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## Ports Act<sup>1</sup>

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22.04.2010	RT I 2010, 22, 108	01.01.2011, enters into force on the date which has been determined in the Decision of the Council of the European Union regarding the abrogation of the derogation established in respect of the Republic of Estonia on the basis provided for in Article 140(2) of the Treaty on the Functioning of the European Union, Council Decision 2010/416/EU of 13 July 2010 (OJ L 196, 28.07.2010, pp. 24-26).
08.12.2010	RT I, 22.12.2010, 1	02.01.2011, the words "shipping traffic" is substituted throughout the text by the words "water traffic"
23.02.2011	RT I, 25.03.2011, 1	01.01.2014; date of entry into force changed 01.07.2014 [RT I, 22.12.2013, 1]
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05.12.2013	RT I, 22.12.2013, 1	01.01.2014
19.02.2014	RT I, 13.03.2014, 4	01.07.2014
05.06.2014	RT I, 29.06.2014, 1	01.07.2014
19.06.2014	RT I, 12.07.2014, 1	01.01.2015
19.06.2014	RT I, 29.06.2014, 109	01.07.2014, the titles of ministers substituted on the basis of subsection 107 <sup>3</sup> (4) of the Government of the Republic Act.
08.02.2017	RT I, 03.03.2017, 1	01.07.2017
02.05.2018	RT I, 22.05.2018, 1	23.05.2018

## Chapter 1

# GENERAL PROVISIONS

## § 1. Scope of Act

(1) This Act provides the requirements for the provision of port services and water traffic safety and for port authorities and port operators security requirements and environmental protection requirements and liability for the violation of these requirements and regulates the procedures relating to state supervision in seaports and in ports located on navigable inland waters and navigable estuaries of bordering water bodies (hereinafter *navigable inland waters*).

(2) Specifications for application of this Act:

- 1) this Act does not apply to mooring equipment installed or built by a natural person for personal use outside his or her economic or professional activity;
- 2) Chapters 2, 3 and 6 of this Act do not apply to small-craft harbours where no port services are provided for a charge, unless otherwise provided for in this Act;
- 3) Chapters 2 to 5, 7 and 9, except for subsection 30 (3) of this Act, do not apply to military ports;
- 4) Chapter 3, subsections 25 (2) to (12) and §§ 26 to 29 of this Act do not apply to ports which perform state administrative duties.

(3) The provisions of the Administrative Procedure Act apply to the administrative proceedings prescribed in this Act, taking account of the specifications provided for in this Act.

## § 2. Definitions

For the purposes of this Act:

- 1) port – the land and waters adjusted for berthing of water craft and used for provision of port services and the structures there required for the use of the port for its intended purposes (hereinafter *port structures*);
  - 2) port waters (hereinafter *waters*) – a delimited part of waterway which is required for organising safe berthing of water craft and where the port authority is responsible for compliance with the requirements of water traffic safety, security and environmental protection;
  - 3) port authority – a person who organises the activities of the port as a whole;
  - 4) port operator – a person who provides port services on the basis of a contract entered into with the port authority;
  - 5) port's aids to navigation – aids to navigation necessary for entry in the port, departure from the port and intra-port water traffic;
  - 6) port rules – operational, navigational, environmental, safety and other requirements for the provision of port services and information about the port;
  - 7) harbour master – a person organising safe water traffic and safe entry of water craft in the port;
  - 8) port security officer – a person organising compliance with security requirements in the port;
  - 9) port facility – the point of cooperation and interface between ships and the port in the port land area or waters determined for compliance with the security requirements (hereinafter both jointly referred to as *port area*) which, if necessary, also covers the port territory, waters and entrance;
  - 10) ship/port interface – interactions that occur when a ship is directly and immediately affected by actions involving the movement of persons or goods or the provision of port services to or from the ship;
  - 11) port facility security officer – a person organising compliance with security requirements of the port facilities;
  - 12) security firm – an undertaking which may perform the duties provided for in this Act, which holds a licence for providing security services for the purposes of the Security Act and the activity licence provided for in § 18 of this Act;
- [RT I, 25.03.2011, 1 - entry into force 01.07.2014 (date of entry into force changed - RT I, 22.12.2013, 1)]
- 13) security level – the degree of risk according to which protection and security measures are maintained for prevention of security incidents;
  - 14) security incident – an incident, act or circumstance which may threaten the security of a ship, of any port/ship interface or of a port and port facility;
  - 15) entrance to port (hereinafter *entrance*) – a part of the waterway which allows water craft to enter into the port and depart from the port and where it is necessary to organise water traffic for such purpose. Common entrances to ports and entrances which pass through the waters of another port shall be considered as entrances;
  - 16) military port – a port which is only intended for berthing and servicing of warships and naval auxiliary ships;
  - 17) port which performs state administrative duties – a port which is only intended for berthing and servicing of ships which perform state administrative duties;
  - 18) small-craft harbour – a port or a part of a port where port services are provided to water craft with an overall length of less than 24 metres;
  - 19) ship-generated waste – all the waste, except for cargo residues, including garbage, bilge water, petroleum products from the engine room or cargo tanks and waste containing oil and waste which is generated during the service of a water craft and which fall under the scope of Annexes I, IV and V to the International Convention for the Prevention of Pollution from Ships (hereinafter *MARPOL*) 73/78 and cargo-associated waste as defined in the Guidelines for the implementation of Annex V to Marpol 73/78;
  - 20) cargo residues – the remnants of any cargo material on board in cargo holds or tanks which remain after the loading, unloading procedures and cleaning operations are completed and which include loading and unloading excesses;

21) garbage – any type of food, household and other waste generated in the normal course of business of a water craft and defined in Annex V to MARPOL, in the case of which continuous and periodic disposal is required, with the exception of fresh fish and parts thereof and substances that are defined or specified in other Annexes to MARPOL;

22) wastewater – liquids or other waste discharged through any type of toilet, urinal, bidet or WC drain, liquid discharged through a washtub, wash pipe or drain in a medical room (dispensary, hospital section), liquid discharges from rooms containing live animals or other garbage mixed with the above listed discharged liquids or waste which are defined in Annex IV to MARPOL;

23) cargo-associated waste – any materials turned into waste on board a water craft as a result of securing or handling cargo, such as dunnage, pallets, lining and packing materials, plywood, paper, cardboard, steel wire ropes and slings and other such materials;

24) port reception facilities – fixed, floating or mobile devices capable of receiving ship-generated waste and cargo residues.

### **§ 3. Port services**

(1) Port services are considered to include the following port activities:

- 1) enabling berthing of water craft;
- 2) loading and unloading of water craft;
- 3) organisation of passenger embarkation and disembarkation;
- 4) organisation of water traffic in waters and entrances;
- 5) towing of water craft and icebreaking in waters.

(2) Port services are also considered to include such activities specified in subsection (1) of this section which are not provided to other persons.

## **Chapter 2 WATER TRAFFIC SAFETY REQUIREMENTS FOR PROVISION OF PORT SERVICES**

### **§ 4. Waters and entrances**

(1) A port shall have waters to enable the organisation of safe water traffic upon provision of port services.

(2) A port authority shall ensure the depths published in the navigational information in waters and entrances and the measurement of the depths according to the procedure established on the basis of the Maritime Safety Act.

(3) A port authority shall organise the administration and maintenance of the entrance, waters and the port structures necessary for berthing, monitor the accuracy of the data published in the navigational information, be responsible for the correctness of the information submitted by it and ensure immediate communication of changed data to the Maritime Administration for the publication of the navigational information.

(4) In the case of a common entrance, the port authorities shall organise the administration and maintenance of the entrance jointly.

(5) A port authority shall ensure that construction activities in waters and entrances are carried out according to the procedure established on the basis of the Maritime Safety Act.

