

Übersetzung durch den Sprachendienst des Bundesministeriums für Digitales und Verkehr
Translation provided by the Language Service of the Federal Ministry for Digital and
Transport

Stand: Die Übersetzung berücksichtigt die Änderung(en) durch Art. 2 des Gesetzes vom 14.
März 2023 (BGBl. 2023 I Nr. 73).

Version information: The translation includes the amendment(s) to the Act by Article 2 of the
Act of 14 March 2023 (Federal Law Gazette 2023 I No. 73).

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Act on the Responsibilities of the Federal Government in the Field of Maritime Shipping

(Maritime Shipping Responsibilities Act – SeeAufgG)

Maritime Shipping Responsibilities Act in the version promulgated on 17 June 2016 (Federal
Law Gazette I, p. 1489) as most recently amended by Article 2 of the Act of 14 March 2023
(Federal Law Gazette I No. 73)

The Act replaces the Act of 22 November 1950 (Federal Law Gazette I, p. 767) (Maritime
Shipping Responsibilities Act) with effect from 1 July 1965.

Section 1

In the sector of maritime shipping, the Federal Government shall be responsible for

1. promoting the German merchant fleet in the general German interest and,
together with the federal states concerned, making provisions for the preservation of the
efficiency of the sea ports,
2. addressing threats to the safety and efficiency of navigation as well as
preventing risks emanating from maritime shipping and adverse effects on the
environment, within the meaning of the Federal Immission Control Act (BImSchG)
(shipping police), on the maritime waterways and the inland waterways delineated in
accordance with Section 9(1)(1) as well as in the state-owned ports situated on these
waterways,
3. beyond the boundary of the German territorial sea, if international law so allows
or requires,
 - a) the shipping police,
 - b) addressing threats to and removing disruptions of public safety or order in
other cases,
 - c) (repealed),
 - d) functions of the police authorities and officers insofar as performing these
functions is required for compliance with obligations under international law or for
the exercise of powers under international law by the Federal Republic of
Germany in accordance with intergovernmental agreements,
 - aa) in accordance with the Act on Regulatory Offences (OWiG) in the
cases mentioned in subparas. a and b,
 - bb) in accordance with the Code of Criminal Procedure (StPO),

- e) measures for the performance of functions for which the Federal Government is responsible in the sector of maritime shipping in accordance with other regulations,
- 4. controlling the design, fitting, equipment, marking and measures (including corresponding necessary instructions) required to ensure the traffic and operational safety of vessels, protect the marine environment and prevent adverse effects on the environment within the meaning of the Federal Immission Control Act (BImSchG), the granting of exemptions as provided for in the ship safety regulations, the testing, approval and monitoring of systems and facilities – including radio systems –, instruments and appliances for their suitability for ship operation and their safe functioning on board, including radiotechnical safety, the determination of the freeboard of ships as well as the granting and withdrawal of relevant permits, certificates and documents of compliance,
 - 4a. investigation of maritime casualties,
 - 4b. approval and supervision of public and private sector bodies which, as notified bodies, perform conformity assessments for navigational systems and equipment (marine equipment) and issue corresponding declarations for their placing on the market,
 - 4c. surveillance of the placing on the market, maintenance and use of marine equipment with regard to compliance with the applicable legal requirements (market surveillance),
 - 4d. prevention of risks and adverse effects on the environment emanating from the dismantling of sea-going ships with regard to hazardous substances on board and activities performed prior to the decommissioning and the start of dismantling of a ship,
- 5. tonnage measurement and the issuance of relevant documents of compliance,
- 6. determination and monitoring of the crew required for safe, efficient and risk-free shipping operations,
 - 6a. determination and examination of the qualification and competency of crew members,
 - 6b. making available a maritime medical service for providing advice in, dealing with and managing maritime medical affairs,
- 7. making provisions for the search and rescue service required for emergencies at sea,
 - 7a. making available a radio- or satellite radio-based medical service with specialist advice,
- 8. the provision of the necessary facilities for the demagnetization of ships,
- 9. the nautical and hydrographic services, in particular
 - a) the hydrographic service,
 - b) the tide, flood and storm tide warning service,
 - c) the ice report service,
 - d) the geomagnetic service,
- 10. the preparation and issuance of official sea charts and official nautical publications as well as the distribution of safety information,
 - 10a. (repealed)

11. oceanographic investigations including the monitoring of changes in the marine environment,
12. the processing of data of sea-going ships, including the names and addresses of their owners and operators and their economic standing and reliability, of all persons on board as well as all recognised organisations that have acted on behalf of a ship in accordance with Directive 2009/15/EC of the European Parliament and the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations (OJ L 131, 28 May 2009, p. 47), as amended, mentioned in Part D of the Annex to the Ship Safety Act (SchSG) under No 7 insofar as this is necessary for the performance of the responsibilities of the Federal Government in the sector of maritime shipping,
13. the setting up and monitoring of security systems for shipping to prevent risks, especially within the meaning of chapters XI-1 and XI-2 of the Annex to the International Convention for the Safety of Life at Sea, 1974 (Federal Law Gazette 1979 II, p. 141), last amended in accordance with the Act of 22 December 2003 (Federal Law Gazette 2003 II, p. 2018), including the definition of the requirements as to the qualification and competency of the personnel to be employed onboard the ship and with the companies as well as the granting of the authorisations and certificates as well as the provision of advice connected with these safety and security systems,
14. the definition of the security levels for ships required for the implementation of chapter XI-2 of the Annex to the International Convention for the Safety of Life at Sea, 1974,
15. participation in inspections performed by the European Commission or international organisations of which the Federal Republic of Germany is a member state, insofar as this is required for the implementation of statutory instruments of the European Communities and of the European Union or for compliance with obligations under international law incumbent on the Federal Republic of Germany within the scope of application of this Act,
16. measures to prevent the spread of foreign organisms by ships, including the testing, approval and monitoring of ballast water and sediment treatment facilities as well as the necessary preparatory measures and international approval procedures.

