolving the matter shall be provided.

An advance ruling shall be issued to remain in force for no longer than until the end of the aid year following its issue. The aid granting authority shall apply the advance ruling in the calendar year for which it was issued. The provisions of section 14 and elsewhere in this Act shall apply to the application for the type of aid to which the advance ruling pertains.

Advance ruling matters shall be dealt with as urgent matters.

Section 21

Aid recipient's duty to notify changes

The Finnish owner of a vessel entered in the Register of Merchant Vessels or the Finnish employer engaging in shipping using a foreign owner's vessel registered in Finland shall without undue delay notify the aid granting authority of any changes which may affect the vessel's remaining in or removal from the Register of Merchant Vessels, or changes to the conditions for granting the aid or the amount of the aid.

Section 22

Return and recovery of the aid

If an *ex post* evaluation of the conditions to and amount of the aid reveals that the applicant has been paid an unwarranted aid, the unwarranted aid shall be recovered by the State of Finland:

- 1) if the applicant has provided materially false, misleading or incomplete information in applying for entry in the Register of Merchant Vessels or for the aid;
- 2) if the applicant has withheld information that has a material impact on the approval of the vessel for the Register of Merchant Vessels or on receiving the aid;
- 3) if the applicant, despite a request to that effect, has refused to provide material information, documents or other materials necessary for monitoring the administration of the Register of Merchant Vessels or for receiving the aid; or
- 4) if the aid in other respects has been granted or paid on ungrounded or false grounds.

The provisions that have been laid down separately shall apply to the statute of limitations on claims. However, if the aid has been paid on ungrounded or false grounds as stated in subsection 1, paragraph 4, an order to return the aid may be issued for at most the aid year in which the mistake was noticed and the year preceding. Recovery may be waived in part or in full if it would lead to a manifestly unreasonable outcome.

Interest corresponding to the effective base rate of the Bank of Finland increased by four percentage units shall be paid on the amount to be returned from the date of issue of the decision to grant aid for the last aid period of the aid year. If the amount to be returned is not paid by the deadline imposed, annual penalty interest as laid out in section 4 of the Interest Act (633/1982) shall be paid thereon. (940/2016)

Chapter 6

Miscellaneous provisions

Section 23 (928/2019)

Processing of information

The provisions of Regulation (EU) 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC and the Data Protection Act (1050/2018) shall apply to the processing of personal data as referred to in this Act and held by the authorities. The provisions of the Act on the Openness of Government Activities and the

Act on Information Management in Public Administration (906/2019) shall apply to the disclosure of such information.

The information on the applicant referred to in this Act and information provided by the Seamen's Pensions Fund and the insurance company may be disclosed to and from the authorities also by means of a technical interface or by other electronic means. Electronic submission of an application and its appendices as well as other information requires that the parties agree in advance on the manner of submission.

Section 24 Non-disclosure obligation

Any person who, in the performance of measures relating to duties under this Act, has become privy to information concerning the characteristics, personal circumstances or financial standing of another person may not disclose such information to a third party in violation of the Personal Data Act and the Act on the Openness of Government Activities.

Section 25 Safekeeping of information

The aid granting authority shall keep the documents relating to entry in and removal from the Register of Merchant Vessels, advance rulings and subsidies in accordance with this Act in the manner provided in the Archives Act (831/1994). The aforementioned documents shall be kept by the aid granting authority for a period of ten years unless the National Archives Service has declared the documents to be kept permanently.

The period for keeping documents and information commences when the decision is issued or the case before the aid granting authority otherwise ceases to be pending.

Section 26 Charges made for decisions

A charge in the manner laid down in the Act on Criteria for Charges Payable to the State (150/1992) and section 34 of the Act on the Openness of Government Activities shall be made for entry in and removal from the Register of Merchant Vessels, decisions in consequence of aid applications and advance rulings.

Section 27 (994/2015) Claim for a revised decision and appeal

A claim for a revised decision may be lodged against a decision made by the aid granting authority as laid down in the Administrative Procedure Act (434/2003).

A decision made on a claim for a revised decision may be appealed as laid down in the Administrative Judicial Procedure Act (586/1996).

A decision made by the Administrative Court in a case regarding recovery of the aid may be appealed as laid down in the Administrative Judicial Procedure Act. Any other decision made by the Administrative Court may be appealed only if the Supreme Administrative Court grants leave of appeal.

In addition to the separate provisions concerning appeals, the aid granting authority may appeal a decision made by the Administrative Court by virtue of this Act, if the Administrative Court has modified or reversed the decision of the aid granting authority.

Appeals against charges made by the aid granting authority under this Act shall be lodged in the manner provided in section 11b of the Act on Criteria for Charges Payable to the State.

Section 28 Enforcement

A decision made by the aid granting authority may be enforced regardless of an appeal, unless the authority processing the claim for a revised decision or the appellate authority prohibits or suspends the enforcement or stipulates otherwise in ruling on the enforcement.

A decision made in a case regarding recovery may be enforced in the order provided under section 3 of the Act on the Collection of Taxes and Charges (706/2007).

Section 29 Announcements and notifications

The aid granting authority shall make available on its website the conditions for entry of vessels in the Register of Merchant Vessels and of granting the aid.

The aid granting authority shall inform those entered in the Register of Merchant Vessels and eligible for the aid of the aid available for application well before the deadline for filing applications for each aid period.

The aid granting authority shall submit to the Ministry of Transport and Communications information on the subsidies paid pursuant to this Act and on the effects of the Act on the development of maritime transport.

Separate provisions are laid down on the reporting to the European Commission and the coordination of subsidies required under the Community guidelines on State aid for maritime transport.

The aid granting authority shall provide information on the decisions made and the subsidies paid pursuant to this Act as separately provided in the Act on Information Management in Public Administration and elsewhere in the law. (928/2019)

Section 30 Supervisory authority

Enforcement of this Act is supervised by the Ministry of Transport and Communications.

The aid granting authority shall monitor compliance with the conditions to entry in the Register of Merchant Vessels and the veracity of the conditions for granting the aid.

Section 31 Further provisions

Further provisions may be laid down by a Decree of the Ministry of Transport and Communications on:

- 1) the procedure concerning aid applications and the provision of information as referred to in sections 14 and 16 of this Act;
- 2) granting the aid as referred to in section 19 of this Act; and
- 3) the aid recipient's duty to notify as referred to in section 21.

Section 32

Entry into force

This Act enters into force on a date to be provided by government decree.

This Act applies to subsidies paid in respect of costs arising on and after 1 January 2008.

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

This Act repeals the Act on the Register of Merchant Vessels Engaged on International Voyages (1707/1991), issued on 30 December 1991, as amended.

Section 33

Transitional provisions

The provisions in force at the time of the entry into force of this Act shall apply to aid applications pending prior to the entry into force of this Act.

Subsidies payable in accordance with the Act on the Register of Merchant Vessels Engaged on International Voyages shall be considered as subsidies already paid when granting subsidies under this Act payable for the same period of time.

In accordance with the Act on Temporary Exemption of Seamen's Income Earned on Certain Passenger Ships from Tax Withholding (625/2004), the amount of withholding tax remaining unpaid to the tax authorities shall be taken into account as aid already paid when determining the amount of aid under this Act for the period between 1 January 2008 and the date of entry into force of this Act.

The Act on the Amendment of the Act on Improving the Competitiveness of Vessels engaged in Maritime Transport (967/2008) entered into force on 15 September 2009.