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Consolidated act no. 207 of 4 March 2011 issued by the Danish Maritime Authority

Consolidated act on maritime training programmes

Act no. 226 of 22 April 2002 on maritime training programmes is hereby promulgated with the amendments made by section 5 of act no. 364 of 13 May 2009, section 6 of act no. 493 of 12 May 2010 and act no. 1554 of 21 December 2010.

Chapter 1

Scope and Application

Section 1. The Minister of Economic and Business Affairs shall arrange a co-ordinated system of training programmes with a view to the various occupations within the shipping and fishing industries as well as the needs of recreational navigation.

Section 2. The act covers the training of:

- 1) general purpose officers, masters, mates and skippers;
- 2) engineer officers and mechanists;
- 3) ship's assistants;
- 4) ship's cooks, catering personnel, etc.; and
- 5) fishermen.

Subsection 2. The act also covers supplementary training of maritime personnel, including courses that are mandatory according to the legislation in force in the field of the shipping and fishing industries.

Subsection 3. The provisions of chapter 3 shall only cover training institutions receiving state subsidies or loans pursuant to section 5.

Subsection 4. The Danish Maritime Authority may exempt a training institution entirely or partly from the provisions of chapter 3 or from provisions laid down pursuant hereto if the training institution is approved pursuant to other legislation than this act and is covered by legislation with a purpose similar to that of chapter 3.

Section 3. The Minister of Economic and Business Affairs may lay down regulations on training requirements for yachtsmen.

Chapter 2

Approval of training institutions, state subsidies, etc.

Section 4. The training programmes shall take place at training institutions and courses approved by the Danish Maritime Authority.

Subsection 2. The Danish Maritime Authority may establish and run training institutions, schools, training ships, school ships and courses for completion of the training programmes covered by this act.

Subsection 3. The Danish Maritime Authority may revoke an approval granted in accordance with subsection 1 if the training institution, etc. disregards regulations laid down pursuant to sections 12, 13, 14 and 19.

Subsection 4. The Danish Maritime Authority may, upon request, approve training programmes and courses held abroad. The Danish Maritime Authority's expenses in this relation shall be paid by the one requesting the approval.

Section 5. The Danish Maritime Authority shall, within an annual framework, subsidize the operation, buildings, management and administration, etc. of the training institutions and courses mentioned in section 4(1). The receipt of subsidies shall be conditional upon an assessment made by the Danish Maritime Authority that there is a need for the teaching offered. The amount of each individual subsidy shall be determined in the annual budgets.

Subsection 2. The Danish Maritime Authority may subsidize developmental and experimental activities or other educational purposes.

Subsection 3. In special cases, the Danish Maritime Authority may grant a training institution loans.

Section 6. The Danish Maritime Authority may, if it is assessed that there is a need for such a training programme, subsidize half of the operational expenditure for training institutions approved pursuant to section 4(1). The amount of such subsidies shall be determined in the annual budgets.

Subsection 2. As regards recipients of subsidies pursuant to subsection 1, the Danish Maritime Authority may lay down more detailed regulations on subsidy recipients' budget, operation and accounting as well as on the performing of audits.

Section 7. The terms and framework of subsidies and loans, including the size of subsidies and the basis for the statement of activities, shall be determined in the annual budget. The training institution shall be free to make arrangements within its purpose when using the state subsidies and other proceeds under one. The training institution may save up subsidies for spending in the subsequent financial year. The training institution shall be subject to inspection by the Danish Maritime Authority.

Subsection 2. Training institutions receiving subsidies or loans pursuant to section 5 shall be covered by the state budget and funding rules.

Subsection 3. The Danish Maritime Authority may decide that the subsidies and loans of a training institution shall be fully or partly withheld, discontinued or required paid if:

- 1) the training institution does not observe this act, regulations laid down pursuant to this act, a development contract, cf. section 9f(1), or a performance contract, cf. section 9f(2);
- 2) the training institution is requested liquidated or stops its payments or if there is a risk in some other way that the activities of the training institution must be discontinued; or
- 3) the basis for calculating subsidies has been erroneous or the calculation of subsidies has in some other way been erroneous.

Subsection 4. Subsidies required repaid pursuant to subsection 3 may be set off against future payment of subsidies.

Subsection 5. The Danish Maritime Authority may lay down more detailed regulations on the conditions of payments and the pay of subsidies and loans, including on activity calculations as well as on the control and repayment of subsidies and loans paid, on the insurance conditions of the training institutions and on their use of administrative systems.

