

Translation: Only the Danish version has legal validity

Act no. 493 of 12 May 2010 issued by the Danish Maritime Authority

**Act amending the act on safety at sea, the seaman's act and various other acts
and repealing the act on the engagement of ship's crews¹**

(Implementation of the Maritime Labour Convention, modernisation of provisions on inspection,
prohibition against navigation under the influence of alcohol in Greenland waters, etc.)

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

Folketinget (the Danish Parliament) has adopted and
We by Our consent hereby enact the following Act:

Section 1

In the act on safety at sea (*lov om sikkerhed til søs*), cf. consolidated act no. 903 of 12 July 2007, as amended by section 2 of act no. 511 of 17 June 2008, section 164 of act no. 1336 of 19 December 2008 and section 1 of act no. 215 of 24 March 2009, the following amendments shall be made:

1. In the *footnote* to the act, the following shall be inserted after "OJ 2002 L 19, pp. 17ff":
"Council Directive 2009/13/EC of 16 February 2009 implementing the Agreement concluded by the European Community Shipowners' Association (ECSA) and the European Transport Workers' Federation (ETF) on the Maritime Labour Convention, 2006, and amending Directive 1999/63/EC (OJ 2009 L 124, p. 30-50). Directive 2009/17/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 2002/59/EC establishing a Community vessel traffic monitoring and information system (OJ 2009 L 131, p. 101-113). Directive 2009/21/EC of the European Parliament and of the Council of 23 April 2009 on compliance with flag State requirements (OJ 2009 L 131, p. 132-135)."
2. In *section 3(i)*, "as well as rules on shipyards and other companies' reporting of conversions of ships" shall be inserted after "in this regard".
3. In *section 3*, the following shall be inserted as a new item after item 1:
"2) safety management systems for ships and shipowners,"
Subsequently, items 2-10 shall become items 3-11.

¹ This act contains provisions implementing parts of Council Directive 2009/13/EC of 16 February 2009 implementing the Agreement concluded by the European Community Shipowners' Associations (ECSA) and the European Transport Workers' Federation (ETF) on the Maritime Labour Convention, 2006, and amending Directive 1999/63/EC (OJ 2009 L 124, p. 30-50), parts of Directive 2009/17/EC of the European Parliament and of the Council of 23 April 2009 amending Directive Directive 2002/59/EC establishing a Community vessel traffic monitoring and information system (OJ 2009 L 131, p. 101-113) as well as parts of Directive 2009/21/EC of the European Parliament and of the Council of 23 April 2009 on compliance with flag State requirements (OJ 2009 L 131, p. 132-135).

4. In *section 3, items 5 and 6*, which shall become items 6 and 7, "of the employer" shall be amended to "of the shipowner and other employers".

5. In *section 3*, the following shall be inserted as *subsection 2*:

"*Subsection 2.* The Minister for Economic and Business Affairs may for foreign ships covered by the Act according to rules stipulated in pursuance of *section 1(3)* lay down rules on the conditions covered by the United Nations' Labour Organisation's Maritime Labour Convention."

6. After *section 8*, the following shall be inserted in *part 3*:

"**Section 8a.** The Minister for Economic and Business Affairs may, following negotiations with the Minister of Defence, lay down rules on the surveillance of Danish waters and on ships' calls at ports, including on the obligation to report information to the Admiral Danish Fleet on ships navigating the waters and ports mentioned in *section 1(3)*, on those on board and on the ships' cargo, etc."

7. *Section 9* shall be as follows:

"**Section 9.** The shipowner shall ensure that the provisions of this Act and provisions issued in pursuance of the act on the ship and its operation are observed. The shipowner shall ensure that the ship is subjected to the mandatory surveys and is provided with the necessary certificates. The shipowner shall also ensure that the master of the ship has a possibility of meeting the obligations resting with him. The obligations under the first to third sentences rest with the shipowner irrespective of whether other organisations, companies or persons carry out some of the tasks or obligations on behalf of the shipowner.

Subsection 2. If the shipowner has wholly or in part transferred the obligations and fields of responsibility covered by the International Safety Management Code adopted by the United Nations' International Maritime Organization to another organisation or person, subsection 1 shall apply to this organisation or person as regards the transferred obligations and fields of responsibility."

8. In *section 14(2)*, the following shall be inserted after the first sentence:

"The Danish Maritime Authority may also detain a ship if serious or repeated contraventions are identified of this act, the act on seafarers' conditions of employment, etc., the act on the manning of ships, the act on the tonnage measurement of ships, sections 186, 197, 198 or 471 of the merchant shipping act or provisions issued pursuant hereof."

9. In *section 14(3)*, "unfavourable weather conditions" shall be amended to "unfavourable weather, sea or ice conditions".

10. *Section 16(2)* shall be as follows:

"*Subsection 2.* The Danish Maritime Authority may inform other countries, classification societies, the European Commission, the European Maritime Safety Agency or other organisations or persons about faults and defects identified on ships and other information of importance to safety or the environment and about ships that have been detained or to which a prohibition against calling at port has been issued, including information about the name of the ship's classification society, charterer, etc., and the reason for the detention or prohibition against calling at port. In addition, the Danish Maritime Authority may publish information hereon and inform about and publish information about other contraventions of this act, the act on seafarers' conditions of employment, etc., the act on the manning of ships, the merchant shipping act and the tonnage measurement of ships and provisions issued pursuant of these acts as well as on accidents at sea."

