

Translation from Finnish

Legally binding only in Finnish and Swedish

Ministry of the Environment, Finland

Act on the Remediation of Certain Environmental Damages

(383/2009, amendments up to 1404/2019 included)

In accordance with the decision of Parliament, the following is enacted:

Chapter 1

General provisions

Section 1

Scope of application

This Act shall apply to remediation of the following types of damage caused to the environment:

- 1) damage to protected species and natural habitats referred to in section 5a of the Nature Conservation Act (1096/1996);
- 2) substantial contamination of groundwater referred to in section 137, subsection 2 or substantial pollution of a water body referred to in section 176 of the Environmental Protection Act 527/2014); and (558/2014)
- 3) considerable harmful change in a water body or groundwater referred to in chapter 14, section 6 of the Water Act (587/2011). (601/2011)

This Act shall not apply if the damage has been caused by:

- 1) an exceptional natural phenomenon;
- 2) a measure whose sole purpose is to protect against natural disasters;
- 3) a measure whose primary purpose is national defence or international security;
- 4) an incident to which chapters 10, 10a and 11 of the Maritime Act (674/1994) apply; (1404/2019)

Subsection 4 amended by Act 1404/2019 enters into force on a date to be laid down by decree. The previous wording was:

- 4) an incident to which chapters 10 and 10a of the Maritime Act (674/1994) apply;
- 5) an activity governed by the Nuclear Liability Act (484/1972).

Section 2

Reference to other legislation

Provisions on remediation are laid down in the Nature Conservation Act, Environmental Protection Act, Water Act and Gene Technology Act (377/1995).

Provisions on the obligation to prevent the causation of damage referred to in section 1, subsection 1 and the obligation to limit the damage caused are laid down in the acts mentioned in subsection 1 and in the Act on the Transport of Dangerous Goods (719/1994).

Section 3

(section 3 was repealed by 558/2014)

Section 3 (558/2014)

Definitions

In this Act:

- 1) damage means a measurable adverse change in a natural resource or measurable impairment of a natural resource service which may occur directly or indirectly;
- 2) natural resource means:
 - a) the natural habitats and habitats of species referred to in section 5a, subsection 1 of the Nature Conservation Act, as well as species and the sites where they occur, breed or rest;
 - b) a water body referred to in chapter 1, section 3, subsection 1, paragraph 3 and groundwater referred to in section 7 of the Water Act;
 - c) the territorial waters referred to in the Act on the Delimitation of the Territorial Waters of Finland (463/1956);

- d) the economic zone referred to in the Act on the Exclusive Economic Zone of Finland (1058/2004);
- 3) natural resource service means a beneficial impact of a natural resource on another natural resource or on humans;
- 4) baseline condition means the status prior to damage to natural resources and natural resource services.

Chapter 2

Remediation of damage

Section 4 (558/2014)

Authority making decisions on remedial measures

Provisions on the authority making decisions on remedial measures referred to in this chapter, hereinafter the authority, are laid down in the acts mentioned in section 2, subsection 1.

Section 5

Remedial measures

Natural resources and natural resource services shall be restored to the baseline condition by removing the harmful change caused by the damage (primary remediation).

If the baseline condition cannot be fully restored, the impairment that the damage has caused to the natural resource and natural resource service shall be compensated for by measures taken at the damaged site or elsewhere (complementary remediation).

Interim losses caused to a natural resource or natural resource service shall be compensated for by measures taken at the damaged site or elsewhere until primary and complementary remediation have achieved their full effect (compensatory remediation).

Section 6

Selection of remedial measures

When considering the measures to be taken, the authority shall take into account the following:

- 1) the nature, scope and severity of the damage;
- 2) the possibility for natural restoration;
- 3) risks posed to human health;
- 4) costs incurred in remedying the damage;
- 5) other damages that may have occurred in the area.

In selecting the measures to be taken, the proposal of the operator who caused the damage and the comments of the parties entitled to institute proceedings by virtue of the acts mentioned in section 2, subsection 1 shall be taken into account.

Section 7

Remedial measures outside the damaged area

The authority may grant the operator who caused the damage the right to perform the measures referred to in section 5, subsections 2 and 3 outside the damaged area. Remedial measures shall not cause any harm that can be avoided. The authority shall give the owner of the real estate or a special right holder the opportunity to be heard before deciding on the measures.

If performing the remedial measures causes substantial harm to the owner of the real estate or the special right holder, he or she has the right to receive full compensation for this. When granting the right referred to in subsection 1, the authority shall at the same time order compensation to be paid for the harm caused by the measures. If an agreement on compensation cannot be reached, the provisions of the Act on the Redemption of Immoveable Property and Special Rights (603/1977) shall apply, as appropriate, to determining the amount of compensation.

