

Translation: Only the Danish version has legal validity

Danish Maritime Authority Consolidated Act no. 654 of 15 June 2010

Promulgation of the Act on Safety at Sea¹

The Act on Safety at Sea, cf. Consolidated Act no. 903 of 12 July 2007, including the amendments deriving from section 2 of Act no. 511 of 17 June 2008, section 164 of Act no. 215 of 24 March 2009, section 1 (i-vii), (ix), (xi-xiv) and (xvi-xxx) of Act no. 493 of 9 12 May 2010, and section 1

1 The Act contains provisions implementing parts of: Council Directive 89/391/EEC (OJ 1989 L 183, p. 1) on the introduction of measures to encourage improvements in the safety and health of workers at work. Council Directive 89/655/EEC (OJ 1989 L 393, p. 13) on the minimum health and safety requirements for the use by workers of personal protective equipment at the workplace (second individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC), as amended by Council Directive 95/63/EC (OJ 1995 L 335, p. 28). Council Directive 89/656/EEC (OJ 1989 L 393, p. 18) on the minimum health and safety requirements for the use by workers of personal protective equipment at the workplace (third individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC). Council Directive 89/686/EEC (OJ 1989 L 399, p. 18) on the approximation of the laws, legislative provisions and regulations of the Member States relating to personal protective equipment, as amended by Council Directive 93/68/EEC (OJ 1993 L 220, p. 1) and Council Directive 93/95/EEC (OJ 1993 276, p. 11). Council Directive 90/269/EEC (OJ 1990 L 156, p. 9) on the minimum health and safety requirements for the manual handling of loads where there is a risk particularly of back injury to workers (fourth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC). Council Directive 90/394/EEC (OJ 1990 L 196, p. 1) on the protection of workers from the risks related to exposure to carcinogens at work (sixth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC), as amended by Council Directive 97/42/EC (OJ 1997 L 179, p. 4). Council Directive 91/383/EEC (OJ 1991 L 206, p. 19) supplementing the measures to encourage improvements in the safety and health at work of workers with a fixed-duration employment relationship or a temporary employment relationship. Council Directive 91/628/EEC (OJ 1991 L 340 1991, p. 17) on the protection of animals during transport, as amended by Council Directive 95/29/EC (OJ 1995 L 148, p. 52). Council Directive 92/58/EC (OJ 1992 L 245, p. 23) on the minimum requirements for the provision of safety and/or health signs at work (ninth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC). Council Directive 92/85/EEC (OJ 1992 L 348, p. 1) on the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding (tenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC). Council Directive 93/103/EEC (OJ 1993 L 307, p. 1) on minimum requirements for health and safety when working on board fishing vessels (thirteenth individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC). Council Directive 94/25/EC (OJ 1994 L 164, p. 15) on the approximation of the laws, regulations and administrative provisions of the Member States relating to recreational craft. Council Directive 94/57/EC (OJ 1994 L 319, p. 20) on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations, as amended by Commission Directive 97/58/EC (OJ 1997 L 274, p. 8). Council Directive 95/21/EC (OJ 1995 L 157, p. 1) concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions, as amended by Council Directive 98/25/EC (OJ 1998 L 157, p. 1) and Commission Directive 98/42/EC (OJ 1998 L 133, p. 19). Directive 2001/106/EC of the European Parliament and of the Council of 19 December 2001 amending Council Directive 95/21/EC concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions (port State control) (OJ 2002 L 9, p. 17ff). 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). 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).

(x) of Act no. 493 of 12 May 2010 as regards the wording of section 16 (2), first sentence of the Act on Safety at Sea, is hereby promulgated.

The amendments deriving from section 1 (viii) and (xv) of Act no. 493 of 12 May 2010 amending the Act on Safety at Sea, the Seamen's Act and various other acts and repealing the Act on the engagement of ship's crews and from section 1 (x) of Act no. 493 of 12 May 2010 as regards the wording of section 16 (2) have not been incorporated into the Consolidated Act since the date of the entry into force of these amendments shall be determined by the Minister for Economic and Business Affairs, cf. section 7 (1) of Act no. 493 of 12 May 2010.

Chapter 1

Application of the Act to Danish and foreign ships

Section 1. The Act shall apply to Danish ships. However, only chapter 3, section 17 (3) and chapter 12 shall apply to ships of war and troopships.

Subsection 2. The Minister for Economic and Business Affairs may lay down rules regulating what objects are to be regarded as ships.

Subsection 3. The Minister for Economic and Business Affairs may lay down rules stipulating that the Act and the regulations issued hereunder shall apply wholly or partly to foreign ships in Danish ports, in Danish territorial waters, in the exclusive economic zones as well as in the Danish continental shelf area and fishing territory. In this Act, Faroese ships shall be considered equal to foreign ships.

