

Royal decree on the entry into force for Greenland of parts of the pilotage act

We MARGRETHE THE SECOND, by the grace of God Queen of Denmark, hereby witness:

Pursuant to section 40(2)¹ of the pilotage act (*lodsloven*), act no. 567 of 9 June 2006, as amended by act no. 618 of 12 June 2013, it is hereby established that the pilotage act (*lodsloven*), act no. 567 of 9 June 2006, as amended by section 3 of act no. 478 of 30 May 2012 amending the act on the manning of ships (*lov om skibes besætning*), the act on maritime training programmes (*lov om maritime uddannelser*) and the pilotage act (*lodsloven*) (Adjustments as a consequence of the transfer of responsibilities in the areas of the maritime training programmes and pilotage), section 64 of act no. 1231 of 18 December 2012 amending various legal provisions on mandatory digital communication, etc. (Mandatory digital communication and adjustments as a consequence of the transfer of power), section 4 of act no. 618 of 12 June 2013 amending the merchant shipping act (*søloven*) and various other acts (Enhanced navigational safety requirements in Arctic waters, improving seafarers' legal status in case of piracy, adjustment of the ship registration provisions, implementation of the Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea, implementation of the amendment Protocol to the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea and abolition of the Divers' Council) and section 16 of act no. 600 of 12 June 2013 on Danpilot, shall apply for Greenland with the following wording:

Part 1

Scope of the act

Section 1. (Not enacted for Greenland).

Part 2

Definitions

Section 3. (Not enacted for Greenland).

Part 3

Use of a pilot

Sections 4-7. (Not enacted for Greenland).

¹ The provision has the following wording: “*Subsection 2.* Section 8, section 9, section 11(3), section 12, section 14, sections 16-18, section 19(3)-(5), section 20(1), sections 24-33b and section 34(1), (4) and (5) may be put into force in full or in part for Greenland with the amendments deriving from the special Greenland conditions.”

Section 8. In connection with pilotage activities, the pilot shall be obliged to, free of charge, bring along and train a pilot trainee or to bring along another pilot for maintaining the other pilot's knowledge of the waters irrespective of whether the pilot trainee or the other pilot is from a competing pilotage service provider.

Subsection 2. The pilot shall also be obliged to participate when pilot trainees or other pilots whom the pilot has brought along for pilotage activities sit for examinations.

Subsection 3. The Danish Maritime Authority may lay down regulations concerning subsections 1 and 2, including on the conditions for taking along another pilot or pilot trainee, notification and coverage of expenses and lost earnings in connection with the holding of aptitude tests.

Section 9. The Danish Maritime Authority shall lay down regulations on information exchange between the master of the ship and the pilot on relevant conditions as well as the provision of meals to and the accommodation of the pilot.

Section 10. (Not enacted for Greenland).

Part 4

Permit to carry out pilotage activities

Section 11. (Not enacted for Greenland).

Subsection 2. (Not enacted for Greenland).

Subsection 3. It shall be prohibited for persons to call themselves pilots unless they hold valid pilot certificates.

Section 12. The Danish Maritime Authority shall grant a pilot certificate in case applied for if the applicant:

- 1) is trained at a level permitting the applicant to navigate ships irrespective of their size;
- 2) has several years of experience as a master or a chief officer from relevant voyages;
- 3) is suitable in terms of health;
- 4) has special insight into and experience with the pilotage area;
- 5) has completed both theoretical training and training in the company of a pilot;
- 6) has completed pilotage training in the form of special manoeuvres;
- 7) has passed a defined aptitude test;
- 8) is associated with a pilotage service provider; and
- 9) does not have any considerable overdue debts due to public authorities, meaning amounts of or above DKK 50,000.

Subsection 2. The Danish Maritime Authority shall lay down more detailed provisions on the above-mentioned requirements and on any supplementary, necessary requirements.

