

Ship Survey Act

No. 47/2003

Section I

Scope and Definitions

Article 1

Scope etc.

This Act shall apply to all Icelandic ships.

The Minister may issue regulations determining that this Act shall apply, wholly or in part, to foreign ships when they are located in Icelandic ports or within Icelandic jurisdiction.

The Minister may issue regulations determining that the safety of other ships at sea or on rivers or lakes shall be subject to inspection, and the form that such inspection is to take.

In addition, the Minister may issue regulations on ship survey in so far as this is necessitated by undertakings under the European Economic Area Agreement, No. 2/1993, with subsequent amendments.

Commercial carriage of passengers, including tourist sightseeing and fishing trips, using ships subject to this Act, is subject to licence by the Icelandic Maritime Administration. Such a licence shall be issued when it has been verified that the provisions of this Act and regulations issued on the basis of the Act, as well as the provisions of other Acts and regulations applicable for ships engaged in the carriage of passengers, have been fulfilled. The Minister may issue regulations on the issue of licences under this paragraph, and conditions for such a licence, and on the fee for the issue of the licence.

The objective of this Act is to ensure the safety of Icelandic ships, their crews and passengers, and to improve preventive measures against pollution from ships. This objective shall be achieved by requiring certain standards for the structure and equipment of ships, ship inspections and surveys.

The purpose of this Act and regulations issued on the basis of the Act is to harmonise Icelandic law with the international legal obligations of the Icelandic State under the terms of international conventions and the European Economic Area Agreement.

Article 2

Definitions

In this Act the following words and phrases shall have the following meanings:

1. *Ship* is any floating craft, unless otherwise stated.
2. *Icelandic ship* is any ship registered in Iceland, which is entitled to fly the Icelandic flag.
3. *Classed ship* is any ship which is classed by a classification society approved by the Icelandic Maritime Administration
4. *Port State Control* is survey and inspection carried out by the Icelandic Maritime Administration on ships flying foreign flags in Icelandic ports.
5. *Recognised inspection body* is a classification society or inspection agency which is licensed by the Icelandic Maritime Administration to carry out inspection and survey of ships and their equipment under Article 10.

Section II
Ship Survey
Article 3

Construction, equipment, pollution prevention measures of ships, etc.

Every ship shall be built and equipped in such a way as to ensure the safety of human life as far as possible, and taking into account the tasks for which it is intended at any given time.

A ship shall meet the requirements of the rules at any given time regarding construction, equipment and the ship's safe operation, including its structure, watertight compartments, duct systems, hull, rescue and safety equipment, machinery, communications equipment, electrical equipment, firefighting/fire prevention equipment, anti-pollution equipment, navigational instruments, signs, medications and medical supplies, and other equipment and manning relevant to the safety of the ship, in order to ensure the safety of crew, passengers, ship and cargo, and measures against pollution from ships.

Crew working areas and living quarters shall be designed and furnished taking account of the crew's safety and well-being.

The Minister stipulates further in regulations regarding the construction, stability, load lines and equipment of ships.

The Minister stipulates in a Regulation which law, acts of administration, certificates and log books shall be available on board ships.

Ships shall be built and equipped in accord with legislation and rules on measures against pollution of sea and shore.

Article 4

Facilities and working conditions

The Minister issues regulations on the facilities and working conditions of the crew, such as the design and marking of working areas, safety equipment, the use and maintenance of work equipment and safety equipment, and health and hygiene on ships.

Article 5

Existing ships

The Minister may determine that new regulations shall not apply to existing ships and to ships whose keel has already been laid or which are at a comparable stage of construction. Nonetheless, pollution prevention measures, safety and equipment on board shall be taken into account, as well as the design and intended use of the ships. If the provisions of new regulations are to apply to old ships, this shall be stated specifically. Owners of such ships shall normally be allowed a reasonable period of time to comply with new provisions.