Chapter 2

Provisions on the construction, equipment and operation, etc. of ships

Section 2. Every ship shall be constructed, equipped and operated in such a way as to adequately protect human life at sea and in such a way that it is fit for the nature of the service for which it is intended at any time. As much regard as possible shall be paid to pollution protection.

Subsection 2. The ship shall be provided with means of navigation, machinery, radio installations, life-saving appliances, medicaments, means of fire-protection and fire-fighting appliances to such an extent that the persons on board, the ship and the cargo are protected to the extent possible.

Subsection 3. The working and accommodation places, etc. of the ship shall be constructed in such a way that as much regard as possible is paid to the state of safety and health on board, the comfort of the persons on board, and the protection of the persons on board against harmful effects.

Subsection 4. The ship shall be provided with structural and technical means of protection against pollution.

Section 3. The Minister for Economic and Business Affairs may lay down rules on the construction, equipment and operation of ships, including

- 1) when and according to what guidelines a ship shall be surveyed, the inspection, approval and testing of material, requirements for the stability, load lines and draught marks of ships, and the obligations of the owner and master of the ship in this regard, as well as rules on shipyards and other companies' reporting of conversions of ships,
- 2) safety management systems for ships and shipowners,
- 3) what acts, regulations, certificates and ship's logs, including ship plans in connection with the prevention of pollution by ships, as well as survey books shall be found on board, and rules on the authorization, form, and entries of the books and rules stipulating what posters shall be placed on board,

- 4) ship's records in connection with the prevention of pollution, including the endorsement of the records and the responsibility for their keeping and safe-keeping as well as the inspection thereof,
- 5) maritime security to prevent acts of terror, etc. against ships,
- 6) aids and materials, their construction and marking, use, maintenance and service, safety work, the duties of the shipowner and other employers in connection with the seafarers' working and living conditions on board, including the health and safety conditions under which work on board not covered by the Working Environment Act shall be performed,
- 7) the ship's safety, fire and life-saving services, hygiene conditions and cleanliness on board, the health training of those treating illnesses, work-related medical examinations, payment of expenses in connection therewith, as well as the obligations of the shipowner and other employers and the employee in this connection,
- 8) the areas of responsibility of ship's officers and others on board holding high-ranking positions,
- 9) measures against getting stowaways on board and the treatment of stowaways on board,
- 10) marking, loading, transportation and unloading of dangerous goods and other cargoes requiring special arrangements with regard to the safety of the ship and of human life and the protection against pollution, including terminal operators' quality management systems for the loading and unloading of bulk carriers, and
- 11) the carriage of live animals.

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' International Labour Organization's Maritime Labour Convention.

Section 4. The Minister for Economic and Business Affairs may lay down rules on the delivery, marketing and manufacture of recreational craft, marine equipment, personal safety means and other products used on board ships.

Subsection 2. The Minister for Economic and Business Affairs may lay down rules on conditions to be observed by the shipper in connection with the carriage of goods by sea.

Subsection 3. The Minister for Economic and Business Affairs shall lay down rules on the investigation of accidents at sea involving Danish ships as well as accidents at sea otherwise connected with Denmark, including

- 1) the duty to report and the removal of wreckage resulting from sea accidents with a view to protecting the possibilities of investigation,
- 2) co-operation with foreign authorities,
- 3) restriction in the access to documents until the investigation is complete, and
- 4) publication of reports on investigations, including publication of information on a person's health condition in order to prevent future accidents or to limit the consequences of such.

Subsection 4. The Danish Maritime Authority may order a party that markets a vessel or a product referred to in subsection 1 and which may, if used in accordance with its intended purpose, present a danger to health, safety or the environment to take the necessary measures to avert such a danger. It may, i.a., order

- 1) that the supply or marketing of the said vessels or products be stopped, and
- 2) that the said products or vessels be withdrawn from the market.

Section 5. For ships the keels of which are laid or which are at a similar stage of construction on the date on which new rules issued under sections 3 and 4 come into force, it may be determined that such new rules shall not apply or shall not apply to their full extent. In this connection, due regard shall be paid to the protection against pollution, health and safety conditions and the type and use of the ship.

Subsection 2. For ships with a gross register tonnage below 20, with a gross tonnage below 20 or with a length below 15 metres and for preservation-worthy ships, less stringent regulations may be laid down departing from the stipulations of section 2.

Chapter 3 *Safety of navigation, etc.*

Section 6. The Minister for Economic and Business Affairs may lay down regulations, take measures and issue general and specific prohibition or enforcement notices to safeguard navigation, maintain order and prevent danger and prevent hindrance of free navigation, including

- 1) prohibition against navigation, fishing, anchoring and diving in special areas,
- 2) regulations for preventing collisions at sea, speed restrictions and routeing measures,
- 3) reporting and routeing systems, radar surveillance and the use of guard vessels,
- 4) approval of high-speed ferries,
- 5) bridges,
- 6) protection of sea cables and underwater pipelines,
- 7) the establishment of zones to maintain order and prevent danger around off-shore installations and in connection with construction works,
- 8) watch-keeping on board ships, and
- 9) assistance in rescuing human lives at sea.