Subsection 3. In special circumstances, the Danish Maritime Authority may grant exemptions from the conditions mentioned in subsection 1(i) and (ii). However, a pilot certificate shall never be issued for the piloting of ships that the pilot is not trained to navigate.

Subsection 4. The holder of a deep-sea certificate issued by a foreign authority may have his certificate replaced for a similar Danish certificate.

Subsection 5. The holder of a pilot certificate shall return the certificate to the Danish Maritime Authority when the holder no longer meets the conditions for being issued with the certificate.

Section 13. (Not enacted for Greenland).

Part 5

Exemption from the obligation to take a pilot

Section 14. Navigating officers with extensive knowledge about both the waters and the ship or type of ship may be issued with a pilot exemption certificate by the Danish Maritime Authority, permitting the holder to navigate a ship without taking a pilot though the obligation to take a pilot applies.

Subsection 2. The pilot exemption certificate shall be issued for a limited period of time and may be renewed only in accordance with the specifications of the Danish Maritime Authority.

Subsection 3. The Danish Maritime Authority shall lay down more detailed provisions on the acquisition of a pilot exemption certificate, including on requirements, documentation of experience and examinations.

Subsection 4. The holder of a pilot exemption certificate shall return the pilot exemption certificate to the Danish Maritime Authority when the holder no longer meets the conditions for being issued with the certificate.

Part 6

Shore-based pilotage

(Not enacted for Greenland).

Part 7

Pilots' obligations in addition to pilotage

Section 16. Pilots shall inform ships about conditions of importance to safety of navigation, the environment or other societal considerations.

Subsection 2. Pilots shall notify the relevant authority about any conditions observed of importance to safety of navigation, the environment or other societal conditions.

Subsection 3. The Danish Maritime Authority shall lay down more detailed regulations on pilots' obligations pursuant to subsections 1 and 2.

Part 8

Working environment during pilotage

Section 17. The Danish Maritime Authority may lay down regulations on stricter working environment and hours of rest provisions, etc. as necessitated by the special conditions of the work.

Subsection 2. The Danish Maritime Authority may lay down regulations stipulating that independent pilots shall observe the working environment regulations, etc. in force for employed pilots.

Subsection 3. The Danish Maritime Authority shall lay down regulations on control measures concerning working environment, hours of rest, etc.

Part 9

Pilotage service providers

Section 18. The pilotage service providers shall be domiciled in an EU/EEA country.

Subsection 2. The Minister for Business and Growth may lay down provisions stipulating that pilotage services may be performed by pilotage service providers domiciled in a country outside the EU/EEA.

Section 19. (Not enacted for Greenland).

Subsection 2. (Not enacted for Greenland).

Subsection 3. The Minister for Business and Growth shall lay down the notices for as well as more detailed regulations on how to order a pilot.

Subsection 4. The Minister for Business and Growth may lay down regulations on payment for pilotage services performed by Danpilot, including provisions on maximum rates.

Subsection 5. Danpilot may conclude agreements on cooperation with private services to meet the obligation mentioned in subsection 1.

Section 20. Danpilot shall, against payment, send on orders for pilots that have been addressed to private pilotage service providers.

Subsection 2. (Not enacted for Greenland).

Subsection 3. (Not enacted for Greenland).

Section 21. (Repealed).

Section 22. (Not enacted for Greenland).

Part 10

Economics

Section 23. (Not enacted for Greenland).

Part 11

Registration, inspection, etc.

Section 24. The Danish Maritime Authority shall inspect the pilotage, pilots and pilotage service providers.

Subsection 2. The Danish Maritime Authority shall keep a register of the companies carrying out pilotage activities in this country.

Subsection 3. Until registration pursuant to subsection 2 has taken place, pilotage activities shall not be carried out.

Subsection 4. A company shall be entitled to be registered as a pilotage service provider if the company:

- 1) meets the condition stipulated in section 18,
- 2) has taken out insurance in accordance with the provisions laid down pursuant to subsection 6, and
- 3) does not have considerable debt due to the public authorities, meaning amounts of DKK 50,000 and more, cf. however subsection 5.

