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## **Road Haulage Contracts Act No. 345 of 23 March 1979<sup>1</sup>**

The following is enacted by decision of Parliament:

### **Chapter 1 General provisions**

#### **Section 1**

##### **Scope of the Act**

This Act shall govern contracts for the carriage of goods by motor vehicle for reward within Finland (*domestic carriage*) or between Finland and one or more foreign States, at least one of which is a State Party to the Convention on the Contract for the International Carriage of Goods by Road (CMR; Finnish Treaty Series no. 48–50/73) (*international carriage*). This Act shall, however, not apply to international carriage that is governed by the law of another State Party to the said Convention according to the general principles of international private law.

In accordance with an agreement concluded with a State that has not acceded to the Convention referred to in subsection 1, it may be provided by Decree that the provisions of this Act shall not apply, or shall apply only in part, to motor vehicle carriage between Finland and the said State.

It may be provided by Decree that carriage of goods by motor vehicle in local frontier traffic between Finland and a foreign State with which this has been agreed on condition of reciprocity shall be equated in whole or in part with domestic carriage.

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<sup>1</sup> Incorporating amendments up to and including no. 1120 of 15 December 2000. –Tr.

## **Section 2**

### **Limitations of scope**

This Act shall not apply to funeral consignments or to the carriage of postal consignments performed by a postal and telegraph institution.

The Act shall also not apply to motor vehicle carriage that is governed by the international convention concerning the carriage of goods by rail (CIM) or the Rail Haulage Act (*rautatiekuljetuslaki*, no. 1119 of 2000). (Amendment no. 1120 of 15 December 2000)

## **Section 3**

### **Motor vehicle**

For the purposes of this Act, *motor vehicle* shall mean any vehicle or device that is intended to travel by road under its own engine power.

The provisions of this Act governing motor vehicles shall also apply to trailers and semi-trailers.

## **Section 4**

### **Combined carriage**

If a motor vehicle is conveyed for part of the journey on a vessel, by rail or on an aircraft without unloading the goods referred to in the contract of carriage, then this Act shall also govern the carriage with respect to this part of the journey. This Act shall also apply if, during conveyance of the said kind, the goods are unloaded from the motor vehicle because performance of the contract in the agreed manner by means of the motor vehicle has proved impossible.

If it is shown that, when conveying a motor vehicle and goods on another means of conveyance in the manner referred to in subsection 1, the goods have been lost in whole or in part or damaged, or their delivery has been delayed for a reason that could only have been due to the circumstances of such conveyance and was not due to the carrier of the goods by road, then the liability of the said carrier shall be determined, however, in accordance with the provisions governing the means of

conveyance used, provided that no exception to these provisions can be agreed to the benefit of the carrier.

## **Section 5**

### **Peremptory character of provisions**

Any term or condition of a contract of carriage in international carriage that fails to comply with the provisions of this Act shall be null and void.

No exception may be made to the provisions of this Act in domestic carriage unless such exception is made reasonable on account of the exceptional nature of the goods or carriage or of other special circumstances.

## **Chapter 2**

### **The contract of carriage**

#### **Section 6**

##### **Preparation of the consignment note**

A contract of carriage in international carriage shall be confirmed with a consignment note. The same shall apply to domestic carriage unless the sender and the carrier agree that no consignment note is prepared, or if preparation of a consignment note will cause particular harm or is not customary in the carriage concerned.

The agreement shall be valid and subject to the provisions of this Act, even if no consignment note has been prepared or lacks the prescribed content.

If goods are to be loaded onto various motor vehicles, or are of varying type or divided into various lots, then the sender or carrier may require the preparation of a separate consignment note for each vehicle load, type of goods or lot of goods.

#### **Section 7**

##### **Number of consignment notes and their signature**

A consignment note in international carriage shall be completed in three original copies, which shall be signed by the sender and the carrier. The first copy shall be retained by the sender (*the sender's copy*), the second shall accompany the goods (*the consignee's*

copy), and the third shall be retained by the carrier.

At the request of the carrier or the sender the consignment note in domestic carriage shall be prepared in several original copies. The consignment note shall be signed by the carrier.

The signatures on a consignment note prepared in Finland may also be printed or stamped. The signature on other consignment notes shall be governed by the law of the State in which the consignment note was prepared.

## **Section 8**

### **Contents of a consignment note in domestic carriage**

A consignment note prepared for domestic carriage shall specify:

- 1) the name and address of the sender;
- 2) the name and address of the carrier;
- 3) the place and date of receiving the goods for transportation, and the destination;
- 4) the name and address of the consignee;
- 5) the number of packages, together with their special markings and numbers or a corresponding description of the goods;
- 6) the gross weight of the goods or their quantity otherwise expressed; and
- 7) a generally recognised description of dangerous goods.

At the request of the sender or of the carrier, the consignment note shall include the entry referred to in paragraphs 1, 6, 9 and 10 of subsection 1 of section 9 or in subsection 2 of the said section. The concerned parties may enter in the consignment note any other particulars that they may deem useful.

