

*Translation: Only the Danish version is authentic*

*Danish Maritime Authority Consolidated Act no. 903 of 12 July 2007*

## **Promulgation of the Act on Safety at Sea<sup>1</sup>**

The Act on Safety at Sea, cf. Consolidated Act no. 627 of 26 July 2002, including the amendments deriving from Section 1 of Act no. 1173 of 19 December 2003, Section 1 of Act no. 1231 of 27 December 2003, Section 23 of Act no. 442 of 9 June 2004, Act no. 1465 of 22 December 2004, Section 83 of Act no. 431 of 6 June 2005, Section 1 of Act no. 547 of 8 June 2006, Section 38 of Act no. 567 of 9 June 2006, Section 1 of Act no. 349 of 18 April 2007 and Section 30 of Act no. 512 of 6 June 2007, is hereby promulgated.

### 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 of Economic and Business Affairs may lay down rules regulating what objects are to be regarded as ships.

*Subsection 3.* The Minister of 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 the protection of the sea against pollution.

*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 of the sea against pollution.

**Section 3.** The Minister of 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,

- 2) what acts, regulations, certificates and ship's books, including plans in connection with the prevention of pollution from ships, as well as survey books shall be found on board, and rules for the authorization, form, and entries of the books and rules stipulating what posters shall be placed on board,
- 3) ship's journals in connection with the prevention of pollution, including the endorsement of the journals and the responsibility for their keeping and safe-keeping as well as the inspection thereof,
- 4) maritime security to prevent acts of terror, etc. against ships,
- 5) aids and materials, their construction and marking, use, maintenance and service, safety work, the duties of the employer 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,
- 6) 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 employer and the employee in this connection,
- 7) the areas of responsibility of ship's officers and others on board holding high-ranking positions,
- 8) measures against getting stowaways on board and the treatment of stowaways on board,
- 9) 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 of the sea against pollution, including terminal operators' quality management systems for the loading and unloading of bulk carriers, and
- 10) the carriage of live animals.

**Section 4.** The Minister of Economic and Business Affairs may lay down rules on the delivery, marketing and manufacture of pleasure boats, ship equipment, personal safety means and other products used on board ships.

*Subsection 2.* The Minister of 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 of 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 of this Section 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 come into force issued in accordance with Sections 3 and 4, 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 of the sea 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 of Economic and Business Affairs may lay down regulations, take measures and issue general and concrete prohibition or enforcement notices to safeguard navigation, maintain order and prevent danger and prevent hindrance of free navigation, including

- 1) prohibitions against navigation, fishing, anchoring and diving in special areas,
- 2) regulations for preventing collisions at sea, speed restrictions and routeing measures,
- 3) radio 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 at sea,
- 8) watch-keeping on board ships, and
- 9) assistance in rescuing human lives at sea.

**Section 7.** The Minister of 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 of Transport shall, after consultation with the Minister of 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 Administration of Navigation and Hydrography.

*Subsection 3.* Navigation and buoyage systems not covered by subsection 2 of this Section 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 of this Section.

## Chapter 4

### *General Obligations*

**Section 9.** The shipowner shall ensure that faults or defects that may come to his knowledge are repaired and shall check that the ship is subjected to the statutory surveys and is provided with valid certificates. The shipowner shall also ensure that it is possible for the master of the ship to perform his duties.

**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 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. At foreign ports, the decision to detain a ship may be notified to the local Danish representation, 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 repairing 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 or persons about and provide information 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 of 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 of 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 Shipping Tribunal by the shipowner in question.

## Chapter 6 *Surveys, etc.*

**Section 17.** The Minister of Economic and Business Affairs shall be the supreme administrative authority on questions relating to this Act, cf. however subsection 3 of this Section, 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, orders 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 of Economic and Business Affairs, lay down detailed rules in this area, including the application of such rules on foreign ships.

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

*Subsection 6.* The Minister of Economic and Business Affairs may lay down rules on the issuance of regulations issued in accordance with the Act and may establish that international adoptions within the application area of the Act shall be applicable regardless 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. regardless of the fact that such regulations are not in the Danish language.

*Subsection 7.* Furthermore, the Minister of 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 of the Minister of Economic and Business Affairs and the Danish Maritime Authority under this Act be exercised by other public authorities.

*Subsection 8.* The Minister of Economic and Business Affairs may lay down regulations 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. This 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.

**Section 20.** The Minister of 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.* 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 3.* 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 of Economic and Business Affairs may lay down detailed rules concerning this.

