

Act on Maritime Security, No. 50/2004, cf. amendments No. 18/2007

Chapter I General provisions

Article 1

Administration of Maritime Security Affairs

The Minister of Transport and Communications is ultimately responsible for affairs concerning Maritime Security and the Icelandic Maritime Administration administers their implementation as provided for in this Act and any regulations adopted hereunder.

[Article 2

Purpose and scope

The purpose of this Act is to ensure that ship, crew, passenger, cargo and port facility security is not compromised by terrorist threats of any kind and other unlawful acts.

This Act applies to the following ships when engaged in international voyages:

- a) passenger ships, including high speed craft,
- b) cargo ships of 500 gross tonnage or more, and
- c) mobile offshore drilling units.

This Act also applies to passenger ships and cargo ships engaged on domestic voyages. Certain types and categories of ships may be excluded in accordance with provisions of regulations adopted by the Minister.

This Act applies to operators of the ships referred to in paragraphs 2 and 3 and to port facilities where such ships are serviced.]¹⁾

¹⁾ L.18/2007, Article 1.

Article 3

Definitions

For the purpose of this Act the following definitions shall apply:

1. *Maritime security*: Measures in accordance with the provisions of the International Convention for the Safety of Life at Sea (SOLAS 1974), as well as the International Code for the Security of Ships and of Port Facilities (ISPS Code):

- a) *ship security*: the combination of preventive measures intended to protect ships, crews, passengers and cargo against terrorist threats of any kind and other unlawful acts;
- b) *port facility security*: the combination of preventive measures intended to protect port facilities against terrorist threats of any kind and other unlawful acts;
- c) *cargo security*: the combination of preventive measures intended to protect cargo against terrorist threats of any kind and other unlawful acts.

2. *Designated Authority*: The organization or authority in a member state designated to implement maritime security measures in ports and on board ships.

3. *Port facility*: A location defined by a member state or designated authority where the ship/port interface takes place and which fulfils the requirements of maritime security law.

4. *Security assessment*: Security assessment of risks and security incidents.

5. *Security plan*: A plan developed to ensure the application of measures designed to protect port facilities, ships, persons and cargo.

6. *Security officer*: The person designated as responsible for the development and maintenance of the security plan.

7. *Security levels*: The qualification of the degree of risk for which minimum appropriate protective security measures as provided for in the International Code for the Security of Ships and of Port Facilities (ISPS Code) shall be taken.

8. *Declaration of security*: An agreement on maritime security between ships and a port facility. The agreement shall, inter alia, address the security requirements and state the responsibility for each party.

[9. *Agent*: Any person who acts as an intermediary between the operator of the ship and the government.]²⁾

²⁾ L.18/2007, Article 3.

Article 4

The Icelandic Maritime Administration, in co-operation with the National Commissioner of the Icelandic Police, the Icelandic Coast Guard, [the Maritime Traffic Service, companies]³⁾ and port authorities covered by this Act, is responsible for the implementation of maritime security measures.

The Icelandic Maritime Administration may assign particular tasks related to maritime security to other qualified parties.

The Icelandic Maritime Administration is responsible for:

a) approving [company]³⁾ security assessments for Icelandic ships and port facility security assessments for ports,

b) approving [company]³⁾ security plans for Icelandic ships and port facility security plans for ports,

c) verifying the designation of security officers of Icelandic ships, companies and port facilities,

d) verifying the designation of inspection authorities and issuing certificates to inspectors,

e) supervising the effectiveness of security plans of Icelandic ships and port facility,

f) issuing Continuous Synopsis Records of Icelandic ships,

g) keeping a register on Icelandic ships and ports holding approved security plans.

[h) preparing security assessments with regard to navigation within Iceland's exclusive economic zone (EEZ),

i) preparing and maintaining Iceland's Maritime Security Plan.]³⁾

Before the Icelandic Maritime Administration verifies a security assessment and security plan, in accordance with paragraph 3, comments from the National Commissioner of the Icelandic Police shall be sought. The Icelandic Maritime Administration shall ensure that requirements on confidentiality and maintenance of security plans and other confidential information are fulfilled. The Icelandic Maritime Administration is responsible for liaison with the International Maritime Organization (IMO) on maritime security, including the communication of mandatory reports, etc.

