

THE CROATIAN PARLIAMENT

1352

On the basis of Article 89 of the Constitution of the Republic of Croatia, I hereby adopt the following

DECISION

ON THE PROMULGATION OF THE ACT ON THE AMENDMENTS TO THE MARITIME CODE

I hereby promulgate the Act on the Amendments to the Maritime Code, adopted by the Croatian Parliament at its session held on the 20th of May 2011.

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Number: 71-05-03/1-11-2

Zagreb, 27 May 2011

President of the

Republic of
Croatia

**prof. dr. sc. Ivo
Josipović, m.p.**

ACT

ON THE AMENDMENTS TO THE MARITIME CODE

Article 1

In the Maritime Code ("Official Gazette", Nos. 181/04, 76/07 and 146/08) in Article 48 paragraph 2 is amended to read as follows:

»(2) The owner of the ship and/or ship company of Croatian nationality shall be obliged:

1) to establish and maintain a documented safety management system and security system if he is obliged to do so under the Technical rules and other regulations,

2) maintain the condition of the ship and its equipment so that the ship is capable of navigation in every way when sailing and safe for the performance of all operations, without any dangers for the ship, persons on board the ship, cargo and the environment,

- 3) ensure that the ship possesses valid certificates and documents prescribed by Technical rules and other regulations, except when under maintenance or repair in the shipyard,
- 4) ensure that onboard the ship and the in connection with the ship the requirements of the Technical rules and other regulations are met."

After paragraph 2, the new paragraphs 3 and paragraph 4 are added and read as follows:

"3) The owner of the ship and/or the ship company of Croatian nationality shall be obliged to submit to the Ministry data on:

- 1) the responsible person in the legal person that is the ship-owner,
- 2) the person in charge of security in the company,
- 3) the recognised organisation that issues certificates to the ship,
- 4) inspections of ships by port states,
- 5) all events of significance for the security of the ship, persons and environment.

(4) The owner of the ship and/or ship company of Croatian nationality shall be obliged to submit to the Ministry referred to in paragraph 3 of this Article without postponement and at the latest within 15 days from the day of the occurrence or change of fact or from the event to which the data refers."

Paragraph 3 becomes paragraph 5.

Article 2

Article 49 is amended to read as follows:

"(1) An administrative investigation and safety investigation shall be carried out on an accident of a Croatian vessel or maritime structure if the accident caused death or severe bodily harm, greater losses or property damage or pollution of the marine environment.

(2) An administrative and safety investigation shall be carried out on an accident of a Croatian vessel or maritime structure that occurs in the internal waters or territorial sea of the Republic of Croatia if the accident caused death or severe bodily harm, greater losses or property damage or pollution of the marine environment.

(3) The administrative investigation shall be carried out by the Ministry for the purpose of collecting evidence and data for the determination of misdemeanour and criminal liability.

(4) The safety investigation aimed at determining the cause of the accident and proposing measures for the avoidance of marine accidents and the promotion of navigation safety, as an activity of interest for the Republic of Croatia, based on its public authority shall be carried out by an that is functionally and organisationally independent from all bodies competent for the area of the maritime sector and from all legal and natural persons that could come into a conflict of interest. The agency shall also carry out other activities in accordance with the

provisions of this Codes and regulations adopted based on this Code and in conformity with the Agency Charter.

(5) The method, conditions and authorities for the performance of an administrative investigation shall be prescribed by the minister.

(6) The method and conditions for the performance of the safety investigation shall be prescribed by the Government of the Republic of Croatia.

(7) The Agency competent for the implementation of the safety investigation referred to in paragraph 4 of this Article, as a legal entity with public authority, shall be established by the Government of the Republic of Croatia with a decree that shall prescribe the headquarters, activities, bodies, funds necessary for the establishment and start of operation and the method of obtaining or ensuring these funds, the method of disposal with the profit, the covering of losses, restrictions regarding the acquisition, encumbrance of and disposal with of real estate and other property as well as other issues significant for its operation. The provisions of the Institutions Act shall apply to issues not regulated by this Code and the Government Decree."

Article 3

Article 55 is amended to read as follows:

»(1) Coastal radio stations shall carry out the radio service that serves the safety of life and navigation safety at sea pursuant to valid regulations of the Republic of Croatia and corresponding international agreements.

(2) In the performance of the radio service, in accordance with regulations on radio services referred to in paragraph 1 of this Article, coastal radio stations shall be obliged to ensure watch services and other required services.

(3) Watercraft that are obliged to have a radio station shall, during navigation, organize watch service, pursuant to regulations on radio services.

(4) Regulations on radio services and their performance shall be passed by the minister."

Article 4

In Article 56 paragraph 2, after the words: "in the port" the words: "and the port managing authority" shall be added.

After paragraph 5 paragraph 6 is added to read as follows:

"6) Divers and diving contractors shall be obliged to comply with or meet provisions of regulations on diving safety passed by the minister."

Article 5

Article 60 is amended to read as follows:

"(1) Ships engaged on international voyages that intend to call to port or clear port or leave the port's anchorage must announce its arrival or departure to the competent harbourmaster's office and submit to it the prescribed certificates, documents and data.

(2) The ships referred to in paragraph 1 of this Article shall be obliged, when calling to port or clearing port, to submit to the competent harbourmaster's office the prescribed certificates, documents and data.

