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Finland: Law and Practice & Trends and Developments

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FINLAND

Law and Practice

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HPP Attorneys Ltd (HPP) was established in 1975. HPP is Finland's leading legal services provider in environmental law, land use, mining and construction. HPP has one of the largest dedicated environmental teams in Finland, with eight skilled and experienced lawyers specialising in all aspects of environmental law. The team assists a diverse array of clients in addressing environmental challenges related to their projects. In areas such as green transition, real estate, finance transactions and other M&A activities, where environmental aspects and additional investments are of central importance, HPP is ideally positioned to assess risks and offer solutions that incorporate environmental law concerns. The firm's clients include leading operators in the forestry, metals, chemicals, mining, battery, energy, food, waste management and logistics sectors.

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HPP ATTORNEYS

1. Regulatory Framework and Law

1.1 Environmental Protection Policies, Principles and Laws

In Finland, environmental issues are regulated by many different national laws, provisions, degrees and policies. In addition, as an EU member state, a considerable share of the Finnish environmental legislation and policies is based on the EU's environmental policies and regulations – either as directly applicable EU regulations or through implementation of the EU Directives.

The most essential Finnish environmental laws include:

- the Environmental Protection Act (No 527/2014) (*ympäristönsuojelulaki*), which implements the EU's Industrial Emissions Directive (2010/75/EU) (IED) and governs emissions caused by industrial operations;
- the Water Act (No 587/2011) (*vesilaki*), which governs water-related construction projects and the use of water resources and the aquatic environment;
- the Waste Act (No 646/2011) (*jätelaki*), which governs waste management and littering, the prevention of waste generation, and the prevention of danger and harm to human health and the environment caused by waste;
- the Nature Conservation Act (No 9/2023) (*luonnonsuojelulaki*), which governs nature and landscape conservation and management;
- the Land Use and Building Act (No 132/1999) (*maankäyttö- ja rakennuslaki*), which governs planning, building development and the use of land and water areas (as of 1 January 2025, the Act will be divided into the Land Use Planning Act (No 132/1999) (*alueidenkäyttölaki*), governing the planning, construction and use of land, and the Building Act (751/2023) (*rakentamislaki*), governing the planning, construction and use of buildings); and
- the Chemicals Act (No 599/2013) (*kemikaalilaki*), which governs the enforcement of EU chemicals legislation and certain national obligations regarding chemicals.

The most essential environmental principles implemented by the environmental legislation include:

- pollution prevention and minimising harmful impact - harmful environmental impact must be prevented or, if it cannot be prevented completely, reduced to a minimum (ie, the operator must reduce any emissions to the environment or sewer network to a minimum);
- caution and care - proper care and caution must be taken to prevent pollution, taking into account the nature of the activity and the probability of pollution, risk of accidents, and opportunities to prevent accidents and limit their effects;
- best available technique - the best available technique must be used in the operations;
- best environmental practice - best practices, fuels and raw materials must be used in the operations in order to prevent pollution;
- knowledge obligation - operators must have sufficient knowledge of the environmental impacts of their activities, as well as the risks and mitigation measures;
- obligation to prevent pollution – should the activities cause environmental pollution (or a threat thereof), the operator must take the appropriate action without delay in order to prevent pollution (or the threat thereof) or, if pollution has already occurred, reduce it to a minimum; and
- "polluter pays" principle - the party responsible for the activity producing pollution, shall

be responsible for the costs resulting from preventing and minimising environmental damage and restoring the environment.

2. Enforcement Authorities and Mechanisms

2.1 Regulatory Authorities

The main general authority that controls environmental policy, drafts environmental legislation and guides other authorities' work relating to environmental issues is the Ministry of the Environment (*ympäristöministeriö*).

The competent permitting authorities for environmental permits are the Regional State Administrative Agencies (*aluehallintovirasto*) and the municipalities. The Regional State Administrative Agencies are in charge of issuing environmental permits for activities with major environmental impacts, as well as all permits under the Water Act. Other environmental permits are dealt with by the municipal environmental protection authorities (*kunnan ympäristönsuojeluviranomainen*).

The competent supervisory authorities are the regional Centres for Economic Development, Transport and the Environment, the ELY Centres (*elinkeino-, liikenne- ja ympäristökeskus*, or *ELY-keskus*), and the municipalities. The ELY Centres also act as contact authorities in environmental impact assessments (EIAs) carried out in accordance with the Act on Environmental Impact Assessment Procedures (No 252/2017) (*laki ympäristövaikutusten arviointimenettelystä*), and issue reasoned conclusions on the significant environmental impacts of the projects as part of the assessment.

The municipalities' role is central in relation to land use planning, as they have wide discretional power to decide whether to approve or reject a plan. Municipalities also function as permit authorities for construction permits and other permits granted under the Land Use and Building Act.

2.2 Co-operation

The requirement for co-operation among various authorities is mandated by legislation and is evident in scenarios such as communication between different permit authorities during simultaneous permit procedures. Additionally, it involves consulting the relevant supervisory authority during the permit procedure to ensure clarity and thoroughness in the matter.

There is currently a "single-window approach" legislative project in progress aiming to ensure that in future a single environmental authority with national competence will be responsible for the progress and co-ordination of permitting and other procedures resulting in a single decision and a single appeal option. The aim is for the one-stop service to enter into force on 1 January 2026. For further details of the single-window approach, please see the Finnish Trends and Developments chapter of this guide.

3. Environmental Protections

3.1 Protection of Environmental Assets

Environmental assets such as air, water and soil are protected by the Environmental Protection Act, which governs emissions caused by industrial operations and aims to prevent the pollution of the environment (and any risk of that), prevent and reduce emissions, eliminate adverse impacts caused by pollution, and prevent environmental damage.

In addition, other environmental assets such as flora, fauna, natural habitats, landscapes and the aquatic environment are mainly protected by the Nature Conservation Act, as well as the Water Act and the Forest Act (No 1093/1996) (*metsälaki*). The protection provisions can directly concern species – for example, by prohibiting the deliberate disturbance of the protected animals or by prohibiting the picking and destruction of a protected plant species. In addition, the protection provision can also concern the habitats of the protected species by prohibiting the deterioration and destruction of a habitat important for the survival of a species under strict protection or of breeding sites and resting places used by specimens of certain animal species, for example.

Besides the above-mentioned protection provisions for species, certain areas (national parks, nature reserves, landscape management areas, certain natural habitats, areas included in the EU Natura 2000 network) are subject to protection. The content of the protection provisions differs based on the legal basis of the protection and also on a case-by-case basis.

3.2 Breaching Protections

Breaching the protection provisions under the Nature Conservation Act might lead to a prohibition on continuing or repeating the offence or instance of negligence. One can also be required to correct the unlawful situation or redress the negligence under threat of penalty or suspension. In addition, the penalty for causing damage to the environment – or for any other nature conservation offence – is laid down in the Criminal Code (No 39/1889) (*rikoslaki)*. Please also see **5.1 Key Types of Liability** and **13.4 Proceedings Against Polluters**.

4. Environmental Incidents and Permits

4.1 Investigative and Access Powers

Pursuant to the Environmental Protection Act, relevant authorities have the power to obtain information from authorities and operators of a site suspected of engaging in contaminating activities, for example – even if such disclosure may conflict with confidentiality obligations. The authority may also gain access to the site where the suspected contaminating activities have occurred and take measurements and soil samples.

The right of access is not subject to challenge, nor is consent of the involved parties required. However, according to the Administrative Procedure Act (No 434/2003) (*hallintolaki*), as a general rule the authorities are obligated to give prior notification of an upcoming inspection on a site or property. Any investigations involving criminal liability are carried out by the police.

