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**Act on Security Measures on certain Ships and in Ports serving them and
on monitoring the Security Measures**
(485/2004; amendments up to 885/2011 included)

Chapter 1 – **General provisions**

Section 1 – *Objectives (69/2007)*

- (1) This Act lays down provisions on security measures to be observed in ports.
- (2) This Act also lays down the provisions for national implementation required under Regulation (EC) No 725/2004 of the European Parliament and of the Council on enhancing ship and port facility security, hereinafter referred to as the Maritime Security Regulation.

Section 2 – *Definitions*

In this Act:

- 1) *competent authority* means the Finnish Transport Safety Agency, the Finnish Border Guard, the Police and the Customs; (1303/2009)
- 2) *port and harbour authority* means the body which maintains a port or a port facility; (69/2007)
- 3) *dangerous object* means an object, a replica of an object, or a substance which can endanger or which can be used for endangering the security of a ship or a port or persons on board the ship or in the port; (69/2007)
- 4) *Port Security Directive* means Directive 2005/65/EC of the European Parliament and of the Council on enhancing port security; (69/2007)
- 5) *security level* means the qualification of the degree of risk that a security incident will be attempted or will occur; (69/2007)
- 6) *security level 1* means the level for which minimum appropriate protective security measures shall be maintained at all times; (69/2007)
- 7) *security level 2* means the level for which appropriate additional protective security measures shall be maintained for a period of time as a result of heightened risk of a security incident; (69/2007)
- 8) *security level 3* means the level for which further specific protective security measures shall be maintained for a limited period of time when a security incident is probable or imminent, although it may not be possible to identify the specific target; (69/2007)
- 9) *port security area* means an area determined on the basis of a security assessment carried out under this Act for which a security plan is drawn up and which must be properly signposted as a security area in Finnish, Swedish, English and Russian; (69/2007)
- 10) *port facility* means a location in which people move to and from ships or in which goods are moved to and from ships or in which port services are provided; (69/2007)
- 11) *SOLAS Convention* means the International Convention for the Safety of Life at Sea, 1974 (Finnish Treaty Series 11/1981). (69/2007)

Chapter 2 – **The tasks of competent authorities**

Section 3 – *The general tasks of a competent authority*

- (1) The task of the competent authority is to monitor compliance with the provisions laid down in the Maritime Security Regulation and in this Act.
- (2) The Border Guard, the Police and the Customs shall notify the Finnish Transport Safety Agency of any deficiencies they observe in the compliance with the provisions referred to in subsection 1 and the Finnish Transport Safety Agency shall, without delay, take measures to correct the deficiencies. If the deficiency is of such a nature that correcting it requires rapid action, another competent authority may take immediate action to correct the deficiency. This competent authority shall also immediately notify the Finnish Transport Safety Agency of the matter. (1303/2009)
- (3) The Finnish Transport Safety Agency, the Border Guard and the Customs must, for the purpose of assessing the security level specified in regulation XI-2/1.1.14 of the SOLAS Convention and in section 2(5-8) of this Act, notify the Police of any serious deficiencies they observe in the compliance with the provisions referred to in subsection 1. (1303/2009)
- (4) Notwithstanding secrecy provisions, a competent authority shall disclose to another competent authority any information necessary for the implementation of the purposes of this Act. The information may be transferred electronically as laid down below.

Section 4 – *Special tasks of the Finnish Transport Safety Agency (1303/2009)*

The Finnish Transport Safety Agency acts as the focal point for maritime security and port security referred to in Article 2(6) of the Maritime Security Regulation in addition to which it is responsible for: (1303/2009)

1) performing port and port facility security assessments, approving ship, port and port facility security plans, surveying ships and issuing certifications in accordance with the provisions laid down in the Maritime Security Regulation and in this Act; (69/2007)

1a) approving, on the basis of a security assessment and at the proposition of the port and harbour authority, the boundaries of the port security area and the list of port employees on whom background checks, referred to in the Act on Background Checks (177/2002), shall be carried out and seeing to the inspection of port security plans, as laid down in this Act; (69/2007)

1b) approving, on the basis of background checks and a proposal made by the port, the appointment of the port security officer and other important security staff members; (69/2007)

1c) acting as the port security authority referred to in Article 5 of the Port Security Directive; (69/2007)

2) taking the control measures referred to in Article 9 of the Maritime Security Regulation in order to ensure that a ship at a Finnish port complies with the provisions of the Maritime Security Regulation and, if there are reasonable grounds for suspecting that the ship is in non-compliance with the provisions of the Maritime Security Regulation or if the ship does not present certification upon request, notifying the Border Guard, the Police or the Customs of the matter, and taking the necessary control measures referred to in regulation XI-2/9.1.2 and 9.1.3 of the SOLAS Convention, appended to the Maritime Security Regulation;

