

**Act on Environmental Protection in Maritime Transport**  
(1672/2009)

**Chapter 1**  
**General provisions**

Section 1  
*Purpose of the Act*

- (1) The purpose of this Act is to prevent environmental pollution resulting from the normal operation of ships, by prohibiting discharges and emissions of noxious substances into water and air, or by setting limits on discharges and emissions into water and air. Furthermore, the purpose of this Act is to organise the reception of waste in ports resulting from the normal operation of ships.
- (2) This Act lays down the provisions for the national implementation of international commitments binding on Finland and European Community legal instruments pertaining to the prevention of environmental pollution resulting from the normal operation of ships, as well as other provisions pertaining to the prevention of environmental pollution resulting from the normal operation of ships.

Section 2  
*Definitions*

For the purposes of this Act:

- 1) ‘*MARPOL 73/78 Convention*’ means the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973 (SopS 51/1983), as amended;
- 2) ‘*Helsinki Convention*’ means the Convention on the Protection of the Marine Environment of the Baltic Sea Area, 1992 (SopS 2/2000), as amended;
- 3) ‘*SOLAS Convention*’ means the International Convention for the Safety of Life at Sea, 1974 (SopS 11/1981), as amended;
- 4) ‘*AFS Convention*’ means the International Convention on the Control of Harmful Anti-fouling Systems on Ships, concluded in London on 5 October 2001, as amended;
- 5) ‘*TBT Regulation*’ means Regulation (EC) No 782/2003 of the European Parliament and of the Council on the prohibition of organotin compounds on ships;
- 6) ‘*territorial waters*’, ‘*internal waters*’ and ‘*territorial sea*’ mean areas defined in the Act on the Delimitation of the Territorial Waters of Finland (*Laki Suomen aluevesien rajoista* 463/1956);
- 7) ‘*inland waters*’ means lakes, rivers and canals;
- 8) ‘*Finnish waters*’ means the territorial waters and inland waters;
- 9) ‘*Finland’s exclusive economic zone*’ means the sea area defined in the Act on the Exclusive Economic Zone of Finland (*Laki Suomen talousvyöhykkeestä* 1058/2004);
- 10) ‘*Baltic Sea area*’ means the Baltic Sea proper with the Gulf of Bothnia, the Gulf of

Finland and the entrance to the Baltic Sea bounded by the parallel of the Skaw in the Skagerrak at 57°44.8' N, together with internal waters declared by each state;

11) '*nearest land*' means the outer limit of the internal waters or the areas defined in the MARPOL 73/78 Convention;

12) '*international voyages*' mean voyages between Finnish and foreign ports or voyages between foreign ports, as well as voyages between a Finnish port and any area outside Finland's territorial waters, excluding voyages defined below in item 13;

13) '*domestic voyages*' mean voyages between Finnish ports; voyages to Vyborg via the Saimaa Canal and the Russian waters immediately adjacent thereto, as well as voyages between Vichrevoy and Vyborg, shall be equated with domestic voyages;

14) '*ship*' means any sea-going vessel or craft and includes hydrofoil boats, air-cushion vehicles, submersibles, and floating craft, as well as fixed or floating platforms;

15) '*oil tanker*' means a ship constructed or adapted primarily to carry oil in bulk in its cargo spaces and includes combination carriers and chemical tankers when carrying a cargo of oil in bulk;

16) '*chemical tanker*' means a ship constructed or adapted primarily to carry noxious liquid substances in bulk in its cargo spaces and includes oil tankers when carrying a cargo of noxious liquid substances in bulk;

17) '*passenger ship*' means a ship entitled to carry more than 12 passengers, where 'passenger' means every person other than the master of the ship and the members of the crew or other persons employed or engaged in any capacity on board the ship in the business of that ship, and children under one year of age;

18) '*recreational craft*' means a ship of any type, regardless of the means of propulsion, intended for sports or leisure purposes;

19) '*fishing vessel*' means any ship equipped or used commercially for catching fish or other living resources of the sea;

20) '*inland waterway vessel*' means any ship designed for use on inland waterways in particular, as defined in Council Directive 82/714/EEC of 4 October 1982 laying down technical requirements for inland waterway vessels, including any and all ships that have been issued an inland navigation certificate, as defined in the aforementioned Directive;

21) '*ship of the Finnish Defence Forces or the Border Guard*' means any ship with clear national insignia and under the command of a person who has been duly appointed by the Finnish Defence Forces or the Border Guard and entered into the relevant record of services or the like;

22) '*gross tonnage*' means tonnage determined by using the formula set out in Annex I of the International Convention on Tonnage Measurement of Ships, 1969 (SopS 31/1982);

23) '*ship-generated waste*' means all waste which is generated during the normal operation of a ship, including oily waste originating from the machinery spaces, sewage and garbage; cargo residue(s) shall not, however, be considered ship-generated waste;

24) '*noxious substance*' means oil, noxious liquid substances, sewage, and garbage; if a noxious substance has been mixed into a non-noxious substance, the mixture of such substances shall also be considered a noxious substance;

25) '*cargo residue(s)*' means material remnants of any cargo material on board in cargo holds and tanks which must be removed from the ship as waste when the unloading procedures are completed;

26) '*discharge*', as defined by the MARPOL 73/78 Convention, means any release of harmful substances, however caused, from a ship, and includes any escape, disposal, spillage, leakage, pumping, emitting or emptying; for the purposes of this Act, the definition of 'discharge' does not include dumping at sea of waste generated on land (*dumping*), harmful substances directly arising from the exploitation of sea-bed mineral

resources, or the release of harmful substances for purposes of legitimate scientific research into pollution abatement or control;

27) '*environmental pollution*' means, with regard to the state of water areas, any hazards to human health, harm to living resources and to life in water areas, hindrances to fishing or to other legitimate use of water areas, impairment of water quality with respect to the use of said water, reduction of amenities, or any similar inconvenience, or harm related to air quality or to the climate, caused by the normal operation of ships, such as harm caused by nitrogen and sulphur in engine exhaust gases, or harm caused by ozone-depleting substances;

28) '*oil*' means petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined products;

29) '*oily mixture*' means a mixture with oil content;

30) '*liquid substance*' means a substance that has a vapour pressure not exceeding 0.28 megapascals (*absolute pressure*) at a temperature of 37.8 °C;

31) '*noxious liquid substance*' means substances falling into categories X, Y and Z of the list of chemicals of the MARPOL 73/78 Convention;

32) '*substance*' means chemical elements and their compounds in the natural state or obtained by any production process;

33) '*preparation*' means mixtures or solutions composed of two or more substances;

34) '*sewage*' means

a) drainage and other wastes from any form of toilets, urinals and WC scuppers;

b) drainage from medical premises via washbasins, wash tubs and scuppers;

c) drainage from spaces containing living animals; and

d) other waste waters when mixed with the drainages defined above;

35) '*treated sewage*' means sewage processed through a properly approved treatment facility;

36) '*garbage*' means all kinds of food wastes, domestic wastes and other similar waste generated during the normal operation of ships and liable to be disposed of continuously or periodically, excluding fresh fish and parts thereof;

37) '*air pollutant*' means substances which have been regulated in Annex VI to the MARPOL 73/78 Convention in order to prevent air pollution, and which have a harmful effect on air, water and other environments;

38) '*fuel*' means the fuel oils used in the main engines and auxiliary engines of ships;

39) '*placing on the market*' means supplying marine fuel for distribution to fuel users or making it available to them, for a consideration or free of charge, for use as fuel for ships in areas under Finland's jurisdiction, excluding, however, marine fuels supplied or made available for export in cargo tanks of ships;

40) '*marine fuel*' means the liquid fuel produced from crude oil and intended for use, or currently in use, in a ship, including fuels defined by the ISO 8217 standard;

41) '*marine diesel oil*' means marine fuels having a viscosity or density that corresponds to the viscosity or density of the DMB and DMC qualities referred to in Table 1 of the ISO 8217 Standard;

42) '*marine gas oil*' means marine fuels having a viscosity or density that corresponds to the viscosity or density of the DMX and DMA qualities referred to in Table 1 of the ISO 8217 Standard;

43) '*sulphur oxide emission control area*' means sea areas which the IMO has defined as control areas in accordance with Annex VI to the MARPOL 73/78 Convention;

44) '*ship at berth*' means a ship duly moored or anchored in a Finnish port while being loaded or unloaded, or which is waiting at the port;

- 45) ‘*cleaning technology*’ means an exhaust gas cleaning system or other technical method that can be implemented and controlled or verified;
- 46) ‘*anti-fouling system*’ means a coating, paint, surface treatment, surface or device that is used on a ship to control or prevent the attachment of unwanted organisms;
- 47) ‘*VTS authority*’ means the unit of the Finnish Transport Agency that provides vessel traffic services in accordance with the Vessel Traffic Service Act (*Alusliikennepalvelulaki* 623/2005);
- 48) ‘*regular service*’ means that a ship is operating repeatedly, based on a schedule or a pre-confirmed route, between designated ports, and that it calls, at least once every two weeks, at a Finnish port located along the route and concerning which an exemption from the mandatory delivery of ship-generated waste has been applied for;
- 49) ‘*port*’ means a location or a geographical area made up of such equipment as to permit, principally, the reception of ships, including fishing vessels and recreational craft; it does not, however, mean a location or area where the facilities and services available for ships are limited and the number of users and amount of waste are low;
- 50) ‘*port operator*’ means a person or body responsible for the management of the separate operational entities that make up the port, or who collects the port charge or a similar public fee for using the port.

### Section 3

#### *Scope of application*

- (1) This Act shall apply to ships sailing in Finnish waters or within Finland’s exclusive economic zone. Exceptions to the application of this Act concerning inland waters and domestic voyages are set out below.
- (2) This Act shall also apply to Finnish ships when sailing outside Finnish waters or outside Finland’s exclusive economic zone.
- (3) This Act shall apply to the reception of waste resulting from the normal operation of ships. The Waste Act (*Jätelaki* 1072/1993) shall become applicable to the waste resulting from the normal operation of ships once such waste has been delivered ashore from the ship.
- (4) This Act shall not apply to the release of noxious substances referred to in Article 2(3)(b)(ii) of the MARPOL 73/78 Convention, directly arising from the exploration, exploitation and associated off-shore processing of sea-bed mineral resources.

### Section 4

#### *Applicability of the Act to ships of the Finnish Defence Forces or the Border Guard*

- (1) This Act applies to ships of the Finnish Defence Forces or the Border Guard, unless the special nature of their construction or operation otherwise requires.
- (2) However, this Act applies without exception to such ships of the Finnish Defence Forces or the Border Guard that are regularly used in public transport to carry passengers or cargo.

### Section 5

#### *Applicability of the Act to ships of foreign states*

Notwithstanding what is provided in this Act, provisions laid down in international treaties and agreements regarding the legal status of a ship or warship flying the flag of a foreign state must be followed.

#### Section 6

##### *Prohibition on the discharge of noxious substances and air pollutants*

- (1) It is prohibited to discharge noxious substances and air pollutants into water or air, as provided in, or by virtue of, this Act or as provided in European Community legal instruments.
- (2) If noxious substances falling under different discharge provisions are mixed with each other, the most stringent discharge provisions shall apply.

#### Section 7

##### *Floating platforms equipped with a permanent fixed shore connection*

- (1) The Environmental Protection Act (*Ympäristönsuojelulaki* 86/2000) and Waste Act shall apply to the prevention of environmental pollution caused by floating platforms equipped with a permanent fixed shore connection.
- (2) A 'floating platform equipped with a permanent fixed shore connection' means a ship intended for accommodation, restaurant or recreational purposes, or work activities, having a permanent fixed shore connection, such as a water pipe, sewer, electric cable or a fixed gangway, as well as a firmly anchored floating ship intended for recreational purposes.

