

Translation: Only the Danish version has legal validity.

Act no. 567 of 9 June 2006 issued by the Ministry of Defence

The pilotage act¹

We Margrethe the second, by the grace of God Queen of Denmark hereby witness:
Folketinget (the Danish Parliament) has adopted and We with Our consent
hereby enact the following Act:

Chapter 1

Scope of the act

Section 1. The act shall apply to pilotage carried out:

- 1) in Danish territorial waters, or
- 2) outside Danish territorial waters when either the pilotage is carried out on the basis of a Danish pilot certificate or the pilot station is operated from the Danish territory.

Section 2. The act shall not apply to warships, troop transport ships and foreign state-owned ships, cf. however section 5(2).

Chapter 2

Definitions

Section 3. For the purposes of this act, the following definitions shall apply:

- 1) Transit pilotage: Pilotage that is not deep-sea pilotage or regional pilotage.
- 2) Deep-sea pilot certificate: A pilot certificate for deep-sea pilotage issued by an authority competent for this according to a recommendation from the United Nations' International Maritime Organization (IMO).
- 3) Deep-sea pilotage: Pilotage outside the territorial waters of a country.
- 4) Land-based pilotage: Pilotage carried out by means of communication from ashore.
- 5) Pilot: A person certified by the Danish Pilotage Authority to carry out pilotage activities.
- 6) Pilot certificate: A certificate issued by the Danish Pilotage Authority certifying that the holder is authorised to carry out pilotage activities as specified.
- 7) Pilotage exemption certificate: A certificate issued by the Danish Pilotage Authority exempting a ship from the obligation to take a pilot if the holder of the pilotage exemption certificate navigates the ship and if the pilotage exemption certificate covers the type and the condition of the ship and the waters that the ship is navigating.
- 8) Pilotage: Advice given to the ship's master about navigation, the voyage and manoeuvring irrespective whether the advice is provided on board the ship or by means of communication from another ship or from ashore.
- 9) Pilotage area: The geographical area in which a pilot is, according to his pilot certificate, authorised to carry out pilotage activities.
- 10) Private pilot station: Any pilot station not part of the state-owned pilotage service.

¹ This act implements Council Directive 79/115/EEC of 21 December 1978 concerning pilotage of vessels by deep-sea pilots in the North Sea and English Channel, Official Journal no. L 033 of 8 February 1979, p. 32.

- 11) Regional pilotage: Pilotage of a voyage or parts hereof that is initiated or terminated in a Danish port irrespective of whether the pilot is replaced during the voyage.

Chapter 3 *Use of a pilot*

Section 4. In inner and outer Danish territorial waters, there is an obligation to use a pilot for ships that:

- 1) are loaded with oil or have un-cleaned cargo holds that are not secured by inactive air;
- 2) are loaded with chemicals;
- 3) are loaded with gases;
- 4) have more than 5,000 tonnes of bunker oil on board; or
- 5) are loaded with highly radioactive material.

Subsection 2. The Danish Pilotage Authority shall determine what is to be understood by the cargoes mentioned in subsection 1 in accordance with international definitions.

Subsection 3. The Danish Pilotage Authority shall lay down more detailed regulations on the exemption of certain ships from the obligation to take a pilot.

Subsection 4. The Danish Pilotage Authority shall lay down more detailed regulations on the exemption from the obligation to take a pilot in certain waters.

Section 5. When consideration of public safety, military reasons, safety of navigation, observance of order, prevention of danger, environmental considerations or other important public interests suggest so, the Danish Pilotage Authority may decide that there is an obligation to take a pilot.

Subsection 2. In special circumstances, the Minister of Defence may also let the obligation to take a pilot cover the Danish ships mentioned in section 2.

Section 6. Ships that, pursuant to international law, have a right to pass through the waters without using a pilot shall not be covered by any obligation pursuant to sections 4 and 5.

Section 7. In Danish waters, pilots may only embark or disembark when the ships are in port, at a landing stage, in the roads or the like or at pilot embarkation places approved by the Minister of Defence, unless special conditions apply.

Section 8. In connection with pilotage activities, the pilot shall be obliged to, free of charge, bring along and train a pilot trainee or to bring along another pilot for maintaining the other pilot's knowledge of the waters irrespective of whether the pilot trainee or the other pilot is from a competing pilot station.

Subsection 2. The pilot shall also be obliged to participate when pilot trainees or other pilots whom the pilot has brought along for pilotage activities sit for examinations.