Article 6

Construction of new ships

The construction of new ships shall be subject to monitoring by the Icelandic Maritime Administration in accordance with regulations issued by the Minister. In fields not covered by these regulations, the requirements made shall not be less strict than those made by recognized classification societies regarding ship construction. The owner of the ship shall inform the Icelandic Maritime Administration of the construction of the ship. Before construction commences, the party who has undertaken to build the ship shall send the Maritime Administration a construction description, plans and any other materials which the Director General of the Icelandic Maritime Administration deems necessary for monitoring.

The owner of a ship may assign one of the recognized classification societies to monitor the construction of the ship, providing that the ship is being built in accordance with rules which apply in Iceland.

Article 7

Modifications to a ship

No major modifications may be made to a ship, such as enlargement of the cargo spaces or superstructure, replacement of the main engine or modifications which affect the ship's measurements, seaworthiness and stability, safety and/or facilities of the crew, unless approval has

been given by the Icelandic Maritime Administration, or another party authorized by the Administration. Modifications shall be carried out under the monitoring of the Maritime Administration, and the same rules apply concerning monitoring and notification, as in the case of the construction of a new ships.

The same rules concerning notification and monitoring shall also apply in the case of major repairs which may affect a ship's safety, seaworthiness and stability and crew facilities

Article 8

Import of ships

A ship purchased or leased from abroad for registration in Iceland shall have been built in accordance with the rules of a recognized classification society on classed ships, or comparable rules. Furthermore, such a ship shall comply with Icelandic laws and rules regarding strength, equipment and seaworthiness. Inspection shall take place before the ship is imported. Import of ships is subject to the consent of the Icelandic Maritime Administration, other conditions having been met.

Section III

Inspection of Ships, practice of survey

Article 9

Responsibility

The captain of a ship must ensure that the ship is seaworthy before it leaves port, and that it is carrying valid mandated certificates aboard. The owner, operator, captain and chief engineer must ensure that mandatory inspections are carried out on the ship as applicable.

Professional duties of officers during inspection, and the division of responsibilities between them, are as provided in Section III of the Seamen's Act, No. 35/1985.

Article 10

Recognised inspection agencies

Staff of the Icelandic Maritime Administration carry out all inspection as provided in this Act and rules issued on the basis of the Act, as further determined by the Director General of the Maritime Administration.

The Maritime Administration has the authority to assign others to carry out inspection, and issues licences to them. The Minister issues regulations on the activities of recognised inspection agencies.

Article 11

Ship inspection

All ships operated commercially shall be subject to inspection by the Icelandic Maritime Administration in accord with the provisions of regulations issued by the Minister on the extent, frequency and practice of ship inspections. When a ship is inspected, it shall be ascertained that the ship complies with the provisions of legislation, rules, international conventions and the European Economic Area Agreement with regard to the construction, equipment and safe operation of the ship, including structure, watertight compartments, duct systems, hull, rescue and safety equipment, machinery, communications equipment, electrical equipment, firefighting/fire prevention equipment, anti-pollution equipment, navigational instruments, signs, medications and medical supplies, and other equipment and manning relevant to the safety of the ship, to ensure the safety of crew, passengers, ship and cargo, and measures against pollution from ships.

The Minister of Communications may decide by regulations that ships not in commercial operation shall be inspected regularly by the Icelandic Maritime Administration.

If the ship is classed by a recognized classification society, and a valid classification certificate is submitted, then the inspection that was carried out in order to maintain the classification shall be considered satisfactory as regards strength of hull integrity, boilers and engine and electrical equipment, provided that the ship meets the special requirements provided in Icelandic laws or regulations regarding the points covered by the classification, and also obligations under the provisions of the European Economic Area Agreement and international conventions ratified by Iceland, which have taken effect.

Article 12

Practice of ship inspection

The Icelandic Maritime Administration carries out monitoring of compliance with the provisions of valid law and rules on ship safety and measures against pollution from ships.

When personnel of the Maritime Administration, or those whom the Administration has licensed, are working, they may board any ship located in an Icelandic port, in Icelandic territorial waters, or an Icelandic ship in a foreign port, in order to examine those items they are required to examine. The same applies to ships under construction.

