

**SEAMEN'S WORKING HOURS ACT (296/1976)
(as amended by several acts, including No. 941/2004)**

Chapter 1
General provisions

Section 1
Scope of application

This Act shall apply, subject to the exceptions specified below, to work performed by persons serving on board a Finnish vessel plying in foreign trade, for the said vessel or otherwise on the orders of a superior on board the vessel or elsewhere.

The provisions of this Act shall be observed even when a vessel plying in foreign trade makes voyages between ports in Finland.

This Act shall also apply, subject to the restrictions specified in section 2, to work performed on board a fishing vessel in traffic in waters outside the scope of application of the Act on Working Hours on Vessels in Domestic Traffic (248/1982). (941/2004)

The provisions of this Act concerning employees shall also apply to civil servants. Similarly, the provisions of this Act concerning collective agreements shall also apply to public service collective agreements. (151/2001)

Section 2 (942/1997)
Derogations to scope of application

This Act does not apply to work performed by:

- 1) the master of a vessel on board which two or more persons are employed in addition to the master, with the exception of what is provided in sections 9a, 10 and 19a;
- 2) the chief engineer or first mate, if their work is not divided into watches, with the exception of what is provided in sections 9a, 10 and 19a;
- 3) the chief officer of a passenger vessel catering department employing at least 15 persons in addition to the said officer;
- 4) a member of the employer's family, in so far as no other persons are also permanently employed on board the vessel;
- 5) a person receiving wages solely in the form of a share in the profits;
- 6) a person working on board the vessel only while it is in port;
- 7) a person doing merely temporary work in the service of the vessel;
- 8) a medical practitioner who is employed solely for the purpose of caring for the sick; or
- 9) a person who is employed
 - a) on board a State-owned vessel used for defensive or coastguard duties; or
 - b) on board a fishing vessel, if the vessel is in fishing grounds; in this case, too, the provisions of section 9a on the minimum period of rest nevertheless apply to the work. (941/2004)

Section 3 (151/2001)

Definitions

In this Act

- 1) *watch-keeping employee* refers to an employee whose work is divided into watches;
- 2) *dayman* refers to an employee whose work is not divided into watches and who is not a member of the catering staff;
- 3) *catering staff* refers to employees employed for the purpose of attending to the food or comfort of the crew or passengers, or performing other tasks connected with such work, clerical work or other similar duties that are not performed by the deck, engine-room or radio units;
- 4) *passenger vessel* refers to a vessel which is required to be inspected as a passenger vessel under current provisions or regulations;
- 5) *day* refers to the period from midnight to the following midnight;
- 6) *day in port* refers to a day when the vessel is in port;
- 7) *day at sea* refers to a day when the vessel is on a voyage;
- 8) *day of arrival or departure* refers to a day when the vessel enters or leaves a port;
- 9) *week* refers to the period from midnight on Sunday to midnight on the following Sunday;
- 10) *holiday* refers to a Sunday or other church festival, Independence Day and May 1;
- 11) *foreign trade* refers to any voyage between a Finnish and a foreign port, or between one foreign port and another; and
- 12) *working hours adjustment scheme* refers to an advance arrangement devised for work whereby regular working hours within a set period are adjusted to the statutory average.

Chapter 2

Regular working hours and scheduling of working hours

Section 4

Regular working hours

The regular working hours shall not exceed eight hours a day or 40 hours a week.

The regular working hours for catering staff on a day in port that falls on a holiday or Saturday shall not, however, exceed five hours:

- 1) on board a vessel other than a passenger vessel; and
- 2) on board a passenger vessel when there are no passengers aboard.

Section 5

Arrangement of working hours

The regular working hours shall be arranged so that:

- 1) watch-keeping employees need not be at work on a day in port outside the period between 6 a.m. and 6 p.m.;
- 2) daymen do not need to be at work on a day at sea or in port outside the period between 6 a.m. and 6 p.m.;
- 3) catering staff on board a passenger vessel do not need to be at work over a period of more than 14 hours a day;
- 4) catering staff on board a vessel other than a passenger vessel do not need to be at work outside the period between 6 a.m. and 7 p.m. or, on a holiday or on a day in port that falls on a Saturday, outside the period between 6 a.m. and 3 p.m.

