

Translation: Only the Danish document has legal validity

Act no. 1384 of 23 December 2012 issued by the Danish Maritime Authority

**Act amending the merchant shipping act (*søloven*),
the act on additions to the act on wreckage of 10 April 1895
(*lov om tillæg til strandingsloven af 10. april 1895*),
the act on the manning of ships (*lov om skibes besætning*),
and various other acts and repealing the act on a registration fee
for recreational craft (*lov om registreringsafgift for fritidsfartøjer*)**

(Implementation of the International Convention on the Removal of Wrecks, adjustments as a consequence of the Regulation concerning the Rights of Passengers, fees for certificates of competency and certificates of qualification, the introduction of an annual fee for ships registered in the ship registers and sanctioning of the master's obligation to rescue those on board, 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 merchant shipping act, cf. consolidated act no. 856 of 1 July 2010, as amended by act no. 599 of 24 June 2005, section 1 of act no. 526 of 7 June 2006, section 13 of act no. 1563 of 20 December 2006, section 1 in act no. 251 of 30 March 2011, section 17 in act no. 457 of 18 May 2011 and section 1 of act no. 249 of 21 March 2012, and as will be amended by section 61 of the of the act adopted by the Danish Parliament on 29 November 2012 amending various provisions on mandatory digital communication, etc. (mandatory digital communication and adjustments as a consequence of the transfer of power), the following amendments shall be made:

1. The following shall be inserted as *footnote no. 2* to the title of the act:
"2) Pursuant to article 288 of the Treaty on the Functioning of the European Union, a regulation shall be directly applicable in all Member States. This act contains provisions on the application in this country of regulation 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 waterway and amending regulation (EC) no. 2006/2004, Official Journal 2010, no. L 334, pp. 1-16."
2. After section 15, the following shall be inserted before the headline before section 16:

"Annual fees for registered ships

Section 15a. Owners of ships registered in the Danish Shipping Register and in the Boat Register shall pay an annual fee for each ship registered.

Subsection 2. For ships with a gross tonnage below 20, the annual fee shall amount to DKK 800.

Subsection 3. For ships with a gross tonnage between 20 and 500, the annual fee shall amount to DKK 1,600.

Subsection 4. For ships with a gross tonnage of or above 500, the annual fee shall amount to DKK 2,400.

Subsection 5. For ships that have only a gross register tonnage measurement, the fee shall be determined pursuant to subsections 2-4 on the basis of the ship's gross register tonnage.

Subsection 6. For ships that have neither a gross tonnage nor a gross register tonnage, the fee shall amount to DKK 800.

Subsection 7. Subsections 1-6 shall not apply to ships registered in Greenland, owned by persons domiciled in Greenland or by companies or the like domiciled in Greenland.

Subsection 8. Subsections 1-6 shall not apply to ships that, pursuant to section 24, have been registered in a foreign ship register on the basis of a bareboat charter agreement and temporarily fly another flag of nationality than the Danish one.

Subsection 9. Ships that have by the Danish Ship Preservation Trust been declared worthy of preservation through the issue of a declaration of preservation worthiness shall be exempted from paying annual fees pursuant to this section.

Section 15b. The registered owner of the ship shall be obliged to pay the fee due to the Danish Maritime Authority.

Subsection 2. If the ship is owned by part owners, the part owners shall be jointly and severally liable for the payment of the fee. If the ship is owned by limited partnerships, partnerships, partnership-like co-owners, etc., the partners or owners shall be jointly and severally liable for the payment of the fee.

Subsection 3. If the ship is registered on the basis of a bareboat charter agreement, the fee shall rest with the bareboat charterer registered in the register.

Subsection 4. The annual fee shall fall due every year on the first day in March and shall cover the period from 1 March in the year in question to the last day in February in the following year.

Subsection 5. If a ship for which a fee has been paid is deleted from the register before 31 August, the Danish Maritime Authority shall, following previous application, refund half of the fee paid for the year concerned. Applications for refunds shall be received by the Danish Maritime Authority no later than at the end of the year in which the ship is deleted.