Subsection 5. If the managing director and all board members of a pilotage service provider driven as a company, etc. does not meet the condition stipulated in section 12(1)(ix), it shall be rejected to be registered in the register kept by the Danish Maritime Authority.

Subsection 6. The Danish Maritime Authority shall lay down more detailed regulations on the activities of the pilotage service providers, including their obligation to keep the pilots insured, the drawing up of accounts, self-control, ordered or carried out pilotages and the obligation to provide information to the Authority, etc. on an ongoing basis, including the format in which information should be forwarded.

Section 25. Employees engaged in the inspection of pilots shall not have any interests in pilotage service providers performing regional pilotages or in their activities.

Subsection 2. Persons closely related to employees engaged in the inspection of pilots shall inform the relevant employee about any interests in the pilotage service providers or in their activities. This information shall be provided within one week after the occurrence of the interest. The employee shall pass on this information to the Danish Maritime Authority within one week after he has himself received the information.

Subsection 3. Persons closely related to an employee shall mean the following physical and legal persons with a relation to the circle of persons mentioned in subsection 1:

- 1) Spouse or cohabitant.
- 2) Minor children where the person mentioned in subsection 1 has the custody of the child.
- 3) Other relatives who, for a period of at least one year, have belonged to the household of the person mentioned in subsection 1.
- 4) Legal persons if:
 - a) a physical person covered by subsection 1 or by (i)-(iii) has the managerial responsibility in the legal person,
 - b) physical persons covered by subsection 1 or (i)-(iii) alone or together hold the majority of the voting rights in the company, have a right to appoint or remove a majority of the company's board members, have the right to exert decisive influence over the company on the basis of the bylaws or other agreement with this, on the basis of an agreement with the shareholders have the majority of the voting rights in the company or can exert decisive influence over the company and have more than one-third of the voting rights,
 - c) the legal person is established with a view to considering economic interests in a physical person covered by subsection 2 or by (i)-(iii), or
 - d) the legal person has otherwise economic interests that are considerably related to the economic interests of a physical person covered by subsection 1 or by (i)-(iii).

Section 26. The Danish Maritime Authority shall determine the rates of user payment for inspections, the holding of aptitude tests, the issue of certificates, exemption certificates, renewals, etc. related to the inspection of pilots.

Section 26a. The Minister for Business and Growth may lay down provisions to the effect that written communication to and from the authorities about conditions covered by this act or regulations issued pursuant to this act shall be made digitally.

Subsection 2. The Minister for Business and Growth may lay down more detailed regulations on digital communication, including on the use of specific computer systems, special digital formats and digital signatures or the like.

Subsection 3. A digital message shall be considered to have reached the recipient when it is available to the addressee of the message.

Section 26b. The Minister for Business and Growth may lay down provisions to the effect that the authorities may issue decisions and other documents pursuant to this act or pursuant to regulations issued pursuant to this act without a signature, with a mechanically or similarly reproduced signature or using a technique ensuring unambiguous identification of the one who has issued the decision or the document. Such decisions and documents shall be comparable with decisions and documents with a personal signature.

Subsection 2. The Minister for Business and Growth may lay down regulations to the effect that decisions and other documents that have exclusively been made or issued on the basis of electronic data processing may be issued solely giving the relevant authority as the sender.

Part 12

Withdrawal of pilot certificates and pilot exemption certificates, etc.

Section 27. The Danish Maritime Authority may withdraw a pilot certificate or a pilot exemption certificate and delete a registration as a pilotage service provider in the register if the conditions stipulated in the act for acquiring a pilot certificate, pilot exemption certificate or registration are no longer met.

Subsection 2. A pilot certificate may, however, not be withdrawn pursuant to subsection 1 if only the condition of section 12(1)(ix) is no longer met, cf. section 29(1).