(6) A port authority shall ensure passage through waters without a charge if this is the only route to an adjacent port or a port with a common entrance or if it is impossible to reach the adjacent port or the port with a common entrance without jeopardising or damaging the water craft. No passage shall be ensured if this would result in unreasonable expenses for the port authority obliged to ensure the passage.

(7) In the case of ports with common waters, the port authorities shall agree on the procedure for the use of the waters which shall be appended to the rules of every relevant port.

(8) A port authority shall ensure compliance of the planning, construction, reconstruction, installation, cancellation and removal of port's aids to navigation, supervision and notification of the aids with the procedure established on the basis of the Maritime Safety Act.

### **§ 5. Designation of waters**

(1) Waters are designated by the Government of the Republic. When designating waters, the boundaries of waters shall be established by a regulation of the Government of the Republic.

(2) The waters of a port located within a navigable internal water body belonging to a local government shall be designated by the local government council. When designating waters, the boundaries of the waters shall be established by a resolution of the council.

(3) When designating waters, the person designating the waters shall establish, if necessary, additional requirements for the organisation of entrance into the port and marking the entrance in the nature.

(4) The person designating waters may establish other terms and conditions for the use of the waters.

#### **§ 6. Application for designation of waters**

(1) An application for designation of waters shall be submitted to the Ministry of Economic Affairs and Communications.

(2) For designation of waters located in a navigable internal water body belonging to a local government, an application shall be submitted to the rural municipality or city government.

(3) If the designation of waters is applied for by several owners of bordering registered immovables or plots of land or the entrance thereof is common with another port, an application may be submitted for the designation of common waters.

(4) In the case of application for the designation of common waters specified in subsection (3) of this section, an agreement between the applicants shall be appended to the application concerning the required works for ensuring safe water traffic and covering the costs thereof and the procedure for the use of common waters.

(5) For the designation of waters, an applicant shall submit together with the application:

- 1) the coordinates of the boundary points of the waters;
- 2) a plan of the waters;
- 3) a justification of the expediency of the size of the waters;
- 4) a description of the water traffic planned in the waters;
- 5) if the general or detailed plan designates the port location, an extract from the respective plan;
- 6) documents certifying the right of ownership or the right of use concerning the registered immovable or plot of land of the port land area;
- 7) a notarised consent of the owner of a bordering registered immovable or plot of land if the shore boundary markers of the waters applied for are outside the registered immovable in the ownership of the applicant or used on any other legal basis or, in the case of a land unit in state ownership, outside the boundaries of the land unit in the possession of the applicant.

#### **§ 7. Approval of designation of waters and decision concerning designation**

(1) The approval of the Maritime Administration is required for the designation of waters, and it shall be applied for by the Ministry of Economic Affairs and Communications or a rural municipality or city government.

(2) If the waters are designated or the validity thereof is extended by the Government of the Republic, the approval of the rural municipality or city government is also required in addition for the approval specified in subsection (1) of this section, except in the case a current general or detailed plan already determines the port location.

(3) Where a port borders on another intended or existing port or they have a common entrance or the waters applied for would affect the water traffic safety or security in another manner, the Maritime Administration may make a proposal, for ensuring water traffic safety or security, to designate common waters or to change the boundaries of the waters applied for. If no agreement which ensures water traffic safety or security concerning the designation of common waters is reached or if the applicant does not agree with the proposal for changing the boundaries of the waters applied for, the Maritime Administration may refuse to approve the waters applied for.

(4) A decision on designation of waters or refusal to designate waters shall be made within 30 working days as of the receipt of the approval specified in subsections (1) and (2) of this section.

#### **§ 8. Refusal to designate waters**

Designation of waters shall be refused if:

- 1) there is no approval of the Maritime Administration;
- 2) there is no approval of the rural municipality or city council in the case of waters designated by the Government of the Republic or the location is not designated in the current general or detailed plan;
- 3) in the case of applying for designation of common waters, there is no agreement specified in subsection 6
- 4) of this Act and the procedure for the use of common waters;
- 4) the intended organisation of intra-port water traffic disturbs water traffic on public waterway due to the size of the waters applied for;
- 5) the waters applied for do not ensure safe berthing and manoeuvring of water craft;

- 6) the waters applied for or the organisation of intra-port water traffic do not ensure passage through the waters, if this is the only route to an adjacent port or a port with a common entrance or if it is impossible to reach the adjacent port or the port with a common entrance without jeopardising or damaging the water craft;
- 7) the shore boundary markers of the waters applied for are outside the registered immovable or land unit in the ownership of the applicant or used on any other legal basis or there is no notarised consent of the owner of the bordering registered immovable or land unit, or
- 8) there is justified public interest for refusal to designate the waters.

### **§ 9. Change of boundaries of waters and revocation of designation of waters**

(1) The boundaries of waters are changed and the designation of waters is revoked by the person who designated the waters.

(2) If waters are designated by the Government of the Republic, the port authority, Maritime Administration and rural municipality or city council may apply for change of the boundaries of waters or revocation of designation of waters. The application shall be submitted to the Ministry of Economic Affairs and Communications.

(3) A port authority, the Maritime Administration and rural municipality or city governments may apply for change of the boundaries of waters designated by a rural municipality or city council or revocation of such designation of the waters. The application shall be submitted to the rural municipality or city government. If the applicant is a rural municipality or city government, the application shall be submitted to the rural municipality or city council.

(4) The boundaries of the waters designated shall be reviewed if designation of another waters is applied for next to the existing waters and the boundary points of the waters applied for border on or cover the existing boundary points of the waters, or the existing port and the port to be constructed have a common entrance.

(5) The application shall be accompanied by:

- 1) the grounds for changing the boundaries of the waters or revocation of the designation of the waters;
- 2) in the case the boundaries of the waters are changed, the coordinates of the new boundary points of the waters;
- 3) an extract from a current general or detailed plan, if the change of the boundaries of the waters or the revocation of the designation of the waters arises from the plan;
- 4) the opinion of the port authority.

(6) The boundaries of the waters may be altered if:

- 1) the organisation of intra-port water traffic disturbs water traffic on public waterway due to the size of the waters;
- 2) the boundaries of the waters do not ensure safe berthing and manoeuvring of water craft;
- 3) the waters or the organisation of intra-port water traffic do not ensure passage through the waters, if this is the only route to an adjacent port or a port with common entrance or if it is impossible to reach the adjacent port or the port with a common entrance without jeopardising or damaging the water craft;
- 4) the shore boundary markers of the waters are outside the registered immovable in the ownership of the port authority or used on any other legal basis or, in the case of a land unit in state ownership, outside the boundaries of the land unit in the possession of the port authority, and there is no notarised consent of the owner of the bordering registered immovable or land;
- 5) in the case of common waters, there is no agreement specified in subsection 6 (4) of this Act and the procedure for the use of common waters; or
- 6) there is justified public interest to change the boundaries of the waters.

(7) The designation of waters is revoked if:

- 1) the circumstances listed in clauses (6) 1), 2), 3), 5) or 6) of this section exist but the changing of the boundaries of the waters is impossible;
- 2) no port services have been provided in the port within five years;
- 3) there is justified public interest to repeal the designation of the waters.

(8) Upon revocation of the designation of waters, the port shall be deleted from the port register.

### **§ 10. Requirements for harbour masters and evaluation of harbour masters**

(1) A port authority shall appoint a harbour master for the port.

(2) A harbour master shall be evaluated. An Estonian citizen or a citizen of a member state of the European Union or the European Economic Area who has at least secondary education and the necessary expertise may be a harbour master.

(3) A harbour master shall be evaluated based on an application submitted to the Director General of the Maritime Administration by the port authority which indicates the name of the candidate for the post of a harbour master, intended time of commencement of work by him or her and his or her area of responsibility.

(4) A harbour master shall be proficient in Estonian at least at the B2 level or a corresponding level. A harbour master shall also be proficient in English at the level which is necessary to perform his or her employment duties.