4.2 Environmental Permits/Approvals

Pursuant to the Environmental Protection Act, an environmental permit is required for activities that involve a risk of environmental pollution. The operations requiring an environmental permit are listed in Annex 1 of the Environmental Protection Act, which covers both the installations covered by the EU's Industrial Emissions Directive (2010/75/EU) (IED) and installations subject to permits under the national legislation. In addition, an environmental permit is required for activities that may cause pollution of a water body, for conveying waste water that may lead to the pollution of a ditch, spring or streamlet, and for activities that may place an unreasonable burden on the surroundings. A lighter registration or notification procedure is applicable with

regard to some minor operations listed in Annexes 2 and 4 of the Environmental Protection Act.

An environmental permit must be applied for in accordance with the Environmental Protection Act. The permit consideration is based solely on judicial discretion, meaning that the environmental permit must be granted to the operator if the requirements set out in the Environmental Protection Act are fulfilled.

Rejection of a permit application or a permit decision and individual permit regulations may be appealed against. Further, the parties affected by the activity (permit applicants, neighbours and other concerned persons), environmental NGOs and those who may be affected by the operations also have a right to appeal.

The first appellate instance is the Administrative Court of Vaasa and the second and final instance is the Supreme Administrative Court. However, it should be noted that the right to appeal to the Supreme Administrative Court in environmental cases is subject to a requirement of leave to appeal, which is granted under the Administrative Judicial Procedure Act (No 808/2019) (*laki oikeudenkäynnistä hallintoasioissa*) if the matter involves a need for a precedent or an obvious error or if there are some other serious grounds for granting the leave to appeal.

4.3 Regulators' Approach to Policy and Enforcement

Authorities supervise polluting activities through surveillance visits and requests for information, monitoring reports provided by the operators, and possible further clarifications that the authorities may request from the operators. In accordance with the Environmental Protection Act, a supervisory authority may issue an administrative order placing obligations on the operator in order to rectify a violation or negligence. A supervisory authority may prohibit an operator who violates the Environmental Protection Act or the permit regulations from continuing or repeating a malpractice or may order a violating operator to fulfil its obligations in some other way (eg, it may order the operator to apply for an environmental permit in respect of an action that is conducted without a permit).

It may also order the operator to terminate its operations. Unless it is deemed unnecessary, the competent authority will issue the administrative orders with a threat of interruption, penalty payment, and/or remediation or other measures at the expense of the operator. The competent supervisory authority will ensure that the order or prohibition provided in the administrative order is complied with.

It is also in the supervisory authority's power to order the operator to restore the environment to the state in which it was before the violation or to eliminate the harm to the environment caused by the violation. The supervisory authority can also order the operator to investigate the environmental impacts of the operations if there is a justified cause to suspect that they are causing pollution.

Before issuing an administrative order, the authority shall give the operator an opportunity to be heard in the matter, as provided in the Administrative Procedure Act. If necessary, other concerned parties, supervisory authorities, and authorities protecting the public interest will also be heard.

Pursuant to the Environmental Protection Act, the supervisory authorities are obliged to report a matter to the police for preliminary investigation if they suspect that a criminal violation of a

rule of environmental law, government decree or permit regulation has been committed. No notification needs to be made if the act can be considered minor in view of the circumstances and the public interest does not require charges to be brought. However, the recent tendency has generally been for supervisory authorities to report the matter to the police for preliminary investigation.

4.4 Transferring Permits/Approvals

Environmental permits can be transferred to another operator without reassessment or the consent of the environmental authorities. Pursuant to the Environmental Protection Act, the new operator must notify the relevant supervisory authority of the change.

4.5 Consequences of Breaching Permits/Approvals

If the operator does not comply with the permit conditions, the competent authority can intervene by urging compliance and issuing administrative orders with the threat of interruption of operations, penalty payment, and/or carrying out of the required tasks by the authority at the cost of the operator.

The operator may also be prosecuted under the Criminal Code for a breach of an environmental permit or regulations of the Environmental Protection Act as a criminal offence punishable by a fine and/or imprisonment. Criminal sanctions may be imposed for acts in breach of permits or legislation that have been carried out intentionally or through negligence or gross negligence. Depending on the gravity of the punishable offence, criminal sanctions for environmental offences include:

- fines imposed on natural persons (corporation officers responsible for the offence);
- fines imposed on the corporation; and
- imprisonment ranging from four months to six years.

Further, the property and the value of savings derived from an offence can be confiscated by the State.

Please also see **7.1 Liability for Environmental Damage or Breaches of Environmental Law**.

5. Environmental Liability

5.1 Key Types of Liability

Finnish legal environmental liability consists of public liability, civil liability and criminal liability. The key Finnish environmental legislation regarding environmental liability is:

- the Environmental Protection Act;
- the Act on Compensation for Environmental Damage (No 737/1994) (*laki ympäristövahinkojen korvaamisesta*);
- the Act on the Remediation of Certain Environmental Damages (No 383/2009) (*laki eräiden ympäristövahinkojen korjaamisesta*); and
- the Criminal Code.

Please see **6.3 Types of Liability and Key Defences**.

5.2 Disclosure

According to the Environmental Protection Act, the operator must notify the state supervisory authority without delay of any substantial pollution of a water body and damage to protected species and natural habitats and imminent risks. Failure to comply with this notification requirement – whether intentionally or through negligence – is punishable by a fine under the Envi-

ronmental Protection Act, unless a more severe punishment is provided elsewhere by law.

Please see also **17. Environmental Disclosure- and Information** and **18.2 Disclosure of Environmental Information**.

6. Environmental Incidents and Damage

6.1 Liability for Historical Environmental Incidents or Damage

In general, based on the fundamental "polluter pays" principle, anyone who is operating (or has operated) an activity or has taken a measure that has caused a nuisance or damage to the environment is liable for the environmental damage and must restore the contaminated area to a condition that will not cause harm to health or the environment nor present a hazard to the environment. The principle is contained, for example, in the Environmental Protection Act.

The liability to compensate for environmental damage caused by activities carried out in certain areas and resulting from pollution of the water, air or soil or from noise, vibration, radiation, light, heat or smell – or from a similar nuisance – lies with the operator to whom the activity that has caused the environmental damage has been assigned, if the assignee knew or should have known about such environmental damage or nuisance (or the threat of the same) at the time of the assignment.

With regard to cases where historical environmental incidents or damage have led to soil contamination, please see **13. Contaminated Land**.

6.2 Reporting Requirements

Please see **17.1 Self-Reporting Requirements**.

6.3 Types of Liability and Key Defences

As explained in **5.1 Key Types of Liability**, Finnish legal environmental liability consists of public liability, civil liability and criminal liability.

Pursuant to the Environmental Protection Act, any party whose activities have caused the contamination of soil or groundwater is required to restore said soil or groundwater to a condition that will not cause harm to health or the environment nor represent a hazard to the environment. The supervisory authority has the power to order the operator to restore the environment to the state in which it was before the incident or to eliminate the harm to the environment caused by the incident. Environmental liability is strict liability, which means that restoration obligations may be ordered even if the pollution is not caused negligently or intentionally.

As mentioned in **6.1 Liability for Historical Environmental Incidents or Damage** and according to the Act on Compensation for Environmental Damage, compensation must be paid for a loss defined as environmental damage that is caused by activities carried out in a certain area and resulting from pollution of the water, air or soil or from noise, vibration, radiation, light, heat or smell (or from a similar nuisance). Compensation will be paid if it can be shown that there is a probable causal link between the activities and the above-mentioned loss.

In assessing the probability of causality, consideration must be given to – among other things – the type of activity and loss and the other possible causes of loss. Even when the loss has not been caused deliberately or negligently, liability for compensation lies with the person whose activity has caused the environmental damage or a person who is comparable to the person carrying out the activity. As mentioned in **6.1**

Liability for Historical Environmental Incidents or Damage, liability for compensation also lies with the person to whom the activity that caused the environmental damage has been assigned, if the assignee knew or should have known about the loss or nuisance (or the threat of such) at the time of the assignment.