11. In *section 17*, the following shall be inserted as new subsections after subsection 6:

"*Subsection 7.* The Minister for Economic and Business Affairs may lay down rules stipulating that reports and other information that must be given under the Act shall be reported digitally and that the communication between the Danish Maritime Authority and the company in this connection shall be digital. In this connection, the minister may lay down rules on the transition to digital reporting and on the use of specific computer systems, special digital formats and digital signatures. Moreover, the minister may lay down rules stipulating that the Danish Maritime Authority may exempt a company from digital reporting and digital communication when very special circumstances are in favour of this.

Subsection 8. The Minister for Economic and Business Affairs may lay down rules stipulating that the Danish Maritime Authority may issue certain types of documents without signature or with an automatically reproduced signature or in a similar way so that such documents are legally comparable to a document furnished with a personal signature. In the rules issued pursuant to the first sentence it may also be laid down that decisions exclusively made on the basis of electronic data processing may be issued solely giving the Danish Maritime Authority as the submitter."

Subsequently, subsections 7 and 8 shall become subsections 9 and 10.

12. In *section 19(1)*, the following shall be inserted after the first sentence:

"Similarly, the employees of the Danish Maritime Authority shall have access to locations from where business is carried out covered by the Act."

13. In *section 19*, the following shall be inserted as *subsection 5*:

"*Subsection 5.* Within the framework of this Act, the Danish Maritime Authority shall offer assistance to the European Commission and to the European Maritime Safety Agency about this Act and regulations within the field of this Act."

14. In *section 20*, the following shall be inserted after *subsection 1* as a new subsection:

"*Subsection 2.* The police may stop a recreational craft and examine it for faults and defects, including the necessary equipment, as well as check that the master is capable of legally navigating the craft. If the craft does not fulfil the provisions of the Act or the regulations issued pursuant to the Act, the police may prohibit the use of the craft until the conditions have been made legal."

Subsequently, subsections 2-4 shall become subsections 3-5.

15. *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 and compliance with the act on seafarers' conditions of employment, etc., the act on the manning of ships, the act on the tonnage measurement of ships and sections 186, 198 and 471 of the merchant shipping act and regulations issued pursuant hereof. The Danish Maritime Authority may order that matters that violate the acts or regulations issued pursuant hereto shall be rectified immediately or within an established deadline.

Subsection 2. Section 16(2), section 17(9) and (10), section 19, section 22 and section 24 and the provisions issued in accordance therewith and section 25 shall apply equivalently to inspections pursuant to subsection 1.

Subsection 3. The Minister for Economic and Business affairs may lay down on the inspection carried out pursuant to this act and on the consideration of complaints from seafarers, etc., including that it shall not be revealed that inspection visits are made as a consequence of a complaint. Regulations on the inspection of compliance with the act on smoke-free environments

on board Danish ships shall be determined following negotiations with the Minister of Health and Prevention."

16. After *section 20a*, the following shall be inserted in *part 6*:

"**Section 20b.** Within the framework of this Act, the Danish Maritime Authority shall perform the issuance of the prescribed certificates and any other documentation under the Act on Seafarers' Conditions of Employment, etc. The Danish Maritime Authority may lay down more detailed regulations hereon."

17. In *section 21(3)*, the following shall be inserted as the second to sixth sentences:

"No later than four weeks after the Tribunal has made a decision, the case may be brought before the courts by each of the parties. Legal proceedings shall be instigated against the authority against whose decision a complaint has been filed with the Tribunal. However, cases concerning medical practitioners' decisions on the suitability to serve on board ships shall always be instigated against the Danish Maritime Authority. Legal proceedings raised by the authority against whose decision a complaint has been filed with the Tribunal shall be instigated against the party who has complained about the decision. The authority against whose decision a complaint has been filed with the Tribunal shall inform others who have been a party to the case before the Tribunal about the legal proceedings."

18. *Section 21(4)* shall be as follows:

"*Subsection 4.* The Danish Shipping Tribunal shall consist of a chairman as well as a number of members with expert knowledge. A vice-chairman may be appointed. The chairman and the vice-chairman shall be High Court judges. The expert members of the Tribunal shall be familiar with shipping, including technical and nautical matters as well as maritime medicine."

19. *Section 24(1)* shall be repealed.

Subsequently, subsections 2-5 shall become subsections 1-4.

20. *Section 24(2)*, which shall become subsection 1, shall be as follows:

"*Subsection 2.* The Minister for Economic and Business Affairs may lay down rules on the payment for surveys carried out by the Danish Maritime Authority pursuant to the act."

21. In *section 24(3)*, which shall become subsection 2, "as prescribed pursuant to the act" shall be amended to "as made pursuant to the act".