Subsection 3. A pilotage service provider may, however, not be deleted from the register pursuant to subsection 1 if only the condition of section 24(4)(iii) is no longer met, cf. section 31(2) and (3).

Section 28. It shall be possible to withdraw a pilot certificate or a pilot exemption certificate if:

- 1) the holder is guilty of contraventions of the conditions for a pilot certificate or a pilot exemption certificate, of the provisions of the act or of provisions issued pursuant to the act, or
- 2) there are otherwise conditions making it inadvisable that the holder keeps piloting or being exempted from taking a pilot.

Subsection 2. Decisions in cases on withdrawal pursuant to subsection 1(i) shall be taken by the courts. Decisions on cases on withdrawal pursuant to subsection 1(ii) shall be made by the Danish Maritime Authority and the holder may require the decision brought before the courts. The decision made by the Danish Maritime Authority shall contain information about the possibility of taking legal action and about the time-limit applicable.

Subsection 3. The holder's request for decisions to be brought before the courts shall be received by the Danish Maritime Authority no later than four weeks after the holder has been informed about the decision. The Danish Maritime Authority shall refer the case to the local chief constable, who shall bring the case before the court in accordance with the provisions of chapter 81 of the administration of justice act (*retsplejeloven*).

Subsection 4. Requests for legal proceedings shall not have delaying effect, but the court may decide by order that the person concerned shall have access to perform his or her business as a pilot or to be exempted from taking a pilot during the consideration of the case. In case a judgment is appealed, whereby a withdrawal is not found legal, the court having made the judgment or the court before which it has been brought may decide that the person concerned shall not perform his or her business as a pilot or be exempted from taking a pilot during the appeal.

Section 29. A pilot certificate may be withdrawn by the Danish Maritime Authority if the holder has considerable debt due to the public authorities, meaning amounts of or above DKK 100,000. It shall be possible to withdraw the certificate for a period of one to five years or until further notice. The decision shall contain information about the possibility of taking legal action and about the time-limit applicable.

Subsection 2. Decisions pursuant to subsection 1 may be required brought before the courts by the person whom the decision concerns. Such a request shall be received by the Danish Maritime Authority no later than four weeks after the person concerned has been informed about the decision. The Danish Maritime Authority shall instigate proceedings against the person concerned according to the civil procedure.

Subsection 3. Decisions made pursuant to subsection 1 may at any time be annulled by the Danish Maritime Authority upon request. If such an application is rejected, the applicant may require the decision tried at the courts if the withdrawal has been effected until further notice and at least five years have elapsed after the withdrawal and at least two years after the withdrawal was last rejected by court order.

Section 30. A pilotage service provider may be deleted from the register if:

- 1) the pilotage service provider is guilty of having contravened conditions for registration, provisions of the act or provisions issued pursuant to the act, or
- 2) it has disregarded section 13(2) or has omitted to observe provisions issued pursuant to section 15, section 17(3) and section 24(6).

Subsection 2. Decisions in cases on deletion from the register pursuant to subsection 1(i) shall be made by the courts. Decisions in cases on deletion from the register pursuant to subsection 1(ii) shall be made by the Danish Maritime Authority and the pilotage service provider may require the decision to be brought before the courts. The decision made by the Danish Maritime Authority shall contain information about the possibility of taking legal action and about the time-limit applicable.

Subsection 3. Pilotage service providers' requests to have a decision brought before the courts shall be received by the Danish Maritime Authority no later than four weeks after the holder has been informed about the decision. The Danish Maritime Authority shall refer the case to the local chief constable, who shall bring the case before the court in accordance with the provisions of chapter 81 of the administration of justice act (*retsplejeloven*).

Subsection 4. Requests for legal proceedings shall not have delaying effect, but the court may decide by court order that the pilotage service provider shall be entitled to perform pilot activities during the case consideration.