Notwithstanding the foregoing, where there are no passengers on board a passenger vessel on a day in port, the period referred to in paragraph 1, sub-paragraph 3, of this section shall not

exceed 12 hours in length and shall end before 7 p.m. on any weekday other than a Saturday and before 3 p.m. on any holiday or Saturday.

Notwithstanding the provisions of this section as to the arrangement of working hours, the regular working hours may, for the purpose of watch-keeping in port, and on any other weekday than Saturday, also be arranged to take place between 6 p.m. and 6 a.m.

Section 5 a § (934/2002)
Shortened working hours

In case the employee wishes to work for shorter hours than the regular working hours in order to go on a part-time pension, the employer shall attempt to make arrangements enabling the employee to engage in part-time work. This shortening of working hours shall be implemented as agreed between the employer and the employee, taking in consideration the needs of the employee and the production and services operations of the employer.

Chapter 3
Work performed on holidays and Saturdays

Section 6
Scope of restrictions on work performed on holidays and Saturdays

Unless otherwise provided in this Act in connection with overtime, no work may be performed on a holiday or Saturday except in the cases specified in this chapter.

Section 7
Obligation of watch-keeping employees to work on holidays and Saturdays

Watch-keeping employees may perform work on a holiday or Saturday that is not a day in port.

Such employees may, however, be required to work on a holiday referred to in paragraph 1 of this section only in connection with

- 1) work required for the propulsion, manoeuvring or navigation of the vessel and related work which cannot be postponed;
- 2) radio-telegraph and radio-telephone duties;
- 3) necessary light cleaning and deck-washing duties lasting not more than one hour in all;
- 4) work required in connection with catering for the crew;
- 5) work required in connection with the departure or arrival of the vessel, for the purpose of casting off or making fast, weighing or dropping anchor, and raising or lowering gang-planks or rope-ladders, or any similar work which is closely related to the departure or arrival of the vessel and also any work required when the vessel leaves port, in order to make fast lifting gear or close hatches or ports;
- 6) work involved in embarking or disembarking passengers and their effects; and
- 7) work involved in taking provisions and stores on board.

Watch-keeping employees may not be required to work on a day in port that falls on a holiday or Saturday.

Section 8
Duty of catering staff to work on holidays and Saturdays

Catering staff may perform work on a holiday or Saturday subject to the restrictions of paragraph 2 of this section.

On a day in port that falls on a holiday, catering staff serving on board a vessel other than a passenger vessel and when there are no passengers aboard, catering staff serving on board a passenger vessel may be required to perform only work involved in catering for the crew and passengers, any necessary waiting at table and light cleaning work.

Chapter 4
Overtime and rest periods (942/1997)

Section 9
Requirement to work overtime

Notwithstanding the foregoing provisions as to regular working hours, the scheduling of working hours and the requirement to work on holidays and Saturdays, a employee may be required to work overtime in return for remuneration.

A employee may be required to work overtime in excess of the regular daily working hours for a maximum of 16 hours a week. The daily working hours shall not exceed 16 hours, however.

Overtime compensated as referred to in section 12, paragraph 2, and section 14 shall not be taken into account for the purpose of calculating the maximum weekly amount of overtime under paragraph 2. (942/1997)

Section 9 a (151/2001)
Minimum period of rest

An employee shall be allowed a rest period of at least ten hours within each 24 hours (*daily rest period*) and a rest period of at least 77 hours during each period of seven days.

The daily rest period may be divided into no more than two parts so that one of the parts continues uninterrupted for at least six hours. The rest period may be shortened to six hours at a time over a maximum of two consecutive 24-hour periods, provided that the employee is given a rest period of at least 77 hours during each period of seven days.