## **Section 9**

### **Contents of a consignment note in international carriage**

A consignment note in international carriage shall specify:

- 1) the place and date of preparing the consignment note;
- 2) the name and address of the sender;
- 3) the name and address of the carrier;
- 4) the place and date of receiving the goods for transportation, and the destination;
- 5) the name and address of the consignee;
- 6) a commonly used description of the type of goods and the method of packing, and a generally recognised description of dangerous goods;
- 7) the number of packages, together with their special markings and numbers;
- 8) the gross weight of the goods or their quantity otherwise expressed;
- 9) the charges relating to the carriage, such as carriage charges, supplementary charges, customs duties and other charges incurred while preparing the contract<sup>2</sup> and delivering the goods;
- 10) the instructions required for customs and other formalities; and
- 11) an entry stating that the carriage is governed by the Convention referred to in subsection 1 of section 1 or by a law that accords with the said Convention, notwithstanding any agreement to the contrary.

The following entries shall be made on the consignment note where necessary:

- 1) a statement prohibiting transshipment;
- 2) the charges that the sender undertakes to defray;

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<sup>2</sup> There appears to be a misprint in the source text at this point. The translation assumes that the legislator intended to enact a provision corresponding to subparagraph (i) of paragraph 1 of Article 6 of the CMR. –Tr.

- 3) the amount of COD charges;
- 4) a declaration of the value of the goods in accordance with section 33, and of the amount representing special interest in delivery in accordance with subsection 2 of section 35;
- 5) the sender's instructions to the carrier regarding insurance of the goods;
- 6) the agreed time limit within which the carriage will be completed; and
- 7) a list of the documents provided to the carrier.

The concerned parties may also enter other details in the consignment note.

## **Chapter 3**

### **Rights and duties of the contracting parties**

#### **Section 10**

##### **Liability of the carrier for assistants**

The carrier shall be liable for the conduct of persons acting in the carriage as servants or agents of the carrier in the performance of carriage duties in the same way as for any actions or omissions of his own.

#### **11 §**

##### **Liability for the contents of a consignment note**

The sender shall be liable for any costs or damage caused to the carrier due to any error or omission in the information or instructions that the sender has entered or submitted for entry in the consignment note.

If the carrier has entered the information or instruction referred to in subsection 1 in the consignment note at the sender's request, then the carrier shall be deemed to have done so on the sender's behalf unless otherwise shown.

If the consignment note does not contain the statement referred to in paragraph 11 of subsection 1 of section 9, then the carrier shall

be liable for all costs and damage sustained through such omission by the person entitled to dispose of the goods.

## **Section 12**

### **Carrier's duty of inspection**

If a consignment note has been prepared, then on receiving the goods for conveyancing the carrier shall check whether the number of packages, markings and numbers correspond to the details entered on the consignment note. If the carrier is not reasonably able to check these details, or if the carrier suspects that the details provided in the consignment note are incorrect, then the carrier shall enter a reservation to this effect on the consignment note and at the same time notify the grounds for so doing.

The carrier shall also check the observable condition of the goods and packaging and shall enter on the consignment note any reservations that the carrier deems warranted in this respect and the grounds for these reservations. If no consignment note is used in domestic carriage, then the carrier shall, when the circumstances do not otherwise dictate, check the observable condition of the goods and packaging and notify the sender of any reservations that the carrier deems warranted.

A carrier in domestic carriage shall have no duty to inspect the contents of a trailer, semi-trailer, container or other transportation vessel that has been loaded by the sender.

The sender may require the carrier to check the gross weight of the goods or their quantity otherwise expressed, and the contents of packages. The carrier shall be entitled to claim compensation for the costs incurred in any such checking. The result of such checking shall be entered in any consignment note that is prepared.

## **Section 13**

### **Probative force of the consignment note**

The consignment note shall be *prima facie* evidence of the terms and conditions of a contract of carriage and of receipt of the goods

by the carrier.

If the sender has, by an entry on the consignment note or, in the event that no consignment note has been prepared in domestic carriage, otherwise explicitly approved the reservation referred to in subsections 1 or 2 of section 12, then the said reservation shall bind the sender.

Unless the carrier has entered a reservation and the grounds for the said reservation in the consignment note, or unless otherwise shown, the observable condition of the goods and packaging at the time of receiving the goods for carriage shall be deemed to have been good. The number of packages, together with their markings and numbers shall be deemed to have complied with the entries in the consignment note. When a carrier in domestic carriage that takes place without a consignment note has a duty to inspect the observable condition of the goods and packaging, and has failed to make any reservation in the prescribed manner, the observable condition of the goods and packaging shall be deemed to have been good unless otherwise shown.

A consignment note shall lack the probative force referred to in subsection 3 of this section in the case referred to in subsection 3 of section 12.

