

Ports Act

Passed 22 October 1997

(RT¹ I 1997, 77, 1315),

entered into force 1 January 1998,

amended by the following Acts:

19.06.2002 entered into force 01.01.2003 - RT I 2002, 63, 387;

19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375;

19.06.2002 entered into force 11.07.2002 - RT I 2002, 58, 363;

08.05.2002 entered into force 02.06.2002 - RT I 2002, 42, 267;

12.12.2001 entered into force 01.01.2003 - RT I 2002, 1, 1;

17.10.2001 entered into force 01.07.2002 - RT I 2001, 88, 531;

10.11.99 entered into force 10.12.99 - RT I 1999, 88, 805.

Chapter 1

General Provisions and Definitions

§ 1. Purpose of Act

This Act regulates the obligations of port authorities in the fulfilment of safety requirements and procedures relating to state supervision in ports.

§ 1¹. Application of Administrative Procedure Act

The provisions of the Administrative Procedure Act (RT I 2001, 58, 354; 2002, 53, 336) apply to administrative proceedings prescribed in this Act, taking account of the specifications provided for in this Act.

(19.06.2002 entered into force 01.08.2002 - RT I 2002, 61, 375)

§ 2. Port

A port is a complex of buildings and constructions together with its adjacent water area which is located in a delimited area and intended for shipping and commercial activities, ship repair, pleasure craft or other marine activities.

(12.12.2001 entered into force 01.01.2003 - RT I 2002, 1, 1)

§ 3. Port area

A port area is a land and water area used for the functional activities of a port together with its adjacent berths, breakwaters, dikes, and ingoing and outgoing roads within the boundaries of the port, which are used for the processing of ships and goods, the provision of services for passengers and for other activities relating to shipping traffic.

§ 4. Water area of port

(1) A water area is a delimited area permanently covered with water which is used for shipping traffic or other functional activities of a port.

(2) The boundaries of the water area of a seaport shall be determined by the Government of the Republic on the proposal of the Minister of Transport and Communications and in concordance with the local government council. The boundaries of the water area of an internal water body shall be determined by the owner of such body of water or of parts thereof in concordance with the local government council.

§ 5. Port authority

A port authority is a person who possesses a port and organises the activities of the port as a whole.

§ 6. Harbour master

(1) A harbour master is a person in an employment or service relationship with a port authority whose duty it is to manage safe shipping traffic in one or several ports designated as his or her work area. A harbour master shall be assigned to every port.

(2) An Estonian citizen with the necessary expertise, may be a harbour master. The qualification requirements and conditions for the evaluation of harbour masters shall be established by the Minister of Transport and Communications.

(3) A harbour master has the duty to ensure conditions for the safe maneuvering and laying of ships in a port, roadstead or dock, for the loading of ships and other necessary activities.

(4) A harbour master has the right to issue orders for the fulfilment of the duties specified in subsection (3) of this section in compliance with port rules and good seamanship.

§ 7. Merchant shipping port

(1) A merchant shipping port is a port where the transshipment, storage and processing of goods, the supply and servicing of ships, the embarkation and disembarkation of passengers and the receipt of fish from fishing vessels are carried out or which allows for the berthing and landing of boats, launches and yachts of hobby seafarers and fishermen and other related activities.

(2) Merchant shipping ports are open for international merchant shipping. The Government of the Republic has the right to establish restrictions on the activities specified in subsection (1) of this section in a port for periods when military ships are stationed in the port.

(3) The Government of the Republic shall establish a list of radioactive and extremely hazardous substances the importation into ports of which is prohibited or restricted.

(4) Merchant shipping ports where port services are mainly provided to hobby seafarers visiting the ports shall be classified according to the extent and quality of services provided therein. The classification of ports specified in this subsection and the general and minimum requirements for services provided in such ports shall be established by the Minister of Transport and Communications.

§ 8. Military port

(1) Military ports are determined by the Government of the Republic.

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

(3) The Government of the Republic may grant permission for the use of a military port for merchant shipping activities by approving the corresponding conditions therefor.

§ 9. Port rules

(1) Port rules provide the technological, operational, navigational and environmental requirements for the provision of port services and the rates of port dues and fees for the receipt of bilge water, sewage, refuse and other pollutants.

