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Act on Implementing the Common Fisheries Policy of the European Community

(1139/1994, amendments up to 1008/2002 included)

Chapter 1 - General provisions

Section 1 - Scope of application

This Act shall be complied with in the application of the common fisheries policy of the European Community in so far as provisions on the matter are not set down in the regulations of the European Community or in decisions and rules issued under these.

Section 2 - Competent authority

- (1) The Ministry of Agriculture and Forestry is responsible for the general implementation of this Act. The Ministry of Agriculture and Forestry is also the competent authority of the Member State referred to in the Community statutes and decisions concerning the common fisheries policy of the European Community.
- (2) In a certain matter or group of matters the Ministry of Agriculture and Forestry may transfer the competence referred to in section 1 to the Finnish Game and Fisheries Research Institute or the [Rural Business Districts].

Section 3 - Control (2001/434)

- (1) The Ministry of Agriculture and Forestry steers the control of the compliance with the provisions concerning the common fisheries policy of the European Community. It is the task of the Employment and Economic Development Centres to control the compliance with these provisions in their own territories

Section 4 - Registers (1280/1995)

- (1) The Ministry of Agriculture and Forestry sees to the keeping of registers necessary for the control of the compliance with the common fisheries policy of the European Community and for the statistics. The registers may include information concerning fishing, fishing vessels, aquaculture, fish trade, buyers, sellers and transporters of fishery and aquaculture products and financing of fisheries.
- (2) The Finnish Game and Fisheries Research Institute has the right to obtain information from the registers referred to in section 1 for research and compilation of statistics. The Ministry of Agriculture and Forestry may give other parties the right to use the information included in the statistics for research purposes subject to conditions set by the Ministry. Register information may also be used for purposes set down in the national or European Community legislation.

Section 4a - Register of Fishing Vessels

- (1) Only fishing vessels fishing the species for which quotas have been established by the European Community whose fishing activity has a sufficient economic linkage to the Finnish fisheries industry may be entered to the Register of Fishing Vessels. The fishing practised by the vessel has a sufficient economic linkage to the Finnish fisheries industry if:

- 1) at least half of the total annual catch of the vessel calculated according to the total value of the catch is landed in a Finnish port;
 - 2) at least half of the annual fishing trips of the vessel start from a Finnish port; or
 - 3) at least half of the crew of the vessel are Finnish citizens or citizens of other states within the European Economic Area whose permanent place of residence is in Finland.
- (2) The authority keeping the register may also take account of other points presented by the owner of the vessel to be registered or included in the register indicating that the fishing practised by the vessel has a sufficient economic linkage to the Finnish fisheries industry.
- (3) A vessel which does not fulfil the conditions referred to in section 1 or whose fishing cannot otherwise be indicated to have a sufficient economic linkage to the Finnish fisheries industry may be removed from the register.

Section 5 - *Right to access and obtain information*

- (1) The persons performing the control have the right to access, to the extent required for the control, the documents concerning landing, transport, sale and other operations as well as obtain other information on fishing and aquaculture and the transport, processing, trade, storage, import and export of fisheries products.
- (2) The right to access and obtain information referred to in section 1 above also applies to information which concerns private business or professional activity or financial position of a private party which would otherwise be kept secret.
- (3) The persons performing the control have, in the context of the control duties, the right to access fishing vessels, means of transport for fisheries products and other premises where fishing equipment, fisheries products or documents or other material subject to the control under this Act are kept.

Section 6 - *Performing the control*

- (1) The person or authority performing the control has the right to immediately confiscate any fishing equipment used in a way that violates against the provisions referred to in this Act and the catch obtained in such a manner. The confiscated equipment and catch must be handed over to the preliminary investigation authority.
- (2) The person or authority performing the control may decide not to notify the preliminary investigation authority of a violation for which no more severe penalty than a fine is to be expected and which as a whole is clearly to be considered a minor one.
- (3) In fishing on high seas control may be performed, besides the Finnish authorities, by the fishing control authority of another state within the limits set down in the United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks. When performing the control tasks these authorities also have the right to access and obtain information referred to in section 5. The control authority may also order a fishing vessel taken to port if this is provided for in the agreement or the rules for its application. **(434/2001)**