Finally, according to the Criminal Code, criminal liability lies with the person within whose sphere of responsibility the act or negligence that has caused the incident or damage belongs. In the allocation of liability, due consideration will be given to the position of said person, the nature and extent of the person's duties and competence, and the person's involvement in both the initiation and the perpetuation of the unlawful situation.

Please see also **8. Personal Liability**, **9.1 Environmental Insurance** and **13. Contaminated Land**.

7. Corporate Liability

7.1 Liability for Environmental Damage or Breaches of Environmental Law

The Finnish legal system makes no explicit distinction between corporate entities and natural persons. In Finland, as in many other countries, the "polluter pays" principle is the main rule. This means that a corporate entity can also be liable for environmental damages and breaches of environmental law.

Moreover, Finland recognises the criminal liability of a legal person involved in an environmental crime. The corporate criminal liability applies irrespective of the liability of natural persons and a corporate fine may be imposed even if a natural person offender cannot be identified or will not be punished. The amount of a corporate fine ranges from EUR850 to EUR850,000 and the court has wide discretion as to how to calculate the amount of the fine. The fine will be imposed in proportion to the harmfulness and dangerousness of the offence and the size/financial standing of the liable corporation. In recent case law, the imposition of forfeiture orders – which require the surrender of proceeds derived from criminal activity – has grown in significance, potentially surpassing the impact of corporate fines as a deterrent.

Furthermore, the obligations of the Environmental Protection Act regarding environmental permits and the sanctions relating to possible non-compliance apply especially to corporate entities (see **4.5 Consequences of Breaching Permits/Approvals**).

7.2 Environmental Taxes

The most relevant environmental taxes in Finland are:

- excise duty on liquid fuels;
- excise duty on electricity and certain fuels;
- excise duty on beverage containers;
- waste tax;
- car registration tax;
- annual vehicle tax; and
- environmental liability contribution (from 1 January 2025).

Energy taxes, taxes on road transport, and so-called special environmental taxes and fiscal levies are considered as green or environmental taxes. In addition to tax revenues, environmental taxes strengthen incentives for energy efficiency, energy savings and low-emission energy production. The accrual of environmental taxes and environmental charges constitutes approximately 6% (in 2022) of cumulative total revenue

in Finland. There has been a slight increase in accrual caused by the 5% increase in energy taxes.

The most significant environmental taxes (75% accrual of all environmental taxes) are EU-harmonised energy taxes, predominantly consisting of excise taxes on liquid fuels and electricity and certain other fuels. The focus has been shifted to carbon dioxide tax, with the aim of taking the average emissions resulting from the fuel during its life cycle into consideration.

Both registration-based car tax and annual vehicle tax take environmental factors into consideration, with CO_2 emissions affecting the level of tax. The accrual of car tax has fallen mainly because of lower CO_2 emissions and the electrification of vehicles.

Waste tax has encouraged waste recovery and decreased the amount of waste ending up in landfills. There is a possibility that the Finnish government will expand the waste tax base further.

The excise duty on beverage containers has encouraged the use of recyclable containers.

The Environmental Damage Fund will take effect on 1 January 2025. The funds are part of the secondary environmental liability systems and they are collected as tax-like environmental liability contributions from operators whose activities might pose a risk of environmental pollution.

7.3 Incentives, Exemptions and Penalties

There are no specific incentives or exemptions for good environmental citizenship in Finnish legislation. With regard to environmental taxes that can to some extent be considered as incentives, see **7.2 Environmental Taxes**. Penalties for breaches against environmental laws are covered in **3.2 Breaching Protections**, **4.5 Consequences of Breaching Permits/Approvals** and **7.1 Liability for Environmental Damage or Breaches of Environmental Law**.

7.4 Shareholder or Parent Company Liability

According to the Finnish Limited Liability Companies Act (No 624/2006) (*osakeyhtiölaki*), a limited liability company is a legal entity separate from its shareholders and therefore the shareholders are not liable for the company's debts, obligations or liabilities (including environmental damage or breaches). The same applies to parent companies. Thus, shareholders and parent companies are not liable for environmental damages or breaches of environmental law.

However, Finnish jurisprudence has shared the view that – in certain exceptional circumstances – a shareholder could be liable for the company's obligations without the explicit support of the law. This kind of limited liability without legal support refers to the principle of piercing the corporate veil.

7.5 ESG Requirements

In Finland, ESG requirements are regulated by several different laws. There is therefore no specific corporate social responsibility (CSR) law in Finland, which further means that the reporting, monitoring and enforcement of obligations vary depending on the subject matter and the specific legislation applicable. By way of example, laws safeguarding the social component of CSR especially address the rights of a company's employees and its customers (ie, consumers). These laws create obligations and responsibilities for companies to actively ensure the safety of employees and consumers and this is monitored by specific authorities.

Finland, as part of the EU, has also implemented EU regulation on ESG requirements. Please see **17.4 Green Finance**.

7.6 Environmental Audits

There are no binding requirements regarding environmental audits in Finland. However, the Act on Voluntary Participation in an Environmental Management and Auditing System (No 121/2011) (*laki vapaaehtoisesta osallistumisesta ympäristöasioiden hallinta- ja auditointijärjestelmään*) implements the elements necessary for the corresponding regulation of the European Parliament and Council. The Act defines the terms related to voluntary auditing by the EU's Eco-Management and Audit Scheme (EMAS) and regulates the authorities responsible for supervising the auditing.

8. Personal Liability

8.1 Directors and Other Officers

In Finland, it is possible for directors and other officers to be held personally liable for environmental damage or breaches of environmental legislation committed by the company.

In legal practice, liability is primarily imposed on the person or persons within a company who are responsible for ensuring compliance with the relevant provisions, such as the CEO, board member, director or another employee of the company. Secondly, the liability is imposed on the company, and the company may be issued with a corporate fine. The Supreme Court has in its recent precedent (case KKO 2023:71) given weight to the facts related to the employee's actual position in the association/company and whether the employee had been in a position to ensure that the permit regulations were fulfilled and whether the employee had used all means available to avoid the breaching of the permit regulations. Please also see **6.3 Types of Liability and Key Defences**.

8.2 Insuring Against Liability

Insurance companies provide cover against directors' and officers' indemnification liability, pursuant to the Limited Liability Companies Act – according to which, members of management may become personally liable for loss or damage caused wilfully or through gross negligence or by breaching said Act or the company's articles of association. However, such an insurance does not usually cover environmental damages referred to in the Act on Compensation for Environmental Damage and does not cover criminal penalties.

9. Insurance

9.1 Environmental Insurance

Statutory environmental damage insurance is required by law if the company's operations involve a material risk of environmental damage or cause harm to the environment (eg, those that require a chemical permit, water permit or environmental permit). The insurance covers so-called secondary environmental liability – ie, environmental damage where the responsible entity is either unknown or unable to provide compensation. The statutory insurance does not protect the operator.

As mentioned in **7.2 Environmental Taxes**, the statutory environmental insurance system will (as of 1 January 2025) be replaced by the Environmental Damages Fund, which is a specific fund maintained by the government. The funds for the Environmental Damages Fund are collected as tax-like environmental liability contri-

butions from operators whose activities might pose a risk of environmental pollution.

It is possible for the operator to take out voluntary environmental insurance. A regular liability insurance may cover compensation for environmental damage caused by sudden and unexpected events to another party. However, there are also specific environmental insurance products available that may also cover long-term damage or damages caused to the insured party itself (eg, property damage or remediation costs) and interruption of business caused by environmental damage.

