

Act amending the pilotage act and the act on Danpilot

(Opening of competition in the pilotage area)

We MARGRETHE THE SECOND, by the grace of God Queen of Denmark hereby witness: Folketinget (the Danish Parliament) has adopted
and We with Our consent hereby enact the following act:

Section 1

In the pilotage act (*lodsloven*), act no. 567 of 9 June 2006, as amended by section 3 of act no. 478 of 30 May 2012, section 64 of act no. 1231 of 18 December 2012, section 16 of act no. 600 of 12 June 2013 and section 4 of act no. 618 of 12 June 2013, the following amendments shall be made:

1. In *section 3*, the following shall be inserted as *items 12 and 13*:

“12) A small port:

A port that had an annual cargo turnover during the previous two calendar years of less than ½ per cent of total cargo turnover for cargo carried by ship in Danish ports during the period.

13) A large port:

A port that is not covered by item 12.”

2. *Section 7* shall be as follows:

“**Section 7.** In Danish waters, pilots shall embark and disembark only when this does not jeopardize safety of navigation or the pilot’s safety.

Subsection 2. The Danish Maritime Authority shall lay down more detailed regulations on the embarkation and disembarkation of pilots, cf. subsection 1.”

3. *Section 13* shall be repealed and instead the following shall be inserted:

“**Section 13.** Transit pilotage assignments in Danish waters shall be performed only by pilots employed by Danpilot and by pilots employed by private pilotage service providers that have been permitted to do so by the Danish Maritime Authority, cf. subsection 2. Only these pilots shall be assigned for transit pilotage assignments in Danish waters.

Subsection 2. The Danish Maritime Authority may, on the basis of an application, permit private pilotage service providers to perform transit pilotage assignments in Danish waters.

Subsection 3. The permit shall be granted for up to four years at a time.

Subsection 4. Only pilots holding a deep-sea certificate issued by a coastal State for the waters in question in accordance with the recommendations of the UN’s International Maritime Organization (IMO) shall be assigned for deep-sea pilotage assignments.

Subsection 5. The Minister for Business and Growth shall lay down regulations on the number of transit pilotage assignments to be performed by private pilotage service providers.

Subsection 6. The Danish Maritime Authority shall lay down more detailed regulations on the application process, the requirements for applications and on the terms associated with the permit to perform transit pilotage assignments.

Section 13a. The Danish Maritime Authority may withdraw a permit, cf. section 13(2), to perform transit pilotage assignments if a pilotage service provider:

- 1) does not meet the terms of the permit mentioned in section 13 or regulations laid down pursuant to section 13, or
- 2) grossly or repeatedly has contravened this act, regulations laid down pursuant to this act or the terms of the permit.

Subsection 2. A decision on withdrawal pursuant to subsection 1 may be required brought before the courts by the company to which the decision is addressed. Requests to have decisions brought before the courts shall be made to the Danish Maritime Authority no later than four weeks after the company concerned has been informed about the decision.

Subsection 3. The Danish Maritime Authority shall, without unnecessary delay, instigate legal proceedings against the company mentioned in subsection 2 in accordance with the rules of civil procedure.

Subsection 4. Requests for legal proceedings concerning withdrawal pursuant to subsection 1 shall have delaying effect. However, the court may decide by order that the company concerned shall not during the consideration of the case perform transit pilotage assignments.”

4. *Section 19* shall be repealed and instead the following shall be inserted:

“Section 19. In Danish territorial waters and in the Danish exclusive economic zone as well as outside these in the exclusive economic zones of other coastal States in the English Channel, the North Sea, the Skagerrak, the Kattegat and in the Baltic, Danpilot shall be obliged, subject to periods of notice as stipulated in subsections 2-4, to make pilots available to ships that may request this or that are covered by mandatory pilotage.

Subsection 2. Danpilot shall be notified no later than 18 hours before transit pilotage or deep-sea pilotage is requested.

Subsection 3. Danpilot shall be notified no later than 24 hours before pilotage is requested to a Danish port and no later than four hours before pilotage is requested from a Danish port.

Subsection 4. In small Danish ports, Danpilot and the relevant port shall agree on a normal pilotage period for the port of 18 consecutive hours.

Subsection 5. Danpilot may conclude cooperation agreements with private service providers to perform the obligation mentioned in subsection 1.

Subsection 6. Danpilot may conclude agreements with shipowners on the performance of pilotage assignments, including on the period of notice and the conditions for ordering a pilot, deviating from subsections 1-4 and regulations laid down pursuant to section 19a in the shipowners’ favour.

Section 19a. The Minister for Business and Growth may lay down regulations on payment for pilotage assignments performed by Danpilot, including regulations on the maximum rates.”

5. After *section 22*, the following shall be inserted in *part 10*:

“Section 22a. Pilotage service providers shall pay a supply contribution for regional and transit pilotage assignments performed by pilots associated with the pilotage service provider concerned in Danish territorial waters. The amount of the supply contribution shall be determined annually on the finance and appropriation act (*finansloven*).

Subsection 2. At the end of each quarter, the pilotage service providers shall submit a record of the pilotage assignments performed by pilots associated with the pilotage service provider concerned. The supply contribution shall fall due at the end of the following month.

Subsection 3. The Danish Maritime Authority may lay down regulations on the reporting mentioned in subsection 2.”