Section 7. The Minister for Economic and Business Affairs may order any master of a ship flying the Danish flag, by means of the gathering and transmission of meteorological observations, to contribute to the maintenance of a weather service to the extent required with regard to safety of navigation.

Subsection 2. The Minister for Transport shall, after consultation with the Minister for Economic and Business Affairs, make the necessary provisions for Denmark's assistance in maintaining an international weather service to ensure safety of navigation.

Section 8. If the conditions so necessitate and in accordance with the specific requirements of the Minister of Defence, navigation and buoyage systems shall be established to help position-fixing and navigation in Danish buoyage areas.

Subsection 2. Navigation and buoyage systems to help in position-fixing and navigation in main shipping routes and fairways and to safe anchorages shall be set up and maintained at the expense of the State by order of the Danish Maritime Safety Administration.

Subsection 3. Navigation and buoyage systems not covered by subsection 2 shall be set up and maintained by the relevant port authority, bridge management, etc., which shall also bear the associated costs.

Subsection 4. The Minister of Defence shall settle matters pertaining to the distinction between subsections 2 and 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.

Chapter 4 *General obligations*

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 also apply to this organisation or person as regards the transferred obligations and fields of responsibility.

Section 10. The master of the ship shall ensure that the ship is in a fit condition as regards health and safety and that the work on board can be arranged in such a way that it can be done properly as regards health and safety. The master of the ship shall also ensure that the prescribed structural and technical means of protecting the sea against pollution are in a fit condition and can be used for their purpose.

Section 11. The person in charge of the work on board shall ensure that the employees are adequately protected against accidents and unhealthy influences and shall, through instructions and inspections, ensure that the work is done properly having regard to the risk of accidents and the danger to health.

Section 12. The employees on board shall assist in ensuring that the measures taken to provide protection against accidents and harmful influences work as intended.

Section 13. It is the duty of every person on board to respect the safety measures taken on board with regard to the seaworthiness of the ship and the safety of the persons on board.

Chapter 5 *Detention and prohibition against calling at a port*

Section 14. If, due to faults or defects in hull, machinery, safety equipment, placing of ballast and cargo, manning or other reasons, it is related with danger to the safety or health of the persons on board or a risk of pollution to allow the ship to proceed to sea or continue its voyage, the Danish Maritime Authority may detain the ship.

Subsection 2. The Danish Maritime Authority may also detain a ship if the ship does not have the prescribed certificates, documents or equipment or if it is defective. The Danish Maritime Authority may also detain a ship if the shipowner, the master of the ship or the person who acts on their behalf impede the Danish Maritime Authority in the proper performance of its duties.

Subsection 3. The Danish Maritime Authority may lay down rules on the issuance of a prohibition against a ship leaving a port due to unfavourable weather, sea or ice conditions.

Subsection 4. The decision to detain the ship shall, as soon as possible, be notified to the master or owner of the ship with details about the reason for the detention and about the conditions under which the ship may be released. The Danish Maritime Authority may make the release of a ship conditional upon the issuer of the ship's certificates having checked and confirmed that the certification may be maintained.

Subsection 5. The Danish Maritime Authority may cause measures to be taken to prevent the ship's departure. Abroad, the decision to detain a ship may be notified to the local Danish represent-

ation, which may, at the request of the Danish Maritime Authority, arrange for measures to be taken to prevent the departure of the ship.

Section 15. The Danish Maritime Authority may issue a prohibition against calling at a port when EU regulations or international provisions provide a statutory basis for this. When a prohibition against calling at a port has been issued to a ship, the Danish Maritime Authority may allow the ship to call at a specific Danish port if its continued voyage would present a risk of loss of life, damage to the marine environment or if imperative safety precautions so require or with a view to remedying faults or defects.

Section 16. Only the employees of the Danish Maritime Authority who are duly authorized may detain ships, cf. section 14 (1) and (2). Harbour masters may, however, be authorized by the Danish Maritime Authority to detain a ship provisionally.

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.

Subsection 3. The Minister for Economic and Business Affairs may lay down detailed rules on the Danish Maritime Authority's detention of ships and issuance of prohibitions against calling at port, including the notification of the police and port authorities, etc. The Minister for Economic and Business Affairs may also lay down rules on the procedure and the conditions of withdrawing detentions or prohibitions against calling at a port.

Subsection 4. The Danish Maritime Authority's decision to detain a ship and issue a prohibition against calling at port may be referred to the Danish Shipping Tribunal by the shipowner in question.

