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Merchant Shipping Code

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RT 1991, 46, 577

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Amended by the following acts

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21.09.1993	RT I 1993, 65, 923	21.10.1993
31.05.1995	RT I 1995, 54, 882	30.06.1995
23.10.1996	RT I 1996, 78, 1380	24.11.1996
22.10.1997	RT I 1997, 77, 1315	01.01.1998
17.12.1997	RT I 1998, 2, 47	01.01.1998
11.02.1998	RT I 1998, 23, 321	01.07.1998
11.03.1998	RT I 1998, 30, 409	01.07.1998
17.06.1998	RT I 1998, 59, 941	10.07.1998
19.04.2000	RT I 2000, 35, 221	15.05.2000
08.02.2001	RT I 2001, 21, 114	01.04.2001
14.11.2001	RT I 2001, 93, 565	01.02.2002
12.12.2001	RT I 2002, 1, 1	01.01.2003
05.06.2002	RT I 2002, 55, 345	01.10.2002
17.12.2003	RT I 2003, 88, 594	08.01.2004
24.03.2004	RT I 2004, 24, 164	25.04.2004
14.04.2004	RT I 2004, 30, 208	01.05.2004
19.05.2004	RT I 2004, 46, 329	01.07.2004
12.05.2005	RT I 2005, 31, 229	03.06.2005
15.12.2005	RT I 2005, 71, 549	01.01.2006
19.04.2006	RT I 2006, 21, 159	01.06.2006
17.05.2006	RT I 2006, 26, 191	01.08.2006
20.05.2009	RT I 2009, 29, 175	01.07.2009
08.12.2010	RT I, 22.12.2010, 1	02.01.2011
27.01.2011	RT I, 23.02.2011, 1	01.09.2011
11.06.2014	RT I, 29.06.2014, 108	01.07.2014
16.02.2016	RT I, 10.03.2016, 2	20.03.2016

Chapter 1 GENERAL PROVISIONS

§ 1.–§ 2.[Repealed – RT I 2002, 55, 345 – entry into force 01.10.2002]

§ 3. Carriage and towing and provision of other services only between ports in the Republic of Estonia (hereinafter Estonia) or in the port basin of or with departure from an Estonian port and with entrance in the same port shall be carried out by ships flying the national flag of Estonia or the flag of a Member State of the European Union or the flag of a state which is a contracting party to the EEA Agreement.

[RT I, 22.12.2010, 1 - entry into force 02.01.2011]

§ 4.–§ 5.[Repealed – RT I 1998, 23, 321 – entry into force 01.07.1998]

§ 6. The Ministry of Economic Affairs and Communications drafts and implements maritime development and safety policies.

[RT I 2003, 88, 594 - entry into force 08.01.2004]

(1) [Repealed – RT I, 22.12.2010, 1 – entry into force 02.01.2011]

(2) The Maritime Administration is competent to:

1) [Repealed – RT I, 22.12.2010, 1 – entry into force 02.01.2011]

2) [Repealed – RT I 1998, 23, 321– entry into force 01.07.1998]

3) [Repealed – RT I 2000, 35, 221 – entry into force 15.05.2000]

4) [Repealed – RT I 2000, 35, 221 – entry into force 15.05.2000]

5) [Repealed – RT I 2000, 35, 221 – entry into force 15.05.2000]

6) organise the raising of sunken property if such property obstructs vessel traffic;

7) exercise supervision over compliance with legislation regulating merchant shipping, including such conventions of the International Maritime Organisation (IMO) to which the Republic of Estonia has acceded, and with the codes, resolutions and circulars of the IMO;

8) [Repealed – RT I 2000, 35, 221 – entry into force 15.05.2000]

9) [Repealed – RT I 2000, 35, 221 – entry into force 15.05.2000]

10) [Repealed – RT I 2000, 35, 221 – entry into force 15.05.2000]

11) [Repealed – RT I 2000, 35, 221 – entry into force 15.05.2000]

12) [Repealed – RT I 2000, 35, 221 – entry into force 15.05.2000]

13) [Repealed – RT I, 22.12.2010, 1 – entry into force 02.01.2011]

14) [Repealed – RT I 2000, 35, 221 – entry into force 15.05.2000]

§ 7. [Repealed – RT I, 22.12.2010, 1 – entry into force 02.01.2011]

§ 8. [Repealed – RT I 2000, 35, 221 – entry into force 15.05.2000]

