

Order on a transit pilotage authorisation scheme

Pursuant to section 13(5) and (6) and section 34(4) of the pilotage act (*lodsloven*), act no. 567 of 9 June 2006, as amended by act no. 725 of 25 June 2014, and by authority granted by the Minister for Business and Growth, the following provisions are laid down:

Transit pilotage authorisation

Section 1. Private pilotage service providers may be authorised by the Danish Maritime Authority to perform transit pilotage assignments in Danish territorial waters during the period from 1 January 2016 to 31 December 2019.

Subsection 2. The authorisations shall be granted by the Danish Maritime Authority following an annual round of applications. At the annual rounds of applications, authorisations shall be granted in total for the following maximum number of transit pilotage assignments:

- 1) In the 2015 round of applications: A maximum of 600 pilotage assignments a year in the period 2016-2019.
- 2) In the 2016 round of applications: A maximum of 200 pilotage assignments a year in the period 2017-2019 plus the number of surplus pilotage assignments from the 2015 round of applications.
- 3) In the 2017 round of applications: A maximum of 200 pilotage assignments a year in the period 2018-2019 plus the number of surplus pilotage assignments from the 2016 round of applications.
- 4) In the 2018 round of applications: A maximum of 200 pilotage assignments in 2019 plus the number of surplus pilotage assignments from the 2017 round of applications.

Subsection 3. A pilotage assignment as mentioned in subsection 2 shall include one continuous pilotage assignment of the same ship on one individual voyage.

Subsection 4. An authorisation to perform transit pilotage assignments shall be valid from 1 January in the first year covered by the application until and including 2019.

Section 2. The Danish Maritime Authority shall decide on transit pilotage authorisations at least by 1 July prior to the first year covered by the application for an authorisation.

Subsection 2. The deadline stipulated in subsection 2 may be prolonged once if the complexity of the case warrants this. The Danish Maritime Authority shall motivate the prolongation and the duration of the prolongation and inform the pilotage service providers about this before the expiry of the deadline.

Section 3. A transit pilotage authorisation cannot be transferred to other pilotage service providers.

Criteria for the granting of transit pilotage authorisations

Section 4. When granting transit pilotage authorisations, the Danish Maritime Authority will attach importance to the following conditions at the pilotage service provider applying for an authorisation:

- 1) That the pilotage service provider has been registered according to the pilotage act or has, in a written account, rendered it probable that the pilotage service provider will be registered before the transit pilotage assignments applied for are to be performed.

- 2) That the pilots employed by the pilotage service provider hold all the prescribed certificates and authorisations necessary under pilotage law or have, in a written account, rendered it probable that the pilotage service provider will have employed pilots holding the necessary certificates and authorisations before the transit pilotage assignments applied for are to be performed.
- 3) That the pilotage service provider otherwise complies with the pilotage act and regulations laid down in pursuance of the pilotage act or establishes procedures to ensure that the pilotage service provider will comply with the pilotage act and regulations laid down in pursuance of the pilotage act.
- 4) That the pilotage service provider has sufficient capacity to perform the transit pilotage assignments applied for or has, in a written account, rendered it probable that the pilotage service provider will have the necessary capacity before the transit pilotage assignments applied for are to be performed.

Subsection 2. In case more applicants meet the criteria stipulated in subsection 1, the authorisations that are to be granted in the relevant round of applications shall be distributed proportionally among the applicants; however, a pilotage service provider shall, as a maximum, be authorised to perform the number of pilotage assignments that the pilotage service provider has, or is assessed to acquire, the capacity for performing, cf. subsection 1(iv).

Applications for transit pilotage authorisations

Section 5. Applications for transit pilotage authorisations shall be received by the Danish Maritime Authority no later than by 1 May in the year prior to the first year covered by the applications.

Subsection 2. Applications, including any annexes, shall be written in Danish or English and be submitted electronically to the Danish Maritime Authority.

Subsection 3. Pilotage service providers established in EU/EEA countries may submit applications as mentioned in subsection 1 electronically by means of Businessindenmark.dk.