Chapter 6 *Surveys, etc.*

Section 17. The Minister for Economic and Business Affairs shall be the supreme administrative authority on questions relating to this Act, cf. however subsection 3, section 7 (2), section 8 and section 21 (3).

Subsection 2. The Danish Maritime Authority shall undertake the administration of this Act, cf. however section 7 (2), section 8 and section 20a and its duty is

- 1) to ensure that the Act and the rules, enforcement notices and prohibitions issued pursuant hereto are complied with,
- 2) to approve the use of ships, including the permitted trade area and number of passengers and in this connection to issue the necessary certificates and other documentation, and
- 3) to keep itself informed of the technical and social development within the framework of the Act and to contribute to improving ships and their equipment and operation as regards health, safety and the environment.

Subsection 3. The Minister of Defence may lay down rules on safety and health for the ships mentioned in section 1 (1, second sentence). The Minister of Defence shall check that such regulations are complied with.

Subsection 4. The Minister of Defence shall check navigation and buoyage systems and may, after consultation with the Minister for Economic and Business Affairs, lay down detailed rules in this area, including the application of such rules on foreign ships.

Subsection 5. The Minister for Economic and Business Affairs may authorize the Danish Maritime Authority to exercise the powers assigned to the Minister for Economic and Business Affairs by this Act.

Subsection 6. The Minister for Economic and Business Affairs may lay down rules on the promulgation of regulations issued in accordance with the Act and may establish that international adoptions within the application area of the Act shall be applicable irrespective of the fact that such regulations are not in the Danish language. Moreover, the Minister may establish that ships shall comply with regulations established by recognised classification societies, etc. irrespective of the fact that such regulations are not in the Danish language.

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.

Subsection 9. The Minister for Economic and Business Affairs may, by agreement with the relevant minister, lay down rules on the Danish Maritime Authority's co-operation with other public authorities and decide that the powers for the Minister of Economic and Business Affairs and the Danish Maritime Authority under this Act be exercised by other public authorities.

Subsection 10. The Minister for Economic and Business Affairs may lay down rules on complaints, including the provision that decisions made by the Danish Maritime Authority or other public authorities in accordance with this Act cannot be referred to another administrative authority.

Section 18. The Danish Maritime Authority may order that circumstances that are not in compliance with this Act or rules or decisions issued pursuant to this Act shall be remedied immediately or within a stipulated period of time.

Section 19. The employees of the Danish Maritime Authority shall, if it is found necessary in connection with their work, have access at any time, on due proof of their identity and without the need to obtain a court order, to embark any ship covered by this Act to carry out their duties. Similarly, the employees of the Danish Maritime Authority shall have access to locations from where business is carried out covered by the Act. The first sentence shall also apply to ships under construction.

Subsection 2. The shipowner, the master of the ship and the chief engineer and anyone acting on their behalf shall be obliged to render the Danish Maritime Authority the necessary assistance in its investigations and give any information in connection therewith.

Subsection 3. If there is specific suspicion that a legal person or entity has breached the law in such a way that it may entail punishment, the master and chief engineer and anyone acting on behalf of them shall inform about the safety and health of the employees on board, cf. subsection 1, to the extent that the information is sought to be provided for the use of processing of other issues than the metering out the punishment, cf. section 10 (2) in the Act on legal rights with regards to the administration's application of compulsory intervention and duty of disclosure.

Subsection 4. The employees of the Danish Maritime Authority shall, in the performance of their work, ensure that the ship is not unnecessarily delayed and that the work on board is not unnecessarily impeded.

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.

Section 20. The Minister for Economic and Business Affairs may lay down rules on the duty to report information in connection with ships' calls at Danish or foreign ports.

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.

Subsection 3. Police, customs authorities, labour inspection and port authorities that become aware of circumstances in contravention of this Act or rules laid down pursuant to this Act shall notify the Danish Maritime Authority hereof. The authority in question may lay down detailed rules concerning this.

Subsection 4. A doctor who finds or suspects that a person has been exposed to harmful effects during the course of his work on board a ship shall notify the Danish Working Environment Service hereof. The Minister for Economic and Business Affairs may lay down detailed rules concerning this.

Subsection 5. The Minister for Economic and Business Affairs may lay down rules on the duty to report industrial accidents, cases of poisoning, occupational diseases and other circumstances of importance in terms of health and safety.

Section 20a. As part of the supervision under this Act, the Danish Maritime Authority shall supervise the compliance with legislation on smoke-free environments on Danish ships. The Danish Maritime Authority may, possibly based on further detailed conditions, order that matters that violate the legislation on smoke-free environments are rectified immediately or within an established deadline.

Subsection 2. Section 17 (7) and (8), section 19, section 22 and section 24 (1-3) and (5) and the provisions issued in accordance therewith and section 25 shall apply equivalently.