- 3) taking the measures referred to in regulation XI-2/9.2.4 of the SOLAS Convention, appended to the Maritime Security Regulation so that the deficiencies in the conformity of a ship entering a Finnish port are rectified if there are reasonable grounds for suspecting that the ship is in non-compliance with the provisions of the Maritime Security Regulation and, if the situation is not corrected or if there are otherwise reasonable grounds for suspecting that the ship is in non-compliance with the provisions of the Maritime Security Regulation, notifying the Border Guard, the Police or the Customs and taking the necessary control measures referred to in regulation XI-2/9.2.5 of the SOLAS Convention, appended to the Maritime Security Regulation;
- 4) approving the equivalent security arrangements referred to in Article 5(4) of the Maritime Security Regulation, and taking the related measures concerning them as referred to in Article 5(4) of the Regulation; (69/2007)
- 5) communicating, as extensively as appropriate, efficiently and without undue delay on the security level and changes to it notified to it by the Police, and providing further information on the matter, as required, and determining, on the basis of a risk analysis, the security level of a ship sailing under the Finnish flag outside Finnish territorial waters and communicating the information to the Police for approval; (69/2007)
- 6) making the administrative notifications concerning security measures; (69/2007)
- 7) providing guidelines and supervision for exercises organised by competent authorities, as laid down in Annex III of the Port Security Directive; (69/2007)
- 8) seeing to it that the security checks referred to in this Act are carried out in compliance with the Maritime Security Regulation and this Act; and (69/2007)
- 9) performing all other tasks laid down for the Finnish Transport Safety Agency in this Act. (1303/2009)

Section 5 – *Special tasks of the Border Guard*

In addition to what is provided elsewhere in this Act, the Border Guard is responsible for:

- 1) maintaining a contact point for notifications of security threats to ships and ports and for security alerts; (69/2007)
- 2) informing other competent authorities without delay on the notifications and security alerts referred to in paragraph 1;
- 3) reporting immediately on security alerts referred to in paragraph 1 made by a Finnish ship which is not at a Finnish port or not entering a Finnish port to the administrations of the states in the vicinity of which the ship is operating; and
- 4) after having been notified of a ship at a Finnish port or a ship entering a Finnish port for which there are reasonable grounds for believing that it is in non-compliance with the provisions of the Maritime Security Regulation and, if there are reasonable grounds for believing that the ship presents a security threat or that the ship is subject to a security threat or a security incident, taking the control measures referred to in regulation XI-2/9.1.2 and 9.1.3 or 9.2.5 of the SOLAS Convention, appended to the Maritime Security Regulation.

Section 6 – *Special tasks of the Police*

In addition to what is provided elsewhere in this Act, the Police are responsible for:

- 1) determining the security level referred to in regulation XI-2/1.1.14 of the SOLAS Convention, appended to the Maritime Security Regulation, and in section 2(5-8) of this Act, and deciding, on the basis of the information available, on the raising and lowering of the security level and giving further instructions to provide safeguards against hazardous situations; (69/2007)
- 2) notifying the Finnish Transport Safety Agency of changes to the security level that they have decided on; and (1303/2009)
- 3) after having been notified of a ship at a Finnish port or a ship entering a Finnish port for which there are reasonable grounds for believing that it is in non-compliance with the provisions of the Maritime Security Regulation and, if there are reasonable grounds for believing that the ship presents a security threat or that the ship is subject to a security threat or a security incident, taking the control measures referred to in regulation XI-2/9.1.2 and 9.1.3 or 9.2.5 of the SOLAS Convention, appended to the Maritime Security Regulation.

Section 7 – *Special task of the Customs*

In addition to what is provided elsewhere in this Act, the Customs is responsible for taking the control measures referred to in regulation XI-2/9.1.2 and 9.1.3 or 9.2.5 of the SOLAS Convention, appended to the Maritime Security Regulation, after it has been notified of a ship at a Finnish port or a ship entering a Finnish port for which there are reasonable grounds for believing that it is in non-compliance with the provisions of the Maritime Security Regulation and if there are reasonable grounds for believing that the ship presents a security threat or that the ship is subject to a security threat or a security incident.

Chapter 2a – **Port security measures (69/2007)**

Section 7a – *Security assessment*

- (1) A security assessment shall be carried out for each port.
- (2) In carrying out the security assessment, appropriate consideration must be given to the detailed requirements set out in Annex I of the Port Security Directive, the specific characteristics of each sub-area of the port and the port facility security assessments carried out in accordance with the Maritime Security Regulation.
- (3) The security assessment shall be reviewed when new circumstances so require and at least every five years.