(5) In addition to the provisions of subsections (2) and (4) of this section, a harbour master shall comply with the following requirements:

1) in ports servicing ships of a gross tonnage of 7500 and more, a harbour master shall hold a certificate of competency of a master of a ship of a gross tonnage of 3000 and more;

2) in ports servicing ships of a gross tonnage of 500 to 7500 (excluded), a harbour master shall hold a certificate of competency as a chief mate of a ship of a gross tonnage of at least 3000 or a certificate of competency of a master of a ship of a gross tonnage of less than 3000;

3) in ports servicing ships of a gross tonnage of 500, a harbour master shall hold a certificate of competency as a chief mate of a ship of a gross tonnage of less than 3000 or a professional certificate of a master of a ship of a gross tonnage of less than 500.

(6) A harbour master of a port in navigable inland waters shall comply with the requirements provided for in subsections (2) and (4) of this section and hold a diploma or a professional certificate of a commercial deck officer.

(7) A candidate for the post of a harbour master shall be evaluated by the Maritime Administration. A candidate for the post of a harbour master shall be evaluated separately for every port. Upon an evaluation, the knowledge of the candidate of the navigation conditions of the port, port rules and legislation concerning the activities of ports is assessed.

(8) A harbour master of a small-craft harbour is not subject to evaluation. A harbour master of a small-craft harbour shall hold at least a certificate of a skipper of a small craft.

(9) A state fee shall be paid for nomination of a person to evaluation as a harbour master.

#### **§ 11. Rights and obligations of harbour masters**

(1) For the purpose of organisation of safe water traffic, a harbour master has the right to demand compliance by persons staying in the port with the requirements arising from legislation, port rules and good seamanship.

(2) In the case of any deficiencies relating to water traffic safety, a harbour master is obliged to immediately take measures for elimination thereof and notify the port authority of the deficiencies.

(3) If necessary, a harbour master establishes a special procedure for entrance in and exit of water craft from the port and the biggest dimensions of water craft which may enter the port.

(4) A harbour master coordinates and controls the maintenance of records concerning hazardous cargo carried by water craft in the port according to the legislation and the port rules.

(5) A harbour master shall notify the Maritime Administration of a ship:

1) which is not allowed into the port;

2) which is expelled from the port for security reasons;

3) which is in the port and which has obvious deviations from the requirements, which may endanger safe navigation of the ship or which is an unjustifiable risk to the marine environment.

[RT I, 04.07.2011, 2 - entry into force 14.07.2011]

#### **§ 12. Port rules and port dues**

(1) A port shall have port rules. Port rules are approved by the port authority. The port authority shall ensure updating of the port rules.

(2) Port rules shall be in the Estonian language and accessible by all the persons operating or staying in the port. The port rules of a port servicing foreign water craft shall be translated into English.

(3) Requirements of the port rules are mandatory for all the persons operating and staying in the port.

(4) A port authority shall appropriately inform the persons specified in subsection (3) of this section of the requirements arising from port rules.

(5) The information concerning port dues shall be accessible to interested persons. The information concerning port dues shall be translated into English in a port servicing foreign water craft.

(6) The port rules shall describe at least:

1) the general details of the port;

- 2) the procedure for entrance to the port by water craft;
  - 3) the procedure for water traffic in the waters;
  - 4) the procedure for water craft standing in the port;
  - 5) the procedure for water craft exiting the port;
  - 6) the port services provided and the organisation of the provision of port services;
  - 7) the procedure for provision of services to passengers in the port;
  - 8) the procedure for provision of medical care in the port;
  - 9) fire safety requirements in the port and the procedure for rescue works;
  - 10) the procedure for calling the Rescue Board and other agencies which provide assistance or exercise supervision.
- [RT I, 29.12.2011, 1 - entry into force 01.01.2012]

(7) The format of port rules shall be established by a regulation of the minister responsible for the area.

### **§ 12<sup>1</sup>. Obligations of port operators and port authorities in connection with protection of rights of passengers**

A port operator or in the absence thereof the port authority shall comply upon organisation of passenger transport service with the obligations arising from Regulation (EU) No 1177/2010 of the European Parliament and of the Council concerning the rights of passengers when travelling by sea and inland waterway and amending the Regulation (EC) No 2006/2004 (OJ L 334, 17.12.2010, pp. 1-16).

[RT I, 30.05.2013, 4 - entry into force 09.06.2013]

## **Chapter 3 SECURITY REQUIREMENTS FOR PROVISION OF PORT SERVICES**

### **§ 13. Application of Chapter, security requirements and ensuring electronic security**

[RT I, 03.03.2017, 1 - entry into force 01.07.2017]

(1) The security requirements provided for in this Chapter apply to ports which service passenger ships in international marine navigation or ships of a gross tonnage of 500 and more.

(2) In addition to the provisions of subsection (1) of this section, the requirements of this Chapter also apply to ports which service category I ships which navigate in internal water bodies or class A passenger ships defined pursuant to the Maritime Safety Act.

(3) The security requirements for provision of port services arise from the International Convention on the Safety of Life at Sea and the International Safety Code for Vessels and Port Constructions established on the basis thereof, and Regulation (EC) No 725/2004 of the European Parliament and of the Council on enhancing ship and port facility security (OJ L 129, 29.04.2004, pp. 6-91).

(4) A port service provider that services ships specified in subsections (1) and (2) of this section must comply, for ensuring security of the network and information systems used for provision of the service, with the requirements established by §§ 7 and 8 of the Cybersecurity Act and on the basis thereof.

[RT I, 22.05.2018, 1 - entry into force 23.05.2018]

### **§ 14. Competent authority**

(1) For the purposes of Regulation (EC) No 725/2004 of the European Parliament and of the Council, the Maritime Administration is a competent authority concerning ports and a focal point for maritime security and performs the functions of an administration.

(2) For the purposes of Article 12 of Directive 2005/65/EC of the European Parliament and of the Council on enhancing port security (OJ L 310, 25.11.2005, pp. 28-39), the Maritime Administration is a focal point for port security.

### **§ 15. Security assessment and carrying out thereof**

(1) The security assessment of ports and port facilities is carried out by the Maritime Administration. An assessment report shall be prepared on the carrying out of an assessment.

(2) The number of port facilities and the boundaries thereof in a port shall be determined by the Maritime Administration on the basis of the results of the security assessment taking into consideration, if necessary, the proposal of the port authority.

(3) The Maritime Administration shall involve the Rescue Board and a security authority in the carrying out of a security assessment and take their proposals into consideration upon preparation of an assessment of the port and port facilities.

[RT I, 29.12.2011, 1 - entry into force 01.01.2012]

(4) A port and port facility security assessment report shall be reviewed and, if necessary, the assessment shall be carried out again at least every five years, taking into consideration the changing threats and changes in the port and port facilities. The assessment shall be carried out immediately if any important changes are made in the construction, organisation of work or any other changes are made in the port and port facilities or the vicinity thereof. The port authority and port facility authority shall notify the Maritime Administration of important changes in the construction, organisation of work or other changes are made in the port or port facilities.

(5) The port and port facility security assessment shall describe the assets relating to port security, port infrastructure, port areas, threats originating from the port and their potential consequences, measures for reduction of threats and the obligations and activities of the port authority and port facility authority upon ensuring security.

(6) A detailed list of the topics covered by a port and port facilities security assessments and the procedure for the carrying out of the assessment shall be established by a regulation of the minister responsible for the area.

(7) A port authority or port facility authority respectively shall pay a state fee for the carrying out of the port and port facilities security assessments. The state fee shall be paid within ten working days as of notifying in writing of the carrying out of the assessments. The Maritime Administration shall not issue a security assessment report prior to the settlement of the state fee.

## **§ 16. Security plan and preparation thereof**

(1) A port authority shall ensure that a security plan concerning the port is prepared and implemented on the basis of the port security assessment. The port authority shall be responsible for updating the port security plan.