Subsection 3. The Danish Pilotage Authority may lay down regulations concerning subsections 1 and 2, including on the conditions for taking along another pilot or pilot trainee, notification and coverage of expenses and lost earnings in connection with the holding of aptitude tests.

Section 9. The Danish Pilotage Authority shall lay down regulations on information exchange between the master of the ship and the pilot on relevant conditions as well as the provision of meals to and the accommodation of the pilot.

Section 10. The Minister of Defence may order ports, shipbrokers and others affiliated with the shipping industry to contribute to increased use of pilots. In this connection, the Minister may decide that the persons concerned shall inform ships about regulations and recommendations and shall forward reports about the ships' use of pilots.

Chapter 4

Permit to carry out pilotage activities

Section 11. Pilotage activities shall be carried out only by persons holding a valid pilot certificate issued by the Danish Pilotage Authority.

Subsection 2. Pilotage activities may be carried out only to the extent covered by the pilot certificate.

Subsection 3. It shall be prohibited for persons to call themselves pilots unless they hold valid pilot certificates.

Section 12. The Danish Pilotage Authority shall grant a pilot certificate in case applied for if the applicant:

- 1) is trained at a level permitting the applicant to navigate ships irrespective of their size;
- 2) has several years of experience as a master or a chief officer from relevant voyages;
- 3) is suitable in terms of health;
- 4) has special insight into and experience with the pilotage area;
- 5) has completed both theoretical training and training in the company of a pilot;
- 6) has completed pilotage training in the form of special manoeuvres;
- 7) has passed a defined aptitude test;
- 8) is associated with a pilot station; and
- 9) does not have any considerable overdue debts due to public authorities, meaning amounts of or above DKK 50,000.

Subsection 2. The Danish Pilotage Authority shall lay down more detailed provisions on the above-mentioned requirements and on any supplementary, necessary requirements.

Subsection 3. In special circumstances, the Danish Pilotage Authority may grant exemptions from the condition mentioned in subsection 1(i). However, a pilot certificate shall never be issued for the piloting of ships that the pilot is not trained to navigate.

Subsection 4. The holder of a deep-sea certificate issued by a foreign authority may have his certificate replaced for a similar Danish certificate.

Subsection 5. The holder of a pilot certificate shall return the certificate to the Danish Pilotage Authority when the holder no longer meets the conditions for being issued with the certificate.

Section 13. It shall be prohibited for persons other than pilots associated with the state-owned pilotage service to carry out transit pilotage.

Subsection 2. It shall be prohibited to arrange for other persons to pilot ships in transit than the pilots mentioned in subsection 1.

Subsection 3. It shall be prohibited to arrange for other persons to carry out deep-sea pilotage activities than pilots holding a deep-sea pilot certificate issued by a coastal State for the waters concerned in accordance with the recommendations of the United Nations' International Maritime Organization (IMO).

Chapter 5

Exemption from the obligation to take a pilot

Section 14. Navigating officers with extensive knowledge about both the waters and the ship or type of ship may be issued with a pilotage exemption certificate by the Danish Pilotage Authority, permitting the holder to navigate a ship without taking a pilot though the obligation to take a pilot applies.

Subsection 2. The pilotage exemption certificate shall be issued for a limited period of time and may be renewed only in accordance with the specifications of the Danish Pilotage Authority.

Subsection 3. The Danish Pilotage Authority shall lay down more detailed provisions on the acquisition of a pilotage exemption certificate, including on requirements, documentation of experience and examinations.

Subsection 4. The holder of a pilotage exemption certificate shall return the pilotage exemption certificate to the Danish Pilotage Authority when the holder no longer meets the conditions for being issued with the certificate.

Chapter 6 *Land-based pilotage*

Section 15. The Director-General of the Royal Danish Administration of Navigation and Hydrography shall lay down more detailed regulations on tests with and any establishment of land-based pilotage.

Chapter 7 *Pilots' obligations in addition to pilotage*

Section 16. Pilots shall inform ships about conditions of importance to safety of navigation, the environment or other societal considerations.

Subsection 2. Pilots shall notify the relevant authority about any conditions observed of importance to safety of navigation, the environment or other societal conditions.

Subsection 3. The Danish Pilotage Authority shall lay down more detailed regulations on pilots' obligations pursuant to subsections 1 and 2.

Chapter 8 *Working environment during pilotage*

Section 17. The Danish Pilotage Authority may lay down regulations on stricter working environment and hours of rest provisions, etc. as necessitated by the special conditions of the work.

