

Translation: Only the Danish document has legal validity

Act no. 251 of 30 March 2011 issued by the Danish Maritime Authority

**Act amending the merchant shipping act (*søloven*), the act on safety at sea
(*lov om sikkerhed til søs*) and the seamen's act (*sømandsloven*)¹**

(obligation to take out insurance against maritime claims, implementation of the work in fishing convention, etc.)

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 merchant shipping act (*søloven*), cf. consolidated act no. 856 of 1 July 2010, as amended by act no. 599 of 24 June 2005, section 1 of act no. 526 of 7 June 2006 and section 13 of act no. 1563 of 20 December 2006, the following amendments shall be made:

1. The *footnote* to the title of the act shall be as follows:

“1. This Act contains provisions implementing parts of Directive 2005/36/EC of the European Parliament and of the Council of 7 September 2005 on the recognition of professional qualifications, Official Journal no. L 255, p. 22, and Directive 2009/20/EC of the European Parliament and of the Council of 23 April 2009 on the insurance of shipowners for maritime claims, Official Journal no. L 131 of 28 May 2009, pp. 128-131.”.

2. After section 152, the following shall be inserted:

“Part 7a

On insurance for maritime claims

153.-(1) The shipowner of a ship carrying the Danish flag with a gross tonnage of or above 300 shall take out insurance covering maritime claims. The ship shall be engaged in trade unless it has a certificate confirming that such insurance has been taken out. The certificate shall be kept on board and be presented to the authorities upon request.

(2) Insurance shall be equal to a bank guarantee or any other financial security with similar conditions of coverage.

(3) Subsection 3 shall also apply to a ship not carrying the Danish flag and calling at or departing from a Danish port or any other place of loading or unloading in Denmark or on the Danish continental shelf or carrying out activities in Danish territorial sea if the ship has a gross tonnage of or above 300.

(4) The insurance stipulated in subsections 1 and 2 shall make it possible to acquire compensation within the limits of liability stipulated in section 175.

(5) The Danish Maritime Authority may lay down regulations on the certificate mentioned in subsection 1, including on the information to be contained in the certificate.

¹ This act contains provisions implementing parts of directive 2009/20/EC of the European Parliament and of the Council of 23 April 2009 on the insurance of shipowners for maritime claims, Official Journal, no. L 131 of 28 May 2009, pp. 128-131, and directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control, Official Journal, no. L 131 of 28 May 2009, pp. 57-100.

154.-(1) If a ship does not hold the certificate mentioned in section 153, the Danish Maritime Authority or other authorities authorised to do so by the Minister of Economic and Business Affairs may expel the ship from Danish ports.

(2) A ship that has been expelled from a port in a country that is a member of the EU due to a lack of certificate may not call at a Danish port until the ship holds a valid certificate.

155.-(1) This part shall not apply to warships or other ships that are owned or used by a State and that are used for State, non-commercial activities.

(2) This part shall not affect the requirements on insurance stipulated in parts 9a and 10.

(3) This part shall not affect the requirements on insurance stipulated in part 11.

(4) This part shall not affect the requirements on limitation of liability stipulated in part 9.

(5) This part shall not affect the right to limitation of liability under section 69 of the offshore safety act (*offshoresikkerhedsloven*)."

3. In section 181(2), "Special limitations of liability shall apply for drilling ships and floating offshore installations, cf. the act on certain offshore installations (*loven om visse havanlæg*), while the drilling ships or offshore installations" shall be amended to: "Special limitations of liability shall apply for mobile offshore installations, cf. the offshore safety act (*offshoresikkerhedsloven*), while the drilling ships or offshore installations".

4. In section 514(1), "section 153(1), (3) or (4)" is inserted after "section 25(1) and (2),".

5. In section 515b, "153," shall be inserted after "compliance with sections".

Section 2

In the act on safety at sea (*lov om sikkerhed til søs*), cf. consolidated act no. 654 of 15 June 2010, as amended by section 1 of act no. 493 of 12 May 2010, the following amendments shall be made:

1. In the *footnote* to the title of the act, "Directive 2009/21/EC of the European Parliament and of the Council of 23 April 2009 on compliance with flag State requirements (Official Journal 2009 L 131, p. 132-135)" shall be amended to "Directive 2009/21/EC of the European Parliament and of the Council of 23 April 2009 on compliance with flag State requirements (Official Journal no. L 131 of 28 May 2009, pp. 132-135) and Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control (Official Journal no. L 131 of 28 May 2009, pp. 57-100)".