### **Chapter 2**

#### **Prevention of ship-generated oil discharges and spills**

##### Section 1

##### *Prohibition and restrictions on the discharge of oil*

- (1) It is prohibited to discharge oil or oily mixtures from ships in Finnish waters or in Finland's exclusive economic zone, as well as from Finnish ships outside Finnish waters or Finland's exclusive economic zone, as set out in Annex I to the MARPOL 73/78 Convention, in the Helsinki Convention, or in other international commitments binding on Finland, or in European Community legal instruments.
- (2) In addition to the provisions of subsection 1, it is prohibited to discharge oily mixtures from the machinery spaces of ships through the bilge water filtration system into water in inland waters and in Finland's territorial waters within an area of four nautical miles from the nearest land.
- (3) It is prohibited to add water, chemicals or other substances to oil discharges in order to circumvent the discharge restrictions.

Section 2  
*Discharge of oil in exceptional circumstances*

- (1) The provisions of section 1 shall not apply to the discharge of oil or oily mixtures into water, if:
  - 1) the discharge is necessary for the purpose of securing the safety of the ship or saving life at sea;
  - 2) the discharge of oil into water results from damage to the ship or its equipment and all reasonable precautions have been taken after the occurrence of the damage; or
  - 3) the discharge into water consists of an oil-containing substance that was used to minimise damage from pollution, and the competent accident response authority has made a decision in each individual case concerning the use of such a substance.
- (2) The provisions of subsection 1(2) shall not apply to incidents where the owner or the master acted either with intent to cause damage, or recklessly and with knowledge that damage would probably result.

Section 3  
*Structural and equipment requirements for the machinery spaces of ships*

- (1) In ships of 400 gross tonnage and above, the machinery equipment, structure and arrangements necessary to ensuring the prevention of oil discharges must be in accordance with the requirements set out in Annex I to the MARPOL 73/78 Convention. Upon written application, the Finnish Transport Safety Agency may grant exemptions from the requirements set out in this subsection, provided that the equipment, arrangements or structure fulfils the requirements set out in Annex I to the MARPOL 73/78 Convention.
- (2) Finnish ships of 24 metres or more in length and less than 400 gross tonnage shall have either a bilge water holding tank, or equipment of a design approved by the Finnish Transport Safety Agency that will ensure that the oil content of the effluent without dilution does not exceed 15 parts per million.
- (3) The Finnish Transport Safety Agency may, on the conditions set out in Annex I to the MARPOL 73/78 Convention, decide that equipment, structures or arrangements of other types are deemed equivalent to the equipment required under subsections 1 and 2, provided that they are as effective as the equipment, structures or arrangements required under subsections 1 and 2.
- (4) In Finnish ships, oil shall not be carried in tanks located forward of the collision bulkhead.

Section 4  
*Structural and equipment requirements for oil tanker cargo spaces*

- (1) The structure and equipment of an oil tanker shall be in accordance with the requirements set out in Annex I to the MARPOL 73/78 Convention and Regulation (EC) No 417/2002 of the European Parliament and of the Council on the accelerated phasing-in of double hull or equivalent design requirements for single hull oil tankers and repealing Council Regulation (EC) No 2978/94, as amended.

- (2) The Finnish Transport Safety Agency may issue an order on equivalents and, in accordance with the provisions of Annex I to the MARPOL 73/78 Convention and upon written application, may grant exemptions from the requirements set out in subsection 1.

#### Section 5

##### *Shipboard oil pollution emergency plan*

Finnish oil tankers of 150 gross tonnage and above, and other Finnish ships of 400 gross tonnage and above, shall have a shipboard oil pollution emergency plan in accordance with Annex I to the MARPOL 73/78 Convention. The emergency plan shall be approved by the Finnish Transport Safety Agency.

#### Section 6

##### *Oil record book*

- (1) On board oil tankers of 150 gross tonnage and above, the master, or under his direction another of the ship's officers, shall keep an oil record book.
- (2) In addition to the provision in subsection 1, the master, or under his direction another of the ship's officers, shall keep an oil record book to record relevant machinery space operations on oil tankers of 150 gross tonnage and above, and on other ships of 400 gross tonnage and above.
- (3) The Finnish Transport Safety Agency shall approve the form of the oil record book in accordance with Annex I to the MARPOL 73/78 Convention. The Finnish Transport Safety Agency shall, in accordance with Annex I to the MARPOL 73/78 Convention, draft a model oil record book for oil tankers of less than 150 gross tonnage.
- (4) The Finnish Transport Safety Agency and, when the ship calls at a foreign port, the competent foreign authority, shall be entitled to inspect the oil record book and, upon request, to receive a copy thereof which shall be certified by the master. The actions undertaken by the Finnish Transport Safety Agency in accordance with this subsection shall be carried out as expeditiously as possible, without causing unnecessary delay to the ship.
- (5) The oil record book shall be kept in a place where it is easily accessible for inspection, and preserved for a period of three years after the last entry has been made.

#### Section 7

##### *IOPP Certificate*

- (1) Oil tankers of 150 gross tonnage and above engaged in international voyages and other ships of 400 gross tonnage and above engaged in international voyages must fulfil the structural and equipment requirements set out in Annex I to the MARPOL 73/78 Convention. As proof thereof, the ship shall be issued an international oil pollution prevention certificate ('*IOPP Certificate*').
- (2) The Finnish Transport Safety Agency shall, upon written application, issue the IOPP Certificate to a Finnish ship in the form set out in Annex I to the MARPOL 73/78 Convention, provided that the ship fulfils the requirements set out in Annex I to the

MARPOL 73/78 Convention. The Finnish Transport Safety Agency may issue the IOPP Certificate to a foreign ship at the request of the flag state. The Certificate shall be issued for a fixed period of validity, not exceeding five years at a time.

#### Section 8

##### *Transport of oil on inland waters*

Oil tankers operating on inland waters are prohibited from carrying:

- 1) heavy fuel oil in the cargo tanks; and
- 2) oil of any type whatsoever in cargo tanks located along the bottom shell area or along the outer surface of the hull.

#### Section 9

##### *Drilling rigs and other platforms*

The following provisions shall apply to the fixed and floating drilling rigs referred to in Annex I to the MARPOL 73/78 Convention which are engaged in the exploration, exploitation and associated off-shore processing of sea-bed mineral resources, as well as to other platforms:

- 1) provision of Chapter 1, section 6(2) on the mixing of noxious substances;
- 2) provisions of sections 1–4 of this chapter on discharges of oil and the prevention thereof; and
- 3) provisions of sections 6(2)–6(4) of this chapter on the oil record book concerning machinery space operations.

#### Section 10

##### *Further provisions*

- (1) Further provisions on the handling, properties and origin of oily mixtures, as well as on the discharge restrictions relating to the operation of ships, drilling rigs or other types of platforms, within Finland's territorial waters or Finland's exclusive economic zone, or also regarding Finnish ships outside Finland's territorial waters or Finland's exclusive economic zone, may be issued by government decree for the implementation of Annex I to the MARPOL 73/78 Convention, the Helsinki Convention and Finland's other international commitments, as well as for the implementation of European Community legal instruments.
- (2) Technical regulations on the following subjects may be issued by the Finnish Transport Safety Agency for the implementation of Annex I to the MARPOL 73/78 Convention, the Helsinki Convention, and European Community legal instruments, concerning Finland's territorial waters and Finland's exclusive economic zone, as well as Finnish ships sailing outside Finland's territorial waters or Finland's exclusive economic zone:
  - 1) exemptions and equivalents concerning requirements set out for ships, drilling rigs and other platforms, as well as the design of oil filtering equipment, and fluid-transfer models for such vessels and platforms, referred to in sections 3 and 4;
  - 2) the contents and outline of the emergency plan referred to in section 5;
  - 3) the form of the oil record book referred to in section 6; and
  - 4) the form of the IOPP Certificate referred to in section 7.



- (3) The further provisions referred to in subsection 1 and the technical regulations referred to in subsection 2 may also be extended to apply to ships sailing in inland waters and engaged in domestic voyages.

### **Chapter 3** **Oil discharge fee**

#### Section 1

##### *Obligation to pay an oil discharge fee*

- (1) For a violation of the prohibition, laid down in Chapter 2, section 1, on the discharge of oil or oily mixtures in Finland's territorial waters or Finland's exclusive economic zone, a monetary penalty (*oil discharge fee*) shall be imposed, unless the discharge is deemed minor in amount and impact. However, an oil discharge fee shall be imposed on foreign ships in transit for any violation of the discharge prohibition in Finland's exclusive economic zone, only if the discharge causes considerable damage or risk of damage to Finland's shoreline or to the interests pertaining thereto, or to the natural resources in Finland's territorial sea or within Finland's exclusive economic zone.
- (2) The oil discharge fee shall be imposed on a natural person or a legal person, who is the owner (*party liable for payment*) at the time of the offence. The oil discharge fee cannot be imposed on the owner, if he or she can prove that a manager, operator or bareboat charterer has been operating the ship in the owner's stead.
- (3) For a shipping company, the owners shall be jointly and severally liable for the oil discharge fee.
- (4) The provisions set out in this chapter shall not apply to ships belonging to the Police, Customs, the Finnish Defence Forces or the Border Guard.

#### Section 2

##### *Amount of the oil discharge fee*

The amount of the oil discharge fee shall be determined based on the amount of oil discharged and the gross tonnage of the ship, in accordance with the rates specified in the appendix to this Act.

#### Section 3

##### *Exemption from the oil discharge fee*

The competent authority may waive the imposition of an oil discharge fee or reduce the amount of the fee if the party liable for payment shows that the imposition of the fee would be manifestly unfair due to an emergency or accident to which the special provisions of Chapter 2, section 2, cannot be applied, or due to some other comparable reason.

#### Section 4

##### *Subsidiary function of the oil discharge fee*

- (1) Oil discharge fees cannot be imposed on a person who has received a legally valid sanction for the oil discharge incident in question.
- (2) The authority that has imposed the oil discharge fee shall, upon application, waive the fee, if the person upon whom the oil discharge fee has been imposed is subsequently subject to a sanction for the same oil discharge incident.

Section 5  
*Imposing the oil discharge fee*

- (1) The oil discharge fee shall be imposed by the Border Guard. Within the Border Guard, a decision on the matter shall be made by the Commander or the Deputy Commander of the Coast Guard, or the Head of the Operational Office.
- (2) The oil discharge fee shall be payable to the State.

Section 6  
*Actions to secure the imposition of the oil discharge fee*

- (1) Measures under this chapter and under sections 9–11 of Chapter 12 necessary for the solving of the matter may be undertaken in order to impose the oil discharge fee.
- (2) The Border Guard can also detain ships on the conditions set out in sections 9 and 10 of Chapter 12, if this is justifiable in order to secure due payment. For a justifiable reason, a decision to detain a ship may be reached before making a decision concerning payment. The Border Guard may impose conditions under which ships are able to continue their voyage, namely that a sufficient cash deposit be provided to the Border Guard for the fulfilment of potential payment obligations. Provisions of the act on the deposit of cash, book entries, securities or instruments in payment of debts or for release from other liabilities (*Laki rahan, arvo-osuuksien, arvopaperien tai asiakirjain tallettamisesta velan maksuna tai vapautumiseksi muusta suoritusvelvollisuudesta* 281/1931) shall apply to the depositing of the payment guarantee. The cash deposit must be refunded to its provider when grounds for holding the deposit no longer exist.
- (3) Detention orders and decisions concerning the cash deposit must be complied with regardless of appeal. If a cash deposit has been provided for the payment of the oil discharge fee or if other grounds for detaining a ship have ceased to exist, the detention order shall immediately be revoked. Detention orders shall remain valid for a period not exceeding 14 days from the date of issuance of the order.
- (4) Conditions imposed on foreign ships under which they are able to continue their voyage shall be reported to the flag states of the ships without delay.

Section 7  
*Opportunity to be heard*

- (1) Before a decision is made on the fee, the owner or the company shall be given the opportunity and sufficient time, considering the nature of the matter, to present an explanation.