#### **Section 14** **Defective packaging**

The sender shall be liable to compensate the carrier for damage and costs that are caused to persons, motor vehicles equipment or other goods by defective packaging of the goods. No liability for compensation shall arise, however, if the defect was apparent or known to the carrier at the time of accepting the goods for carriage and the carrier made no reservations concerning the defect. A private individual serving as sender in domestic carriage shall nevertheless be liable to compensate for damage only to the extent that this is due to the error or negligence of the said individual.

#### **Section 15**

## **Dangerous goods**

If a sender provides goods of a dangerous nature for carriage, then the sender shall inform the carrier of the precise nature of the danger and, if necessary, also of the precautions to be taken. If this information has not been entered in the consignment note, then the sender or the consignee shall otherwise ensure that the carrier knows the special nature of the danger involved in transporting the goods.

A carrier who was unaware of the dangerous nature of the goods may, without liability for compensation, at any time and place, unload the goods or, if it cannot reasonably be presumed that the danger could be prevented by lesser measures, destroy the goods or render them harmless. The sender shall compensate the carrier for the costs and damage incurred in submitting dangerous goods for carriage and in carrying such goods. A private individual serving as sender in domestic carriage shall nevertheless be liable to compensate for damage only to the extent that this is due to the error or negligence of the said individual.

## **Section 16**

### **Documents to be provided to the carrier and liability for them**

The sender shall furnish the carrier with the documents and information that are required for compliance with customs and other official regulations that must be observed before delivering the goods to the consignee.

The sender shall be liable to the carrier for damage caused by the absence, inadequacy or inaccuracy of the documents and information referred to in subsection 1, unless the damage was caused by some error or negligence on the part of the carrier. The carrier shall have no duty to investigate whether the documents and information are correct and complete.

The carrier shall be liable for damage arising from any loss or incorrect use of documents assigned for the carrier's use, unless the carrier shows that the damage was not due to any error or negligence on the part of the carrier. The carrier shall nevertheless

not be liable for compensation exceeding the compensation payable in the event of loss of the goods.

## **Section 17**

### **Right to dispose of goods in transit**

The sender shall be entitled to dispose of goods in transit by instructing the carrier to discontinue the carriage, change the destination, or deliver the goods to a consignee not previously specified, or by issuing other similar instructions.

The sender's right to dispose of the goods shall end when the consignee demands delivery of the goods in accordance with section 20 or, in international carriage, when the consignee's copy of the consignment note is surrendered to the consignee. The carrier shall thereafter comply with the instructions of the consignee.

The consignee shall nevertheless be entitled to dispose of the goods from the time of preparing the consignment note if the consignment note includes an entry to this effect.

If the consignee, on exercising the right of disposal, has ordered delivery of the goods to another person, then the said other person shall not be entitled to designate another consignee.

## **Section 18**

### **Exercise of the right of disposal**

The person entitled to dispose of the goods shall be liable to compensate for costs and damage caused to the carrier in complying with the said person's instructions.

The carrier shall have no duty to comply with instructions issued pursuant to a right of disposal if performance of the said instructions is not possible at the time when the instructions reach the person who performs them, or if compliance with the instructions will impede the carrier's regular operations or cause damage to the sender or consignee of another consignment of goods. The carrier shall immediately notify the issuer of instructions that the carrier cannot comply with the instructions. The carrier shall also have no duty to comply with instructions that

would result in a division of the consignment.

A sender in international carriage, or a consignee in the cases referred to in subsection 3 of section 17, who wishes to exercise the right to dispose of the goods shall enter the instructions on the sender's copy of the consignment note and submit this to the carrier.

### **Section 19**

#### **Liability for failing to comply with an instruction**

A carrier who fails to comply with instructions that the carrier must observe in accordance with sections 17 and 18, or who complies with an instruction in international carriage without requiring presentation of the sender's copy of the consignment note, shall be liable for any damage thereby arising.

### **Section 20**

#### **Delivery of the goods**

When the goods have arrived at their destination the consignee shall be entitled to require the carrier to deliver the goods to him against a receipt together, in international carriage, with the consignee's copy of the consignment note. In domestic carriage the copy of the consignment note intended for the consignee shall be submitted to the consignee. If the loss of the goods established, or if the goods have not arrived after the expiry of the period referred to in subsection 2 of section 27, then the consignee may address claims to the carrier based on the contract of carriage.

A consignee who exercises the right afforded thereto under subsection 1 shall remit the sums that are payable under the contract of carriage. The duty of payment in international carriage shall comprise the sum specified in the consignment note. In the event of a dispute concerning the sum payable by the consignee, the carrier shall have no duty to deliver the goods unless the consignee furnishes a security.

### **21 §**

#### **Liability of the carrier to collect COD charges**

If goods have been delivered to the consignee without collecting

the COD charge that the carrier should have collected under the contract of carriage, then the carrier shall compensate for damage caused to the sender in an amount not exceeding the COD charge, without prejudice to the carrier's claim against the consignee for the sum of compensation so paid.