Subsection 3. The Minister for Economic and Business affairs may upon negotiation with the Minister of Interior and Health establish rules on the application of the supervision.

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.

Chapter 7

The Danish Shipping Tribunal

Section 21. The Minister for Economic and Business Affairs shall appoint a Shipping Tribunal, which shall process complaints concerning detention of ships and bans against entry of Danish ports, orders and bans against ships as mentioned in section 43 or section 43 a (1) or (2) in the Act on protection of the marine environment, the manning of ships and decisions by medical practitioners on the medical suitability of seafarers and fishermen to serve on board ships.

Subsection 2. The Minister for Economic and Business Affairs may transfer the processing of complaints made against other decisions than those mentioned in subsection 1 to the Danish Shipping Tribunal.

Subsection 3. Decisions made by the Danish Shipping Tribunal shall not be appealed to other administrative authorities. 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.

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.

Subsection 5. The chairman and the members of the Tribunal as well as the vice-chairman shall be appointed by the Minister for Economic and Business Affairs for a period of 4 years with the possibility of reappointment.

Subsection 6. When deciding on each individual case, a number of members shall participate appointed by the chairman according to regulations laid down by the Minister for Economic and Business Affairs.

Subsection 7. The Minister for Economic and Business Affairs shall lay down the rules of procedure of the Danish Shipping Tribunal, including appointment of the Tribunal's members and the composition of the Tribunal by the chairman for the individual cases as well as deadlines for complaints and the processing of these.

Subsection 8. The Danish Maritime Authority shall act as the Danish Shipping Tribunal's secretariat.

Chapter 8 *Classification societies, etc.*

Section 22. The Minister for Economic and Business Affairs may, under specified conditions, authorize classification societies, other companies or individuals to carry out surveys of ships, including calculations, investigations and measurements of ships, and to issue certificates on behalf of the Danish Maritime Authority.

Subsection 2. The Minister for Economic and Business Affairs may, under specified conditions, authorize companies or individuals to carry out approval work and examination and testing of ships, marine equipment and other products that require approval by the Danish Maritime Authority.

Subsection 3. The Minister for Economic and Business Affairs may lay down rules on recognition of testing and approval, etc.

Subsection 4. The Danish Maritime Authority shall not be liable to pay damages for errors made by the authorized companies, etc. mentioned in subsections 1 and 2.

Subsection 5. The Danish Maritime Authority shall not be obliged itself to carry out surveys and approvals covered by an authorization issued in pursuance of subsections 1 or 2.

Subsection 6. When an authorization is issued under subsections 1 or 2, the Danish Maritime Authority may, at the request of the authorized party, conclude an agreement that limited liability rests with the authorized party for damage caused by simple negligence during the performance of the tasks covered by the authorization.

Section 23. The Minister for Economic and Business Affairs may lay down rules to the effect that ships of a length of 45 metres or more shall be registered with an authorized classification society.

Chapter 9

Payment and guarantee in connection with surveys and detentions

Section 24. The Minister for Economic and Business Affairs may lay down rules on payment for surveys of ships carried out by the Danish Maritime Authority pursuant to the Act.

Subsection 2. The Minister for Economic and Business Affairs may lay down rules on the payment for surveys carried out upon request, including surveys of foreign ships, as well as on the payment for work carried out in connection with approval or certification prescribed in accordance with the Act.

Subsection 3. If a port State inspection of a foreign ship establishes defects that warrant detention of the ship, the Danish Maritime Authority may require payment for the inspection. Such a detention shall not be lifted until full payment has been made or a guarantee hereof has been given.

Subsection 4. The Minister for Economic and Business Affairs may lay down rules on the interest on amounts according to subsections 1-3 that are not paid when due and on the payment of reminder fees.

Section 25. The classification societies, other companies and individuals mentioned in sections 22 and 23 may require payment for their work.

Chapter 10

The Danish Ships Inspection Council

Section 26. The Minister for Economic and Business Affairs shall appoint the Danish Ships Inspection Council, which shall

- 1) advise the Ministry of Economic and Business Affairs and the Danish Maritime Authority on safety at sea,
- 2) follow developments within the scope of this Act, and
- 3) put forward requests and proposals concerning legislation on safety at sea and the administration related thereto.

Subsection 2. The Danish Ships Inspection Council shall consist of a chairman appointed by the minister and a number of members to be specified by the minister, including representatives of the shipowners, the seafarers and the shipyards. The minister may appoint representatives from other trades as members.

Subsection 3. The Minister for Economic and Business Affairs shall lay down the rules of procedure of the Council.

Chapter 11

Working environment boards and working environment services

Section 27. The Minister for Economic and Business Affairs may set up working environment boards with the purpose of furthering the health and safety of the employees on board ships. The working environment boards shall be composed of an equal number of representatives of the employees on board and their employers. The Danish Ships Inspection Council shall lay down rules on the appointment of members of the working environment boards.