Subsection 2. The Danish Pilotage Authority may lay down regulations stipulating that independent pilots shall observe the working environment regulations, etc. in force for employed pilots.

Subsection 3. The Danish Pilotage Authority shall lay down regulations on control measures concerning working environment, hours of rest, etc.

Chapter 9
Pilot stations

Section 18. The pilot stations shall be domiciled in an EU/EEA country.

Section 19. The Danish Pilotage Service shall, within a determined notice, be obliged to make pilots available to ships that may request this or that are covered by the obligation to take a pilot.

Subsection 2. The areas within which the Danish Pilotage Service shall be obliged to make pilots available are the Danish territorial waters and the Danish exclusive economic zone as well as outside these in other coastal States' exclusive economic zones in the English Channel, the North Sea, the Skagerrak, the Kattegat and the Baltic Sea.

Subsection 3. The Minister of Defence shall lay down the notices mentioned in subsection 1 and more detailed regulations on how to order a pilot.

Subsection 4. The Minister of Defence may lay down maximum rates for all types of pilotage carried out by the Danish Pilotage Service.

Subsection 5. The Danish Pilotage Service may conclude agreements on cooperation with private services to meet the obligation mentioned in subsection 1.

Section 20. The Danish Pilotage Service shall, against payment, send on orders for pilots that have been addressed to private services.

Subsection 2. The Danish Pilotage Service can, against payment, transport private pilots to and from ships.

Subsection 3. It is voluntary for the Danish Pilotage Service whether it will deliver the service mentioned in subsection 2. It is voluntary for private pilot stations whether they will use the services mentioned in subsections 1 and 2.

Section 21. As regards pilots in the Danish Pilotage Service, the wage and employment conditions shall follow the provisions agreed or decided by the Minister of Finance, including as regards pensions.

Section 22. Pilots in the Danish Pilotage Service may not, at the same time, work as pilots at private pilot stations.

Chapter 10
Economics

Section 23. Irrespective of their type of organisation, pilot stations shall keep account of their activities and the individual pilotages.

Subsection 2. The accounts shall be revised by a state authorised accountant or a registered accountant. As regards the Danish Pilotage Service, the revision shall, however, be carried out by the National Audit Office of Denmark.

Subsection 3. The Danish Pilotage Authority shall lay down the requirements for the contents of the accounts and on the forwarding of the accountants to the Danish Pilotage Authority.

Chapter 11
Registration, inspection, etc.

Section 24. The Danish Pilotage Authority shall inspect the pilotage, pilots and pilot stations.

Subsection 2. The Danish Pilotage Authority shall keep a register of the companies carrying out pilotage activities in this country.

Subsection 3. Until registration pursuant to subsection 2 has taken place, pilotage activities may not be carried out.

Subsection 4. A company shall be entitled to be registered as a pilot station if the company:

- 1) meets the condition stipulated in section 18,
- 2) has taken out insurance in accordance with the provisions laid down pursuant to subsection 6, and
- 3) does not have considerable debt due to the public authorities, meaning amounts of DKK 50,000 and more, cf. however subsection 5.

Subsection 5. If the managing director and the board members of a pilot station driven as a company, etc. does not meet the condition stipulated in section 12(1)(ix), it shall be rejected to be registered in the register kept by the Danish Pilotage Authority.

Subsection 6. The Danish Pilotage Authority shall lay down more detailed regulations on the activities of the pilot stations, including their obligation to keep the pilots insured, the drawing up of accounts, self-control, ordered or carried out pilotages and the obligation to provide information to the Authority, etc. on an ongoing basis, including the format in which information should be forwarded.

Section 25. Employees at the Danish Pilotage Authority may not have any interests in pilot stations carrying out regional pilotages or in their activities.

Subsection 2. Persons closely related to employees of the Danish Pilotage Authority shall inform the relevant employee about any interests in the pilot stations or in their activities. This information shall be provided within one week after the occurrence of the interest. The employee shall pass on this information to the Danish Pilotage Authority within one week after he or she has himself received the information.