(2) A port facility authority shall ensure that a port facility security plan is prepared and implemented concerning the facility in its possession on the basis of the port facility security assessment. The port facility authority shall be responsible for the updating of the port facility security plan. In the case of several port facility authorities, they shall jointly perform the duty provided for in this subsection.

(3) A port security plan is prepared by a port authority or a security firm.  
[RT I, 29.06.2014, 1 - entry into force 01.07.2014]

(4) A port facility security plan is prepared by a port facility security officer or a security firm.  
[RT I, 29.06.2014, 1 - entry into force 01.07.2014]

(5) The Maritime Administration may allow the preparation of a common security plan concerning several port facilities.

(6) Port and port facility security plans and the amendments made thereto shall be submitted for approval to the Maritime Administration prior to the implementation thereof. The port facility security plan shall be approved by the port authority prior to the submission thereof to the Maritime Administration.

(7) If there are deficiencies in a security plan, they shall be rectified within the time limit determined by the Maritime Administration.

(8) Port and port facility security plans shall be updated according to the changes in the port and port facility security assessment and in connection with any changes in the security procedures, measures, equipment or data relating to the security plan.

(9) If an operator operating in the port area must have drawn up an emergency plan according to law or legislation established on the basis thereof, it shall be added to the port and port facility security plan.

(10) A port and port facility security plan provides the port security arrangements on the basis of the security assessment, including the security operations, implemented security measures and mandatory activities for each security level.

(11) A port and port facility security plan shall describe:

- 1) the arrangements for entrance to the port and port facilities;
- 2) the arrangements for inspection of identification documents, baggage and cargo;
- 3) the cooperation between the agencies handling cargo, baggage and passenger control;
- 4) the actions in the case of suspicious findings or for solving problems relating to persons;
- 5) the arrangements for inspection of activities conducted in a region important from the point of view of security;
- 6) the arrangements for marking the port and port facilities;
- 7) the arrangements for exchange of information;
- 8) the arrangements for notification of competent authorities of security incidents;



- 9) the relations of the emergency, pollution control and other preventive and response action plans with the security plan;
- 10) the organisation of security related training and exercises;
- 11) the composition of the security expert group supporting the security of the port and port facilities and the rules of procedure thereof;
- 12) the security responsibilities of the port authority and port facility authority;
- 13) the arrangements for updating the security plan of the port and port facilities.

(12) The security plan of a port facility servicing the ships specified in subsection 13 (2) of this Act need not contain, based on the results of the assessment, all the elements listed in subsection (11) of this section.

(13) A detailed list of the topics covered by ports and port facilities security plans shall be established by a regulation of the minister responsible for the area.

(14) A state fee shall be paid for the review of port and port facility security plans and the changes made therein. The state fee shall be paid within ten working days after the review of the security plan or any changes therein. The Maritime Administration shall not issue an approval of the security plan or the changes therein before the payment of the state fee.

(15) A state fee is not charged for adding contact details to port or port facility security plans and changing thereof, for changing the details of security expert groups and for adding documents to security plans and changing thereof, if these documents have been previously approved by another supervisory authority or if the prior approval of such documents is not required on the basis of legislation.

### **§ 17. Security exercise**

(1) The port security exercises are organised by the port authority and the port facility security exercises by the port facility authority.

(2) The objective of security exercises is to check the implementation of the security plan.

(3) The security exercises organised in the port and port facilities shall contain exercises which are related to the hazardous substances handled at that port.

(4) For testing individual parts of the port facility security plan, exercises are organised at the port facility at least every three months.

(5) Security exercises involving the security officers of port facilities together with the officials exercising state supervision in this field at the port and the security officers of ports and, if possible, ships shall be organised at the port and port facilities at least once per calendar year.

(6) The procedure for conducting security exercises in ports and port facilities shall be established by a regulation of the minister responsible for the area.

### **§ 18. Authorisation obligation**

(1) A security firm shall hold an activity licence for the performance of the functions provided for in this Act.

(2) An activity licence is valid for the term of five years.

[RT I, 25.03.2011, 1 - entry into force 01.07.2014 (date of entry into force changed - RT I, 22.12.2013, 1)]

### **§ 18<sup>1</sup>. Object of control of activity licence**

An activity licence is granted if:

- 1) the operator complies with the requirements provided for in clause 4.5 of Annex III to Regulation (EC) No. 725/2004 and Annex IV of Directive 2005/65/EC of the European Parliament and of the Council;
- 2) the operator holds an activity licence for the provision of security services issued on the basis of the Security Services Act;
- 3) the staff of the operator complies with the qualification requirements.

[RT I, 25.03.2011, 1 - entry into force 01.07.2014 (date of entry into force changed - RT I, 22.12.2013, 1)]

### **§ 18<sup>2</sup>. Application for activity licence**

Applications for activity licences are handled by the Maritime Administration.

[RT I, 25.03.2011, 1 - entry into force 01.07.2014 (date of entry into force changed - RT I, 22.12.2013, 1)]

### **§ 19. Port security officers**

- (1) A port authority shall designate a port security officer.
- (2) A port security officer is responsible for the implementation of the port security plan.
- (3) In the case of security related deficiencies discovered in the port, the port security officer is required to immediately take measures for the elimination of the deficiencies and notify the port authority of the deficiencies.
- (4) A port security officer shall coordinate and verify compliance with the security requirements at the port according to the legislation, the port security plan and the port rules.

### **§ 20. Port facility security officers**

- (1) A port facility authority shall designate a security officer for each port facility in the possession thereof. The duties of a port facility security officer may be performed by a port security officer.
- (2) A port facility security officer is responsible for the preparation and implementation of the port facility security plan.
- (3) In the case of security related deficiencies discovered in the port facility, the port facility security officer is required to immediately take measures for the elimination of the deficiencies and notify the port facility authority and the port security officer of the deficiencies.
- (4) A port facility security officer shall coordinate and verify compliance with the security requirements in the port facility according to the legislation, the port security plan and the port rules.

### **§ 21. Requirements for port and port facility security officers**

- (1) An Estonian citizen or a citizen of a member state of the European Union or the European Economic Area who is at least 21 years of age and has at least secondary education and the necessary expertise may be a port and port facility security officer.
- (2) A port and port facility security officer shall be proficient in Estonian at least at the level B2 or a corresponding level and in English at the level which is necessary to perform his or her employment duties.
- (3) A person is prohibited from working as a port and port facility security officer if the person is serving a sentence for a criminal offence or if information concerning a punishment for a criminal offence committed by him or her has not been deleted from the punishment register.

### **§ 22. Evaluation of port security officers and port facility security officers**

- (1) A candidate for the post of a port security officer and port facility security officer shall be evaluated by the Maritime Administration. Candidates shall be evaluated separately for each port and port facility. Upon an evaluation, the knowledge of the candidate in the areas listed in clause 18.1 of Annex III to Regulation (EC) No 725/2004 of the European Parliament and of the Council is assessed.
- (2) If a person is suitable for the post of a port security officer on the basis of the evaluation results, he or she may be assigned to the post of the port facility security officer of the same port.
- (3) The basis for the evaluation is an application filed to the Director General of the Maritime Administration by the port authority or port facility authority which indicates the name of the candidate, intended time of commencement of work and the name of the port or port facility.
- (4) A state fee shall be paid for the nomination of a person for evaluation as a port security officer or port facility security officer.

### **§ 23. Establishment of security level and submission of security information**

- (1) The minister responsible for the area shall establish the security level of ports and port facilities. The security level is established in accordance with the requirements of the International Convention for the Safety of Life at Sea and the International Ship and Port Facility Security Code established on the basis thereof and Regulation (EC) No 725/2004 of the European Parliament and of the Council.
- (2) A port facility security officer shall immediately inform the Maritime Administration the any security incidents occurred.
- (3) The Government of the Republic shall establish the procedure for the communication and receipt of the security information of ports and port facilities.