Section 7b – *Security plan*

- (1) A port security plan shall be drawn up on the basis of the port security assessment.
- (2) In the security plan, consideration shall at least be given to the detailed requirements set out in Annex II of the Port Security Directive.
- (3) The port security plan shall contain the port facility security plans drawn up in accordance with the Maritime Security Regulation.
- (4) A security plan shall set out the following for each security level referred to in section 2(5-8) above, to be observed in each sub-area of the port:

- 1) the procedures to be followed;
 - 2) the measures to be put in place; and
 - 3) the actions to be taken.
- (5) The security plan shall be reviewed when new circumstances so require and at least every five years.

Section 7c – A port facility covering the entire port security area

If the boundaries of the port facility have been determined so that the entire port security area falls within them, relevant provisions of the Maritime Security Regulation have priority.

Section 7d – Port security officer

Each port shall have a security officer. Ports can share a security officer. The port security officer acts as the point of contact in matters concerning port security. The port security officer and the port facility security officer shall cooperate with each other.

Chapter 3 – **Security checks and other measures for enhancing security**

Section 8 – Security checks (69/2007)

- (1) In order to prevent unlawful acts intended to harm ships or port security areas or persons on board ships or in the security areas, a ship, a ship's cargo, cargo transport units and cargo platforms, goods intended for provisioning and equipping a ship, and buildings, rooms and storage facilities in a port security area may be inspected. An inspection may not, however, be performed in sections of buildings or ships solely intended for accommodation. Accommodation areas that are also used as business premises or for business activities may be inspected when necessary on reasonable grounds for the purpose of preventing acts referred to in this subsection.
- (2) An inspection of a postal item must be arranged in a manner that does not compromise the confidentiality of the correspondence.
- (3) For the purpose referred to in subsection 1 above, a metal detector or an equivalent technical device may be used to verify that passengers are not carrying any dangerous objects in their clothing, otherwise upon themselves or with them. To this end, a passenger may also be interviewed. If there are reasonable grounds for suspecting that a person is carrying a dangerous object, he/she can be searched in order to find the object. A person working on board a ship or in a port security area and, if necessary for a particular reason, other persons on board a ship or in a port security area may also be subject to a security check and interview.
- (4) Anybody performing inspections on board a ship or in a port security area has the right to remove a dangerous object or a hazardous substance found in the course of the inspection or in some other connection the possession of which is prohibited under other provisions laid down in law.
- (5) Objects and substances removed must be handed over to the Police or, unless forbidden by law, returned to the inspected person when he/she leaves the ship or the port security area.

Section 9 – *Permissible dangerous objects (69/2007)*

Anybody performing inspections on board a ship or in a port security area may order that dangerous objects a person is entitled to carry, either under an appropriate licence or some other legal right, shall be left for separate storage on board the ship or in the port security area before the person embarks the ship or enters the port security area. The objects shall be returned when the person disembarks or leaves the port security area. If the object cannot then be returned without risk, it shall be handed over to the Police so that it can be returned to the inspected person or so that the measures laid down in Chapter 2, section 15 of the Police Act (872/2011) can be carried out.

Section 10 – *Performer of a security check*

- (1) A Border Guardsman, Police Officer or Customs Officer has the right to perform a security check referred to in this Act for the purpose of preventing dangerous objects from being used for unlawful acts to harm a ship or a port security area or persons on board the ship or in the port security area. (69/2007)
- (2) A person other than one referred to in subsection 1 may be employed for performing a security check referred to in subsection 1, if he/she meets the requirements for security steward authorization laid down in section 12 of the Security Stewards Act (533/1999) or if he/she has been trained as a security officer in a training programme referred to in section 9(2) of the Act on Security Screening in Air Transport (305/1994) and approved by the Finnish Civil Aviation Authority and he/she has, in both cases, been approved for the task by the Police. In considering the approval, the Police have a right to use the register data, on which a limited background check referred to in the Act on Background Checks (177/2002) may be based. (107/2007)
- (3) Security inspectors referred to in subsection 2 above do not have the right to perform inspections in areas of domestic peace. Neither do they have the right to use force.
- (4) The right and duty of the master to maintain order and security on board is laid down in Chapter 13, section 18 of the Act on Seafarers' Employment Agreements (769/2011).

Section 11 – *Principle of minimum interference*

- (1) Security checks shall be performed in a manner that does not cause unnecessary harm to the person or subject being inspected. The procedure must not unnecessarily hinder or interfere with other activities on board the ship or in the port security area. (69/2007)
- (2) Frisking shall be conducted with discretion.