§ 8¹. [Repealed – RT I, 22.12.2010, 1 – entry into force 02.01.2011]

§ 9. [Repealed – RT I 2000, 35, 221 – entry into force 15.05.2000]

§ 9¹. [Repealed – RT I, 22.12.2010, 1 – entry into force 02.01.2011]

§ 9². [Repealed – RT I, 22.12.2010, 1 – entry into force 02.01.2011]

§ 10.–§ 14.[Repealed – RT I 2002, 55, 345 – entry into force 01.10.2002]

§ 15. [Repealed - RT I 1998, 23, 321 – entry into force 01.07.1998]

§ 16. The legal status of the crew of a ship, including relationships between the crew members regarding the use of the ship, shall be determined by the legislation of the flag state of the ship. Relationships between the crew members and the owner of the ship are regulated by the legislation of the flag state of the ship unless otherwise provided for by an agreement between the crew members and the owner.

§ 17.–§ 31.[Repealed – RT I 2002, 55, 345 – entry into force 01.10.2002]

Chapter 2 SHIP

§ 32. –§ 41. [Repealed –RT I 1998, 23, 321 - entry into force 01.07.1998]

§ 42. – § 47. [Repealed – RT I 2000, 35, 221 - entry into force 15.05.2000]

§ 48. [Repealed - RT I 2002, 1, 1 – entry into force 01.01.2003]

§ 49. The certificate concerning the right of ownership of a ship and the ship's letter may be kept on the ship as officially authenticated copies.

[RT I 2001, 93, 565 - entry into force 01.02.2002]

§ 50. [Repealed - RT I 2002, 1, 1 – entry into force 01.01.2003]

§ 51. [Repealed - RT I 2000, 35, 221 – entry into force 15.05.2000]

Chapter 3

CREW

§ 52. The crew of a ship consists of the master, other officers of the ship and the ratings. The ship's officers comprise the master, mates, chief mates, engineer officers, electrical engineers, radio officers and doctors. The owner of the ship may also appoint other marine specialists as ship's officers. The ratings comprise the deck department, the engine department and the other members of the crew who are not officers.

§ 53. [Repealed - RT I 2000, 35, 221 – entry into force 15.05.2000]

§ 54. [Repealed - RT I 1998, 23, 321 – entry into force 01.07.1998]

§ 55. [Repealed - RT I 2000, 35, 221 – entry into force 15.05.2000]

§ 56. [Repealed - RT I 1998, 2, 47 – entry into force 01.01.1998]

§ 57. Employment relationships between crew members and the owner of the ship are regulated by the Seafarers Employment Act and other legislation regulating employment relationships.

[RT I, 29.06.2014, 108 - entry into force 01.07.2014]

§ 58. None of the crew members shall be assigned to a ship without the consent of the master.

§ 59. The master has the right to apply incentives and impose disciplinary penalties on crew members. If necessary, the master has the right to remove any crew member from the performance of his or her duties.

§ 60. The owner of a ship shall compensate for the destruction of or damage caused to the property of crew members in the event of a marine accident on the basis of the retail price of similar property of a similar quality in Estonia, taking into account the wear and tear of the property that has been destructed or damaged. The value of the property of crew members who are at fault for the accident shall not be compensated for.

§ 61. [Repealed - RT I 2001, 21, 114 – entry into force 01.04.2001]

§ 62. The master is responsible for the general management of the ship, including navigation, applying all measures necessary for ensuring safe navigation, maintaining order on the ship, and preventing anything that could harm the ship or the persons or cargo on board the ship. Orders issued by the master within the limits of his or her authority shall be obeyed without argument by all persons on board the ship. If the activities of a person on board the ship put the ship or the persons or property on board the ship in danger, the master has the right to place the person in a separate room and to keep him or her in that room until the ship next arrives at the first Estonian port. The master is liable for unlawful detention of a person in a separate room pursuant to the procedure provided by law.

[RT I, 23.02.2011, 1 - entry into force 01.09.2011]

§ 63. [Repealed - RT I 2000, 35, 221 – entry into force 15.05.2000]

§ 64. [Repealed - RT I 2002, 55, 345 – entry into force 01.10.2002]

§ 65. In the event of childbirth on board a ship, the master shall prepare a report in each case in the presence of two witnesses and, if there is a doctor or medical assistant on board, in the presence of the doctor or assistant. The master shall also make a corresponding entry in the logbook. The report prepared by the master does not replace a birth certificate and shall be submitted to the vital statistics office in order to obtain a birth certificate.