- (2) If the purpose underlying the decision referred to in section 6(2) would otherwise be put at risk, the matter can be resolved without hearing the party involved.
- (3) The master shall represent the party liable for payment in matters relating to the oil discharge fee.

#### Section 8

##### *Executive assistance in matters relating to the oil discharge fee*

In order for the Border Guard to carry out its duties concerning the oil discharge fee, competent authorities shall give the Border Guard any necessary executive assistance they are authorised to provide.

#### Section 9

##### *Right to receive information*

If disclosing information does not hinder the resolution of the issue, the authority conducting the preliminary investigation shall, notwithstanding the provisions of the Act on the Openness of Government Activities (*Laki viranomaisen toiminnan julkisuudesta* 621/1999), be entitled to disclose to the Border Guard such information that has arisen during preliminary investigations on illegal discharges of oil and that may be of significance when deciding on the imposition of the oil discharge fee for the same oil discharge incident.

#### Section 10

##### *Right of appeal*

- (1) The party liable for payment is entitled to appeal the decision regarding the oil discharge fee and the order referred to in section 6(2) by submitting his or her appeal to the maritime court operating within the Helsinki District Court.
- (2) The maritime court shall have a quorum in the composition required under Chapter 21, section 1(3) of the Maritime Act (*Merilaki* 674/1994).

#### Section 11

##### *Appeal procedure*

- (1) An appeal must be submitted in writing within 30 days of the date the decision and the appeal instructions thereto were given to the party liable for payment. The petition for appeal shall be submitted to the Border Guard.
- (2) The Border Guard must, without delay, deliver the petition for appeal to the registry of the Helsinki District Court and attach to the petition for appeal copies of any and all accumulated documentation and its own statement. When delivering the documents to the District Court, the date of receipt of the petition for appeal must be declared.
- (3) The appeal shall be initiated in the maritime court upon the arrival of the documents required under subsection 2 to the registry of the court. Without delay, the court must

notify the appellant and the Border Guard of the time and place of the hearing and of the consequences of the appellant's non-attendance.

- (4) If the appellant has submitted the petition for appeal directly to the competent court, the appellant shall not lose the right to plead.

## Section 12

### *Procedure in the maritime court*

- (1) Based on the appeal and other evidence obtained in the matter, the maritime court must examine whether the prerequisites for imposing the oil discharge fee exist. Insofar appropriate, what is provided concerning criminal procedure applies to the hearing of the case in court.
- (2) During the course of proceedings in the maritime court, the Border Guard must show justification for the imposition of the oil discharge fee by providing proof of the necessary facts on which the fee was based. The maritime court must ensure that the case is processed thoroughly.
- (3) The decision-maker or an official representative must be present in the maritime court when the case is being heard. The appellant is entitled to be present in the maritime court. The case may be decided in the absence of the appellant, if:
  - 1) the court does not deem it necessary to hear the appellant in person; and
  - 2) the appellant has been ordered to be present under threat that the case may be heard and decided regardless of his or her absence.

## Section 13

### *Continued appeal*

- (1) Any appeal against a decision reached by the maritime court must be presented to the Court of Appeal, as stipulated in the Code of Judicial Procedure. An order of the maritime court in a case concerning the detention of a ship and a cash deposit is not subject to appeal.
- (2) The provisions of Chapters 26 and 30 of the Code of Judicial Procedure shall, where appropriate, be applied to the consideration of the case in the Court of Appeal and to appeals to the Supreme Court. When considering an appeal, the Court of Appeal must provide the Border Guard with an opportunity to be heard with respect to the appeal and, where necessary, to present evidence in the case.
- (3) Where necessary for upholding the uniformity of legal practice, the Border Guard is entitled to appeal a decision issued by the maritime court or the Court of Appeal on the basis of this Act, if the maritime court or the Court of Appeal has revised or repealed the Border Guard's decision.

## Section 14

### *Deadline for imposing the oil discharge fee*

The oil discharge fee can no longer be imposed when three years have passed from the date of the discharge.

Section 15  
*Enforcement of the oil discharge fee*

A decision on the fee shall be enforced once it has attained legal validity.

Section 16  
*Payment deadline for, and interest on, the oil discharge fee*

- (1) The oil discharge fee must be paid within 30 days of the receipt of notice of the decision.
- (2) Penalty interest shall be charged for the late payment of the oil discharge fee, in accordance with the interest rate specified in section 4(1) of the Interest Act (*Korkolaki* 633/1982), when the fee has fallen due and has not been paid by the deadline.

Section 17  
*Authority responsible for the enforcement of the oil discharge fee*

- (1) The Legal Register Centre shall be responsible for the enforcement of decisions concerning oil discharge fees.
- (2) The Border Guard and the court must notify the Legal Register Centre of their decisions. The Legal Register Centre must also be notified of decisions to reduce or revoke the oil discharge fee.

**Chapter 4**  
**Prevention of the discharge of noxious liquid substances from ships**

Section 1  
*Categorisation of noxious liquid substances*

- (1) In accordance with regulation 6 of Annex II to the MARPOL 73/78 Convention, the Annex shall be applied to the transport of noxious liquid substances falling into Categories X, Y or Z.
- (2) If a noxious liquid substance does not fall into Categories X, Y or Z, the substance shall be assessed in accordance with Annex II in order to determine the applicable carriage procedures.
- (3) The Finnish Transport Safety Agency may, on a case-by-case basis and upon written application, grant an exemption regarding the categorisation of a noxious liquid substance when such a substance is being carried on domestic voyages, provided that adherence to the categorisation provisions would cause unreasonable inconvenience or unreasonable expenses, and would be ill-founded due to the minor hazard presented to the environment.

Section 2  
*Prohibition against and restrictions on the discharge of noxious liquid substances*

- (1) It is prohibited to discharge noxious substances from ships in Finnish waters or in Finland's exclusive economic zone, as well as from Finnish ships outside Finnish waters or Finland's exclusive economic zone, as laid down in Annex II to the MARPOL 73/78 Convention, in the Helsinki Convention, or in other international commitments binding on Finland, or in European Community legal instruments.
- (2) It is prohibited for Finnish ships in the Antarctic area to discharge into water any noxious liquid substances or mixtures containing any noxious liquid substance.

### Section 3

#### *Discharge of noxious liquid substances in exceptional circumstances*

- (1) The provisions of section 2 shall not apply to the discharge of noxious liquid substances into water, if:
  - 1) the discharge is necessary for the purpose of securing the safety of the ship or saving life at sea;
  - 2) the discharge of the noxious liquid substance into water results from damage to the ship or its equipment and all reasonable precautions have been taken after the occurrence of the damage; or
  - 3) the discharge into water consists of a noxious liquid substance that was used to minimise damage from pollution, and the competent accident response authority has made a decision in each individual case concerning the use of such a substance.
- (2) The provisions of subsection 1(2) shall not apply to incidents where the owner or the master acted either with intent to cause damage, or recklessly and with knowledge that damage would probably result.

### Section 4

#### *Structural and equipment requirements for chemical tankers*

- (1) Chemical tankers carrying noxious liquid substances falling into Categories X, Y or Z in accordance with section 1 above shall meet the requirements set out in Annex II to the MARPOL 73/78 Convention.
- (2) Performance tests concerning the pumping and piping systems of chemical tankers are subject to approval by the Finnish Transport Safety Agency in accordance with the provisions of Annex II to the MARPOL 73/78 Convention.
- (3) The Finnish Transport Safety Agency may, in accordance with the provisions of Annex II to the MARPOL 73/78 Convention, grant exceptions from and, upon written application, exemptions to the requirements set out in subsection 1, or issue regulations on equivalents to such requirements.

### Section 5

#### *Shipboard marine pollution emergency plan*

- (1) Chemical tankers of 150 gross tonnage and above shall have a shipboard marine pollution emergency plan for noxious liquid substances, as set out in Annex II to the MARPOL 73/78 Convention.

- (2) The plan referred to in subsection 1 may be combined with the shipboard oil pollution emergency plan required under Chapter 2, section 5. The title of such a combined plan shall be 'shipboard marine pollution emergency plan'.
- (3) The emergency plans required under subsections 1 and 2 shall be approved by the Finnish Transport Safety Agency.

#### Section 6

##### *Procedures and arrangements manual*

- (1) The master of a chemical tanker, or under his direction another of the ship's officers, must keep a procedures and arrangements manual concerning the unloading and cleaning of the ship, as set out in Annex II to the MARPOL 73/78 Convention.
- (2) The procedures and arrangements manuals of ships shall be approved by the Finnish Transport Safety Agency upon written application, provided that the manual complies with the requirements set out in Annex II to the MARPOL 73/78 Convention.

#### Section 7

##### *Cargo record book*

- (1) The master of a chemical tanker, or under his direction another of the ship's officers, shall keep a cargo record book concerning cargo operations and damage incurred in the context of unloading, as set out in Annex II to the MARPOL 73/78 Convention.
- (2) The Finnish Transport Safety Agency and, when the ship is in a foreign port, the competent foreign authority is entitled to inspect the cargo record book and, upon request, to receive a copy thereof which shall be certified by the master. Actions undertaken by the Finnish Transport Safety Agency in accordance with this subsection shall be carried out as expeditiously as possible, without causing unnecessary delay to the ship.
- (3) The cargo record book shall be kept in a place where it is easily accessible for inspection, and must be preserved for a period of three years from the date of the last entry.
- (4) The Finnish Transport Safety Agency shall approve the form of the cargo record book.

#### Section 8

##### *Other certificates concerning the carriage of noxious liquid substances*

- (1) Chemical tankers must have a certificate of conformity with the standard for the safe carriage by sea of dangerous and noxious liquid chemicals in bulk (*IBC Code*) or the standard for the safe carriage of dangerous and noxious chemicals in bulk (*BCH Code*) of the International Maritime Organization.
- (2) Chemical tankers must have a certificate of conformity with requirements, except for the requirement concerning the location of the cargo tank, laid down in the IBC Code concerning type 3 ships, as set out in Annex II to the MARPOL 73/78 Convention.

- (3) The Finnish Transport Safety Agency shall, upon written application, issue certificates referred to in subsections 1 and 2, provided that the ship complies with the requirements laid down in Annex II. The Finnish Transport Safety Agency may also issue a certificate to a foreign ship at the request of the flag state. Certificates shall be issued for a fixed period not exceeding five years at a time.

## Section 9

### *Unloading of cargo and supervising the cleaning of tanks*

- (1) The master of a chemical tanker shall be liable for ensuring that noxious liquid substances are unloaded, and that tanks and piping are cleaned, tank washings are discharged and entries are made in the cargo record book in accordance with the provisions of Annex II to the MARPOL 73/78 Convention and the Helsinki Convention.
- (2) At ports where noxious liquid substances are loaded or unloaded, surveyors nominated by the Finnish Transport Safety Agency must inspect that the loading and unloading of cargo belonging to different categories, the cleaning of the tanks and piping, and the entries into the cargo record book are done in accordance with this Act and the provisions issued under it, as well as Annex II of the MARPOL 73/78 Convention and the Helsinki Convention. Ships shall be liable for the expenses arising from inspections.
- (3) The ship's agent shall notify the Finnish Transport Safety Agency of any unloading of a noxious liquid substance falling into Categories X or Y at a given port. Such notification must be given in good time and, where possible, no less than 48 hours before unloading is to commence.
- (4) The provisions of Annex II to the MARPOL 73/78 Convention shall apply to the prewash and ventilation of cargo tanks and holds. The Finnish Transport Safety Agency may grant exemptions from prewashing and issue regulations on the ventilation of cargo residues in accordance with Annex II.

