

**Act amending the act on seafarers' conditions of employment, etc.,
the act on safety at sea and various other acts¹**

(Securing seafarers' economic situation in case of the shipowner's breach of contract,
enhanced safety in connection with major maritime construction projects,
insurance in connection with wreck removal, effectivisation of survey activities in the diving area, etc.)

We MARGRETHE THE SECOND, by the grace of God Queen of Denmark, hereby witness:
Folketinget (the Danish Parliament) has adopted and We with Our consent hereby enact the following act:

Section 1

In the act on seafarers' conditions of employment, etc. (*lov om søfarendes ansættelsesforhold m.v.*), cf. consolidated act no. 73 of 17 January 2014, as amended by section 3 of act no. 251 of 30 March 2011, section 4 of act no. 724 of 25 June 2014 and section 4 of act no. 740 of 1 June 2015, the following amendments shall be made:

1. In the *footnote* to the act, the following shall be inserted after "1999/63/EC (Official Journal no. L 124 of 20 May 2009, pp. 30-50)": ", and parts of directive 2013/54/EU of the European Parliament and of the Council of 20 November 2013 concerning certain flag State responsibilities for compliance with and enforcement of the Maritime Labour Convention, 2006, Official Journal 2013, no. L 329, pp. 1".
2. In *section 10a(1)(i)*, "and the necessary medical treatment" shall be inserted after "hygiene".
3. *Section 10a(4)* shall be repealed.
4. *Section 42(1)* shall be as follows:
"If a ship's officer who has been employed continuously with the same shipping company for 12 or 17 years is dismissed, the shipowner shall pay an amount equalling 1 and 3 months' wages, respectively, when the officer is discharged."
5. *Section 42(2)-(4)* shall be repealed.
Subsequently, subsection 5 becomes subsection 2.
6. *Section 49(xxv) and (xxvi)* shall be repealed, and the following shall be inserted instead:
"25) section 61,
26) section 73a and
27) section 73c."

¹ The act contains provisions implementing parts of directive 2013/54/EU of the European Parliament and of the Council of 20 November 2013 concerning certain flag State responsibilities for compliance with and enforcement of the Maritime Labour Convention 2006, Official Journal 2013, no. L 329, page 1.

7. *Section 73a* shall be as follows:

"Section 73a. The shipowner shall take out insurance approved by the Danish Maritime Authority or provide other similar financial security for covering the master's and the seafarers' claims vis-à-vis the shipowner and the employer if this is another entity than the shipowner in case a seafarer is abandoned.

Subsection 2. A seafarer shall be deemed to have been abandoned where, in violation of his obligations under the applicable employment agreement, including the collective agreement, or this act, the shipowner

- 1) fails to cover the cost of the seafarer's repatriation,
- 2) has left the seafarer without the necessary maintenance or economic support, or
- 3) has otherwise unilaterally and groundlessly severed the ties with the seafarer, including if the seafarer has not received wages for a period of at least two months.

Subsection 3. The financial security, cf. subsection 1, shall cover

- 1) the essential needs of the seafarer until the seafarer's arrival at home, including food, securing of heat, electricity, communication, hygiene and any necessary medical treatment, etc., cost of repatriation as well as any other reasonable expenses that arise because the seafarer has been abandoned, and
- 2) four months' outstanding wages and other entitlements, etc. due to the seafarer as a consequence of the employment to the extent that these claims are not covered by the coverage from the Employees' Guarantee Fund (*Lønmodtagernes Garantifond*).

Subsection 4. The Danish Maritime Authority may lay down regulations on the financial security, cf. subsection 1, including on limits of coverage, documentation of claims made, the possibility of forwarding claims directly to the provider of the financial security, and stipulating that the security is not to cover claims covered by public social security schemes covering the seafarers and schemes implementing directive 2008/94/EC of the European Parliament and of the Council of 22 October 2008 on protection of employees in the event of the insolvency of their employer.