10. Lender Liability

10.1 Financial Institutions/Lender Liability

In practice, lender liability is theoretically possible under the Act on Compensation for Environmental Damage, which concerns tort law liability. In addition to the party causing environmental damage, liability for compensation also lies with a party who is comparable to the person carrying out the activity. In establishing whether a lender is comparable to the person/entity carrying out the activity, consideration is given to the following factors:

- the competence of the lender and control over the person/entity carrying out the activity;
- the lender's financial relationship with the person/entity carrying out the activity; and
- the profit the lender seeks from the activity.

There are no precedents on the aforementioned question. In such cases, the court makes a case-by-case assessment of the role and actions of the lender before establishing potential liability.

10.2 Lender Protection

In practice, liability for environmental damages resulting from breaches of environmental law does not extend to lenders. Under normal circumstances, the likelihood of financial institutions or lenders being held liable is considered low. In order to protect themselves from the liability risk, lenders should not be involved in the running of the operations or using their control over the actual operations in a way that would make their role comparable to that of the actual operator.

11. Civil Liability

11.1 Civil Claims

As mentioned in **6.1 Liability for Historical Environmental Incidents or Damage** and according to the Act on Compensation for Environmental Damage, compensation must be paid for a loss defined as environmental damage that is caused by activities carried out in a certain area and resulting from:

- pollution of the water, air or soil;
- noise, vibration, radiation, light, heat or smell; or
- other similar nuisance.

The compensation will be paid if it is shown that there is a probable causal link between the activities and the loss and if the tolerating the nuisance is considered unreasonable. The Act on Compensation for Environmental Damage does not apply to contractual liability for compensation.

According to the Environmental Protection Act, one can also submit an application to the permit authority to claim compensation for damage

not foreseen when an environmental permit was granted.

11.2 Exemplary or Punitive Damages

Finnish law does not recognise any exemplary or punitive damages. Therefore, it is not possible to award compensation beyond the damage actually caused.

11.3 Class or Group Actions

Class or group actions are not possible for environmental-related civil claims in Finland.

11.4 Landmark Cases

In Supreme Court case KKO 2015:21 concerning nuisance, the Supreme Court decided that even though the Act on Compensation for Environmental Damage is applied as a general law, in some cases the preceding Neighbouring Act (No 26/1920) (*laki eräistä naapuruussuhteista*) could be applicable when considering compensation.

12. Contractual Agreements

12.1 Transferring or Apportioning Liability

Indemnities and other contractual agreements can be used to transfer or apportion liability for incidental damage or breaches of law; however, such contractual agreements are only binding inter partes. Indemnities and other contractual agreements are not binding on regulators or other authorities or the parties suffering damage (if not contracting parties themselves).

12.2 Environmental Insurance

Please see **9.1 Environmental Insurance**.

13. Contaminated Land

13.1 Key Laws Governing Contaminated Land

The provisions governing remediation of contaminated land depend on when the contamination was caused, as follows.

- The Environmental Protection Act (and its predecessor) applies to soil pollution caused after 1994.
- The repealed Waste Management Act (No 673/1978) (*jätehuoltolaki*) applies to soil pollution caused by an activity that took place on or after 1 April 1979 but before 1994.
- Soil pollution caused by an activity that has completely ceased operating before 1 April 1979 is governed by inconclusive case law.

Under the Environmental Protection Act, the operator has a general obligation to prevent pollution and a specific prohibition on causing any pollution of soil. If the activities cause or may directly result in environmental pollution, the operator must take the appropriate action without delay in order to prevent pollution or – if pollution has already resulted – to reduce it to a minimum.

The operator whose operations have caused the pollution of soil has an obligation to restore the polluted soil. Indicative concentration thresholds for several hazardous substances in soil and guidance for the risk assessment regarding remediation are established in the Government Decree on Contaminated Soil (No 214/2007) (*valtioneuvoston asetus maaperän pilaantuneisuuden ja puhdistustarpeen arvioinnista*).

13.2 Clearing Contaminated Land

Party Responsible for Contaminated Land

The Finnish regulation regarding liability for contaminated land is based on the overriding "polluter pays principle" – according to which, the operator carrying out polluting activity must restore the contaminated land to a condition that will not cause harm to health or the environment, nor present a hazard to the environment.

However, if the polluter cannot be established or reached – or cannot be forced to fulfil its remediation duty – and the contamination occurred with the consent of the occupier (owner or tenant, as applicable) or the occupier knew or should have known the state of the area when it was acquired, the occupier must restore the soil insofar as this is not clearly unreasonable. Where the polluter or the occupier of the polluted area cannot be required to remedy the contaminated soil, the municipality must establish the need for and conduct soil remediation.

Possibility of Transferring Liability to a Purchaser

Public liability for the remediation of contaminated soil enforced by the authorities under the Environmental Protection Act (or earlier legislation) cannot be transferred to a purchaser. Therefore, under the aforementioned legislation, the authority may direct its orders towards whoever has contributed to the contamination.

However, the parties may transfer the liability inter partes from a seller to a purchaser by an agreement and a liable party may attempt to secure recourse from another party through contractual indemnity. Nevertheless, these civil agreements are valid only between the parties and do not bind the authorities or third parties.

13.3 Determining Liability

The Finnish environmental liability legislation rests upon the "polluter pays" principle. The Environmental Protection Act does not include any specific provisions on the division of the liability if more than one party has contributed to the contamination. However, pursuant to the Supreme Administrative Court's precedent on the issue (KHO 2005:11), if several operators are suspected to have caused soil contamination, the parties are considered jointly and equally responsible for conducting the contamination studies and bearing the related costs if the parties cannot clearly verify their contribution to the contamination.

Furthermore, if the soil is considered contaminated and several operators have been operating in the area, in case law, the parties have been responsible for only their share of the contamination. If the parties' share of the contamination cannot be separated from one another, the parties are considered jointly and severally liable.

13.4 Proceedings Against Polluters

As mentioned throughout **6.1 Environmental Incidents and Damage**, in accordance with the Act on Compensation for Environmental Damage, compensation must be paid for damage resulting from pollution or other similar nuisance to those affected by the pollution if it is shown that there is a probable causal link between the activities and the loss. However, this compensation will be paid only if toleration of the nuisance is deemed unreasonable. When considering the nature of the nuisance, consideration will be given to – among other things – local circumstances, the situation resulting in the occurrence of the nuisance, and the regularity of the nuisance elsewhere in similar circumstances. However, the obligation to tolerate the nuisance will not apply to loss inflicted deliberately or criminally,

nor to bodily injury or material loss of more than minor significance.

In criminal cases involving an infringement of public interest, the ELY Centre is the claimant. In connection with proceedings of criminal cases subject to public prosecution, private persons may also file claims for compensation. Further, according to the Environmental Protection Act, the permit authority will – when granting an environmental permit – order compensation for any damage from water pollution caused by the activity. One can also submit an application to the permit authority to claim compensation for damage not foreseen when the permit was granted. When an application is submitted to a permit authority, the matter cannot be simultaneously handled in a district court as an action.

13.5 Investigating Environmental Accidents

The general rule is that when there is a suspicion that the soil has been contaminated, the polluter is responsible for inspecting the state of the soil and the need for remediation. Regardless of the outcome of the inspection, the findings must be reported to the supervisory authority (ELY Centre). If the polluter has not conducted the necessary inspection, the ELY Centre can order the polluter to conduct the required studies and investigations. Based on the conducted study, the ELY Centre will render its decision regarding the need for remediation.

In addition, under the Environmental Protection Act and the Waste Act, the supervisory authorities are obliged to report a matter to the police for preliminary investigation if they suspect that a crime has been committed. However, notification is not required if the act is considered minor under the circumstances and it is determined that public interest does not necessitate pressing charges. However, supervisory authorities are increasingly likely to report matters to the police for preliminary investigation.

