

Act no. 1432 of 21 December 2005

# Act on Assumption of Right to Use Danish Ships

We Margrethe the second, by the grace of God Queen of Denmark hereby witness: Folketinget (the Danish Parliament) has adopted and We with Our consent hereby enact the following Act:

**1.-(1)** The government may decide that the state shall assume the right to use ships flying or entitled to fly the Danish flag, when

- 1) Denmark is at war or is in a war-like situation, including being exposed to extensive terrorism, where it is necessary to initiate extraordinary measures to ensure imports to Denmark and communication between regions,
- 2) serious disasters, including natural disasters, necessitate the implementation of extraordinary measures to ensure imports to Denmark and communication between regions,
- 3) it is necessary that Denmark be able to fulfil its responsibilities as a NATO and UN member in connection with war or war-like situations in other countries,
- 4) it is necessary that Denmark be able to fulfil other international obligations, where a binding decision has been made in NATO, the UN or the EU on assisting other countries in connection with serious disasters, including natural disasters.

**(2)** A condition for assuming the right of use shall be that the normal merchant shipping market or special civil or military measures are not able to fulfil the requirements for carriage by sea stipulated in the situations described in subsection (1).

**(3)** The right to use the ships shall be returned to the shipping companies no later than at the time the government has decided that a situation as described in subsection (1) has passed.

**2.-(1)** In the period in which, pursuant to section 1, the state has assumed the right to use a ship, the state shall pay or guarantee the shipping company a freight rate corresponding to the amount the shipping company could have earned from other activities of the ship. The Danish Shipping Board shall determine the freight rate, cf. section 4(2). The expenses of the state shall be reimbursed from the freight earned by the ship.

**(2)** If the shipping companies, in connection with the assumption of the right of use, should suffer other losses than loss of freight earnings, the Danish Shipping Board will decide whether further compensation shall be granted to ensure full compensation.

**(3)** In connection with assumption of the right to use a ship pursuant to section 1, the Minister for Economic and Business Affairs may, against compensation, disregard any contract of carriage entered into at the time of assumption. Where contracts of carriage are disregarded due to the circumstances mentioned in section 1(1), nos. 3 and 4, ships covered by prior agreement entered into between the Danish Shipping Board and the relevant shipping company shall be used.

**(4)** If assumption of the right of use pursuant to section 1(1) results in existing mortgages falling due, the state may intervene as creditor under the same conditions as hitherto in force.

(5) If assumption of the right to use a ship by the state entails that the current insurance wholly or partly cannot be sustained or offers insufficient cover, or the shipping company is not able to take out insurance on normal conditions, the state shall be responsible for sufficient insurance being taken out, so that the current insurance cover for the ship and its complement is sustained or taken out on normal conditions. If such insurance is not taken out by the state or if it does not cover at the time of the assumption of the right of use, the state shall be responsible for the consequences hereof.

3. If the state has not assumed the right to use a ship pursuant to section 1, the expenses in connection with the activities of the Danish Shipping Board shall be paid by the state.

4.-(1) The Minister for Economic and Business Affairs shall set up a shipping board consisting of a chairman appointed by the Minister, and six other members of which three shall be nominated by the Danish Shipowners' Association, two members shall be nominated by the organisations of seafarers and one member shall be nominated by the Danish Maritime Authority. For each member a proxy shall be appointed. The chairman, the members and the proxies shall be appointed by the Minister for Economic and Business Affairs for a four-year period and may be reappointed.

(2) The Danish Shipping Board shall be responsible that a ship on which the state has assumed the right of use is used in accordance with the requirements for carriage by sea forming the basis for the assumption, either by the board chartering out the ship, or ordering the shipping company to enter into a chartering agreement with a charterer assigned by the board. In these circumstances Danish Shipping Board shall be responsible for determining the freight rate for the ships assumed. The Danish Shipping Board may also determine terms and conditions in this connection.

(3) The Danish Shipping Board shall advise the Minister for Economic and Business Affairs in all matters relating to shipping in connection with a decision on assumption of the right to use a ship pursuant to section 1 and in connection with a decision on whether there is no longer a need for such an arrangement.

(4) Furthermore, the Danish Shipping Board shall advise the Minister in all matters relating to shipping in connection with international crises which may affect the safety of Danish ships.

(5) The board's rules of procedure shall be laid down by the Minister. The Danish Maritime Authority and the Danish Shipowners' Association shall be responsible for the secretariat of the Danish Shipping Board.

(6) Members of and assistants to the Danish Shipping Board shall exercise their responsibilities under liability pursuant to sections 152-152f of the Danish Penal Code (*straffeloven*).

5. The Minister for Economic and Business Affairs may order shipping companies which own ships flying or entitled to fly the Danish flag, to report the positions and voyages of these ships and may otherwise demand all information necessary to comply with this Act.

6. If the Minister for Economic and Business Affairs assigns his authority according to this Act to the Danish Maritime Authority, the Minister may lay down regulations on access to appeal, including that decisions made by the Danish Maritime Authority may not be brought before another administrative authority.

**7.** Decisions made by the Danish Shipping Board may not be brought before any other administrative authority.

**8.-(1)** Anyone who does not comply with an order without undue delay, cf. section 1(1), section 4(2) and section 5, or who violates provisions issued pursuant to this Act, shall be liable to a fine or imprisonment for up to two years.

**(2)** Any person who

- 1) provides incorrect or misleading information to the board,
- 2) conceals information of significance to arrangements by the board, or
- 3) acts contrary to the conditions stipulated by the board,

shall be liable to a fine

**(3)** If violations dealt with in subsection (2) are committed negligently, the offender shall be liable to a fine or, under aggravating circumstances, imprisonment for up to four months.

**(4)** Companies etc. (legal persons) may incur criminal liability according to the regulations in chapter 5 of the Danish Criminal Code (*straffeloven*).

**9.-(1)** This Act shall enter into force on 1 July 2006.

**(2)** The "*lov om et skibsfartsnævn*" (shipping board act), cf. Consolidated Act no. 582 of 29 September 1988 shall be repealed.

**10.** This Act shall not apply to the Faeroe Islands and Greenland.

*Amendments to other legislation*

**11.** In "*lov om krigsforsikring af skibe*" (act on war risk insurance for ships), cf. Act no. 387 of 10 June 1997, as amended by Act no. 1174 of 19 December 2003, section 1(2), no. 6 shall be worded as follows:

»6) Ships on which the state assumes the right of use, cf. section 1 of the Act on the Assumption of Right to Use Danish Ships.«

*Christiansborg Slot, 21 December 2005*

Under Our Royal Hand and Seal

MARGRETHE R.

/Bendt Bendtsen