

CROATIAN PARLIAMENT

2408

Pursuant to Article 88 of the Constitution of the Republic of Croatia, I hereby pass the

DECISION

ON PROMULGATING THE ACT ON AMENDMENTS TO THE MARITIME CODE

I hereby promulgate the Act on Amendments to the Maritime Code adopted by the Croatian Parliament at its session on 6 July 2007.

Classification: 011-01/07-01/76

Number: 71-05-03/1-07-2

Zagreb, 13 July 2007

President
Stjepan Mesić, m.p.

ACT

ON AMENDMENTS TO THE MARITIME CODE

Article 1

In the Maritime Code (Official Gazette of the Republic of Croatia – *Narodne novine*, No. 181/04) the term "competent" in Article 5, Paragraph 1, Point 38 shall be replaced with the term "nominated".

Article 2

Article 60, Paragraph 1 shall be amended and shall read as follows:

"(1) The foreign waterborne craft shall on arrival into the port submit to the competent port authority documents in accordance with a special regulation adopted by the Minister."

Article 3

Article 77 shall be amended and shall read as follows:

"(1) The seaworthiness of a ship pursuant to provisions of Article 76, Paragraph 1 of this Code shall be determined by a recognised organisation by conducting technical supervision, and certified through the issuing of adequate ship documents, notes and records in accordance with provisions of the Technical Rules and other regulations adopted on the basis of this Code.

(2) The Technical Rules shall be adopted by the Minister.

(3) Requirements for the maritime equipment that is used to equip ships of Croatian nationality, conditions for placing such equipment on the market of the Republic of Croatia, as well as requirements that must be approved by the authorities nominated for the statutory certification of maritime equipment, and the nomination mode and procedure shall be prescribed by the Minister.

(4) Requirements that recognised organisations must fulfil, as well as the authorisation mode and procedure shall be prescribed by the Minister.

(5) The seaworthiness of a ship shall be verified by inspection, in accordance with provisions of Article 76 of this Code."

Article 4

In Article 78, paragraph 1, item 6, the term "ship operator" shall be replaced with the term "company".

In Paragraph 2, the full stop at the end of the sentence shall be deleted and the following shall be added: "while technical supervision of the maritime equipment in accordance with Paragraph 1, Points 2, 3 and 4 of herein shall be conducted by the authority nominated for the certification of maritime equipment."

Paragraph 3 shall be amended and shall read as follows:

"(3) The scope, conditions, rights and obligations stemming from the authorisation, that is, from the nomination for conducting technical supervision and the issuing of ship's documents, notes and records are established by a contract on the transfer of authority between the Ministry and the recognised organisation, that is, the authority nominated for the certification of maritime equipment."

Article 5

In Article 99, Paragraph 4, the words "a competent port authority or" shall be added after the terms "shall be issued by".

Article 6

Article 110 shall be deleted.

Article 7

Article 111, Paragraph 3 shall be deleted.
The former Paragraph 4 shall become Paragraph 3.

Article 8

Article 112 shall be amended and shall read as follows:

"(1) The seaworthiness, according to provisions of Article 111, Paragraph 1 of this Code, shall be established by a recognised organisation, a nominated authority and a port authority by conducting technical supervision and certified by issuing the appropriate documents, notes and records in accordance with provisions of the Technical Rules and other regulations enacted pursuant to this Code.

(2) The Technical Rules are adopted by the Minister.

(3) Requirements that must be met by boats and yachts, persons navigating boats and yachts, requirements for the navigation of boats and yachts, navigation zones, marketing and requirements that must be met by nominated authorities, as well as the nomination mode and procedure shall be prescribed by the Minister.

(4) The seaworthiness of a boat or yacht is verified by inspection, in accordance with provisions of Article 111 of this Code."

Article 9

In Article 113, Paragraphs 1, 5, 7, 8 and 11, the term "competent" shall be replaced with the term "nominated" in the appropriate case. (*This amendment refers to the Croatian version of the text only.*)

In Paragraph 11, the words "from the authorisation" shall be followed by the words "that is, from the nomination".

Article 10

In Article 115, Paragraph 2, the term "competent" shall be replaced with the term "nominated".