14. Climate Change and Emissions Trading

14.1 Key Policies, Principles and Laws

The key legislation in connection with climate change and emissions trading is:

- the Climate Act (No 423/2022) (*ilmastolaki*); and
- the Emissions Trading Act (No 1270/2023) (*päästökauppalaki*).

14.2 Targets to Reduce Greenhouse Gas Emissions

Carbon Neutrality

The Climate Act's primary goal is to ensure a significant reduction in greenhouse gas emissions and an increase in the removals by greenhouse gas sinks, with the target of achieving carbon neutrality by 2035. This means that Finland aims to reach a point where its greenhouse gas emissions are equal to the removals. The Climate Act also aims to ensure that greenhouse gas emissions from the effort-sharing and emissions trading sectors decrease by at least 60% by 2030 and by at least 80% by 2040 compared to 1990 levels. The Climate Act applies to the government authorities in the preparation of climate policies and in ensuring their implementation. It does not impose direct obligations on operators.

Emissions Trading Act

Finland has its own emission trading system, which is based on the Emissions Trading Act. The purpose of the Emissions Trading Act is to promote the reduction of greenhouse gas emissions cost-effectively and economically.

The new Emissions Trading Act entered into force on 1 January 2024. The amendments made extended and clarified the scope of the Emissions Trading Act to reflect the changes made to the EU regulation by reducing the number of free allowances and extending the scope of the law to cover not only installations and aviation but also maritime transport.

Coal Ban

The Act Banning the Use of Coal for Energy (No 416/2019) (*laki hiilen energiakäytön kieltämisestä*) prohibits the use of coal as fuel for the production of electricity or heat from 1 May 2029. The Act Banning the Use of Coal for Energy is supported by the Government Decree on Investment Aid for Projects Replacing Coal for Energy Use in 2020–25 (No 129/2020) (*valtioneuvoston asetus hiilen energiakäyttöä korvaavien hankkeiden investointituesta vuosina2020–25*), which aims to promote the voluntary, accelerated phasing-out of coal. The aim of the legislation is to ensure that power plants or heating investments or replacement investments that rely on coal energy are no longer viable.

15. Asbestos and Polychlorinated Biphenyls (PCBs)

15.1 Key Policies, Principles and Laws Relating to Asbestos and PCBs

Asbestos

In Finland, the use of asbestos became licensed in 1988 and was banned in 1993 (as it was in the EU in 2005). The use of crocidolite was banned in 1976. In general, if it does not cause health or environmental hazards, there is no direct obligation to remove asbestos that is lawfully contained in products or structures.

Asbestos removal work can only be carried out by private persons or legal persons such as limited companies, co-operatives and public entities that have been authorised to do so. The licensing authority, the Occupational Safety and Health Authority of the Regional State Administrative Agency, is responsible for handling permits, promoting occupational safety,and the proper supervision of the register of licensed asbestos removal workers.

PCBs

The manufacture, use and importation of PCBs is prohibited in Finland. The Council Directive on the disposal of polychlorinated biphenyls and polychlorinated terphenyls (96/59/EC) aims to ensure the safe disposal of PCBs and of the equipment containing PCBs by imposing certain obligations on EU member states.

16. Waste

16.1 Key Laws and Regulatory Controls

Finland's waste legislation primarily follows the development of the EU's waste legislation and policy.

The key legislation governing waste and waste management in Finland is the Waste Act and the Environment Protection Act, which implement the EU's Waste Framework Directive (2008/98/EC). In addition, there are several lower-level national provisions, such as the Government Decree on Waste (No 978/2021) (*valtioneuvoston asetus jätteistä*), the Government Decree on Waste Incineration (No 151/2013) (*valtioneuvoston asetus jätteen polttamisesta*) and the Government Decree on Landfills (No 331/2013) (*valtioneuvoston asetus kaatopaikoista*).

Waste legislation provides regulations for all waste, excluding certain special types of waste, such as nuclear and radioactive waste. Under Finnish law, an environmental permit is required for the institutional or commercial treatment of waste (including storing or disposing of waste).

16.2 Retention of Environmental Liability

According to the Waste Act, the waste holder's liability for the organisation of waste management ceases and is transferred to the new holder when the waste is handed over to:

- a person who has the right to receive such waste based on the registration in the waste management register; or
- a person who has received such waste based on an environmental permit in accordance with the Environmental Protection Act or based on the registration in the environmental protection database under the same Act.

Waste may also be delivered to a recipient who does not require the above-mentioned approval, an environmental permit or registration if they have sufficient expertise and economic and technical capacity to handle waste management.

The waste holder's liability for the organisation of waste management ceases and is transferred to the new holder when the waste is handed over to the above-mentioned recipient. The responsibility is not transferred to the driver who carries the waste.

The waste driver must dispose of the waste at the location indicated by the waste holder or the authority. If the waste is not accepted, the driver must return the waste to the holder, who must collect the waste.

16.3 Requirements to Design, Take Back, Recover, Recycle or Dispose of Goods

Finland has implemented an extended producer responsibility scheme for certain types of waste. Duties to collect and recycle or dispose of waste apply to producers of:

- electronic and electrical appliances;
- batteries and accumulators;
- tires from motor vehicles,
- other vehicles and equipment;
- cars, vans and comparable vehicles;
- printing paper and paper for manufacturing other paper products;
- packaging;
- cups for beverages made of single-use plastics, including their covers and lids;
- air balloons made of single-use plastics;
- tobacco products with filters made of single-use plastics; and
- fishing gear made of single-use plastics.

16.4 Rights and Obligations Applicable to Waste Operators

Waste operators must comply with the obligations regulated by the Waste Act. One fundamental principle is the order of priority - according to which, the following priority order must be complied with when handling waste: reuse, recycling, and other ways of recovery and disposal.

A waste holder should know the properties of the waste relevant to organising waste management. The waste holder must, if necessary, disclose this information to other waste management operators. Waste may not be abandoned or treated in an uncontrolled manner. Waste management may not endanger or harm health, the environment, general safety or public or private interests.

All professional waste collectors are obligated to register in the waste management register or apply for an environmental permit. A waste operator must monitor and control its waste management to ensure that the activity fulfils the applicable legal requirements and that the information necessary for the supervision of the activity may be submitted to the supervisory authority.

If a waste operator does not comply with the aforementioned obligations, the supervisory authority may prohibit it from continuing or repeating the conduct, order it to fulfil its obligations, order it to restore the environment or to eliminate the harm, or order temporary measures concerning the waste. The party that acted in violation of regulations is responsible for any costs incurred due to the temporary measures. The supervisory authority will, unless it is clearly unnecessary, reinforce an order it has issued by a notice of a conditional fine.

Administrative fines may be imposed on a party that fails to submit a notification for registration in the waste management register or neglects other reporting duties. Several different types of breaches against the waste legislation are punishable as criminal offences either under the Waste Act or the Criminal Code.

17. Environmental Disclosure and Information

17.1 Self-Reporting Requirements

Under the Environmental Protection Act, if an exceptional situation causes emissions or generates waste (or if there is an immediate threat of such an event), an operator or a holder of the waste must notify the relevant authority immediately. Further, permit-holders, registered operators or related holders of waste have an obligation to notify the relevant authority if they are not able to comply with the permit or relevant governmental decrees owing to an exceptional situation.

If waste or some other substance that may cause contamination has entered the soil or groundwater, the polluter must notify the supervisory authority immediately. If there is reason to suspect that the soil or groundwater has been contaminated, the party responsible for treatment (whose operations have caused the contamination) must establish the level of contamination of the area and the need for treatment. The report must be delivered to the state supervisory authority.

17.2 Public Environmental Information

In general, most documents prepared by or delivered to an authority are publicly available under the Act on the Openness of Government Activities (No 621/1999) (*julkisuuslaki*). Public authorities keep registers of environmental information regarding environmental permits, for example, so information may be requested from the relevant authorities. To some extent, materials are also available through public web services. However, there are some limitations to the publicity of documents/information – for example, corporate secrets are considered classified.

