

CROATIAN PARLIAMENT

1673

Pursuant to Article 89 of the Constitution of the Republic of Croatia, I hereby issue the following

DECISION

PROMULGATING THE ACT ON AMENDMENTS TO THE ACT ON LINER SHIPPING AND SEASONAL COASTAL MARITIME TRANSPORT

I hereby promulgate the Act on Amendments to the Act on Liner Shipping and Seasonal Coastal Maritime Transport, adopted by the Croatian Parliament at the session held on 21 June 2013.

Class: 011-01/13-01/165

Number: 71-05-03/1-13-2

Zagreb, 24 June 2013

President

of the Republic
of Croatia

Ivo Josipović,
m.p.

ACT

ON AMENDMENTS TO THE ACT ON LINER SHIPPING AND SEASONAL COASTAL MARITIME TRANSPORT

Article 1

In the Act on Liner Shipping and Seasonal Coastal Maritime Transport (Official Gazette, Nos. 33/06, 38/09, 87/09 and 18/11), Article 1a is added after Article 1 and reads as follows:

"Article 1a

This Act contains provisions which ensure the application of the following European Union regulations:

– Council Regulation No 3577/92/EEC of 7 December 1992 applying the principle of freedom to provide services to maritime transport within Member States (maritime cabotage), (OJ L 364, 12 December 1992), (hereinafter: "Regulation (EEC) No 3577/92");

– Regulation (EU) No 1177/2010 concerning passenger rights when travelling by sea and inland waterway and amending Regulation No (EC) 2006/2004, (text with EEA relevance), (OJ L 334, 17 December 2010), (hereinafter: "Regulation (EU) No 1177/2010").

Article 2

In Article 4, point 7 is added after point 6 and reads as follows:

"7. a group of lines is a group of several lines normally in the same navigable area or with the same departure port, on which transport is carried out by one or more shipowners based on a single concession contract."

Article 3

In Article 6, paragraph 1, the words "islands to one another" are followed by a full stop, while the words "and coastal lines" are deleted.

Article 4

In Article 7, paragraph 2, the word "ship" is replaced by the word "ships".

Article 5

In Article 8, paragraph 3, the word "ship" is replaced by the word "ships".

Article 6

In Article 9, paragraph 3, the word "ship" is replaced by the word "ships".

Article 7

Article 10, paragraph 3 is amended to read as follows:

"In the case referred to in paragraph 2 of this Article, the executive body of a local or regional self-government unit shall conclude, with the prior consent of the Agency, a contract on the provision of public transport of increased frequency on this line with the shipowner which obtained the concession for carrying out public transport on this state line."

Article 8

In Article 11, a comma is inserted instead of a full stop after the word "line" and the words "or for a group of lines if there are economic, demographic or other significant reasons for this." are added.

Article 9

In the title above Article 12, the words "and period of carrying out transport" are deleted.

Article 10

Article 13 is amended to read as follows:

"Ferry connections shall be realised by ships specially constructed for passenger and vehicle transport.

Fast shipping lines shall be realised by high-speed passenger craft, within the meaning of the act which regulates maritime transport.

Classic shipping lines shall be realised by passenger ships, within the meaning of the act which regulates maritime transport.

Additional technical requirements regarding speed, age of the ship, number of passengers, number of vehicles which can be transported and other conditions which must be fulfilled and ensured by the shipowner for a particular line shall be regulated by the minister by means of an ordinance."

Article 11

Article 14 is deleted.

Article 12

Article 17, paragraph 1 is amended to read as follows:

"The activity of the Agency shall include the following:

1. activities in connection with concession granting, namely: preparatory activities for concession granting, conduct of the concession granting procedure, decision-making regarding concession granting, signing of concession contracts, giving approval of the assignment of concession contracts, giving approval for a replacement ship, establishing the maximum price of public transport services on state lines and all other activities carried out, according to this Act and the act which regulates concessions, by the grantor of the concession;
2. giving prior approval for the decisions regarding county, inter-county and local lines referred to in Articles 8 and 9 of this Act;
3. giving prior approval for the increased frequency of transport referred to in Article 10, paragraph 3 of this Act;
4. defining, integration and publication of sailing lists;
5. establishment and management of the information system of public coastal maritime liner services;

6. supervision of decisions and contracts on concession with respect to aid and payment of fees for concessions on state lines;
7. implementation of the provisions of Regulation (EU) No 1177/2010;
8. activities entrusted to the Agency by this or another Act."

Article 13

Article 19 is amended to read as follows:

"The Agency shall be managed by the Management Board.

The Management Board shall consist of a president and four members.

The following shall be appointed to the Management Board:

1. three representatives of the ministry competent for maritime sector activities (hereinafter: "Ministry"), one of which shall be chairman of the Board;
2. one representative of the ministry competent for finance activities;
3. one representative of the ministry competent for island development activities.

