

Translation: Only the Danish document has legal validity.

*Order no. 1362 of 29 of September 2022  
issued by the Danish Maritime Authority*

## **Order on temporary maritime conversion pool for Brexit-affected enterprises in the maritime sector.**

Pursuant to Section 3(1), Section 7(3) and Section 23(3) of Act No. 1518 of 18 December 2018 on business promotion, as amended by Act No. 782 of 4 May 2021, the following is hereby enacted:

### Chapter 1

#### *Scope of the Order*

**Section 1.** Under this Order, grants will be awarded to businesses in the maritime sector that are adversely affected by the United Kingdom's withdrawal from the European Union (Brexit). The grants are designed to mitigate the negative impact of Brexit and support businesses in their transition to new markets.

*Subsection 2.* Grants shall be awarded on the basis of two rounds of applications to a temporary maritime conversion pool.

*Subsection 3.* The maritime conversion pool referred to in Subsection 2 shall apply from 1 October 2022 to and including 31 December 2023.

*Subsection 4.* Enterprises may apply to the maritime conversion pool for a grant for 50% of their loss of turnover.

*Subsection 5.* Bodies of the public administration shall be excluded from the scope of the Order.

*Subsection 6.* The grant shall be awarded as de minimis aid in accordance with Commission Regulation (EU) No. 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid (OJ L 352, 24 December 2013, p.1), as last amended by Commission Regulation No. 2020/972 of 2 July 2020.

### Chapter 2

#### *Definitions*

**Section 2.** For the purposes of this Order:

- 1) Business: a legal person or an enterprise under private law, including associations, foundations and independent institutions, registered in the Central Business Register (CVR). For the purpose of calculating the government aid ceilings under the de minimis Regulation referred to in this Order, all entities controlled de jure or de facto by one and the same entity shall be considered as one enterprise.
- 2) Bodies in the public administration: government authorities and government-financed independent institutions covered by Section 2(1)(1) and (2) of the Order on government accounting, etc., municipalities and regions, municipal and regional organisations and enterprises, etc, established pursuant to the Local Government Act, and institutions where the government, regional or municipal operating grant is half or more and is

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expected to cover half or more of the institution's ordinary operating expenditure on a continuing basis.

3) Maritime sector: enterprises in the following categories:

- a) Oil, gas and offshore wind. Enterprises involved in oil and gas extraction and offshore wind in the North Sea or globally.
- b) Equipment. Subcontractors for shipbuilding and outfitting.
- c) Shipbuilding. Newbuilds and repair yards.
- d) Shipping. Shipping companies based in Denmark that transport goods or passengers by sea.
- e) Auxiliary enterprises. Ports and other auxiliary enterprises concerning transport, including stevedores, and other transport intermediation, including ship-broking and freight forwarding.
- f) Other maritime enterprises: enterprises in industries other than the above with significant economic activities in the maritime sector, e.g., subcontractors to the maritime sector.

4) SME: (Small or Medium-sized Enterprises) An enterprise which employs up to 249 full-time employees and which has either an annual turnover not exceeding €50 million or an annual balance sheet not exceeding €43 million.

5) Turnover: the value of sales of products and services, etc., net of price reductions, VAT and other taxes directly linked to the sales amount. The enterprise must calculate turnover according to the same principles as in its last approved accounts. If the enterprise has not previously prepared approved accounts, it must report turnover in accordance with the accounting legislation applicable to the enterprise. The enterprise can only include turnover that is taxable in Denmark.

6) Reference period: the comparative period against which the enterprise's decline in turnover is measured. The reference period is 1 January 2017 - 31 December 2019. The turnover for the reference period is calculated as an average of the turnover for the financial years 2017, 2018 and 2019.

7) Compensation period: the period for which compensation is granted for the enterprise's loss of turnover. The compensation period is 1 January 2020 - 31 December 2022.

8) Turnover loss: difference between turnover in the compensation period and the reference period: see points 6-7.

### Chapter 3

#### *Application criteria*

**Section 3.** Grants may be awarded to enterprises, in particular small and medium-sized enterprises (SMEs) as defined in Section 1, in accordance with the rules laid down in this Order, provided that the conditions laid down in Subsections 2 to 5 are met.

*Subsection 2.* The enterprise must be adversely affected as a result of Brexit and with a documentable loss of turnover of at least DKK 40,000.

*Subsection 3.* The enterprise is part of the maritime sector: see Section 2(3).

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*Subsection 4.* The enterprise has not received unlawful government aid that has not yet been repaid.

*Subsection 5.* The enterprise must be registered in the Central Business Register (CVR) by 13 January 2022.

## Chapter 4

### *The amount of the grant*

**Section 4.** Enterprises may apply for a grant of 50% of their loss of turnover - subject to a maximum of DKK 250,000 and a minimum of DKK 20,000.

*Subsection 2.* The grant will be reduced proportionally if more than the total amount of the pool is applied for.

**Section 5.** No grant shall be awarded to cover any loss of turnover that is reimbursed to the enterprise in any other way, including by insurance cover, payment from another company, other public reimbursements, compensation, etc., or any other government compensation scheme in connection with the implementation of the Brexit Adjustment Reserve.

*Subsection 2.* Grants shall not be awarded for loss of turnover which could reasonably have been avoided.

*Subsection 3.* No grant shall be awarded to the extent that a decrease in turnover is to be considered as caused by the enterprise wrongfully failing to attribute turnover to the compensation period or wrongfully attributing too much income to the reference period.