22. In *section 24(5)*, which shall become subsection 4, "subsections 1-4" shall be amended to "subsections 1-3".

23. In *section 29a*, the following shall be inserted as *subsection 6*:

"*Subsection 6.* The Minister for Economic and Business Affairs may, following negotiations with the Government of Greenland, lay down rules on navigation under the influence of alcohol in Greenland waters covering other persons than those mentioned in subsections 1 and 4. Furthermore, the minister may determine that subsections 2, 3 and 5 shall, in whole or partly, not apply in Greenland waters."

24. In *section 31*, the following shall be inserted as *subsection 2*:

"*Subsection 2.* The penalty under section 28, section 29 (1) and (2), section 29c (1) and section 30 may, furthermore, be increased to imprisonment for a term not exceeding 2 years if the contravention has caused an accident involving serious personal injury or loss of life."

25. In *section 31a(1)*, the first sentence, "section 3(iii)" shall be amended to "section 3(iv)".

26. In *section 31b(3)*, "section 3(iii)" shall be amended to "section 3(iv)".

27. *Section 32(1)* shall be as follows:

"**Section 32.** When determining the severity of the punishment, it shall be considered an aggravating circumstance that

- 1) the contravention has caused or threatened to cause loss of life or damage to health, without the matter being covered by section 31 (2),
- 2) a prohibition or order has previously been issued for the same or analogous conduct, or
- 3) financial gain has been achieved or sought to be achieved for the contravening party or others through the contravention."

28. In *section 32*, the following shall be inserted after subsection 9 as a new subsection:

"*Subsection 10.* When imposing liability to punishment under subsection 9, persons who are hired to perform work on board the ship by others than the shipowner shall also be considered to be associated with the shipowner. If a document of compliance has been issued in accordance with the International Safety Management Code or if a certificate has been issued in accordance with the Maritime Labour Convention to another organisation or person, the master of the ship and the seafarers shall also be considered to be associated with the one to whom the document has been issued."

Subsequently, subsection 10 shall become subsection 11.

29. In *section 32(10)*, which shall become subsection 11, "section 3(v)" shall be amended to "section 3(vi)".

30. *Section 36* shall be as follows:

"**Section 36.** This Act shall not apply to the Faroe Islands and Greenland but may by royal decree be put into force wholly or partly for Greenland with the amendments derived from the Greenland conditions."

Section 2

In the seaman's act, cf. consolidated act no. 742 of 18 July 2005, as amended by section 2 of act no. 547 of 8 June 2006, section 14 of act no. 1563 of 20 December 2006, section 2 of act no. 349 of 18 April 2007 and section 1 of act no. 511 of 17 June 2008, the following amendments shall be made:

1. The following shall be inserted as a *footnote* to the title of the act:

- "1) This act contains provisions implementing parts of Council Directive 2009/13/EC of 16 February 2009 implementing the Agreement concluded by the European Community Shipowners' Associations (ECSA) and the European Transport Workers' Federation (ETF) on the Maritime Labour Convention, 2006, and amending Directive 1999/63/EC (Official Journal no. L 124 of 20 May 2009, pp. 30-50)."

2. The *title* of the act shall be as follows:

"The act on seafarers' conditions of employment, etc."

3. All through the *act*, "seaman" shall be amended to "seafarer", "seaman's" shall be amended to "seafarer's", "seamen" shall be amended to "seafarers" and "seamen's" shall be amended to "seafarers".

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

"For the purpose of this act, the term "seafarer" shall apply to all persons, apart from the master, employed, engaged or working on board a Danish ship who does not exclusively work on board while the ship is in port. For the master, section 49 shall apply."

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

"*Subsection 2.* In case of doubt whether a category of persons is to be considered a seafarer pursuant to the act, the question shall be settled by the Danish Maritime Authority following consultation of the shipowner and seafarer organisations that the issue concerns. The decision of the Danish Maritime Authority may be brought before the courts."

Subsequently, subsection 2 shall become subsection 3.

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

"Section 1a. The shipowner shall ensure that the provisions of this act and regulations issued pursuant to this act, including regulations on the conditions of employment, are complied with. The shipowner shall also ensure that the seafarer's rights according to the employment contract are complied with. The shipowner shall also ensure that the master has a possibility of complying with the obligations that rest with him. The obligations pursuant to the first-third sentences shall rest with the shipowner irrespective of whether other organisations, companies or persons perform some of these tasks or obligations on behalf of the shipowner.

Subsection 2. Subsection 1 shall apply though another person than the shipowner is the employer. In such cases, the obligations according to the employment contract, cf. section 3, and the provisions of the act regulating the conditions of employment shall also rest with the employer.

Subsection 3. If the shipowner has fully or partly left his obligations and areas of responsibility pursuant to this act or the employment contract to another person or organisation, subsection 1 shall also apply to the relevant persons or organisation insofar as regards the obligations and areas of responsibility assumed.

Subsection 4. The Minister for Economic and Business Affairs may lay down more detailed regulations on the obligations pursuant to subsections 1-3."