Section 2

- (1) The shipping-related vocational schools, colleges and universities of applied sciences are institutions of the federal states. The Federal Government shall be responsible for the recognition of suitable vessels for the professional training of crew members by institutions that are not subject to federal state legislation and for the supervision of such shipboard training.
- (2) It shall be the responsibility of the Federal Government to check the qualification and competency of applicants for on-board positions as captain or other crew member. Examinations shall be made in connection with the issuance or renewal of the validity of German certificates of competency, the recognition of valid foreign certificates of competency, the issuance of certificates of competency and other qualification certificates as well as in the context of training courses or tests required to be made as a prerequisite to shipboard service (certificates of competency of shipboard service).
- (3) The Federal Government may temporarily assign government functions to federal state authorities by means of an administrative agreement if this is required in order to perform functions within the meaning of subsection 2. Details shall be agreed in administrative agreements to be concluded with the federal states concerned. Such agreements shall be published in the Federal Law Gazette.

(4) It shall be the responsibility of the Federal Government to check the qualification and competency of operators of traditional ships and pleasure craft.

Section 3

(1) Following due assessment of the circumstances, the authorities of the Federal Waterways and Shipping Administration may, within the framework of Section 1(2), take suitable measures to address threats to and adverse effects on the environment including the removal of disruptions with regard to the safety and efficiency of navigation on the maritime waterways, the inland waterways delineated in accordance with Section 9(1)(1) and in Government-owned ports located on these waterways. They shall also take such measures within the framework of the functions for which the Federal Government is responsible in accordance with Section 1(3)(a) and (b). Moreover, they shall perform the functions of competent authority under regulation 6.2.1 and of point of contact under regulation 7.2 of chapter XI-2 of the Annex to the International Convention of 1974 on the Safety of Life at Sea.

(1a) The authorities of the Federal Waterways and Shipping Administration shall perform the functions referred to in Section 1(12)

1. to preserve the efficiency of the sea ports within the meaning of Section 1(1) and,
2. for the purposes of the shipping police, within the meaning of Section 1(2) and (3)(a) as well as to take measures within the meaning of Section 1(3)(b).

(1b) They shall moreover perform the functions referred to in Section 1(3)(e) to the extent that such functions have been delegated to them.

(2) The Federal Ministry for Digital and Transport may, in consultation with the Federal Ministry of the Interior and Community and the Federal Ministry of Finance, assign by statutory instrument functions for which the Federal Government is responsible under this Act to the Federal Police and Customs Administration for implementation, unless such functions are performed by the Waterways Police under an agreement on the performance of statutory shipping police functions concluded with the coastal states.

Section 3a

(1) Where a person has caused disruption or danger, the authorities of the Federal Waterways and Shipping Administration shall direct their measures against this person. Where a person appointed to perform a function has caused the disruption or danger while performing the function, the authorities may also direct their measures against the person that has appointed the person to perform the function.

(2) Where the state of affairs requires measures to be taken by the authorities, these measures shall be directed against the person in actual control. They may also be directed against the owner or another authorised person, unless the person actually in control exercises this control against the will of the owner or other authorised person. If the disruption or danger is caused by an abandoned object, the measures may be directed against the party who has abandoned ownership of the object.

Section 3b

(1) The authorities may remove disruptions or ward off dangers themselves, or appoint an agent to do so, provided that

1. measures against the persons responsible in accordance with Section 3a are not possible or not possible in a timely manner or are not appropriate or
2. if calls to remove the disruption or danger issued in accordance with Section 3a cannot be enforced or not be enforced in a timely manner.

The persons responsible shall be informed without delay.

(2) If the authorities incur costs as a result of the immediate execution of a measure, the persons responsible in accordance with Section 3a shall be obliged to reimburse such costs. The costs may be recovered by the administration by means of enforced reimbursement.

(3) Where the disruption or danger originates from an object that is not a vessel entered on a German register of ships or an aircraft entered on the aircraft register in accordance with the Civil Aviation Act (LuftVG), and measures off the German coast are required outside the German territorial sea to protect maritime shipping, the marine environment, the coast or related interests, subsection 2 shall apply to the extent permitted by international law.

Section 3c

(1) The authorities may also take measures against persons other than those responsible in accordance with Section 3a, provided that

1. a significant disruption has to be removed or an imminent significant danger has to be warded off,
2. measures against the persons responsible in accordance with Section 3a are not possible or not possible in a timely manner or are not likely to be successful,
3. measures in accordance with Section 3b(1) are not possible or inadequate, not possible in a timely manner, in particular, and
4. the persons responsible cannot be tasked without a significant threat to personal safety or a breach of higher-ranking obligations.

(2) In the event of accidents involving oil, gas and chemical tankers that may result in significant pollution, measures in accordance with subsection 1 shall be permitted even if the conditions set out in subsection 1(2) and (3) are not met.

(3) The measures referred to in subsections 1 and 2 may be taken and maintained only for so long and to such an extent that no other measures can be taken to remove the disruption or ward off the risk.

(4) The person concerned may claim reasonable compensation for the damage caused to them by the measures.

Section 3d

Within the framework of the functions referred to in paras. 3(a) and (b) and para. 10a of Section 1, the provisions of the Administrative Procedures Act (VwVfG), the Administrative Enforcement Act (VwVG) and of the Act on Direct Coercion in the Exercise of Public Force by Enforcement Officers of the Federal Government (UZwG) shall apply mutatis mutandis.