Subsection 2. In order to take care of the health and safety work for persons employed on board, the working environment boards shall set up a working environment service in their area.

Subsection 3. The Minister for Economic and Business Affairs may provide funding for information activities and consultancy work carried out by the working environment boards as well as for the travels of the working environment services to ships situated outside Denmark.

Subsection 4. The Minister for Economic and Business Affairs shall lay down rules on the construction, tasks, functions and funding of the working environment boards and services.

Chapter 12 *Penalty clause*

Section 28. Anyone who

- 1) contravenes sections 9-13 or section 19 (2),
- 2) disregards the conditions of a permit, exemption or an approval according to the law, or
- 2) fails to observe orders or prohibitions issued pursuant to this Act or in accordance with rules issued pursuant to this Act

shall be liable to punishment by fine or imprisonment for a term not exceeding 1 year.

Section 29. Anyone who causes grounding, shipwreck or any other sea accident due to grave error or gross negligence during the performance of his duties shall be liable to punishment by fine or imprisonment for a term not exceeding 4 months unless a more stringent penalty is provided for in accordance with other legislation. The same shall apply if the person in question repeatedly causes such an occurrence due to error or negligence.

Subsection 2. Any master of a ship who grossly negligently or repeatedly navigates or handles the ship contrary to good seamanship shall be punishable by fine or imprisonment for a term not exceeding 4 months. Any master of a ship who fails to make himself aware of the orders and regulations applying to navigation in the waters in which the ship sails and in the places that the ship calls at shall be punishable by fine or imprisonment for a term not exceeding 4 months.

Section 29a. A person who navigates a ship or who in other respects carries out safety-related work on board a ship after having consumed alcohol to such an extent that the blood alcohol concentration during or after the navigation exceeds a blood alcohol level of 0.5 per mille shall be liable to punishment.

Subsection 2. Subsection 1 shall not apply to recreational craft for which there are no training requirements for the master or mate if any. However, subsection 1 shall apply to persons navigating water scooters or similar vessels.

Subsection 3. Subsection 1 shall not apply to recreational craft that are moored in port or at anchor in a protected berth.

Subsection 4. Furthermore, a person, who navigates a ship or who in other respects carries out safety-related work on board a ship after having consumed alcohol or other intoxicating substances to such an extent that the person in question is not capable of performing his or her service satisfactorily shall be liable to punishment.

Subsection 5. Subsection 1 shall apply by analogy to foreign recreational craft if training requirements would have applied to the master or mate, if relevant, cf. subsection 2 (first sentence), had the pleasure craft been flying the Danish flag.

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.

Section 29b. The police may, at any time, demand that persons who are subject to the provisions on navigation under the influence of alcohol contained in this Act carry out a breath test.

Subsection 2. If there is reason to believe that a person has violated the provisions on navigation under the influence of alcohol, or if a person refuses or is not able to carry out a breath test, the police may require to get a blood and urine sample. Under certain circumstances, the police may furthermore require that the person in question is examined by a medical doctor.

Section 29c. In accordance with section 29a, navigation under the influence of alcohol shall be punishable by fine or imprisonment for up to 1 year and 6 months.

Subsection 2. Navigation under the influence of alcohol in row boats and similar vessels that are not operated by means of sails or engine power shall, however, be punishable by fine.

Section 29d. Any person who navigates a vessel or who serves as a mate or marine engineer despite the fact that the right to navigate has been suspended unconditionally shall be punishable by fine, cf. however subsection 2.

Subsection 2. The punishment in accordance with subsection 1 may be changed to imprisonment for up to one year and six months if the person in question

- 1) is found guilty of more instances of drunken navigation during the period of suspension or
- 2) has previously been punished for drunken navigation during the period of suspension.

Section 29e. Any person who has engaged in navigation under the influence of alcohol may have his right to navigate a vessel or to serve as a mate or marine engineer suspended. Suspension of navigational rights shall be unconditional. However, under mitigating circumstances suspension may be conditional.

Subsection 2. The right to navigate a vessel or to serve as a mate or marine engineer may also be suspended in case of aggravating circumstances in conjunction with judgment for contravention of section 29 (1) or (2). Suspension may be conditional.

Subsection 3. Unconditional suspension in accordance with subsection 1 or 2 shall be for a period of between 6 months and 5 years or forever.

Subsection 4. If the right to navigate a vessel or to serve as a mate or marine engineer is suspended unconditionally, the prosecution shall forward the maritime trading certificate, certificate of competence or high-speed craft certificate of the person in question to the Ministry of Economic and Business Affairs together with the transcript of the judgment. If the right to navigate a vessel or to serve as mate or marine engineer has been suspended for a period longer than 3 years, the matter of recovery of the right before the expiration of the suspension period may be brought before the courts in accordance with section 78 (3) in the Penal Code and at the earliest 3 years after the final judgment. The right can only be recovered in case of special circumstances.