§ 66. The master is required to accept a will prepared by a person on board the ship for deposit if the person so requests, and to preserve the will until it is transferred to a notary or a consular official of an Estonian foreign mission; the master shall maintain the confidentiality of the contents of the will.

[RT I, 10.03.2016, 2 - entry into force 20.03.2016]

[RT I 2009, 29, 175 - entry into force 01.07.2009]

In the event of a death on board a ship, the master shall prepare a report in each case in the presence of two witnesses and, if there is a doctor or medical assistant on board, in the presence of the doctor or assistant. The master shall also make a corresponding entry in the logbook. A list of the property that the deceased had on board the ship shall be annexed to the death report. The master shall take measures to preserve the property of the deceased.

After arrival at an Estonian port, the master shall submit the report on the death and the list of the property of the deceased to the police, or, in the case of a foreign port where there is an Estonian consular official, to the

consular official, and shall take measures to have the deceased buried. In exceptional cases where the ship is to remain at mainsea for an extended period of time and it is not possible to store the body on board the ship, the master has the right to bury the deceased at sea according to the Custom of the Sea, in which case the master shall prepare a corresponding report and make a corresponding entry in the logbook.
[RT I 2009, 29, 175 - entry into force 01.07.2009]

§ 67.

If it is possible without endangering the crew or the passengers, the master is required to:

- 1) provide assistance to every shipwrecked person;
- 2) proceed as soon as possible to provide assistance to persons in distress if the master has been notified that they need assistance and if he or she can reasonably be expected to help.

The master is held liable pursuant to law for failure to perform the obligations specified in this section.

§ 68. The master has the right to convene the ship council in the event of a threat to the ship or the persons or cargo on board the ship, and in other exceptional cases. The ship council shall not restrict the rights of the master and the final decision shall be made by the master.

§ 69. If a ship runs out of victualling supplies, including minimum victuals, the master has the right to requisition foodstuffs to the necessary extent from the persons on board the ship and any edible cargo on board the ship for general distribution on the ship. A report shall be prepared concerning requisition. The value of the requisitioned foodstuffs and cargo shall be compensated for by the owner of the ship.

§ 70. If the master believes that it is inevitable that the ship will be shipwrecked, he or she shall grant permission to the crew to leave the ship after all measures to save the passengers have been taken. The master shall be the last to leave the ship after he or she has taken all the measures in his or her power to save the logbook, engine logbook and radio logbook, the charts relating to the voyage concerned, and documents and valuables.

§ 71. In the event of a threat of war, the master is required to take all measures to save the persons on board the ship and to prevent the seizure of the ship or the documents, cargo or other property on board the ship.

§ 72. If, during a voyage, the master has an urgent need for money in order to continue the voyage, in particular to have the ship repaired or to provide maintenance to the crew, and it is not possible or there is no time to obtain orders from the owner of the ship, the master has the right to sell part of the property entrusted to him or her unless the property is indispensable for completing the voyage. The master is required to obtain the means for continuing the voyage in the manner which causes the least damage to the owner of the ship and the owner of the cargo.

The value of the cargo sold shall be reimbursed to the owner of the cargo unless the damage caused is classified as a general average or the cargo is sold exclusively in the interests of the cargo.

§ 73. If an act to which the Penal Code of Estonia applies is committed on board a ship during a voyage, the master shall ensure, as far as possible, inviolability of the scene of the event and objects related to the event. The master can require explanations from persons on board the ship in order to ascertain the circumstances of the event, and give orders to ensure the inviolability of the circumstances of the event. The master shall maintain records of the explanations, orders and other acts related to the event in free form and shall deliver said documents to the Prosecutor's Office as soon as possible. If necessary, the master may send the person suspected of committing a criminal offence and the collected materials to Estonia on another ship registered in Estonia. If an act to which the Penal Code of Estonia applies is committed on board a ship while the ship is at an Estonian port, the master is required to transfer the person who committed the act to the custody of the local authorities.

[RT I, 23.02.2011, 1 - entry into force 01.09.2011]

Chapter 4

[Repealed - RT I 1997, 77, 1315 – entry into force 01.01.1998]

Chapter 5

[Repealed - RT I 1998, 2, 47 – entry into force 01.01.1998]

Chapter 6

SUNKEN PROPERTY

§ 110. The property which has sunk in the territorial sea or inland maritime waters or an exclusive economic zone or navigable inland waters of Estonia (ships, their wrecks, equipment, cargo, including property washed

ashore or onto sandbanks, rocks, etc.) shall be raised and removed from a body of water pursuant to the provisions of this Chapter.