Section 12 – *Coercive measures on a person (69/2007)*

- (1) Anybody refusing to submit to an inspection carried out in accordance with this Act or anybody that on reasonable grounds can be suspected of being a threat to maritime security may be denied access to a ship or to a port security area or be removed from a ship or a port security area by a Border Guardsman, a Police Officer or a Customs Officer. Forcible measures deemed necessary and justifiable may be used in the process; in that case consideration shall be given to the risk to maritime security, the behaviour of the person to be removed and other related factors.
- (2) Provisions on the use of excessive force are contained in Chapter 4, section 6(3) and section 7 of the Criminal Code (39/1889).

Chapter 4 – **Miscellaneous provisions**

Section 13 – *Provision of information prior to a ship's entry to a port* (1303/2009)

- (1) Security measures information concerning a ship referred to in Article 6 of the Maritime Security Regulation shall be disclosed to the Finnish Transport Safety Agency in a manner ordered by the Finnish Transport Safety Agency.
- (2) The Finnish Transport Safety Agency may, under the conditions laid down in Article 7 of the Maritime Security Regulation and on application, grant exemption from the provision of information referred to in subsection 1. (69/2007)

Section 14 – *A port and harbour authority's notification obligation* (1303/2009)

For the purpose of a security level assessment, the port and harbour authority shall, without delay, notify the Police of all matters that have come to its attention and which may have an impact on maritime security referred to in the Maritime Security Regulation or in this Act. The Finnish Transport Safety Agency, the Border Guard and the Customs shall be notified at the same time.

Section 15 – *Notification obligation of the master*

For the purpose of a security level assessment, the master shall, without delay, notify the port and harbour authority or the Police of all matters that have come to his/her attention and which may have an impact on maritime security referred to in the Maritime Security Regulation or in this Act.

Section 16 – *Obligation to provide material*

- (1) Notwithstanding secrecy provisions, a competent authority has the right to access, free of charge, all such documents, passenger lists and other material and lists that the port and harbour authority, shipowner or master must maintain or retain that are necessary for implementing the objectives of the Maritime Security Regulation and this Act, and to receive copies of these free of charge. A competent authority also has the right to access material in electronic form over a technical user interface. A competent authority may disclose information accessed in this manner only to another competent authority. The information may only be used for the purpose of carrying out tasks referred to in the Maritime Security Regulation and in this Act.
- (2) A competent authority has the right to receive information and assistance from the master or other persons serving on board a ship and working in a port security area for inspecting that the ship or the port security area is in compliance with the Maritime Security Regulation and the provisions of this Act. (69/2007)

Section 17 – *Technical monitoring*

- (1) In addition to what is provided elsewhere in the law, the Police, the Border Guard and the Customs have the right, in order to ensure maritime security, to perform technical monitoring referred to in Chapter 4, section 1(1) of the Police Act in locations accessible to the public at a Finnish port referred to in this Act after giving advance notification with an appropriate signal. Technical monitoring may not, however, be conducted in areas of domestic peace, or in toilets, dressing areas or other similar locations, or in staff rooms or offices intended for the staff's personal use. A technical device may be used for voice or image recording, if this is necessary for deterring offences referred to in Chapter 34a of the Criminal Code or for

the identification of persons wanted for offences or of being suspected guilty on probable causes for offences referred to in the same chapter. Authorities referred to in this subsection may install devices intended for technical monitoring in a port security area, if this does not cause any considerable harm to the port and harbour authority. (885/2011)

- (2) The Police, the Border Guard and the Customs have, for their own use, the right to receive from a port and harbour authority and a shipowner, monitoring material from a technical device continuously transmitting or recording an image, that has been installed by the port and harbour authority or the shipowner in a Finnish port security area or on board a Finnish ship referred to in this Act, if a security level referred to in section 2(7) or (8) of this Act has been set. The information referred to in this subsection may also be disclosed by means of a technical user interface. (69/2007)
- (3) Provisions of the Personal Data Act (523/1999), the Act on the Processing of Personal Data by the Police (761/2003), the Frontier Guard Act (320/1999) and the Customs Act (1466/1994) apply to the processing of information gained by means of technical monitoring equipment, irrespective of whether the recordings constitute a personal data file referred to in the Personal Data Act.