Subsection 6. The Minister for Business and Growth may lay down provisions on the method of payment, the final date for payment, reminders, fees and interest as well as provisions stipulating that the Danish Maritime Authority may cancel or waive requirements for payment of the annual fee.”

3. In *section 155(2)*, "part 8a" shall be inserted after "on insurance stipulated in".

4. After *section 163*, the following shall be inserted:

“Part 8a

*Liability for wreck removal following a maritime accident
and the obligation to take out insurance covering the removal of wrecks*

Section 164. The provisions of this part shall apply in the Danish territory and in the Danish exclusive economic zone as well as to Danish ships irrespective of where they are.

Subsection 2. The provisions of this part shall not apply to the extent that the removal of the wreck is covered by part 9a, 10 or 11.

Subsection 3. The provisions of this part shall not apply to measures taken under the International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969, as amended, or the Protocol relating to Intervention on the High Seas in Cases of Pollution by Substances other than Oil, 1973, as amended.

Subsection 4. The provisions of this part shall not affect the liability or obligations pursuant to the act on compensation for nuclear damages (*lov om erstatning for atomskader*).

Subsection 5. As regards warships or other ships owned or operated by a State and used for State-related, non-commercial activities, this part shall not apply.

Section 165. For the purposes of this part, the registered owner shall mean the person(s) registered as the ship's owner or, if no registration has been made, the person(s) owning the ship at the time of the maritime accident. In cases where the ship is owned by a State and operated by a company that is, in the State concerned, registered as the ship's owner, the registered owner shall mean the ship's owner.

Subsection 2. For the purposes of this part, a ship shall mean a seagoing vessel of any type, including hydrofoil boats, air-cushion vehicles, submersibles, floating craft and floating platforms. Floating platforms on location engaged in the exploration, exploitation or production of seabed mineral resources shall not be considered ships.

Subsection 3. For the purposes of this part, a wreck shall mean a sunken or stranded ship following a maritime accident, any part of a sunken or stranded ship, including objects that are or have been on board the ship, any object that is lost at sea from a ship and that is stranded, sunken or adrift at sea, or a ship that is about, or may reasonably be expected, to sink or to strand, where effective measures to assist the ship or any property in danger have not already been taken.

Subsection 4. For the purposes of this part, hazard shall mean any condition or threat that poses a danger or impediment to navigation, or may reasonably be expected to result in major harmful consequences to the marine environment or damage to the coastline or related interests of one or more States.

Subsection 5. For the purposes of this part, related interests shall mean the interests of a coastal State directly affected or threatened by a wreck, such as maritime coastal, port and estuarine activities, including fisheries activities, constituting an essential means of livelihood of the persons concerned, tourist attractions and other economic interests of the area concerned, the health of the coastal population and the wellbeing of the area concerned, including conservation of marine living resources and of wildlife, and offshore and underwater infrastructure.

Subsection 6. For the purposes of this part, removal shall mean any prevention, mitigation or elimination of the hazard created by a wreck.

Subsection 7. For the purposes of this part, a maritime casualty shall mean a ship collision, stranding or other incident of navigation or other occurrence on board a ship or external to it resulting in material damage or imminent threat of material damage to a ship or its cargo.

Subsection 8. For the purposes of this part, affected State shall mean the State Party to the Wreck Removal Convention and in whose exclusive economic zone the wreck is located or, if the State's sea territory is covered by the Convention, in whose exclusive economic zone or territory the wreck is located.

Subsection 9. For the purposes of this part, the Convention area shall mean the exclusive economic zone, or areas in which an exclusive economic zone could be established, of States Parties to the Wreck Removal Convention as well as the territories of the States concerned if they are covered by the Wreck Removal Convention.

Subsection 10. For the purposes of this part, the Wreck Removal Convention shall mean the Nairobi International Convention on the Removal of Wrecks, 2007.

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 constitutes 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.

Subsection 6. Anyone towing a ship, wreck or any other object shall, irrespective of the size of that under tow and without considerations of guilt, be liable for the costs related to the locating, marking and removal and salvage hereof when that under tow is located in the Danish territory.