(12.12.2001 entered into force 01.01.2003 - RT I 2002, 1, 1)

(2) Port rules and amendments thereto shall be approved by the port authority in consultation with the Maritime Administration.

(12.12.2001 entered into force 01.01.2003 - RT I 2002, 1, 1)

(3) The requirements for port rules are approved by the Minister of Transport and Communications.

(4) Requirements set out in port rules are mandatory for all persons operating or staying in a port.

(5) A port authority is required to inform the persons specified in subsection (4) of this section of the port rules in force in the port and other mandatory rules.

Chapter 2

Opening Ports for Shipping Traffic. Port certificate

§ 10. Opening ports for shipping traffic

(1) The procedure for opening ports for shipping traffic shall be established by the Government of the Republic. Simplified requirements shall be applied with regard to ports which are mainly visited by small ships.

(2) A committee formed by the Government of the Republic shall prepare a legal instrument on the opening of a port for shipping traffic.

(3) The Minister of Transport and Communications approves a port certificate prepared by a port authority on the basis of a legal instrument on the opening of the port for shipping traffic.

§ 11. Port certificate

(1) A port certificate is a document certifying that a port conforms to the standards established by legislation, and is open for safe shipping traffic and the functional activities of a port.

(2) The requirements for port certificates shall be established by the Minister of Transport and Communications on the basis of the types and extent of services provided in ports.

(3) The use of a port for the provision of port services without a port certificate or differently from the conditions provided therein is prohibited.

Chapter 3

Obligations of Port Authorities in Ports

§ 12. Ensuring safe vessel traffic and order in port

(1) A port authority is required to ensure:

- 1) the maintenance of hydrotechnical structures in the port area;
- 2) the installation and maintenance of navigation marks in the port area and, outside the port area, of those marks which provide services exclusively to the port;
- 3) the declared depths in the water area and entrance of the port according to the fair sheet;
- 4) supervision over the importation of dangerous goods into the port, and warehousing, storage and transshipment thereof in the port;
- 5) the cleanliness and order of the port area, and compliance with fire and safety requirements in the port territory.

(2) A port authority shall administer the reconstruction of the entrance and water area of the port, monitor the correctness of the declared information and be liable for the correctness of the declared information.

(3) A port authority shall administer the receipt of bilge water, sewage, refuse and other pollutants from ships. The Minister of Transport and Communications shall establish the corresponding procedure in consultation with the Minister of the Environment.

(4) A port authority shall organise operations for the elimination of pollution in the port area and shall inform the Ministry of the Environment of the situation and harmonise its activities with the fire and rescue service agency of its location.

(08.05.2002 entered into force 02.06.2002 - RT I 2002, 42, 267)

Chapter 4

State Supervision in Ports

§ 13. Rights of state supervisory authorities

(1) Persons exercising state supervision have a right of unrestricted access to ships, port constructions, goods and documents subject to supervision.

(2) The Maritime Administration, Border Guard Administration, Customs Board and other state supervisory agencies have the right to require that a port authority provide prior information on presumed changes in the volume of work of the port.

(3) (Repealed - 19.06.2002 entered into force 11.07.2002 - RT I 2002, 58, 363)

§ 14. State supervision over handling of dangerous goods in ports

State supervision over the receipt, processing and storage of dangerous goods in ports and release thereof from ports shall be carried out by the Maritime Administration. The requirements for the receipt, processing and storage of dangerous goods in ports and release thereof from ports shall be established by the Minister of Transport and Communications in concordance with the Minister of the Environment.

Chapter 5

Port register

§ 15. Port register

(1) The port register is a state register in which ports with a port certificate are registered.

(2) The port register is founded by a regulation of the Government of the Republic.

(3) The chief processor of the port register is the Ministry of Transport and Communications, and the authorised processor of the port register is the Maritime Administration.

Chapter 6

Public Customs Warehouses, Public Customs Terminals, Free Zones and Free Warehouses

(17.10.2001 entered into force 01.07.2002 - RT I 2001, 88, 531)

§ 16. Public customs warehouses, customs terminals, free zones and free warehouses in ports

(1) Public customs warehouses, customs terminals, free zones and free warehouses are established in ports for the promotion of commerce pursuant to the procedure established by the Customs Code.