If it transpires that a ship, or its equipment or safe operation, are not consistent with this Act, rules or other requirements, the Maritime Administration can order this to be rectified immediately, or within a specified period.

Maritime Administration personnel shall ensure that they do not cause unnecessary delay to a ship, nor hinder work beyond what is necessary.

Maritime Administration personnel shall produce their professional licences on request. Owners, operators, captains and chief engineers of ships, and others working on their behalf, shall provide the Maritime Administration with all assistance and information requested with regard to the survey and safety of the ship, as well as information on the condition of the ship under this Act and rules issued under the Act. The owner or operator of the ship shall ensure that it is available for inspection.

Article 13

Supplementary inspection of ships

Supplementary inspections of a ship shall be carried out as follows:

1. When the ship has undergone repairs involving items concerning the safety of the ship and/or crew.
2. When modifications or improvements have been made to a ship concerning or affecting the safety of ship and crew, or risk of pollution from the ship.
3. When a ship has suffered damage which may be regarded as likely to affect the safety of ship and crew or the risk of pollution by the ship.
4. When the owner, operator, captain, chief engineer, a member of the crew, a trade-union board, or an agency which has just interests at stake with regard to the safe operation of the ship, facilities and working conditions on board, or measures against pollution, requests an inspection, or submits a complaint, unless the Icelandic Maritime Administration deems such a request or complaint to be unfounded. The Maritime Administration may not provide information on the identity of the person making the request or complaint. The ship operator, however, is entitled to receive this information if the request or complaint has proven unfounded.
5. When the Icelandic Maritime Administration is otherwise of the view that there are grounds to examine the safety of certain parts of the ship or its equipment, or factors concerning the safety of the ship.

Article 14

Port State Control

The Icelandic Maritime Administration shall inspect foreign ships which enter port in Iceland in accord with the provisions of the Paris Memorandum of Understanding on Port State

Control of ships, and obligations under the provisions of the European Economic Area Agreement. The minister issues rules on the practice of Port State Control and qualification requirements for Maritime Administration inspectors who carry out Port State Control.

Article 15

Unscheduled inspection of ships

An unscheduled inspection is an inspection of the seaworthiness of a ship made without prior notice by the Icelandic Maritime Administration or the Icelandic Coast Guard.

The Icelandic Maritime Administration and the Icelandic Coast Guard may submit ships subject to this Act to unscheduled inspection in order to ascertain whether the condition of the ship and its equipment is in conformity with law and rules concerning the safety of the ship, for instance whether provisions of law and rules are observed regarding number of crew, their certificates, limited area of operation and time spent at sea, the crew's employment rights, and number of passengers on board passenger ships.

The Icelandic Maritime Administration and the Icelandic Coast Guard carry out inspections under paragraph 1, and they shall enter into a collaborative agreement on arrangements for such inspections.

Article 16

Ships' certificates

After inspection, the Icelandic Maritime Administration determines whether the provisions of law and rules on the construction, equipment and safe operation of the ship have been complied with, and whether certificates are to be issued, endorsed or renewed.

The appropriate certificates shall be issued to ships covered by the provisions of international conventions and of the European Economic Area Agreement, in accord with their provisions and with regulations issued by the Minister of Communications.

Seaworthiness certificates or other equivalent certificates shall be issued to ships not covered by international conventions and the provisions of the European Economic area agreement, in accord with regulations issued by the Minister of Communications, which shall provide, *inter alia*, for the form and period of validity of such certificates. A seaworthiness certificate or other equivalent certificate shall not, however, be issued for a ship under 20 GT, unless a declaration from an insurer is produced regarding crew insurance as provided in paragraph 2 Article 172 of the Maritime Act No. 34/1985.