The chairman and members of the Management Board shall be appointed and discharged by the Government of the Republic of Croatia at the proposal of the Minister.

The mandate of the members and the chairman of the Management Board shall last four years. The same persons can be reappointed as members of the Management Board.

At the proposal of the Minister, the chairman and members of the Management Board may be discharged by the Government of the Republic of Croatia before the expiration of their mandates."

Article 14

Article 20, points 2 and 3 are amended to read as follows:

"2. decide on the intent to grant concession, bring the decision on concession granting, decide on giving approval for the assignment of the concession contract and the cancellation of the concession granting procedure, give approval for the replacement ship and determine the maximum price of public transport services on state lines;

3. define the sailing lists."

Point 5 is amended to read as follows:

»5. give prior approval for the increased frequency of transport referred to in Article 10, paragraph 3 of this Act;"

Article 15

In Article 21, a new paragraph 3 is added after paragraph 2 and reads as follows:

"The director shall be appointed and discharged by the Management Board with the approval of the Minister."

Former paragraphs 3, 4 and 5 become paragraphs 4, 5 and 6.

Article 16

In Article 23, paragraph 1, point 3 is added after point 2 and reads as follows:

"3. from own revenues realised based on Article 17, paragraph 2 of this Act, paid into the state budget and spent according to the provisions of the Budget Act."

Paragraph 2 is deleted.

Former paragraph 3 becomes paragraph 2.

Article 17

In Article 26, paragraph 2, the word "final" is replaced with the word "enforceable".

Article 18

Article 28 is amended to read as follows:

"The concession for the provision of public transport may be given only to a Community shipowner, as defined in Regulation (EEC) No. 3577/92, which meets the following requirements:

1. it is registered as a company, as defined by the provisions of a special act, in the registration sheet of the ship by which it intends to provide public transport;
2. it owns a suitable ship for the line for which the concession is requested;
3. the ship referred to in point 2 of this Article is entered in the relevant register of merchant ships in the Republic of Croatia or another European Union Member State;
4. the ship meets the prescribed technical requirements under Article 13 of this Act;
5. the crew members are citizens of the Republic of Croatia or another European Union Member State which have concluded an employment contract with the shipowner, based on the work and social standards established by the National Collective Agreement;
6. all crew members assigned to passenger safety duties (muster list) speak Croatian, which shall be proven by a confirmation issued by an authorised academic institution.

In exceptional cases, a boat registered for commercial purposes and entered in the relevant register (registry) in the Republic of Croatia or another European Union Member State can be used on local shipping lines shorter than 3 Nm.

Instead of meeting the requirement referred to in paragraph 1, points 1, 2 and 3 of this Article, the tenderer may, when submitting the tender for the procurement of concession, enclose with the offer the decision of the competent harbourmaster's office on the reservation of the ship or on the registration of the ship under construction and the certificate of conformity for the company issued by the competent authority, whereas the requirement must be met by the deadline determined by the concession contract.

The duration of the concession contract for the provision of public transport may be up to ten years.

In exceptional cases, for lines on which the average yearly passenger traffic of over 300,000 passengers ("small islands") has not been realised in the last two years, the right to the provision of public transport may be granted pursuant to the contract on public procurement of transport services on waterways, concluded in accordance with the legislation which regulates public procurement.

The period of provision of the public service referred to in paragraph 5 of this Article shall be 12 years or the period of full ship depreciation, in cases of specified-purpose shipbuilding for specific lines.

During the entire period of concession contract duration, the shipowner shall ensure that the it, along with its ship and crew, meets all the requirements prescribed in this Article.

In addition to the requirements prescribed in this Act, the shipowner, ship and crew must also meet other requirements established by the legislation which regulates maritime transport, including requirements regarding the number and composition of crew, the working language and the living and working conditions onboard ships engaged in coastal and island cabotage."

Article 19

Article 30 is amended to read as follows:

"The activities required for the implementation of the concession granting procedure shall be carried out by an expert committee.

The expert committee for concession on state lines shall consist of five members, of which there must be one member of a maritime, legal, technical and economic profession respectively.

One representative of the competent harbourmaster's office of a maritime profession shall be appointed to the expert committee referred to in paragraph 2 of this Article.

The expert committee referred to in paragraph 2 of this Article shall be appointed by the Management Board of the Agency at the proposal of the director."

Article 20

Article 31 is amended to read as follows:

"The expert committee for concessions on county, inter-county and local lines shall be appointed by the concession grantor for these lines.

One representative of the competent harbourmaster's office of a maritime profession shall be appointed to the expert committee referred to in paragraph 1 of this Article.

Other members of the expert committee shall be appointed from amongst the representatives of the maritime, legal, technical and economic professions."