The Supreme Administrative Court addressed this topic in a recent precedent (KHO 2024:70), whereby it balanced the publicity of environmental information with questions relating to water security. The court ruled that the exact location of the groundwater plant's monitoring pipes and water intake wells could be considered as confidential information.

17.3 Corporate Disclosure Requirement

Pursuant to the Accounting Act (No 1336/1997) (*kirjanpitolaki*), large and public companies as well as public-interest entities have an obligation to include information on environmental impacts in their annual management report. Public-interest entities must also prepare an annual statement of non-financial information, which must include information on how the company manages environmental matters. Please also see **17.4 Green Finance**.

Moreover, environmental permit-holders have an obligation to prepare regular reports for the supervisory authority. The details for reporting are included in the permit. Registered operators may have an obligation to prepare regular reports in accordance with the relevant governmental decree.

17.4 Green Finance

Green finance-related regulation applicable in Finland mainly derives from EU legislation, comprising – inter alia - the Taxonomy Regulation, the Sustainable Finance Disclosure Regulation (SFDR), the Corporate Sustainability Reporting Directive (CSRD) and the Corporate Sustainability Due Diligence Directive (CSDDD).

Although the Taxonomy Regulation and the SFDR are directly applicable regulations in Finland, the CSRD was implemented into the national legislation. In Finland, national implementation of the CSRD primarily resulted in amendments to the Accounting Act, the Auditing Act (1141/2015) (*tilintarkastuslaki*)and the Limited Liability Companies Act. The sustainability reporting obligations of the CSRD became applicable on 1 January 2024, obliging companies subject to the CSRD to report in accordance with European Sustainability Reporting Standards (ESRS). The company's external auditor must audit the report. The CSRD reporting compliance will be phased in from 2024 to 2029. The reporting obligations currently apply to large companies subject to the EU's Non-Financial Reporting Directive (NFRD) and the first financial year covered is 2024 (the first year of reporting being 2025).

In addition, the CSDDD entered into force on 25 July 2024, aiming to ensure that companies identify the adverse impacts of their business activities on human rights and the environment and to mitigate such impacts. EU member states have two years to implement the national provisions necessary to comply with the CSDDD, which will apply as of July 2027.

Generally, green finance plays a fundamental role in the achievement of Finland's energy and climate targets. In 2021, the Finnish government introduced its Sustainable Growth Programme for Finland, highlighting a green transition as a core pillar. This pillar seeks to support the economy's structural adjustment and establish a foundation for a carbon-neutral welfare society. This naturally has increased and will continue to increase the interest in and appetite and need for sustainable investments and green finance arrangements in Finland.

18. Transactions

18.1 Environmental Due Diligence

Environmental due diligence is an established part of due diligence in M&A, finance and property transactions. The need and scope of environmental due diligence are dependent on the target – ie, the anticipated environmental risks associated with the target – and are, therefore, assessed on a case-by-case basis. Environmental due diligence is typically conducted in transactions involving the amendment or ter-

mination of business with potential impacts on the environment or natural resources, such as transactions concerning industrial companies, mines, power plants or old industrial sites. Furthermore, environmental due diligence is typically conducted as part of a property transaction to determine the possible history of the site, contamination or other environmental damages related to the property in question, and the need and liability for environmental remediation.

In recent years, there has been a constant rise in demand for environmental due diligence, resulting from growing awareness of the risk of high costs related to environmental liability and possible need for remediation.

18.2 Disclosure of Environmental Information

The seller of real estate is obliged to provide the new owner or tenant with information on the activity carried out on the property and on any waste or substances that may cause contamination in the soil or groundwater. Furthermore, the seller must provide the purchaser with the conducted surveys and information regarding possible remediation action on the property. Failure to do so may result in the annulment of the real estate deed of sale, a reduction in price or compensation for damages. The seller may be held liable for the prior contamination of real estate if they fail to disclose the information at the point of sale.

As warranties are used to secure the purchaser, it is in the seller's interest to disclose the relevant environmental information in a regular due diligence process and thereby avoid contractual liability for breaching a warranty.

18.3 Key Issues in Environmental Due Diligence

Common environmental issues arising in legal due diligence are highly dependent on the project subject to due diligence as well as on the objectives of the contemplated transaction. Issues reviewed in due diligence include permits required for the operations including their validity and the operator's compliance with the permit terms, possible administrative compulsion processes, or compliance with applicable legislation in general. Furthermore, key issues reviewed also include:

- potential (or risk of) soil or groundwater contamination or other emissions caused by the operations, such as discharged waste water;
- existence of protected sites/items or other restrictions in the affected area, including needs for possible additional permits in relation thereto;
- ownership of or access routes to the relevant areas; or
- zoning.

Trends and Developments

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HPP Attorneys Ltd

HPP Attorneys Ltd (HPP) was established in 1975. HPP is Finland's leading legal services provider in environmental law, land use, mining and construction. HPP has one of the largest dedicated environmental teams in Finland, with eight skilled and experienced lawyers specialising in all aspects of environmental law. The team assists a diverse array of clients in addressing environmental challenges related to their projects. In areas such as green transition, real estate, finance transactions and other M&A activities, where environmental aspects and additional investments are of central importance, HPP is ideally positioned to assess risks and offer solutions that incorporate environmental law concerns. The firm's clients include leading operators in the forestry, metals, chemicals, mining, battery, energy, food, waste management and logistics sectors.

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Introduction

The green transition has become a central theme in Finland's legislative and political landscape, reflecting broader European and global trends towards sustainability and climate neutrality. The current Finnish government's legislative programme outlines a comprehensive plan to transform Finnish economy into a sustainable, low-carbon model. The outlined legislative initiatives include tax credits, state subsidies, the streamlining of permitting processes, and increased financial support for projects advancing the green transition – all aimed at accelerating the shift towards a more sustainable economy and meeting both national and international environmental targets.

As an EU member state, the environmental legislation in Finland is heavily guided and influenced by EU legislation. In addition to the country's own legislative initiatives and sustainability targets, many of the EU regulations currently in the process of being implemented into national legislation – such as the Critical Raw Materials Act (2024/1252/EU) (CRMA), the Net-Zero Industry Act (2024/1735/EU), and the objectives of the Renewable Energy Directive III (2023/2413/EU) ("RED III") – reflect the same ambitious targets and goals at EU level as those set by the Finnish government in its own legislative programme.

This article highlights topical regulatory measures and developments aimed at promoting and facilitating the green transition in Finland.

Introduction of New Permitting Authority and Single-Window Approach to Speed Up and Streamline Permit Processes

National priority legislation was introduced in 2023

The Finnish government has acknowledged that smooth permit procedures are a prerequisite for attracting investments and especially for transitioning into a clean economy. Projects with environmental impacts may require many separate permits or approvals, which are currently applied for and granted by different authorities as governed by different environmental laws. Subsequently, the Finnish government proposes several measures to tackle the current problem of prolonged and expanding permitting processes.

One of these planned solutions is the establishment of a new national permit and supervisory authority. In the new draft legislative proposal, it is proposed that the new authority would replace the current permitting authorities and supervisory authorities with a single national permitting and supervision authority.

A legislative proposal to integrate various permit application processes is also being prepared, with the aim of making the permitting process faster and more efficient. This includes introducing a "single-window approach" (*yhden luukun periaate*), allowing multiple permit applications for the same project to be handled in one combined process. The intention is that this streamlined approach will enforce joint hearings for different permits and result in a single permit decision and appeal process, instead of separate ones for each permit.