## Section 10

### *Further provisions*

- (1) Further provisions on the following subjects may be issued by government decree for the implementation of Annex II to the MARPOL 73/78 Convention, the Helsinki Convention and Finland's other international commitments, as well as European Community legal instruments, concerning Finland's territorial waters and Finland's exclusive economic zone, as well as Finnish ships sailing outside Finland's territorial waters or Finland's exclusive economic zone:
  - 1) the categorisation of noxious liquid substances, referred to in section 1;
  - 2) discharge limitations pertaining to the unloading of cargo, prewash requirements, the contents of effluent, control of the washing of tanks, the ventilation of cargo spaces, and the effluent discharge conditions, referred to in sections 2 and 9; and
  - 3) structural and equipment requirements for chemical tankers, referred to in section 4.
- (2) Technical regulations on the following subjects may be issued by the Finnish Transport Safety Agency for the implementation of Annex II to the MARPOL 73/78 Convention, the Helsinki Convention, and European Community legal instruments, concerning Finland's



territorial waters and Finland's exclusive economic zone, as well as Finnish ships sailing outside Finland's territorial waters or Finland's exclusive economic zone:

- 1) exceptions, exemptions and equivalents referred to in section 4;
- 2) the emergency plan referred to in section 5;
- 3) the procedures and arrangements manual referred to in section 6;
- 4) the cargo record book referred to in section 7; and
- 5) the certificates referred to in section 8.

- (3) The further provisions referred to in subsection 1 and the technical regulations referred to in subsection 2 may also be extended to apply to ships sailing in inland waters and engaged in domestic voyages.

## **Chapter 5**

### **Prevention of discharges of ship-generated sewage**

#### Section 1

##### *Prohibition against and restrictions on the discharge of sewage*

It is prohibited to discharge either untreated or treated sewage from ships in Finnish waters or in Finland's exclusive economic zone, as well as from Finnish ships outside Finnish waters or Finland's exclusive economic zone, as set out in Annex IV to the MARPOL 73/78 Convention, in the Helsinki Convention, or in other international commitments binding on Finland, or in European Community legal instruments.

#### Section 2

##### *Discharge of sewage in exceptional circumstances*

The provisions of section 1 shall not apply to the discharge of sewage into water, if:

- 1) the discharge is necessary for the purpose of securing the safety of the ship and those on board or saving life at sea;
- 2) the discharge of sewage results from damage to the ship or its equipment, and all reasonable precautions have been taken before and after the occurrence of the damage for the purpose of preventing or minimising the discharge.

#### Section 3

##### *Requirements for ships*

- (1) Ships of 400 gross tonnage and above and ships certified to carry more than 15 persons must comply with the requirements laid down in Annex IV to the MARPOL 73/78 Convention.
- (2) A Finnish ship that does not meet the criteria of subsection 1 and that is not a recreational craft, but which is fitted with a toilet, must comply with the provisions of Annex IV to the MARPOL 73/78 Convention.

#### Sections 4

##### *Requirements for recreational craft*

Recreational craft fitted with a toilet must be equipped with a retention system for sewage in accordance with Regulation 5 of Annex IV to the Helsinki Convention, such that the ship has a functioning holding tank or a sewage treatment facility that is in compliance with the MARPOL 73/78 Convention. The water closet on the recreational craft must be connected to the holding tank or to the sewage treatment facility.

Section 5  
*ISPP Certificate*

- (1) Ships of 400 gross tonnage and above or certified to carry more than 15 persons and engaged in international voyages must comply with the requirements laid down in Annex IV to the MARPOL 73/78 Convention. As proof thereof, the ship shall be issued with an international sewage pollution prevention certificate (*ISPP Certificate*).
- (2) The Finnish Transport Safety Agency shall, upon written application, issue the ISPP Certificate to Finnish ships in the form set out in Annex IV to the MARPOL 73/78 Convention, provided that the ships fulfil the requirements set out in Annex IV to the Convention. The Finnish Transport Safety Agency may issue the ISPP Certificate to foreign ships at the request of the flag state. The certificate shall be issued for a fixed period of validity not exceeding five years at a time.

Section 6  
*Granting of exemptions from the prohibition on the discharge of sewage*

- (1) The Finnish Transport Safety Agency may, upon written application and on the conditions laid down in Annex IV to the Helsinki Convention, grant exemptions from the prohibition and restrictions on the discharge of untreated sewage into water and from compliance with the requirements concerning sewage retention systems within Finnish waters, if such an exemption is not in contradiction with international commitments binding on Finland or with European Community legal instruments, and the exemption has only minor implications for the prevention of marine pollution.
- (2) The preconditions for granting exemptions, in addition to the preconditions laid down in subsection 1, are as follows:
  - 1) the ship is a recreational craft or other type of ship of less than 400 gross tonnage or is certified to carry no more than 15 persons;
  - 2) the ship has been built before 1 January 2000; and
  - 3) the installation of facilities or equipment necessary for complying with the discharge prohibition is technically difficult or the installation costs are unreasonably high considering the value of the ship.
- (3) The Finnish Transport Safety Agency must notify the Baltic Marine Environment Protection Commission of decisions made in accordance with this section.

Section 7  
*Further provisions*

- (1) Further provisions on the following subjects may be issued by government decree for the implementation of Annex IV to the MARPOL 73/78 Convention, the Helsinki Convention and Finland's other international commitments, as well as European Community legal

instruments, concerning Finland's territorial waters or Finland's exclusive economic zone, as well as Finnish ships sailing outside Finland's territorial waters or Finland's exclusive economic zone:

- 1) the prohibition and restrictions on the discharge of sewage, referred to in section 1;
- 2) what type of sewage shall be considered 'treated sewage' as defined in section 1;
- 3) requirements for ships and recreational craft, referred to in sections 3 and 4; and
- 4) exceptions to the discharge prohibition, referred to in section 6.

- (2) The further provisions referred to in subsection 1 may also be extended to apply to ships sailing in inland waters or engaged in domestic voyages.

## **Chapter 6** **Prevention of discharges of ship-generated garbage**

### Section 1

#### *Prohibition against and restrictions on the disposal of garbage*

- (1) It is prohibited to dispose of garbage from ships in Finnish waters or in Finland's exclusive economic zone, as well as from Finnish ships outside Finnish waters or Finland's exclusive economic zone, as set out in Annex V to the MARPOL 73/78 Convention, in the Helsinki Convention, or in other international commitments binding on Finland, or in European Community legal instruments.
- (2) It is prohibited to dispose of garbage from Finnish ships or from fixed or floating platforms used for exploration, exploitation and associated off-shore processing of sea-bed mineral resources, as set out in Annex V to the MARPOL 73/78 Convention, in the Helsinki Convention, or in other international commitments binding on Finland, or in European Community legal instruments.
- (3) The Finnish Transport Safety Agency may, in accordance with Annex V to the MARPOL 73/78 Convention, issue type approvals for garbage comminutors and grinders. When such equipment is used, the more lenient provisions referred to in Annex V to the MARPOL 73/78 Convention concerning the disposal of garbage into water may be applied.

### Section 2

#### *Disposal of garbage in exceptional circumstances*

- (1) The provisions of section 1 shall not apply to the disposal of garbage into water, if:
  - 1) such disposal is necessary for the purpose of securing the safety of the ship and those on board or saving life at sea;
  - 2) the escape of garbage results from damage to the ship or its equipment, provided that all reasonable precautions have been taken before and after the occurrence of the damage for the purpose of preventing or minimising the escape; or
  - 3) the disposal of garbage is caused by accidental loss of synthetic fishing nets, provided that all reasonable precautions have been taken to prevent such loss.

### Section 3

#### *Placards on garbage disposal prohibitions and restrictions*

Ships of 12 metres or more in length must have a conspicuously placed placard as required in Annex V to the MARPOL 73/78 Convention, declaring that the requirements concerning the handling of garbage, as required under Regulations 3 and 5 of Annex V, are observed on board the ship. The placard shall be written in the working language of the ship's personnel, and on ships engaged in international voyages, also in English, French or Spanish.

#### Section 4

##### *Garbage management plan on ships*

Ships of 400 gross tonnage and above and ships certified to carry 15 persons or more must have a garbage management plan written in the working language of the ship's personnel, as required in Annex V to the MARPOL 73/78 Convention. The crew must follow the ship's garbage management plan.

#### Section 5

##### *Garbage record books of ships*

- (1) On board Finnish ships and foreign ships of 400 gross tonnage and above engaged in international voyages calling at a Finnish port, or on board ships certified to carry 15 persons or more, as well as on fixed or floating platforms, the master, or under his direction another of the ship's officers, shall keep a garbage record book.
- (2) The garbage record book shall be kept in a place where it is easily accessible for inspection, and must be preserved for a period of two years from the date of the last entry.
- (3) The Finnish Transport Safety Agency and, when the ship is in a foreign port, the competent foreign authority shall be entitled to inspect the garbage record book and, upon request, to receive a copy thereof certified by the master. The actions undertaken by the Finnish Transport Safety Agency in accordance with this subsection shall be carried out as expeditiously as possible, without causing unnecessary delay to the ship.
- (4) The Finnish Transport Safety Agency shall confirm the form of the garbage record book in accordance with Annex V to the MARPOL 73/78 Convention.
- (5) The Finnish Transport Safety Agency may, on the conditions set out in Annex V to the MARPOL 73/78 Convention and upon written application, grant an exemption from the requirement to keep a garbage record book on board a ship.

#### Section 6

##### *Further provisions*

- (1) Further provisions on the prohibition and restrictions on disposal, referred to in section 1, may be issued by government decree for the implementation of Annex V to the MARPOL 73/78 Convention, the Helsinki Convention and Finland's other international commitments, as well as European Community legal instruments, concerning Finland's territorial waters or Finland's exclusive economic zone, as well Finnish ships sailing outside Finland's territorial waters or Finland's exclusive economic zone.

- (2) Technical regulations on the following subjects may be issued by the Finnish Transport Safety Agency for the implementation of Annex V to the MARPOL 73/78 Convention, the Helsinki Convention, and European Community legal instruments, concerning Finland's territorial waters and Finland's exclusive economic zone, as well as Finnish ships sailing outside Finland's territorial waters or Finland's exclusive economic zone:
- 1) type approvals for comminutors and grinders needed for complying with the garbage disposal prohibition, referred to in section 1; and
  - 2) the form of ships' garbage record book, referred to in section 5.
- (3) The further provisions referred to in subsection 1 and the technical regulations referred to in subsection 2 may be extended to apply to ships sailing in inland waters and engaged in domestic voyages.

## **Chapter 7**

### **Prevention of air pollution from ships**

#### Section 1

##### *Prohibition against and restrictions on the emission of air pollutants*

It is prohibited to emit air pollutants from ships in Finnish waters or in Finland's exclusive economic zone, as well as from Finnish ships outside Finnish waters or Finland's exclusive economic zone, as set out in Annex VI to the MARPOL 73/78 Convention, in the Helsinki Convention, or in other international commitments binding on Finland, or in European Community legal instruments.

#### Section 2

##### *Prohibition against and restrictions on emissions of volatile organic compounds from oil and chemical tankers*

Emissions of volatile organic compounds from oil and chemical tankers may be prohibited in accordance with the provisions of section 15, or restrictions can be imposed on such emissions in ports located within the territory of Finland in accordance with the provisions of Annex VI to the MARPOL 73/78 Convention, other international commitments binding on Finland, or European Community legal instruments.

#### Section 3

##### *Restrictions on and prohibition against the use of ozone-depleting substances*

Provisions on limitations to and prohibiting the use of ozone-depleting substances in ships are laid down in the Environmental Protection Act and in the provisions issued under it, unless otherwise provided in European Community legal instruments.

#### Section 4

##### *Emissions of air pollutants in exceptional circumstances*

The prohibitions against and restrictions on emissions laid down in this chapter shall not apply to:

- 1) emissions necessary for the purpose of securing the safety of the ship or saving life at sea;

2) emissions resulting from damage to the ship or its equipment, provided that all reasonable precautions have been taken after the occurrence of the damage for the purpose of preventing or minimising the emissions, and provided that neither the owner nor the master acted either with intent to cause damage, or recklessly and with knowledge that damage would probably result.