Article 21

Article 32 is amended to read as follows:

"The concession for the provision of public transport shall be granted for a period of up to ten years, specifically:

- up to ten years for state lines;
- up to eight years for county and inter-county lines;
- up to five years for local lines.

In the case referred to in Article 28, paragraph 5 of this Act and by way of derogation from paragraph 1 of this Article, the right to provision of public transport may be granted for a period longer than ten years."

Article 22

Article 39 is amended to read as follows:

"The detailed requirements, evaluation of the criteria for concession granting, the criteria for service price formation, the fee rates and the method of payment, the type and value of guarantees, as well as the requirements, criteria and method of granting state aids to shipowners for the provision of the public service of regular maritime coastal transport shall be determined by a regulation of the Government of the Republic of Croatia."

Article 23

Article 47 is amended to read as follows:

"Privileged public transport shall include free transport and discounted transport.

The right to privileged public transport shall be granted to the following persons:

1. natural persons residing on islands;
2. legal persons and trade owners established on an island;

3. children of up to 12 years of age;
4. health service providers and vehicles during the provision of regular and urgent transport of patients from the island to the mainland and vice versa;
5. employees and vehicles of other public services in case of emergency;
6. other persons entitled to this right based on special regulations.

The right to privileged public transport shall be granted to the following persons referred to in paragraph 2 of this Article:

1. pupils, students, pensioners and persons older than 65 years residing on an island, for lines which connect the island of their permanent residence with the mainland and other islands;
2. health service providers and vehicles during the provision of regular and urgent transport of patients from the island to the mainland and vice versa;
3. employees and vehicles of other public services in case of emergency;

The right to privileged transport shall also be granted to vehicles owned by islanders, legal persons or trade owners established on an island, as well as users of leasing.

Vehicles referred to in paragraph 4 of this Article must be registered with the competent administrative authority on the island of permanent residence or headquarters of the owner of the vehicle or user of the leasing, that is, with another competent administrative authority if there is no possibility of vehicle registration on the island.

The amount of the discount referred to in paragraphs 1 and 4 of this Article shall be determined by a decision of the Minister.

The provisions of this Article also apply to the Pelješac peninsula."

Article 24

Article 47a is added after Article 47 and reads as follows:

"Article 47a

The shipowner is entitled to a fee for the transport of persons and vehicles referred to in Article 47 of this Act, in the amount of the difference in revenue, which the shipowner did not realise due to the use of the right to privileged transport by persons and vehicles referred to in Article 47 of this Act.

The terms and conditions of the use of right to privileged transport and of the payment of the fee to the shipowner for performed public transport shall be regulated by the minister by means of an ordinance, with the opinions of the minister competent for finance activities and the minister competent for island development activities."

Article 25

Article 48 is amended to read as follows:

"When publishing the notice of intent to grant concession, the concession grantor shall determine the highest price of the public transport service for a specific line.

The price list shall be determined by the shipowner that obtained concession for the performance of public transport for a specific line, in accordance with paragraph 1 of this Article.

The shipowner shall charge the public transport service in accordance with the published price list referred to in paragraph 2 of this Article."

Article 26

Article 50, paragraph 2 is amended to read as follows:

"The amount of aid for the provision of the public transport service as a service of public interest shall not be higher than the amount necessary for the payment of the shipowner's expenses occurring due to the fulfilment of the public service obligation of transport, taking into consideration the earned income as well as reasonable profit."

Article 27

Article 52 is amended to read as follows:

"The sailing list shall be determined by the Agency, which shall integrate, publish and deliver it to shipowners in due time, i.e. at least 30 days before it is made effective.

For the purpose of informing service users and other interested natural and legal persons about the sailing list, the shipowners are obliged to publish it in places where the shipowner sells documents for passenger, cargo and vehicle transport."

Article 28

Articles 53 and 54 are deleted.

Article 29

In Article 55, paragraph 1, the words: "which may not be amended during its period of application" shall be deleted.

Paragraph 2 is amended to read as follows:

"By way of derogation from the provision of paragraph 1 of this Article, the sailing list may be modified with the agreement of the Agency."

Paragraph 3 is deleted.

Article 30

Article 56 is amended to read as follows:

„The occasional services of passenger transport in coastal maritime traffic are transport services which are not provided pursuant to the concession contract and are therefore not considered public transport.

Transport carried out seasonally or as an integral part of the tourist offer, the taxi service and the transport of employees of legal and natural persons for their own needs shall especially be considered occasional services.

Occasional or seasonal services of transport may not be provided on lines on which public transport is carried out pursuant to a concession contract.”.

Article 31

Article 57 is deleted.

Article 32

Title VI, "PENAL PROVISIONS", is amended to read "OFFENCE PROVISIONS".