If the party entitled to receive compensation cannot collect the compensation from the operator who caused the damage, the responsibility for paying the compensation rests with the State.

Section 8

Ending remediation

The authority can decide, by using the procedure concerning an order to take remedial measures laid down in an act mentioned in section 2, subsection 1, to end remediation if:

- 1) the remedial measures that have been implemented ensure that the risk to human health

and the natural resource no longer exists; and

2) the costs of continuing the remediation would be disproportionate compared to the environmental benefits to be gained.

Section 9

Right of an authority to take measures

The Centre for Economic Development, Transport and the Environment of the region can, at the State's cost, take the necessary measures relating to the prevention or limitation of damage or the remedial measures in the damaged area or have them taken if:

- 1) the matter is urgent and the procedure laid down in an act referred to in section 2, subsection 1 cannot be delayed without causing the damage to expand substantially; or
- 2) the operator who caused the damage cannot be determined without difficulty.

After the measure referred to in subsection 1 or when the operator referred to in subsection 1, subsection 2 has been determined, the Centre for Economic Development, Transport and the Environment of the region shall institute the procedure to order remedial measures to be taken without delay, as provided in an act mentioned in section 2, subsection 1.

Chapter 3

Liability for costs

Section 10

Liability for costs

The operator who caused the damage shall be liable for any costs:

- 1) arising from the remedial measures referred to in section 5; and
- 2) that the authority incurs in assessing the damage and the immediate threat posed by it and in deciding on remedial measures and supervising them.

If the damage was caused by more than one activity, the liability for the costs referred to in subsection 1 shall be divided among the operators according to the share of the total damage they have caused. If this share cannot be established, the liability shall be divided per capita.

Section 11

Limitations of the liability for costs

The operator is not liable for the costs referred to in section 10 if the operator can prove that the damage:

- 1) was caused by a third party and had been caused despite appropriate safety measures taken by the operator;
- 2) was caused by compliance with a regulation or instruction issued by the authority, unless the regulation or instruction was issued on account of an emission or other incident caused by the operator's own activity.

Section 12 (558/2014)

Moderating the costs

An operator who proves that he or she has acted prudently shall not be liable for the full amount of the costs referred to in section 10.

The conditions for moderating the costs are that:

- 1) the damage is due to an emission or incident that is in compliance with the conditions of the permit granted for the operation or with another decision of the authority; and
- 2) the obligations provided in the legislation concerning the operation have been complied with in the operation that caused the damage.

Section 13

Deciding on the liability for costs

Matters concerning the allocation and limitation of the liability for costs and moderating the costs shall be decided on by using the procedure concerning an order to take remedial measures laid down in an act mentioned in section 2, subsection 1.

Section 14

Recovery of costs incurred by the State

Compensation paid by the State by virtue of section 7, subsection 3 shall be collected from the operator as provided in the Act on the Enforcement of Taxes and Public Payments (706/2007).

The costs incurred by the State in performing the measures referred to in section 9 shall be collected from the operator who caused the damage within five years from the conclusion of said measures, or within five years from the date when the identity of the operator who caused the damage was determined. If the costs arising from the recovery are higher than the amount to be recovered, the costs may be left uncollected. The decision concerning the recovery shall not be implemented until it has become final.

Section 15

Participation of the State in remedial measures

If the operator is not liable for the costs for a reason pursuant to section 11, or the liability for the costs of the operator who caused the damage has been moderated by virtue of section 12, the Centre for Economic Development, Transport and the Environment of the region may take the remedial measures or have them taken as environmental work.

Chapter 4 — Miscellaneous provisions

Section 16

Further provisions

Further provisions can be issued by Government decree concerning:

- 1) the remedial measures referred to in section 5;
- 2) matters to be taken into account in the selection of remedial measures referred to in section 6;
- 3) matters to be taken into account in determining the costs incurred by the authority referred to in section 10, subsection 1, paragraph 2.

Section 17

Request for review

Provisions on requests for review concerning the authority's decision on an order to take remedial measures are laid down in the acts mentioned in section 2, subsection 1.

Section 18

Entry into force and transitional provisions

This Act enters into force on 1 July 2009.

This Act shall not apply to the remediation of damage caused by activities that were concluded before the entry into force of this Act, even though the damage had emerged only after the entry into force of the Act.

Measures necessary for the implementation of this Act may be taken before the entry into force of the Act.