Section 167. The registered owner shall not be liable if the registered owner proves that the maritime accident causing the wreck:

- 1) resulted from an act of war, hostilities, civil war, insurrection, or a natural phenomenon of an exceptional, inevitable and irresistible character;
- 2) was wholly caused by an act or omission by a third party with intent to cause damage; or
- 3) was wholly caused by the negligence or other wrongful act of any Government or other authority responsible for the maintenance of lights or other navigational aids in the exercise of that function.

Subsection 2. Subsection 1 shall also apply to the towing operator liable pursuant to section 166(6).

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. Anyone towing a ship, a wreck or any other object in the Danish territory shall, irrespective of the size of that under tow, be obliged to have that under tow insured.

Subsection 3. 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, 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) Any claim for costs may be made directly against the insurer. The insurer shall, in such cases, 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, the insurer cannot invoke the bankruptcy, winding-up or termination of the registered owner.

Subsection 4. Insurance of a ship with a gross tonnage of or above 20, but below 300 as well as insurance pursuant to subsection 2 shall meet the requirements mentioned in subsection 3(i)(b) and (ii).

Subsection 5. The Danish Maritime Authority shall lay down detailed regulations on insurance and guarantee, including what requirements shall be met by the insurance and the insurer in order for the insurance to be approved.

Section 169. The Danish Maritime Authority shall for ships flying the Danish flag with a gross tonnage of or above 300 issue a certificate confirming that the ship is insured in accordance with section 168.

Subsection 2. Upon request, the Danish Maritime Authority shall also issue certificates to ships whose flag State is not a Party to the Wreck Removal Convention. Such issuance shall be on the same terms as those applicable to Danish ships.

Subsection 3. For ships owned by the Danish State, the Danish Maritime Authority shall issue a certificate confirming that the ship is State owned and that the ship's liability is covered within the limits mentioned in part 9 of the act.

Subsection 4. The Danish Maritime Authority shall lay down more detailed regulations on the design, period of validity, payment for issue and where to keep the certificate. The Danish Maritime Authority may entrust the issue of certificates with others, including private parties.

Section 170. A Danish ship with a gross tonnage of or above 300 shall not engage in trade unless it holds a certificate as mentioned in section 169.

Subsection 2. A Danish ship with a gross tonnage of or above 20, but below 300, shall not engage in trade unless insurance has been taken out in accordance with section 168. Similar requirements on insurance shall apply in a situation pursuant to section 166(6).

Subsection 3. Any ship, irrespective of nationality, with a gross tonnage of or above 300 shall hold a certificate corresponding to the certificate mentioned in section 169 to call at or depart from a Danish port or offshore installation in Danish territorial waters. If the flag State of the ship is a Party to the Wreck Removal Convention, the certificate shall have been issued by the authority of the flag State. If the flag State of the ship is not a Party to the Wreck Removal Convention, the certificate shall have been issued by the authority in a State that is a Party to the Wreck Removal Convention.

Subsection 4. The Danish Maritime Authority and other authorities that have been authorised by the Minister for Business and Growth for this may refuse a ship access to or prohibit it from leaving a Danish port, offshore installation or any other place of loading or unloading in Denmark or in Danish territorial waters if the ship does not hold the certificate mentioned in subsection 1 or 3 or if the ship is not insured as laid down in subsection 2.”

5. After section 431, the following shall be inserted in *part IV*:

“Part 15a
Passenger rights”

Section 440. The Minister for Business and Growth may lay down regulations with a view to complying with and applying 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 waterway and amending Regulation (EC) no. 2006/2004 (the Passenger Rights Regulation), including provisions concerning rights of complaint and fees.”

6. Before section 505a, the following shall be inserted in *part 19*:

“**Section 505.** The limitation period of the registered owner's liability pursuant to section 165 is three years after the State concerned has determined that the wreck constitutes a hazard.

Subsection 2. Regardless of when the State concerned determines that the wreck constitutes a hazard, limitation shall apply no later than six years after the maritime accident that has caused the wreck.

Subsection 3. The bringing of a case on payment before the courts shall suspend the period of limitation.