*Subsection 4.* The Minister of 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 of Economic and Business affairs may upon negotiation with the Minister of Interior and Health establish rules on the application of the supervision.

## Chapter 7 *The Shipping Tribunal*

**Section 21.** The Minister of 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, subsections 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 of Economics and Business Affairs may transfer the processing of complaints made against other decisions than those mentioned in subsection 1 to the Shipping Tribunal.

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

*Subsection 4.* The Shipping Tribunal shall consist of a chairman who shall be a judge as well as a number of members with technical or nautical expert knowledge. A vice-chairman may be appointed. 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 of 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 of Economic and Business Affairs.

*Subsection 7.* The Minister of Economic and Business Affairs shall lay down the rules of procedure of the 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 Shipping Tribunal's secretariat.

## Chapter 8

### *Classification Societies, etc.*

**Section 22.** The Minister of 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 of Economic and Business Affairs may, under specified conditions, authorize companies or individuals to carry out approval work and examination and testing of ships, ship equipment and other products that require approval by the Danish Maritime Authority.

*Subsection 3.* The Minister of 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 of this section.

*Subsection 6.* When an authorization is issued under subsections 1 or 2 of this Section, 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 of 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 of Economic and Business Affairs shall lay down rules on the payment for surveys of fishing vessels when the Danish Maritime Authority carries out

- 1) surveys and approvals, etc. upon request though they are covered by an authorization issued under Section 22,
- 2) surveys carried out by the Danish Maritime Authority because an exemption has been granted from the rules laid down pursuant to Section 23 on the adoption in the registers of classification societies,
- 3) surveys that are, upon request, carried out outside normal working hours,
- 4) surveys carried out abroad or on the Faroe Islands,
- 5) agreed surveys that it has not been possible to start, that it has been necessary to interrupt or that it has not been possible to complete within a standard period of time stipulated by the Minister of Economic and Business Affairs due to circumstances of the yard, the shipowner or representatives of these, or
- 6) surveys carried out due to insufficient notification from the yard, company or the representatives of these with regards to how defects found earlier have been remedied.

*Subsection 2.* For ships other than those mentioned in subsection 1 of this Section, the Minister of Economic and Business Affairs may lay down rules on payment for surveys

prescribed by law, including control surveys, and carried out by the Danish Maritime Authority.

*Subsection 3.* The Minister of 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 4.* 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 5.* The Minister of Economic and Business Affairs may lay down rules on the interest on amounts according to subsections 1-4 of this Section that are not paid when due. Amounts due under this provision may be recovered by statutory debt collection and withheld in wages, etc. in accordance with the rules on collection of earned income at the source.

*Subsection 6.* The collecting authority may waive requirements in accordance with subsections 1 to 4 in accordance with the provisions in the Act on collection.

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

## Chapter 10

### *The Ships Inspection Council*

**Section 26.** The Minister of Economic and Business Affairs shall appoint the 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 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 of 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 of 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 Ships Inspection Council shall lay down rules on the appointment of members to 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 of 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 of 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 punished.

*Subsection 2.* Subsection 1 shall not apply to pleasure 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 pleasure 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 punished.

*Subsection 5.* Subsection 1 shall apply by analogy to foreign pleasure 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.

**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 Section 29d (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 29(2). Suspension may be conditional.

*Subsection 3.* Unconditional suspension in accordance with (1) or (2) of this Section shall be for a period of between 6 months and 5 years or for ever.

*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 of 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.

**Section 31a.** In case of contraventions of regulations issued in pursuance of Section 3 (3) 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 in pursuance of Section 3 (3) have been contravened on board a ship, the police or the Danish Maritime Authority may detain the ship.

*Subsection 2.* A ship may be detained if it is necessary to enforce a requirement to pay a fine and legal costs, but only until the sum in question has been paid or a guarantee hereof has been given. If this is not done within 2 months after the final decision on the case, satisfaction of the debt may be sought by seizing the ship. However, a ship may not be detained if the person who had command of the ship was not authorized to be in possession of it.

*Subsection 3.* When a ship is detained in accordance with subsection 1 of this Section, chapter 74 of the Danish Administration of Justice Act on seizure shall apply with the amendments deriving from subsections 1 and 2 of this Section.

**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,
- 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 (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 (1) of this Section.

*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 of this Section.

