

No. 395/2012

Adopted in Helsinki on 15 June 2012

## Act

### on the Working and Living Environment and Catering for Seafarers on Board Ships

The following is enacted in accordance with the decision of Parliament:

#### Chapter 1

#### General provisions

##### Section 1

##### *Objective*

The objective of this Act is to ensure health and safety in the working and living environment for seafarers as well as their access to decent food and opportunities for recreation and leisure activities on board ships.

##### Section 2

##### *Scope of application*

This Act applies to Finnish ships where seafarers work on board.

This Directive does not apply to:

- 1) state vessels used for defence and coast guard operations;
- 2) hydrofoils, hovercraft and historic ships;
- 3) fishing ships with the maximum length less than 24 metres.

The Maritime Labour Convention applies to foreign ships in the territorial waters of Finland.

##### Section 3

##### *The relation of this Act to other legislation*

In addition to this Act, the provisions of the Occupational Safety and Health Act (738/2002) shall be observed.

Separate provisions shall be issued regarding the safety of ships at sea and the enforcement carried out by the Finnish Transport Safety Agency.

##### Section 4

##### *Definitions*

For the purposes of this Act the term:

1) *gross tonnage* means the gross tonnage calculated in accordance with Regulation 3 in Annex 1 to the International Convention of Tonnage Measurement of Ships, 1969 (Finnish Treaty Series 31/1982); the gross tonnage of a fixed combination of a towboat and a barge is the combined gross tonnage of these;

2) *seafarer* means any person who regularly works on board a ship;

3) *shipowner* means the owner of a ship or the charterer of an entire ship or another natural or legal person who alone or together with other persons exercises effective control on board a ship;

4) *working environment* means the work spaces inside and outside the ship, personnel facilities and working alleyways as well as their physical conditions and equipment;

5) *accommodation* means sleeping rooms, day rooms, mess rooms, sanitary accommodation, recreational facilities and leisure facilities, hospital accommodation and adjoining passageways;

6) *maritime labour convention* means the Maritime Labour Convention adopted by the International Labour Organization in 2006;

7) *officers* means the ship's master, the chief engineer, the chief navigating officer, the first engineer, the chief of the catering

department and any other person in a supervisory position.

## Chapter 2

### **The design of ships and inspections and statements concerning ships**

#### Section 5

##### *The design and construction of work spaces and accommodation*

The shipowner shall ensure that the work spaces and accommodation of a new ship ordered to fly the Finnish flag as well as the machinery, work equipment and other equipment to be used in these spaces are designed and constructed so as not to cause harm or danger to the seafarers' safety and health. The shipowner has the similar responsibility in case substantial alterations are made to the ship.

#### Section 6

##### *Initial inspection*

The shipowner shall ensure that an initial inspection is conducted on board a new ship or a ship that is going to fly the Finnish flag. By the initial inspection the occupational safety and health authority ensures that the work spaces and accommodation on board comply with applicable legal provisions and regulations. An initial inspection must be carried out, if possible, before a ship is taken into service, in any case not later than six months from the date when the ship was taken into service. The same applies in case substantial alterations are made to the ship.

#### Section 7

##### *Periodic inspection*

The occupational safety and health authority shall inspect ships of 199 gross tonnage or over at least every three years after the ship was taken into service.

#### Section 8

##### *Inspections and statements related to issuance of a maritime labour certificate*

The occupational safety and health authority gives the Finnish Transport Safety Agency a statement concerning the matters listed in Appendix A5-1 to the Maritime Labour Convention for issuance of a *maritime labour certificate* in accordance with the Convention.

Before giving the statement referred to in subsection 1, the occupational safety and health authority must carry out such inspections within its competence on board the ship as referred to in the Maritime Labour Convention that are necessary for issuance, continued validity or renewal of an interim maritime labour certificate and a maritime labour certificate. The shipowner must apply for an inspection in writing in good time before the due date of the inspection. The occupational safety and health authority must duly record in the maritime labour certificate an approved interim inspection conducted for keeping a maritime labour certificate valid.