Subsection 4. If the maritime accident consists of several incidents, the period shall be calculated from the first incident.”

7. In *section 514(1)*, the first sentence, “section 168(1)-(2)” shall be inserted after “section 153(1), (3) or (4)”.

8. In *section 515b*, “sections 153” shall be amended to “sections 153, and 168, section 169(4) and sections”.

Section 2

In the act on additions to the act on wreckage of 10 April 1895 (*lov om tillæg til strandingsloven af 10. april 1895*), cf. consolidated act no. 838 of 10 August 2009, the following amendments shall be made:

1. In *section 6(1)* and in *section 9(1)*, “section 2” shall be amended to “section 14a”.

2. *Section 7(1)* shall be as follows:

“The registered owner of the ship and its insurance company shall be liable in accordance with part 8a of the merchant shipping act (*søloven*) for the expenses of the measures taken by the public authorities, cf. section 6.”

3. In *section 7*, the following shall be inserted as a new subsection after subsection 1:

“*Subsection 2.* If the wreck is in Danish territorial waters, the owner of the cargo as well as the owner of other objects shall also be liable insofar as they or their nature by themselves constitute a hazard or considerable inconvenience to shipping or fishing. The owner shall be liable for the objects, but shall not be personally liable. As regards the objects mentioned, claims of public authorities shall have priority over any other claims.”

Subsequently, subsection 2 shall become subsection 3.

4. After section 14, the following shall be inserted:

“**Section 14a.** The act shall apply to objects in the Danish territory. Furthermore, section 6, section 7(1), section 9 and sections 11-13 shall apply to objects in the Danish exclusive economic zone.”

Section 3

In the act on the Danish International Shipping Register (*lov om Dansk Internationalt Skibsregister*), cf. consolidated act no. 273 of 11 April 1997, as amended by section 1 of act no. 460 of 31 May 2000, section 2 of act no. 526 of 7 June 2006 and act no. 214 of 24 March 2009, the following amendment shall be made:

1. After section 8, the following shall be inserted:

“**Section 8a.** The provisions on annual fees for registered ships stipulated in sections 15a-15b shall also apply to ships registered in the Danish International Shipping Register.”

Section 4

In the act on the manning of ships (*lov om skibes besætning*), cf. consolidated act no. 168 of 27 February 2012, as amended by section 3 of act no. 493 of 12 May 2010 and section 1 of act no. 478 of 30 May 2012, the following amendments shall be made:

1. *Section 20(1)* shall be as repealed.
Subsequently, subsections 2-6 shall become subsections 1-5.
2. In *section 20(4)*, which shall become subsection 3, "the issue of certificates of competency and qualification, including fees," shall be inserted after "The Danish Maritime Authority shall lay down regulations on:"
3. In *section 20(6)*, which shall become subsection 5, "cf. subsection 5" shall be amended to "cf. subsection 4".
4. In *section 24*, "cf. however section 20(4)" shall be amended to "cf. however section 20(3)".

Section 5

In the act on safety at sea (*lov om sikkerhed til søs*), cf. consolidated act no. 654 of 15 June 2010, as amended by section 1 of act no. 493 of 12 May 2010, section 2 of act no. 251 of 30 March 2011, section 16 of act no. 457 of 18 May 2011, section 5 of act no. 622 of 14 June 2011 and section 2 of act no. 249 of 21 March 2012, and as will be amended by section 59 of the of the act adopted by the Danish Parliament on 29 November 2012 amending various provisions on mandatory digital communication, etc. (mandatory digital communication and adjustments as a consequence of the transfer of power), the following amendments shall be made:

1. *Section 4(3)* shall be as follows:
"Subsection 3. The Minister for Business and Growth may lay down regulations on the obligation to report accidents and other incidents at sea to Danish and foreign maritime authorities and on the Danish authorities' reporting hereof to the European information platform for accidents at sea."
2. *Section 20a* shall be as follows:
"**Section 20a.** As part of the supervision under this act, the Danish Maritime Authority may also supervise compliance with the act on smoke-free environments on Danish ships (*lov om røgfri miljøer på danske skibe*) and compliance with the act on seafarers' conditions of employment, etc. (*lov om søfarendes ansættelsesforhold m.v.*), the act on the manning of ships (*lov om skibes besætning*), the act on the tonnage measurement of ships (*lov om skibsmåling*), sections 153 and 168, section 169(4) and sections 170, 186, 197, 198, 440 and section 471 of the merchant shipping act (*søloven*) and regulations issued in pursuance hereof and EU regulations within the scope of the act. The Danish Maritime Authority may order that matters that violate the acts mentioned or regulations issued pursuant hereto are rectified immediately or within an established deadline.
Subsection 2. Section 16(2), section 17(7) and (8), section 19, section 22 and section 24 and regulations issued in pursuance hereof and section 25 shall also apply to the supervision activities under subsection 1.

Subsection 3. The Minister for Business and Growth may lay down provisions on the supervision carried out pursuant to this act and on the consideration of complaints from seafarers and others, including the prohibition against informing that an inspection visit is made as a consequence of a complaint. Regulations on the supervision of compliance with the act on smoke-free environments on Danish ships (*lov om røgfri miljøer på danske skibe*) shall be laid down following negotiations with the Minister for Health and Prevention.”

3. In *section 29*, the following shall be inserted as *subsection 3*:

“*Subsection 3.* Any master neglecting his or her obligations pursuant to *section 135* of the merchant shipping act (*søloven*) in relation to rescue of those on board when a ship is in distress at sea, shall be liable to punishment by fine or imprisonment for a term not exceeding four months.”

4. In *section 31(1)* and (2), “*section 29(1)* and (2)” shall be amended to “*section 29(1)-(3)*.”

Section 6

In act no. 249 of 21 March 2012 amending amending the merchant shipping act (*søloven*) and the act on safety at sea (*lov om sikkerhed til søs*) (adjustments as a consequence of the Athens Regulation, implementation of the 2002 Athens Convention, and registration of ships with a time-limit), the following amendment shall be made:

1. *Section 2* shall be repealed:

Section 7

In act no. 901 of 16 December 1998 amending the merchant shipping act (*søloven*) and repealing the act on ship registration (*lov om skibsregistrering*) (transfer of registration provisions, etc.), the following amendment shall be made:

1. *Section 3(1)* shall be as follows:

“This act shall not apply to the Faroe Islands, but *section 1(viii)* may, by royal decree, be put into force for the Faroe Islands deriving from the special Faroese conditions.”

Section 8

In act no. 106 of 13 February 2001 amending the merchant shipping act (*søloven*) and the administration of justice act (*retsplejeloven*) (maritime inquiry and compensation in connection with the carriage of oil by sea), the following amendment shall be made:

1. In *section 4*, the following shall be inserted as the *second sentence*:

“The provisions of the act may be put in force on different dates.”

Section 9

Subsection 1. This act shall enter into force on 15 February 2013, cf. however subsections 3 and 4.

Subsection 2. The act on a registration fee for recreational craft (*lov om registreringsafgift for fritidsfartøjer*), cf. consolidated act no. 102 of 13 February 1992, shall be repealed on 15 February 2013.

Subsection 3. Section 1(v) shall enter into force on 29 January 2013.

Subsection 4. The Minister for Business and Growth shall determine the date of the entry into force of section 1(iii)-(iv) and (vi)-(viii), section 2, section 5(i) and (ii) and sections 6-8. In this connection, the Minister may decide that the provisions shall enter into force on different dates.

Section 10

Subsection 1. This act shall not apply to the Faroe Islands and to Greenland, cf. however subsections 2-4.

Subsection 2. The Minister for Business and Growth may, by royal decree, put the act into force fully or in part for Greenland with the amendments deriving from the Greenland conditions.

Subsection 3. Section 1(iii)-(viii) may, by royal decree, be put into force fully or in part for the Faroe Islands with the amendments deriving from the Faroese conditions.

Subsection 4. Ships registered in Greenland shall be covered by section 1(ii) and section 3 if the ship is owned by persons not domiciled in Greenland or by companies or the like not domiciled in Greenland.

Marselisborg Castle, 23 December 2012

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