## **§ 24. Port facility security certificate and issue thereof**

(1) A security certificate shall have to be issued to a port facility. It is prohibited to provide port services without a security certificate to the ships specified in subsections 13 (1) and (2) of this Act.

(2) A security situation survey shall be conducted for the issue of a security certificate (hereinafter *security survey*). The security survey includes the security inspection and check of the security system of the port facility, check of appliances and equipment ensuring security and assessment of conformity of the actual situation with the provisions of the port facility security plan. The security survey shall be conducted by the Maritime Administration.

(3) Security surveys are classified as follows:

- 1) the initial survey;
- 2) regular survey;
- 3) full survey;
- 4) special survey.

(4) A port facility authority shall:

- 1) inform the port facility staff related to the security survey of the objectives and extent of the survey;
- 2) appoint its representative for the period of the survey;
- 3) ensure accessibility of the evidence requested by the persons conducting the survey;
- 4) co-operate with the persons conducting the survey in order to ensure that the objectives of the survey are achieved.

(5) An initial survey shall be conducted no later than 30 calendar days after the first approval of the port facility security plan by the Maritime Administration.

(6) A regular survey of a port facility shall be conducted once every 12 months during the period of three months before or after the date of issue of a security certificate.

(7) A full survey shall be conducted upon expiry of a security certificate, upon revocation of a certificate or upon application for the issue of a new security certificate.

(8) A special survey shall be conducted if there is a justified need to verify the effective functioning of a port facility security plan.

(9) After an initial survey or a full survey, the Maritime Administration shall issue a security certificate to the port facility. The certificate is valid for the term of five years on the condition that the port facility has passed all the required security surveys. A respective notice shall be made on the certificate concerning the conduct of a regular survey. Special surveys shall not be recorded on the certificate.

(10) No security certificate is issued, no notice of the regular survey provided for in subsection (9) of this section concerning passing of a regular survey is made on a security certificate and a security certificate issued may be revoked if the port facility security system, the appliances and equipment ensuring security and the actual situation of the port facility do not comply with the provisions of the port facility security plan.

(11) If the deficiencies specified in subsection (10) of this section become evident, the Maritime Administration shall issue a precept for the elimination of the deficiencies. If the precept is not complied with within the time limit determined by the Maritime Administration, the security certificate is declared invalid and a new full survey shall be conducted for the issue of a new certificate.

(12) The procedure for the conduct of port facility security surveys and issue of security certificates and the format of the certificate shall be established by a regulation of the minister responsible for the area.

(13) A state fee shall be paid for initial, regular and full surveys of port facilities within ten working days after the receipt of the survey report. Prior to the payment of the state fee, the Maritime Administration shall not issue the security certificate or make a notice on the certificate on passing a regular survey.

## **Chapter 4 ENVIRONMENTAL PROTECTION REQUIREMENTS UPON PROVISION OF PORT SERVICES**

### **§ 25. Reception and transfer of ship-generated waste and cargo residues**

(1) A port authority shall organise the reception of ship-generated waste from ships and other water craft (hereinafter in this Chapter *ship*), which are serviced by this port.

(2) The port authority or port operator handling cargo is required to organise the reception of the cargo residues generated during the operation of ships from the ships which are serviced by such port or port operator, including reception of cargo residues from the ships which are repaired in this port, unless otherwise agreed according to the requirements of the legislation or international conventions.

(3) The master of a ship is required to transfer all the ship-generated waste and cargo residues before leaving the port.

(4) The master of a ship need not transfer all the ship-generated waste and cargo residues if it appears from the information submitted in the information note specified in subsection 27 (1) of this Act that the existing storage facilities of the ship are sufficient for holding the ship-generated waste already accumulated and to be accumulated during the intended voyage until the arrival in the port of transfer, with the exception of:

- 1) more than 25% of the storage facilities of more than 10 m<sup>3</sup> for ship-generated waste are filled prior to leaving the port;
- 2) the port of transfer of ship-generated waste or the port of destination is unknown;
- 3) there is reason to believe that the proposed port of transfer does not have sufficient reception facilities and this information has been presented to the ship;
- 4) in the event of garbage collected for transfer, with the exception of food waste;
- 5) in the event of category X and Y environmentally hazardous chemicals from prewash of transportation tanks, with the exception of the cases described in subsections (6) and (7) of Regulation 16 of Annex II to the International Convention on the Prevention of Pollution from Ships.

(5) If the international convention provides more stringent requirements with respect to the exceptions provided for in subsection (4) of this section, the requirements of the specified convention shall apply.

(6) In addition to the provisions of subsection (4) of this section, no cargo residues need to be transferred, if:

- 1) if the transfer is not required in accordance with the International Convention for the Prevention of Pollution from Ships;
- 2) the ship has a written agreement with the authority of the next port of call pursuant to which this port will receive such type of cargo residues;
- 3) the new cargo is the same substance which was the previous cargo or if the cargo residues are removed by means of ventilation at sea or if an entry is made in the cargo record book which justifies the retaining of the cargo residues on board of the ship and the entry is confirmed by a supervisor of loading operations of chemicals tankers approved pursuant to the Maritime Safety Act.

(7) Upon reception of ship-generated waste and cargo residues collected by types, mixing of different types of ship-generated waste and cargo residues shall be prevented.

(8) A port authority shall ensure the availability of sufficient reception facilities in the port in order to meet the needs of the ships calling the port.

(9) If a port authority does not directly engage in the waste handling, it shall have entered into a contract with the person receiving waste who has sufficient reception facilities for the provision of the service. Reception facilities are sufficient if they are able to receive such type of ship-generated waste and cargo residues in such quantities as is usually generated by the ships calling the port, taking into consideration the needs relating to the operation of the users of the port, the type of ships calling the port, the size and geographical location of the port and the exceptions provided for in § 29 of this Act concerning transfer of ship-generated waste and cargo residues.

(10) If a port authority is unable to organise the reception of ship-generated waste and cargo residues due to insufficiency of reception facilities, the port authority shall issue an information note to the ship concerning insufficient reception facilities.

(11) The master of a ship shall notify in writing the Environmental Inspectorate and in foreign states the competent authority of the country of location of the port of alleged deficiencies in the port reception facilities.

(12) The organisational requirements for reception and transfer of ship-generated waste and cargo residues and the format of the information note for informing of the deficiencies in port reception facilities shall be established by a regulation of the minister responsible for the area.

[RT I, 06.03.2013, 1 - entry into force 01.07.2013]

## **§ 26. Waste reception and handling plan**

(1) A port authority shall prepare and implement a proper waste reception and handling plan. A waste reception and handling plan may be developed in a regional context with the involvement of all the ports, provided that the need for and availability of the reception facilities is specified separately for each port.

(2) A port authority shall submit the waste reception and handling plan to the Environmental Board for approval.

(3) A waste reception and handling plan shall be submitted for approval in the following cases:

- 1) before the registration of the port in the port register;

- 2) in the case of an existing port, before the implementation of the plan;
- 3) at least every three years;
- 4) after significant changes in the operation of the port.

(4) A waste reception and handling plan shall contain the following information and descriptions:

- 1) an assessment of the need for the port reception facilities, taking into consideration the need of the ships calling the port;
- 2) a description of the type and capacity of port reception facilities;
- 3) a description of the procedures for the reception and collection of ship-generated waste and cargo residues;
- 4) a description of the pre-treatment equipment and processes, if necessary;
- 5) a description of the system of fees charged for the collection of ship-generated waste and cargo residues;
- 6) the procedure for reporting deficiencies in the port reception facilities;
- 7) the exchange of information between the port authority, users of port buildings, waste handlers and other persons involved in the port waste handling;
- 8) the types and quantities of received and handled ship-generated waste;
- 9) a description of the methods for determination of the quantities of received ship-generated waste and cargo residues;
- 10) references to the legislation which regulate transfer of ship-generated waste and a summary of the procedures for transfer of ship-generated waste;
- 11) the contact details of the person or persons responsible for the implementation of the plan;
- 12) a description of the methods which demonstrate the actual use of port reception facilities;
- 13) a description of further processing of ship-generated waste and cargo residues.

