

Translation: Only the Danish document has legal validity.

*Order no. 261 of 23 March 2020  
issued by Ministry of Industry, Business and Financial Affairs*

## **Order on the transfer of certain powers to the Danish Maritime Authority and on the right of appeal, etc.**

In pursuance of section 8 of the Act on the Danish Maritime Occupational Health and Welfare Board (*lov om Handelsflådens Arbejds miljø- og Velfærdsråd*), see Consolidated Act no. 70 of 17 January 2014, as amended by Act no. 139 of 28 February 2018, section 26(2) of the Act on the Manning of Ships (*lov om skibes besætning*), see Consolidated Act no. 74 of 17 January 2014, section 17(9) and section 21(2) of the Act on Safety at Sea (*lov om sikkerhed til søs*), see Consolidated Act no. 1629 of 17 December 2018, section 10a of the Act on Tonnage Measurement of Ships (*lov om skibsmåling*), see Consolidated Act no. 71 of 17 January 2014, section 22 of the Act on Diving Operations and Diving Equipment, etc. (*lov om dykkerarbejde og dykkermateriel m.v.*), see Consolidated Act no. 69 of 17 January 2014, section 75a of the Act on Seafarers' Conditions of Employment, etc. (*lov om søfarendes ansættelsesforhold m.v.*), see Consolidated Act no. 1662 of 17 December 2018, section 3(1) and (2) of the Holiday Act (*lov om ferie*), see Consolidated Act no. 1025 of 4 October 2019, section 516 of the Merchant Shipping Act (*søloven*), see Consolidated Act no. 1505 of 17 December 2018, section 12(1)(vi) of the Act on the Danish International Register of Shipping (*lov om Dansk Internationalt Skibsregister*), see Consolidated Act no. 68 of 17 January 2014, section 6 of Act no. 1432 of 21 December 2005 on Assumption of Right to use Danish Ships (*lov om overtagelse af brugsretten til danske skibe*) and section 33a of the Pilotage Act (*lodsloven*), see Consolidated Act no. 352 of 12 April 2016, the following provisions are laid down:

### *Transfer of powers*

**Section 1.** Powers which are conferred on the Minister for Industry, Business and Financial Affairs according to the following acts shall be exerted by the Danish Maritime Authority, see however sections 2 and 3:

(i) the Act on the Danish Maritime Occupational Health and Welfare Board;

- (ii) the Act on the Manning of Ships;
- (iii) the Act on Safety at Sea;
- (iv) the Act on Tonnage Measurement of Ships;
- (v) the Act on Diving Operations and Diving Equipment, etc.;
- (vi) the Act on Seafarers' Conditions of Employment, etc.;
- (vii) the Holiday Act;
- (viii) the Merchant Shipping Act;
- (ix) the Act on the Danish International Register of Shipping; and
- (x) the Act on Assumption of Right to Use Danish Ships.

*Subsection 2.* In addition, powers conferred on the Minister for Industry, Business and Financial Affairs pursuant to section 5(2), section 10, section 26a and section 26b of the Pilotage Act shall be exerted by the Danish Maritime Authority.

*Subsection 3.* The powers transferred to the Danish Maritime Authority under subsection (1) include the determination of the time of entry into force of acts.

**Section 2.** The following powers are not transferred to the Danish Maritime Authority:

- (i) Powers pursuant to section 3 of the Act on the Danish Maritime Occupational Health and Welfare Board to approve the articles of association of the Occupational Health and Welfare Board;
- (ii) powers pursuant to section 21(1), (5) and (7) and section 26 of the Act on Safety at Sea to establish a Danish Shipping Tribunal, to appoint its Chairman, members and Deputy Chairman, and to lay down regulations on its activities, and to establish a Ships Inspection Council, to appoint its Chairman and to determine the rules of procedure of the Council;
- (iii) powers pursuant to section 12(1)(v) of the Act on the Danish International Register of Shipping to lay down regulations on requirements for the Danish investment or other influence;

(iv) powers pursuant to section 7 of the Merchant Shipping Act to lay down regulations on the application for, registration and deletion, etc. of funnel marks and house flags, and regulations on fees for submission of applications and transcripts from the Register;

(v) powers pursuant to section 482 of the Merchant Shipping Act to establish a special investigation committee;

(vi) powers pursuant to section 2(3) of the Act on Assumption of Right to Use Danish Ships, to disregard, against payment, any contracts of affreightment concluded before the assumption;

(vii) powers pursuant to section 4(1) and (5) of the Act on Assumption of Right to Use Danish Ships to establish a shipping board and to appoint its Chairman, members and alternate members and to lay down the rules of procedure of the board.