(3) Ships in national navigation shall report that they intend to call to port or clear port and submit the data, certificates and documents in accordance with the special regulation passed by the minister.

(4) The Ministry shall collect, exchange and submit the certificates, documents and data on the vessel traffic in electronic form in accordance with the valid regulations of the Republic of Croatia and corresponding international agreements.

(5) The regulations on certificates, documents and data in vessel traffic and their submission, collection and exchange under this Article, as well as the method and conditions for authorising free pratique referred to in Article 66 of this Code shall be passed by the minister."

Article 6

In Article 64, paragraph 1 is deleted.

Paragraphs 2, 3, 4, 5, 6 and 7 become paragraphs 1, 2, 3, 4, 5 and 6.

Article 7

After Article 64, the Article 64a is added to read as follows:

"Article 64a

(1) The ship master, crew members, persons operating a boat or yacht and the crew members of the boat or yacht as well as the master of a seaplane shall be obliged, during navigation in internal waters and the territorial sea of the Republic of Croatia, to act in accordance with international and national regulations on the safety of maritime transport.

(2) The ship master, crew members, persons operating a boat or yacht and the crew members of the boat or yacht as well as the master of a seaplane shall be obliged, during navigation in internal waters and the territorial sea of the Republic of Croatia, to use prescribed signals and marks in accordance with the provisions of this Code and bylaws adopted based on this Code.

(3) The provisions of paragraphs 1 and 2 of this Article shall apply to the master and crew members of Croatian vessels or maritime structures regardless of the navigation area.

(4) The regulations on the safety of maritime transport in internal waters and the territorial sea of the Republic of Croatia referred to in paragraphs 1 and 2 of this Article shall be passed by the minister."

Article 8

In Article 75a paragraph 2, after point 4, point 5 is added to read as follows:

"(5. inspections of navigation safety in accordance with the provisions of this Code and regulations adopted based on this Code."

After paragraph 4, paragraphs 5 and 6 shall be added to read as follows:

"5) The vessel traffic management and information referred to in paragraph 2 of this Article shall be carried out in accordance with international agreements, the provisions of this Code and regulations adopted on the basis of this Code.

(6) The method and conditions for the performance of the inspections and management of vessel traffic shall be prescribed by the minister with a special regulation."

Article 9

In Article 75b after paragraph 1, the new paragraph 2 is added to read as follows:

"(2) The Vessel Traffic Management and Information Service shall carry out the activities referred to in Article 75a of this Code by using a technical system for the vessel traffic management and information services or devices and equipment for the automatic identification of ships (AIS) and/or radar devices and equipment and/or maritime radiocommunication devices and equipment and/or electronic nautical charts."

The paragraphs 2 and 3 become paragraphs 3 and 4.

Article 10

In Article 80 paragraph 1, the words: "before the use of the ship" are deleted.

Article 11

In Article 125, after paragraph 3, the paragraph 4 is added to read as follows:

"(4) The labour, living and social conditions of seafarers shall be regulated with a collective agreement."

Article 12

In Article 126 paragraph 2, after the words: "international" the words: "liner service" are added.

Article 13

In Article 128 paragraph 2. is amended to read as follows:

"(2) For achieving the required 183 days referred to in paragraph 1 of this Article for the year for which the income taxes liabilities are determined, the following days shall be included:

navigation days, days spent on the voyage from the place of permanent residence to the place of embarkation, the days necessary for the return voyage, the days of treatment of a disease or injury incurred on the voyage to the embarkation, on board the ship or on the return voyage and the days spent at professional training programmes in foreign countries."

After paragraph 2, the new paragraph 3 is added to read as follows:

"(3) The navigation days, days spent on the voyage from the place of permanent residence to the place of embarkation, the days necessary for the return voyage, the days of treatment of a disease or injury incurred on the voyage to the embarkation, on board the ship or on the return voyage and the days spent at professional training programmes in foreign countries that were not included in the 183 days in the previous year can be added to the days referred to in paragraph 2 of this Article."

Paragraphs 3, 4, 5 and 6 become paragraphs 4, 5, 6 and 7.

In paragraph 7, which becomes paragraph 8, the words: "paragraph 5" are replaced with the words: " paragraph 6", the words: " paragraph 6" are replaced with the words: "paragraph 7", and the words: "paragraph 4" are replaced with the words: " paragraph 5".

Paragraphs 8, 9 and 10 become paragraphs 9, 10 and 11.

Article 14

After Article 129, Article 129a is added to read as follows:

"Article 129a

(1) For crew members, regardless of their nationality and ship type and regardless of their capacity onboard a ship, for every 12 months spent onboard as crew members on international and national voyages, the period of social insurance shall be counted as 15 months.

(2) For insured persons – crew members, the age limit for acquisition of the right to the age pension, pursuant to the Pension Insurance Act, shall be 60 years, providing that they accomplished at least a 15-year period of social insurance onboard as crew members on international and national voyage.

(3) Crew members on international voyages shall pay additional contributions and benefit taxes for the insurance period with prolonged duration according to monthly calculation basis for compulsory insurance contributions, as regulated and issued by the minister, namely:

– additional contribution for pension insurance for the insurance period with prolonged duration,

– additional contribution for pension insurance based on individual capitalised savings for the insurance period with prolonged duration (for the insured person concerned).