## **Section 22**

### **Impediments to performance of carriage**

If, before the goods reach the destination, it becomes evident that the carrier is unable to perform the agreement in accordance with the consignment note or, in domestic carriage, in the agreed manner, then the carrier shall request instructions from the person who is entitled to dispose of the goods in accordance with sections 17 and 18.

In the event that the circumstances allow performance of the carriage in some manner other than was originally agreed and the carrier is unable to obtain the instructions referred to in subsection 1 within a reasonable time, then the carrier shall take such measures as the carrier understands will best serve the interests of the person entitled to dispose of the goods.

## **Section 23**

### **Impediments to delivery of the goods**

Where circumstances prevent delivery of the goods after their arrival at the destination, the carrier shall ask the sender for instructions. If the consignee in international carriage refuses the goods, then the sender shall be entitled to dispose of the goods without presenting the sender's copy of the consignment note

Even after refusing the goods, the consignee may require their delivery up to the time when the carrier receives instructions to the contrary from the sender.

If an impediment to delivery of the goods arises after the consignee, pursuant to subsection 3 of section 17, has issued an order for the goods to be delivered to another person, then subsections 1 and 2 shall apply as if the consignee were the sender and the said other person were the consignee.

## **Section 24**

### **Costs incurred by instructions**

The carrier shall be entitled to recover the costs incurred in obtaining or complying with the instructions referred to in sections 22 or 23, unless these expenses were the result of some error or negligence on the part of the carrier.

## **Section 25**

### **Carrier's duty of care for the goods**

If it becomes evident during the carriage that performance of the carriage is not possible, or in the event of some impediment to delivering the goods at the destination, the carrier may unload the goods on behalf of the person who is entitled to do so. The carriage shall be deemed to end after the goods have been unloaded, but the carrier shall hold the goods on behalf of the person so entitled. The carrier may, however, entrust the goods to a third party, and shall then be liable only for exercising due care in selecting the said party. The goods may continue to be held as security for the sums that are payable according to the consignment note in international carriage and under the contract of carriage in domestic carriage, together with other receivables arising from the carriage assignment.

## **Section 26**

### **Carrier's right to sell the goods**

In the cases referred to in sections 22 and 23 the carrier may sell the goods without waiting for the instructions referred to in the said statutes if the goods are perishable or their condition otherwise warrants such a measure, or if the costs of storing the goods would be disproportionate to their value. The carrier may also sell the goods under other circumstances on receiving an instruction with which the carrier cannot reasonably be deemed liable to comply and receiving no further instructions within a reasonable period.

The sale of goods in Finland shall be performed by public auction or in some other manner that safeguards the interests of the person entitled to the goods. The carrier shall, where possible, notify the person entitled to the goods well in advance of the time

and place of the sale. The sale of goods outside of Finland shall be performed in accordance with the regulations of the State in which the goods are situated.

When the goods have been sold, the sale price shall be remitted to the entitled person after deducting the expenses chargeable against the goods and incurred in their sale. If the said expenses exceed the sale price, then the carrier shall be entitled to compensation for the shortfall.

## **Chapter 4**

### **Liability of the carrier**

#### **Section 27**

#### **Conditions of liability**

The carrier shall be liable for the total or partial loss of the goods and for damage occurring thereto between the time when the carrier receives the goods for carriage and the time of delivery. The carrier shall also be liable for damage caused by any delay in delivery.

Delivery of the goods has been delayed if the goods have not been delivered within the agreed time limit. If no particular time for delivering the goods has been agreed, then delivery has been delayed when the actual duration of carriage exceeds the time that a diligent carrier reasonably requires for the carriage under the circumstances. Particular attention shall be paid in the case of a partial load to the time that is normally required to make up the complete load.

#### **Section 28**

#### **Grounds for discharge from liability**

The carrier shall not bear the liability referred to in section 27 if the carrier shows that the loss, damage or delay in delivery was due to an error or negligence of the sender or of the consignee, to their instructions issued otherwise than as the result of an error or negligence on the part of the carrier, to a quality defect in the goods, or to circumstances that the carrier could not avoid and the consequences of which the carrier was unable to prevent.

The carrier shall not be relieved of liability by reason of the defective condition of the motor vehicle used by the carrier for performing the carriage, or by reason of the error or negligence of the person from whom the carrier may have hired the motor vehicle, or of the agents or servants of the said person.

## **Section 29**

### **Liability for special danger in carriage**

The carrier shall also not bear the liability referred to in section 27 if the loss or damage is due to a special risk inherent in one more of the following circumstances:

- 1) Use of open unsheeted motor vehicles when such use has been expressly agreed and specified in the consignment note, or when the sender has approved such use in domestic carriage;
- 2) The lack of, or defective condition of packing in the case of goods which, by their nature, are prone to wastage or damage when not packed or when not properly packed;
- 3) Handling, loading, stowage or unloading of the goods by the sender, the consignee or some other person acting on their behalf;
- 4) The particular susceptibility of certain kinds of goods to total or partial loss or to damage, especially through breakage, rust, decay, desiccation, leakage, normal wastage, or the actions of insect pests or other vermin;
- 5) Incomplete or incorrect marking or numbering of goods; or
- 6) The carriage of livestock.