Article 17

Seaworthiness of ships

A ship shall be deemed unseaworthy:

1. If it does not carry a valid appropriate certificate or certificate of seaworthiness under rules issued under provisions of international conventions and/or the European Economic Area Agreement.
2. If it drafts more than its load lines permit according to international conventions or rules.
3. If its hull, equipment, including pollution prevention equipment, engines, appliances or crew are so deficient, or if the ship is for other reasons in such a condition, with regard to safety of the ship and those sailing on it, that it must be deemed abnormally hazardous to travel on the ship on its proposed voyage.

Article 18

Damage to ships

If a ship has been involved in a collision, or has run aground, or some other event has occurred so that there is reason to believe that the ship is unseaworthy, the captain must have it inspected in the first locality where this is possible. Icelandic Maritime Administration personnel, or other parties approved by the Administration, shall carry out the inspection.

Should it prove necessary to move a ship which is unseaworthy from the site of an accident, or from a harbour, for repairs or further inspection, the Icelandic Maritime Administration, or other parties approved by the Administration, shall determine the measures to be taken with regard to the safety of the ship and the persons sailing with it, and risk of pollution from the ship.

Article 19

Duty to inform

Law-enforcement officers, harbour authorities, deep-sea and harbour pilots, customs officials, seamen's shop-stewards, insurance company personnel or registrars of seamen who become aware that this Act, or rules issued under the Act, are being violated, or who feel they have grounds for believing that a ship is not seaworthy, shall alert the nearest regional officer of the Icelandic Maritime Administration without delay. The same applies to employees of shipyards and

workshops when they are at work, with the exception that they shall inform their superior, who shall alert the nearest regional officer without delay.

Section IV

Detention

Article 20

Detention

If a ship is to depart from a port without valid certificates as provided in rules under the terms of international conventions and/or the European Economic Area Agreement, or a certificate of seaworthiness, or if a ship is otherwise not seaworthy, it shall be detained.

Furthermore, a ship shall be detained if the personnel of the Icelandic Maritime Administration are obstructed in their work of carrying out inspection under this Act.

Article 21

Authority for detention

The Director General of the Icelandic Maritime Administration may detain ships. Personnel of the Icelandic Maritime Administration duly authorised by the Director General to impose detentions may also detain ships. They shall inform the Director General of detentions which they impose.

Article 22

Notification of detention

A decision to detain a ship shall be notified immediately in writing to the captain and the ship operator. The grounds for the detention shall be specified, and also the conditions for the lifting of the detention. If necessary, personnel of the Icelandic Maritime Administration may request police commissioners, the local port and customs authorities and personnel of the Icelandic Coast Guard to assist them in effecting a detention, and they shall comply with such a request.

Article 23

Lifting of detention

If the grounds for detention no longer apply, the detention shall be lifted immediately.

If the Director General of the Icelandic Maritime Administration considers that a detention that has been imposed is not based on substantial grounds, he shall lift it immediately.

Article 24

Detention Committee

The operator and the master of the ship may appeal a detention to the Detention Committee.

The Minister of Communications appoints the Detention Committee for a term of three years at a time. The Detention Board comprises five members, with the same number of alternates. The chair of the committee shall meet the normal qualifications required for a judge. The other four members of the committee shall have special knowledge of navigation or marine engineering in accordance with the committee's field of work. The Minister shall issue working rules for the committee.

Decisions of the committee cannot be appealed to a higher authority.

Article 25

Tasks of the Detention Committee

The task of the Detention Committee is to rule on the validity of a detention.

Instigation of legal action for the invalidation of a ruling by the Detention Committee does not postpone the legal consequences of such a ruling.

Section V

Judicial Procedure

Article 26

Penalties, etc.

Criminal proceedings instituted in connection with violations of this Act shall be conducted as criminal cases. If special expertise is needed in order to resolve a case, two expert co-judges shall be appointed to the court together with one district court judge.

Before the prosecution brings criminal proceedings in connection with violations of this Act, it shall always elicit the opinion of the Director General of the Icelandic Maritime Administration if this has not already been given. The Director General of the Icelandic Maritime Administration must submit a statement giving substantiated reasons, as soon as possible.