(4) For crew members referred to in paragraph 3 of this Article, rate of additional contribution for the insurance period with prolonged duration referred to in paragraph 1 of this Article

shall be calculated according to corresponding rates of increase of period of social insurance based on general acts regulating contributions.

(5) For crew members referred to in paragraph 3 of this Article, additional contribution for the insurance period with prolonged duration shall be calculated and collected by the Tax Administration in the manner provided for in Article 129 paragraph 9 of this Act.

(6) For crew members referred to in paragraph 3 of this Article, insurance period with prolonged duration shall be calculated in the process of acquiring pension rights based on confirmation of the Tax Administration that the additional contribution for the insurance period with prolonged duration has been fully paid.

(7) For crew members on national voyages, the employer shall be liable to pay additional contributions and to calculate contribution payments for the insurance period with prolonged duration, according to a general act regulating contributions, namely:

- additional pension insurance contribution for the insurance period with prolonged duration,
- additional pension insurance contribution based on individual capitalised savings for the insurance period with prolonged duration (for the insured person concerned).

(8) For all matters not been regulated by this Act, which refer to the crew members' insurance period with prolonged duration, provisions of a general act regulating contributions and a general act regulating pension insurance shall apply correspondingly."

Article 15

After Article 133, Article 133a is added to read as follows:

"Article 133a

(1) Crew members who consider that their rights related to life and work conditions on board the ship have been violated shall be entitled to lodge verbal and written complaints to their supervising officer, master, ship-owner, ship operator, the company and the Ministry.

(2) In case of an on-board complaint procedure referred to in paragraph 1 of this Article, that complaint shall be entered in the ship's log and the complaint shall be lodged in the presence of at least one other crew member acting as a witness.

(3) The shipowner, the ship operator and the company shall ensure that every crew member, upon boarding the ship, is given a copy of on-board complaint procedures, including the information about competent authorities of the flag State, as well as the names of crew members who will provide adequate assistance in on-board complaint procedures."

Article 16

In Article 134, after paragraph 2, new paragraphs 3 and 4 are added to read as follows:

"(3) The master and crew members of the ship, yacht or boat, upon demand of the navigation safety inspector of the harbourmaster's office or a person authorised for navigation safety

inspection, shall be tested, by way of appropriate means and devices, for the purpose of determining the level of alcohol, drugs and/or other psychoactive substances in their blood, which should be no more than 0.5 g/kg, so as not to affect their mental and physical abilities.

(4) In case that the persons referred to in paragraph 2 of this Article refuse to take the test, or the test shows that they have in their organism an unacceptable level of alcohol, drugs or medications, the navigation safety inspector of the harbourmaster's office or the person authorised for navigation safety inspection shall order a medical examination and testing of blood and urine for further analysis. If the persons concerned refuse the medical examination and the testing of blood and urine for analysis, competent authorities shall be requested to forcibly remove them."

Paragraphs 3, 4 and 5 become paragraphs 5, 6 and 7.

In the former paragraph 6, which becomes paragraph 8, the words: "paragraphs 1 – 5" are replaced by words: "paragraphs 1 – 7."

Article 17

In Article 138, after paragraph 1, paragraphs 2 and 3 are added to read as follows:

"(2) The ship operator shall not recover the costs of the return journey referred to in paragraph 1 of this Article from a crew member in the form of advance payment at the commencement of the employment or from salaries which he is liable to pay to the crew member, except in case of major violations by the crew member of obligations from the employment contract.

(3) In case that the ship operator fails to make the refund of the amount paid for costs of the return journey of the crew member referred to in paragraph 1 of this Article, taking into consideration applicable international standards, the ships of that ship operator may be detained."

Article 18

In Article 139 paragraph 3, the words: "and the transport of the crew member from the moment of his discharge from the ship to the moment of his return to his residence" are replaced by the words: "as well as the transport, salary and fringe benefits from the moment of his discharge from the ship to the moment of his return to his residence, and the required medical treatment, until the crew member is medically fit for the return journey."

Article 19

After Article 139, Article 139a is added to read as follows:

"Article 139a

(1) The ship operator shall maintain security or other financial guarantee for the purpose of covering the costs of return journeys of the crew members.

(2) The ship operator shall ensure that crew members on all ships have access to corresponding provisions of valid regulations referring to the rights of crew members related to return journeys.

(3) Provisions of valid regulations referred to in paragraph 2 of this Article shall be available in the working language of the ship, as well as in English language."

Article 20

In Article 154 paragraph 1, after the word: "inform" the following words are added: "the Ministry and". [The rest of the amendment does not apply to the English text.].

In paragraph 3, after the word: "inform" the following words are added: "the Ministry and".

Article 21

In Article 165, paragraph 6 is amended to read as follows:

"(6) Inspection of the implementation of provisions of Article 125a of this Code and the adopted accompanying regulations shall be performed by persons referred to in paragraphs 1 and 2 of this Article and by the State Inspectorate inspectors."