7. Section 2 shall be repealed.

8. In *section 3(1)*, "employer's" shall be amended to "shipowner's or employer's" in two places.

9. In *section 3*, the following shall be inserted after subsection 2 as a new subsection:

"*Subsection 3.* The seafarer shall, before signing the employment contract, have a possibility of going through it and seeking advice about its terms and conditions."

Subsequently, subsection 3 shall become subsection 4.

10. In *section 6*, the following shall be inserted as *subsection 5*:

"*Subsection 5.* If the seafarer terminates his service following the shipowner's dismissal or at the expiry of a time limited service agreement in a port that the ship calls at outside the seafarer's country of residence, the seafarer shall be entitled to a journey with maintenance to his domicile at the shipowner's expense."

11. In *section 7(2)*, the following shall be inserted as the *third sentence*:

"The seafarer may, however, serve for a consecutive period on the same ship or on ships belonging to the same shipowner for a maximum of 12 months."

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

"1a. Recruitment and placement of seafarers

Section 8a. Private recruitment and placement services for seafarers the primary purpose of which is to recruit or place seafarers or which recruit or place a considerable number of seafarers may be run within the borders of Denmark only if they are certified for this by the Danish Maritime Authority.

Subsection 2. A shipowner using a Danish private recruitment and placement service for seafarers shall ensure that the service concerned has a valid certificate pursuant to subsection 1.

Section 8b. In connection with the recruitment and placement of seafarers in Denmark, the following shall apply:

- 1) that the certification is granted for a time-limited period and may be withdrawn in case of violations of the terms of the certification or of regulations laid down pursuant to this act;
- 2) that the seafarer, in connection with any recruitment negotiation, shall have the right to freely choose ship, just as a shipowner or a master shall have the right to freely choose his crew; and
- 3) that it shall be evident from the recruitment and placement contract that security has been provided that all interested parties are protected and that the seafarer is given sufficient opportunity to acquaint himself with the agreement.

Subsection 2. The Danish Maritime Authority may lay down more detailed regulations on the recruitment and placement of seafarers in Denmark.

Section 8c. Shipowners using private recruitment and placement services for seafarers in countries that have ratified the ILO Maritime Labour Convention or ILO Convention no. 179, the Recruitment and Placement of Seafarers Convention (1996), shall ensure that the services concerned have a certificate or a license documenting that they are operated in accordance with the requirements of the convention concerned. If the country in question does not issue such certificates or licenses to private recruitment and placement services, the shipowner shall ensure another type of official confirmation that the relevant services are operated in accordance with the requirements of one of the conventions mentioned.

Subsection 2. Shipowners using private recruitment and placement services for seafarers in countries that have not ratified the ILO Maritime Labour Convention or ILO Convention no. 179, the Recruitment and Placement of Seafarers Convention (1996), shall be able to prove that the services concerned meet the requirements for recruitment and placement services resulting from the conventions concerned.

Subsection 3. The Danish Maritime Authority may approve that a shipowner uses a private recruitment and placement service for seafarers in countries that have not ratified the ILO Maritime Labour Convention or ILO Convention no. 179, the Recruitment and Placement of Seafarers Con-

vention (1996) and require payment for covering the expenses in connection with the approval. The approval shall be given for a time-limited period and may be withdrawn.

Subsection 4. The Danish Maritime Authority may prohibit the use of recruitment and placement services in specific countries if the recruitment and placement services of the countries concerned do not, in important respects, meet the requirements of the ILO Maritime Labour Convention or of ILO Convention no. 179, the Recruitment and Placement of Seafarers Convention (1996).

Section 8d. Complaints about Danish private recruitment and placement services or private recruitment and placement services approved pursuant to section 8c(3) may be brought before the Danish Maritime Authority.

Section 8e. Any shipowner may freely procure crew for his ship through the ship's officers or the standing office staff serving the company permanently, paying due consideration to regulations issued pursuant to section 8b, but no requirement for the seafarer to pay a fee for such a service shall be made.

Section 8f. The Danish Maritime Authority may place students at the maritime training programmes in work-experience placements."

13. In *section 10*, the following shall be inserted as *subsection 3*:

"*Subsection 3.* A seafarer shall be entitled to demand discharge in the case of an employment situation attributable to the regulation stipulated in section 1(1) of the act on the Employees' Guarantee Fund (lov om Lønmodtagerens Garantifond) or when the shipowner has fundamentally violated the seafarers' employment contract and the seafarer has not right to demand discharge under other provisions of the act. Subsequently, the shipowner shall pay the seafarer's journey with maintenance to his domicile."

14. *Section 12(4)* shall be as follows:

"*Subsection 4.* If the seafarer obtains discharge, the shipowner shall pay the expenses for the seafarer's journey and maintenance to his domicile or, according to the directions of the shipowner, to the place of engagement, and the Treasury shall reimburse the shipowner 25 per cent of his expenses."

15. In *section 17(1)(vii)*, "authority" shall be amended to "court".

16. In *section 18b(2)*, "65 per cent" shall be amended to "75 per cent and".

17. In *section 18b(2)*, "and the seaman 10 per cent" shall be deleted.

18. *Section 24* shall be as follows:

"**Section 24.** Wages shall be paid at a maximum of one month's interval.