#### Section 5

##### *Requirements for shipboard equipment*

- (1) The cleaning equipment and cleaning methods of ships' diesel engines and exhaust gases must meet the requirements set out in European Community legal instruments. If the power output of a diesel engine exceeds 130 kilowatts, the cleaning equipment and cleaning methods must also meet the requirements set out in Annex VI to the MARPOL 73/78 Convention.
- (2) The Finnish Transport Safety Agency or a recognised classification society authorised by the Finnish Transport Safety Agency shall, upon written application, approve the diesel engine and exhaust gas cleaning equipment and cleaning methods used in Finnish ships, provided that they meet the requirements set out in Annex VI to the MARPOL 73/78 Convention.
- (3) The Finnish Transport Safety Agency may issue regulations on the equivalency, based on efficiency, of a specific fitting, material, appliance or apparatus and, upon written application, grant exemptions on a case-by-case basis, as set out in Annex VI to the MARPOL 73/78 Convention and in European Community legal instruments.

#### Section 6

##### *IAPP Certificate*

- (1) Ships of 400 gross tonnage and above engaged in international voyages must have an international air pollution prevention certificate (*IAPP Certificate*) to prove that they comply with the provisions of Annex VI to the MARPOL 73/78 Convention.
- (2) The Finnish Transport Safety Agency shall, upon written application, issue the IAPP Certificate to Finnish ships in the form set out in Annex VI to the MARPOL 73/78 Convention, provided that the ship meets the requirements set out in Annex VI to the Convention. The Finnish Transport Safety Agency may issue IAPP Certificates to foreign ships at the request of the flag state. The certificate shall be issued for a fixed period of validity, not exceeding five years at a time.

#### Section 7

##### *Requirements for fuel oil quality*

- (1) Fuel oils used on board ships must meet the requirements set out in Annex VI to the MARPOL 73/78 Convention and in European Community legal instruments.
- (2) The requirements referred to in subsection 1 shall not, however, apply to fuel oils intended for research and testing purposes, or to fuel oils used in operating an approved cleaning system or another approved technical method that meets the requirements set out in Annex VI to the MARPOL 73/8 Convention.

## Section 8

### *Methods for determining the compliance of marine fuels*

The methods used to determine the compliance of marine fuels with Annex VI to the MARPOL 73/78 Convention shall meet the requirements set out in Annex VI, in the Helsinki Convention, in European Community legal instruments, and in other international commitments binding on Finland.

## Section 9

### *Bunker delivery notes and fuel oil samples*

Ships of 400 gross tonnage and above shall carry a bunker delivery note issued by the fuel oil supplier, as set out in Annex VI to the MARPOL 73/78 Convention, accompanied by a representative sample of fuel oil. The delivery note and the sample shall be kept on board as set out in Annex VI to the MARPOL 73/78 Convention.

## Section 10

### *Testing of new ship emission reduction and control technologies*

- (1) Testing of new ship emission reduction and control technologies must meet the requirements set out in Annex VI to the MARPOL 73/78 Convention and in European Community legal instruments.
- (2) The Finnish Transport Safety Agency shall, upon written application, issue testing permits, provided that the requirements referred to in subsection 1 are met. Such permits can be issued for a period not exceeding 18 months.
- (3) Test results shall be delivered to the Finnish Transport Safety Agency. The Agency will publish the results within six months of the date upon which testing was completed.

## Section 11

### *Shipboard incineration*

- (1) It is prohibited to incinerate ship-generated waste on board ships sailing in Finnish waters.
- (2) The incineration of ship-generated waste within Finland's exclusive economic zone, and on Finnish ships sailing outside Finland's exclusive economic zone, is allowed only in shipboard incinerators. Provisions concerning substances that may not be incinerated within Finland's exclusive economic zone or on board Finnish ships sailing outside Finland's exclusive economic zone are laid down in Annex VI to the MARPOL 73/78 Convention and in European Community legal instruments.
- (3) Shipboard incinerators must meet the requirements set out in Annex VI to the MARPOL 73/78 Convention.

## Section 12

### *Verification of marine fuel oil compliance*

- (1) Customs is responsible for the verification of whether marine fuel oils delivered to ships from Finland are compliant with sulphur limits. The verification shall be performed by taking a representative number of samples from fuel oil storages and distribution stations, by analysing the samples, and by reporting the results to the Finnish Environment Institute.
- (2) The Finnish Transport Safety Agency is responsible for the management of the verification procedure to ensure that fuel oils used on board ships meet the imposed requirements.

### Section 13

#### *Reporting concerning marine fuel oils*

- (1) Manufacturers, sellers and importers of marine fuel oils are obliged to submit information to the Finnish Transport Safety Agency and to the Finnish Environment Institute, concerning the amounts and quality of marine fuel oils placed on the Finnish market, as set out in Annex VI to the MARPOL 73/78 Convention and in European Community legal instruments.
- (2) The Finnish Transport Safety Agency and the Finnish Environment Institute shall report on marine fuel oils to the Commission of the European Community, as set out in Annex VI to the MARPOL 73/78 Convention and in European Community legal instruments.

### Section 14

#### *Temporary exemptions from fuel oil quality requirements*

The Ministry of the Environment may, upon written application and on the conditions set out in Annex VI to the MARPOL 73/78 Convention, grant temporary exemptions from the fuel oil quality requirements laid down in this chapter and in European Community legal instruments. Such exemptions shall be valid for a period not exceeding six months at a time.

### Section 15

#### *Further provisions*

- (1) Further provisions on the following subjects may be issued by government decree for the implementation of Annex VI to the MARPOL 73/78 Convention, the Helsinki Convention and Finland's other international commitments, as well as for the implementation of European Community legal instruments, concerning Finnish waters or Finland's exclusive economic zone, as well as Finnish ships sailing outside Finland's territorial waters or Finland's exclusive economic zone:
  - 1) the prohibition and restrictions on emissions referred to in section 1;
  - 2) the prohibition and restrictions on emissions referred to in section 2;
  - 3) the emission requirements for ships' engines, the exhaust gas cleaning equipment and cleaning methods used in engines, and discharges into water due to the use of exhaust gas cleaning equipment, referred to in section 5;
  - 4) exemptions granted from the requirements for the cleaning equipment and cleaning methods of ships' diesel engines and exhaust gases, referred to in section 5;
  - 5) the IAPP Certificate, referred to in section 6;



- 6) the quality requirements for fuel oils used on board ships, fuel control procedures, bunker delivery notes and their issuance, and arranging the related verification and control, referred to in sections 7–9;
  - 7) testing of new ship emission reduction and control technologies, referred to in section 10;
  - 8) substances referred to in section 11 that may not be incinerated on board ships within Finland's exclusive economic zone or on board Finnish ships outside Finland's territorial waters and Finland's exclusive economic zone;
  - 9) the operators' obligation to submit information to the authority designated by decree on the amounts, quality and sulphur content of fuel oil, and on the results of the testing of ship emission reduction and control technologies, referred to in sections 10 and 13, in order for the operators to fulfil their obligations laid down in this chapter; and
  - 10) more detailed grounds for granting temporary exemptions to fuel oil quality requirements, referred to in section 14.
- (2) Technical regulations on equivalents – based on the efficiency of any specific fitting, material, appliance or apparatus – with the required cleaning equipment and cleaning methods of ships' engines and exhaust gases referred to in section 5(3), may be issued by the Finnish Transport Safety Agency for the implementation of Annex VI to the MARPOL 73/78 Convention, the Helsinki Convention, or European Community legal instruments, in Finnish waters and Finland's exclusive economic zone, as well as on board Finnish ships outside Finland's territorial waters or Finland's exclusive economic zone.
  - (3) The further provisions referred to in subsection 1 and the technical regulations referred to in subsection 2 may also be extended to apply to ships sailing in inland waters and engaged in domestic voyages.

## **Chapter 8**

### **Other international commitments binding on Finland concerning the prevention of environmental pollution resulting from the normal operation of ships**

#### Section 1

##### *Prohibition on harmful anti-fouling systems on ships*

- (1) Provisions concerning the prohibition on the use of harmful anti-fouling systems on ships flying the flag of a member state of the European Community and on ships that call at ports or offshore terminals of a member state flying the flag of a non-member state are laid down in the TBT Regulation banning the use of tributyltin.
- (2) It is prohibited to use harmful anti-fouling systems on ships flying the flag of states that are Parties to the AFS Convention in inland waters, in Finland's territorial waters or within Finland's exclusive economic zone, as well as on Finnish ships outside inland waters, Finnish waters or Finland's exclusive economic zone, as set out in the AFS Convention.

#### Section 2

##### *AFS Declaration*

AFS Declarations of Finnish ships shall be submitted to the Finnish Transport Safety Agency.

## **Chapter 9** **Port reception of waste**

### Section 1 *Port reception facilities*

- (1) Every port operator shall ensure that the port has sufficient facilities for the reception of the following types of waste from ships using the port:
  - 1) oily waste;
  - 2) waste containing noxious liquid substances;
  - 3) sewage;
  - 4) garbage;
  - 5) exhaust gas cleaning residues, whose emission is prohibited in accordance with Annex VI to the MARPOL 73/78 Convention; and
  - 6) cargo residues.
- (2) Furthermore, oil terminals must have sufficient equipment to receive oily ballast waters and tank washings from tankers using the terminal.
- (3) The importer or other consignee or the exporter or other consignor of the substance carried shall be responsible for the acquisition and use of the reception facilities, as well as for the transport and treatment of waste and mixtures thereby accumulated, pertaining to the noxious liquid substances referred to in subsection 1(2).
- (4) The obligation of the operator of a harbour, which mainly serves recreational craft (*marina*), to receive waste, concerns harbours accommodating no less than 50 recreational craft, or harbours that can offer winter docking for no less than 50 recreational craft, and where a fee or other compensation is charged for the berth. The marina operator may agree with another harbour operator on maintaining a common reception facility, in which case the harbours shall be deemed one harbour in this respect.

### Section 2 *Reception facilities in repair ports*

- (1) The port operator must ensure that ports where ships are repaired (*repair ports*) are provided, in addition to the reception facilities required under section 1, with reception facilities adequate to meet the needs of ships using the port for the reception of ozone-depleting substances and equipment containing such substances when removed from ships.
- (2) Furthermore, where necessary, repair ports must have sufficient facilities available to receive oily ballast waters and tank washings from tankers using the port.
- (3) In addition, the repair port operator must arrange sufficient reception facilities for chemical tankers that dock to undergo repairs.

### Section 3

#### *Waste reception and management plan for ports*

- (1) The port operator shall draw up a waste reception and management plan in order to organise the management of ship-generated waste referred to in section 1. A marina may prepare a common waste reception and management plan for one or more types of waste, with another marina.
- (2) When planning activities described in the waste reception and management plan, such as waste reception, collection, storage, treatment and recovery, the size and type of port, as well as the types of ships and vessels using the port, shall be taken into account. The plan shall further lay down requirements stipulating that activities necessary to implementing the waste reception and management plan must be monitored, that detected deficiencies must be remedied without delay, and that waste management activities must be continuously developed and perfected.
- (3) After the waste reception and management plan has been approved, the port must be in compliance with it.

### Section 4

#### *Approval of waste reception and management plans for ports*

- (1) Waste reception and management plans for ports shall be submitted for approval by the centre for economic development, transport and the environment in whose territory the port is located. However, waste reception and management plans for marinas shall be submitted for approval by the municipal environmental protection authority in whose territory the marina is located.
- (2) The waste reception and management plan for a port shall be revised if significant changes occur in the quality, amount, or management of waste delivered to the port. If no need has arisen to revise the waste reception and management plan for the port during a period of three years from the date of the approval of the plan, the port operator shall notify the competent supervisory authority that the waste reception and management plan is still valid. The waste reception and management plan must be revised if the supervisory authority so requests. In its request, the supervisory authority must state to what extent the waste reception and management plan is to be revised.
- (3) The waste reception and management plan for a port must be approved if the reception of waste and the reception facilities meet the requirements set out in this chapter and in Chapter 10, as well as in provisions issued under these chapters.
- (4) Upon approval of the waste reception and management plan for a port, the centre for economic development, transport and the environment and the municipal environmental protection authority shall register the plan in the environmental protection information system referred to in the Environmental Protection Act. A copy of such a register entry must be sent to the port operator.