To watch-keeping personnel must be given at least ten hours of rest during each period of 24 hours. The rest period may be divided into no more than two parts so that one of the parts continues uninterrupted for at least six hours. The rest period of watch-keeping personnel may be shortened as referred to in paragraph 2, provided that they are given a rest period of at least 70 hours during each period of seven days.

If an employee's rest period is interrupted by calls to work, he shall be provided with sufficient compensating time for rest.

Breaks of less than 30 minutes are not included in rest period referred to in paragraphs 1–3.

Section 9 b (151/2001)
Special provision concerning young employees

Employees under 18 years of age shall be given an uninterrupted daily rest period of at least nine hours. Young employees shall not be made to work between midnight and five o'clock in the morning, except in order to conduct an exercise programme that is part of the young person's training.

Section 10 (942/1997)

Derogations from the restrictions on the requirement to work overtime and on rest periods

The restrictions imposed above in section 9, paragraph 2, and section 9a shall not apply to overtime required for:

- 1) the performance of work which is essential on account of impending danger to human life, the vessel or goods;
- 2) the performance of work required to provide assistance as provided in the Maritime Act (674/1994);
- 3) participation in rescue and fire-fighting drills and drills using other safety equipment which are carried out in accordance with separate provisions;
- 4) any necessary watch-keeping duties in port;
- 5) any measures ordered by the port authority;
- 6) the performance of any work made necessary by a reduction in the crew during a voyage; or for
- 7) the performance of work that allows no delay, which could not be planned for any other time.

The drills referred to above under paragraph 1, subparagraph 3, shall be conducted in a manner which causes the minimum of disturbance to employees' rest periods and which does not induce fatigue. (151/2001)

Section 11

Repealed (151/2001)

Section 12

Determining the basis for overtime remuneration

Overtime remuneration proper shall be paid in the manner prescribed in section 13 for work performed in excess of the regular daily working hours and work which is otherwise performed by way of derogation to the provisions of chapters 2 and 3.

If the time worked, with the exception of work performed on Sunday, exceeds 40 hours in the course of a week, even if the normal daily working hours have not been exceeded, the employee shall be entitled to the special compensation provided in section 14 for the period in excess. Compensation shall likewise be granted for work performed on a holiday during regular working hours. For the purpose of calculating the compensation, no account shall be taken of work in respect of which the employee is entitled to overtime remuneration proper.

Section 13

Overtime remuneration proper

Overtime remuneration proper shall be payable in cash or, subject to the employee's consent, granted in the form of free time in a manner provided for by collective agreement.

The hourly overtime remuneration payable in cash for overtime worked on a weekday shall be at least 1/102 of the employee's monthly monetary pay and for overtime worked on a Sunday at least 1/63 of that pay. Monetary pay shall not include meal allowances or any corresponding remuneration.

Section 14

Overtime remuneration in the form of compensation

The compensation referred to above in section 12, paragraph 2, shall be granted

- 1) in the form of free time on a weekday, in such a manner that the employee is given at least one day off for every period of 6.7 hours in respect of which he is entitled to compensation;
- 2) in the form of free time in port in the employee's home country or, subject to agreement to that effect, in a foreign port, for which purpose the free time shall be at least as long as the hours of work entitling the employee to compensation;
- 3) subject to agreement, in the form of cash remuneration calculated in such a manner that the employee is paid at least 1/172 of his monthly cash wage as compensation for each hour.

Where free time is granted under paragraph 1, sub-paragraph 1, of this section, account shall be taken of the provisions of the Seamen's Annual Holidays Act [(353/1975)] (433/1984), as applicable, with regard to the payment of annual holiday pay, the port where the holidays are to be granted and the notice to be given of the holiday dates.

Repealed (423/1978)

Section 15

Period for filing suit

An employee's right to overtime remuneration proper or compensation as referred to in this chapter and payable in cash or to be granted in the form of free time shall lapse if court action is not instituted within three years of the end of the calendar year when the right arose. (435/1984)

The first paragraph of this section shall not apply to claims arising before this Act comes into force.