Subsection 5. Conditional suspension shall be conditioned by the fact that the person in question in a trial period of 3 years from the final judgment does not navigate a vessel or serve as mate or marine engineer under such circumstances that the right to do so is suspended. When suspension is conditional, the establishment of the suspension period shall be postponed. If the person who has had the right to navigate suspended is involved in another matter during the trial period which entails suspension of navigational right or the right to serve as mate or marine engineer, the court shall determine a joint suspension for this matter and the previously decided contravention.

Subsection 6. If, in case of navigation under the influence of alcohol, the police deem that the conditions for unconditional suspension of the navigational right or to serve as a mate or marine engineer are present, the police may temporarily suspend this right, however, in such a manner that the court may discontinue the suspension before the matter is finally settled by the court. If the court rules for acquittal in the court of first instance and the judgment is appealed by the prosecution, the prosecution may in matters where the circumstances are in favour of maintaining the suspension of the right to navigate or to serve as a mate or marine engineer during the appeal, bring this matter before the court of appeal which will decide on the matter by judgment. The period in which the right to navigate or to serve as mate or marine engineer has been suspended shall be deducted from the suspension period.

Subsection 7. If a master, mate or marine engineer has their right to serve suspended, it shall be decided by judgment if respectively the master may be allowed to serve as mate and if the mate or the marine engineer may be allowed to serve in positions of lower ranks. The Minister for Economic and Business Affairs shall in this case provide the person in question with the necessary maritime trading certificate. Partial suspension shall not be possible if the person in question is found guilty of navigating under the influence of alcohol.

Section 30. If, in the event of a collision or in the event that the ship as a result of its navigation or in a similar way causes damage to another ship or persons or goods on board, and where it may be done without particular danger to the ship itself, its crew and passengers, the master of the ship fails to afford the other ship and its crew and passengers all the assistance possible and necessary to rescue it from the danger that has arisen and if he fails to give the radio call sign, name and home port of the ship as well as the place or the port from which it comes and for which it is bound, the party in question shall be punishable by fine or imprisonment for a term not exceeding 4 months.

Section 31. The penalty under section 29 (1) and (2) may be increased to imprisonment for a term not exceeding 1 year in case of aggravating circumstances, cf. section 32 (1) and (6), and to imprisonment for a term not exceeding 2 years if the contravention has been committed intentionally. The penalty under sections 28 and 30 may be increased to imprisonment for a term not exceeding 2 years if the contravention has been committed intentionally or due to gross negligence.

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.

Section 31a. In case of contraventions of regulations issued in pursuance of section 3 (iv) that are not found to entail a penalty more stringent than a fine, the Danish Maritime Authority may signify in a fine-penalty notice that the case may be settled without legal proceedings if the contravening party declares himself guilty of the offence and prepared to pay the fine stated in the fine-penalty notice within a stipulated period of time. The Danish Maritime Authority may extend this period of time upon request.

Subsection 2. The provisions of the Danish Administration of Justice Act concerning the requirements for the content of an indictment and that a suspect has the right to remain silent shall also apply to fine-penalty notices.

Subsection 3. If the contravening party accepts the fine, further legal proceedings shall be waived.

Section 31b. If provisions issued of this Act, of the Act on the Safe Manning of Ships or of regulations issued pursuant hereto have been contravened on board a ship as part of its operation, the ship may be detained if it is necessary in order to secure a claim for a fine or legal costs to be paid. However, a ship may not be detained if the person who had demand of the ship was unrightfully in possession of it when the claim arose.

Subsection 2. If a fine or legal costs have not been paid or if a guarantee of this has not been given within 2 months after the final decision on the case, satisfaction of the debt may be sought by seizing the ship.

Subsection 3. Detentions are made by the police. In case of contraventions of provisions issued pursuant to section 3 (iv), a detention may also be made by the Danish Maritime Authority.

Subsection 4. When a ship is detained in accordance with subsection 1, chapter 74 of the Danish Administration of Justice Act on seizure shall apply with the amendments deriving from subsections 1-3.

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.

Subsection 2. Sentencing in pursuance of section 29c (1) shall take into consideration if

- 1) the blood alcohol concentration level during or after the navigation has exceeded 2.0 per mille,
- 2) the person in question is found guilty of several instances of drunken navigation,
- 3) the person in question has previously had the right to navigate or serve as mate or marine engineer suspended conditionally as a consequence of drunken navigation and the new offence has been committed before 3 years after the previous judgment was final,
- 4) the person in question has previously had the right to navigate or to serve as mate or marine engineer suspended unconditionally and the new offence has been committed before 5 years after the expiration of the suspension period, or
- 5) other severe navigational errors have been made or other aggravating circumstances are present.