### Section 5

#### *Hearing of parties and provision of information concerning waste reception and management plans for ports*

- (1) Prior to submitting the waste reception and management plan for a port for approval by the centre for economic development, transport and the environment, the port operator must provide the operators of ships and vessels using the port, as well as their representatives and other parties that may be affected by the waste reception and management plan, with the opportunity to express their opinion on the waste reception and management plan for the port or its revision. The draft waste reception and management plan must be posted in the port operator's office, and otherwise made available in a suitable manner, for no less than fourteen days during the operating period of the port. Port users and other parties must be informed, via a notice board, of the possibility of viewing the draft. Furthermore, information on the possibility to view the draft must be provided on a website, or communicated electronically or by mail, or in another manner suitable and appropriate to providing such information.
- (2) Information on the waste reception and management arrangements at a port and the waste management fees must be made available by the port operator to representatives of ships and vessels using the port, in such a manner that all significant groups of port users receive the information. When approving the waste reception and management plan for a port, the centre for economic development, transport and the environment may, where necessary, determine the language(s) in which the information shall be provided to the representatives of the port users.

#### Section 6

##### *Avoiding unnecessary delays*

The reception of ship-generated waste in accordance with section 1 above must be arranged in such a manner as not to cause unnecessary delays to ships.

#### Section 7

##### *Reporting*

The centres for economic development, transport and the environment, the Finnish Transport Safety Agency and ports shall provide the information required under Directive 2000/59/EC of the European Parliament and of the Council on port reception facilities for ship-generated waste and cargo residues (hereinafter 'Ship-Generated Waste Directive') to the Finnish Environment Institute, which is responsible for compiling the reports to be sent to the Commission of the European Community.

#### Section 8

##### *Further provisions*

- (1) Further provisions on the following subjects may be issued by government decree for the implementation of the MARPOL 73/78 Convention, the Helsinki Convention, and Finland's other international commitments, as well as European Community legal instruments:
  - 1) waste reception arrangements at ports, referred to in section 1;
  - 2) waste reception arrangements at repair ports, referred to in section 2; and
  - 3) the outline and contents of the port waste reception and management plans, referred to in section 3.

- (2) The further provisions referred to in subsection 1 may also be extended to apply to ships sailing in inland waters or engaged in domestic voyages.

## **Chapter 10**

### **Delivery of waste to port reception facilities**

#### Section 1

##### *Obligation to deliver ship-generated waste and cargo residues*

- (1) Finnish ships entering a port in the Baltic Sea area or within the European Community and non-Finnish ships entering a Finnish port shall, before the ship leaves the port, deliver all ship-generated waste and cargo residues into the waste reception facilities of the port.
- (2) If no reception facilities are available on the marina grounds, waste originating from recreational craft must be delivered to another adequate reception facility ashore, if the waste cannot, in accordance with this Act, be retained on board.
- (3) The waste delivery obligation laid down in subsection 1 shall not apply to:
- 1) insignificant amounts of waste, as will be provided by government decree;
  - 2) situations where the delivery of waste in a port causes an unnecessary delay to the ship for reasons not attributable to the ship; it is further required that there be sufficiently spacious, separate storage on board the ship for all ship-generated waste and cargo residue(s) that have already accumulated and that will accumulate during the intended voyage of the ship; or
  - 3) delivery of sewage from ships, if there is capacity in the sewage tanks of the ship for the voyage to the next port.
- (4) Notwithstanding the provisions of subsections 3, where necessary the Finnish Transport Safety Agency may require that ships deliver all waste to the port reception facilities prior to departure, should the following conditions prevail:
- 1) there is a risk that waste will be discharged into water; and
  - 2) there is justifiable reason to presume that the waste is to be delivered to a port without adequate reception facilities, and it is unknown to which port the waste will be delivered.
- (5) The master of the ship is responsible for ensuring that the obligations laid down in, and by virtue of, this chapter are complied with on board the ship.

#### Section 2

##### *Fees for ship-generated waste and cargo residues*

- (1) In order to cover waste reception and management expenses, the port operator shall charge a fee from every ship that calls at the port, regardless of whether or not the ship delivers any waste in the port. The fee shall cover the expenses of managing the following ship-generated waste:
- 1) oily waste;
  - 2) garbage, excluding cargo residue(s); and
  - 3) sewage.

- (2) In order to cover waste reception and management expenses, the port operator shall also charge a fee from those ships that call at the port and deliver cargo residues to the port reception facilities.
- (3) These fees may be included in the port charges collected from ships. The port must publicise the amount of and grounds for the fees. The fees may be varied according to, for example, the type or category or size of the ship, but the amount of the fees must not be dependent on how much waste the ship delivers to port reception facilities. A rebate may be given on the fees if equipment, methods, or a benign fuel is used on board that reduces the amount of waste delivered to port reception facilities to a lower level than usual, or that makes such waste recoverable.
- (4) The fee referred to in subsection 1 shall not, however, be charged from fishing vessels or recreational craft entitled to carry no more than 12 passengers. Furthermore, the fee shall not be charged from ships exempted by the Finnish Transport Safety Agency from the mandatory delivery of ship-generated waste and waste residues by virtue of section 4 of this chapter.

### Section 3

#### *Notification of ship-generated waste and cargo residues*

- (1) Notification of ship-generated waste and cargo residues shall be provided to the operator of a Finnish port by the master of a ship or a person duly authorised by the master prior to the arrival of the ship at the port. The notification shall be given at least 24 hours prior to arrival at the port or, if the duration of the voyage is less than 24 hours, immediately upon departure from the previous port. If the port of call of a ship is known less than 24 hours prior to arrival at the port, the notification shall be given as soon as the port of call is known. Such information shall be kept on board the ship, at least until arrival at the next port of call, and shall be presented upon request to the authorities of a member state of the European Union.
- (2) The provisions of subsection 1 shall not apply to fishing vessels or recreational craft that are only entitled to carry 12 passengers or less.
- (3) The Finnish Transport Safety Agency shall monitor the enforcement of the Ship-Generated Waste Directive, by reviewing notifications and inspecting ships, as provided in the Directive. Ports shall ensure that notifications concerning ship-generated waste are made available to the Finnish Transport Safety Agency for carrying out its monitoring duties. Notifications can be conveyed from ships to ports and from ports to the Finnish Transport Safety Agency by using an electronic user interface.

### Section 4

#### *Exception to the mandatory delivery of waste and to the obligation to provide notification*

- (1) The Finnish Transport Safety Agency may, upon written application, grant exemptions from the mandatory delivery of ship-generated waste and cargo residues, set out in section 1, and the obligation to provide notification of ship-generated waste and cargo residues, set out in section 3, to ships engaged in regular service, meaning that they operate on a schedule or a pre-confirmed route, between designated ports and that they call at one designated Finnish port located along the route at least once every two weeks.

Furthermore, exemptions may be granted to cruise ships or ships engaged in other service, whereby the ship departs from and arrives at the same Finnish port without calling at other ports. Exemptions may be granted on the condition that the ship has concluded a waste management agreement with a qualified waste management company or port. A statement confirming that the ship is mainly using services provided for in the waste management agreement must be submitted to the Finnish Transport Safety Agency, as laid down in more detail in the decision. Exemptions shall be granted for a fixed period not exceeding five years at a time.

- (2) The Finnish Transport Safety Agency shall inform the relevant ports of decisions concerning them.
- (3) The Finnish Transport Safety Agency shall regularly, and at least once a year, inform the Commission of the European Community of exemptions granted.

#### Section 5 *Further provisions*

- (1) Further provisions on the conditions on which ships are exempted, in accordance with section 1(3)(2), from the obligation to deliver waste at ports may be issued by government decree for the implementation of the MARPOL 73/78 Convention, the Helsinki Convention and Finland's other international commitments, as well as European Community legal instruments.
- (2) Technical regulations on how to provide notification concerning waste, as required under section 3, may be issued by the Finnish Transport Safety Agency for the implementation of the MARPOL 73/78 Convention, the Helsinki Convention or European Community legal instruments.
- (3) The further provisions and technical regulations referred to in subsections 1 and 2 may also be extended to apply to ships sailing in inland waters and engaged in domestic voyages.

### **Chapter 11** **Obligations of the shipmaster in an incident at sea**

#### Section 1 *Notification concerning an oil spill or a risk thereof, and immediate response*

- (1) If oil has been discharged into water from a ship, or if there is a risk of an oil leak due to a ship running aground, engine breakdown, collision, or other disaster at sea, the master must immediately report the oil spill or risk thereof to the relevant maritime rescue co-ordination centre, maritime rescue sub-centre, emergency response centre, or the VTS centre. Masters of Finnish ships sailing outside Finnish waters or Finland's exclusive economic zone must report an oil spill or any risk thereof to the authorities of the nearest coastal state. Masters must also take any immediate measures that can be reasonably expected of them.

- (2) If, in Finland's territorial waters or Finland's exclusive economic zone, the master of a Finnish ship observes such an extensive amount of oil in the water that, considering the weather and other conditions, there is a risk of an oil disaster, he or she must report the observation to the relevant maritime rescue co-ordination centre, maritime rescue sub-centre, emergency response centre, or the VTS centre. When the master of a Finnish ship is sailing outside Finnish waters, such an observation must be reported to the authorities of the nearest coastal state. If a member of the ship's crew makes a similar observation, he or she must report this to the master.
- (3) The master is not obliged to inform the authorities in accordance with subsection 2, if it is evident that the authorities referred to in subsection 2 have already been informed of the matter.

## Section 2

### *Notification concerning discharges of other noxious substances or a risk thereof, and immediate response*

- (1) If a noxious substance other than oil is illegally discharged from a ship in Finnish waters or within Finland's exclusive economic zone, the master must, without delay, inform the relevant maritime rescue co-ordination centre, maritime rescue sub-centre, emergency response centre, or VTS centre of the circumstances related to the ship, its condition, location, cargo and the nature of the incident, and must take any immediate action in response that can be reasonably expected of him or her.
- (2) With regard to ships of 15 metres in length and over, the master must inform the relevant maritime rescue co-ordination centre, maritime rescue sub-centre, emergency response centre, or VTS centre of the circumstances referred to in subsection 1, including in a situation where no discharge has yet occurred but such an occurrence is conceivable. This applies to situations where the ship has sustained damage, the cargo has shifted, or machinery or equipment on the ship has sustained damage posing a risk to the safety of navigation.
- (3) Masters of ships sailing outside Finnish waters or Finland's exclusive economic zone, must give notice, referred to in subsections 1 and 2, to the competent authorities of the nearest coastal state.
- (4) If the master is incapable of giving the notification referred to in this section, the owner, the charterer, the operator, or the manager, or their representatives must assume responsibility for discharging the master's obligation to provide notification.

## Section 3

### *Further provisions*

- (1) Further provisions on the following subjects may be issued by government decree for the implementation of the MARPOL 73/78 Convention, European Community legal instruments, the Helsinki Convention, and Finland's other international commitments, concerning Finland's territorial waters or Finland's exclusive economic zone, as well as Finnish ships sailing outside Finland's territorial waters or Finland's exclusive economic zone:
  - 1) the way that oil spills and any risk thereof is reported, referred to in section 1; and



2) the way that discharges of other noxious substances and any risk thereof is reported, referred to in section 2.

- (2) The further provisions referred to in subsection 1 may also be extended to ships sailing in inland waters and engaged in domestic voyages.