Section 6. Applications for transit pilotage authorisations shall contain the following information:

- 1) The name and address of the pilotage service provider as well as the contact person.
- 2) The number of transit pilotage assignments that the pilotage service provider requests to perform.
- 3) The year(s) in which the pilotage service provider requests to perform transit pilotage assignments.
- 4) An account
 - a) of the pilotage service provider being registered under the pilotage act, or
 - b) of the measures that the pilotage service provider intends to take to ensure that the pilotage service provider is registered before the transit pilotage assignments applied for are to be performed.
- 5) An account
 - a) of the pilots employed by the pilotage service provider holding the prescribed certificates and authorisations that are necessary under pilotage law, or
 - b) of the measures that the pilotage service provider intends to take to ensure that it has employed pilots holding the necessary certificates and authorisations before the transit pilotage assignments applied for are to be performed.
- 6) An account
 - a) of any other capacity of the pilotage service provider, including pilot vessel capacity and ordering system, which the pilotage service provider applying for an authorisation intends to use in order to be able to perform the transit pilotage assignments, and

- b) of any measures that the pilotage service provider intends to take to build up an additional capacity that may be necessary to be able to perform the transit pilotage assignments applied for.
- 7) An account
- a) of the procedures of the pilotage service provider, ensuring the pilotage service provider's compliance with the pilotage act and regulations issued in pursuance of the pilotage act, or
 - b) of the procedures that the pilotage service provider intends to establish prior to the performance of the transit pilotage assignments applied for in order to ensure that the pilotage service provider complies with the pilotage act and regulations laid down in pursuance of the pilotage act.

The conditions of transit pilotage authorisations

Section 7. Transit pilotage authorisations will contain the following conditions, which the relevant pilotage service provider shall comply with:

- 1) The pilotage service provider shall not perform any transit pilotage assignments in addition to those that the pilotage service provider has been authorised to perform in any given year.
- 2) Pilotage assignments covered by the authorisation shall be performed only by pilots employed by the pilotage service provider.
- 3) The pilotage service provider shall comply with the provisions of the pilotage act and of regulations laid down in pursuance of the pilotage act, including requirements for pilotage certificates, reporting, payment of any supply contribution and provisions on hours of rest.
- 4) Other conditions considered of importance to the relevant pilotage service provider's performance of transit pilotage assignments.

Withdrawal

Section 8. The Danish Maritime Authority may withdraw a transit pilotage authorisation if the pilotage service provider concerned

- 1) fully or predominantly does not use the authorisation,
- 2) violates section 3 or section 7(i)-(iii), or
- 3) grossly or repeatedly has violated the conditions of the authorisation stipulated in pursuance of section 7(iv).

Subsection 2. The authorisation may be withdrawn fully or partly, including for some of the pilotage assignments or for a part of the period that the authorisation concerns.

Subsection 3. When an authorisation is withdrawn, the number of pilotage assignments that the withdrawn authorisation concerns will be distributed in connection with the next annual round of applications, cf. section 1(2).

Subsection 4. The company that is the addressee of a decision on withdrawal pursuant to subsection 1 may require such a decision to be brought before the courts. A request to have a decision brought before the courts shall be made to the Danish Maritime Authority no later than four weeks after the company concerned has been informed about the decision.

Subsection 5. The Danish Maritime Authority shall, without unnecessary delay, instigate proceedings against the company mentioned in subsection 4 under the rules of civil procedure.

Subsection 6. Requests for proceedings concerning withdrawals pursuant to subsection 1 shall have delaying effect. However, the court may rule that the company concerned shall not perform transit pilotage assignments during the consideration of the case.

Penalty provisions

Section 9. Any pilotage service provider violating the provisions of section 3 or grossly or repeatedly violating the conditions mentioned in section 7(i)-(iii) shall be liable to punishment by fine.

Subsection 2. Companies etc. (legal persons) may be liable to punishment in accordance with the provisions of part 5 of the penal code (*straffeloven*).

Entry into force

Section 10. The order shall enter into force on 1 January 2015.

Subsection 2. Sections 1-8 shall lapse on 31 December 2019.

Danish Maritime Authority, 11 December 2014

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