Section 18 – *Expenses arising from the disclosure of electronic information*

- (1) A competent authority shall, at its own expense, implement a system which enables it to receive and process information referred to in sections 16 and 17. The competent authority is also responsible for the expenses arising from the connection of the system to a communications network.
- (2) A shipowner and a port and harbour authority have the right to receive compensation from State funds for the direct cost of investments, use and maintenance of systems, equipment or software which have been purchased solely for the purpose of meeting the requirements laid down by a competent authority. A shipowner and a port and harbour authority also has the right to receive compensation from State funds for the direct costs of a procedure that has been ordered by a competent authority. Compensation for costs is decided on by the Ministry of Transport and Communications.
- (3) A shipowner or a port and harbour authority may not utilise the systems, equipment or software funded by a competent authority for commercial activities.

Section 19 – *Rectification of deficiencies and coercive measures* (1303/2009)

- (1) If a port and harbour authority fails to comply with the provisions of the Maritime Security Regulation or of this Act, the Finnish Transport Safety Agency shall, after consulting the defaulting party, issue appropriate instructions and orders for the rectification of the deficiencies or faults. The Agency may set a time limit for the rectification of the deficiencies or faults.
- (2) If a port and harbour authority opposes an inspection, fails to disclose material referred to in section 16 or 17, does not comply with the order referred to in subsection 1, or does not rectify a deficiency or a fault within the time limit set by the Finnish Transport Safety Agency, the Agency may at its discretion suspend work at the port facility or the port security area until the fault or deficiency has been rectified or the material has been disclosed. The Police and the port and harbour authority shall be notified of the decision without delay. (69/2007)

Section 20 – *Cooperation between competent authorities*

Each competent authority shall, within its respective sphere of competence, provide assistance to another competent authority.

Section 20a – *Cooperation between the performer of a security check and a competent authority (69/2007)*

The performer of a security check has the right to notify the Customs or the Border Guard of observations that are of relevance from the point of view of the administration's tasks.

Section 21 – *Compensation for expenses (69/2007)*

- (1) Provisions on making the drawing up of security assessments, approval of security plans and the issue of certifications subject to charge and the criteria for the charges are contained in the Act on Criteria for Charges Payable to the State (150/1992).
- (2) If in inspections carried out in accordance with this Act deficiencies are observed which under the Maritime Security Regulation or this Act justify the detention of a ship or restrictions on its operations or suspension of operations at a port facility or in a port security area, the shipowner or his/her representative in Finland or the port and harbour authority shall provide compensation for all expenses arising from additional inspections.

Section 22 – *Processing and secrecy of information*

- (1) Information contained in security assessments and security plans may only be processed by persons appointed for the task by a competent authority, by security officers of shipowners, ships and port facilities, port security officers and persons appointed for the task by security officers. (69/2007)
- (2) A person employed by a shipowner, a ship or a port and harbour operator or a person responsible for the security arrangements of the above must not disclose to third parties any information on security assessments, security plans or matters related to their implementation, including information gained through the inspection of postal items, that has come to his/her attention while carrying out his/her duties. (69/2007)
- (3) Confidentiality provisions applying to a person in the service of or commissioned by an authority and to a person in the service of a person commissioned by an authority are contained in the Act on the Openness of Government Activities (621/1999).

Section 23 – *Breach of security*

- (1) Anybody who deliberately or through carelessness neglects the notification obligation referred to in section 13, or who fails to comply with an order issued by the Finnish Transport Safety Agency under section 19, shall be sentenced, unless a more severe penalty for the act is provided elsewhere in the law, for *breach of security* to a fine. (1303/2009)
- (2) Punishment for providing a competent authority with false documents is laid down in Chapter 16, section 8 of the Criminal Code.

Section 24 – *Secrecy offence*

Punishment for a secrecy offence laid down in section 22 is in accordance with Chapter 38, section 1 or 2 of the Criminal Code, unless the offence is punishable in accordance with Chapter 40, section 5 of the Criminal Code or a more severe penalty is provided elsewhere in the law.

Section 25 – Appeal

- (1) A decision issued by a competent authority under this Act and the Maritime Security Regulation may be appealed against in accordance with the Administrative Judicial Procedure Act (586/1996). The appeal shall be considered without delay.
- (2) An appeal does not prevent the detention of a ship, restriction of operations of a ship, a port facility or a port security area or the implementation of a decision concerning coercive measures on a person referred to in section 12 unless otherwise ordered by the appellate authority. (69/2007)

Chapter 5 – Entry into force**Section 26 - Entry into force**

- (1) Provisions regarding the entry into force of this Act shall be issued by Government decree.
- (2) Measures necessary for the implementation of this Act may be undertaken before the Act's entry into force.

Act 485/2004 entered into force on 1 July 2004.
Act 855/2011 enters into force on 1 January 2014.