

Executive Order on registration in the Danish International Register of Shipping of ships whose owner does not meet the conditions of section 1 of the Merchant Shipping Act (*søloven*) (* 1)

Executive Order no. 1046 of 6 December 1996

Executive Order on registration in the Danish International Register of Shipping of ships whose owner does not meet the conditions of section 1 of the Merchant Shipping Act (* 1)

Pursuant to section 1 of the Act on the Danish International Register of Shipping (*lov om Dansk Internationalt Skibsregister*) as most recently amended by Act no. 464 of 12 June 1996, section 2 of the Merchant Shipping Act (*søloven*) as most recently amended by Act no. 154 of 30 April 1996, and section 2 of Act no. 963 of 9 December 1992 on Denmark's ratification of the Agreement on the European Economic Area (the EEA Agreement), the following shall be laid down.

1.-(1) If a ship is owned by persons, companies, undertakings or similar that either are covered by European Communities regulations or EEA Agreement provisions on the free movement of workers, the right of establishment and the freedom to provide services, the ship may be notified for admission in the Danish International Register of Shipping. This shall apply even where the owner does not meet the conditions of nationality stated in section 1 of the Merchant Shipping Act (*søloven*), cf. however subsections (2)-(5).

(2) If the ship is owned by a national of a country that is a member of the European Communities, this person shall have a primary establishment in Denmark or in another EU Member State, cf. Article 52 of the EC Treaty. If the owner does not effectively manage, control and direct the ship from Denmark himself, the notification for admission of the ship in the Danish International Register of Shipping shall also contain information on an agent who effectively manages, controls and directs the ship from Denmark. The agent shall be either a Danish national, a national of a country that is a member of the European Communities, a person with place of residence in Denmark or a company, an undertaking or similar that either meets the conditions of section 1(2) of the Merchant Shipping Act (*søloven*) or the conditions in this Executive Order for registration as owner.

(3) If the ship is owned by a foreign part-owner company, no less than two-thirds of the ship shall be owned by nationals of the EU, EU companies, EU undertakings or similar that meet the conditions of section 1 of the Merchant Shipping Act (*søloven*), or EU nationals, companies, undertakings or similar that meet the conditions of this Executive Order for registration as owner. For the part-owner company, an agent who effectively manages, controls and directs the ship from Denmark shall be notified. The agent shall be either a Danish national, a national of a country that is a member of the European Communities, a person with place of residence in Denmark or a company, an undertaking or similar that either meets the conditions of section 1(2) of the Merchant

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Shipping Act (*søloven*) or the conditions of this Executive Order for registration as owner. Furthermore, for part-owned companies, a managing shipowner shall be chosen who either has place of residence or place of registration in Denmark or in an EU Member State. If the agent meets these conditions, the part-owned company may choose said agent as the managing shipowner.

(4) If the ship is owned by a foreign company, undertaking or similar that is covered by Article 58 of the EC Treaty, and regardless of any other provisions on this matter in this Executive Order, in particular subsection (3), the owner shall, when notifying the ship for admission in the Danish International Register of Shipping notify an agency, a branch office or a subsidiary undertaking in Denmark that is to be registered in the Danish International Register of Shipping. Registration in the Danish International Register of Shipping does not imply exemption from any duty to notify under other legislation not concerning ship registration. The agency, branch office or the subsidiary undertaking shall effectively manage, control and direct the ship from Denmark, either through a Danish national, a national of a country that is a member of the European Communities, or a person with place of residence in Denmark.

(5) If the ship is owned by other companies or similar than the types mentioned in subsection (4), the company shall have its registered office, headquarters or main activity in Denmark. Furthermore, no less than two-thirds of the participants/owners shall meet the conditions of section 1(2) of the Merchant Shipping Act (*søloven*) and be nationals of a country that is a member of the European Communities. If the participants/owners are a company or similar, said company or similar shall meet the conditions stated in subsection (6). The owner shall effectively manage, control and direct the ship from Denmark.

(6) The notifications mentioned in subsections (2)-(5) shall be via a separate form, just as documentation shall be enclosed as evidence that the owner, the agent, the manager and the managing shipowner, depending on the circumstances, meet the conditions stipulated in this Executive Order. If a limited company or limited liability company or a similar company with limited liability, an independent institution, an association or similar is notified as owner, the notification shall include documentation that the company meets the requirements set out for establishment and registration of the company in the EU Member State where the company has its registered office, headquarters or main activity. This shall also apply to the individual participant/owner where a company, an independent institution or an association or similar takes part in the types of ownership mentioned in subsections (3) or (5). If a company or similar is registered in an EU Member State, or if it is to be registered, a printout of the relevant register shall be enclosed. For Danish limited companies and limited liability companies, independent institutions, undertakings carrying on business for profit, cf. Act no. 123 of 18 February 1994 on undertakings carrying on business for profit, as well as branch offices of foreign limited companies or limited liability companies, or undertakings carrying on business for profit with limited liability, printouts of the Danish Commerce and Companies Agency's registers shall be enclosed.

2.-(1) The requirements stated in section 1(2), c) and e) of the Merchant Shipping Act (*søloven*) on Danish nationality and place of residence for the management of companies or similar which have been established in accordance with Danish legislation, shall not apply to:

- 1) Subsidiary undertakings or similar undertakings established in accordance with Danish legislation by a company, firm or similar undertaking mentioned in section 1(4).

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- 2) Other companies or similar undertakings than those covered by a), and which have been established in accordance with Danish legislation, provided that the management of the company or undertaking as described in section 1(2), c) of the Merchant Shipping Act (*søloven*), or two-thirds of the company's board of directors as described in section 1(2), e) of the Merchant Shipping Act (*søloven*) are nationals of a country that is a member of the European Communities.

(2) The requirements stated in section 1(2), d) of the Merchant Shipping Act (*søloven*) regarding Danish nationality and place of residence for the managing shipowner shall not apply to nationals of a country that is a member of the European Communities, and who, according to the regulations on the free movement of workers, the right of establishment and the freedom to provide services, are to be considered equal to Danish nationals, provided their place of residence is in one of the Member States of the European Communities.

3. Sections 1 and 2 shall apply correspondingly to persons, companies and undertakings etc. that, pursuant to the EEA Agreement, are covered by Community regulations on the free movement of workers, the right of establishment and the freedom to provide services.

4. The provisions stated in the Executive Order on the Danish International Register of Shipping, as most recently amended by Executive Order no. 912 of 16 October 1996, shall apply correspondingly, unless otherwise described in this Executive Order.

5. This Executive Order shall enter into force on 20 December 1996.

Ministry of Trade and Industry, 6 December 1996

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/ Birgit Sølling Olsen

Editorial notes

(* 1) "Act no. 154 of 30 April 1996" in line 3 of the introduction shall be amended to "Act no. 394 of 22 May 1996".