Article 11

Article 125a shall be added after Article 125 and shall read as follows:

"Article 125a

- (1) The business of finding employment for seamen aboard ships of Croatian and foreign nationalities shall be performed by the Croatian Employment Bureau.
- (2) The business of finding employment for seamen aboard ships of Croatian and foreign nationalities may also be performed by corporate entities fulfilling conditions prescribed by a special regulation.
- (3) The conditions that the corporate entities must fulfil in finding employment for seamen, as well as the procedure and mode of their authorisation and conducting inspection of their work shall be prescribed by the Minister with a prior consent of the minister in charge of labour matters and after a consultation with the organisations representing ship operators and seamen."

Article 12

Article 126, Paragraph 2 shall be amended and shall read as follows:

"(2) A ship in international transport on a liner service sailing between Croatian and foreign ports within the boundaries of the Adriatic Sea shall not be considered a ship in international navigation."

Article 13

Article 128 shall be amended and shall read as follows:

"(1) A crew member in international navigation, regardless of the ship's nationality, who has a permanent residence or a temporary residence in the Republic of Croatia (resident), shall be liable to employment income tax payment based on earnings from work aboard a ship in international navigation unless he sailed for 183 or more days in the year for which the income tax payment liability is established. The period of 183 days may be discontinuous.

(2) In order to accumulate the necessary 183 days referred to in Paragraph 1 herein in the year for which the income tax payment liability is established, a crew member may add the navigation days from the preceding year which, as extra days, had not been included in the 183 days referred to in Paragraph 1 herein for that year; and

- the days spent on trips from the place of permanent residence to the place of boarding a ship;
- the days needed for return trips;
- the days needed for the treatment of an illness succumbed to or an injury inflicted on the way to the place of boarding a ship, aboard a ship or on a return trip; and
- the days spent for professional training abroad.

(3) The crew member referred to in Paragraph 1 herein shall not be liable to calculate and pay in advance the income tax based on earnings from work aboard a ship in international navigation made throughout a year, but he or she shall be liable to file the annual income tax report in accordance with provisions of income tax regulations, regardless of the number of days spent aboard a ship in international navigation.

(4) In the annual income tax report, the crew member referred to in Paragraph 1 herein shall declare separately, in addition to other earnings that are subject to income tax payment in the Republic of Croatia, the earnings from work aboard a ship in international navigation that are subject to income tax payment, including the sailing bonus whether or not the sailing bonus sum has been specially declared by the sailing bonus payer.

(5) Together with the annual income tax report, the crew member referred to in Paragraph 1 herein shall be liable to submit an excerpt from the seaman book or the embarkation permit as evidence of the number of days spent aboard a ship in international navigation during the relevant tax period and to calculate the sum of earnings that is not subject to income tax payment – the sailing bonus for each day spent aboard a ship in international navigation during the said period.

(6) The contributions paid in the course of a tax period for compulsory insurance schemes of the crew member referred to in Paragraph 1 herein shall also be accepted as tax deduction expenses in accordance with provisions of Article 129 of this Code.

(7) The sum of the sailing bonus amount calculated in accordance with Paragraph 5 and the amounts of contributions paid in accordance with Paragraph 6 herein may not exceed the total amount of earnings from work aboard a ship in international navigation as specified in Paragraph 4 herein. The balance between the earnings reduced by the sailing bonus and the expenses for contributions shall be the income from employment which represents the basis to establish the income tax liability or the non-existence of such liability depending on the number of navigation days pursuant to Paragraph 1 herein.

(8) The liability of income tax and surtax payment against the earnings of the crew member referred to in Paragraph 1 herein, as well as the mode of default interest definition, due dates and default interest calculation, when the payment has not been made on schedule, the statute of limitations on the right to determine and collect the tax payments, the refund of a surplus tax payment or a tax payment made without a legal ground, the conducting of second-instance and misdemeanour proceedings and other issues related to income tax that have not been regulated by this Code, shall be subject to regulations governing income taxation, as well as general tax regulations.

(9) The employer shall be under no obligation to calculate or pay in advance the income tax based on the salary that it pays to a crew member for his or her work in international navigation.

(10) The amount of sailing bonus of the crew member referred to in Paragraph 1 herein, the mode of presenting data on taxable earnings and earnings that are not subject to income tax liability (sailing bonus), as well as tax deduction expenses and the mode of verifying the number of days spent in navigation shall be prescribed by the Minister in charge of financial matters with a prior opinion of the Minister."