Section 3e

If a ship that is being inspected within the meaning of section 14 of the Ship Safety Act (SchSG) of 9 September 1998 (Federal Law Gazette I, p. 2860) and within the meaning of

1. Article 21 of the International Convention on Load Lines of 1966 (Federal Law Gazette 1969 II, p. 249, 1977 II, p. 164), as last amended by the protocol of 11 November 1988 (Federal Law Gazette 1994 II, p. 2457, Annex 1994 II No. 44),
2. Article 12 of the International Convention on Tonnage Measurement of Ships of 1969 (Federal Law Gazette 1975 II, p. 65),
3. the Convention of 20 October 1972 on the International Regulations for Preventing Collisions at Sea (Federal Law Gazette 1976 II, p. 1017),
4. Article 4 of the Merchant Shipping (Minimum Standards) Convention of 29 October 1976 (ILO No. 147) (Federal Law Gazette 1980 II, p. 606),
5. Article X of the STCW Convention,

6. Article 13 of the International Convention on the Control of Harmful Anti-fouling Systems in Ships of 2001 (AFC Convention) (Federal Law Gazette 2008 II, p. 520) or

7. Article 12 of the Ballast Water Convention (Federal Law Gazette 2013 II, pp. 42, 44),

in the domestic version valid at any given time, is unduly detained or delayed on the basis of section 11(1) of the Ship Safety Act (SchSG) of 9 September 1998 (Federal Law Gazette I, p. 2860), as last amended by Article 278 of the Regulations of 29 October 2001 (Federal Law Gazette I, p. 2785), in connection with Part D (6), (8) and (14) of the Annex to that Act, the owner or operator shall be entitled to compensation for the loss or damage suffered from the federal transport authority that officially ordered this.

Section 4

(1) When prosecuting criminal acts and administrative offences committed in contravention of regulations for the enforcement of which the Federal Government is responsible in accordance with Section 1(3), the provisions of the Code of Criminal Procedure (StPO) and the Act on Regulatory Offences (OWiG) shall apply mutatis mutandis.

(2) To the extent that authorities and officers of the Federal Government perform the functions referred to in Section 1(3)(d)(aa), they shall have the rights and duties of the authorities and officers in police service under the Act on Regulatory Offences (OWiG).

Section 5

(1) The Federal Maritime and Hydrographic Agency is a higher-level federal authority and an executive agency of the Federal Ministry for Digital and Transport. It shall perform the functions

1. referred to in Section 1(4), to the extent that navigational systems and equipment as well as radiocommunication equipment are concerned and such functions have not been delegated by statutory instrument as referred to in Section 9(1) in conjunction with Section 9c to a different competent body or are performed by legal entities established under private law on the basis of a statutory instrument as referred to in Section 7a(4),

1a. referred to in Section 1(4b) and (4c),

2. referred to in Section 1(5), including consultation services to shipping and shipbuilding companies concerning hydrographic surveys, unless such tasks have been delegated by statutory instrument as referred to in Section 9a to another competent body,

3. referred to in paras. 3(e) and 6a of Section 1, to the extent that such functions have been delegated to it,

4. referred to in Section 1(9) to (10a),

4a. referred to in Section 1(12), unless another competent body has been assigned such functions under this Act or by statutory instrument as referred to in the second sentence of Section 7(1),

4b. referred to in Section 1(13), unless another competent body has been assigned such tasks under this Act, by statutory instrument as referred to in Section 3(2) or para. 7 of the first sentence of Section 9(1) or on the basis of an administrative agreement with the federal states,

4c. referred to in Section 1(15) and (16),

5. of promotion of maritime shipping and maritime fisheries, through scientific and nautical technological research, with the exception of marine biological research, and

6. based on other legal provisions, to the extent that they are the responsibility of the Federal Ministry for Digital and Transport in the field of shipping and have been delegated to the Federal Agency.

This shall be without prejudice to the responsibility of the Federal Waterways and Shipping Agency and the Waterways and Shipping Offices in the coastal region with regard to the surveying of fairways and the dissemination of navigational warnings.

(2) The Federal Maritime and Hydrographic Agency shall, in performing the tasks referred to in paras. 4, 5, 12 and 16 of Section 1, avail itself, if this is expedient, of the services of the recognised organisations with which a working relationship in accordance with Directive 2009/15/EC, which is referred to in Part D (7) of the Annex to the Ship Safety Act (SchSG), has been established, and, in performing the tasks referred to in Section 1(12), may additionally avail itself of the services of the Federal Network Agency for Electricity, Gas, Telecommunications, Posts and Railways in the area of radiocommunication safety; for that purpose, it shall be authorised to collect, store and use personal data available at these institutions to the extent that knowledge of such data is required to perform the aforementioned functions. When performing the functions referred to in Section 1(13), the Federal Maritime and Hydrographic Agency may avail itself of the services of the German Social Accident Insurance Institution for Commercial Transport, Postal Logistics and Telecommunications or other recognised organisations within the meaning of the first sentence. The Federal Ministry for Digital and Transport shall be authorised to define details concerning the recognition procedure and suitability criteria for recognised organisations by statutory instrument in consultation with the Federal Ministry of the Interior and Community. When performing the functions referred to in Section 1(16), the Federal Maritime and Hydrographic Agency shall also avail itself of the services of the Federal Environment Agency, the Federal Institute for Risk Assessment and the German Social Accident Insurance Institution for Commercial Transport, Postal Logistics and Telecommunications; subject to their consent, it may avail itself of the services of other bodies. To perform its other tasks, the Federal Maritime and Hydrographic Agency may avail itself of the services of suitable bodies if necessary, provided that they agree.

(2a) In addition, the Federal Maritime and Hydrographic Agency shall perform the function referred to in Section 1(11) on the basis of a statutory instrument as referred to in the second sentence.