**Section 3.** The power pursuant to section 14(2), third sentence, of the Merchant Shipping Act to make decisions on the registration of ships although the conditions therefor pursuant to section 1 or section 2 of the Merchant Shipping Act do not exist shall be exerted by the Ship Registrar, whose decision cannot be appealed to any other administrative authority.

#### *Registration and disclosure of information*

**Section 4.** The Danish Maritime Authority shall record and disclose information about natural and legal persons to the extent necessary to administer the acts referred to in section 1. The general provisions of the legislation on recording and disclosure apply unless exemptions from these have been made in special regulations.

#### *Right of appeal*

**Section 5.** Decisions made by the Danish Maritime Authority in pursuance of the Act on the Danish Maritime Occupational Health and Welfare Board, the Act on Tonnage Measurement of Ships and the Act on Assumption of Right to Use Danish Ships cannot be brought before any higher administrative authority.

**Section 6.** Decisions made by the Danish Maritime Authority in pursuance of the Act on the Manning of Ships cannot be brought before any higher administrative authority, see however subsections (2)-(4).

*Subsection 2.* Decisions on refusal of applications for certificates of competency as well as refusal of applications for certificates to sign on to serve as deck, engine and general service crew can be brought before the Danish Shipping Tribunal unless the refusal is based on the importance of the visual and auditory senses to work on board ships.

*Subsection 3.* Decisions on withdrawal of a certificate of recognition can be brought before the Danish Shipping Tribunal by the holder of the certificate.

*Subsection 4.* Decisions on safe manning, including preliminary safe manning, in accordance with section 4(2), section 5, section 6(3), section 9(2) and (3), section 10(2) and (3), section 12, section 15(1) and section 18(2) of the Act on the Manning of Ships can be brought before the Danish Shipping Tribunal by the relevant shipowner or seafarer organisation, see section 16 of the Act on the Manning of Ships.

*Subsection 5.* However, decisions on refusal of preliminary safe manning, see section 15(2) of the Act on the Manning of Ships, cannot be brought before the Danish Shipping Tribunal.

*Subsection 6.* Appeals under subsections (2)-(4) must be submitted in writing within four weeks after the decision has been notified. The Tribunal may disregard the time limit if special reasons make it appropriate.

*Subsection 7.* Where preliminary safe manning fixed by the Danish Maritime Authority is not brought before the Danish Shipping Tribunal within a period of four weeks, a decision on the final safe manning in accordance with the preliminary safe manning can be brought before the Danish Shipping Tribunal only where changes have been made to the assumptions decisive for the fixing of the safe manning.

**Section 7.** Decisions made by the Danish Maritime Authority in pursuance of the Act on the Safety at Sea cannot be brought before any higher administrative authority, see however subsection (2).

*Subsection 2.* The relevant shipowner can bring the following decisions before the Danish Shipping Tribunal:

(i) Decisions on detention of ships and on prohibition against calling at a port, see section 16(4) of the Act on Safety at Sea;

(ii) decisions on withdrawal of ship certificates prescribed by law and refusal of applications for renewal of such certificates;

(iii) decisions on withdrawal of shipowners' ISM documents of compliance and refusal of applications for renewal of such documents; and

(iv) decisions on prohibition of departure for a ro-ro passenger ship or high-speed passenger craft.

*Subsection 3.* Appeals under subsection (2) must be submitted in writing within four weeks after the decision has been notified. The Tribunal may disregard the time limit if special reasons make it appropriate.