[RT I, 22.12.2010, 1 - entry into force 02.01.2011]

The owner of sunken property shall immediately give notice of the sunken property to the police authorities and provide the following information regarding the property:

- 1) the name and permanent business establishment of the owner of the sunken property;
- 2) the location of the sunken property;
- 3) the size, type and structure of the sunken property;
- 4) the nature and extent of damage to the sunken property;
- 5) the type, quantity and harmfulness of the cargo;
- 6) the type and quantity of the petroleum products, including bunker oil and lubricating preparations on board.

[RT I, 22.12.2010, 1 - entry into force 02.01.2011]

The police authorities shall deliver the information set out in subsection (2) of this section to the Estonian Maritime Administration within one day after receipt of the information.

[RT I, 22.12.2010, 1 - entry into force 02.01.2011]

§ 111. If the owner of sunken property intends to raise the property, the owner shall notify the Estonian Maritime Administration of such intention in writing and shall certify his or her ownership of the property. In co-ordination with the interested agencies and taking the particular circumstances into account, the Estonian Maritime Administration shall determine the time limit for raising the property and notify the owner of the property of such time limit. After the time limit for raising the property has been determined, the owner of the property shall submit a request for approval of the procedure for performing the raising works regarding the sunken property and the person performing the works to the Estonian Maritime Administration. The Estonian Maritime Administration shall approve the procedure for performing the raising works and the person performing the works or shall make its own proposals within 30 days after receipt of the request. It is not permitted to raise the sunken property before the Estonian Maritime Administration has approved the procedure for performing the raising works and the person performing the works.

The owner of sunken property shall take measures to eliminate environmental risks. If there is a risk of pollution of the environment, the police authorities have the right to take measures to eliminate the environmental risk before the raising of the property.

[RT I, 22.12.2010, 1 - entry into force 02.01.2011]

§ 112. If sunken property obstructs vessel traffic, maritime trade or hydrotechnical work in public waterways, endangers human life or health or threatens to pollute the environment, or is washed ashore or extends partially out of water, the Estonian Maritime Administration has the right to determine the time limit for raising the property in coordination with the police authorities and taking into consideration the circumstances, and issue a precept to the owner of the sunken property for raising the property within the designated time limit. The Estonian Maritime Administration shall inform the owner of the sunken property of the precept. The owner of the sunken property shall submit a request for approval of the procedure for performing the raising works and the person performing the works to the Estonian Maritime Administration within 30 days after receipt of the precept. The Estonian Maritime Administration shall approve the procedure for performing the raising works and the person performing the works or shall make its own proposals within 30 days after receipt of the request. It is not permitted to raise the sunken property before the Estonian Maritime Administration has approved the procedure for performing the raising works and the person performing the works. The owner of sunken property shall take measures to eliminate environmental risks. If the owner of sunken property is not known, the Estonian Maritime Administration shall publish a notice concerning the time limits for raising the sunken property in the publications "*Teadaanded meremeestele*" and *Veeteede Ameti Teataja*, on the website of the Estonian Maritime Administration and in a national newspaper.

If the flag state of the sunken ship is known, the Estonian Maritime Administration shall also send a corresponding notice to the Ministry of Foreign Affairs of the Republic of Estonia.

If the owner of the sunken property has not raised the property within the time limit set out in the precept of the Estonian Maritime Administration, the Estonian Maritime Administration is entitled to apply substitutive enforcement and penalty payment in accordance with the procedure provided for in the Substitutive Enforcement and Penalty Payment Act. The upper limit for penalty payment shall be 3 200 euros for a natural person and 32 000 euros for a legal person.

If the sunken property has no owner, the Estonian Maritime Administration has the right to apply necessary measures to raise the property, and if necessary to destruct it or remove it in another manner.

[RT I, 22.12.2010, 1 - entry into force 02.01.2011]

§ 113. The Estonian Maritime Administration may prohibit the owner of sunken property from raising the property using means provided by the owner or a person performing the raising works chosen by the owner if the sunken property is located in a sea area subject to a specific procedure established by Estonian legislation. In

such case, the Estonian Maritime Administration shall organise the raising of the property at the expense of the owner.