## **Chapter 12** **Supervision and administrative enforcement**

### Section 1

#### *Supervisory authorities*

- (1) The competent supervisory authorities referred to in this Act are the Finnish Transport Safety Agency, the Finnish Environment Institute, centres for economic development, transport and the environment, the Border Guard, Customs, and the Police.
- (2) The Ministry of Transport and Communications and the Ministry of the Environment shall provide general guidance on activities carried out under this Act, follow-up of these activities and see to the development of the Act within their administrative sectors.

### Section 2

#### *Supervisory duties of the Finnish Transport Safety Agency*

- (1) The Finnish Transport Safety Agency shall monitor compliance with this Act and with the provisions issued under it, insofar as the provisions relate to:
- 1) ships and their construction, as well as cargo;
  - 2) fuels used by ships and their quality;
  - 3) emissions and discharges from ships into air and water;
  - 4) harmful anti-fouling systems on ships;
  - 5) shipborne equipment;
  - 6) the operation of ships;
  - 7) certificates and other documents of ships;
  - 8) the notification obligations of the master or other members of the crew;
  - 9) the obligation to deliver ship-generated waste to port reception facilities.
- (2) Furthermore, the Finnish Transport Safety Agency shall be otherwise responsible for enforcing compliance with this Act and with the provisions issued under it, unless otherwise provided in this Act.
- (3) The Finnish Transport Safety Agency is the primary competent authority with respect to the monitoring of compliance with the provisions set out in or issued under this Act regarding discharges from ships within inland waters.

### Section 3

#### *Supervisory duties of the Finnish Environment Institute*

The Finnish Environment Institute is the primary supervisory authority with respect to the monitoring of compliance with the provisions set out in or issued under this Act regarding

discharges from ships in Finland's territorial waters and within Finland's exclusive economic zone.

#### Section 4

##### *Supervisory duties of the centres for economic development, transport and the environment*

- (1) Each centre for economic development, transport and the environment shall, within its territory, monitor compliance with this Act and with the provisions issued under it, insofar as the provisions relate to:
  - 1) waste management planning at ports;
  - 2) port reception facilities for ship-generated waste; and
  - 3) fees relating to waste management at ports.
- (2) In particular, supervisory duties are directed at merchant shipping ports which require an environmental permit in accordance with the Environmental Protection Act.

#### Section 5

##### *Supervisory duties of the municipal environmental protection authority*

In particular, the municipal environmental protection authority shall monitor waste management at marinas and the reception of waste originating from recreational craft.

#### Section 6

##### *Supervisory duties of the Border Guard*

The Border Guard shall monitor compliance with this Act and with the provisions issued under it, insofar as the provisions relate to discharges from ships in Finland's territorial waters and within Finland's exclusive economic zone.

#### Section 7

##### *Supervisory duties of Customs*

Customs shall monitor compliance with this Act and with the provisions issued under it, insofar as the provisions relate to the quality of fuel oils placed on the Finnish market.

#### Section 8

##### *Supervisory duties of the Police*

The Police shall monitor compliance with this Act and with the provisions issued under it, insofar as the provisions relate to discharges from ships in inland waters and Finland's territorial waters.

#### Section 9

##### *Executive assistance*

- (1) In order for a supervisory authority to carry out its duties prescribed under this Act, the Finnish Meteorological Institute, the Finnish Environment Institute, the Finnish Defence Forces, and the regional state administrative agencies shall give the supervisory authority all necessary executive assistance that they are authorised to provide.

- (2) Provisions on executive assistance in matters relating to the oil discharge fee are laid down in Chapter 3, section 8.

#### Section 10

##### *Supervision directed at the construction, equipment, fittings, functions and arrangements of ships*

Provisions concerning control, inspections and other measures directed at the construction, equipment, installations, routines and arrangements on board ships within Finnish waters, as well as Finnish ships outside Finnish waters, are laid down in the Ship Safety Control Act (370/1995).

#### Section 11

##### *Investigation of discharges and actions to prevent immediate risk of marine pollution*

- (1) In order to investigate discharges, or the use of harmful anti-fouling systems, the Finnish Transport Safety Agency, the Border Guard and the Police are entitled to carry out inspections on board Finnish ships and to take samples for determining the origins of oil or other noxious substances detected in water. The same applies to foreign ships when in port or at anchor within Finnish waters, or when sailing in Finnish waters. However, measures directed at foreign ships sailing in Finland's territorial sea are provided for in section 12.
- (2) If necessary for investigating discharges or the use of harmful anti-fouling systems, or if there is justified reason to suspect an immediate risk of marine pollution related to the voyage of the ship for reasons other than those pertaining to its construction, equipment, installations, routines and arrangements, the Finnish Transport Safety Agency, the Border Guard and the Police may detain the ship while in port or at anchor in Finnish waters. The same applies to Finnish ships sailing in or outside Finnish waters and foreign ships sailing in Finnish waters. However, provisions on measures directed at foreign ships sailing in Finland's territorial sea are laid down in Section 12.
- (3) The measures referred to in subsections 1 and 2 shall, taking into consideration the provisions of Chapter 1, section 4, apply to ships of the Finnish Defence Forces and the Border Guard only where appropriate.
- (4) The right to carry out an inspection does not extend to spaces used as permanent living quarters.

#### Section 12

##### *Right to carry out inspections, receive information and detain ships in Finland's territorial sea or exclusive economic zone*

- (1) When there is justified reason to suspect that a foreign ship sailing in Finland's territorial sea has caused discharges or used a harmful anti-fouling system in the territorial sea, the Finnish Transport Safety Agency, the Border Guard and the Police may take any and all measures referred to in section 11(1) and 11(2).
- (2) When there is justified reason to suspect that a violation of this Act or of provisions issued under it has been committed on board a foreign ship sailing in Finland's territorial sea or within Finland's exclusive economic zone, the Finnish Transport Safety Agency, the

Border Guard and the Police are entitled to receive, from the ship, information regarding the ship, its port of registry, its latest port of call, and its port of destination, as well as other information needed to determine whether the provisions have been violated.

- (3) In a situation referred to in subsection 2, the Finnish Transport Safety Agency, the Border Guard and the Police are entitled to inspect the ship, in the event that a violation of the provisions referred to in subsection 2 results in a considerable discharge, causing significant pollution of the marine environment or a risk thereof, and the ship has refused to submit information, or the information submitted by the ship is clearly inconsistent with the actual situation, and the circumstances call for an inspection in other respects.
- (4) If it is evident that a violation of this Act, or of the provisions issued under it, has been committed within Finland's exclusive economic zone by a foreign ship so that considerable damage or risk thereof is caused to Finland's shoreline or any interests pertaining to it, or to the natural resources of Finland's territorial sea or exclusive economic zone, the Finnish Transport Safety Agency, the Border Guard and the Police may detain the ship when it sails in the territorial sea or in the exclusive economic zone.
- (5) The measures referred to in subsections 2–4 may also be directed, on the conditions laid down in the subsections, to foreign ships sailing within Finland's exclusive economic zone that are suspected of having violated this Act, or the provisions issued under it, when sailing in Finland's territorial sea.
- (6) The right to carry out an inspection does not extend to spaces used as permanent living quarters.

### Section 13

#### *Obligation to avoid unnecessary delay and the principle of lesser harm*

- (1) The measures provided for in sections 11 and 12 above must be carried out without causing unnecessary delay to the ship.
- (2) Inspections of foreign ships must be limited to the inspection of certificates and other documents required under international conventions binding on Finland, or to the inspection of other similar documents. Ships may be inspected more thoroughly only if they have first been inspected in accordance with the first sentence of this subsection and if there is justified reason to suspect that the condition of the ship or its equipment materially differs from the information contained in the documents, or if the information contained in the documents is insufficient to confirm or verify a suspected violation of regulations, or if the ship does not have valid certificates or documents in accordance with the relevant requirements.
- (3) Even when investigations carried out in accordance with sections 11 and 12 reveal that a violation of this Act or of provisions issued under it has been committed on board a foreign ship, the ship must be allowed to continue its voyage without delay.
- (4) If unreasonable risk of damage is caused to the marine environment by allowing a foreign ship, detained under section 12(4) when sailing within Finland's exclusive economic zone, to continue its voyage, the Finnish Transport Safety Agency may forbid the ship from continuing its voyage, or may allow the ship to continue its voyage on condition that the

ship be transferred to the nearest appropriate repair yard. The flag state of a foreign ship must be informed, without delay, of the decision forbidding or imposing conditions on the continuation of the voyage.

- (5) The provisions of the Ship Safety Control Act shall apply to inspection and detention of foreign ships, and restrictions on their operation.

#### Section 14

##### *Depositing a payment guarantee*

- (1) If it is evident that a violation of this Act or of provisions issued under it has been committed on board a ship sailing in Finnish waters or within Finland's exclusive economic zone and this causes considerable damage or risk thereof to Finland's shoreline or any interests pertaining to it, or to the natural resources of Finland's territorial sea or exclusive economic zone, the ship may be permitted to continue its voyage on condition that sufficient cash payment is deposited on behalf of the ship for the fulfilment of any potential liability for damages.
- (2) The Finnish Environment Institute shall decide on the depositing and amount of the cash payment. The decision may be appealed to the Helsinki Administrative Court as laid down in the Administrative Judicial Procedure Act (*Hallintolainkäyttölaki 586/1996*). The decision must be complied with regardless of appeal. The decision of the Administrative Court is not subject to appeal. The provisions of the act on the deposit of cash, book entries, securities or instruments in payment of debts or for release from other liabilities shall apply to the depositing of the cash payment. The cash deposit must be refunded to the depositor once the conditions for holding it no longer exist.
- (3) The flag state must be informed of the conditions under which the ship may continue its voyage.

#### Section 15

##### *Administrative enforcement*

The Finnish Transport Safety Agency and the centres for economic development, transport and the environment may, within their competence as prescribed under this Act:

- 1) prohibit a party acting in violation of this Act, or decrees or regulations issued under it, from continuing or repeating activities that are in violation of legislation or regulations;
- 2) order a party acting in violation of this Act, or decrees or regulations issued under it, to fulfil its obligations in some other manner;
- 3) order a party acting in a manner referred to in paragraphs 1 and 2 to restore the environment to its original condition or to remove any damage or disadvantage caused to the environment by the said party's violation.

#### Section 16

##### *Notice of a conditional fine, notice of enforced compliance and notice of enforced suspension*

The Finnish Transport Safety Agency and the centres for economic development, transport and the environment may reinforce a prohibition or order issued under this Act by imposing sanctions such as notice of a conditional fine, notice of enforced compliance, or notice of enforced suspension, as provided in the act on conditional fines (*Uhkasakkolaki* 1113/1990).

#### Section 17

*Supervisory authorities' duty to take action when a ship breaches its obligation to deliver waste to port reception facilities or when a ship discharges environmental pollutants*

- (1) If there is clear evidence that a ship has breached its obligation to deliver ship-generated waste and cargo residues to port reception facilities, the Finnish Transport Safety Agency must detain the ship or, if the ship's next port of call is a foreign port, inform the competent supervisory authority as provided in the Ship-Generated Waste Directive.
- (2) If a ship has been found to have discharged oil or any noxious liquid substance in Finnish waters, within Finland's exclusive economic zone or in the high seas, the Finnish Environment Institute, the Border Guard or the Finnish Transport Safety Agency must inform the ship's next port of call and the flag state of the observed discharge, and must request that action be taken due to the discharge in accordance with the provisions of the European Parliament and Council Directive 2005/35/EC on ship-source pollution and on the introduction of penalties for infringements, as amended.

#### Section 18

*Further provisions*

Further provisions on the supervisory duties of the Finnish Transport Safety Agency, the Finnish Environment Institute, the centres for economic development, transport and the environment, the Border Guard, Customs and the Police, or on the division of duties of these authorities, may be issued by government decree.