Subsection 5. The Minister for Business and Growth may lay down regulations stipulating that the pool mentioned in section 10a(3) shall constitute financial security for covering expenses covered by subsection 3(i).

Subsection 6. The Danish Maritime Authority may lay down regulations on the drafting of certificates or any other documentation of financial security, cf. subsection 1, and on their posting on board the ship."

8. After *section 73b*, the following shall be inserted:

"Section 73c. The Minister for Business and Growth may lay down more detailed regulations on a free voyage home with subsistence pursuant to section 6(5), section 8(1), section 10(3), sections 11-14, section 18(2), sections 18b, 19 and 30, section 48(2) and section 49.

Section 73d. The Danish Maritime Authority may, following negotiation with the National Board of Industrial Injuries in Denmark, lay down regulations on certification or any other documentation for protection of seafarers pursuant to the act on industrial injuries (*arbejdsskadeloven*) and on the posting of documentation and certificates, etc. on board the ship."

9. In *section 74(1)*, "of this act and of any rules and regulations laid down in pursuance of the act" shall be amended to "of this act, of any rules and regulations issued in pursuance of the act and of the agreement concluded between the European Community Shipowners' Association (ECSA) and the European Transport Workers' Federation (EFT) on the Maritime Labour Convention, 2006".

Section 2

In the act on safety at sea (*lov om sikkerhed til søs*), cf. consolidated act no. 72 of 17 January 2014, as amended by section 5 of act no. 1384 of 23 December 2012, section 3 of act no. 618 of 12 June 2013 and section 1 of act no. 724 of 25 June 2014, the following amendments shall be made:

1. The following shall be inserted as *footnote 2* to the title of the act:
"2) According to article 288 of the Treaty Establishing the European Community, a regulation shall apply directly in each member State. The act contains provisions related to the use in this country of regulation (EU) no. 1177/2010 of the European Parliament and of the Council of 24 November 2010 concerning the rights of passengers when travelling by sea and inland waterways and amending regulation (EC) no. 2006/2004, Official Journal 2010, no. L 334, pages 1-16."
2. *Section 17(4)* shall be repealed and the following shall be inserted instead:
"*Subsection 4.* The Minister for Business and Growth shall check navigation and buoyage systems and aids to navigation.
Subsection 5. The Minister for Business and Growth may lay down more detailed regulations on the systems, etc. and on the checks mentioned in subsection 4."
Subsequently, subsections 5-8 shall become subsections 6-9.
3. In *section 20a(1)*, the first sentence, "and 471" shall be amended to "sections 471 and 486".
4. In *section 20a(2)*, "subsections 7 and 8" shall be amended to "subsections 8 and 9".
5. In the *headline* for part 9, ", etc." shall be inserted after "detentions".
6. The following shall be inserted after *part 11*:

"Part 11a

Safety in connection with construction projects

Section 27a. The Minister for Business and Growth may lay down regulations stipulating that construction owners of construction projects performed wholly or partly at sea shall contribute to ensuring that activities related to the project are carried out in accordance with this act and regulations issued in pursuance hereof."

Section 3

In the merchant shipping act, cf. consolidated act no. 75 of 17 January 2014, as amended, inter alia, by act no. 599 of 24 June 2005, section 1 of act 249 of 21 March 2012 and section 1 of act no. 1384 of 23 December 2012, and most recently by section 3 of act no. 740 of 1 June 2015, the following amendments shall be made:

1. *Section 43(1)* shall be as follows:

"**Section 43.** Decisions by the Registrar of Shipping pursuant to this act may by anyone with a legal interest herein:

- 1) be brought before the Danish High Court in the high court jurisdiction in which the shipping company is domiciled if the ship's company is domiciled in Denmark, or
- 2) be brought before the Danish Eastern High Court if the ship's company is domiciled outside Denmark.