Section 31. A pilotage service provider that no longer has any pilots in its service shall be deleted from the register.

Subsection 2. A pilotage service provider for which the owner is personally liable may be deleted from the register if the pilotage service provider or the owner has considerable debt due to the public authorities, meaning amounts of or above DKK 100,000.

Subsection 3. A pilotage service provider run as a company may be deleted from the register if one or more of the managing directors or the board members of the company have considerable debt due to the public authorities, meaning amounts of or above DKK 100,000.

Subsection 4. If withdrawal has occurred pursuant to section 2 or 3, section 29(2) and (3) shall also apply.

Section 32. If it is assessed that it would involve a considerable risk to safety of navigation to let the holder of a pilot certificate or a pilot exemption certificate or to let a pilot station continue its business, the Danish Maritime Authority may decide on temporary withdrawal in the cases mentioned in section 28(1)(i) or on temporary deletion in the cases mentioned in section 30(1)(i) until the court has made a decision.

Part 13
Delegation

Section 33. (Repealed).

Part 13 a
Appeal

Section 33. The Minister for Business and Growth may lay down regulations on the right of appeal, including that decisions made by the Danish Maritime Authority pursuant to the act cannot be brought before another administrative authority, cf. however subsection 2.

Subsection 2. Decisions made by the Danish Maritime Authority concerning refusal of pilot certificates pursuant to section 12, refusal of pilot exemption certificates pursuant to section 14, refusal to be registered pursuant to section 24(4)-(5), withdrawal of pilot certificates or pilot exemption certificates or deletion of a registration as a pilot station pursuant to section 27(1) and temporary withdrawal or temporary deletion pursuant to section 32 may be appealed to the Danish Shipping Tribunal, cf. the act on safety at sea (*lov om sikkerhed til søs*).

Part 13b
Pilotage in Greenland waters

Section 33b. Pilotage in Greenland waters as prescribed pursuant to section 3(3) of the act on safety at sea (*lov om sikkerhed til søs*), may be carried out only by a pilot who, in accordance with section 12, is certified to carry out pilotage in the relevant area.

Subsection 2. The Minister for Business and Growth may conclude agreements with pilotage service providers stipulating that they shall be obliged to make a pilot available – within a determined notice – to ships covered by the obligation to take a pilot prescribed pursuant to section 3(3) of the act on safety at sea (*lov om sikkerhed til søs*).

Subsection 3. The Minister for Business and Growth may lay down provisions stipulating that state-owned pilotage service providers shall be obliged to make a pilot available – within a determined notice – to ships covered by the obligation to take a pilot prescribed pursuant to section 3(3) of the act on safety at sea (*lov om sikkerhed til søs*).

Subsection 4. The provisions of sections 8 and 9, section 11(3), sections 12, 14 and 16-18, section 19(3)-(5), section 20(1), sections 24-33a and section 34(1), (4) and (5) shall apply to pilotage activities covered by subsection 1.

Part 14
Measures, etc.

Section 34. Measures pursuant to the penal code (*kriminalloven*) may be imposed on anyone contravening section 8, section 11(3), section 12(5), section 14(4), section 24(3) and section 25(1) and (2).

Subsection 2. (Not enacted for Greenland).

Subsection 3. (Not enacted for Greenland).

Subsection 4. Measures pursuant to the penal code (*kriminalloven*) may be imposed for contraventions of provisions issued pursuant to the act.

Subsection 5. If a contravention has been committed by companies, etc. (legal persons), the legal person as such may be liable to punishment by fine.

Subsection 6. If criminal proceedings are instigated outside Greenland or concern a person or company, cf. subsection 5, domiciled or established outside Greenland, punishment may have the form of a fine or imprisonment instead of measures.

Part 15

Entry into force

Section 35. This decree shall enter into force on 1 July 2016.

Christiansborg Castle, 24 August 2015

In the name of the Queen: Frederik, Crown Prince / Troels Lund Poulsen