### **Chapter 13 Miscellaneous**

#### Section 1

*Charges, fees and reimbursement of costs*

- (1) The provisions of the Act on Criteria for Charges Payable to the State (*Valtion maksuperustelaki* 150/1992) shall apply to charges payable for the services provided and control measures undertaken by authorities in accordance with this Act. Further provisions on charges payable to state authorities shall be issued by a decree of the Ministry of Transport and Communications. Charges can be collected for the performance of official duties of municipalities under this Act. Where appropriate, the basis of such charges must correspond to the Act on Criteria for Charges Payable to the State. The basis of charges payable to municipalities shall be determined in more detail in the rates approved by municipalities.
- (2) The party requesting an inspection of a ship must pay a fee to the nominated surveyor for actions taken in accordance with this Act or with the provisions issued under it, or for a

document issued based on such action(s). The provisions of the Act on the Technical Safety and Safe Operation of Ships (*Laki aluksen teknisestä turvallisuudesta ja turvallisesta käytöstä* 1686/2009) concerning fees payable to nominated surveyors and admeasurers shall apply to the grounds determining the amount of fees. Further provisions on the amount of fees shall be issued by government decree.

- (3) The nominated surveyor is entitled to receive a daily allowance and compensation for travel expenses, in accordance with the State Travel Regulations. If the ship is not at berth, the nominated surveyor must be transported to the ship, or he or she is entitled to receive compensation for any costs and expenses incurred for arranging the transport.
- (4) The charges, fees and reimbursements of costs referred to in this section may be collected from the party liable for payment in the order prescribed in the Act on Enforcement of Taxes and Charges (*Laki verojen ja maksujen täytäntöönpanosta* 706/2007).

## Section 2

### *Nominated surveyors and their qualifications, appointment and governance requirements*

- (1) The provisions of the Act on the Technical Safety and Safe Operation of Ships concerning nominated surveyors shall apply to the qualifications, as well as to the granting and revoking of letters of appointment, of nominated surveyors appointed by the Finnish Transport Safety Agency. Further provisions on the qualifications of nominated surveyors shall be issued by government decree.
- (2) In the performance of their public administrative duties under this Act, nominated surveyors must comply with the provisions of the Administrative Procedure Act (*Hallintolaki* 434/2003), the Language Act (*Kielilaki* 423/2003), the Act on Electronic Services and Communication in the Public Sector (*Laki sähköisestä asioinnista viranomaistoiminnassa* 13/2003) and the Act on the Openness of Government Activities. The technical documents of ships must, however, be provided on board ships in the language in which technical documents are generally drawn up on board.
- (3) In the performance of their duties under this Act, provisions on the criminal liability of public officials for the legality of their actions shall be applied to nominated surveyors appointed to the task by the Finnish Transport Safety Agency. Provisions on liability for damages are laid down in the Tort Liability Act (*Vahingonkorvauslaki* 412/1974).

## Section 3

### *Penal provisions*

- (1) Penalties for degrading the environment in violation of this Act or provisions issued under it, where such activity that caused the degradation is not due to negligence on board a foreign ship, shall be imposed in accordance with Chapter 48, sections 1–4 of the Criminal Code of Finland.
- (2) Whosoever deliberately or through gross negligence, in a manner other than referred to in subsection 1, violates:
  - 1) the prohibition and restrictions on the discharge of oil, referred to in Chapter 2, section 1;

- 2) the requirements concerning oil tankers, referred to in Chapter 2, sections 3(1), 3(2), and 4;
- 3) the prohibitions on the carriage of oil, referred to in Chapter 2, sections 3(4) and 8;
- 4) the prohibition and restrictions on the discharge of noxious liquid substances, referred to in Chapter 4, section 2;
- 5) the structural and equipment requirements for chemical tankers, referred to in Chapter 4, section 4;
- 6) the prohibition and restrictions on the discharge of sewage, referred to in Chapter 5, section 1;
- 7) the prohibition and restrictions on the disposal of garbage, referred to in Chapter 6, section 1;
- 8) the requirements, such as equipment requirements, concerning diesel engines and incinerators, or requirements concerning fuel oils, laid down in order to restrict emissions, referred to in Chapter 7, sections 5, 7 and 11(3);
- 9) the prohibition on the incineration of waste and the related emission restrictions, referred to in Chapter 7, sections 11(1) and 11(2);
- 10) the prohibition on the use of harmful anti-fouling systems, referred to in Chapter 8, section 1;
- 11) the obligation to arrange sufficient facilities for the reception of waste at ports, referred to in Chapter 9, sections 1 and 2;
- 12) the obligation to deliver waste to port reception facilities, referred to in Chapter 10, section 1;
- 13) the obligation to give notifications concerning ship-generated wastes, referred to in Chapter 10, section 3;
- 14) the obligation to give notifications concerning an oil spill or a risk thereof, referred to in Chapter 11, section 1; or
- 15) the obligation to give notifications concerning discharges of noxious substances other than oil, or a risk of discharging such substances, referred to in Chapter 11, section 2,

shall be fined for infraction of the Act on Environmental Protection in Maritime Transport, unless the offence is of a minor nature or unless a more severe punishment is provided for elsewhere under law.

- (3) A person who breaches such an obligation or violates such a prohibition, prescribed under this Act, where a sanction such as notice of a conditional fine, notice of enforced compliance, or notice of enforced suspension has been imposed to reinforce a prohibition or order, cannot be punished for the same act in accordance with subsection 2.
- (4) For conduct punishable in accordance with subsection 2 above, the person into whose sphere of responsibility the act or negligence belongs shall be sentenced. The circumstances of the party, the nature and extent of his or her duties and powers, and his or her contribution to how the illegality arose and continued, shall be taken into consideration in making the assessment.

#### Section 4

##### *Obligation to inform the flag state of the ship*

When measures referred to in Chapter 12, sections 11 and 12, are directed at a foreign ship, the Finnish Transport Safety Agency must, without delay, inform the flag state



thereof. If the act in question was committed in Finnish waters, only information concerning the judicial proceedings must be submitted.

#### Section 5

##### *Right to use coercive measures against foreign ships in Finland's exclusive economic zone*

When investigating an act, referred to in section 3, which is punishable under Chapter 48, sections 1–4, of the Criminal Code of Finland and which only carries a possible penalty of a fine according to Chapter 48, section 10, of the Criminal Code, the right to use coercive measures shall be determined in accordance with the penal sanctions laid down in Chapter 48, sections 1–4, of the Criminal Code.

#### Section 6

##### *Criminal jurisdiction regarding foreign ships*

- (1) Notwithstanding the provisions of Chapter 1 of the Criminal Code of Finland concerning violations referred to herein in section 3(2), Finnish law shall also apply to offences committed on board foreign ships while sailing in Finland's exclusive economic zone.
- (2) If the offence referred to in section 3 has been committed on board a foreign ship while sailing in Finland's exclusive economic zone, the criminal case may not be investigated in Finland without a prosecution order by the Prosecutor-General, unless any of the circumstances referred to in Chapter 1, section 12(2), of the Criminal Code apply.
- (3) If a foreign ship has not called at a Finnish port voluntarily or anchored voluntarily in Finnish waters, charges for offences referred to in subsection 2 may only be brought if the discharge has caused considerable damage or a risk thereof to Finland's shoreline or to the interests pertaining thereto, or to the natural resources in Finland's territorial sea or within Finland's exclusive economic zone.
- (4) Charges may not be brought for offences referred to in subsection 2, if the flag state of the ship takes legal action in order to impose a penalty within six (6) months of the initiation of the preliminary investigation in Finland. Proceedings pending in Finland must be terminated upon the completion of any legal action taken by the flag state.
- (5) Notwithstanding the provisions of subsection 4, charges for offences referred to in subsection 2 may be brought if the offence has caused considerable damage to Finland as a coastal state, or if the flag state of the ship has repeatedly neglected its duty to effectively enforce obligations concerning violations of international conventions on the prevention of marine pollution from ships, committed on board ships flying its flag.

#### Section 7

##### *Claim for a revised decision*

- (1) A party may submit a claim to the Finnish Transport Safety Agency for a revised decision, if a decision concerns:
  - 1) an inspection of the ship carried out by the Finnish Transport Safety Agency, or any document concerning the ship issued under this Act, or a decision issued following an inspection conducted by an inspector appointed by the Finnish Transport Safety Agency;or

2) a fee payable for proceedings conducted or a decision or certificate issued in accordance with this Act, imposed by a surveyor nominated by the Finnish Transport Safety Agency.

- (2) Decisions for which a revised decision may be sought are not subject to ordinary appeal. The instructions for a claim for a revised decision shall be appended to the decision. A revised decision must be sought within 30 days of the serving of the decision or of the date of issuance of a payment order.
- (3) The Finnish Transport Safety Agency shall make a decision concerning the claim for a revised decision referred to in this section within two months of the beginning of lis pendens of the claim for a revised decision. However, if the decision is preventing the normal operation of the ship, the decision on the claim for a revised decision must be issued within 14 days of the beginning of lis pendens of the claim for a revised decision.

### Section 8 *Appeal*

- (1) Decisions other than those referred to in Chapter 3, section 5, and Chapter 12, sections 14 and 16, as well as in section 7 of this chapter, may be appealed as laid down in the Administrative Judicial Procedure Act.
- (2) If the Finnish Transport Safety Agency has not issued a decision regarding a claim for a revised decision within the time specified in section 7(3) of this chapter, the deadline for filing an appeal shall be calculated from the expiry of the time limit prescribed in section 7(3) of this chapter.
- (3) If the decision is preventing the normal operation of the ship, the appeal must be processed as urgent.

### Section 9 *Enforcement of decisions*

- (1) Consideration of claims for a revised decision or appeals does not prevent the enforcement of decisions, unless otherwise ordered by the authority considering the claim for a revised decision or by the appellate authority.
- (2) Provisions on the enforcement of payment decisions concerning oil discharge fees are laid down in Chapter 3, section 15.

### Section 10 *Competent court*

- (1) Regarding a specific ship, or an alleged act of environmental pollution caused by it, the competent court in matters falling within the scope of this Act shall be the district court (maritime court) referred to in Chapter 21, section 1, of the Maritime Act, in whose jurisdiction the incident that resulted in the judicial proceedings occurred. If the incident has occurred while the ship was at sea, the matter may be brought before the maritime court in whose jurisdiction the port, at which the ship first calls, is located.

- (2) When the offence referred to in section 3 of this chapter has been committed within Finland's exclusive economic zone, the criminal case shall be heard by the maritime court. The court closest to whose jurisdiction the offence can be deemed to have been committed, shall, by applying the provisions of Chapter 4, sections 1(1) and 1(2), of the Criminal Procedure Act (*Laki oikeudenkäynnistä rikosasioissa* 689/1997), be considered the competent maritime court. When applying this section, the judicial districts of these maritime courts shall be considered to extend, without a change in direction, from the outer limit of the internal territorial waters to the outer limit of the exclusive economic zone.
- (3) When the offence referred to in section 3 of this chapter has been committed outside Finnish territory and outside Finland's exclusive economic zone, the criminal case shall be heard by the Helsinki District Court.

#### Section 11

##### *Entry into force*

- (1) This Act shall enter into force on 1 January 2010.
- (2) This Act repeals the Act on the Prevention of Pollution from Ships issued on 16 March 1979 (300/1979), as amended.
- (3) Nonetheless, the following decrees shall remain in force:
  - 1) the Decree on Ship Surveys, issued on 3 December 1999 (*Asetus alusten katsastuksista (kumottu)* 1123/1999);
  - 2) the Decree on Marine Equipment, issued on 4 December 1998 (*Asetus laivavarusteista* 925/1998); and
  - 3) the Decree on Chemical and Gas Tankers, issued on 26 March 1982 (*Asetus kemikaali- ja kaasusäiliöaluksista* 244/1982).
- (4) Measures necessary for the implementation of this Act may be undertaken before the entry into force of the Act.

#### Section 12

##### *Transitional provisions*

Temporary certificates, equivalents, exemptions and other permits issued prior to the entry into force of this Act will remain valid under this Act until the termination of their periods of validity.