Subsection 6. The Danish Maritime Authority may obtain the necessary information from the training institutions on the training programmes, the students, the staff, including conditions of employment, equipment, tenancy agreements, agreements on real estate purchases and other agreements on the training institutions' activities otherwise for use when determining subsidies,

going through annual accounts, etc. and for use when carrying out inspections, quality assurance and control and the preparation of statistics.

Chapter 3
*The economic and administrative conditions
of certain training institutions*

Section 8. The conditions of the training institution shall be regulated by by-laws. The by-laws shall contain provisions on the name, purpose, management conditions and capital, etc. of the training institution. It shall be evident from the by-laws that the institution is a private foundation financed by state subsidies.

Subsection 2. The by-laws of the training institution shall be approved by the Danish Maritime Authority.

Subsection 3. The Danish Maritime Authority may lay down regulations on the by-laws of the training institutions, including that the by-laws shall contain provisions on student representatives on the board, on the right to nominate members of the board and on their nomination period and possibilities of being re-nominated.

Section 8a. In case of the training institution's discontinuation and to the extent that there is any cover in the remaining property, the net capital calculated as of 31 December 2010 and the share of growth in the institution's net capital from 1 January 2011 not originating from state subsidies shall be used in accordance with the provisions of the by-laws in force at any time.

Subsection 2. The remainder of the remaining property shall be used for training purposes according to the decisions of the Danish Maritime Authority.

Subsection 3. The Danish Maritime Authority may lay down more detailed regulations on the assessment of property pursuant to subsections 1 and 2.

Section 9. The training institution shall be managed by a board of five to nine members, including employee representatives, and a day-to-day head. Where quite special conditions justify this, the board may consist of more than nine members. The board shall take care of the overall and strategic management of the training institution, while the daily management is carried out by a day-to-day head who is responsible to the board. Members of the board elected by the employees shall have the same rights and obligations as the other board members. Members of the board elected by the employees shall be protected against being dismissed and any other kind of deterioration of their conditions just as is the case with shop stewards within the relevant or similar area.

Subsection 2. The board shall be quorate when half of the members or the possibly higher number of members, as prescribed by the by-laws, are present. Unless the by-laws stipulate otherwise, the board shall take decisions by a simple majority vote and the chairman's vote shall be decisive in the event of an equal distribution. Any student representatives shall not have a right to vote. Where quite special conditions call for this, the board may be assisted by an executive committee.

Subsection 3. The board shall ensure that the economic administration of the training institution is effective and satisfactory and that the internal types of reporting are arranged so that they make it possible for the board to intervene in time if budgets, contracts and action plans, etc. are not observed.

Subsection 4. The board shall lay down rules of procedure regarding its activities. The rules of procedure shall be approved by the Danish Maritime Authority.

Section 9a. Board members shall be appointed in their personal capacity and shall, in their work, safeguard the interests of the training institution. Voting members of the board shall be of age, shall not be in bankruptcy and shall not be under receivership or guardianship. The Danish Maritime Authority shall be informed of the composition of the board and changes in this.

Subsection 2. The members of the board shall, as a whole, have the competences necessary for furthering the purpose of the training institution, including the necessary specialist, business, management and economic insight and there shall be members having a knowledge of the maritime industries.

Section 9b. The day-to-day head shall be hired by the board. The board shall ensure that the training institution has, at any time, a day-to-day head who contributes to furthering the purpose of the training institution and who has the necessary competences in consideration of the nature and situation of the training institution.

Section 9c. The board may take out a special public liability insurance covering the board and the day-to-day head.

Section 9d. The provisions of chapter 2 of the Danish public administration act (*forvaltningsloven*) on incompetence and of chapter 8 on professional secrecy shall apply to the board and the day-to-day head.

Subsection 2. In connection with a training institution's decisions on the hiring or dismissal of employees, including the day-to-day head, the provisions of chapter 4 of the Danish public administration act (*forvaltningsloven*) on the party's right of access to documents, of chapter 5 on the consultation procedure and of chapter 6 on reasons, etc. shall apply.

Section 9e. The Ministry of Finance shall determine or make agreements on the wages and conditions of employment of the training institution's employees unless otherwise determined or approved by the Ministry of Finance, the State Employer's Authority.

Section 9f. The Danish Maritime Authority may order the board of a training institution to conclude a development contract with the Danish Maritime Authority in order to ensure a long-term strategic development for compliance with aims that have been determined in more detail.

Subsection 2. The Danish Maritime Authority may order the board of a training institution to conclude a performance contract with the Danish Maritime Authority if

- 1) the quality of the teaching or training offered by the training institution is inadequate; or
- 2) the economic-administrative management of the training institution or of a partnership in which the training institution is a partner is not of sufficient quality or efficiency.