[RT I, 22.12.2010, 1 - entry into force 02.01.2011]

If the property sunken in the aforesaid sea area brings about the risk of pollution of the environment, the police authorities shall organise the elimination of the environmental risk before the property is raised.

[RT I, 22.12.2010, 1 - entry into force 02.01.2011]

§ 114. If sunken property poses a direct danger to vessel traffic in public waterways or human life or health or to the environment, the owner of the sunken property shall immediately organise the raising of the sunken property and take measures to eliminate the danger. If the owner of the sunken property does not perform the obligation to eliminate the danger immediately, the Estonian Maritime Administration and in case of an environmental risk the police authorities have the right to apply substitutive enforcement in accordance with the procedure provided for in the Substitutive Enforcement and Penalty Payment Act.

[RT I, 22.12.2010, 1 - entry into force 02.01.2011]

§ 115. [Repealed - RT I, 22.12.2010, 1 – entry into force 02.01.2011]

§ 116. [Repealed - RT I 1998, 23, 321 – entry into force 01.07.1998]

§ 117. Refusal to acknowledge sunken or raised property does not release the owner thereof from the obligation to compensate the Estonian Maritime Administration for the expenses and damage incurred in the cases prescribed in §§ 112, 113 or 114 of this Code or in this section.

[RT I, 22.12.2010, 1 - entry into force 02.01.2011]

§ 118. [Repealed - RT I, 22.12.2010, 1 – entry into force 02.01.2011]

§ 118¹. The protection, survey and raising of sunken property of cultural value shall take place in accordance with the procedure provided for in the Heritage Conservation Act.

[RT I, 22.12.2010, 1 - entry into force 02.01.2011]

Chapter 7

[Repealed - RT I 2002, 55, 345 – entry into force 01.10.2002]

Chapter 8

[Repealed - RT I 1998, 30, 409 – entry into force 01.07.1998]

Chapter 9

[Repealed - RT I 2002, 55, 345 – entry into force 01.10.2002]

Chapter 10

[Repealed - RT I 2002, 55, 345 – entry into force 01.10.2002]

Chapter 11

[Repealed - RT I 2002, 55, 345 – entry into force 01.10.2002]

Chapter 12

[Repealed - RT I 2002, 55, 345 – entry into force 01.10.2002]

Chapter 13

[Repealed - RT I 2002, 55, 345 - entry into force 01.10.2002]

Chapter 14

[Repealed - RT I 2002, 55, 345 - entry into force 01.10.2002]

Chapter 15

[Repealed - RT I 2002, 55, 345 - entry into force 01.10.2002]

Chapter 16

[Repealed - RT I 2002, 55, 345 - entry into force 01.10.2002]

Chapter 17

[Repealed - RT I 2002, 55, 345 - entry into force 01.10.2002]

Chapter 18

[Repealed - RT I 2002, 55, 345 - entry into force 01.10.2002]

Chapter 19

[Repealed - RT I 2002, 55, 345 - entry into force 01.10.2002]

Chapter 20

[Repealed - RT I 2002, 55, 345 - entry into force 01.10.2002]

Chapter 21

[Repealed - RT I 1998, 30, 409 - entry into force 01.07.1998]

Chapter 22

[Repealed - RT I 2002, 55, 345 - entry into force 01.10.2002]

Chapter 23

[Repealed - RT I 2002, 55, 345 - entry into force 01.10.2002]

Chapter 24 LIABILITY

[RT I, 22.12.2010, 1 - entry into force 02.01.2011]

§ 373. Carriage and towing only between Estonian ports or in the port basin of or with departure from an Estonian port and with entrance in the same port with a ship lacking the respective right is punishable by a fine of up to 300 fine units. The same act, if committed by a legal person, is punishable by a fine of up to 32 000 euros.

[RT I, 22.12.2010, 1 - entry into force 02.01.2011]

§ 374. Failure to give notice of sunken property is punishable by a fine of up to 300 fine units. The same act, if committed by a legal person, is punishable by a fine of up to 3200 euros.

[RT I, 22.12.2010, 1 - entry into force 02.01.2011]

§ 375. The provisions of the General Part of the Penal Code and of the Code of Misdemeanour Procedure apply to the misdemeanours provided for in § 373 and 374 of this Act. Extra-judicial proceedings concerning the misdemeanours provided for in §§ 373 and 374 of this Act shall be conducted by police authorities.

[RT I, 22.12.2010, 1 - entry into force 02.01.2011]