Article 33

Article 61 is amended to read as follows:

"A fine in the amount from HRK 10,000.00 to HRK 100,000.00 shall be set for an offence committed by a legal person shipowner which:

1. does not sustain passenger ro-ro and fast shipping lines which connect the Republic of Croatia to foreign ports (international liner shipping and maritime transport) under the conditions established by the regulation referred to in Article 2, paragraph 3 of this Act;
2. carries out public transport without a concession contract, contrary to the concession contract, without a public procurement contract for transport services by waterways, or contrary to the public procurement contract for transport services by waterways, as provided in Article 26, paragraph 2, that is, Article 28, paragraph 5 of this Act;
3. fails to comply, along with its ship and crew, with the conditions under Article 28, paragraph 1 of this Act during the entire period of concession contract duration;
4. does not provide provide a replacement ship of the same or similar characteristics in the established term, in accordance with Article 43, paragraph 1 of this Act;
5. does not comply with the published timetable, or modifies it without the approval of the Agency, as provided in Article 55, paragraphs 1 and 2 of this Act;
6. provides occasional or seasonal transport services on lines on which public transport is carried out pursuant to a concession contract, which is in breach of Article 56, paragraph 3 of this Act.

For the offence referred to in paragraph 1 of this Article, the shipowner shall be penalised as a natural person and trades and crafts businessman, with a fine from HRK 2,000.00 to HRK 50,000.00.

For the offence referred to in paragraph 1 of this Article, the responsible person in the legal entity shall be punished with a fine from HRK 2,000.00 to HRK 10,000.00.

The ship master who does not comply with the published timetable, as required by Article 55, paragraph 1 of this Act, shall be punished with a fine from HRK 2,000.00 to HRK 10,000.00."

Article 34

Article 61a is added after Article 61 and reads as follows:

"Article 61a

A legal person which, in public transport, uses its right to privileged transport of vehicles contrary to the regulation referred to in Article 47a, paragraph 2 of this Act shall be fined with an amount from HRK 2,000.00 to HRK 10,000.00 for the offence.

A natural person which, in public transport, uses their right to privileged transport of vehicles and persons contrary to the regulation referred to in Article 47a, paragraph 2 of this Act shall be fined with an amount from HRK 1,000.00 to HRK 5,000.00 for the offence.

The responsible person in the legal entity shall also be fined with an amount from HRK 1,000.00 to HRK 5,000.00 for the offence referred to in paragraph 1 of this Article."

Article 35

Shipowners which provide public transport pursuant to a concession contract or another corresponding contract on the provision of public transport, in force on the day of this Act entering into force, shall not be paid an additional fee according to Article 47a of this Act.

Article 36

The structure of the Agency management board shall be coordinated with Article 13 of this Act within six months from the day of entry into legal force of this Act.

Article 37

The Government of the Republic of Croatia shall adopt the regulation referred to in Article 22 of this Act within 60 days from the day of entry into legal force of this Act.

Article 38

The Minister shall adopt the part of the ordinance referred to in Article 10 of this Act which refers to Article 13, paragraph 4 of the Act within 30 days from the day of entry into legal force of this Act.

Following the opinion of the minister competent for finance activities and the minister competent for island development activities, the Minister shall adopt the ordinance referred to in Article 24 of this Act, adding Article 47a, paragraph 2. of the Act within 90 days from the day of entry into legal force of this Act.

Until the entering into force of the regulation referred to in paragraph 1 of this Article, the Ordinance on requirements to be met by ships and shippers with the purpose of providing public transport in liner coastal maritime transport (Official Gazette, No. 130/06, 131/08 and 143/10) shall remain in full force.

Article 39

The Minister shall adopt the decision referred to in the part of Article 23 of this Act which refers to Article 47, paragraph 6 of this Act within 60 days from the day of entry into legal force of this Act.

Article 40

According to transitional periods approved in relation to Regulation (EEC) No 3577/92 and defined in Annex V of the Act of Accession, List referred to in Article 18 of the Act of Accession: transitional measures, concession contracts for the provision of public transport in liner coastal maritime transport concluded before the day of accession of the Republic of Croatia to the European Union shall remain in force until 31 December 2016.

Until 31 December 2014, transport services on cruises between Croatian ports, provided by ships of up to 650 B, may only be provided by ships entered in a Croatian register of ships, flying the Croatian flag and managed by shipping companies established in accordance with Croatian law, whose headquarters are located and effective control performed in the Republic of Croatia.

Article 41

This Act shall be published in the Official Gazette and enters into force on the day of accession of the Republic of Croatia to the European Union.

Class: 022-03/13-01/137

Zagreb, 21 June 2013

THE CROATIAN PARLIAMENT

Speaker

of the Croatian
Parliament

Josip Leko, m.p.