If the carrier shows that under the prevailing circumstances the loss or damage could have been caused by a risk referred to in subsection 1, then the damage shall be presumed to have been so caused unless otherwise shown. This presumption shall not apply, however, if an abnormally large loss or the loss of an entire package has occurred in the circumstances set out in paragraph 1 of subsection 1.

If the carriage is performed using a motor vehicle that is specially equipped to protect the goods from the effects of heat, cold, variations in temperature or the humidity of the air, then the carrier shall be entitled to claim discharge from liability pursuant to paragraph 4 of subsection 1 only if the carrier shows that all steps incumbent on the carrier under the circumstances with respect to the choice, maintenance and use of such equipment were taken, and that the carrier complied with all of the special instructions received by the carrier.

The carrier may claim discharge from liability pursuant to paragraph 6 of subsection 1 only if the carrier shows that all steps normally incumbent on the carrier under the circumstances were taken and that the carrier complied with all special instructions received by the carrier.

### **Section 30**

#### **Damage arising for more than one reason**

If any loss, damage or delay in delivery of goods is affected by several reasons, for some of which the carrier is not liable pursuant to sections 28 or 29, then the carrier shall be liable to the extent that reasons for which the carrier is liable have affected the loss, damage or delay in delivery of goods.

### **Section 31**

#### **Loss of goods**

If the goods have not been delivered within thirty days in international carriage, or within fourteen days in domestic carriage, of the expiry of the agreed time-limit or, where no time limit has been agreed, within sixty days in international carriage, or within twenty-eight days in domestic carriage, of the time when the carrier received the goods for carriage, then the party who is entitled to require delivery of the goods may claim compensation as if the goods had been lost.

The person who is entitled to compensation for lost goods in international carriage may, on receipt of compensation, request in writing that he shall be notified immediately in the event that the goods are recovered. The carrier shall provide written confirmation

that such a request has been made. Recovery of the goods shall be notified in domestic carriage unless the person entitled to compensation has, on receipt of compensation, accepted in writing that no such notification will be made.

Within the thirty days of receiving such notification the person entitled to compensation may require the goods to be delivered to him against payment of the sums that are due according to the consignment note in international carriage and according to the contract of carriage in domestic carriage, and also against refund of the compensation that the said person received after deducting any expenses included therein. The said party shall nevertheless retain the right to compensation for delayed delivery.

If the carrier has no duty to notify recovery of the goods pursuant to subsection 2, or if the claim for delivery of goods referred to in subsection 3 has not been submitted within the time limit prescribed in the said subsection, then the carrier shall, if the goods are in Finland, be entitled to dispose of them subject to any limitations arising from the rights of a third party. Goods that are outside of Finland shall be governed by the law of the State in which the goods are situated.

## **Section 32**

### **Compensation payable for loss of goods**

The compensation payable for loss of goods shall be reckoned according to the value of the goods at the place and time at which they were accepted for carriage. The value shall be reckoned according to the fair price of the goods. If the goods have a commodity exchange or market price, however, their value shall be reckoned according to this price.

The liability of a carrier in domestic carriage carrier shall be limited to EUR 20 per kilogram of gross weight missing. The maximum liability may be revised by Decree of the Council of State in line with changes in currency value. (Amendment no. 1120 of 15 December 2000)

Compensation in international carriage may not exceed 8.33

Special Drawing Rights determined by the International Monetary Fund per kilogram of gross weight missing. If the compensation is determined for payment in some other currency, then conversion to this currency shall be determined at the official exchange rate on the day of determining the compensation. (Amendment no. 1120 of 15 December 2000)

The carriage charges, customs duties and other costs incurred in carriage of the goods shall also be refunded. They shall be refunded in full if the goods have been lost. Otherwise they shall be refunded in proportion to the loss of goods.

### **Section 33**

#### **Declared value of goods**

If the sender has declared a higher value of goods in the consignment note than the value referred to in subsections 2 or 3 of section 32 and has paid the agreed surcharge, then the value declared in the consignment note shall be applied in lieu of the value reckoned according to the said provisions.

### **Section 34**

#### **Compensation payable for damage to goods**

If the goods have been damaged, then the carrier shall compensate for the loss in their value, reckoned on the basis of the value of the goods as determined in accordance with subsections 1 and 4 of section 32.

The compensation shall not, however, exceed the sum that would have been payable if the entire consignment had been lost or, where only part of the consignment has depreciated in value due to damage, if the said part of the consignment had been lost.

### **Section 35**

#### **Compensation payable for delayed delivery**

The carrier shall compensate for damage that has been shown to have occurred due to a delay in delivery, but to an extent not exceeding a sum corresponding to the consignment.