Subsection 2. The decision shall be brought before the relevant high court within a time limit of 14 days from the day the decision was notified to the person. The Danish High Court may, however, when the application is submitted within six months after this time limit, allow the decision of the Registrar of Shipping to be brought before the court, if the circumstances so warrant. If such permission is granted, the case shall be instituted within 14 days. If specialist knowledge of maritime matters is deemed to be of significance, the court may summon two maritime judges selected from amongst the experts appointed pursuant to section 92 of the administration of justice act (*retsplejeloven*). The relevant regulations on appeals in civil cases shall apply correspondingly, with the necessary relaxations, to bringing the case before and procedures by the Danish High Court.

Subsection 3. Decisions by the High Court pursuant to subsections 1 and 2, the first and second sentences, cannot be appealed. However, the Danish Board of Appeal Permission may permit the decisions mentioned to be appealed if the appeal concerns issues of a fundamental nature. Section 392(2) of the administration of justice act (*retsplejeloven*) shall also apply."

2. *Section 166* shall be as follows:

"**Section 166.** The registered owner of a ship shall, irrespective of guilt, be liable for the costs of locating, marking and removing a wreck when the wreck is located in the Danish territory or in the Danish exclusive economic zone.

Subsection 2. The registered owner of a ship flying the Danish flag shall, with the limitations following from the Wreck Removal Convention, be obliged to ensure that the wreck is removed when:

- 1) it is located in a Convention area outside the Danish territory and the Danish exclusive economic zone, and
- 2) when the State concerned, in accordance with the Convention, has determined that the wreck presents a danger.

Subsection 3. This part shall not affect the right to limit liability pursuant to part 9.

Subsection 4. Claims against the registered owner for the costs related to the locating, marking and removing of wrecks shall be made only in accordance with the provisions of this part, cf. however section 164(2)-(5).

Subsection 5. If the removal of a wreck is a salvage operation pursuant to part 16, payment or compensation shall be paid to the salvors pursuant to the provisions of part 16."

3. *Section 167(2)* shall be repealed.

4. *Section 168* shall be as follows:

"**Section 168.** The registered owner of a ship flying the Danish flag with a gross tonnage of or above 20 shall have approved insurance or any other guarantee covering the owner's liability pursuant to this part and a certificate if the ship has a gross tonnage of or above 300, cf. section 170, in order to engage in trade. The insurance sum may be limited to the liability limit stipulated in section 175.

Subsection 2. Insurance for a ship with a gross tonnage of or above 300 shall, in order to be approved, meet the following requirements:

- 1) The insurance shall not cease in other ways than
 - a) the expiry of the period of validity given in the certificate, cf. section 169; or
 - b) at the earliest at the expiry of three months from the date on which notice of its termination has been given to the Danish Maritime Authority by the insurer.
- 2) It shall be possible to make any claim for costs directly against the insurer. In such cases, it shall be possible for the insurer to invoke the same defences as those that the registered owner would have been entitled to if the claim had been made against the owner. However, it shall not be possible for the insurer to invoke the bankruptcy, winding-up or termination of the registered owner.

Subsection 3. Insurance of a ship with a gross tonnage of or above 20, but below 300 shall meet the requirements mentioned in subsection 2(i)(b) and (ii).

Subsection 4. The Danish Maritime Authority shall lay down detailed regulations on insurance and guarantee, as mentioned in subsection 1, including what requirements shall be met by the insurance and the insurer in order for the insurance to be approved."

5. After *section 170*, the following shall be inserted in *part 8a*:

"**Section 170a.** As regards ships or wrecks, sections 164-170 shall also apply when the ship or wreck is being towed.

Subsection 2. When towing objects other than ships or wrecks, or when towing ships and wrecks for which an insurance obligation is not prescribed by other provisions of this part, the one who has ordered the towing shall be liable for the costs related to the localisation, marking, removal and salvage of the towed object when the object, ship or wreck – in connection with the towing – founders, is lost, is stranded, sinks or is drifting at sea or the like in Danish territorial waters. The orderer of the towing shall take out insurance or other similar financial security covering the liability of the costs. At the same time, the orderer of the towing shall be obliged to ensure that the tow is seaworthy.