Article 14

Article 129 shall be amended and shall read as follows:

"(1) A crew member in international navigation, regardless of the ship's nationality, shall be an insured person with a compulsory pension scheme in the Republic of Croatia if he or she has a permanent residence or a temporary residence (resident) in the Republic of Croatia and a compulsory medical insurance, as well as occupational safety and health insurance if he or she has a permanent residence or an approved permanent sojourn in the Republic of Croatia, unless otherwise regulated by an interstate social insurance contract.

(2) The registration of the compulsory pension scheme and the compulsory health insurance of the crew member referred to in Paragraph 1 herein, whose employer is a domestic corporate entity, and the cancellation thereof shall be made by the employer.

(3) The registration of the compulsory pension scheme and the compulsory health insurance of the crew member referred to in Paragraph 1 herein, whose employer is a foreign corporate entity, and the cancellation thereof shall be made by a competent port authority.

(4) The port authority shall not make the registration referred to in Paragraph 3 herein if the crew member referred to in Paragraph 1 herein supplies evidence to the port authority that he

or she has a compulsory insurance provided by a foreign social insurance authority of the state with which the Republic of Croatia has concluded a social insurance contract.

(5) The agency in charge of finding employment for seamen referred to in Article 125a, Paragraph 2 of this Code, as well as the seamen who have found employment on their own with a foreign employer or who have been employed by a foreign employer through the Croatian Employment Bureau shall be liable to submit to the competent port authority all the data that are needed for the registration of the compulsory pension scheme and the compulsory health insurance, as well as the cancellation thereof.

(6) The day of boarding a ship shall be deemed the beginning of insurance of the crew member referred to in Paragraph 1 herein, while the day when he or she has been discharged from a ship shall be deemed the termination of insurance as evidenced by the seaman's book.

(7) The procedure and the mode of registration referred to in Paragraph 3 herein that is made by the competent port authority, as well as the requirements, contents and mode of filing the data that are needed for the registration and the cancellation referred to in Paragraph 5 herein shall be prescribed by the Minister.

(8) The crew member referred to in Paragraph 1 herein shall be liable to contributions payment and the payment of compulsory insurance contributions in line with the monthly basis that is used to calculate contributions and that is prescribed and announced by the Minister. The amount of the monthly basis that is used for the calculation of contributions shall be determined against the salary that the crew member would receive for the same or similar jobs aboard a ship in national navigation.

(9) The liability and the type of contributions, as well as monthly sums of contributions to be paid shall be established by a decision of the Tax Administration in accordance with regulations on contributions for compulsory insurance schemes, while the liability to pay contributions and the calculation of the default interest on contributions, when the payment has not been made on schedule, the statute of limitations on the right to determine and collect the payments of contributions, the refund of a surplus of paid contributions or contributions paid without a legal ground, the conducting of second-instance and misdemeanour proceedings and other issues related to contributions that have not been regulated by this Code, shall be subject to regulations governing contributions for compulsory insurance schemes, as well as general tax regulations.

(10) The employer shall not be liable to either calculate or pay contributions against the salary that it pays off to the crew member referred to in Paragraph 1 herein or against the prescribed basis referred to in Paragraph 8 of this Code."

Article 15

In Article 131, Paragraph 6, the term "ships" shall be replaced with the term "maritime craft".

Article 16

Article 183 shall be amended and shall read as follows:

"(1) A ship, with the exception of technical waterborne craft, or a yacht registered in the Croatian register of ships or yachts, that is, a ship or a yacht which has been issued a temporary certificate of registration shall bear a name, while a fishing vessel shall also bear a distinctive mark.

(2) A technical waterborne craft, a floating facility and a fixed off-shore facility entered into the appropriate Croatian register or which has been issued a temporary certificate of registration shall have a distinctive mark, and may, in addition to the mark herein, also bear a name.

(3) Two ships or yachts may not bear the same name, and two technical waterborne crafts, two floating facilities, two boats or two fishing vessels may not bear the same mark.

Comment [A1]: U prijevodu Pomorskog zakonika terminologija u ovom članku nije ujednačena te se za isti termin upotrebljava u 1. stavku 'temporary certificate of registration', a u 2. stavku 'temporary certificate of registry'. U oba stavka u ovim Izmjenama i dopunama upotrijebila sam termin 'temporary certificate of registration'.

(4) The procedure, conditions and steps in determining and assigning distinctive names, marks and signs of ships, yachts, floating and fixed off-shore facilities, as well as keeping evidence on the names and marks of ships, yachts, floating and fixed off-shore facilities shall be adopted by the Minister."