6. In *section 24(4)(ii)*, “subsection 6” shall be amended to “subsection 7”.

7. In *section 24*, the following shall be inserted after subsection 5 as a new subsection:

“*Subsection 6.* Pilotage service providers, pilots and other persons acting on behalf of pilotage service providers shall be obliged to provide the Danish Maritime Authority with the necessary assistance in connection with its investigations and to provide any necessary information in this connection, including provide access to records, documents and the like of importance to the access to act as pilotage service providers or perform pilotage assignments.”

Subsequently, subsection 6 shall become subsection 7.

8. In *section 28(1)(i)*, “the act or” shall be amended to “the act,”.

9. In *section 28(1)*, the following shall be inserted as a new item after item 1:

“2) the holder of the pilot certificate grossly or repeatedly has contravened the terms of a permit to perform transit pilotage assignments, or”

Subsequently, item 2 shall become item 3.

10. In *section 28(2)*, *the second sentence*, “withdrawal pursuant to subsection 1(ii)” shall be amended to “withdrawal pursuant to subsection 1(ii) and (iii)”.

11. In *section 30(1)(i)*, “the act or” shall be amended to “the act,”.

12. In *section 30(1)*, the following shall be inserted after item 1 as a new item:

“2) the pilot service provider has grossly or repeatedly contravened the terms of a permit to perform transit pilotage assignments, or if a supply contribution due is not paid, or”

Subsequently, item 2 shall become item 3.

13. In *section 30(1)(ii)*, which shall become item 3, “section 13(2)” shall be amended to “section 13(1)” and “section 24(6)” shall be amended to “section 24(7)”.

14. In *section 30(2)*, *the second sentence*, “deletion from the register pursuant to subsection 1(ii)” shall be amended to “deletion from the register pursuant to subsection 1(ii) and (iii)”.

15. In *section 32*, “withdrawal in the cases mentioned in section 28(1)(i) or on temporary deletion in the cases mentioned in section 30(1)(i)” shall be amended to “withdrawal in the cases mentioned in section 28(1)(i) and (ii) and temporary deletion in the cases mentioned in section 30(1)(i) and (ii)”.

16. In *section 33a(2)*, “refusal of an application pursuant to section 13, withdrawal of a permit pursuant to section 13a” shall be inserted after “section 12,”.

17. After part 13a, the following shall be inserted:

“Part 13B
Pilotage in Greenland waters”

Section 33b. Pilotage assignments in Greenland waters prescribed pursuant to section 3(3) of the act on safety at sea (*lov om sikkerhed til søs*), shall be performed only by a pilot certified to perform pilotage assignments in the area concerned in accordance with section 12.

Subsection 2. The Minister for Business and Growth may conclude agreements with pilotage service providers stipulating that they shall, within a fixed period of notice, make a pilot available to ships covered by mandatory pilotage as prescribed pursuant to section 3(3) of the act on safety at sea (*lov om sikkerhed til søs*).

Subsection 3. The Minister for Business and Growth may lay down regulations stipulating that State owned pilotage service providers shall, within a fixed period of notice, make a pilot available to ships covered by mandatory pilotage as prescribed pursuant to section 3(3) of the act on safety at sea (*lov om sikkerhed til søs*).

Subsection 4. The provisions of sections 8 and 9, section 11(3), sections 12, 14 and 16-18, section 19(6), section 19a, section 20(1), sections 24-33a and section 34(1), (4) and (5) shall apply to pilotage assignments covered by subsection 1.

18. In *section 34(1)*, “section 24(3)” shall be amended to “section 24(3) and (6)”.

19. In *section 34(3)*, “and the manager concerned does not ensure that the police or the Danish Maritime Authority is informed of this without any unnecessary delay after the ship’s call at the port” shall be inserted after “mentioned in section 4(1)”.

20. In *section 40*, the following shall be inserted as *subsection 2*:

“*Subsection 2.* Sections 8 and 9, section 11(3), sections 12, 14 and 16-18, section 19(6), section 19a, section 20(1), sections 24-33b and section 34(1), (4) and (5) may be put into force in full or in part for Greenland with the amendments deriving from the special Greenland conditions.”

Section 2

In act no. 600 of 12 June 2013 on Danpilot, as amended by section 6 of act no. 1347 of 3 December 2013, the following amendments shall be made:

1. In *section 2(1)*, *the second sentence*, “, and other maritime services” shall be inserted after “section 20(1) and (2) of the pilotage act”.

2. In *section 8(2)*, “transit pilotage assignments and regional pilotage assignments” shall be amended to “transit pilotage assignments, regional pilotage assignments and other maritime services”.

Section 3

In act no. 618 of 12 June 2013 amending the merchant shipping act and various other acts (Enhanced navigational safety requirements in arctic waters, improving seafarers' legal status in case of piracy, adjustment of the ship registration provisions, implementation of the Convention on Contracts

for the International Carriage of Goods Wholly or Partly by Sea, implementation of the amendment Protocol to the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea and abolition of the Divers' Council), the following amendment shall be made:

1. *Section 4(ii) and (iii)* shall be repealed.

Section 4

Subsection 1. This act shall enter into force on 1 July 2014, cf. however subsection 2.

Subsection 2. The Minister for Business and Growth shall determine the date of the entry into force of sections 1 and section 3. In this connection, the Minister may determine that different parts of the regulations concerned shall enter into force on different dates.

Section 5

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

Subsection 2. Section 19(5), section 19a and section 33b as worded by section 1(iv) and (xvii) and sections 2 and 3 of the pilotage act (*lodsloven*) may be put into force in full or in part for Greenland with the amendments deriving from the special Greenland conditions.

Christiansborg Castle, 25 June 2014

Margrethe R. / Henrik Sass Larsen