Section 9g. The Danish Maritime Authority may issue an enforcement notice to the board of a training institution if

- 1) the training institution does not observe this act or provisions laid down pursuant to this act;
- 2) the company of a partnership in which the training institution is a partner does not observe this act or provisions laid down pursuant to the act applicable to the institution and the partnership; or

- 3) the training institution does not observe a development contract, cf. section 9f(1), or a performance contract, cf. section 9f(2).

Subsection 2. If the board of a training institution does not observe an enforcement notice from the Danish Maritime Authority, cf. subsection 1, or if the board, through its arrangements, endangers the continuation of the training institution, the Danish Maritime Authority may decide

- 1) that the tasks of the board shall, for a period, be entirely or partly carried out by persons designated by the Danish Maritime Authority; or
- 2) that the board or parts hereof shall retire so that a new board or one or more new board members shall be appointed in accordance with the provisions stipulated in the by-laws of the training institution.

Subsection 3. If the Danish Maritime Authority, pursuant to subsection 2(ii), decides that the entire or parts of the board shall retire, the Danish Maritime Authority may install a temporary board or one or more new board members until a new board or one or more new board members have been appointed according to the provisions of the by-laws of the institution.

Section 9 h. A board member may retire from the board at any time.

Subsection 2. A board member shall retire if he or she is in bankruptcy or is put under receivership or guardianship.

Subsection 3. A board member who is guilty of an act making him or her unworthy for continuous membership of the board shall retire from the board.

Subsection 4. A board member who, due to illness of long duration or any other impairment, has proven incapable of performing the task as a board member or who has proven clearly unsuitable shall retire from the board.

Subsection 5. If a member retires from the board, a new member may be appointed for the remainder of the appointment period.

Section 9i. The Danish Maritime Authority may, on behalf of the training institution, instigate proceedings against board members, the day-to-day head, auditors or others in connection with losses inflicted on the training institution.

Section 9j. The Danish Maritime Authority may approve that training institutions covered by the provisions of this chapter take part in partnerships with other training institutions. The Danish Maritime Authority may lay down terms of the cooperation ensuring compliance with the provisions of this act.

Subsection 2. The Danish Maritime Authority may approve that a training institution allows another training institution to perform parts of the training as outsourced training. The Danish Maritime Authority may lay down more detailed provisions hereon.

Subsection 3. The Danish Maritime Authority may lay down provisions on training institutions' cooperation with other institutions, including with training institutions covered by the provisions of this chapter.

Section 10. Institutions receiving state subsidies or loans pursuant to section 5 shall be covered by the act on the government's accounting, etc. (*lov om statens regnskabsvæsen m.v.*).

Subsection 2. The institutions' accounts shall be audited by the Auditor-General pursuant to the act on the auditing of the government accounts, etc. (*lov om statens regnskabsvæsen m.v.*).

Subsection 3. The accounts of the institutions shall be audited according to generally accepted public auditing standards, cf. section 3 of the act on the auditing of the government accounts, etc. (*lov om revisionen af statens regnskaber m.m.*). If the Minister and the Auditor-General concludes

an agreement pursuant to section 9 of the act on the auditing of the government's accounts, etc. (*lov om revisionen af statens regnskaber m.m.*), the auditing shall be carried out by an institutional auditor appointed by the board of the institution, who shall be a state-authorised or a registered public accountant. The institutions' information for use when calculating state subsidies shall be covered by the institutional auditor's endorsement of or opinion on the accounts.

Subsection 4. The more detailed distribution of work between the institutional auditor and the Auditor-General shall be stipulated in a separate agreement, cf. section 9 of the act on the auditing of the government's accounts, etc. (*lov om revisionen af statens regnskaber m.m.*).

Subsection 5. If the institutional auditor does not, in a satisfactory way, meet the requirements for auditing according to generally accepted public auditing standards or if the auditor in any other way disregards his or her obligations as an institutional auditor, the Auditor-General or the Danish Maritime Authority may order the board of the institution to appoint another auditor within a specified time limit.

Subsection 6. The Danish Maritime Authority may lay down provisions on the accounting in accordance with the state accounting rules in force at any time.

Chapter 4 *Educational council*

Section 11. The Minister of Economic and Business Affairs shall establish the Educational Council for the Maritime Training Programmes. The Council shall consist of a Chairman appointed by the Minister as well as a number of members, including representatives of shipping industry organisations, fishing industry organisations and other relevant trade organisations. The Minister of Economic and Business Affairs shall appoint the members of the Council on the recommendation of the said organisations. In addition, the Minister may appoint representatives of the Danish Maritime Authority as well as managers, teachers and students at the training institutions, etc. covered by the act.