Article 17

In Article 196, Paragraph 5, the full stop after the term "facilities" shall be replaced with a comma and the following words shall be added: "and a register of floating facilities under construction exists for floating facilities under construction."

In Paragraph 6, the full stop after the term "facilities" shall be replaced with a comma and the following words shall be added: "and a register of fixed off-shore facilities under construction exists for fixed off-shore facilities under construction."

Article 18

In Article 242, Paragraph 1, the words "Article 241, Paragraph 1, Points 1)" shall be replaced with the words "Article 241, Paragraph 1, Point 2)."

Article 19

In Article 245, the words "from Article 252" shall be replaced with the words "from Article 241".

Article 20

In Article 247, Paragraphs 2 and 3, the words "from Article 246, Paragraph 2" shall be replaced with the words "from Article 246, Paragraph 1, Point 2)."

Article 21

In Article 294, Paragraph 2, the term "minutes" shall be replaced with the term "register".
(*This amendment shall refer to the Croatian version of the text only.*)

Article 22

In Article 299, Paragraph 1, the words "in the event" shall be replaced with the words "even if".

Article 23

In Article 302, Paragraph 1, Point 3), the word "its" shall be replaced with the words "the port authority's".
(*This amendment refers to the Croatian version of the text only.*)

Article 24

In Article 311, Paragraph 4, the word "made" shall be replaced with the word "noted", and the word "which" shall be replaced with the word "that".
(*This amendment refers to the Croatian version of the text only.*)

Article 25

In Article 315, Paragraph 1, Point 2) the word "register" shall be replaced with the word "inventory".
(*This amendment refers to the Croatian version of the text only.*)

Article 26

In Article 318, Paragraph 1, Point 2), the word "court" shall be deleted.

Article 27

In Article 343, Paragraph 3, the words "the court shall indicate" shall be replaced with the words "it must be indicated".

Article 28

Article 428, Paragraph 2 shall be amended and shall read as follows:

"(2) A ship in international navigation in liner shipping between Croatian and foreign ports within the boundaries of the Adriatic Sea shall not be considered a ship in international navigation."

Article 29

In Article 429, Paragraph 1, the comma after the expression "international navigation" shall be replaced with a full stop and the words as "stipulated by the Profit Tax Act" shall be deleted.

Article 30

In Article 434, Paragraph 6, the words "pertaining to proceedings" shall be replaced with the words "on the proceeding".

Article 31

In Article 1019, Paragraphs 1 and 2 shall be deleted.

Article 32

Article 1021, Paragraph 1, Subparagraph 15 shall be amended and shall read as follows:

"- the mode, requirements, and procedure of determining and marking names, signs and recognition marks of ships, yachts, floating facilities and fixed off-shore facilities, as well as keeping records about the names and marks of ships, yachts, floating facilities and fixed off-shore facilities (Article 183, Paragraph 4)."

Paragraph 3, Subparagraph 5 shall be amended and shall read as follows:

"- requirements and mode of maintaining order in ports and other parts of the internal waters and the territorial sea of the Republic of Croatia, as well as the format and the contents of documents forms that waterborne craft deliver to port authorities when sailing into or leaving a port (Article 56, Paragraph 2 and Article 60, Paragraph 1)."

Subparagraph 7 shall be amended and shall read as follows:

"- on boats and yachts, requirements that boats and yachts must fulfil, as well as persons navigating boats and yachts, boats' and yachts' navigation requirements, navigation areas, requirements for placing boats and yachts on the market, requirements that nominated authorities must fulfil, as well as the mode and procedure of nomination, documents, notes and records of boats and yachts, as well as the mode of entry of boats into a boat ledger, the mode of maintaining an EOP register, requirements and the mode of determining the mark and name of a boat, as well as the competence of port authorities for maintaining boat ledgers (Article 112, Paragraph 3, Article 123, and Article 202, Paragraph 3)."

Article 33

Article 1022, Paragraph 1, Subparagraph 3, the term "ships" shall be replaced with the term "waterborne craft".

TRANSITIONAL AND FINAL PROVISIONS

Article 34

(1) The Minister shall, within a year of entry into force of this Act, pass a regulation on:

- the requirements for the maritime equipment which is used to equip ships of Croatian nationality, conditions for placing such equipment on the market of the Republic of Croatia, as well as the requirements that must be fulfilled by the authorities nominated for the statutory certification of maritime equipment and the nomination mode and procedure (Article 77, Paragraph 2);
- the requirements that must be fulfilled by recognised organisations, as well as the authorisation mode and procedure (Article 77, Paragraph 3).