Section 57(3) of the Act on the Technical Safety and Safe Operation of Ships (1686/2009) lays down provisions regarding the maritime labour certificate and the conditions for issuance of certificates.

Further provisions may be given by government decree regarding the initiation of an inspection, the date and conduct of an inspection and the information on an inspection to be recorded in the maritime labour certificate.

#### Section 9

##### *Payments and travel expenses incurred by initial inspections*

The applicant is charged a payment for an initial inspection conducted by the occupational safety and health authority in accordance with the Act on Criteria for Charges Payable to the State (150/1992).

Travel costs incurred by an initial inspection or a periodic inspection conducted abroad are charged from the shipowner.

## Chapter 3

### **The working environment**

#### Section 10

##### *The working environment*

The shipowner shall ensure that the working environment on board the ship is safe and no danger from it arises to the seafarers' health.

Further provisions may be given by government decree regarding the on-board working environment, the placement of work spaces as well as their physical conditions, working alleyways, equipment and maintenance, and other factors affecting safety and health in the working environment.

#### Chapter 4

### **Accommodation and recreational facilities**

#### Section 11

##### *Accommodation*

The shipowner shall ensure that the seafarers have decent and safe accommodation. In application of this provision account must be taken of the Special Purpose Ship Code contained in the International Convention for the Safety of Life at Sea, 1974 (Finnish Treaty Series 11/1981) and in Resolution A.534(13) adopted by the IMO General Assembly on 17 November 1983 and in Resolution MSC.266(84) adopted by the IMO Maritime Safety Committee on 13 May 2008.

If seafarers live on board a ship, a single-berth sleeping room must be provided for each seafarer, with the exception of ships (*passenger ships*) referred to in section 2(19) of the Act on the Technical Safety and Safe Operation of Ships. The occupational safety and health authority may, on application and after consulting the shipowners' and seafarers' organisations concerned, for special reasons grant exemption from the minimum number of sleeping rooms in the case of such self-propelled ships which, in addition to the crew, carry over 12 persons in special duties on board and which are used for scientific research, training sea personnel, cable laying, marine rescue services provided to ships and other property, or for some other comparable special purpose, and in the case of ships of gross tonnage less than 1,000.

A decision concerning exemption may be appealed as is provided in the Administrative Procedure Act (586/1996).

In consideration of the number of sleeping rooms, apprentices regularly coming to practice on board the ship must also be taken into account.

Further provisions may be given by government decree regarding the placement, size, construction, equipment, physical conditions and maintenance of accommodation, and on other factors affecting the decency and safety of accommodation as well as on procedures related to exemptions.

For application of subsections 2 and 4, see section 23. See also Government Decree on the Living Environment for Seafarers on Board Ships 825/2012.

#### Section 12

##### *Inspection of accommodation*

The ship's master has the right to inspect the seafarers' accommodation if there is reason to suspect that the accommodation does not meet the health and safety requirements or if an inspection is necessary to ensure that the accommodation is suitable for living. At least one person representing the crew must be present during the inspection. The inspection must be recorded in the ship's diary.

#### Section 13

##### *Recreational facilities*

The shipowner shall ensure that there are appropriate facilities and equipment for the seafarers' recreation and leisure activities on board the ship.

Further provisions may be given by government decree regarding the placement, size, construction, number, equipment, physical conditions and maintenance of recreational facilities and on other factors affecting the appropriateness of the recreational facilities and the opportunities for recreation on board ships.

See Government Decree on the Living Environment for Seafarers on Board Ships 825/2012.

#### Chapter 5

### **Food and catering**

## Section 14

### *Food*

The shipowner shall ensure that during the period of engagement the seafarers have access to meals free of charge and that the ship carries on board enough decent food and drinking water in consideration of the seafarers' differing cultural and religious backgrounds and health aspects.

Further provisions on food and drinking water may be given by government decree.

See Government Decree on Catering for Seafarers on Board Ships 820/2012.