The Federal Ministry for Digital and Transport shall be authorised to define, in consultation with the Federal Ministry for the Environment, Nature Conservation, Nuclear Safety and Consumer Protection and without the consent of the Bundesrat, by statutory instrument

1. the scope of the task referred to in the first sentence in more detail,
2. the details of the nature, scope and conduct of oceanographic investigations, including the monitoring of changes in the marine environment, in accordance with Section 1(11).

(2b) To the extent that tasks are transferred to the Federal Maritime and Hydrographic Agency from another federal ministry, the Federal Ministry for Digital and Transport shall be authorised to delegate the technical supervision by statutory instrument to the federal ministry whose remit is affected without the consent of the Bundesrat. The statutory instrument shall require agreement with the federal ministry concerned. A statutory instrument as referred to in the first sentence can also regulate the organisational impact of the delegation of tasks.

(3) References made in earlier legal provisions to the Federal Office of Tonnage Measurement (Bundesamt für Schiffsvermessung) and the German Hydrographic Institute (Deutsches Hydrographisches Institut) shall be deemed to be references to the Federal Maritime and Hydrographic Agency.

Section 5a

The function referred to in Section 1(14) shall be performed by the Federal Ministry of the Interior and Community and may be assigned to one of its executive agencies by the Ministry. Before setting security level 2 or 3, the competent authority is to contact the Federal Ministry for Digital and Transport.

Section 6

(1) The German Social Accident Insurance Institution for Commercial Transport, Postal Logistics and Telecommunications shall perform the functions of the Federal Government referred to in paras. 4, 4d, 6, 6b and 7a of Section 1 unless the Federal Maritime and Hydrographic Agency has been tasked with their performance under para. 1 of the second sentence of Section 5(1) or another body has been tasked with their performance by statutory instrument as referred to in Section 9(1) in conjunction with Section 9c. With respect to safety management systems and pleasure craft, the German Social Accident Insurance Institution for Commercial Transport, Postal Logistics and Telecommunications shall perform the tasks referred to in the first sentence unless these tasks have been transferred by statutory instrument to another body as referred to in Section 9(1) or (2).

(1a) When performing the functions referred to in the first sentence of subsection 1, the German Social Accident Insurance Institution for Commercial Transport, Postal Logistics and Telecommunications shall also perform the functions referred to in Section 1(12).

(2) The German Social Accident Insurance Institution for Commercial Transport, Postal Logistics and Telecommunications shall, in performing the functions assigned to it by subsection 1, including facilities subject to monitoring within the meaning of section 2(1) of the Act on Facilities Subject to Monitoring (ÜAnIG), when determining ships' freeboard and performing its monitoring duties, avail itself of the services of recognised organisations with which a working relationship in accordance with Directive 2009/15/EC, which is referred to in Part D (7) of the Annex to the Ship Safety Act (SchSG), has been established. Outside the functions mentioned in Directive 2009/15/EC in the version referred to in Part D (7) of the Annex to the Ship Safety Act (SchSG), the German Social Accident Insurance Institution for Commercial Transport, Postal Logistics and Telecommunications may avail itself of the services of suitable bodies, provided that they agree.

(3) Moreover, the German Social Accident Insurance Institution for Commercial Transport, Postal Logistics and Telecommunications shall perform the functions of the Federal Government referred to in Section 1(6) that it has been assigned by statutory instrument as referred to in Section 9(1).

(4) The German Social Accident Insurance Institution for Commercial Transport, Postal Logistics and Telecommunications shall, in performing the functions referred to in Sections 1 and 3 above, be subject to technical supervision by the Federal Ministry for Digital and Transport. The Federal Ministry for Digital and Transport shall determine the scope and nature of its supervision in consultation with the Federal Ministry of Labour and Social Affairs. The Federal Ministry for Digital and Transport shall, to the extent that this is necessary for the performance of the functions referred to in subsections 1 to 3, be authorised to make, in consultation with the Federal Ministry of Labour and Social Affairs, a statutory instrument without the consent of the Bundesrat with regard to the supervision referred to in the second sentence and the organisation of the German Social Accident Insurance Institution for Commercial Transport, Postal Logistics and Telecommunications.

(5) The cost of performing the ship safety functions for which the Federal Government is responsible shall be borne by the Federal Government, unless such cost is covered by special revenue. Special revenue are the charges levied by the German Social Accident Insurance Institution for Commercial Transport, Postal Logistics and Telecommunications and the financial penalties imposed by the German Social Accident Insurance Institution for Commercial Transport, Postal Logistics and Telecommunications as an administrative authority within the meaning of this Act and of section 36(1)(1) of the Act on Regulatory Offences (OWiG). They shall be credited to the account of the German Social Accident Insurance Institution for Commercial Transport, Postal Logistics and Telecommunications.

(6) To the extent that functions have been transferred to the former Marine Insurance and Safety Association, it shall be supplanted by the German Social Accident Insurance Institution for Commercial Transport, Postal Logistics and Telecommunications until these regulations are amended.

Section 7

(1) In order to perform the functions referred to in Section 1(4) and Section 2, the Federal Ministry for Digital and Transport may entrust, in whole or in part, by statutory order and without the consent of the Bundesrat, legal entities established under private law that perform such functions according to their statutes with the recognition of vessels and the supervision of shipboard training within the meaning of the second sentence of Section 2(1), the holding of examinations, the issuance of certificates of competency to seafarers and pleasure craft operators as well as the checking of the traffic and operational safety of vessels flying the flag of the Federal Republic of Germany and not subject to international safety regulations within the meaning of the Ship Safety Act (SchSG), the issuance of corresponding permits, certificates and documents of compliance and the collection of the charges in accordance with Section 12 and the statutory instrument adopted on the basis of Section 12(2). Moreover, the Federal Ministry for Digital and Transport may, by statutory instrument, assign the performance of the functions referred to in Section 1(12), to the extent that they do not relate to ships listed on official registers, to the persons mentioned in the first sentence.