Article 22

In Article 171, after paragraph 6, new paragraphs 7, 8, 9, 10, 11 and 12 are added to read as follows:

"(7) If the ship from paragraph 6 of this Article represents or can represent a danger for ports, waterways, navigation, utilisation of natural resources of the sea or the environment, the competent harbourmaster's office, in addition to the activities referred to in paragraph 6 of this Article, shall issue a decision ordering the shipowner to take measures in due time for the removal of this ship under the harbour master's office's control.

(8) If the shipowner fails to comply with the decision of the harbour master's office referred to in paragraph 7 of this Article, the harbour master's office shall organise, at the expense and the risk of the ship owner, removal of the ship by means of a legal or natural person specialised in such matters.

(9) If the ship from paragraph 6 of this Article represents imminent danger to ports, waterways, navigation, utilisation of natural resources of the sea or the environment, the harbour master's office shall, even without the previous decision referred to in paragraph 7 of this Article, decide on the ship's removal at the owner's expense and risk.

(10) Appeal against the decision of the competent harbourmaster's office referred to in paragraphs 7 or 9 of this Article, as the first-instance body, shall be resolved by the Commission referred to in Article 178 of this Code, as the second-instance body; however, the appeal shall not postpone the execution of the decision.

(11) Removal of the ship within the meaning of paragraphs 8 and 9 of this Article means every form of prevention, mitigation or removal of danger.

(12) In case that the removal of the ship within the meaning of paragraphs 8 and 9 of this Article produces financial assets, the harbour master's office shall deposit those assets with the Commercial Court having territorial jurisdiction over this matter to the shipowner's name, of which it will publish an announcement in the Official Gazette."

Paragraph 7 becomes paragraph 13.

Article 23

Article 178 is amended as follows:

"(1) An appeal may be filed against the decision of the navigation safety inspector of the harbourmaster's office and the Ministry to the Appeal Commission within the Ministry, whose members are appointed by the Government of the Republic of Croatia (hereinafter: Commission).

(2) The Commission shall be composed of two permanent members of which one shall be the president of the Commissions and the other shall be a non-permanent member.

(3) The permanent member of the Commission can be a person who has finished a university graduate study in law, thus acquiring an academic title of master of laws, and who has at least four years of work experience in management; the non-permanent member can be a person who has finished a university graduate study in maritime affairs, thus acquiring an academic title of master of vessel traffic engineering, or a university graduate study in traffic engineering, thus acquiring an academic title of master of traffic engineering, or a university graduate study in economics, thus acquiring an academic title of master of economics, or a university graduate study in law, thus acquiring an academic title of master of laws, and at least four years of work experience.

(4) An appeal lodged against the decision from paragraph 1 of this Article shall not postpone its execution.

(5) The Commission shall adopt the Rules of Procedure."

Article 24

In Article 192 paragraph 1, after point 6), point 7) is added to read as follows:

"7) if entered into the Croatian yacht register."

Article 25

In Article 200, after paragraph 3, paragraph 4 is added to read as follows:

"(4) The owner of the vessel or maritime structure, the ship operator and the company shall, within 30 days, submit to the competent harbourmaster's office a proposal for the registration of changed data referred to in paragraphs 1 and 2 of this Article."

Article 26

In Article 256, paragraph 2 is deleted.

Article 27

Articles 283, 284, 285, 286 and 287 are deleted.

Article 28

In Article 290 paragraph 2, the word: "final" is replaced by the word: "executive".

Article 29

In Article 291 paragraph 3, after the word: "submits" the following words are added: "to the party and".

Paragraph 4 is amended to read as follows:

"(4) When the harbourmaster's office in whose register the ship is to be entered, based on the decision from paragraph 3 of this Article, issues a decision about the execution of the allowed transfer of registry of the ship, with all the data from the register of ships, to the new register of ships, decision thereof shall be submitted to the party, as well as to the harbourmaster's office in whose register the ship had been registered, for the purpose of deregistration."

Article 30

In Article 292, paragraph 2 is amended to read as follows:

"(2) When the harbourmaster's office referred to in Article 254 paragraph 4 of this Code, in whose register the ship has been registered, allows the transfer of registry of the ship to another Croatian register, it shall restrict its decision to admissibility of the registration with regard to the registry, and as regards others preconditions for the registration, the decision shall rest with the harbourmaster's office referred to in Article 254 paragraph 5 of this Code, in which the ship is to be registered."

Article 31

Article 293 is amended as follows:

"(1) As a rule, the harbourmaster's office which keeps the register of ships shall decide on the application or proposal by direct resolution without carrying out the test procedure.

(2) In exceptional cases, when necessary for the purpose of establishing the facts and circumstances essential to the clarification of the real state of affairs or in other cases prescribed by the General Administrative Procedure Act, the harbourmaster's office referred to in paragraph 1 of this Article shall carry out the test procedure."

Article 32

Article 295 is amended as follows:

"(1) If the translation of a document drawn up in a foreign language is not enclosed with the application or proposal and the submitted documentation does not indicate that the request should be refused, the harbourmaster's office which keeps the register of ships shall, for the purpose of protection of the priority order, make a notice of the proposal or application in the register, accompanied by a note "until delivery of translation" and request from the party the delivery of the translation of the submitted documentation, as well as determine a suitable deadline for it.

(2) If the translation referred to in paragraph 1 of this Article is not delivered within the specified deadline, the proposal shall be rejected and the notice shall be deleted *ex officio*".