In addition, the proposed reform of the national environmental administration grants the new environmental authority responsibility for ensuring that permit applicants have the chance to discuss their obligations, submissions and requirements concerning the permitting process with the relevant environmental authority prior to submitting their permit application. This would allow applicants to pre-negotiate the permit application and the requirements related thereto early on and thereby aims to minimise

unnecessary requests for additional information at a later stage of the permitting process by promoting effective co-operation between all parties involved.

The draft legislative proposal also highlights the existing challenges related to the ever-expanding scope of the environmental impact assessment (EIA) procedures and the excessive level of detail required in documents related thereto. The draft proposal calls for significant development in practices, which could be implemented as a part of the single-window approach project.

The aim is to ensure that the EIA procedure focuses only on the significant environmental impacts of projects, thereby speeding up the procedure and reducing the administrative burden placed both on the operators and relevant environmental authorities. Further, co-ordination of the permit procedure and the EIA procedure is promoted by expanding the scope of the joint hearing of the EIA report and the permit application.

The current estimation is that the new national environmental authority will be established on 1 January 2026, in conjunction with the enforcement of the single-window approach legislation.

Priority in Permitting and Permitting Timelines Applicable to Certain Projects Advancing Green Transition

The 2023 environmental legislation reform introduced a priority system for specific projects aligning with the green transition. Under this legislation, certain project types that contribute to the green transition are eligible for priority status in environmental and water permitting, as well as in administrative court proceedings.

Originally, the law establishing the priority procedure was set to run from 2023 to 2026, but the new draft legislative proposal would extend the application period until 2030. In addition, possible appeals against prioritised permit applications will be processed as urgent in the administrative courts from 2023-28, and the new legislative proposal would extend this policy until the end of 2032.

Projects eligible to obtain priority status are determined by the law. The exhaustive list includes the following:

- energy production establishments that use renewable energy to produce energy, as well as offshore wind farms and the related water resources management projects;
- industrial projects based on renewable energy or electrification that replace the use of fossil fuels or raw materials;
- manufacture and utilisation of hydrogen, expect for manufacture of hydrogen from fossil fuels;
- capture, utilisation and storage of carbon dioxide;
- battery factory and manufacture, recovery and reuse of battery materials; and
- data centres, where most of the waste heat generated is utilised (according to the new legislative proposal).

The operator applying for priority status must make a separate request for access to the priority system and provide a report of compliance with the “Do No Significant Harm” principle. This principle was originally established by Regulation (EU) 2020/852 on the establishment of a framework to facilitate sustainable investment (the “Taxonomy Regulation”).

A priority application is subject to the same permitting regulations and requirements as a regular permit application, but the aim of priority treatment is to speed up the processing of applications so that the overall processing time is shorter than average. The targeted processing time is 12 months - although the legislation does not stipulate any binding timelines for permit proceedings nor sanctions for the authorities in case the targeted timeline is not met.

Several green transition projects that have received priority status are already well underway. As of May 2024, 32 projects have been given priority status. These projects, located all over Finland, represent a diverse range of sectors - for example, production of biomethane in an anaerobic digestion process, production of green hydrogen, synthetic methane or ammonia, and seasonal storage of heat. Among the prioritised projects are also several battery chemicals plants.

Furthermore, all the prioritised projects have received their environmental permits in less than a year, meaning that the 12-month target processing timeline has been met so far. There is confidence that the processing time target can also be met in the future if resources at the permitting authorities remain at the required level.

Moreover, according to the Ministry of Environment, feedback on the priority system has been mainly positive and priority projects have not delayed the processing of other permit applications. This is down to the added resources both at the permitting authorities and administrative courts.

EU-based requirements to implement binding timelines for permitting of certain strategic projects

In addition, national implementation of the EU regulations streamlining permitting procedures and timelines for strategic projects under the EU's CRMA and Net-Zero Industry Act is currently ongoing in Finland. The proposed EU-level changes require new provisions to be added to the existing national legislation and are expected to enter into force in Finland during 2025.

Strategic projects under the CRMA are initiatives that are crucial for reducing dependence on imports and securing the EU's supply of critical raw materials. These raw materials are vital for key sectors, such as renewable energy and digital technologies. The CRMA sets binding timelines (15 to 27 months) for the permitting of strategic projects. The CRMA also requires that strategic projects must be given the highest possible national status and be treated accordingly in the permitting procedures. The co-ordination of permit processes and communications between the operator and authorities is conducted by one national authority to simplify the process.

Provisions of the CRMA will be specified according to a new draft legislative proposal on national implementation of the CRMA, whereby Finland will take advantage of the chance offered by the CRMA to possibly extend the permitting timelines for strategic projects if the requirements for the extension governed by the CRMA are met. It should also be noted that the proposed legislation would not amend any permit requirements, which would continue to be stipulated by the Environmental Protection Act and the Water Act, for example.

Net-zero industry refers to the technologies, equipment and components that are needed to produce affordable carbon-neutral energy, such as battery technologies. The EU's Net-Zero Industry Act establishes the framework of measures for innovating and increasing the manufacturing capacity of net-zero technologies, such as binding timelines for the permit-granting process of projects falling within its scope of application. As national legislation is required to ensure the efficient enforcement of the Net-Zero Industry Act, a new draft legislative proposal has been drafted to implement the Act and promote the green transition by proposing that strategic net-zero projects should be given priority in the permitting processes and in the administrative courts over other projects subject to the Environmental Protection Act and the Water Act.

Additionally, the new Act would include provisions on the designation of a national competent authority acting as a single point of contact towards the operator. The contact authority would be responsible for facilitating and coordinating the permitting process for net-zero technology manufacturing projects, as well as providing information on the streamlining of administrative procedures. The proposed legislation would also include provisions for monitoring permit processing timelines and a process for possibly extending them if the requirements for the extension governed by the Net-Zero Industry Act are met.

Special Siting Permit for Clean Transition Projects Proposed to Streamline Land Use Planning

In connection with the ongoing reform of the Building Act, the Finnish government aims to speed up the transition away from fossil fuels by introducing a special siting permit for clean transition projects. The siting permit would allow the land use assessment of a clean transition project to be conducted without detailed land use plans, which would normally dictate the granting of building permits. The legislative proposal, which is currently in the process of being debated and approved by the Finnish Parliament, outlines the requirements for obtaining a siting permit for clean transition projects. These requirements include:

- a thorough assessment of the project's environmental, social, cultural, and community impacts - for instance, the site must cover at least 1,000 square metres and not cause risk of flood or landslide;
- the project should align with the surrounding environment, infrastructure, and traffic safety while ensuring no harm to cultural or natural values or to neighbours;
- the project must not impose undue costs on public entities for road, water, or sewage systems, nor negatively impact water supply or waste water management;
- the Seveso III Directive (2012/18/EU)must also be considered for hazardous chemical facilities; and
- the project must not cause any significant deterioration in anyone's living environment that is not justified considering the objectives of the siting permit.

Clean transition industrial projects covered by the legislative proposal include:

- renewable energy production facilities, excluding wind and solar power plants;
- industrial projects replacing fossil fuels or raw materials with renewable energy or electrification;
- hydrogen production and utilisation, excluding hydrogen from fossil fuels;
- carbon capture, utilisation, and storage;

- battery factories and the production, recovery, and reuse of battery materials; and
- investments in clean transition industries located in areas defined under the EU's Net-Zero Industry Act to strengthen the net-zero technology manufacturing ecosystem.

The new Building Act enters into force on 1 January 2025 and replaces the current Land Use and Building Act with regard to the provisions concerning construction.

Big Expectations Regarding Finnish Hydrogen and EEZ Offshore Wind Power Production

The Finnish government has ambitious plans regarding hydrogen production. In accordance with the current government programme, as well as the government resolution on hydrogen published in 2023, the Finnish government is committed to turning Finland into a leading hydrogen producer in the EU and utilising the competitive advantages Finland has in this field - namely, its large renewables production capacity, as well as its strong energy systems already in place. The government programme lays out an objective for Finland to account for 10% of the EU's clean hydrogen production and at least 10% of hydrogen use. Many hydrogen-related projects are under construction, in planning or undergoing feasibility study.