By paying an agreed surcharge the sender may declare in the consignment note the monetary amount corresponding to a special

interest in correct delivery of the goods as a precaution in the event of loss or damage of the goods, or of failure to deliver the goods within the agreed time limit. If a declaration of a special interest in delivery has been made in this way, then compensation may be claimed for any proven additional loss or damage exceeding the compensation prescribed in sections 32-34 and in subsection 1 of section 35, up to the total amount of the interest declared.

### **Section 36**

#### **Interest and conversion of foreign currency**

A claimant shall be entitled to claim lawful interest in domestic carriage and five per cent interest per annum in international carriage on any compensation payable, reckoned from the date on which a written claim for compensation was sent to the carrier or, if no such claim has been submitted, from the date on which legal proceedings were instituted.

If compensation is claimed in a currency that is not legal tender in the country where the payment is remitted, then the sum payable shall be converted into the currency of the said country according to its value on the day of payment.

### **Section 37**

#### **Non-contractual compensation claims**

The provisions of this Act governing discharge from or limitation of carrier liability or the amount of compensation shall apply in all cases where compensation is claimed from a carrier, or from some other person for whose conduct the carrier is liable pursuant to section 10, for any loss or damage of goods or for any delay in delivery, even when the action is not based on a contract of carriage.

Any determination of the liability of servants or agents of the carrier for damages shall also comply with the provisions of the Tort Liability Act (*vahingonkorvauslaki*, no. 412 of 1974).

### **Section 38**

#### **Intent and gross carelessness**

A carrier shall not be entitled to rely on the provisions of this chapter that exclude or limit carrier liability or shift the burden of proof if the damage was caused by the carrier intentionally or through gross carelessness on the part of the carrier.

The provisions of subsection 1 shall also apply when a person for whose conduct the carrier is liable pursuant to section 10 is guilty of acting intentionally or with gross carelessness. A person for whom the carrier is liable may not rely on the provisions of subsection 1 in order to limit personal liability in such cases.

## **Chapter 5**

### **Adjustment of compensation**

#### **Section 39**

##### **Adjustment in domestic carriage**

If a sender in domestic carriage or, unless such carriage is professional carriage of goods, a carrier has been found liable for compensation in accordance with this Act, then the compensation may be adjusted if it is considered to be unreasonably severe or if it is considered reasonable that the damaged party should suffer the damage in whole or in part, having regard to the amount of damage, the insurance coverage taken out, the opportunities for insurance and the other circumstances of the case, or for a special reason. Compensation shall nevertheless be payable in full for damage that has been intentionally caused, unless it is considered reasonable to reduce the compensation for a special reason.

The provisions of subsection 1 concerning adjustment of the liability of a sender to pay compensation shall correspondingly apply if compensation is claimed from another person for whose conduct the sender or the carrier is liable.

## **Chapter 6**

### **Reminders, statute barring and institution of proceedings**

#### **Section 40**

##### **Objections**

*Subsection 1 was repealed by Act no. 208 of 25 February 1983.*

If a consignee receives goods in international carriage without checking their condition with the carrier and without submitting any objection to the carrier indicating the nature of loss or damage, then this shall constitute *prima facie* evidence that the goods were in the condition specified in the consignment note when the consignee received them. If the loss or damage is externally apparent, then the consignee shall submit the said objection no later than when the goods are delivered. Otherwise the objection shall be submitted within seven days of the delivery, excluding Sundays and public holidays. If the loss or damage is not externally apparent, then the objection shall be submitted in writing.

If the consignee and the carrier in international carriage have jointly inspected the condition of the goods, then evidence contradicting the result of this inspection may only be submitted in the case of loss or damage that was not externally apparent, and provided that the consignee has submitted a written objection to the carrier within seven days of the inspection, excluding Sundays and public holidays.

No compensation shall be payable for delayed delivery in international carriage unless the consignee has submitted a written objection to the carrier within twenty-one days of the day on which the goods were placed at the disposal of the consignee.

Neither the date of delivery, nor the date of inspection or the date when the goods were placed at the disposal of the consignee shall be included when reckoning the time limits referred to in this section.

The carrier and the consignee shall give each other every reasonable facility for performing the required inspections.

**Section 40 a (Amendment no. 208 of 25 February 1983)  
Objection concerning loss, damage and delay in domestic carriage**

An objection in domestic carriage concerning loss or damage of goods must be submitted to the carrier when receiving the goods if

the loss or damage was externally apparent, and otherwise in writing within seven days of receipt or of an inspection of the condition of the goods performed jointly by the carrier and the consignee. Sunday and public holidays shall be excluded when reckoning the time limit. A written objection concerning delayed delivery of goods shall be submitted within twenty-one days of the date when the goods were placed at the disposal of the consignee.

If the consignee is a consumer in the sense of section 4 of chapter 1 of the Consumer Protection Act (*kuluttajansuojalaki*, no. 38 of 1978), then the objection shall be submitted within a reasonable time of receiving the goods.