(2) Legal persons that have been authorised under Section 1 above shall be subject to technical supervision by the Federal Ministry for Digital and Transport.

Section 7a

(1) Marine equipment may not be placed on the market, installed, maintained or used unless it complies with the requirements specified in a statutory instrument as referred to in subsection 3 with regard to safety and health as well as with other conditions for the placing on the market, installing, maintaining and using it and the safety and health of its users or third parties or other legal assets mentioned in the statutory instruments referred to in subsection 3 is not placed at risk.

(2) The competent authority shall issue the instructions required for remedying violations identified and preventing future violations. In particular, it shall have the power to

1. order measures which ensure that an item of marine equipment is only placed on the market if it complies with the requirements specified in subsection 1,
2. order that an item of marine equipment be examined by an appropriate body,
3. restrict or prohibit the placing on the market, installing, maintaining or using of an item of marine equipment that does not comply with the requirements specified in subsection 1,
4. order the withdrawal or recall of an item of marine equipment that has been placed on the market and does not comply with the requirements specified in subsection 1 and impound such item of marine equipment and, to the extent that risks for its user or a third party cannot be remedied otherwise, order its safe disposal.

(3) The Federal Ministry for Digital and Transport shall be authorised, by statutory instrument and without the consent of the Bundesrat, to regulate for marine equipment the

1. requirements in terms of ensuring safety and health, requirements to protect other legal interests and other conditions of the placing on the market, installing, maintaining or using as well as, in particular, tests, product monitoring, certificates,
2. requirements in terms of market surveillance to comply with the requirements set out in para. 1 as well as related measures by the authorities, particularly to address

threats, namely by providing information, applying markings, formulating conditions, imposing restrictions, modifying and retrofitting marine equipment,

3. requirements in terms of marking, storage and reporting obligations as well as corresponding measures by the authorities,

4. requirements in terms of proof that the requirements set out in para. 1 are met, in particular by means of conformity assessments and related statements by notified bodies.

(4) Moreover, the Federal Ministry for Digital and Transport shall be authorised to determine, by statutory instrument without the consent of the Bundesrat, the requirements in terms of notified bodies and their authorisation including the required procedure, particularly with regard to

1. the independence, technological knowledge and experience as well as professional reliability of the body,

2. the availability of the required staff, the necessary funds and equipment,

3. the existence of appropriate third-party insurance,

4. acting in accordance with business and commercial secrets,

5. subcontracting,

6. the participation in experience exchange groups,

7. quality management,

8. the monitoring of the requirements as well as measures required for that purpose.

(5) By derogation from Sections 5 and 6, statutory instruments as referred to in subsection 4 may stipulate that the competence for approval and monitoring of the notified bodies shall remain the preserve, in whole or in part, of the Federal Ministry for Digital and Transport.

Section 8

(1) To the extent required for performing their functions referred to in paras. 1 to 6, 6b and 7a, 13 and 16 of Section 1 as well as in Section 2, authorised persons

1. may stop watercraft and enter the operating rooms, business rooms and living quarters located on them,

2. access the business and office premises where the marine equipment is manufactured,

3. access the business and office premises of the owner of the watercraft, of any other person responsible for the watercraft or in charge of certain tasks related to its operation as well as of the recognized organisations that have become involved,

4. access port facilities, with the exception of the premises located on them and

5. perform checks and inspections.

Outside business hours and in living quarters, the authorisation shall only be valid for the prevention of imminent danger to public order and safety. The basic right of inviolability of the home (Article 13 of the Basic Law) shall be restricted to that extent.

(1a) Persons authorised to perform the function referred to in Section 1(2) may enter watercraft for inspection purposes, including checking their seaworthiness, and may enter their operating and business rooms. The second sentence of subsection 1 shall apply *mutatis mutandis*.

(2) The owner and the operator of a watercraft and any other person responsible for the watercraft or in charge of certain tasks related to its operation, and the manufacturer of the marine equipment shall be required to allow persons authorised to perform monitoring functions to carry out the measures under subsection 1 or 1a, to make available the personnel and equipment needed to carry out the inspection and, upon request, to provide any information and to print out and provide any documentation or excerpts from electronic files and grant access to the documentation, in particular logbooks, registers, certificates, certificates of competency, required for the performance of the functions mentioned. The persons authorised to perform monitoring functions may make or demand transcripts, excerpts, printouts or copies, including of data carriers, and use as well as store them if this is required for the performance of their duties.

(3) To perform the functions referred to in para. 3(a) to (d) of Section 1, only vessels or aircraft that are clearly marked and identifiable as Government craft may be used.

(4) The party obliged under subsection 2 may refuse to give answers to questions which would make them or a relative designated in section 383(1)(1) to (3) of the Code of Civil Procedure (ZPO) liable to prosecution or to proceedings under the Act on Regulatory Offences (OWiG).

Section 8a

The Federal Maritime and Hydrographic Agency shall enable the inspections referred to in Section 1(15) to be carried out and shall support them. In doing so, it shall have the authority specified in Section 8(1); Section 8(2) and (3) shall apply *mutatis mutandis*. Envoys of the European Commission or international organisations shall be allowed to be present during measures carried out under the first and second sentences.