#### **§ 27. Notification of ship-generated waste and cargo residues and accounting of ship-generated waste and cargo residues**

(1) The master of a ship shall prepare and submit through the Marine Electronic Information System to the port of call an information note in the format established on the basis of subsection (6) of this section concerning the type and quantity of ship-generated waste and cargo residues transferred in the port and remaining on board of the ship:

[RT I, 06.03.2013, 1 - entry into force 01.07.2013]

- 1) at least 24 hours prior to arrival in the port, if the port of call is known;
- 2) immediately when the port of call is known, if such information is available less than 24 hours prior to arrival in the port of call;
- 3) at the latest upon departure from the previous port of call, if the duration of the voyage to the next port is less than 24 hours.

(2) No information note shall be submitted with respect to the following ships:

- 1) fishing vessels which catch fish in the exclusive economic zone of Estonia;
- 2) small craft;
- 3) ships exempted from the obligation to notify and transfer the ship-generated waste and cargo residues specified in subsection 29 (1) of this Act.

(3) a copy of the information note shall be stored on board the ship in a format which can be reproduced in writing at least until the departure from the next port of call and in the port for at least 30 calendar days. At a respective request, a copy of the information note shall be submitted to the Maritime Administration and the Environmental Inspectorate.

(4) Taking into consideration the exceptions provided for in subsection (2) of this section and subsections 29 (1) and (2) of this Act, a port authority is obliged to immediately inform the Environmental Inspectorate if a ship does not submit an information note or transfer the ship-generated waste and cargo residues or if other violations of the requirements for transfer of ship-generated waste and cargo residues are discovered on the ship or if violations of the specified requirements are suspected. The Environmental Inspectorate shall communicate the relevant information to the Maritime Administration.

[RT I, 04.07.2011, 2 - entry into force 14.07.2011]

(4<sup>1</sup>) If the Maritime Administration learns of a violation of the requirements for transfer of ship-generated waste and cargo residues or such violation is suspected after the departure of a ship from a port, they shall inform the competent authority or the marine administration of the country of location of the port of destination of the ship.

[RT I, 06.03.2013, 1 - entry into force 01.07.2013]

(5) A port authority shall organise the accounting of the ship-generated waste and cargo residues received from ships on the basis of information notes and other documents, which certify the reception of ship-generated waste and cargo residues, by ships and types of ship-generated waste and cargo residues. A port authority shall submit a standard format report established by subsection (6) of this section on the receipt of ship-generated waste through the Marine Electronic Information System to the Environmental Inspectorate and the Maritime Administration concerning the cargo residues and ship-generated waste received from a ship or the information contained in such report.

[RT I, 06.03.2013, 1 - entry into force 01.07.2013]

(6) The format of the information note submitted to a port of call and of the report on the reception of ship-generated waste shall be established by a regulation of the minister responsible for the area.

[RT I, 06.03.2013, 1 - entry into force 01.07.2013]

#### **§ 28. Fee for reception of ship-generated waste and cargo residues**

(1) A port authority is obliged to receive, on account of the ship-generated waste reception fee included in the port dues or for a separately determined waste fee, irrespective of the quantity transferred and the actual use of the port reception facilities, the bilge water, wastewater, garbage, waste containing oil and oil products and other ship-generated waste, with the exception of cargo residues, of ships, with the exception of fishing vessels and small craft.

(2) A port authority may differentiate the fee specified in subsection (1) of this section based on the area of use, type and size of the ship, and reduce it, if the master proves that the ship produces reduced quantities of ship-generated waste due to its environmental management, design, equipment and operation.

(3) The person disposing of waste or the user of the reception facilities shall pay for the reception of cargo residues.

(4) If the fee specified in subsection (1) of this section does not cover all the costs relating to the reception of ship-generated waste from ships, the part of the costs not covered may be covered by an additional fee charged on the basis of the type and quantity of the ship-generated waste actually transferred by the ship which rates are established based on the costs.

(5) The fees charged for the reception of ship-generated waste and the basis for the calculation thereof shall be understandable and available for the users of a port.

#### **§ 29. Exemption from obligation to notify of ship-generated waste and cargo residues and transfer thereof and from fee for ship-generated waste and cargo residues**

(1) The Maritime Administration may grant an exemption to a ship which provides regular services on a particular route and calls a port frequently from the obligation to notify of ship-generated waste and cargo residues, transfer ship-generated waste and cargo residues and payment of the fee specified in subsection 28 (1) of this Act in one port on the route of the ship, if:

1) the port authority of the port of call has granted a consent for this purpose and the shipowner of the ship has entered into a written agreement with the port authority of certain ports on the route of the ship according to which all the ship-generated waste and cargo residues are received from the ship and the fee specified in subsection 28 (1) of this Act is charged in such port; or

2) the Maritime Administration has sufficient evidence that the transfer of all the ship-generated waste and cargo residues and the payment of the fees is ensured in one of the ports on the route of the ship.

(2) If the Maritime Administration has granted an exemption specified in subsection (1) of this section to a ship in one port on the route of the ship and if the ship does not transfer the ship-generated waste and cargo residues in such port, the port authority thereof shall not charge the fee specified in subsection 28 (1) of this Act.

#### **§ 30. Elimination of pollution in waters**

(1) A port shall be equipped with the technical devices required for localisation and liquidation of pollution, taking into consideration the size of the port, the port services provided, the goods handled there and the location of the port.

(2) A port authority shall organise the detection and liquidation of pollution in the waters by immediately informing the Environmental Inspectorate, Emergency Centre, Police and Border Guard Board and Maritime Administration of detection of pollution.

[RT I, 29.12.2011, 1 - entry into force 01.01.2012]

(3) A port authority shall prepare a port pollution control plan for the detection and liquidation of pollution in waters.

(4) A port pollution control plan shall include a description of the activities in waters in the case of pollution and a list of the technical devices used to control the pollution together with the layout thereof in the port.

(5) A port pollution control plan shall be submitted for approval to the Ministry of the Environment every five years and immediately if major changes are made in the provision of the port services.

(6) More specific requirements for the contents of a port pollution control plan and the pollution control equipment shall be established by the Government of the Republic.

## **Chapter 5**

## **CARGO HANDLING IN PORTS**

### **§ 31. Handling of dangerous cargo**

(1) Dangerous cargo shall be handled in a port according to the requirements of the Chemicals Act and the legislation established on the basis thereof and Chapter VII of the International Convention for the Safety of Life at Sea and the International Maritime Dangerous Goods Code established on the basis of Annexes I to III of the International Convention on the Prevention of Pollution from Ships.

(2) The port authority or port operator engaged in handling of dangerous cargo is obliged to ensure control over transportation of dangerous cargo into the port, warehousing, storage and transshipment thereof. The port authority or port operator engaged in handling of dangerous cargo shall comply with the requirements established with regard to dangerous enterprises and enterprises liable to be affected by major accidents according to the Chemicals Act.

(3) A port operator is obliged to inform the port authority before transportation of dangerous cargo into the port, warehousing, storage and transshipment thereof.

(4) A port authority shall be informed of arriving dangerous cargo at least ten days in advance; with the consent of the port authority this term may be shortened to 24 hours.

(5) A port authority or port operator engaged in handling of dangerous cargo shall appoint a person responsible for notification of dangerous cargo, handling of dangerous cargo, accounting of dangerous cargo and reception and delivery of dangerous cargo and communicate his or her contact details to the harbour master.