The right to institute proceedings shall be forfeit in the event of failure to submit the objection referred to in this section unless the carrier, or a person for whose conduct the carrier is liable pursuant to section 10, is guilty of intentional misconduct or grossly careless conduct.

The provisions of subsections 4 and 5 of section 40 shall govern the reckoning of time limits and the performance of necessary examinations in applicable respects.

## **Section 41** **Statute barring**

Proceedings concerning carriage referred to in this Act shall be instituted within one year, or within three years where the cause of action is intentional misconduct or grossly careless conduct. This time limit shall commence:

- 1) in the case of partial loss, damage or delay in delivery, on the day of delivery;
- 2) in the case of total loss, within thirty days of the agreed day of delivery or, where no day of delivery was agreed, within sixty days of the date on which the goods were received by the carrier for carriage; and
- 3) otherwise within three months of concluding the contract of carriage.

A written claim in international carriage shall interrupt statute barring until such date as the carrier submits a written rejection of the claim and returns the documents appended to the claim. If the claim is conceded in part, then the period of statute barring shall continue to run again only in respect of the part of the claim that is still contested. The burden of proving receipt of a claim or of the reply thereto and return of the documents shall rest with the party that relies upon these facts. Statute barring shall not be interrupted by renewed submission of a claim with the same object.

If proceedings are instituted in a Finnish court, then the provisions of Finnish law governing interruption and extension of the period of statute barring shall otherwise apply. Other cases shall be governed by the law of the State in which proceedings have been instituted.

A right of action which has become barred by lapse of time may not be exercised by way of counterclaim or set-off.

**Section 42** (Amendment no. 1120 of 15 December 2000)

**Court with competent jurisdiction**

Proceedings concerning international carriage may only be heard either in a State Party to the Convention referred to in subsection 1 of section 1 pursuant to an agreement of the concerned parties, or in a State where

- 1) the respondent is domiciled or maintains its principal place of business;
- 2) the respondent maintains the branch establishment or agency through which the contract of carriage was concluded;
- 3) the goods were received for carriage; or
- 4) the destination is located.

In addition to provisions elsewhere in the law, proceedings in Finland concerning the carriage referred to in this Act may also be heard in the District Court of the destination or of the district where

the goods were received for carriage. Proceedings may be heard in the District Court of Helsinki if no other court with competent jurisdiction exists.

### **Section 43**

#### **Enforcement of judgement issued abroad**

If the proceedings referred to in subsection 1 of section 42 are pending before a court with competent jurisdiction, or if such a claim has been settled by such a court, then no new action shall be instituted between the same concerned parties on the same grounds if the judgement of the court in which the first proceedings were instituted is enforceable in Finland.

When the judgement referred to in subsection 1 of this section issued by a court of a foreign State Party to the Convention referred to in subsection 1 of section 1 has become enforceable in the said State, the judgement may, even when issued in the absence of a concerned party, be enforced in Finland on an application submitted in the order prescribed below. These provisions shall govern any amicable settlement confirmed by a court, but shall not apply to interim judgements or to awards of damages and costs against a plaintiff whose action has failed in whole or in part.

Applications for enforcement shall be submitted to the Appeal Court of Helsinki. The following documents shall be appended to the application:

- 1) the original judgement or a copy thereof certified by a public authority;
- 2) a certificate from the competent authority of the State where the judgement was issued, specifying that the judgement pertains to a dispute arising from carriage governed by the Convention referred to in subsection 1 of section 1, and that the judgement has become legally final and enforceable in the said State.

A certificate specifying the competence of the authority issuing the document shall be entered in or appended to the said documents. This certificate shall be issued by a Finnish mission or consul, or

by the head of judicial administration in the State where the judgement was issued. A translation into Finnish or Swedish shall be appended to any document that is not in the Finnish, Norwegian, Swedish or Danish language. The translation shall be certified by a diplomatic or consular authority, or by a Finnish sworn translator<sup>3</sup>.

Consent may not be given to an application for enforcement before the opposing party has had an opportunity to express an opinion on the application.

If consent is given to the application, then the judgement shall be enforced in the same way as a legally final judgement of a Finnish court, unless otherwise ordered by the Supreme Court pursuant to an appeal against the judgement of the Court of Appeal.

## **Section 44** **Arbitration**

An agreement on international carriage may only contain a clause conferring competence on an arbitration tribunal if it also requires the tribunal to apply the Convention referred to in subsection 1 of section 1 or a law that accords with the said Convention.

## **Chapter 7** **Carriage performed by successive carriers**

### **Section 45** **Successive carriage**

If several carriers successively perform the carriage pursuant to a contract of carriage that has been confirmed by a consignment note prepared in several original copies, with the consignee's copy accompanying the goods, then each of the carriers shall be liable for the entire carriage. The second and subsequent carrier shall become a party to the contract of carriage under the terms and conditions specified in the consignment note on receiving the

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<sup>3</sup> This reference is outdated. At the time of the present translation the role of a sworn translator (*valantehnyt kielenkääntäjä*) may be performed by a licensed translator (*virallinen kääntäjä*) or by an authorised translator (*auktorisoitu kääntäjä*), pursuant to section 25 of the Authorised Translators Act (*Laki auktorisoiduista kääntäjistä*, no. 1231 of 2007). From 1 January 2013 only an authorised translator may perform the said role. –Tr.

goods and the consignment note.