Chapter 5

Supplementary provisions

Section 16 (151/2001)

Derogation Permit given by the Ministry of Labour

If special reasons so warrant, the Ministry of Labour may, after giving the Advisory Committee for Seamen's Affairs an opportunity to express its opinion, grant derogations from the application of this Act in individual cases.

No derogation may be granted if it would conflict with an international agreement binding on Finland.

Section 16a (335/1996)

Special permit granted to foreign employers

If a Finnish vessel, or part thereof, is placed at the disposal of a foreign operator, the Ministry of Labour may, on application from the owner of the vessel and after giving the Advisory Board for Maritime Questions an opportunity to express its opinion, exempt the foreign employer from part or all of the provisions of this Act.

Such special permit may be granted only when there are weighty reasons for so doing. Prior to granting the permit, efforts shall be made to ensure that said grant of a special permit will not cause any substantial alterations in the status of employees as specified in this Act.

Section 16b (435/1984)
Conditions for special permits

A special permit as referred to in section 16a may be granted only for a specified period and may be subject to such conditions as are deemed necessary.

An employer who has been granted a special permit or the master of the vessel concerned shall without delay inform the Ministry of Labour of any change in the circumstances that formed the basis for the derogation. Changes in the said circumstances may justify amendments to the conditions specified in the special permit. If such changes are considered to pose a threat to the status of employees as referred to above, the special permit may be withdrawn. (335/1996)

A special permit may also be withdrawn in the event of failure to adhere to its conditions.

Section 16c
Repealed (406/1998)

Section 17 (282/1986)
Work organized in two shifts

Notwithstanding the provisions of this Act, work on board a vessel of less than 500 gross register tons may be organized in two shifts, in which case terms diverging from the provisions of this Act concerning remuneration for any time exceeding the regular eight hours per day may be issued in a collective agreement.

Work aboard vessels of at least 500 gross register tons but less than 1,600 gross register tons may, by collective agreement, be organized in two shifts. In such cases, the remuneration for work exceeding the regular eight hours per day shall also be specified in the collective agreement.

Section 18
Breaks in working hours and change of watch

When the working hours are calculated, no account shall be taken of a break for meals of a minimum of 30 minutes or of any other interruption in ship's duties, if the employee is then entitled to leave his workplace with the authorization of his superior and the interruption lasts for a minimum of one hour.

Working hours shall likewise not include work, which is necessary to ensure the progress of the vessel solely on account of a change of watches.

Section 19 (151/2001)
Working hours adjustment scheme

If regular working hours have been arranged on the basis of an average as laid down in section 20b, a working hours adjustment scheme shall be prepared in advance for the work in question at least for the period within which regular working hours will adjust to the statutory average.

When preparing the working hours adjustment scheme or planning to alter it, an employer shall provide its employees' shop steward or, if no shop steward has been chosen, its labour protection delegate or, if no labour protection delegate has been chosen, the employees with an opportunity to express an opinion. Sufficient time must be allowed for reviewing the scheme draft.

Employees shall be informed of alterations to the working hours adjustment scheme in good time.

Section 19 a (151/2001)
Work and watch schedule

A work schedule must be drawn up for each workplace, indicating the beginning and end of employees' regular working hours and the times of the rest periods referred to in section 9a. The work schedule must be drawn up in the working language of the vessel and in English.

A watch schedule must be drawn up for watch-keeping personnel, indicating the name of each person and their duties on board, and the beginning and ending times of their watch.

The work and watch schedules shall be drawn up for a work period or a period of at least two weeks at a time. Any changes shall be entered without delay. The work and watch schedules must be kept on display in a conspicuous location.

Section 20 (151/2001)
Working hours register

The employer shall keep a register of hours worked and compensation paid separately for each employee. All hours worked and, separately, hours of overtime, emergency and Sunday work and increments paid on them shall be entered in the register. Each half-hour started shall be considered a full half-hour when calculating overtime compensation. The employer shall keep the working hours register for at least the end of the period for filing suit prescribed in section 15.