(6) The person whose immediate task is the handling of dangerous cargo shall have completed the training necessary for this purpose and have a document certifying the completion of the training.

(7) A port authority or port operator shall organise trainings specified in subsections (5) and (6) of this section at least every five years on the basis of the programme approved by the Environmental Inspectorate and the Maritime Administration.

### **§ 32. Handling of bulk cargo**

(1) The port authority or port operator engaged in loading and unloading of bulk cargo is required to comply with the safety requirements provided for in the Maritime Safety Act when loading and unloading bulk cargo ships.

(2) The port authority or port operator who engages in loading and unloading of bulk cargo ships to which the procedure established on the basis of subsection 41 (6) of the Maritime Safety Act applies shall ensure that a proper quality management system has been designed and implemented at their enterprise. The quality management system shall be certified according to the standards ISO 9001:2000 and ISO 10011:1991 or equivalent.

## **Chapter 6 MILITARY PORTS**

### **§ 33. Military ports**

(1) Military ports and military port waters shall be designated by an order of the Government of the Republic on the proposal of the minister responsible for the area.

(2) Military ports are closed for merchant shipping and related activities.

(3) For designating a port in the ownership of a person in private law as a military port on the basis of subsection (1) of this section, the Ministry of Defence shall have entered into a relevant agreement for the use of the port with the owner of the port land area. Upon existence of an agreement and upon designating the port as a military port, the Ministry of Defence shall be deemed to be the port authority of such port.

(4) In addition to the port specified in subsection (1) of this section, the Government of the Republic has the right, in justified cases, to establish by an order, on the proposal of the minister responsible for the area, restrictions to the port services provided in another port for the periods when military ships stay in the port. The expenses incurred by the port in connection with the restrictions established shall be covered by the person who established the restriction.

### **§ 34. Military port harbour master**

- (1) A military port harbour master shall be appointed to and released from the post by the Chief of the Navy.
- (2) For appointment of a military port harbour master, the candidates for the post of the harbour master shall be evaluated in accordance with the Military Service Act.

### **§ 35. Military port rules**

(1) The military port rules are established by the Commander of the Defence Forces or a chief authorised by the Commander of the Defence Forces.

- (2) The military port rules shall describe at least the following:
- 1) the general details of the port;
  - 2) the procedure for entrance to the port by water craft;
  - 3) the procedure for water traffic in the water area;
  - 4) the procedure for water craft standing in the port;
  - 5) the procedure for water craft leaving the port;
  - 6) the procedure for provision of medical care in the port;
  - 7) fire safety requirements in the port and the procedure for rescue works;
  - 8) the procedure for calling the Rescue Board and other agencies which provide assistance or exercise supervision.

[RT I, 29.12.2011, 1 - entry into force 01.01.2012]

### **§ 36. Military port security officer**

- (1) A military port security officer shall be appointed to and released from the post by the Chief of the Navy.
- (2) A military port security officer shall be evaluated in accordance with the Military Service Act.

## **Chapter 7 PORT REGISTER**

### **§ 37. Port register**

(1) A port register is a database which maintains a register of ports in order to ensure the information required by state authorities for the performance of the duties of management and organisation in the area of water traffic safety, security and environmental protection arising from law and other legislation and for exercise of state supervision.

(2) Ports shall be entered in the port register. Port authorities submit applications for the registration of the ports in the port register.

(3) The controller of the port register is the Ministry of Economic Affairs and Communications and the processor of the port register is the Maritime Administration. The port register is maintained electronically.

(4) The statutes for the maintenance of the port register and the detailed list of the information subject to entry in the register and listed in subsection 38 (1) of this Act shall be established by a regulation of the Government of the Republic.

### **§ 38. Data to be entered in port register**

- (1) The following data concerning a port shall be entered in the port register:
- 1) personal identification or registry code and the contact details of the port authority;
  - 2) general data concerning the port, including the task of the port and the main functions of the port;
  - 3) port location information, including geographical coordinates;
  - 4) data concerning the waters;
  - 5) data concerning the port land area;
  - 6) data concerning the construction works, landing stages and facilities of the port;
  - 7) data concerning the hydrotechnical structures of the port;
  - 8) data concerning the technical devices of the port;
  - 9) data concerning the port's aids to navigation;
  - 10) data concerning the port services provided and the port operators;
  - 11) data concerning the categories of goods handled in the port;
  - 12) data concerning the types and sizes of the water craft serviced in the port;
  - 13) data concerning the auxiliary fleet of the port;
  - 14) data concerning the navigational period;
  - 15) data concerning the reception of ship-generated waste and cargo residues in the port;
  - 16) data concerning the environmental impact assessment and the results thereof;



17) data concerning the state supervision in the port, including the results of the state supervision and the precepts issued by the official exercising state supervision;

18) as appropriate, other data concerning the port according to the objective of the register.

(2) The information entered in the port register is public, taking into consideration the restrictions arising from law. The public information entered in the port register shall be made accessible on the website of the port register.

### **§ 39. Persons submitting data to port register**

(1) Data shall be submitted to the port register by port authorities and in the case of the data specified in clause 38 (1) 17) of this Act by the supervisory authorities exercising state supervision in ports.

(2) Upon any amendments to the data entered in the port register, the persons submitting the data shall immediately submit the amended data to the Maritime Administration or, if possible, make an entry themselves in the port register.

(3) The persons submitting data to the port register shall be responsible for the correctness of the submitted data.

### **§ 40. Registration of port in port register**

(1) For registration of a port in the port register, the port authority shall submit to the Maritime Administration the data listed in clauses 38 (1) 1) to 16) of this Act.

(2) The Maritime Administration shall have the right to request additional documents and additional information, if this is in accordance with the objective of the register and required for the entry of the port in the register.

(3) The Maritime Administration shall register the port in the port register within 30 working days after submission of the data listed in clauses 38 (1) 1) to 16) of this Act and the additional data and documents specified in subsection (2) of this section.

(4) A state fee shall be paid for the registration of a port. A state fee shall be paid for the amendment of a register entry, with the exception of deletion of a port from the port register, for the amendment of a register entry made by the port authority and for the registration of a small-craft harbour specified in clause 1 (2) 2).

(5) The format of the registration application shall be established by a regulation of the minister responsible for the area.

### **§ 41. Deletion of port from port register**

A port shall be deleted from the port register:

- 1) on the basis of a respective application of the port authority;
- 2) upon dissolution of the port authority who is a legal person without legal succession;
- 3) upon declaration of the designation of waters invalid; or
- 4) if the port has not provided any port services during a period of five years.

## **Chapter 8 STATE SUPERVISION**

[RT I, 13.03.2014, 4 - entry into force 01.07.2014]

### **§ 42. State supervision**

[RT I, 13.03.2014, 4 - entry into force 01.07.2014]

(1) State supervision over reception of ship-generated waste and cargo residues from ships and other water craft in ports, the port's waste reception and handling plan and the development and implementation of the pollution control plan, including supervision over compliance with the requirements for provision of food, fuel and other services to ships based on Council Regulation (EC) No 41/2007/EC fixing for 2007 the fishing opportunities and associated conditions for certain fish stocks and groups of fish stocks, applicable in Community waters and, for Community vessels, in waters where catch limitations are required (OJ L 15, 20.01.2007, pp. 1-213), in the case of which engagement in illegal fishing is confirmed, shall be exercised by the Environmental Inspectorate.

(2) State supervision over transfer of ship-generated waste and cargo residues from ships and other water craft shall be exercised by the Environmental Inspectorate and the Maritime Administration.

(3) State supervision over compliance with the requirements established by this Act and legislation established on the basis thereof shall be exercised by the Maritime Administration.