Subsection 3. Persons closely related to an employee shall mean the following physical and legal persons with a relation to the circle of persons mentioned in subsection 1:

- 1) Spouse or cohabitant.
- 2) Minor children where the person mentioned in subsection 1 has the custody of the child.
- 3) Other relatives who, for a period of at least one year, have belonged to the household of the person mentioned in subsection 1.
- 4) Legal persons if:
 - a) a physical person covered by subsection 1 or by (i)-(iii) has the managerial responsibility in the legal person,
 - b) physical persons covered by subsection 1 or (i)-(iii) or together hold the majority of the voting rights in the company, have a right to appoint or remove a majority of the company's board members, have the right to exert decisive influence over the company on the basis of the bylaws or other agreement with this, on the basis of an agreement with the shareholder have the majority of the voting rights in the company or can exert decisive influence over the company and have more than one-third of the voting rights,
 - c) the legal person is established with a view to considering economic interests in a physical person covered by subsection 2 or by (i)-(iii), or
 - d) the legal person has otherwise economic interests that are considerably related to the economic interests of a physical person covered by subsection 1 or by (i)-(iii).

Section 26. The Danish Pilotage Authority determines the rates of user payment for inspections, the holding of aptitude tests, the issue of certificates, exemption certificates, renewals, etc.

Chapter 12

Withdrawal of pilot certificates and pilot exemption certificates, etc.

Section 27. The Danish Pilotage Authority may withdraw a pilot certificate or a pilot exemption certificate and delete a registration as a pilot station in the register if the conditions stipulated in the act for acquiring a pilot certificate, pilot exemption certificate or registration are no longer met.

Subsection 2. A pilot certificate may, however, not be withdrawn pursuant to subsection 1 if only the condition of section 12(1)(ix) is no longer met, cf. section 29(1).

Subsection 3. A pilot station may, however, not be deleted from the register pursuant to subsection 1 if only the condition of section 24(4)(iii) is no longer met, cf. section 31(2) and (3).

Section 28. It shall be possible to withdraw a pilot certificate or a pilot exemption certificate if:

- 1) the holder is guilty of contraventions of the conditions for a pilot certificate or a pilot exemption certificate, of the provisions of the act or of provisions issued pursuant to the act, or
- 2) there are otherwise conditions making it inadvisable that the holder keeps piloting or being exempted from taking a pilot.

Subsection 2. Decisions in cases on withdrawal pursuant to subsection 1 shall be taken by the courts. Decisions on cases on withdrawal pursuant to subsection 1(ii) shall be made by the Danish Pilotage Authority and the holder may require the decision brought before the courts. The decision made by the Danish Pilotage Authority shall contain information about the possibility of taking legal action and about the time-limit applicable.

Subsection 3. The holder's request for decisions to be brought before the courts shall be received by the Danish Pilotage Authority no later than four weeks after the holder has been informed about the decision. The Danish Pilotage Authority shall refer the case to the local chief constable, who shall bring the case before the court in accordance with the provisions of chapter 81 of the administration of justice act (*retsplejeloven*).

Subsection 4. Requests for legal proceedings shall not have delaying effect, but the court may decide by order that the person concerned shall have access to perform his or her business as a pilot or to be exempted from taking a pilot during the consideration of the case. In case a judgment is appealed, whereby a withdrawal is not found legal, the court having made the judgment or the court before which it has been brought may decide that the person concerned may not perform his or her business as a pilot or be exempted from taking a pilot during the appeal.

Section 29. A pilot certificate may be withdrawn by the Danish Pilot Authority if the holder has considerable debt due for the public authorities, meaning amounts of or above DKK 100,000. It shall be possible to withdraw the certificate for a period of one to five years or until further notice. The decision shall contain information about the possibility of taking legal action and about the time-limit applicable.

Subsection 2. Decisions pursuant to subsection 1 may be required brought before the courts by the person whom the decision concerns. Such a request shall be received by the Danish Pilot Authority no later than four weeks after the person concerned has been informed about the decision. The Danish Pilot Authority shall instigate proceedings against the person concerned according to the civil procedure.

Subsection 3. Decisions made pursuant to subsection 1 may at any time be annulled by the Danish Pilot Authority upon request. If such an application is rejected, the applicant may require the

decision tried at the courts if the withdrawal has been effected until further notice and at least five years have elapsed after the withdrawal and at least two years after the withdrawal was last rejected by court order.

Section 30. A pilot station may be deleted from the register if:

- 1) the pilot station is guilty of having contravened conditions for registration, provisions of the act or provisions issued pursuant to the act, or
- 2) it has disregarded section 13(2) or has omitted to observe provisions issued pursuant to section 15, section 17(3) and section 24(6).