### **Section 46**

#### **Receipt of goods from another carrier**

A carrier who receives goods from a previous carrier shall give the latter a dated and signed receipt and shall enter his own name and address on consignee's copy of the consignment note. If there is cause for making the reservation referred to in subsections 1 and 2 of section 12, then the carrier shall enter the reservation on the said copy of the consignment note and on the receipt. The provisions of section 13 shall govern liability relationships between carriers.

The provisions of subsection 1 shall govern domestic carriage only if one of the carriers so requires.

### **Section 47**

#### **Institution of proceedings based on successive carriage**

Proceedings in respect of liability for loss, damage or delay may only be brought against the first carrier, the last carrier or the carrier who was performing that portion of the carriage during which the event causing the loss, damage or delay occurred. Proceedings may be brought against several of the said carriers at the same time.

The provisions of subsection 1 shall nevertheless not apply to counterclaims or claims for setoff based on the same contract of carriage.

### **Section 48**

#### **Division of liability for compensation between carriers**

A carrier who has paid compensation pursuant to this Act may recover such compensation, together with interest and expenses, from the other carriers involved in the carriage, as follows:

- 1) A carrier who caused the damage alone shall be liable for the compensation;
- 2) If several carriers caused the damage, then each of them shall pay compensation in proportion to his liability or, if it is not possible

to determine liability between them, in proportion to the share of payment for the carriage that is due to him; and

3) If it cannot be shown which of the carriers are liable for the damage, then the duty to pay compensation shall be divided between the carriers in proportion to the share of payment for the carriage that is due to them.

If one of the carriers is insolvent, then the unpaid share of the compensation due from him shall be divided among the other carriers in proportion to the share of the payment for the carriage due to them.

The carriers may agree on provisions other than those prescribed in subsections 1 and 2.

## **Section 49**

### **Implementation of claim for recourse**

No carrier against whom a claim is made under section 48 shall be entitled to contest the duty of the carrier making the claim to pay the compensation remitted if the amount of compensation was determined by a court and the former carrier was given due notice of the proceedings and afforded an opportunity to participate therein.

Proceedings concerning a claim under section 48 in international carriage may be initiated before the court of competent jurisdiction of a State in which one of the carriers against whom the proceedings are addressed is domiciled, or maintains a principal place of business or the branch establishment or agency through which the contract of carriage was concluded. All of the said carriers may be respondents in the same proceedings. The provisions of section 42 shall correspondingly apply in such a case.

The provisions of section 41 and of subsections 2-6 of section 43 shall correspondingly govern claims for recourse between carriers. The period of statute barring shall begin to run either from the day on which the judgement on compensation payable becomes legally final, or, if there is no such judgement, from the date when

the payment was remitted.

## **Chapter 8 Miscellaneous provisions**

### **Section 50**

#### **Nuclear damage**

Nuclear damage shall be governed by the provisions of the Nuclear Liability Act (*atomivastuulaki*, no. 484 of 1972).

### **Section 51**

#### **Entry into force**

This Act shall enter into force on 1 June 1979 and shall govern contracts of carriage that are concluded after this date. The Act shall not apply, however, to agreements concluded before 1 June 1980 on the carriage of raw timber, firewood, wood chips, peat, extractable land resources, household waste or snow, nor the carriage by tractor of goods that the owner needs for the practice of agriculture by the said owner.

This Act shall repeal sections 2-9 of the Act approving certain regulations of the Convention on the Contract for the International Carriage of Goods by Road done at Geneva on 19 May 1956 and on the application of the said Convention (*Laki tavarain kansainvälisessä tiekuljetuksessa käytettävästä rahtisopimuksesta Genevessä 19 päivänä toukokuuta 1956 tehdyn yleissopimuksen eräiden määräysten hyväksymisestä ja sanotun yleissopimuksen soveltamisesta*, no. 667 of 1973).

#### **Entry into force and application of amending statutes:**

##### **Amendment no. 208 of 25 February 1983:**

This Act shall enter into force on 1 April 1983.

The Act shall govern carriage beginning after the entry into force of this Act.

Government bill no. 248 of 1982, Report of the Committee for Transport and Communications no. 7 of 1982, Report of the Grand Committee no. 267 of 1982

**Amendment no. 1120 of 15 December 2000:**

This Act shall enter into force on 1 June 2001.

Subsection 2 of section 32 of this Act shall govern any agreement concluded after its entry into force.

Government bill no. 81 of 2000, Report of the Committee for Ordinary Law no. 9 of 2000, Parliamentary reply no. 159 of 2000