Subsection 2. The Educational Council shall express opinions on issues related to the maritime training programmes that are presented to the Council by the Minister. An opinion from the Council shall be requested on issues concerning considerable changes in the maritime training programmes. The Council may, on its own initiative, take up training issues for consideration and submit a recommendation on this to the Danish Maritime Authority.

Subsection 3. The Minister of Economic and Business Affairs shall lay down the rules of procedure of the Council.

Chapter 5 *Structure, contents and quality of the training programmes*

Section 12. The Danish Maritime Authority may, in accordance with binding international requirements, lay down regulations on:

- 1) Admission to the training programmes mentioned in section 2;
- 2) the arrangement, contents and extent of the training programmes, including teaching facilities and teaching equipment, as well as the subject areas to be taught;
- 3) the duration and structure of each individual training programme, including the distribution between the practical and theoretical part of the training programme;

- 4) examination and test arrangements, including the appointment of external examiners, as well as the conditions for considering the individual training programmes completed with a satisfactory result.

Subsection 2. The Danish Maritime Authority may lay down regulations according to which students with special educational or occupational competences are exempted from parts of a training programme and may lay down special regulations on the duration and structure of the training programmes for this group of students.

Section 13. The Danish Maritime Authority may lay down regulations on the qualification requirements of teachers at the training programmes, etc. covered by this act.

Subsection 2. The Danish Maritime Authority may approve or establish special courses on the training of teachers.

Section 14. The Danish Maritime Authority shall monitor the teaching offered at the training institutions, etc. mentioned in section 4(1).

Subsection 2. The Danish Maritime Authority may lay down regulations on the quality assurance, quality documentation and quality control of the training programmes under this act, including regulations on the qualifications of the persons carrying out the quality control.

Chapter 6

Work-experience companies

Section 15. The Danish Maritime Authority may lay down regulations on training-related conditions in work-experience companies and on the approval and presentation of work-experience places.

Chapter 7

Students' legal conditions, etc.

Section 16. The Danish Maritime Authority may lay down regulations on state grants to students at training institutions, courses, etc. covered by this act.

Subsection 2. The Danish Maritime Authority may lay down regulations stipulating that it is a condition for being enrolled at one or more of the training programmes covered by this act that a training agreement has been concluded between the student and a shipping company or another company, which shall cover all the work-experience periods and school periods of the training programme.

Subsection 3. The Danish Maritime Authority may lay down regulations on the contents of the training agreements.

Section 17. The Danish Maritime Authority may lay down regulations on full or partial reimbursement of shipowners' expenses for wages, board and travels in connection with the employment of persons completing a training programme covered by this act.

Section 18. If students suffer an accident on school ships or courses carried out under conditions similar to those of a workplace as part of basic training, compensation may be paid in

accordance with the provisions of the act on protection against the consequences of industrial injuries.

Section 19. The Danish Maritime Authority may lay down regulations on students' teaching environment and may determine that equipment approved for use on board ships may be approved by the Danish Maritime Authority for use as teaching material. The Danish Maritime Authority shall supervise such teaching material.

Section 20. The Danish Maritime Authority may lay down regulations on payment for stays at schools, school ships, etc.

Chapter 8 *Miscellaneous*

Section 21. Public servants employed at state schools becoming private foundations may choose either to maintain their conditions of employment as state public servants and let themselves be seconded for work at the private foundation or to be employed by the private foundation for a period of up to 2 years from the entry into force of this act. Until such employment has been established and the employment as a public servant has been terminated, or if employment at the private foundation is not established, the persons in question shall maintain their previous employment status as state civil servants.

Subsection 2. The public servant shall not be entitled to compensation during the temporary employment, redundancy payment or pension as a consequence of the institution's transition into a private foundation and shall be obliged to accept the changes in the extent and character of his or her functions that are a consequence of this transition.

Subsection 3. The private foundation shall be obliged to employ the public servants and to pay the wage expenses and pay pension contributions to the state for public servants that have been seconded and carry out work at the private foundation. Any expenses for compensation during the temporary employment, redundancy payment and wage payment delays shall be paid by the private foundation. The state public servant pension contribution shall be determined by the Minister of Finance. Expenses for the current pension shall be paid by the state. In case the private foundation ceases to exist, any expenses for compensation during the temporary employment or redundancy payment or wage payment delays shall also be paid by the state if the institution ceasing to exist does not have the means necessary to pay the expenses.