(4) State supervision over compliance with the requirements established in § 121 shall be exercised by the Consumer Protection Board.  
[RT I, 30.05.2013, 4 - entry into force 09.06.2013]

(5) State supervision over compliance with the requirements of subsection 13 (4) of this Act shall also be exercised by the Republic of Estonia Information System Authority within the limits of competence provided by the Cybersecurity Act.  
[RT I, 22.05.2018, 1 - entry into force 23.05.2018]

#### **§ 43. Specific state supervision measures** [RT I, 13.03.2014, 4 - entry into force 01.07.2014]

(1) Law enforcement authorities may apply the special state supervision measures provided for in §§ 30, 31, 32, 49, 50 and 51 of the Law Enforcement Act for exercising the state supervision provided for in this Act on the basis of and pursuant to the procedure provided for in the Law Enforcement Act.

(2) [Repealed -RT I, 22.05.2018, 1 - entry into force 23.05.2018]

#### **§ 43<sup>1</sup>. Specifications concerning state supervision**

The Environmental Inspectorate may also apply the specific measures specified in §§ 49 and 50 of the Law Enforcement Act in order to determine and prevent any significant danger and eliminate violations.  
[RT I, 13.03.2014, 4 - entry into force 01.07.2014]

#### **§ 43<sup>2</sup>. Use of direct coercion**

The Environmental Inspectorate is authorized to use physical force on the basis and pursuant to the procedure provided for in the Law Enforcement Act.  
[RT I, 13.03.2014, 4 - entry into force 01.07.2014]

#### **§ 44. Coercive fine rates** [RT I, 13.03.2014, 4 - entry into force 01.07.2014]

(1) Upon failure to comply with the precept, a law enforcement authority may impose a penalty payment pursuant to the procedure provided for in the Substitutive Enforcement and Penalty Payment Act. The upper limit for a coercive fine in the case of a natural person is 960 euros, in the case of a legal person 3200 euros.

(2) [Repealed -RT I, 22.05.2018, 1 - entry into force 23.05.2018]

## **Chapter 9 LIABILITY**

#### **§ 45. Provision of port services without designated waters** [Repealed -RT I, 12.07.2014, 1 - entry into force 01.01.2015]

#### **§ 46. Operation of port without evaluated harbour master** [Repealed -RT I, 12.07.2014, 1 - entry into force 01.01.2015]

#### **§ 47. Absence of port rules and failure to update rules** [Repealed -RT I, 12.07.2014, 1 - entry into force 01.01.2015]

#### **§ 48. Violation of security requirements of port and port facility**

(1) Violation of the security requirements of a port and port facility is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 32,000 euros.  
[RT I 2010, 22, 108 - entry into force 01.01.2011]

#### **§ 48<sup>1</sup>. Violation of electronic safety requirements** [Repealed -RT I, 22.05.2018, 1 - entry into force 23.05.2018]

#### **§ 49. Provision of port services in ports and port facilities without evaluated security officer**

[Repealed -RT I, 12.07.2014, 1 - entry into force 01.01.2015]

**§ 50. Violation of environmental protection requirements upon provision of port services**

[Repealed -RT I, 12.07.2014, 1 - entry into force 01.01.2015]

**§ 51. Violation of requirements for notification of ship-generated waste, cargo residues and dangerous cargo and for transfer and reception of ship-generated waste, cargo residues and dangerous cargo**

(1) Violation of requirements for notification of ship-generated waste, cargo residues and dangerous cargo or for transfer and reception of ship-generated waste, cargo residues and dangerous cargo or failure to submit an information note to a ship or other water craft concerning inadequate reception facilities is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 32,000 euros.  
[RT I 2010, 22, 108 - entry into force 01.01.2011]

**§ 52. Failure to develop and implement waste reception and handling plan**

[Repealed -RT I, 12.07.2014, 1 - entry into force 01.01.2015]

**§ 53. Absence of port pollution control plan and failure to submit pollution control plan for approval**

[Repealed -RT I, 12.07.2014, 1 - entry into force 01.01.2015]

**§ 54. Violation of requirements for provision of food, fuel and other services in port to ship entered in list of ships engaged in illegal fishing**

[Repealed -RT I, 12.07.2014, 1 - entry into force 01.01.2015]

**§ 55. Violation of cargo handling requirements**

[Repealed -RT I, 12.07.2014, 1 - entry into force 01.01.2015]

**§ 56. Violation of port registration requirements**

[Repealed -RT I, 12.07.2014, 1 - entry into force 01.01.2015]

**§ 56<sup>1</sup>. Failure to provide assistance to disabled passengers or passengers with limited mobility in port**

(1) Failure to comply with the requirement provided for in Article 10 of Regulation (EU) No. 1177/2010 of the European Parliament and of the Council is punishable by a fine of up to 150 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 3200 euros.  
[RT I, 30.05.2013, 4 - entry into force 09.06.2013]

**§ 56<sup>2</sup>. Disregard of requirement to inform passengers of cancelled or delayed departure**

(1) Failure to comply with the requirement provided for in Article 16 of Regulation (EU) No. 1177/2010 of the European Parliament and of the Council is punishable by a fine of up to 150 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 3200 euros.  
[RT I, 30.05.2013, 4 - entry into force 09.06.2013]

**§ 56<sup>3</sup>. Failure to provide travel information in ports**

(1) Failure to comply with the requirement provided for in Article 22 of Regulation (EU) No. 1177/2010 of the European Parliament and of the Council is punishable by a fine of up to 150 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 3200 euros.  
[RT I, 30.05.2013, 4 - entry into force 09.06.2013]

**§ 57. Proceedings**

(1) The Maritime Administration is the extra-judicial body which conducts proceedings in matters of misdemeanours provided for in §§ 48 and 51 of this Act.

(1<sup>1</sup>) [Repealed -RT I, 22.05.2018, 1 - entry into force 23.05.2018]

(2) The Environmental Inspectorate is the extra-judicial body which conducts proceedings in matters of misdemeanours provided for in § 51 of this Act.

(3) The Consumer Protection Board is the extra-judicial body which conducts proceedings in matters of misdemeanours provided for in §§ 56<sup>1</sup> to 56<sup>3</sup> of this Act.  
[RT I, 12.07.2014, 1 - entry into force 01.01.2015]

## **Chapter 10**

### **IMPLEMENTING PROVISIONS**

#### **§ 58. Submission of pollution control plans for approval**

Upon the entry into force of this Act, port pollution control plans shall be submitted to the Ministry of the Environment for approval at the latest by 1 January 2010.

#### **§ 59. Implementation of Chapter 7 of this Act**

(1) A port entered in the port register prior to entry into force of this Act shall be transferred by the processor of the register to the port register established on the basis of this Act.

(2) The port authority of the port entered in the port register in subsection (1) of this section [??] shall review and update the information in the register at the latest by 1 January 2010.

(3) Ports which are not entered in the port register prior to entry into force of this Act shall be entered in the port register at the latest by 1 January 2010.

#### **§ 60. Application of this Act to existing waters**

Waters established prior to entry into force of this Act shall be in force until the amendment thereof on the basis of this Act or until repealed.

**§ 61.–§ 69.**[Omitted from this text.]

<sup>1</sup>Directive 2000/59/EC of the European Parliament and of the Council on port reception facilities for ship-generated waste and cargo residues (OJ L 332, 28.12.2000, pp. 81-90), amended by Directives 2002/84/EC (OJ L 324, 29.11.2002, pp. 53–58) and 2007/71/EC (OJ L 329, 14.12.2007, pp. 33-36); Directive 2005/65/EC of the European Parliament and of the Council on enhancing port security (OJ L 310, 25.11.2005, pp. 28-39); Directive 2009/16/EC of the European Parliament and of the Council on port State control (OJ L 131, 28.05.2009, pp. 57-100); Directive 2010/65/EU of the European Parliament and of the Council on reporting formalities for ships arriving in and/or departing from ports of the Member States and repealing Directive 2002/6/EC (OJ L 283, 29.10.2010, pp. 1-10). [RT I, 06.03.2013, 1 - entry into force 01.07.2013]