(2) The Minister shall, within six months of entry into force of this Act, pass a regulation on the proceedings and mode of registering seamen for compulsory insurances by port authorities, as well as the requirements, contents and mode of submitting the data needed for the registration of insurance and the cancellation thereof (Article 129, Paragraph 7).

Article 35

The Minister, with a consent of the minister in charge of labour matters, shall, within six months of entry into force of this Act, pass a regulation on the requirements that must be fulfilled by the corporate entities finding employment for seamen, as well as the procedure and mode of their authorisation and the conducting of control over their work (Article 125a).

Article 36

The minister in charge of financial matters, with a consent of the Minister, shall, within six months of entry into force of this Act, stipulate the amount of the sailing bonus of a crew member, the mode of presenting the data on taxable earnings and the earnings that are not subject to income tax (sailing bonus), as well as the tax deduction expenses and the mode of verifying the number of days spent in navigation (Article 128, Paragraph 10).

Article 37

(1) The crew member referred to in Article 14, Paragraph 1 herein (Article 129, Paragraph 1) who, on the day of entry into force of this Act, has a debt on account of contributions for compulsory insurances may file a request to the competent Tax Administration in the place of his or her permanent residence or temporary residence for the debt repayment by equal monthly instalments. The Tax Administration Director shall decide on the instalment repayment request with a written decision after the coordination of debt with the competent Institutes.

(2) The debtor shall be liable to repay the debt within a period of not more than two years of the day of the instalment repayment decision. The monthly instalment shall be due on the last day of the current month. By way of derogation from provisions of a special regulation on the default interest on the debt incurred for public charges, that has not been repaid on schedule, in relation to the total amount of debt on account of contributions, that has been established by the instalment repayment decision referred to in Paragraph 1 herein, the default interest shall be calculated only on the due monthly instalment that has not been paid on schedule.

(3) A crew member shall be liable to file the instalment repayment request referred to in Paragraph 1 herein within a year of the day of entry into force of this Act.

(4) The coordination of debt referred to in Paragraph 1 herein shall mean the harmonisation of the insured person's status by the competent Institutes, the harmonisation of debt in accordance with the recognised status of the insured person, the calculation of interest in accordance with the Authentic Interpretation of Article 3, Paragraph 1 of the Act on the

Interest on Arrears (Official Gazette 28/96), as well as the definition of the statute of limitations on the right to establish the liability and the repayment of debt incurred on account of contributions, as well as the debt write-off on account of non-recoverability.

(5) The procedure of debt coordination and the criteria for determining the number of monthly instalments for the debt repayment shall be specified by an instruction of the Minister of Finance with a prior consent of the minister in charge of labour matters and the minister in charge of healthcare within three months of the day of entry into force of this Act.

(6) The filing of the debtor's request for the payment of debt by instalments shall terminate all the execution proceedings initiated for the collection of the said debts.

Article 38

The provisions of Article 38 of this Act shall also apply accordingly to insured persons who are seamen aboard ships of foreign nationalities and whose debt on account of compulsory contributions has been incurred as a result of their insurance as crew members who had compulsory insurance schemes according to regulations on pension and healthcare schemes.

Article 39

The crew member referred to in Article 14, Paragraph 1 herein who, on 1 January 2008, was in navigation as a crew member whose insured seaman's status had not been established by the Institutes by 31 December 2007, shall not have the insured person's status established for the period preceding the beginning of application of this Act, unless upon his or her own request.

Article 40

By the date of entry into force of the regulations referred to in Article 32, Paragraph 3 and Article 34, Paragraph 1, Subparagraphs 1 and 2 herein, the activities of the recognised organisation and the nominated authority shall be performed by the Croatian Register of Ships.

Article 41

This Act shall enter into force on the eighth day of its publication in the Official Gazette except for Article 128 referred to in Article 13, and Article 129, Paragraph 3 referred to in Article 14 of this Act that shall enter into force on 1 January 2008.

Classification: 342-01/07-01/01

Zagreb, 6 July 2007

CROATIAN PARLIAMENT
Speaker
of the Croatian Parliament
Vladimir Šeks, m.p.