Section 22. The Danish Maritime Authority may lay down regulations on the preparation for, presentation of candidates for and carrying out of examinations and tests for yachtsmen as well as on the payment hereof.

Section 23. The Danish Maritime Authority may lay down regulations on experimental teaching as well as further and supplementary training for the shipping and fishing fields.

Subsection 2. The Danish Maritime Authority may request payment for the approval, quality assurance and quality control of training institutions and courses as well as for external examiner activities.

Subsection 3. The Danish Maritime Authority may lay down regulations on payment for participation in the courses mentioned in section 2(2), including for the taking of an examination.

Section 23a. The Minister of Economic and Business Affairs may lay down regulations stipulating that reports and other messages to be given pursuant to the act shall be reported digitally and that any communication between the Danish Maritime Authority and the company in this connection shall be digital. In this connection, the Minister may lay down regulations on the transition to digital reporting and on the use of specific computer systems, special digital formats and digital signature. In addition, the Minister may lay down regulations stipulating that the Danish Maritime Authority may exempt a company from digital reporting and digital communication when special circumstances so indicate.

Subsection 2. The Minister of Economic and Business Affairs may lay down regulations stipulating that the Danish Maritime Authority may issue certain types of documents without a signature or with a mechanically given signature or in a similar way so that such documents are legally comparable to a document with a personal signature. It may also be laid down in the regulations laid down pursuant to subsection 1 that decisions made solely on the basis of electronic data processing may be issued only giving the Danish Maritime Authority as the sender.

Section 23b. The Danish Maritime Authority may obtain the necessary information from the training institutions on the training programmes, the students, the employees, the economy and equipment, etc. for use when carrying out inspections, quality assurance and the preparation of statistics.

Section 24. The Minister of Economic and Business Affairs may lay down regulations on the right to complain, including the requirement that complaints about decisions made by the Danish Maritime Authority cannot be brought before a higher administrative authority.

Chapter 9

Entry into force and temporary provisions

Section 25. This act shall enter into force on 1 May 2002.

Subsection 2. Act no. 16 of 13 January 1997 on the maritime training programmes, act no. 350 of 1 July 1988 on the training of engineer officers and act no. 351 of 1 July 1998 on state subsidies for approved schools of marine engineering and workshop training schools shall be repealed.

Subsection 3. Regulations issued in pursuance of the acts mentioned in subsection 2 shall remain in force until they are repealed or replaced by new ones in pursuance of this act.

Section 26. This act shall not apply to the Faroe Islands and Greenland.

Act no. 364 of 13 May 2009 contains the following entry into force provisions:

Section 9

Section 8(i)-(iv) of the act shall enter into force on the day following its promulgation in the Danish Law Gazette. Sections 1-7 and section 8(v)-(xiii) shall enter into force on 28 December 2009.

Section 10

Subsection 1. This act shall not apply to the Faroe Islands and to Greenland.
Subsection 2-3. (Left out).

Act no. 493 of 12 May 2010 contains the following entry into force provisions:

Section 7

Subsection 1. The Minister of Economic and Business Affairs may determine the date of the entry into force of this act. In this connection, the Minister may determine that the provisions of the act shall enter into force on different dates.¹
Subsection 2. (Left out).

Section 8

(Left out).

Section 9

Subsection 1. This act shall not apply to the Faroe Islands and to Greenland, cf. however subsections 2 and 3.
Subsection 2-3. (Left out).

Act no. 1554 of 21 December 2010 contains the following entry into force provisions:

Subsection 1. This act shall enter into force on 1 January 2011.
Subsection 2. The Minister of Economic and Business Affairs may decide that training institutions that, when the act enters into force, have been approved pursuant to section 4(1) of the act on maritime training programmes shall not meet the requirements following from section 8 and sections 9-9b of the act on maritime training programmes as worded in section 1(v) of this act until on a date stipulated by the minister.
Subsection 3. Regulations issued pursuant to section 8(1) and section 10(2) of act no. 226 of 22 April 2002 on maritime training programmes shall remain in force until they are repealed.

Danish Maritime Authority, 4 March 2011
Lisbet Dyerberg / Sune Rahn

¹ Section 1(i)-(iv), (vi)-(vii), (ix), (xi)-(xiv) and (xvi)-(xxx), section 2(xxxiii), section 3(iv)-(xi) and sections 4-6 of this act entered into force on 15 June 2010, cf. order no. 594 of 3 June 2010.