Section 7 - *Penalties*

- (1) Any person or party who intentionally or through negligence (1280/1995)

- 1) practises fishing in a way that violates against the established fishing restriction or engages in professional fishery without a vessel-specific licence or fishing licence determined as obligatory or exceeds the allowable quantity for the catch;
 - 2) keeps fishing equipment on board the fishing vessel in a way that violates against the provisions or regulations or neglects the duty to keep a vessel-specific fishing logbook;
 - 3) neglects the duty to assist in the control or provide information needed for the control concerning the fishing, aquaculture, fish trade, transport of fish or fish processing or financial support granted from public funds; or **(1280/1995)**
 - 4) otherwise violates against the provisions concerning the common fisheries policy or rules issued by the authority under these or under this Act must be sentenced to a fine for violating against the common fisheries policy, unless a more severe penalty is provided elsewhere in the law.
- (2) The penalty for fishing in a way that violates against the regulations on the common fisheries policy of the European Community or decisions or rules issued under these by prohibited fishing gear or method or during closed season for fishing are set down in Chapter 48a, section 2(1)(3) of the Penal Code. **(519/2002)**

Section 8 – *Forfeiture*

- (1) The vessel-specific licence and fishing licence of a person or party sentenced to a penalty under section 7, subsection (1)(1) or subsection 2 may be ordered forfeit for the maximum period of three years. **(887/2001)**
- (2) The certificate of competency needed for fishing on high seas of a master of the fishing vessel, chief or first engineer officer or deck officer who is sentenced to a penalty for an offence in high seas fishery under section 7, subsection (1)(1) or subsection 2 may be ordered forfeit for the maximum period of three years. The court of justice must notify the forfeiture of the certificate of competency without delay to the Finnish Maritime Administration. **(434/2001)**

Section 8a – *Revoking the fishing licence (434/2001)*

- (1) The authority who granted the fishing licence may temporarily revoke the fishing licence and the control authority may order the fishing vessel to return to the port if the master of the vessel denies the control on high seas referred to in section 6(3) or if there is sufficient proof of a fishery offence in fishing on high seas and the interruption of fishing is to be considered indispensable due to the gravity of the offence. The revoking of the fishing licence may remain in force until the court of justice has given its decision on the matter concerning the fishery offence.
- (2) Notwithstanding an earlier decision, the authority which temporarily revoked the fishing licence may, upon the request of the holder of the fishing licence or after hearing the holder of the fishing licence and for special reason, decide that the holder of the licence may resume fishing on high seas. The court of justice must be notified of the matter if the matter is still pending there.

Section 9 – *Recovery of aid*

- (1) If financial support under section 1 has been overpaid or paid without due grounds, the authority which granted the support may decide on the recovery of the support which has been overpaid or paid without due grounds.
- (2) Recovery may be executed as provided for the tax recovery procedure.

Section 10 - *Further provisions*

- (1) The Ministry of Agriculture and Forestry may issue further provisions regarding:
 - 1) restriction and other regulation of fishery;
 - 2) vessel-specific licences and special fishing licences;
 - 3) registers referred to in section 4 above;
 - 4) support measures for the fisheries sector; and
 - 5) other measures to implement this Act.

Section 11 – *The Province of Åland*

- (1) As far as the matter falls within the legislative competence of the Province of Åland, the provisions set down by the Provincial Government of Åland apply instead of this Act.

Chapter 2 - **Entry into force and transitional provisions**

Section 12 – *Entry into force*

- (1) This Act enters into force at a time to be provided by decree. (*Act 1139/94 entered into force by Decree 1573/94 on 1 January 1995*)
- (2) Measures necessary for the implementation of this Act may be undertaken before the Act's entry into force.

Section 13 – *Repealed acts*

- (1) By this Act, the following acts are repealed:
 - 1) Fishery Income Act (621/75) of 18 July 1975, with subsequent amendments; and
 - 2) Act on the Enforcement of the Recommendations of the International Baltic Sea Fishery Commission (483/75) of 25 June 1975, with subsequent amendments.