Subsection 2. A seafarer may only demand payment of wages when the ship is in port and in the same country only once every seventh day.

Subsection 3. Wages shall be paid in cash unless the seafarer demands a draft on the shipowner. Payment may be demanded in local currency at the current rate of exchange.

Subsection 4. A seafarer may require that wages be paid by means of monthly allotments in favour of a specified person. He may, however, not require payments to be made under more than three concurrent allotment notes.

Subsection 5. A seafarer may require parts of or his entire wages transferred to one or more banks."

19. In *section 25*, the following shall be inserted as *subsections 2 and 3*:

"*Subsection 2.* A shipowner may not require that the seafarer, when concluding the employment contract or in connection with his signing on, pays an advance payment to cover the expenses for his home journey.

Subsection 3. The shipowner may deduct from the seafarer's wages, etc. expenses for his journey home pursuant to *section 17*, only if the shipowner has found that the seafarer has "substantially violated his obligations under the conditions of employment.

20. In *section 27(6)*, "and forward them to the seafarer or the seafarer's next of kin" shall be inserted after "them".

21. *Section 29(2)* shall be as follows:

"*Subsection 2.* For a seafarer who is ill or injured at the time of termination of the ship service, the following shall apply:

- 1) The sickness pay shall continue for as long as the person concerned is incapacitated, however for a maximum of 16 weeks, irrespective of whether the seafarer's conditions of employment terminate before the expiry of 16 weeks calculated from the termination of the ship service.
- 2) In case the conditions of employment terminate after the expiry of more than 16 weeks calculated from the termination of the ship service, the sickness pay shall continue until the termination of the employment.
- 3) If the employed seafarer has become incapacitated at a time when he did not serve on one of the company's ships, the 16 weeks shall be calculated from the time when the incapacity occurred."

22. In *section 29*, the following shall be inserted as a new subsection after subsection 2:

"*Subsection 3.* If specific signs of illness or bodily injury have not been demonstrated, the seafarer shall, however, not be entitled to wages for more days than he has served. If the incapacity is due to a venereal disease, the wages shall be paid by the Treasury."

Subsequently, subsection 3 shall become subsection 4.

23. In *section 30(2)* and *section 35(2)*, "12 weeks" shall be amended to "16 weeks".

24. *Section 32(2)*, the third and fourth sentences shall be repealed, and instead the following shall be inserted:

"The master shall send the inventory and the effects left on board to the deceased seafarer's next of kin."

25. *Section 40* shall be as follows:

"**Section 40.** If the contract had been terminated to expire when the ship's officer became unfit to perform his duties, or if it is terminated thereafter, *section 29(2)* and (3), cf. *section 35*, about the right to sickness payment shall also apply, cf. however *section 44*."

26. *Section 49* shall be as follows:

"**Section 49.** The following provisions shall also apply to the master:

1. *Section 1(2)*;
2. *Section 3(3)* and (4);

3. Section 4(2);
4. Section 6;
5. Section 7(1), cf. section 39;
6. Section 7(2), third sentence;
7. Section 8;
8. Sections 8a-8e;
9. Section 10(3);
10. Section 14(1), cf. subsection 3;
11. Section 15;
12. Section 18a(1) and section 18b;
13. Section 18c;
14. Section 18d;
15. Sections 21, 22 and 24-26;
16. Sections 27-30, cf. sections 35, 40 and 41;
17. Section 31;
18. Section 32 and 34;
19. Section 33, cf. sections 35 and 41;
20. Section 55(1) and (2);
21. Section 57;
22. Section 61; and
23. Section 73a."

27. *Section 55(1)* shall be as follows:

"**Section 55.** The master shall ensure that the crew is furnished with proper and sufficient food. The food on board shall be free of charge for the seafarer during the period signed on. The Minister of Economic and Business Affairs may lay down regulations on the first and second sentences."

28. The headline to *part 4* shall be as follows:

"Disputes Concerning the Employment and the Consideration of Complaints on Board"

29. *Section 64* shall be as follows:

"**Section 64.** A seafarer has a right to complain to the shipowner about the account of wages, the ship service, the conditions of employment or the conditions on board. The shipowner has an obligation to ensure that complaints are sufficiently examined and to develop and implement procedures on board for a just, efficient and fast consideration of complaints. The Minister of Economic and Business Affairs may lay down more detailed regulations on complaints, etc.

Subsection 2. Disputes about the account of wages, the ship service, the conditions of employment or the conditions on board may not be brought before a foreign court. If the seafarer does not have any other venue in Denmark, a case against the seafarer may be brought before the court in whose district the ship is registered.

Subsection 3. Subsection 2 shall not apply if anything else follows from the Brussels I Directive or from regulations issued pursuant to this act."

30. *Section 64a(2)* shall be repealed.

Subsequently, subsections 3 and 4 shall become subsections 2 and 3.