Article 33

In Article 298, paragraph 1, the words "must contain" are replaced by the words "shall also contain".

Article 34

In Article 300, the word "final" is replaced by the word "enforceable".

Article 35

Articles 305, 306 and 307 are deleted.

Article 36

In Article 309, the sentence "The reason for the deletion and the decision based on which it was carried out shall be indicated in the deletion certificate." is deleted.

Article 37

In Article 312, paragraphs 2 and 3, the word "final" is replaced with the word "enforceable".

Article 38

Article 313 is amended as follows:

"(1) After the registration is completed, the harbourmaster's office which keeps the register of ships shall return to the party the original copies of the documents, that is, the certified copies of the documents if their uncertified copies were enclosed with the application or proposal.

(2) An official person shall, on the uncertified copies of the documents referred to in paragraph 1 of this Article, write an official note declaring that the copies correspond to the original copies, that is, the certified copies.

(3) If the harbourmaster's office referred to in paragraph 1 of this Article carries out registration based on the decision of a court, it shall handle the documents in accordance with this decision."

Article 39

Article 315, paragraph 1, point 4) is amended as follows:

"4) verification of the technical specifications of the ship, issued by the Ministry for the purpose of its registration in the register of ships and confirming that the ship is technically acceptable for registration in the Croatian register,".

Point 8) is added after point 7) and reads as follows:

"8) a written statement of the shipowner indicating that it transfers the responsibility for managing the ship to the company, if the shipowner is not the company itself.".

Paragraph 3 is added after paragraph 2 and reads as follows:

"(3) In the process of issuing the verification referred to in paragraph 1 point 4) of this Article, the Ministry shall verify that the ship meets the relevant international rules and regulations and, for that purpose, check the records on examinations and other information related to ship safety, as well as, if necessary, request from the ship's state of registration information about unrectified deficiencies or any other information related to ship safety.".

Article 40

In Article 321, paragraph 1, point 3), the word "final" is replaced with the word "enforceable".

Article 41

In Article 373, paragraph 3 is added after paragraph 2 and reads as follows:

"3) Upon request of the administration of the state in whose register the ship deleted from the register of ships in the Republic of Croatia wishes to be registered, the Ministry shall submit all information about unrectified deficiencies, as well as any other information related to ship safety.".

Article 42

Article 376 is amended as follows:

»(1) Appeal against the decision of the harbourmaster's office which keeps the register of ships, as a first-instance authority, is permitted.

(2) The appeal shall be addressed by the Commission referred to in Article 178 of this Code, as a second-instance authority.

(3) The appeal shall not postpone registration, unless it is otherwise prescribed by this Code.".

Article 43

Article 378 is deleted.

Article 44

Article 380 is amended as follows:

"If the second-instance authority dismisses an appeal against the decision rejecting the proposal for registration, the first-instance authority shall, *ex officio*, decide on deleting the notice of that decision in the register of ships and inform the parties thereof."

Article 45

Article 381 is amended as follows:

"If the second-instance authority amends the decision of the first-instance authority and accepts either of the proposals referred to in Article 299 of this Code, the first-instance authority shall carry out the corresponding registration. In that case, the registration shall be considered completed at the time of submitting the proposal for registration."

Article 46

Article 382 is amended as follows:

»(1) If the second-instance authority amends the decision of the first-instance authority permitting the deletion of registration and consequently, rejects the proposal for deletion of registration, the deleted inscription or pre-emption entry shall be reinstated.

(2) If the second-instance authority amends the decision of the first-instance authority accepting any of the proposals referred to in Article 299 of this Code and, subsequently, rejects the proposal, the completed inscription and pre-emption entry shall be deleted."

Article 47

In Article 383, the word "final" is replaced by the word "enforceable".

Article 48

Article 384 is deleted.

Article 49

Article 428 is deleted.

Article 50

Article 429 is amended as follows:

"(1) Tonnage tax is the tax determined and paid instead of the profit tax as prescribed by the act which regulates profit tax, regardless of the real profit or loss realised in the tax period for which the obligation of tonnage tax payment is established.

(2) For the purposes of the provisions of Articles 429 to 429 of this Code, "ship" means:

– a ship registered in a Croatian register of ships and authorised, based on the assigned navigation category and issued documents, to navigate outside of the internal waters and the territorial sea of the Republic of Croatia for the purpose of carrying out maritime and navigation activities, as well as for the purpose of research or provision of other services related to activities in the high seas; or

– a ship registered in a foreign register of ships.

(3) The term "ship" referred to in paragraph 2 of this Article does not include:

– yachts,

– fishing ships,

– technical watercraft."

Article 51

Articles 429a, 429b, 429c, 429d, 429e, 429f, 429g, 429h and 429i are added after Article 429 and read as follows:

"Article 429a

(1) The tonnage tax payer referred to in Article 429 of this Code is a legal person with headquarters or the management and supervisory board located in the Republic of Croatia, provided that it meets the conditions prescribed in this Code and states that it shall pay tonnage tax instead of profit tax, with respect to profit realised in the following ways:

a) from business activities of ships in its ownership, ships in bareboat charter or charter,

b) provision of ship management services, provided that it is the ship manager and a company,

c) from the sale of ships registered in the tonnage tax system and their equipment, the sale of shares or equity in shipping companies, as well as from dividends from their equity or shares in shipping companies in the native land and abroad of which it is the majority owner and which carry out business activities by ships whose net tonnage is included in tonnage tax calculation.