**Section 8.** Decisions made by the Ship Registrar and the Danish Maritime Authority in pursuance of the Act on the Danish International Register of Shipping cannot be brought before any higher administrative authority.

**Section 9.** Decisions made by the Danish Maritime Authority in pursuance of the Act on Diving Operations and Diving Equipment, etc. cannot be brought before any higher administrative authority, see however subsection (2).

*Subsection 2.* Decisions on refusal of applications for commercial diver's certificates based on the applicant's health situation can be brought before the Danish Shipping Tribunal.

*Subsection 3.* Appeals under subsection (2) must be submitted in writing within eight weeks after the decision has been notified. The Tribunal may disregard the time limit if special reasons make it appropriate.

**Section 10.** Decisions made by the Danish Maritime Authority in pursuance of the Act on Seafarers' Conditions of Employment, etc. cannot be brought before any higher administrative authority, see however subsections (2)-(3).

*Subsection 2.* Decisions made by maritime medical practitioners about seafarers' and fishers' fitness for ship service can be brought before the Danish Shipping Tribunal by the person examined, the shipowner or the Danish Maritime Authority. However, this does not apply to decisions made by maritime medical practitioners on the importance of the visual and auditory senses to work on board ships, which the person examined or the shipowner can bring before the Danish Maritime Authority.

*Subsection 3.* Decisions made by the Danish Maritime Authority stating that a seafarer or a fisher holding a valid health certificate must undergo a new medical examination by a medical practitioner appointed by the Danish Maritime Authority can be brought before the Danish Shipping Tribunal by the person concerned or the shipowner.

*Subsection 4.* Appeals under subsections (2)-(3) must be submitted in writing within eight weeks after the decision has been notified. The Tribunal may disregard the time limit if special reasons make it appropriate. Similarly, the Danish Maritime Authority may disregard the time limit in case of appeals against decisions according to subsection (2), second sentence, if special reasons make it appropriate.

**Section 11.** Decisions made by the Ship Registrar and the Danish Maritime Authority in pursuance of the Merchant Shipping Act cannot be brought before any higher administrative authority, see however subsection (2).

*Subsection 2.* Decisions made by the Danish Maritime Authority in pursuance of section 154(1), section 170(4), section 187 and section 199 of the Merchant Shipping Act on expulsion of, prohibition against calling at a port and detention of ships can be brought before the Danish Shipping Tribunal.

*Subsection 3.* Appeals under subsection (2) must be submitted in writing within four weeks after the decision has been notified. The Tribunal may disregard the time limit if special reasons make it appropriate.

**Section 12.** Decisions made by the Danish Maritime Authority in pursuance of the Pilotage Act cannot be brought before any higher administrative authority, see however subsection (2).

*Subsection 2.* The following decisions can be brought before the Danish Shipping Tribunal, see section 33a(2) of the Pilotage Act:

- (i) Decisions on refusal of pilotage certificates according to section 12;
- (ii) decisions on refusal of a transit pilotage authorisation according to section 13;
- (iii) decisions on withdrawal of a transit pilotage authorisation according to section 13a;
- (iv) decisions on refusal of pilotage exemption certificates according to section 14;
- (v) decisions on refusal of registration as a pilotage provider according to section 24(4)-(5);

(vi) decisions on withdrawal of a pilotage certificate or a pilotage exemption certificate or deletion of a registration as a pilotage provider according to section 27(1);

(vii) decisions on temporary withdrawal of a pilotage certificate or a pilotage exemption certificate or temporary deletion of registration as a pilotage provider according to section 32.

*Subsection 3.* Appeals under subsection (2) must be submitted in writing within four weeks after the decision has been notified. The Tribunal may disregard the time limit if special reasons make it appropriate.

*Entry into force*

**Section 13.** This Order enters into force on 1 April 2020.

*Subsection 2.* Order no. 744 of 24 June 2013 on the transfer of certain powers to the Danish Maritime Authority and on the right of appeal, etc. is repealed.

Ministry of Industry, Business and Financial Affairs, 23 March 2020

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