(2) A port authority shall submit an application for the establishment of a free zone or free warehouse within the port area to the Minister of Transport and Communications.

(3) The establishment of public customs warehouses, customs terminals, free zones and free warehouses shall not result in limitation of the freedom to provide port services or the creation of conditions causing unfair competition.

(17.10.2001 entered into force 01.07.2002 - RT I 2001, 88, 531)

Chapter 6¹

(12.12.2001 entered into force 01.01.2003 - RT I 2002, 1, 1)

Liability

(12.12.2001 entered into force 01.01.2003 - RT I 2002, 1, 1)

§ 16¹. Provision of port services without port certificate

(1) Provision of port services without a port certificate or differently from the conditions provided therein 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 50 000 kroons.

(19.06.2002 entered into force 01.01.2003 - RT I 2002, 63, 387)

§ 16². Absence of port rules

(1) Absence of port rules or submission of inaccurate information in the port rules 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 50 000 kroons.

(19.06.2002 entered into force 01.01.2003 - RT I 2002, 63, 387)

§ 16³. Violation of requirements for installation and maintenance of navigation marks

(1) Violation of the requirements for the installation and maintenance of navigation marks and, outside the port area, the requirements for the installation and maintenance of those marks which provide services exclusively to the port, 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 50 000 kroons.

(19.06.2002 entered into force 01.01.2003 - RT I 2002, 63, 387)

§ 16⁴. Refusal to submit information and documents prescribed by law or submission of false information to supervisory agency

Refusal to submit information and documents prescribed by law or submission of knowingly false information to a supervisory agency by a legal person is punishable by a fine of up to 50 000 kroons.

(19.06.2002 entered into force 01.01.2003 - RT I 2002, 63, 387)

§ 16⁵. Violation of requirements for cleanliness, order, fire safety and environmental protection

(1) Failure to comply with the requirements for cleanliness, order, fire safety or environmental protection in the territory of a port 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 50 000 kroons.

(19.06.2002 entered into force 01.01.2003 - RT I 2002, 63, 387)

§ 16⁶. Proceedings

(1) The provisions of the General Part of the Penal Code (RT I 2001, 61, 364; 2002, 44, 284) and of the Code of Misdemeanour Procedure (RT I 2002, 50, 313) apply to the misdemeanours provided for in §§ 16¹ - 16⁵ of this Act.

(2) The Maritime Administration is the extra-judicial body which conducts proceedings in matters of misdemeanours provided for in §§ 16¹ - 16⁵ of this Act.

(19.06.2002 entered into force 01.01.2003 - RT I 2002, 63, 387)

Chapter 7

Implementing Provisions

§ 17. Implementation of clause 12 (1) 2) of this Act

Upon the entry into force of this Act, navigational marks in state ownership which exclusively service a port shall be transferred without charge to the port authority of the corresponding port within one year pursuant to the procedure established by the Government of the Republic.

§ 18. Constitution of right of superficies in land under port

The Government of the Republic may decide on the constitution of a right of superficies in the land under a port for the benefit of the port authority without an auction or tender without advance negotiations if the port authority is a commercial undertaking over one half of the shares or stocks of which belong to the state.

§ 19. Amendment of other legislation

The following is repealed:

1) Chapter IV “Seaports” of the Merchant Shipping Code (RT 1991, 46-48, 577; RT I 1993, 65, 923; 1995, 54, 882; 1996, 78, 1380; 1997, 77, 1315; 1998, 2, 47; 23, 321; 30, 409; 2000, 35, 221; 2001, 21, 114; 93, 565; 2002, 1, 1; 55, 345);

2) clause 14 (2) 2) of the State Borders Act (RT I 1994, 54, 902; 1997, 77, 1315; 1999, 25, 365; 2000, 86, 550; 2001, 23, 126).

§ 20. Entry into force of Act

(1) This Act enters into force on 1 January 1998.

(2) Subsection 11 (3) of this Act enters into force on 1 January 2001.

(10.11.99 entered into force 10.12.99 - RT I 1999, 88, 805)

¹ RT = *Riigi Teataja* = *State Gazette*