[The Icelandic Maritime Administration shall supervise the implementation of this Act and any regulations adopted hereunder. In implementing maritime security control, authorized representatives of the Icelandic Maritime Administration shall have access to ships, port areas, installations, equipment, documentation and data as necessary with respect to the control

without prior court ruling. Representatives of ports, ships and companies subject to this Act and rules adopted hereunder, shall assist the Administration in any way necessary with respect to control for the purpose of maritime security. The Minister of Transport and Communications shall adopt specific rules on the implementation of maritime security.]³⁾

The National Commissioner of the Icelandic Police sets the security level applicable on board [Icelandic]³⁾ ships and in Icelandic ports. In case of security incident or threat thereof the National Commissioner of the Icelandic Police shall set the security levels on board ships or in ports after consultations with the Icelandic Maritime Administration and the Coast Guard, except in case of emergency when he/she takes the decision alone. When the security level in ports or ships is heightened, the National Commissioner of the Icelandic Police decides when he assumes responsibility for initiating action in accordance with the relevant security plan and general law on police operations.

The Icelandic Maritime Administration may, subject to a written consent of the person concerned, call upon the National Commissioner of the Icelandic Police for a check on the person concerned in police files and for obtaining information on any criminal records as a basis for assessing the person's qualifications for working with confidential information on security matters for the purpose of maritime security.

The Coast Guard supervises compliance with the Maritime Security Act in Icelandic waters in accordance with the provisions of International Conventions.

The Director of Customs in Reykjavík adopts rules¹⁾ on cargo security. Directors of Customs, in consultation with the relevant port authorities and the Icelandic Maritime Administration, are responsible for the implementation and supervision of cargo security and adopt rules in that respect.

[Companies]³⁾ operating ships flying the Icelandic flag and which are subject to this Act are responsible for fulfilling mandatory security measures and ensuring that a security plan is available on board each ship with detailed guidance on responses to security incidents or threats thereof.

A port operating port facilities subject to this Act is responsible for fulfilling mandatory measures on port security and ensuring that the port security plan contains detailed instruction on responses to security incidents or threats thereof.

³⁾ L.18/2007, Article 3.

Chapter II

Ship security

Article 5

[Companies]⁴⁾ shall prepare a security assessment and security plan for each Icelandic ship subject to the scope of this Act and designate a ship security officer and a [company security officer].⁴⁾ The security assessment, security plan and the designation of the security officer shall be submitted to the Icelandic Maritime Administration for approval. The security plan shall detail a plan on security measures in case of security incidents or threats thereof and the roles of parties involved in the relevant operations, i.e. role of police and Coast Guard.

If ships subject to Article 2, which do not fulfil the requirements on maritime security berths in a port operating under this Act, the port facility security officer may require the master or a ship security officer to sign a declaration of security.

[The master of a ship and the company operating the ship shall keep a record on the necessary information regarding maritime security, as specified in a regulation. Before a ship subject to Article 2 enters a port, the port authorities, company, agent or master of a ship shall provide information pursuant to paragraph 3, which the Icelandic Maritime Administration deems necessary with respect to maritime security and the security of Icelandic ports.

Where a ship is not in compliance with rules on maritime security the Icelandic Maritime Administration may detain a ship, expel a ship from a port, require that the ship be moved within a port or between ports and take other necessary measures to prevent the infringement of rules on maritime security. The company and master of a ship shall obey the instructions of the Icelandic Maritime Administration pursuant to this paragraph. The Ship Survey Act provides for matters regarding detention.

The Minister of Transport and Communications shall adopt specific rules on the registration of information on maritime security, reporting requirements of companies and masters and further actions by the Icelandic Maritime Administration on the implementation of control for the purpose of maritime security.]⁴⁾

¹⁾ L.18/2007, Article 4.