## Section 15

### *Catering*

The shipowner shall ensure that the ship is provided with adequate and appropriate facilities for preparation, service and storage of food and that food and drinking water are handled so as not to cause danger to the seafarers' health.

The staff responsible for food preparation must be trained and qualified for the task.

Further provisions on catering on board ships may be given by government decree.

See Government Decree on Catering for Seafarers on Board Ships 820/2012.

## Section 16

### *Food diary*

The ship's master or another officer shall keep a food diary. A food diary is not necessary on passenger ships where passengers and seafarers have common catering services.

## Section 17

### *Catering inspection*

The ship's master or another officer shall regularly, together with the person responsible for the catering, inspect the ship's:

- 1) supplies of food and drinking water;
- 2) spaces and equipment used for the storage and handling of food and drinking water;

3) kitchen as well as equipment and kitchenware used for the preparation and service of meals.

On their request the crew representatives must be given an opportunity to participate in the inspection mentioned in subsection 1.

The inspection must be recorded in the ship's diary.

## Chapter 6

### **Enforcement and the cooperation between authorities**

## Section 18

### *Enforcement of the Act*

The occupational safety and health authority enforces compliance with this Act as provided in the Act on Occupational Safety and Health Enforcement and on Cooperation on Occupational Safety and Health at Workplaces (44/2006).

In the case of foreign ships, the occupational safety and health authority monitors that the ship meets the requirements of the Maritime Labour Convention regarding the terms and conditions of employment, the health and safety of the living and working environment on board as well as the seafarers' right to appropriate nutrition, recreation and leisure activities on board the ship.

## Section 19

### *Cooperation and executive assistance*

The occupational safety and health authority and the Finnish Transport Safety Agency shall on request give each other executive assistance in the enforcement of the legal provisions concerning ships. Regardless of the provisions on secrecy, the occupational safety and health authority and the Finnish Transport Safety Agency have the right to obtain from each other information necessary for the monitoring of ships.

The occupational safety and health authority and the Finnish Transport Safety Agency conduct, when necessary, joint inspections related to granting maritime labour certificates or monitoring foreign

ships.

The occupational safety and health authority and the Finnish Transport Safety Agency must, when necessary, inform each other of negligence or a defect which they have discovered within their enforcement operations but which belongs to the matters under the control of the other authority. When the Finnish Transport Safety Agency has informed the occupational safety and health authority of the need for inspection of the work spaces or accommodation on board a foreign ship, the occupational safety and health authority must act without delay, unless this information otherwise requires.

#### Chapter 7

### **Penal provisions and the competent court**

#### Section 20

##### *Maritime labour offence*

A shipowner or the representative of a shipowner who intentionally or negligently fails to fulfil the responsibility laid down in this Act

- 1) to report a ship for initial inspection in accordance with section 6;
- 2) to keep a food diary in accordance with section 16; or
- 3) to keep the legal provisions and agreements available for inspection in accordance with section 22

shall be sentenced for a *maritime labour offence* to a fine, unless a more severe punishment is provided elsewhere in law.

Punishment for a work safety offence is provided in Chapter 47, section 1 of the Criminal Code (39/1889).

#### Section 21

##### *Competent court*

Provisions on the competent court for civil or criminal cases based on this Act are laid down in Chapter 21 of the Finnish Maritime Act (674/1994).

#### Chapter 8

### **Miscellaneous provisions**

#### Section 22

##### *Keeping the Act available for inspection at the workplace*

This Act and the provisions issued under it shall be kept available for inspection by the seafarers in the workplace.

#### Section 23

##### *Entry into force*

This Act enters into force on 1 November 2012. Section 2(2) and section 18(2) enter into force on a date separately provided by government decree.

Section 11(2) and (4) on sleeping rooms for seafarers and for apprentices coming to practise on board a ship apply to ships the keel of which is laid six months after this Act enters into force.

Council Directive 2009/13/EC, EUPJ L 124, 20502009