**Section 6.** The Danish Maritime Authority may lay down additional conditions for commitments of aid from the maritime conversion pool.

## Chapter 5

### *Application and documentation*

**Section 7.** The pool will be allocated over two application rounds; one in 2022 and one in 2023. The Danish Maritime Authority is to set the exact dates.

*Subsection 2.* The application must be made in a special form that is available via virk.dk. The form must be accompanied by the prescribed appendices and the documentation referred to in Section 8.

*Subsection 3.* Only one grant may be applied for per enterprise. All entities controlled de jure or de facto by one and the same entity are considered as one enterprise.

*Subsection 4.* The Danish Maritime Authority shall process the applications after the application deadlines referred to in Subsection 1 with a view to paying out grants within the framework of the pool.

**Section 8.** On request, the enterprise must submit the following in the application form referred to in Section 7(2), or at the request of the Danish Maritime Authority:

1) Determination of the eligible turnover loss.

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2) Explanation and evidence that the enterprise's loss of turnover is due to Brexit.

**Section 9.** The company must submit a declaration of all other de minimis aid received by the enterprise in the current and the two previous financial years pursuant to European Commission Regulation (EU) No. 1407/2013 or other de minimis regulations. The declaration can be accessed via the digital solution on virk.dk.

*Subsection 2.* Under criminal liability (see Section 14), the enterprise must declare on oath that the information provided under Section 7(2), is correct and that the applicant is not responsible for the loss of turnover. The declaration can be accessed via the digital solution on virk.dk.

*Subsection 3.* The enterprise must make a solemn declaration that it will not recover the loss of turnover elsewhere.

**Section 10.** The Danish Maritime Authority may require the enterprise and its management to provide the information necessary to demonstrate compliance with the application requirements in this Order.

*Subsection 2.* The Danish Maritime Authority may select applications of a special nature, including those where it is assessed that there is a particular risk that the applicant is not eligible for the grant applied for, such as due to atypical circumstances surrounding the basis of the application, for extended processing.

*Subsection 3.* The Danish Maritime Authority may require any person who, pursuant to Subsection 2, is selected for extended processing to provide additional information and documentation for the purposes of the decision.

*Subsection 4.* The Danish Maritime Authority shall, when obtaining information under Subsections 1 and 3, set a time limit for the submission of the information.

*Subsection 5.* Grants may only be paid when the case has been documented to the required extent and within the deadline set by the Danish Maritime Authority: see Subsection 4.

## Chapter 6

### *Payment of grants*

**Section 11.** Payment of the grant will be made to the enterprise's NemKonto account when the requirements for documentation, etc., set out in the Order have been approved by the Danish Maritime Authority: see Section 10(1).

*Subsection 2.* The Danish Maritime Authority may reduce the grant if the enterprise has not complied with its loss limitation obligation: see Section 5(2).

**Section 12.** Entitlement to the grant shall lapse if:

1) The award of the grant is in breach of Commission Regulation (EU) No. 1407/2013 of 18 December 2013 on the application of Articles 107 and 108 of the Treaty on the Functioning of the European Union to de minimis aid (OJ L 352 of 24 December 2013, p.1), as last amended by Commission Regulation No. 2020/972 of 2 July 2020;

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2) The compensation is contrary to Regulation (EU) 2021/1755 of the European Parliament and of the Council of 6 October 2021 on establishing the Brexit Adjustment Reserve;

(3) It appears after the time of the decision that the enterprise has supplied incorrect or misleading information, has withheld information relevant to the decision; or

4) If the documentation submitted or other information received by the Danish Maritime Authority shows that the enterprise is not eligible for a grant under the rules of this Order.

*Subsection 2.* In the cases referred to in Section 12(1)(no. 3) above, the Danish Maritime Authority shall decide on the repayment of any grant unduly paid.

*Subsection 3.* The enterprise is obliged to notify the Danish Maritime Authority of any circumstances that may result in the forfeiture of the grant.

## Chapter 7

### *Complaints, penalties and entry into force*

#### *Right to appeal*

**Section 13.** Decisions of the Danish Maritime Authority under this Order may be appealed to the Danish Business Authority's Brexit Reserve Management Authority.

*Subsection 2.* An appeal under Subsection 1 shall be filed in writing within four weeks after the decision has been notified to the person concerned. The deadline for appeals shall run from the day following the day on which the decision is notified to the addressee: see Subsection 3. If the deadline for lodging an appeal is a Saturday, Sunday or public holiday, the appeal period expires on the first working day.

*Subsection 3.* The Business Authority's Brexit Reserve Management Authority may determine that the appeal must be submitted by email or other digital means. A digital message is considered to have arrived when it is accessible to the addressee of the message.

*Subsection 4.* The Business Authority's Brexit Reserve Management Authority may determine the address to which the appeal is to be sent. An indicative processing time may also be set.

#### *Penalties*

**Section 14.** Unless a higher penalty is prescribed by other legislation, a fine shall be imposed on anyone who, in connection with an application and the granting thereof, including for co-financing and compensation, etc., provides false or misleading information or withholds information relevant to the decision of a case.

*Subsection 2.* Criminal liability may be imposed on enterprises or other legal persons in accordance with the provisions of Chapter 5 of the Criminal Code.

#### *Entry into force*

**Section 15.** The Order shall enter into force on 1 October 2022.

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*Ministry of Industry, Business and Financial Affairs, 29 September 2022*

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