Chapter III

Port facility security

Article 6

A port intending to service ships subject to this Act shall define the port facility to be used for such activities. A port security assessment and security plan shall be prepared and submitted to the Icelandic Maritime Administration for approval. A port security officer shall be designated for the port facility and the Icelandic Maritime Administration shall verify the designation. The security officer decides when measures need to be taken in accordance with the security plan according to which the port facility operates.

If a ship, cf. Article 2 (1), puts into a port, which does not fulfil requirements on maritime security, the ship's security officer can request a declaration of security. If the port authority and the ship security officer agree on the preparation of a declaration of security the Icelandic Maritime Administration or other parties designated by the Administration shall approve it.

The security plan shall detail a plan on security measures in case of security incidents or threats thereof and the roles of parties involved in the relevant operations, i.e. role of police and customs authorities

On the approval of the Icelandic Maritime Administration, a port may delegate the verification of compliance with the implementation and control requirements under paragraph 1 on maritime security to operators of port facilities. If the requirements of paragraph 1 are not fulfilled in the opinion of the Icelandic Maritime Administration the port may terminate the contract without any further reservations.

Chapter IV Cargo security

Article 7

The Director of Customs, Reykjavík adopts rules on cargo security. Directors of custom control and manage the implementation of security measures, including control of cargo to be exported, as provided for in the regulation of the Director of Customs, Reykjavik.

The Director of Customs, Reykjavík shall inform and guide port authorities on requirements concerning cargo security in preparing a port security plan.

[Chapter V Access to port areas

Article 8

Access to port areas

The Icelandic Maritime Administration may, after consultation with port authorities, restrict access to ports and port areas, traffic through them and berthing of ships and prohibit traffic or presence in such areas if necessary for maritime security.]⁵⁾

⁵⁾ L.18/2007, Article 5

Chapter VI Miscellaneous provisions

Article 9

Search

The Icelandic Maritime Administration adopts rules⁶⁾ on the arrangement of security searches by port authorities of personnel and passengers of passenger ships and in their luggage and of their crews and others who need to enter the port facility or board ships subject to this Act.

The Director of Customs, Reykjavík adopts rules on cargo searches undertaken by the Director.

Those who refuse to undergo a security search pursuant to this Article may be denied access to a port facility and ship subject to this Act.

⁶⁾ [Regulation 550/2004](#).

Article 10

Fees

The Icelandic Maritime Administration may charge fees to cover expenses arising as a result of this Act, including fees for verifications, supervision and publishing of registries under Article 4 and courses held in accordance with the provisions of this Act. Fees shall be specified in a tariff adopted by the Minister of Transport and Communications according to a proposal by the Icelandic Maritime Administration and the fees shall cover the service costs.

[Ports may charge a special fee, cargo security fee, on goods transhipped, loaded or discharged in a port.]⁷⁾

This fee shall take into account the quantity and nature of the goods and cover initial costs, operating costs and a part of the joint costs resulting from the port security measures, such as boundary fences, monitoring, search and closure of areas.

[Ports may charge a special fee, port security fee, for each ship subject to this Act and the fee can take account of the size of the ship, frequency of berthing of ships and/or duration of stay in a port facility operated by them.]⁷⁾This fee shall cover initial costs, operating costs and a part of the joint costs resulting from the ship security measures, such as monitoring and closure of areas.

Ports may charge a special fee for each passenger entering or leaving the country in a ship.⁷⁾This fee shall cover their cost of maritime security in connection with the carriage of passengers, such as reception facilities, security searches, monitoring and equipment.

Ports responsible for incidental implementation of maritime security may charge for accrued expenses as per invoice each time. Incidental implementation of maritime security means measures in connection with individual arrivals and departures of ships subject to this Act, such as servicing passenger and cargo ships. The fee which is charged shall cover the costs resulting from the measures taken, such as the installation of reception facilities, security searches, temporary closure of areas, etc.

In case of a request for increased services in the implementation of maritime security, for instance increased police enforcement, more watchkeeping on board ships, etc., those who receive the request may charge for accrued expenses as per invoice each time.

The fees provided for pursuant to this Article shall in every case cover the costs of providing the services rendered and shall be published in the tariffs of the port in question.