The working hours register shall be shown on demand to a labour protection authority, and the employees' shop steward or, if no steward has been elected, the labour protection delegate. An employee and a party so authorized by the employee are entitled to a written report of entries in work and watch schedules and the working hours register that concern the employee.

A labour protection authority must be provided with a copy of the working hours register, working hours adjustment scheme and the work schedule referred to in section 19a upon request.

Section 20a (151/2001)

Peremptory nature of provisions and derogation by means of employment contract

An agreement that reduces the benefits conferred on an employee under this Act shall be null and void, unless otherwise laid down in this Act.

Section 20b (151/2001)

Peremptory nature of provisions and derogation by means of national collective agreement

Employer and employee organizations that operate nationwide are, however, in addition to what is prescribed in this Act, entitled to agree otherwise than what is prescribed in sections 3–9 and sections 19 and 19a. Furthermore, the provisions of sections 12 and 14 may be derogated from concerning employees whose work and leisure periods are based on a rotation scheme based on the collective agreement. Regular weekly working hours may not, however, exceed 40 on average during a period of no more than 52 weeks.

Employers may also apply the regulations of such collective agreements to the employment relationships of employees who are not bound by the said agreements but in whose employment relationships the terms of the agreements are otherwise observed. Following the termination of a collective agreement, the regulations referred to above may be observed until a new collective agreement comes into force in employment relationships to which the said regulations would be applicable were the said collective agreement still in force. If a new collective agreement is not made within six months of the termination of the preceding agreement, both contracting parties shall be entitled to announce that application of the aforementioned regulations in the collective agreement must end within two weeks of the announcement or, if necessary for the adjustment of regular working hours, by the end of the reference period current at the time.

What this section prescribes concerning employer organizations which operate nationwide shall apply correspondingly to government negotiating authorities or other government contracting authorities, municipalities, joint municipal boards, the Commission for Local Authority Employers, the Provincial Government of the Province of Åland and the Commission for Local Authority Employers of the Province of Åland.

No agreements on derogations may be made under this section that are in conflict with any international agreement binding on Finland.

Section 21 (151/2001)

Display of the Act

The employer shall display a copy of this Act where the employees can see it in a suitable place on board the vessel and also a copy of any implementation provisions issued hereunder, and derogations thereto granted by the competent authority. The employer shall also display the collective agreement provisions agreed upon under section 20b.

Section 22 (151/2001)

Supervision

Compliance with this Act and agreements on regular working hours made under section 20b shall be supervised by the labour protection authorities.

Chapter 6
Penal provisions and right of action

Section 23 (681/1995)

Violation of seamen's working hours stipulations

An employer or an employer's representative who deliberately or out of carelessness violates this Act or rules or regulations issued under it, other than those concerning duty to pay and the working hours register or display, shall be sentenced to a fine for *violation of the seamen's working hours stipulations*.

The division of liability between an employer and the employer's representatives shall be determined in accordance with the principles laid down in chapter 47, section 7, of the Penal Code.

Section 24 (151/2001)

Violation of working hours protection stipulations

The penalty for a neglect or abuse relating to the working hours register referred to in section 20, paragraph 1, and for a violation of the seamen's working hours stipulations which has been committed regardless of an admonition, order or prohibition issued by a labour protection authority, is laid down in chapter 47, section 2, of the Penal Code.

Section 25 to Section 27
Repealed (681/1995)

Chapter 7
Miscellaneous provisions

Section 28 (335/1996)

Court of Law

In cases to be adjudicated under this Act, the court of first instance shall be determined in accordance with chapter 21, sections 1 and 7, of the Maritime Act (674/1994). Otherwise, legal proceedings shall comply with the Code of Judicial Procedure.

Section 29
Power to issue decrees

More detailed provisions on the enforcement of this Act shall be issued by decree when necessary.

Section 30
Entry into force

This Act comes into force on July 1, 1976. The Seamen's Working Hours Act of July 14, 1961 (409/1961), as subsequently amended, is hereby repealed.