Section 9

(1) To address threats to the safety and efficiency of navigation, to protect the marine environment, to prevent adverse effects on the environment emanating from maritime shipping within the meaning of the Federal Immission Control Act (BImSchG) and to ensure safe, efficient and risk-free shipping operations as well as to ward off and prevent risks and adverse effects on the environment emanating from the dismantling of sea-going ships with regard to hazardous substances on board and activities performed prior to the decommissioning and the start of dismantling of a ship, the Federal Ministry for Digital and Transport shall be authorised to issue statutory instruments without the consent of the Bundesrat with regard to

1. the outer limits of inland waterways where, owing to their importance to maritime shipping, International Regulations for Preventing Collisions at Sea are to be applied wholly or in part,
2. behaviour on the water and in the ports within the meaning of Section 1(2) and (3), including the implementation of recommendations made by international conferences on the navigation of inland waters,
- 2a. the enforcement of the obligation of the registered owner of a ship flying the flag of the Federal Republic of Germany to remove wrecks under the 2007 Nairobi International Convention on the Removal of Wrecks (Federal Law Gazette 2013 II, pp. 530, 531),
3. the requirements to be met in terms of the manning of sea-going ships, including traditional ships and pleasure craft, flying the flag of the Federal Republic of Germany, the obligations of the shipowner and the captain to enforce safe manning of ships, the issuance and the validity of manning documents for merchant ships flying the German flag as well as the monitoring of the manning of ships regulations by the competent body,

3a. the requirements as to the qualification and competency of crew members of the vessels mentioned under para. 3 including the minimum age of applicants, the requirements for the issuance of certificates of competency of shipboard service as well as for the granting of rights to operate traditional ships and pleasure craft, for the recognition of foreign certificates of competency and measures to combat fraud and other illegal activity in connection with these certificates and the quality standards of mandatory regulations under international law relating to the training and assessment of competency of seafarers that have to be met by the shipping-related vocational schools, colleges and universities of applied sciences,

3b. the way in which qualification and competency are checked, in particular by holding examinations, as well as the procedure,

3c. the requirements and the procedure under which, subject to the scope of application of the Maritime Safety Investigation Act, certificates of competency may be issued and rights to operate traditional ships and pleasure craft granted or under which they may be withdrawn or suspended, operating bans issued and corresponding certificates of competency of shipboard service provisionally seized or withdrawn,

3d. the requirements for the issuance of a document certifying membership of the professional group of seafarers,

4. the approval, monitoring, the requirements, authorisations, inspections, acceptance tests, regulations, compensations, definitions, licences, certificates and documents of compliance within the meaning of Section 1(4), including the operational procedures and organisational arrangements on board and ashore to ensure maritime safety,

4a. (repealed)

4b. the requirements in terms of the testing, approval and monitoring of ballast water and sediment treatment facilities including the procedural rules required for this purpose,

4c. the requirements with regard to installations or the use of hazardous substances onboard, the requirements for the issuance of certificates or documents of compliance and the examination of sea-going ships with regard to the dismantling of ships,

5. the requirements for the transport of goods with the exception of requirements within the meaning of the Act on the Transport of Dangerous Goods (GGBefG),

6. the reports to be submitted by the shipmasters and other persons responsible for the operation of the ship,

7. the national enforcement and implementation of other regulations on the basis of amendments and within the framework of the objectives of the International Convention for the Safety of Life at Sea, 1974 (Federal Law Gazette 1979 II, p. 141) and the Protocol of 1988 to this Convention as amended, including the regulations concerning maritime security.

Notwithstanding Section 5(2) and Section 6(2), the statutory instruments referred to in paras. 3 to 7 of the first sentence may, to the extent that they are to be executed by the Federal Government, determine the bodies responsible for the execution as well as the additional supporting bodies required for the proper execution; in particular, they may specify the measures, including within the framework of compliance with international agreements, to be used by the supporting bodies to make a contribution as well as establish rules on how to prove compliance with the requirements and prerequisites for the issuance of the permits,

certificates and documents of compliance within the meaning of Section 1(4) or (4c). Moreover, the statutory instruments referred to in para. 4 of the first sentence may define the safety conditions under which organisations, other experts or qualified persons or bodies governed by private law carrying out inspections and surveys on behalf of a shipowner for certain matters mentioned in Section 1(4) will be recognized and approved for performing these tasks. To the extent that the statutory instrument referred to in para. 7 of the first sentence relates to maritime security measures, it shall be adopted in consultation with the Federal Ministry of the Interior and Community.

(1a) (repealed)

(2) Provisions under paras. 2 to 7 of the first sentence of subsection 1 may also be adopted for

1. protecting the marine environment,
2. preventing adverse effects of shipping on the environment within the meaning of the Federal Immission Control Act (BImSchG); emission limits may also be set for a future time following entry into force of the statutory order taking account of technical developments.

Statutory instruments as referred to in para. 2 of the first sentence shall be made by the Federal Ministry for Digital and Transport and the Federal Ministry for the Environment, Nature Conservation, Nuclear Safety and Consumer Protection. Statutory instruments as referred to in paras. 3, 3a, 3b and 3c of the first sentence of subsection 1 shall be made in consultation with the Federal Ministry of Labour and Social Affairs and, to the extent that they relate to maritime fisheries, in consultation with the Federal Ministry of Food and Agriculture. Where the statutory instruments only refer to regulations governing traditional ships and pleasure craft, the third sentence shall not apply.

(3) The Federal Ministry for Digital and Transport shall be authorised to stipulate by statutory instrument

1. on which ships and in which trades logbooks have to be kept,
2. which facts that are relevant to maritime safety and security, the protection of the marine environment or criminal justice have to be entered,
3. how and by whom
 - a) the books are to be kept,
 - b) compliance with the provisions is to be monitored.

(4) To promote the German merchant fleet in the general German interest within the meaning of Section 1(1), the Federal Ministry for Digital and Transport shall be authorised to adopt by statutory instrument measures aimed at warding off disadvantages for the freedom of economic activity of the German shipping sector. To this end, it may, in particular, make the performance of transport operations between two points on German territory by a ship flying a foreign flag other than the flag of a Member State of the European Union or a state party to the European Economic Area subject to approval by the Federal Waterways and Shipping Agency.