The Minister may, in a regulation, adopt more detailed provisions on the collection of the fees provided for in this Article.

⁷⁾ L.18/2007, Article 6

[Article 11

Confidentiality

Those who work in connection with maritime security are obliged to observe confidentiality on the occurrences that may come to their attention during their work or due to their work and are to be kept secret on the grounds of legitimate public or private interests or for the purpose maritime security. This involves information regarding individuals' private matters, which are of confidential nature, information on the procedures of maritime security and envisaged actions regarding maritime security and other information, which are meant to be confidential pursuant to law, regulations or the nature of the matter.

The confidentiality shall remain in effect after retirement.]⁸⁾

⁸⁾ L.18/2007, Article 7

Article 12

Right to appeal

Decisions taken by the Icelandic Maritime Administration under this Act can be appealed to the Minister of Transport and Communications. The appeal shall be in written form and processing of cases should otherwise comply with the provisions of administrative law.

Article 13

Regulation

The Minister of Transport and Communications may, in a regulation, adopt more detailed provisions on the implementation of this Act, including the role of the Icelandic Maritime Administration and other public authorities.

Included in the scope of ship security are the duties of [companies]⁹⁾, ship security assessment, search, ship security plan, records to be kept and preserved on board a ship, [company]⁹⁾ security officer, ship security officer, issue of ship certificates [on training, drills and exercises regarding ship security, handling sensitive security-related information and the supervision and designation of security officers and control authorities.]

Included in the scope of port facility security is the setting of rules on port facility security plans, port facility security officers, issue of port facility certificates, training, drills and exercises regarding port facility security [monitoring and enclosure of port facilities and restricted areas, handling sensitive security-related information and the supervision and designation of security officers and control authorities.]⁹⁾

⁹⁾ L.18/2007, Article 8

[Article 14

Withdrawal of designation

The Icelandic Maritime Administration may withdraw the designation of a security officer on the grounds of this Act, temporarily or fully, due to infringement of laws and regulations if it is believed, bearing in mind the nature of the infringement or other conduct of the offender, that the designation of the person could be risky. A decision on withdrawal shall be reasoned and the employee shall have the right of representation before a decision is reached in accordance with the provisions of administrative law.

In case of serious misuse of authority, including infringement of confidentiality, the Icelandic Maritime Administration may immediately withdraw the designation of the person concerned.]¹⁰⁾

¹⁰⁾ L.18/2007, Article 9

[Article 15

Penalties

Infringements against Article 5, 10 and 4 (11), 5, and 6 of this Act and regulations adopted hereunder are punishable by fines and imprisonment of up to two years if the infringement is serious or repeated. Infringement of the obligation of confidentiality under Article 11 is punishable pursuant to Article 136 of the General Penal Code. An attempt and complicity in infringements is punishable according to Chapter III of the General Penal Code. Infringements due to negligence shall only be punishable by fines.]¹¹⁾

¹¹⁾ L.18/2007, Article 10

[Article 16

Implementation

With this Act, the following European Union acts are implemented into Icelandic law, which have been adopted by Annex III of the Agreement on the European Economic Area (EEA):

a. Regulation (EC) No. 725/2004 of the European Parliament and of the Council of 31 March 2004 on enhancing ship and port facility security, in accordance with a Decision of the EEA Joint Committee amending Annex XIII to the EEA Agreement No. 14/2005 of 8 February 2005.

b. Commission Regulation (EC) No. 884/2005 of 10 June 2005 laying down procedures for conducting Commission inspections in the field of maritime security, in accordance with a Decision of the EEA Joint Committee amending Annex XIII to the EEA Agreement No. 34/2006 of 10 March 2006.

c. Directive 2005/65/ EC of the European Parliament and of the Council of 26 October 2005 on enhancing port security, in accordance with a Decision of the EEA Joint Committee amending Annex XIII to the EEA Agreement No. 65/2006 of 2. June 2006.]¹²⁾

¹²⁾ L.18/2007, Article 11.

Article 17

Entry into force

This Act enters into force immediately.