

Translation. Only the Danish document has legal validity.

*Order no. 744 of 24 June 2013
issued by the Ministry of Business and Growth*

Order on the transfer of certain powers to the Danish Maritime Authority and on the right of appeal, etc.

In pursuance of section 8 of act no. 253 of 25 April 1990 on the Danish Government Seamen's Service, as amended by act no. 622 of 14 June 2011, section 21(2), and section 26 of the act on the manning of ships, cf. consolidated act no. 168 of 27 February 2012, as amended by act no. 478 of 30 May 2012, section 17(10) and section 21(2) of the act on safety at sea, cf. consolidated act no. 654 of 15 June 2010, as amended by act no. 251 of 30 March 2011, act no. 457 of 18 May 2011 and act no. 249 of 21 March 2012, section 10a of the act on the tonnage measurement of ships, cf. consolidated act no. 43 of 2 February 1993, as amended by act no. 1173 of 19 December 2003 and act no. 493 of 12 May 2010, section 22 of the act on diving operations and diving equipment, etc., cf. consolidated act no. 936 of 20 July 2010, as amended most recently by act no. 1231 of 18 December 2012, section 75a of the act on seafarers' conditions of employment, etc., cf. consolidated act no. 742 of 18 July 2005, as amended by act no. 511 of 17 June 2008 and act no. 493 of 12 May 2010, section 3(1) of the act on vacation, cf. consolidated act no. 202 of 22 February 2013, section 485 and section 516 of the merchant shipping act, cf. consolidated act no. 856 of 1 July 2010, as amended by act no. 249 of 21 March 2012, section 12(vi) of the act on the Danish International Ship Register, cf. consolidated act no. 273 of 11 April 1997, section 6 of act no. 1432 of 21 December 2005 on the assumption of right to use Danish ships as well as section 33a of the pilotage act, cf. act no. 567 of 9 June 2006, as amended by act no. 478 of 30 May 2012, the following provisions are laid down:

Transfer of powers

Section 1. Powers that are, according to the following acts, conferred on the Minister for Business and Growth, shall be exerted by the Danish Maritime Authority, cf. however sections 2 and 3:

- 1) The act on the Danish Government's Seamen's Service;
- 2) the act on the manning of ships;
- 3) the act on safety at sea;
- 4) the act on the tonnage measurement of ships;
- 5) the act on the Danish International Ship Register;
- 6) the act on diving operations and diving equipment, etc.
- 7) the act on seafarers' conditions of employment, etc.;
- 8) the act on the engagement of ships' crews;
- 9) the act on vacation;
- 10) the merchant shipping act; and
- 11) the act on the assumption of right to use Danish ships.

Subsection 2. In addition, powers conferred on the Minister for Business and Growth pursuant to section 5(2), section 7, section 10, section 26a and section 26b of the pilotage act shall be exerted by the Danish Maritime Authority.

Section 2. The following powers shall not be conferred on the Danish Maritime Authority:

- 1) Powers pursuant to section 3 of the act on the Danish Government Seamen's Service to approve the statutes of the Service.

- 2) Powers pursuant to section 21(1) and (7) and section 26(1)-(3) of the act on safety at sea to establish a Danish Shipping Tribunal, appoint the Chairman of the Tribunal and lay down regulations on its activities and to establish a Ships Inspection Council, to appoint the Chairman of the Ships Inspection Council and to determine the rules of procedure of the Council.
- 3) Powers pursuant to section 12(v) of the act on the Danish International Ship Register to lay down regulations on requirements for a Danish capital share or influence.
- 4) The power of section 482 of the merchant shipping act to establish a special investigation committee.
- 5) Powers pursuant to section 2(3) of the act on the assumption of the use of Danish ships to disregard any contracts of affreightment concluded before the assumption against compensation.
- 6) Powers pursuant to section 4(1) and (5) of the act on the assumption of the use of Danish ships to establish a shipping board and to appoint its Chairman and members and to lay down the rules of procedure of the board.

Section 3. The power, pursuant to section 14(2) of the merchant shipping act, to make decisions on the registration of ships though the conditions hereof pursuant to section 1 and section 2 of the merchant ship act are not available shall be exerted by the Ship Registrar, whose decision cannot be appealed to any other administrative authority.

Registration and dissemination of information

Section 4. The Danish Maritime Authority shall record and disseminate information about physical and legal persons to the extent necessary to administer the acts mentioned in section 1. The general provisions of the legislation on recording and dissemination shall apply if exemptions from these have not been made in special regulations.

Right of appeal

Section 5. Decisions made by the Danish Maritime Authority in pursuance of the act on the Danish Government Seamen's Service cannot be brought before any higher administrative authority.

Section 6. Decisions made by the Danish Maritime Authority in pursuance of the act on the manning of ships cannot be brought before any higher administrative authority, cf. however subsections 2-6.

Subsection 2. Refusals of applications for certificates of competency as well as refusals of applications for certificates to sign on with a view to serve as deck, machinery and general service crew may be brought before the Danish Shipping Tribunal; however, this is not the case if the refusal is based on the importance of the faculty of vision and hearing to work on board ships.

Subsection 3. The Danish Maritime Authority's decision to withdraw a certificate of recognition may be brought before the Danish Shipping Tribunal by the holder of the certificate.