Subsection 3. Anyone towing a ship, wreck or any other object in Danish territorial waters shall ensure that insurance or any other similar financial security has been taken out."

6. In *section 202(4)*, the second clause, ", including for the obligation to submit an accountant's declaration on the accuracy of the information reported" shall be inserted after "to pay contributions".

7. In *part VI* after *part 18*, the following shall be inserted:

"Part 18a

Safety in connection with construction projects

Section 486. The Minister for Business and Growth may lay down regulations stipulating that construction owners of construction projects performed wholly or partly at sea shall ensure that, as regards ships involved in the project, insurance has been taken out or security has been provided in accordance with sections 153, 168, 186, 197, 198 and 403a-403c."

8. In *section 514(1)*, the first clause, "section 168(1) and (2)" shall be amended to "section 168(1), section 170a(2) and (3)".

9. In *section 515b*, "sections 153, 186, 197, 198, 403a, 403b, 403c and 471" shall be amended to "section 153, section 170a(2) and (3), and sections 186, 197, 198, 403a-403c, 471 and 486".

Section 4

In the act on diving operations and diving equipment, etc. (*lov om dykkerarbejde og dykkermateriel m.v.*), cf. consolidated act no. 69 of 17 January 2014, the following amendment shall be made:

1. In *section 16*, the following shall be inserted as new subsections after subsection 1:

"*Subsection 2.* The Minister for Business and Growth may, on more detailed conditions, authorise classification societies, other companies or individuals, to perform surveys of diving equipment, including auxiliary equipment, on behalf of the Danish Maritime Authority, as mentioned in subsection 1.

Subsection 3. The classification societies, other companies and individuals mentioned in subsection 2 may require payment for their work."

Subsequently, subsection 2 shall become subsection 4.

Section 5

In the act on the manning of ships (*lov om skibes besætning*), cf. consolidated act no. 74 of 17 January 2014, the following amendments shall be made:

1. *Section 4(2)* shall be as follows:

"*Subsection 2.* As regards ships of less than 20 gross tonnage in domestic trade, the Danish Maritime Authority may, rather than issue a certificate as mentioned in subsection 1, lay down regulations on the safe manning for groups of ships."

2. In *section 6(2)*, in the table entitled "Other ships", "Mate, 1st class (STCW reg. III/3 as chief mate" shall be amended to "Mate, 1st class (STCW reg. II/2 as chief mate)".

3. In *section 13(1)*, *the first clause* ", cf. act no. 476 of 9 June 2004 on the right to exercise certain occupational activities in Denmark (*lov om adgang til udøvelse af visse erhverv i Danmark*)" shall be amended to "in accordance with the act on the right to exercise certain occupational activities in Denmark (*lov om adgang til udøvelse af visse erhverv i Danmark*)".

4. The following shall be inserted after *part 9*:

"Part 9a

Safety in connection with construction projects, etc.

Section 26a. The Minister for Business and Growth may lay down regulations stipulating that construction owners of construction projects performed wholly or partly at sea shall contribute to ensuring

that activities related to the project are performed in accordance with the act and regulations issued in pursuance of the act."

Section 6

Subsection 1. This act shall enter into force on 1 July 2016, cf. however subsection 2.

Subsection 2. Section 1 shall enter into force on 1 January 2017.

Section 7

Subsection 1. This act shall not apply to the Faroe Islands and to Greenland.

Subsection 2. Sections 1-5 may by royal decree be put into force for Greenland in full or partly with the amendments deriving from the Greenland conditions.

Subsection 3. Section 3 may be put into force for the Faroe Islands in full or partly with the amendments deriving from the Faroese conditions.

Christiansborg Castle, 2 May 2016
MARGRETHE R. / Troels Lund Poulsen