31. *Section 65* shall be as follows:

"Section 65. If the shipowner fails to fulfil his obligations in pursuance of section 55 or section 73a or his obligations in pursuance of section 1a to ensure compliance with section 12(2) and (3), section 18a(1)-(4), section 18B(4) and (5), section 27, section 49(xvi) insofar as regards section 27, section 49(xx) or (xxiii), or section 55, he shall be liable to punishment by fine or imprisonment for a term of up to one year. If the shipowner fails to fulfil his obligations under section 4(1) and (2), section 8a(2), section 8c(1) and (2), section 8e, section 46, section 49(iii) or (xxi), section 57 or section 64b(1), he shall be liable to punishment by fine.

Subsection 2. Anyone who fails to fulfil his obligation in pursuance of section 1a to ensure compliance with section 12(2) and (3), section 18a(1)-(4), section 18b(4) and (5), section 27 or section 55 shall be liable to punishment by fine or imprisonment for a term of up to one year, while anyone who otherwise fails to fulfil his obligations in pursuance of section 1a to ensure compliance with section 4(1) and (2), section 8a(2), section 8c(1) and (2), section 8e, section 32, section 56(1), (2) and (4), section 57, section 60, section 64a(2), section 64b(1), section 74 or similar provisions laid down in pursuance of section 73 shall be liable to punishment by fine. In the same way, anyone who fails to fulfil his obligations in pursuance of section 1a to ensure that the master has a possibility of meeting the obligations resting with him shall be punishable.

Subsection 3. Anyone who carries out private recruitment or placement for seafarers in Denmark without a valid certificate or who requires a fee from the seafarers for such services may be liable to punishment by fine.

Subsection 4. Companies, etc. (legal entities) are punishable according to the rules in chapter 5 of the penal code.

Subsection 5. When imposing liability to punishment under subsection 4, persons hired to perform work on board the ship by others than the shipowner shall also be considered associated with the shipowner. If a Document of Compliance has been issued pursuant to the Code for the Safe Operation of Ships or a certificate pursuant to the Maritime Labour Convention to another organisation or person, the master and the seafarers shall also be considered as being associated with those to whom the document is issued."

32. *Section 66(ii)(b)* shall be as follows:

"(b) disregards his duties prescribed in section 8a(2), section 8c(1) and (2), section 8e, section 32, section 56(1), (2) and (4), section 60, section 63(3) and (4), section 64a(2), section 64b(1), section 74, or regulations laid down pursuant to section 73."

33. After *section 71*, the following shall be inserted in *part 6*:

"Section 71a. The Minister of Economic and Business Affairs may lay down regulations to the effect that reports and other notifications to be made under the Act shall be made digitally and that communication between the Danish Maritime Authority and companies in connection herewith shall be digital. In this connection, the Minister may lay down regulations on the transition to digital reporting and on the use of specific computer systems, special digital formats and digital signature. Furthermore, the Minister may lay down regulations to the effect that the Danish Maritime Authority may exempt a company from digital reporting and digital communication when quite special circumstances so necessitate.

Subsection 2. The Minister of Economic and Business Affairs may lay down regulations to the effect that the Danish Maritime Authority may issue certain types of documents without a signature or with automatically given signature or in a similar way so that such documents are legally equal to a document with a personal signature. In regulations issued under the first sentence, it may also be laid down that decisions made solely on the basis of electronic data processing may be issued only with an indication of the Danish Maritime Authority as the sender."

34. In *section 73*, "to free passage with maintenance in certain cases, and to the sending home of wages for the account and risk of the Treasury" shall be left out.

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

"**Section 73a.** The master has an obligation to provide financial security for covering expenses for home journeys, etc. covered by the provisions of *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*.

Subsection 2. The Minister of Economic and Business Affairs may lay down more detailed regulations on a free journey home with maintenance according to the provisions stipulated in *subsection 1* and on the financial security.

Section 73b. The Danish Maritime Authority shall ensure free telemedico consultancy for merchant ships."

36. After *section 74*, the following shall be inserted:

"**Section 74a.** The Danish Maritime Authority may, pursuant to *section 20a* of the Act on Safety at Sea, monitor compliance with this Act and the regulations issued pursuant hereto.

Subsection 2. The Danish Maritime Authority attends to the issuance of the necessary certificates and other documentation under this Act pursuant to *section 20b* of the Act on Safety at Sea.

Section 74b. The Danish Maritime Authority may lay down regulations on the conditions that the certificate and the declaration of compliance are to cover.

Subsection 2. If the ship is certified pursuant to the International Safety Management Code drawn up by the United Nations' International Maritime Organization, the certificate mentioned in *subsection 1* and the declaration of compliance mentioned in *subsection 1* may be issued only to the person to whom the document of compliance under the International Safety Management Code has been issued. In special circumstances, the Danish Maritime Authority may grant exemptions from the first sentence.

Subsection 3. The certificate and the document of compliance concerning seafarers' conditions of employment shall be kept on board and be presented to the authorities upon request.

Subsection 4. *Subsections 1-3* shall not apply to fishing vessels."