RED III, which includes regulation concerning the production of renewable hydrogen, is to be implemented in Finland by May 2025 via the Act on Biofuels and Bioliquids and the Act on Promoting the Use of Biofuels for Transport (the "Distribution Obligation Act"). The Government Proposal on the Distribution Obligation Act was submitted to Parliament on 23 September 2024 and is expected to enter into force on 1 January 2025. The Distribution Obligation Act mandates that a share of the distribution obligation is filled with advanced biofuels or renewable fuels of non-biological origin.

A working group has been set up to examine the changes to national legislation required by the sustainability criteria in RED III and the updated Sustainability Act is expected to enter into force in May 2025 at the latest. Furthermore, it is foreseen that the Electricity Market Act will be amended to allow for the option of direct connection between plants producing renewable fuels of non-biological origin (including renewable hydrogen) and renewable energy production plants.

Hydrogen projects in Finland are also supported via many additional policy measures - for example, by promoting a favourable general investment environment and funding for research and development. In addition to the implementation of the EU legislation, the Finnish government has given national gas transmission company Gasgrid the task of promoting the development of a national hydrogen transmission network nationally as well as in the Baltic Sea region, which is vital for the development of the hydrogen economy and for exporting hydrogen. Gasgrid is currently studying possible routing options for hydrogen transmission needs.

Furthermore, the Finnish government has also recognised the need to create functional and predictable regulation for offshore wind projects in Finland's exclusive economic zone (EEZ), as interest in offshore wind power production in Finland is growing. The aim is to develop regulation and administrative procedures that guarantee sufficient investment certainty for offshore wind power projects.

The government has recently submitted a legislative proposal for a new Act regarding offshore wind power projects in the EEZ to Parliament and it is proposed that the new Act shall enter into force on 1 January 2025. The proposed Act aims to resolve current issues related to offshore wind farm projects, particularly concerning the selection of operators, compliance with EU state aid rules, required permits, and the applicable legislation for projects within the EEZ. The overarching goal is to establish a system that works for the benefit both of project operators and the Finnish State.

The proposed solution in the legislative proposal is a competitive tendering model for offshore wind projects, whereby the right to exploit the EEZ would be decided by a tender organised by the Finnish Energy Agency. This model would determine how the rights to exploit wind energy in the EEZ would be allocated in a fair and transparent manner, considering the EU's state aid rules and ensuring the selection of an operator capable of promoting a long-term and costly offshore wind project.

The Finnish government would select the areas to be tendered, considering the overall interest of society. The successful bidder would have the exclusive right to apply to the government for the right to exploit the tendered area for offshore wind power. The exploitation right would allow the successful bidder to explore the offshore wind site and apply for the necessary permits (eg, water permit and EIA).

Finnish Environmental Administration Implements Various Measures to Advance Circular Economy

Traditionally, Finland is known as a pioneer of the circular economy, given that it drafted the world's first national roadmap to a circular economy in 2016. More recently, Finland promotes the circular economy through legislation and aims to increase Finland's material efficiency and carbon-neutrality.

This mindset is further reflected in the Ministry of the Environment's initiative to replace the existing Waste Act with a new Circular Economy Act - the main purpose of which is to clarify legislation in the waste sector and strengthen the life cycle perspective of the regulation. The aim is to reduce the regulatory burden, clarify the relationship between waste regulation and product and chemical regulation, and to develop the operating and investment environment for circular economy operators. At the same time, it will be assessed whether some parts of the current Waste Act should be divided into separated Acts. The working group responsible for outlining the reform was established in the summer of 2024 and will operate until the end of 2025.

Finland has also adopted its first national end-of-waste decrees in recent years. The first of these was the government decree on end-of-waste criteria for crushed concrete that came into force in 2022. In June 2024, a new government decree on end-of-waste criteria for mechanically recycled plastics was adopted. The aim of these regulations is to streamline permitting procedures and to promote the use of waste-derived material, consequently mitigating the extraction of natural resources and virgin raw materials.

In addition to legislative measures, in order to advance the circular economy, Finland uses several voluntary instruments developed in co-operation with the private sector and based on voluntary contributions from companies. By way of example, the recently launched Circular Economy Green Deal is a voluntary strategic com-

mitment shared by companies, municipalities, counties, organisations and the State, whereby the participating organisations commit to reducing their use of natural resources, setting effective goals, and taking actions that promote a low-carbon circular economy. The overarching goal of the Circular Economy Green Deal is to promote resource efficiency and Finland's transformation into a sustainable economy by 2035. The participants' commitments aim to reduce the use of raw materials, extend the useful life of materials and products, increase the supply of options that place less burden on the environment and strengthen the natural capital, and develop new operational and business models that are in line with a circular economy.

Preparation of Legislative Proposals for State Aid Programme and Tax Credit for Significant Investments Advancing Green Transition

In order to improve Finland's competitiveness and attract green investments, the Finnish government is also planning to introduce a range of different financial measures to support clean transition projects and investments.

State aid programme for significant investments advancing green transition

The Ministry of Economic Affairs and Employment is currently in the process of preparing a state aid programme in the form of government subsidies for significant new investment projects, which would be regulated by a government decree. The aim is to contribute to the climate objectives of the government programme and to strengthen the attractiveness of Finland's investment environment. The regulation concerns investment subsidies for the low-carbonisation of industrial production processes through electrification or the use of renewable hydrogen and energy efficiency measures, as well as for accelerating investment in sectors that are strategic for the transition towards a climate-neutral economy.

The proposed government decree lays down the conditions for the state aid programme and the granting of state aid under the programme to eligible investment projects. According to the draft decree, subsidies could be awarded if the eligible costs of the investment are at least EUR30 million. In addition, subsidies could be granted for investment projects in Finland, excluding the territory of the province of Åland. The granting authority for subsidies would be Business Finland, which is the government organisation for innovation funding and trade, travel and investment promotion.

The investment state aid programme still requires approval from the EC. The decree is expected to enter into force as soon as possible once the EC has approved the state aid programme as compatible with the EU's internal market. The subsidies would be granted by the end of year 2025.

Tax credit for significant investments advancing green transition

Based on the temporary state aid framework adopted by the EC in spring 2023, the Ministry of Finance is preparing a new tax credit for significant industrial investments promoting the clean transition. The tax credit can be allocated to investments other than renewable electric production that accelerate the green transition and reduce dependency on fossil fuels. Therefore, the new tax credit would support the development of clean industry in Finland.

The tax credit would be granted only for new projects. Projects would be eligible to receive the tax credit if they relate to:

- renewable energy production (including hydrogen and hydrogen fuels);
- storage of electricity and heat;
- storage of renewable hydrogen, biofuels, bioliquids, biogases and biomass fuels;
- decarbonisation of industrial production processes and energy efficiency measures; and
- investments in the production of equipment (eg, batteries), key components and related critical raw materials essential to the transition to a net-zero economy.

As the tax credit is intended to cover only significant investments, the minimum size of eligible investments would be EUR50 million, and each investment would be considered individually. The tax credit should not exceed 20% of the investment cost and would be capped at EUR150 million per company. The EUR150 million cap would be calculated on a consolidated basis for groups of companies. The tax credit would be carried out as a deduction from the company's corporate income tax.

As with the aforementioned state aid programme, the tax credit system is also subject to the approval from the EC before its adoption. According to the draft legislative proposal, the right to the tax credit should be applied for in advance, and the right to the subsidy should be granted by the end of 2025. The tax credit can be claimed for the first time in the year of completion of the investment - albeit no earlier than 2028.

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