(4a) The Federal Ministry for Digital and Transport shall be authorised, in consultation with the Federal Foreign Office and on the basis of international cooperation, to designate by statutory instrument the flag states that have repeatedly disregarded their obligation to enforce effectively the applicable international rules and standards in respect of violations committed by their vessels, within the meaning of the first sentence of Article 228(1) of the United Nations Convention on the Law of the Sea of 10 December 1982.

(5) The authorisations referred to in subsection 1(3) to (7) and subsection 3 shall not cover the adoption of provisions for ships of the Federal Armed Forces. The authorisation referred to in subsection 1(4) shall, moreover, not cover the adoption of provisions involving facilities

subject to monitoring within the meaning section 2(1) of the Act on Facilities Subject to Monitoring (ÜAnlG).

(6) The Federal Ministry for Digital and Transport may assign the authorisations referred to in subsection 1(1) and (2) by statutory instrument to the Federal Waterways and Shipping Agency or the Federal Maritime and Hydrographic Agency.

Section 9a

The Federal Ministry for Digital and Transport shall be authorised to regulate by statutory instrument the requirements for the tonnage measurement of watercraft, the participation of the persons responsible as well as the necessary tonnage certificates. Moreover, it shall be authorised to assign by statutory instrument the performance of the functions referred to in Section 1(5) within the meaning of para. 2 of the second sentence of Section 5(1) to any other competent authority.

Section 9b (repealed)

Section 9c

Statutory instruments as referred to in Section 7a or Sections 9 and 9a may also be adopted for the implementation or transposition of legal instruments of the European Communities or the European Union and of obligations pursuant to inter-governmental agreements.

Section 9d

Standards adopted by the International Maritime Organization or any other competent inter-governmental organisation which have to be taken as a basis for the type test required by the international ship safety regulations shall be officially notified in the German language by the authority that is competent in this respect under this Act.

Section 9e

(1) To the extent that it is required for the performance of a function under this Act, the competent authority may collect, store and use the following data:

1. the identifiers of a ship that is on a shipping register or has an official radio station identification number (ship name, port of registry, register, ship and coast radio station identification number, IMO ship identification number, official ship number, distinctive number or radio call sign, type, tonnage measured, year of construction, gross tonnage),
2. the identifiers of a pleasure craft (name, design, year of construction, nationality plate, other official or officially recognized registration numbers),
3. the identifiers of the owner, operator, charterer or master of a ship or pleasure craft (surname and first name(s), address),
4. information about the persons on board (surname, first names, nationality, date and place of birth, type and number of identity document, number of any existing visa and, for passengers, port of embarkation and disembarkation),
5. the identifiers of the recognised organisation within the meaning of Article 2(g) of Directive 2009/15/EC of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations (OJ L 131, 28 May 2009, p. 47) which has either performed the inspections and surveys required for the granting of ship certificates or has issued such certificates (name, location, branch) as well as the circumstances of its activities,

6. the last port of departure, next port of call, port of destination, position at the time of data collection, voyage, speed, status, draught, route plan and time of arrival at the next port as well as ship-related safety messages,
7. within the scope of port State control or follow-up action, e.g. denying entry to port, frequency, reasons and circumstances of the measures and their removal,
8. list of deficiencies identified during flag State control inspections,
9. cargo information,
10. security-related information about ships within the meaning of regulation 2.1.1 of chapter XI-2 of the Annex to the SOLAS Convention which intend to call at one or more port facilities in the Federal Republic of Germany in accordance with the Appendix to the Guidance on the requirements relating to the submission of security-related information prior to the entry of a ship into port of the Maritime Safety Committee (MSC/Circ.1130 of 14 December 2004, Federal Ministry of Transport Gazette 2005, p. 143) to the extent that such data goes beyond paras. 1 to 9,
11. information about the quantities and types of oil onboard, including bunker oil and lubricating oil,
12. information on the nature of the damage and the condition of a wreck as well as its position at the time of data collection,
13. identifiers of the insurer or other guarantor with regard to compulsory ship-related insurance or collateral (name and principal place of business of the insurer or other guarantor and place of business where the insurance is provided, information on the nature and duration of a ship-related compulsory insurance policy or collateral).

The data may also be collected by using and evaluating automatic ship identification systems as well as voyage data recorders. The first sentence shall not apply to ships of the Federal Armed Forces.

(2) The data may only be used for the purpose it was collected. The data may be transmitted to other public bodies if this is necessary to perform functions under this Act or for security reasons or if this is permitted by a sector-specific authorisation. The data referred to in paras. 1 to 10 of the first sentence of subsection 1 shall be transmitted to the Federal Police to ensure border police security of the territory of the Federal Republic; however, data referred to in paras. 5, 8 and 9 of the first sentence of subsection 1 shall only be transmitted upon request. Where border police responsibilities have, in consultation with the Federal Government, been assumed by federal state staff or have been transferred to the customs authorities, the third sentence shall apply *mutatis mutandis*. The identifiers referred to in para. 1 of the first sentence of subsection 1 and the data referred to in para. 6 of the first sentence of subsection 1 may also be transmitted to port companies, ship reporting services and port service providers or other non-public bodies if this is necessary to perform functions under this Act. The first sentence shall also apply to third parties that have received such data. Details of the data transmission shall be regulated by the Federal Ministry for Digital and Transport in consultation with the Federal Ministry of the Interior and Community by statutory instrument without the consent of the Bundesrat. Third parties to which the data may be transmitted must be specified by the statutory instrument.