The prosecution shall furnish the Ministry of Communications and the Icelandic Maritime Administration with copies of verdicts delivered in cases arising from violations of this Act.

Article 27

Procedure

Court proceedings initiated to invalidate a ruling of the Detention Board under Article 20 or 25 shall be conducted as speedily as possible. Such proceedings shall be conducted according to the Code of Civil Procedure.

CHAPTER VI

Fees

Article 28

Fees

A ship owner shall pay annually to the Treasury a special fee, the Ships Fee, for each ship registered on the main Register of Shipping, as follows:

| Registered length of ship | Annual fee (ISK) |
|---------------------------|------------------|
| < 8 metres | 6,250 |
| 8-15 metres | 11,200 |
| 15-24 metres | 25,000 |
| 24-45 metres | 49,600 |
| 45-60 metres | 81,900 |
| ≥ 60 metres | 108,400 |

Fees shall be paid on the basis of registration on 1 January each year, and the due date and final due date are the same date, 1 April each year. At change of ownership the prior owner is responsible for payment of the fee until registration of the ship has been changed.

Outside Reykjavík the fees under paragraph 1 shall be collected by District Commissioners, and in Reykjavík by the Director of Customs. Collectors of the fees shall pay the fees they collect to the Treasury. If the Ships Fee is not paid on the due date, penalty interest is payable to the Treasury, *confer* Section III of the Interest and Indexation Act No. 38/2001, from the day following the due date, on the sum which remains unpaid, to the date of payment.

For surveys of ships and their equipment, issue of certificates, approval of construction descriptions and plans, and other mandated services provided by the Icelandic Maritime Administration, the owner shall pay according to a scale of fees issued by the Minister of Communications, as proposed by the Icelandic Maritime Administration, based upon the Administration's expenses.

Fees under this article entail a statutory lien in the ship for one year after the fee was payable.

The Icelandic Maritime Administration may after inspection withhold a certificate of seaworthiness or other equivalent certificates issued under agreements and international conventions ratified by Iceland, if fees under paragraph 3 are not paid.

The Minister may stipulate further in regulations on the implementation of this provision.

Section VII

Penalties, suspension of rights, etc.

Article 29

Violations

Violations of this Act, or of regulations issued under the Act, shall entail fines or imprisonment for a period of up to two years, and are subject to rules of procedure in criminal cases.

Article 30

Accessories

Offences under Article 29 shall be subject to the provisions of the General Penal Code with regard to accessories.

In the case of an offence committed through an action which is punishable under the General Penal Code, the relevant provisions of the Code shall also be applied.

Article 31

Suspension of rights

In the case of a violation where the offence is especially gross, the accused's right to work as a captain, mate, engineer or radio officer for a specified period, which shall not be less than three months.

In the case of an offence which is particularly gross in some other respect, or repeated, rights shall be suspended for a period of not less than six months, and up to five years, or for life.

Article 32

Suspension of rights

Suspension of rights under Article 31 shall be effected by a court judgement. However, a case involving suspension of rights may be resolved by a judge's decision, if the accused has

admitted culpability, and agreed in writing to this procedure, provided that the prosecution does not object.

The prosecution shall inform all police commissioners in Iceland of the suspension of rights, and send the certificate to the Ministry of Communications.

When at least two years have elapsed from a suspension of rights, the Minister of Communications may restore the rights if special circumstances so recommend, even if the period of suspension has not expired.

Article 33

Fines

Fines for violations of this Act shall be paid to the Treasury. A judge may determine that they shall be accompanied by a statutory lien in the ship and its equipment.

Article 34

Other legislation

This Act shall not in any way affect the provisions of the Alcoholic Beverages Act concerning penalties if personnel are under the influence of alcohol at work.

Section VIII

Entry into force

Article 35

This Act shall take force on 1 January 2004. Regulations issued under the provisions of Act No. 35/1993 remain in effect in so far as they are not contrary to the provisions of this Act.