Section 3

In act no. 15 of 13 January 1997 on the manning of ships, as amended by *section 40* of act no. 538 of 8 June 2006, the following amendments shall be made:

1. As a *footnote* to the title of the act, the following shall be inserted:

"1) This act contains provisions implementing parts of Council Directive 2009/13/EC of 16 February 2009 implementing the Agreement concluded by the European Community Shipowners' Association (ECSA) and the European Transport Workers' Federation (ETF) on the Maritime Labour Convention, 2006, and amending Directive 1999/63/EC (OJ 2009 L 124, p. 30-50)."

2. *Section 8* shall be as follows:

"**Section 8.** A cook as prescribed in the safe manning of a ship shall hold a Danish certificate as a ship's cook. Nobody below the age of 18 shall serve as a ship's cook.

Subsection 2. In ships registered in the Danish International Ship Register a certificate as a ship's cook shall not be required. Persons can serve in prescribed positions as a ship's cook if they can document:

- 1) apprenticeship in the cooking profession of 48 months, at least 24 months of these on board seagoing ships; or
- 2) satisfactory completion of a cook training programme with relevant contents from a recognised school supplemented by service as a cook on board a seagoing vessel for at least 5 months.

Subsection 3. Documentation pursuant to subsection 2 shall be accompanied by an endorsement by the Danish Maritime Authority confirming that the holder may serve as a prescribed ship's cook. The Danish Maritime Authority shall lay down more detailed regulations hereon.

Subsection 4. The Danish Maritime Authority may lay down regulations on the training requirements of persons who prepare or help prepare articles of food on board a ship."

3. *Section 18(1)(iii) and (iv)* shall be repealed, and instead the following shall be inserted:

- "3) crews on board passenger ships,
- 4) officers and personnel on board oil, chemical and gas tankers; and
- 5) cooks, catering personnel and other personnel handling and preparing articles of food on board."

4. *Section 25(2)* shall be repealed, and instead the following shall be inserted:

"Subsection 2. Subsection 1 shall apply regardless whether other organisations, companies or persons comply with certain of the tasks or the obligations on behalf of the shipowner or the master.

Subsection 3. If a document of compliance has been issued pursuant to the International Safety Management Code laid down by the United Nations' International Maritime Organization or if a certificate has been issued pursuant to the Maritime Labour Convention to another organisation, company or person, subsection 1 shall also apply to the organisation, company or person concerned.

Subsection 4. The Minister of Economic and Business Affairs may lay down more detailed regulations on the obligations under subsections 1-3 and may in this connection prescribe specific communication and language requirements.

5. The headline to *part 9* shall be as follows:

"Inspection and delegation of powers"

6. After section 26, the following shall be inserted in *part 9*:

"Section 25a. The Danish Maritime Authority may, pursuant to section 20a of the Act on Safety at Sea, inspect compliance with this Act and the regulations issued in pursuance hereof.

Section 25b. The Minister of Economic and Business Affairs may lay down regulations requiring that reporting and other notices to be given under the Act shall be made digitally and that communication between the Danish Maritime Authority and the company in connection herewith shall be made digitally. In this connection, the Minister may lay down regulations on the transition to digital reporting and on the use of specific computer systems, special digital formats and digital signature. Furthermore, the Minister may lay down regulations to the effect that the Danish Maritime Authority may exempt a company from digital reporting and digital communication when very special circumstances justify this.

Subsection 2. The Minister of Economic and Business Affairs may lay down regulations to the effect that the Danish Maritime Authority may issue certain types of documents without

signature or with automatically generated signature or in a similar way so that such documents are legally equal to a document provided with a personal signature. In regulations issued pursuant to the first sentence it may also be laid down that decisions exclusively made on the basis of electronic data processing may only be issued indicating the Danish Maritime Authority as the sender."

7. In *section 27*, the following shall be inserted after subsection 1 as a new subsection:

"*Subsection 2.* If the shipowner has fully or partly transferred his obligations under section 25(1)(i) or (ii) to other organisations, companies or persons, subsection 1 shall apply by analogy for these organisations, companies or persons if the obligations are not met."

Subsequently, subsection 2 shall become subsection 3.

8. In *section 27(2)*, which shall become subsection 3, "section 28(4)" shall be amended to "section 28(5)2."

9. In *section 28*, the following shall be inserted after subsection 3 as a new subsection:

"*Subsection 4.* Subsections 1-3 shall also apply if other organisations or persons meet some of the tasks or obligations on behalf of the shipowner or the master, cf. section 25(2) and (3)."

Subsequently, subsection 4 shall become subsection 5.

10. In *section 28(4)*, the first sentence, which shall become subsection 5, the first sentence, "section 25(2)" shall be amended to "section 25(4)".

11. In *section 29*, the following shall be inserted as *subsection 2*:

"*Subsection 2.* In case of liability to punishment under subsection 1, persons hired to carry out work on board the ship by others than the shipowner shall also be considered as being affiliated with the shipowner. If a document of compliance pursuant to the International Safety Management Code or a certificate pursuant to the Maritime Labour Convention has been issued to another organisation or person than the shipowner, the shipowner and the seafarers shall also be considered as being affiliated with the one to whom the document has been issued."