Subsection 3. When fining in pursuance of section 29c (1), consideration shall furthermore be given to the income of the person being fined at the time of the offence and the blood alcohol level during or after the navigation.

Subsection 4. When fining in pursuance of Section 29d (1), consideration shall furthermore be given to the income of the person being fined at the time of the offence. The same shall apply to fines issued in pursuance of section 58 in the Penal Code in connection with conditional imprisonment decided in pursuance of section 29c (1) or 29d (2).

Subsection 5. The provisions in subsections 3 and 4 may be departed from when special circumstances are in favour thereof.

Subsection 6. It shall be considered particularly aggravating circumstances if the contravention has caused or threatened to cause loss of life or damage to the health of persons below 18 years of age, cf. subsection 1 (i).

Subsection 7. If the proceeds achieved through a contravention are not confiscated, particular account shall be taken of the amount of any financial gain that has been achieved or sought to be achieved when determining the size of the fine, including additional fines.

Subsection 8. Regulations issued in pursuance of this Act may stipulate punishment by fine or imprisonment for a term not exceeding 1 year. In such regulations, similar punishment may be stipulated for the contravention of rules established by the European Union's regulations on matters that are subject to the Act. Furthermore, it may be stipulated that the punishment may be increased to imprisonment for a term not exceeding 2 years under the same circumstances as those mentioned in subsection 1.

Subsection 9. Liability to punishment may be imposed on companies, etc. (juridical persons) in accordance with the regulations of chapter 5 of the Penal Code.

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.

Subsection 11. A legal person who establishes to have done everything necessary to ensure a good and safe working environment cannot, however, be punished in cases where an employee contravenes section 12 or provisions established in pursuance of section 3 (vi) and subsection 8 if

the contravention regards the application of personal safety equipment, extraction devices, protective equipment or safety measures which alone serve to protect the person in question.

Chapter 13
Entry into force, etc.

Section 33. The Act shall enter into force on 1 March 1999.

Section 34. The Act on Ship Safety, etc., cf. Consolidated Act no. 594 of 26 June 1996, and the Act on Safety of Navigation, cf. Consolidated Act no. 587 of 29 September 1988, shall be repealed at the same time.

Subsection 2. Regulations issued in pursuance of the acts mentioned in subsection 1 shall remain in force until they are repealed or superseded by regulations issued in pursuance of this Act.

Subsection 3. Contraventions of the regulations mentioned in subsection 2 shall be punished in accordance with the regulations in force until now.

Subsection 4. Certificates and other documents issued in pursuance of the acts mentioned in subsection 1 shall retain their validity until the expiry of the time period stipulated in the document.

Section 35. Sections 164, 510, 511 and 512 of the Merchant Shipping Act, cf. Consolidated Act no. 39 of 20 January 1998, shall be repealed.

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.

Act no. 511 of 17 June 2008 contains the following provisions for entry into force:

Section 3

Subsection 1. The Act shall enter into force on 1 July 2008, cf. however subsection 2.

Subsection 2. (Left out)²

Section 4

The Act shall not apply to the Faroe Islands and Greenland, but section 2 may by royal decree be put into force for Greenland with the amendments derived from the special Greenland conditions.

Act no. 215 of 24 March 2009 contains the following provisions for entry into force:

Section 3

The Act shall enter into force on 1 April 2009.

Section 4

² Subsection concerns the Danish Seamen's Act.

The Act shall not apply to the Faroe Islands and Greenland, but section 1 may by royal decree be put into force for Greenland with the amendments derived from the special Greenland conditions.

Act no. 493 of 12 May 2010 contains the following provisions for entry into force:

Section 7

Subsection 1. The Minister for Economic and Business Affairs shall determine the date of the entry into force of this Act. In this connection, the minister may determine that the provisions of the Act shall enter into force on different dates.³

Subsection 2. (Left out)⁴

Section 8

(Left out)⁵

Section 9

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

Subsection 2. (Left out)⁶

Subsection 3. Section 1, 3, 4 and 5 may by royal decree be put into force wholly or partly for Greenland with the amendments derived from the Greenland conditions.

Danish Maritime Authority, 15 June 2010

Christian Breinholt / Anita Vedsø Larsen

3 Section 1 (i-vii), (ix), (xi-xiv) and (xvi-xxx) of Act no. 493 of 12 May 2010 as well as section 16 (2), the first sentence, of the Act on Safety at Sea as put in section 1 (x) of Act no. 493 of 12 May 2010 entered into force on 15 June 2010, cf. Order no. 594 of 3 June 2010.

4 Subsection 2 concerns the Act on the Safe Manning of Ships.

5 Section 8 concerns the Act on the Engagement of Ships Crews.

6 Subsection 2 concerns the Merchant Shipping Act.