Subsection 2. Decisions in cases on deletion from the register pursuant to subsection 1(i) shall be made by the courts. Decisions in cases on deletion from the register pursuant to subsection 1(ii) shall be made by the Danish Pilot Authority and the pilot station may require the decision to be brought before the courts. The decision shall contain information about the possibility of taking legal action and about the time-limit applicable.

Subsection 3. Pilot stations' requests to have a decision brought before the courts shall be received by the Danish Pilot Authority no later than four weeks after the holder has been informed about the decision. The Danish Pilot Authority shall refer the case to the local chief constable, who shall bring the case before the court in accordance with the provisions of chapter 81 of the administration of justice act (*retsplejeloven*).

Subsection 4. Requests for legal proceedings shall not have delaying effect, but the court may decide by court order that the pilot station shall be entitled to perform pilot activities during the case consideration.

Section 31. A pilot station that no longer has any pilots in its service shall be deleted from the register.

Subsection 2. A pilot station for which the owner is personally liable may be deleted from the register if the pilot station or the owner has considerable debt due to the public authorities, meaning amounts of or above DKK 100,000.

Subsection 3. A pilot station run as a company may be deleted from the register if one or more of the managing directors or the board members of the company have considerable debt due to the public authorities, meaning amounts of or above DKK 100,000.

Subsection 4. If withdrawal has occurred pursuant to section 2 or 3, section 29(2) and (3) shall also apply.

Section 32. If it is assessed that it would involve a considerable risk to safety of navigation to let the holder of a pilot certificate or a pilot exemption certificate or to let a pilot station continue its business, the Danish Pilot Authority may decide on temporary withdrawal in the cases mentioned in section 28(1)(i) or on temporary deletion in the cases mentioned in section 30(1)(i) until the court has made a decision.

Chapter 13 *Delegation*

Section 33. The Minister of Defence may, pursuant to this act, delegate his powers or parts thereof to the Head of the Danish Maritime Safety Agency to the extent that this is not incompatible with the interests of the Danish Maritime Safety Agency in the part of the company exposed to competition.

Chapter 14
Penalty provisions

Section 34. Anyone contravening section 4(1), sections 7, 8 and 11, section 12(5), section 13, section 14(4), section 22, section 23(1) and (3), section 24(3) and section 25(1) and (2) shall be liable to punishment by fine or imprisonment for a term not exceeding one year.

Subsection 2. Both the master of the ship and the shipowner shall be punished if a certified pilot is not used in the cases mentioned in section 4(1).

Subsection 3. The responsible manager of a port shall be liable to punishment if the port receives ships that have not used a certified pilot in the cases mentioned in section 4(1).

Subsection 4. In regulations laid down pursuant to the act, punishment by fine or imprisonment for a term not exceeding one year may be determined for contraventions of the provisions of the regulations.

Subsection 5. Companies, etc. (legal persons) may incur criminal liability pursuant to the provisions of chapter 5 of the penal code (*straffeloven*).

Chapter 15
Entry into force and transitional provisions

Section 35. This act shall enter into force on 1 December 2006.

Subsection 2. The pilotage act (*lodsloven*), cf. consolidated act no. 529 of 4 August 1989, shall be repealed.

Section 36. Regulations laid down pursuant to the pilotage act (*lodsloven*), cf. consolidated act no. 529 of 4 August 1989, shall remain in force until repealed or amended by regulations laid down pursuant to this act.

Section 37. Pilots employed by the Danish Pilotage Authority prior to 1 December 2006 shall retain their previous wages and conditions of employment, including pensions, until new conditions are laid down pursuant to section 21.

Subsection 2. Pilots employed between 1 December 2006 and the time when, pursuant to section 21, new conditions are laid down shall, from the engagement and until the time when the new conditions are determined, be employed on the same conditions, including pensions, as pilots employed before 1 December 2006.

Section 38. In the act on safety at sea (*lov om sikkerhed til søs*), cf. consolidated act no. 627 of 26 July 2002, as amended most recently by act no. 431 of 6 June 2005, the following amendment shall be made:

1. *Section 6(iii)* shall be repealed.
Subsequently, items (iv)-(x) shall become items (iii)-(ix).

Section 39. Regulations laid down pursuant to section 6(iii) of the act on safety at sea (*lov om sikkerhed til søs*) shall remain in force until repealed or amended by provisions laid down pursuant to this act.

Section 40. This act shall not apply to the Faroe Islands and to Greenland.

Fredensborg Castle, 9 June 2006
Margrethe R. / Søren Gade