Section 4

In the act on the tonnage measurement of ships, cf. consolidated act no. 43 of 2 February 1993, as amended by section 6 of act no. 1173 of 19 December 2003, the following amendments shall be made:

1. In *section 7*, the following shall be inserted before subsection 1:

"The Danish Maritime Authority may, pursuant to section 20a of the act on safety at sea, monitor compliance with this act and the regulations issued pursuant hereto."

Subsequently, subsection 1 shall become subsection 2.

2. After section 10a, the following shall be inserted:

"**Section 10b.** The Minister of Economic and Business Affairs may lay down regulations stipulating that reportings and other notice to be given according to the act shall be made digitally and that communication between the Danish Maritime Authority and the company in connection herewith shall be digital. In this connection, the Minister of Economic and Business Affairs may lay down regulations on the transition to digital reporting and on the use of specific computer systems, special digital formats and digital signature. Furthermore, the Minister may lay down regulations

stipulating that the Danish Maritime Authority may exempt a company from digital reporting and digital communication when very special circumstances apply.

Subsection 2. The Minister of Economic and Business Affairs may lay down regulations stipulating that the Danish Maritime Authority may issue certain types of documents without a signature or with a mechanically given signature or in a similar way so that such documents are, in legal terms, equal to a document with a personal signature. In regulations issued pursuant to the first clause, it may be stipulated that decisions exclusively made on the basis of electronic data processing may be issued only giving the Danish Maritime Authority as the sender."

Section 5

In the merchant shipping act, cf. consolidated act no. 538 of 15 June 2004, as amended most recently by section 14 of act no. 507 of 17 June 2008, the following amendments shall be made:

1. In *section 186(1)*, "whose tonnage exceeds 1,000 GRT" shall be amended to "with a gross tonnage of or above 1,000".

2. *Section 186(2)*, the first sentence shall be as follows:

"The provisions of subsection 1 shall apply correspondingly to ships which are not domiciled in the Realm and which enter or leave a Danish port or other loading or unloading place in Denmark or on the Danish continental shelf or which want to carry out activities in Danish territorial waters, provided such ships have a gross tonnage of or above 1,000."

3. In *section 187* "or to carry out activities in Danish territorial waters" shall be inserted after "continental shelf".

4. In *section 198*, the following shall be inserted as *subsection 4*:

"**(4)** The Minister for Economic and Business Affairs may lay down more detailed regulations on fees for the issue of certificates."

5. *Section 514(1)* shall be as follows:

"**514.-(1)** Any person violating section 10(1), section 12(1), section 13, section 14, section 16(1), section 19, section 25(1) and (2), section 186(1)-(3) or section 197 shall be liable to a fine. A bareboat charterer who, in violation of section 229a(2), omits ensuring that the duty to hold an approved insurance or any other guarantee is observed shall be liable to a fine."

6. After section 515a, the following shall be inserted in *part 22*:

"**515b.** The Danish Maritime Authority may, according to section 20a of the Act on Safety at Sea (lov om sikkerhed til søs), inspect compliance with sections 186, 197, 198 and 471 of this act and the regulations issued pursuant hereto."

Section 6

In act no. 226 of 22 April 2002 on the maritime training programmes, as amended by section 5 of act no. 364 of 13 May 2009, the following amendment shall be made:

1. After section 23, the following shall be inserted:

"Section 23a. The Minister of Economic and Business Affairs may lay down regulations stipulating that reports and other messages to be given pursuant to the act shall be reported digitally and that any communication between the Danish Maritime Authority and the company in this connection shall be digital. In this connection, the Minister may lay down regulations on the transition to digital reporting and on the use of specific computer systems, special digital formats and digital signature. In addition, the Minister may lay down regulations stipulating that the Danish Maritime Authority may exempt a company from digital reporting and digital communication when special circumstances so indicate.

Subsection 2. The Minister of Economic and Business Affairs may lay down regulations stipulating that the Danish Maritime Authority may issue certain types of documents without a signature or with a mechanically given signature or in a similar way so that such documents are legally comparable to a document with a personal signature. It may also be laid down in the regulations laid down pursuant to subsection 1 that decisions made solely on the basis of electronic data processing may be issued only giving the Danish Maritime Authority as the sender."

Section 7

Subsection 1. The Minister for Economic and Business Affairs shall determine the date of the entry into force of the act. In this connection, the minister may decide that the provisions of the act shall enter into force on different dates.

Subsection 2. Persons who, pursuant to the current section 8(2) of the act on the manning of ships, had acquired the right to work as a prescribed cook on board Danish ships before the entry into force of the act shall keep this right.

Section 8

The act on the engagement of ship's crews, cf. consolidated act no. 589 of 29 September 1988, shall be repealed.

Section 9

Subsection 1. This act shall not apply to the Faroe Islands and to Greenland, cf. however subsections 2 and 3.

Subsection 2. Section 5 may by royal decree be put into force in full or part for the Faroe Islands with the amendments deriving from the Faroese conditions.

Subsection 3. Sections 1, 3, 4 and 5 may by royal decree be put into force in full or part for Greenland with the amendments deriving from the Greenland conditions.

Given at Amalienborg on 12 May 2010
Under Our Royal Hand and Seal

MARGRETHE R. / Brian Mikkelsen