Subsection 4. Decisions made by the Danish Maritime Authority in pursuance of section 4(2), section 5, section 6(3), section 9(2) and (3), section 10(2) and (3), section 12, section 15(1) and section 18(2) of the act on the manning of ships may be brought before the Danish Shipping Tribunal by the relevant shipowner or seafarer organisation.

Subsection 5. However, a decision to refuse an advance fixing of safe manning cannot be brought before the Danish Shipping Tribunal.

Subsection 6. When an advance fixing of safe manning made by the Danish Maritime Authority is not brought before the Danish Shipping Tribunal within a period of four weeks, a decision on the final safe manning in accordance with the advance fixing of safe manning may be brought before the Danish Shipping Tribunal only when changes have been made to the conditions decisive for the fixing of the safe manning.

Section 7. Decisions made by the Danish Maritime Authority in pursuance of the act on safety at sea cannot be brought before any higher administrative authority, cf. however subsection 2.

Subsection 2. The relevant shipowner may bring the following decisions before the Danish Shipping Tribunal:

- 1) Decisions to detain ships;
- 2) decisions to withdraw ship certificates prescribed by law as well as refusal of applications for renewal of these certificates;
- 3) decisions to withdraw the company's ISM documents of compliance and refusal of application for renewal of these documents; and
- 4) decisions on prohibitions against calling at a port.

Section 8. Decisions made by the Danish Maritime Authority in pursuance of the act on the tonnage measurement of ships cannot be brought before any higher administrative authority.

Section 9. Decisions made by the Ship Registrar and the Danish Maritime Authority in pursuance of the act on the Danish International Ship Register cannot be brought before any higher administrative authority.

Section 10. Decisions made by the Danish Maritime Authority in pursuance of the act on diving operations and diving equipment, etc. cannot be brought before any higher administrative authority, cf. however subsection 2.

Subsection 2. Decisions to refuse applications for commercial diver's certificates based on the applicant's health conditions may be brought before the Danish Shipping Tribunal.

Section 11. Decisions made by the Danish Maritime Authority in pursuance of the act on seafarers' conditions of employment, etc. cannot be brought before any higher administrative authority, cf. however subsections 2 and 3.

Subsection 2. Decisions made by maritime medical practitioners about seafarers and fishermen's fitness for ship service may be brought before the Danish Shipping Tribunal by the seafarer, the fisherman, the shipowner or the Danish Maritime Authority. However, this shall not apply to the decisions made by maritime medical practitioners on the importance of the faculty of vision or hearing to work on board ships. The seafarer, fisherman or the shipowner may bring these decisions before the Danish Maritime Authority.

Subsection 3. The decision of the Danish Maritime Authority that a seafarer or a fisherman holding a valid health certificate shall be subject to a new medical examination by a medical practitioner appointed by the Danish Maritime Authority may be brought before the Danish Shipping Tribunal by the seafarer, the fisherman or the shipowner.

Section 12. Decisions made by the Danish Maritime Authority in pursuance of the act on the engagement of ship's crews cannot be brought before any higher administrative authority.

Section 13. Decisions made by the Ship Registrar and the Danish Maritime Authority in pursuance of the merchant shipping act cannot be brought before any higher administrative authority, cf. however subsection 2.

Subsection 2. Decisions made in pursuance of section 153, section 187 and section 199 of the merchant shipping act on the dismissal of, prohibition against calling and detentions of ships may be brought before the Danish Shipping Tribunal.

Section 14. Decisions made by the Danish Maritime Authority in pursuance of the act on assumption of the use of Danish ships cannot be brought before any higher administrative authority.

Section 15. Decisions made by the Danish Maritime Authority in pursuance of the pilotage act cannot be brought before any higher administrative authority, cf. however subsection 2.

Subsection 2. The following decisions may be brought before the Danish Shipping Tribunal:

- 1) Decisions to refuse pilotage certificates;
- 2) decisions to refuse pilotage exemption certificates;
- 3) decisions on registration as a pilotage service provider;
- 4) decisions to withdraw a pilotage certificate or a pilotage exemption certificate or to delete the registration of a pilotage service provider; and
- 5) decisions on temporary withdrawal of a pilotage certificate or a pilotage exemption certificate or temporary deletion of registration as a pilotage service provider.

Section 16. The deadline for appeals against the decisions mentioned in section 6(2)-(4), section 7(2), section 13(2) and section 15(2) is four weeks. The deadline for appeals against the decisions mentioned in section 10(2) and section 11(2) and (3) is eight weeks. The Danish Shipping Tribunal may disregard a deadline when there are special reasons for this. The Danish Maritime Authority may also disregard the deadline when presenting decisions pursuant to section 11(2), the third clause when there are special reasons for this.

Entry into force

Section 17. This order shall enter into force on 27 June 2013.

Subsection 2. At the same time order no. 1068 of 4 September 2007 on the transfer of certain powers to the Danish Maritime Authority and on the right of appeal, etc. shall be repealed.

Subsection 3. At the same time, section 2 of order no. 819 of 6 August 2008 on the entry into force of the act amending the merchant shipping act concerning liability for pollution damage caused by bunker oil and on the transfer of power to the Danish Maritime Authority shall be repealed.

Ministry of Business and Growth, 24 June 2013
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