(2) The provisions of the regulations which determine profit tax shall be applied on all activities and profit apart from the activities and profit indicated in paragraph 1 of this Article.

(3) For all activities indicated in paragraph 1 of this Article, the tonnage tax payer is obliged to ensure special accounting control of business events.

(4) If the taxpayer referred to in paragraph 1 of this Article manages the shares and equity in shipping companies in the native land and abroad from single management headquarters under single leadership, it is obliged to keep books of accounts and prepare financial reports for the entirety of business activities in the native land and abroad, including all shipping

companies of which it is the majority owner and which carry out business activities by ships whose net tonnage is included in tonnage tax calculation.

Article 429b

(1) Ships whose net tonnage is included in tonnage tax calculation must meet the safety standards no lower than those prescribed in Title V, Part III of this Code, and a detention order due to failure to meet the standards related to living and working conditions of seafarers, navigation safety, security and protection of marine waters from pollution must not be issued to them more than twice during a three-year period.

(2) In the fleet of ships included in the tonnage tax system, a minimum of 40% of the total net tonnage of ships must be comprised of ships of Croatian nationality or the nationality of another European Union Member State.

(3) During the entire period for which it is registered in the tonnage tax system, the taxpayer is obliged to maintain a minimum of 40% of the total net tonnage of ships of Croatian nationality or the nationality of another European Union Member State.

(4) Ships which participate in the tonnage tax system must have on board a minimum number of deck or engine cadets which are citizens of the Republic of Croatia or another European Union Member State, determined by the annual plan of the number of cadets and in accordance with the ratio of cadets and officers, according to the regulation referred to in paragraph 5 of this Article.

(5) Apart from the requirements regulated by this Code, the minister, with the approval of the minister competent for finance activities, shall determine by special regulation the procedure and method of exercising the right to tonnage tax.

Article 429c

(1) The application for registration in the tonnage tax system shall be submitted to the Ministry, which shall address it pursuant to the provisions of the General Administrative Procedure Act and report to the Tax Administration about this.

(2) The application referred to in paragraph 1 of this Article shall be submitted to the Ministry no later than six months before the start of the period for which the tonnage tax is determined.

(3) The application referred to in paragraph 1 of this Article shall be submitted for a period of ten years and shall contain a list of all ships whose net tonnage is included in tonnage tax calculation, as well as evidence that the taxpayer meets all the requirements defined in this Code.

(4) A legal person established after the deadline for the submission of the application referred to in paragraph 2 of this Article shall submit the application within 15 days from the day of establishment and not later than by the beginning of the tonnage tax assessment period.

(5) The taxpayer is obliged to inform the Ministry without delay about any changes related to the number, tonnage, nationality and ownership of ships whose net tonnage is included in tonnage tax calculation, not later than within thirty days from their occurrence, as well as

about any change of facts relevant for meeting the tonnage tax payment requirements prescribed by this Code.

(6) After the expiry of the period for which the application for registration in the tonnage tax system has been submitted, the application for registration in the tonnage tax system for the next ten-year period may be submitted.

Article 429d

(1) The taxpayer forfeits the right to payment of tonnage tax instead of profit tax as of the moment it fails to meet the requirements prescribed in this Code.

(2) Failure to meet the requirements referred to in paragraph 1 of this Article shall be addressed by the Ministry, pursuant to the provisions of the General Administrative Procedure Act.

(3) A taxpayer that has forfeited the right to tonnage tax payment before the expiry of the ten-year period for which it has applied for registration in the system is obliged to pay an amount equal to the amount of profit tax for the entire tax period for which he has forfeited the right to tonnage tax payment. If the profit tax payment obligation is lower than that of the tonnage tax, the balance payable shall not be returned.

(4) A taxpayer that has forfeited the right to tonnage tax payment cannot apply for registration in the tonnage tax system for a period covering five years from the end of the tax period for which the taxpayer forfeited the right to tonnage tax payment, except in the case of forfeiture due to non-compliance with the requirements referred to in Article 429b, paragraph 1 of this Code, where the taxpayer may not apply for registration in the tonnage tax system for a period of five years from the end of the tax period for which it forfeited the right to tonnage tax payment, but only with respect to the ship which failed to comply with the requirements referred to in Article 429b, paragraph 1 of this Code.

(5) The provision of paragraph 4 of this Article shall not apply to cases in which the taxpayer has lost the right to tonnage tax payment due to *force majeure*.

Article 429e

(1) For each ship whose net tonnage is part of the tax calculation based on ship tonnage, the tax shall be determined in the following yearly amount:

a) for ships with 0 to 1000 net tonnage, for each 100 units of net tonnage, the tax per ship tonnage shall be determined and amount to HRK 270.00,

b) for each additional 100 units of net tonnage from 1001 to 10,000 units of net tonnage, the tonnage tax shall be determined and shall amount to HRK 230.00,

c) for each additional 100 units of net tonnage from 10,001 to 25,000 units of net tonnage, the tonnage tax shall be determined and amount to HRK 150.00,

d) for each additional 100 units of net tonnage from 25,001 to 40,000 units of net tonnage, the tonnage tax shall be determined and amount to HRK 95.00,

e) for each additional 100 units of net tonnage over 40,000 units of net tonnage, the tonnage tax shall be determined and amount to HRK 55.00.