*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.* 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, no. 5 and (8) if the contravention regards the application of personal safety equipment, suction devices, protection equipment or safety-related devices 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 of this Section 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 of this Section 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 of this Section 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 these provinces with the amendments derived from the special Faroese and Greenland conditions.

Act No. 316 of 5 May 2000 contains the following provisions for entry into force:

#### **Section 3**

The Act shall enter into force on 1 July 2000.

#### **Section 4**

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

Act no. 277 of 8 May 2002 contains the following provisions for entry into force:

### **Section 3**

The Act shall enter into force on 30 June 2002.

### **Section 4**

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

Act no. 1173 of 19 December 2003 contains the following provisions for entry into force:

### **Section 8**

*Subsection 1.* The Minister of Economic and Business Affairs shall determine the date of the entry into force of this Act.<sup>2</sup>

*Subsection 2.* Cases that have been received for consideration by the Danish Shipping Tribunal or the Danish Manning Board at the entry into force of this Act shall be considered by these in accordance with the regulations in force until now.

*Subsection 3.* As regards ships which have been issued with an International Tonnage Certificate under the Act referred to in section 7 which is valid at the entry into force of this act, section 8 of the Act on Ships' Measurement shall apply by analogy.

### **Section 9**

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

Act no. 1231 of 27 December 2003 contains the following entry into force provisions:

### **Section 3**

*Subsection 1.* The Act shall enter into force on 1 January 2004, cf. however subsection 2.<sup>3</sup>

### **Section 4**

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

Act no. 442 of 9 June 2004 contains the following entry into force provisions:

### **Section 24**

The Act shall enter into force on 1 January 2005.

## **Section 25**

The Act shall not apply to cases concerning Faroese and Greenland issues, but may by royal decree be put into force for such cases with the amendments derived from the special Faroese and Greenland conditions. However, this shall apply only to cases that have been treated by the national authorities.

Act no. 1465 of 22 December 2004 contains the following entry into force provisions:

### **Section 2**

The Act shall enter into force on 1 January 2005.

### **Section 3**

The 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 special Greenland conditions.

Act no. 431 of 6 June 2005 contains the following entry into force provisions:

### **Section 85**

*Subsection 1.* The Act shall enter into force on 1 November 2005, cf. subsection 2.<sup>4</sup>

Act no. 547 of 8 June 2006 contains the following entry into force provisions:

### **Section 3**

The Act shall enter into force on 1 July 2006.

### **Section 4**

The 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 special Greenland conditions.

Act no. 567 of 9 June 2006 contains the following entry into force provisions:

### **Section 35**

The Act shall enter into force on 1 December 2006.

*Subsection 2.* The Pilotage Act, cf. Consolidated Act no. 529 of 4 August 1989 shall be repealed.

**Section 38.** In the Act on Safety at Sea, cf. Consolidated Act no. 627 of 26 July 2002, as amended most recently by Act no. 431 of 6 June 2005, the following amendments shall be made:

1. Section 6 (3), shall be repealed.

Items 4-10 shall hereafter be items 3-9.

**Section 39.** Provisions stipulated in pursuance of section 6 (3) of the Act on Safety at Sea shall remain in force until they are repealed or amended by regulations laid down in pursuance of this Act.

**Section 40.** The Act shall not apply to the Faroe Islands and Greenland.

Act no. 349 of 18 April 2007 contains the following entry into force provisions:

#### **Section 4**

*Subsection 1.* The Act shall enter into force on 1 May 2007, cf. however subsection 2.<sup>5</sup>

#### **Section 5**

The 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 special Greenland conditions.

Act no. 512 of 6 June 2007 contains the following entry into force provisions:

#### **Section 27**

The Act shall enter into force on 15 August 2007.

*Subsection 2.* At the same time, Act no. 436 of 14 June 1995 on smoke-free environments in public premises, means of transport and the like shall be repealed.

#### **Section 34**

The Act shall not apply to the Faroe Islands and Greenland.

*Danish Maritime Authority, 12 July 2007  
Jørgen Hammer Hansen / Birgitta Sander Hjortsø*

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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).

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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).

<sup>2</sup> The entry into force of this Act shall be 1 April 2005, cf. Order no. 153 of 10 March 2005.

<sup>3</sup> Subsection 2 concerns the entry into force of the Seaman's Act.

<sup>4</sup> Subsection 2 concerns entry into force of the Act on the levying of income tax as well as municipal and county property tax for persons etc. (withholding tax).

<sup>5</sup> Subsection 2 concerns the entry into force of the Merchant Shipping Act.