2. In section 3, the following is inserted as subsection 2:

"*Subsection 2.* The Minister of Economic and Business Affairs may, for foreign ships that are covered by the act according to regulations laid down pursuant to section 1(3), lay down regulations on the conditions that are covered by the United Nations' International Labour Organizations'

Maritime Labour Convention or the United Nations' International Labour Organization's Work in Fishing Convention.”

3. In section 17(9), “and ports” shall be inserted after “with other public authorities”.

4. 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 (*lov om røgfri miljøer på danske skibe*) and compliance with the act on seafarers' conditions of employment, etc. (*lov om søfarendes ansættelsesforhold m.v.*), the act on the manning of ships (*lov om skibes besætning*), the act on the tonnage measurement of ships (*lov om skibsmåling*) and sections 153, 186, 197, 198 and 471 of the merchant shipping act (*søloven*) and regulations issued pursuant hereto. The Danish Maritime Authority may order that matters that violate the said 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 pursuant hereto and section 25 shall also apply to inspection activities under subsection 1.

Subsection 3. The Minister of Economic and Business Affairs may lay down regulations on the inspection that is carried out under this act and on the consideration of complaints from seafarers etc., including that it may not be stated that an inspection is carried out as a consequence of a complaint. Regulations on the supervision of compliance with the act on smoke-free environments on Danish ships (*lov om røgfri miljøer på danske skibe*) shall be laid down following consultations with the Minister of the Interior and Health.”

Section 3

In the seamen's act (*sømandsloven*), 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, section 1 of act no. 511 of 17 June 2008 and section 2 of act no. 493 of 12 May 2010, the following amendments shall be made:

1. Section 18(2) shall be as follows:

“*Subsection 2.* In addition, the seafarer shall be entitled to free passage with maintenance to his place of residence or any other place of discharge agreed upon at the shipowner's expense.”

2. 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 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, section 49(xvi) as regards section 27,

section 49(xx) or (xxiii), section 55, section 74b(1) or (3) or section 74c(2), he shall be liable to punishment by fine or imprisonment for a term not exceeding one year. If the shipowner fails to fulfil his obligations in pursuance of section 4(1) or (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 otherwise fails to fulfil 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 55, section 74b(1) or (3) or section 74c(2) shall be liable to punishment by fine or imprisonment for a term not exceeding 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 regulations laid down pursuant to section 73 shall be liable to punishment by fine. 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 liable to punishment in the same manner.

Subsection 3. Anyone who carries out private engagement or procurement 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) shall be liable to punishment according to the provisions of chapter 5 of the penal code.

Subsection 5. When determining liability to punishment under subsection 4, persons who are hired to carry out work on board the ship by others than the shipowner shall also be considered to be affiliated with the shipowner. If a document of compliance has been issued pursuant to the International Safety Management Code or a certificate pursuant to the Maritime Labour Convention to another organisation or person, the master and the seafarers shall also be considered affiliated with the one to whom the certificate has been issued.”

3. In section 74(1), “the Maritime Labour Convention,” is inserted after “a copy of”.

4. After section 74b, the following is inserted:

“**Section 74c.** The Minister of Economic and Business Affairs may lay down regulations to the effect that fishing vessels may not operate unless they have a certificate concerning fishermen’s conditions of work, including the conditions to be covered by the certificate.

Subsection 2. The certificate shall be kept on board and be presented to the authorities upon request.”

Section 4

In act no. 493 of 12 May 2010, amending the act on safety at sea (*lov om sikkerhed til søs*), the seamen's act (*sømandsloven*) and various other acts and repealing the act on the engagement of ship's crews (implementation of the Maritime Labour Convention, modernisation of supervision provisions, prohibition against navigation under the influence of alcohol in Greenland waters, etc.), the following amendments shall be made:

1. Section 1(v) shall be repealed.
2. Section 1(xv) shall be repealed.
3. Section 2(xxxi) shall be repealed.

Section 5

Subsection 1. The Minister of Economic and Business Affairs shall determine the date of the entry into force of section 1, section 2(ii) and (iv), section 3 and section 4. In this connection, the Minister may determine that the provisions shall enter into force on different dates.

Subsection 2. Section 2(i) and (iii) shall enter into force on 1 April 2011.

Section 6

Subsection 1. This act shall not apply to the Faroe Islands and Greenland.

Subsection 2. Section 1 may be put in force in part or in full for the Faroe Islands by royal decree with the amendments following from the Faroese conditions.

Subsection 3. Sections 1 and 2 may be put in force in part or in full for Greenland by royal decree with the amendments following from the Greenland conditions.

Christiansborg Castle, 30 March 2011

Margrethe R. / Brian Mikkelsen