(2) For each incomplete 100 units of net tonnage, the tax per tonnage shall be calculated proportionally.

Article 429f

The tax period for the assessment of tonnage tax is the calendar year.

Article 429g

(1) The taxpayer shall submit a tax registration per ship tonnage for the tax period and shall pay the tonnage tax in the period in which he presents the registration.

(2) The registration of tonnage tax shall be submitted to the Tax Administration at the latest four months after the end of the period for which the tonnage tax is determined.

(3) The General Tax Code shall be applied to misdemeanour proceedings for acts contrary to paragraph 2 of this Article.

(4) The tax payment obligation determined in the tax registration for a certain tax period shall be reduced by the paid tonnage tax prepayment.

(5) A higher tax prepayment than the obligation stated on the basis of the tax registration shall be reimbursed to the taxpayer at his request or shall be included in the following period.

(6) For a ship for which the taxpayer paid the tonnage tax or its equivalent abroad, the tax really paid abroad shall be calculated for domestic taxes per ship tonnage to the maximum amount of domestic tonnage taxes for that ship.

(7) In order to calculate the tax paid abroad from paragraph 6 of this Article, the taxpayer shall submit evidence of paying the equivalent tax abroad when submitting the tax registration to the Tax Administration.

(8) The contents of the tonnage tax registration and the method of submitting it and mandatory annexes shall be determined by the minister competent for finances with the agreement of the Minister.

Article 429h

(1) The taxpayer shall pay the tax prepayment based on the tax registration for the previous tax period. The prepayment shall be paid monthly by the end of the month for the past month. The amount of the prepayment shall be calculated by dividing the liability for the previous tax period by the number of months of said period, or in the case of the first tax period after entering the tonnage tax system, based on an estimation of the tax liability based on the data from the registration in the tonnage tax system.

(2) The provisions of the regulation related to the income tax distribution and allocation shall be appropriately applied to the distribution and allocation of the revenue of the tonnage tax.

Article 429i

(1) An exception to the provisions of the regulations related to income tax shall be registered trading companies performing shipping activities. Those companies shall not pay withholding tax paid at a rate of 20 % for services related to using ships, and especially for rental and freight fees from the lease agreement and the maritime navigation activities contract, bank fees related to ship financing, bank commissions for bank accounts abroad, credit mortgage insurance services (basic and additional), ship inspection services from lien creditors, classes, cargo and examination and third party damages, company registration and founding costs, legal and other services related to ship financing, services and deliveries related to new building, services related to ship registration.

(2) The provision from paragraph 1 of this Article shall also refer to the tax period from 1 July 2010".

Article 52

In Article 912, paragraph 1, point 2 is amended to read as follows:

"2) creditors of retention rights from Article 437 of this Code,".

Article 53

Article 990 is amended to read as follows:

"(1) Harbourmaster's offices shall decide on maritime offences in the first degree.

(2) The misdemeanour proceeding referred to in paragraph 1 of this Article shall be led by the Head of misdemeanour proceedings.

(3) The Head of misdemeanours proceedings from paragraph 2 of this Article can be named for the areas of two or more harbourmaster's offices.

(4) If local jurisdiction of a harbourmaster's office cannot be determined for a maritime offence, the misdemeanour proceedings in the first degree shall be carried out by the Harbourmaster's office in Rijeka.".

Article 54

In Article 991, the words: "Misdemeanours council" is replaced with the words "Head of misdemeanours proceedings".

Article 55

Article 992 is amended to read as follows:

"(1) A replacement can be designated for the Head of misdemeanours proceedings from Article 990 of this Code.

(2) The Head of misdemeanours proceedings and his replacement shall be appointed and relieved by the minister at the proposal of the harbourmaster from the qualified employees of harbourmasters' offices or the Ministry.

(3) The recording secretary of the misdemeanour proceedings shall be appointed by the harbourmaster.

(4) The Head of the misdemeanour proceedings and his replacement shall be Bachelors of Law who passed the bar exam."

Article 56

In Article 995, paragraph 1, point 2 is amended to read as follows:

"2) if he acts contrary to the provisions of Articles 60, 64 or 64a of this Code."

Article 57

In Article 998 paragraph 1 point 11 is amended to read as follows:

"11) if he does not establish or maintain a documented safety management and security system, does not maintain the state of the ship and its equipment, making the boat capable of navigation at any point while underway and safe to carry out all operations in service while carrying them out, does not ensure that the boat has the appropriate certificates and documents, does not ensure that on board and related to the ship the requirements of the Technical rules and other regulations are met (Article 48, paragraph 2)".

New points 13 and 14 are added after point 12 and read as follows:

"13) if he does not submit the data from Article 48, paragraph 3 of this Code in the period defined by paragraph 4 of the same Article.

14) if he does not submit the proposal for the registration of changed data. The data is entered into sheet B of the general ledger of the vessel or maritime structure pursuant to Article 200, paragraph 4 of this Code.

Article 58

In Article 1002, paragraph 1, after the word "environment", the full stop is deleted, and the words "Article 133)" are added.

In paragraph 3, the words "from paragraph 1 of this Article" are replaced with the words "from Article 75c of this Code".

Article 59

In Article 1006, paragraph 3 is added after paragraph 2 to read as follows:

"(3) The master, crew member of the ship, yacht or boat that refuses to take a test using the appropriate means and devices to determine whether there is more than 0.5 g/kg of alcohol in

his blood, or drugs and/or psychoactive drugs present that affect psychophysical abilities, or refuses to take a medical examination or give a urine or blood sample for analysis, shall be punished with the fine from paragraph 1 of this Article (Article 134).".

Article 60

In Article 1008, paragraph 2, the words "shall be imposed" is replaced with the words "may be imposed".

Article 61

Articles 1016b, 1016c and 1016d are added after 1016a to read as follows:

"Article 1016b

(1) The legal entity owner of the ship, shipper or the company that does not act in accordance with the provisions of Article 133a, paragraph 3 of this Code shall be punished with a fine in the amount of HRK 20,000.00 to 50,000.00.

(2) The natural person owner of the ship, shipper or company shall be punished with a fine in the amount of HRK 10,000.00 to 30,000.00 for the misdemeanour from paragraph 1 of this Article.

(3) The responsible person of the legal entity, ship owner, shipper or company shall be punished with a fine in the amount of HRK 5,000.00 to 15,000.00 for the misdemeanour from paragraph 1 of this Article.

Article 1016c

(1) The legal person shipper that charges a crew member for costs of the return journey in a way contrary to the provisions of Article 138, paragraph 2 of this Code shall be punished with a fine in the amount of HRK 40,000.00 to 150,000.00.

(2) The natural person shipper shall be punished with a fine in the amount of HRK 30,000.00 to 100,000.00 for the misdemeanour from paragraph 1 of this Article.

(3) The responsible person of the legal entity of the shipper shall be punished with a fine in the amount of HRK 5,000.00 to 15,000.00 for the misdemeanour from paragraph 1 of this Article.

Article 1016d

(1) The legal entity payer of the tonnage tax acting contrary to Article 429c, paragraph 5 of this Code shall be punished with a fine of HRK 40,000.00 to 150,000.00.

(2) The responsible person of the legal person payer of the tonnage tax shall be punished with a fine in the amount of HRK 5,000.00 to 15,000.00 for the misdemeanour from paragraph 1 of this Article".

Article 62

In Article 1026, the word "Act" is replaced with the word "regulation".

TRANSITIONAL AND FINAL PROVISIONS

Article 63

The Government of the Republic of Croatia shall within a year from the entry into force of this Act, adopt regulations on:

– founding an independent agency to carry out safety investigations for marine accidents and the method and conditions to carry out the safety investigation (Article 49, paragraph 6 and 7).

Article 64

The minister shall, within one year from the entry into force of this Act also adopt regulations on:

– work, living and social conditions of seafarers (Article 125, paragraph 4),

– identity documents, documents and data on vessel traffic and on their delivery, collection and exchange from this Article, and also on the method and conditions to issue approvals for free pratique (Article 60, paragraph 5)

– safety of maritime transport in internal waters and the territorial sea of the Republic of Croatia and the method and conditions to carry out monitoring and management of maritime transport (Article 64a and Article 75a),

– diving safety (Article 56, paragraph 6).

Article 65

The minister shall within a year from the day of entry into force of this Act and with the agreement of the minister competent for finances, adopt a regulation on the procedure and method of using the tonnage tax rights (Article 429b and paragraph 5).

Article 66

The ministry shall carry out safety investigations until the independent agency from Article 49, paragraph 7 of the Maritime Code is established.

Article 67

(1) The Government of the Republic of Croatia shall appoint the committee from Article 23 of this Code within thirty days from the entry into force of this Act.

(2) Until the committee from Article 23 of this Code is appointed, appeals against decisions of the navigation safety inspector from a harbourmaster's office and Ministry (Article 178), appeals against decisions of the harbourmaster's office keeping the ship registry (Article 376)

and appeals against the decision of the competent harbourmaster's office regarding the removal of ships (Article 171, paragraphs 7 and 9) shall be handled by the Ministry.

Article 68

The first application to the tonnage tax system from Article 51 of this Act prescribed by Article 429c of the Maritime Code shall refer to the period of 10 years starting from 1 January 2013 and shall be submitted to the Ministry at the latest six months after the start of the period that it refers to.

Article 69

On the day that this Act enters into force, Article 4, paragraph 2, section 15, point 2, Workplaces in maritime traffic of the Law on period of insurance with prolonged duration shall expire (OG, Nos. 71/99, 46/07 and 41/08).

Article 70

By exception from Article 129a, in the period of this Act entering into force until 31 December 2029, female insured persons shall have the age limit for obtaining the rights to age pension lowered, because of an insurance period with prolonged duration, as prescribed by the Pension Insurance Act.

Article 71

This Act shall enter into force on the eighth day after its publication in the Official Gazette, except for the provisions of Articles 49, 50 and 51, in addition to Articles 429a, 429b, 429d, 429e, 429f, 429g and 429h that enter into force on 1 January 2013.

Class: 342-01/11-01/02

Zagreb, 20 May 2011

The Croatian Parliament

Speaker of the
Croatian Parliament

Luka Bebić, m. p.