(3) Where data is transmitted to a foreign, supranational or intergovernmental public body or to an international organisation or bodies and institutions of the European Union, recipients shall be informed that the data may only be used for the purpose for which it was transmitted. To the extent that the person concerned has a legitimate interest in their data not being transmitted, no such transmission shall take place that is not part of activities which, in whole or in part, fall within the scope of application of the law of the European Communities or the European Union, in particular if an adequate level of data protection is

not guaranteed at the body referred to in the first sentence. Data on significant infringements of applicable international rules and standards relating to the seaworthiness of ships and the protection of the marine environment may also be reported if no adequate level of data protection can be guaranteed at the recipient.

Section 9f

(1) Effective 1 February 1997, the Federal Maritime and Hydrographic Agency shall maintain a register of all certificates of competency including pertinent endorsements and other certificates of competency of shipboard service of seafarers (Seeleute-Befähigungs-Verzeichnis, SBV) which, within the meaning of Section 2, have been issued or renewed, have expired, have been suspended, revoked or reported lost or destroyed.

(2) The purpose of this register shall be to ensure verification of the authenticity and validity of seafarers' certificates of competency by the competent authorities and to provide information to the competent authorities when prosecuting criminal acts and administrative offences as to which certificates of competency of shipboard service and which permits have been suspended or temporarily or finally withdrawn. It will also enable seafarers to provide proof of their professional qualification and competency when applying for jobs on board seagoing vessels, and will facilitate recognition of their certificates of competency. Moreover, the register of seafarers' records shall be kept to make possible statistical analyses with regard to the development of human resources in maritime shipping.

(3) The following data shall be stored on the register:

1. surname, first names, birth name, date and place of birth,
2. nationality, gender,
3. type and registration number of the certificate of competency or certificate of equivalent competency, date of issue and validity period,
4. authority granted by the certificate of competency or certificate of equivalent competency, including possible restrictions,
5. any certificates of competency or certificates of equivalent competency granted in the past, and
6. any valid or preliminarily effective decision of an authority concerning the withdrawal, revocation, taking back, suspension or restriction of the qualification stated in the certificate of competency or certificate of equivalent competency.

(4) To the extent necessary for the purposes specified in the first sentence of subsection 2, the personal data stored in accordance with subsection 3 may be transmitted to the enforcement authorities of the Federal Government and the federal states. If the conditions in the first sentence are met, they may also be transmitted, upon request, to the person affected by the entry, to enterprises or to authorities of another state. To the extent that the person concerned has a legitimate interest that their data is not transmitted, no such transmission shall take place that is not part of activities which, in whole or in part, fall within the scope of application of the law of the European Communities or the European Union, in particular if an adequate level of data protection is not guaranteed at the bodies referred to in the second sentence. The personal data stored in accordance with subsection 3 may be transmitted in a depersonalized form to the European Commission and the European Maritime Safety Agency for the purpose referred to in the third sentence of subsection 2.

(5) In the cases referred to in subsection 4, the recipient's attention shall be drawn to the fact that the transmitted data may be processed only for the purpose for the fulfilment of which it was transmitted.

(6) The federal authorities responsible for issuing certificates of competency or certificates of equivalent competency shall transmit the data to be stored under subsection 3 without delay

to the Federal Maritime and Hydrographic Agency for entry in the register of seafarers' records.

Section 9g

(1) The Federal Waterways and Shipping Agency shall maintain a file

1. for the purpose of ascertaining which certificates of competency in maritime recreational shipping issued by an entity to which statutory powers have been transferred in accordance with Section 7(1) are held by a person,
2. for the purpose of ascertaining which certificates of competency have been suspended, withdrawn or seized.

(2) The following data may be collected, stored and used for the purposes mentioned under subsection 1:

1. first name and surname of the holder,
2. address of the holder,
3. date and place of birth of the holder;
4. date of acquisition of the right to operate pleasure craft,
5. date of issue, issuing body and number of the pleasure craft skipper's licence issued,
6. conditions imposed in accordance with section 6(4) of the Regulations on the Operation of Recreational Craft (SpFV) as amended,
7. in the event that a pleasure craft skipper's licence has been reported lost, the date of issue of the replacement,
8. in the event that the right to operate pleasure craft has been withdrawn or suspended, the reason for this as well as the period within which no new right to operate pleasure craft shall be granted,
9. in the event of seizure, the date of seizure and the authority having custody.

(3) If certificates of competency are produced by third parties, the entities to which statutory powers have been transferred in accordance with Section 7(1) shall provide the manufacturer with the data required for this purpose. The manufacturer may transmit this data to the Federal Waterways and Shipping Agency for the purposes of subsection 1(1). The manufacturer may, exclusively for the purpose of proving the whereabouts of the certificate of competency, collect, store and use all serial numbers of the certificates of competency produced. The collection, storage and use of the other information contained in the certificate of competency shall be permitted only if the information is used exclusively and temporarily for the purpose of producing the certificate of competency and transmitting the relevant information to the Federal Waterways and Shipping Agency. The information referred to in the third and fourth sentences shall be deleted by the manufacturer without delay after collection, storage or use. The first to fifth sentences shall also apply to the production of a certificate of competency in digital form.

(4) The Federal Waterways and Shipping Agency may grant the entities to which statutory powers have been transferred in accordance with Section 7(1) read and write access to the file referred to in subsection 1 in order to enable them to ascertain whether a person holds a certificate of competency issued by these associations. Insofar as this is necessary for issuing pleasure craft skippers' licences, the Federal Waterways and Shipping Agency may also grant the entities to which statutory powers have been transferred in accordance with Section 7(1) read access to the relevant information stored on this person in its directories in order to enable them to ascertain whether a person holds a certificate of competency or

certificate of equivalent competency for the operation of pleasure craft and what the validity status of this certificate is. If no information pursuant to the first or second sentence is stored in respect of a person in the file referred to in subsection 1, the authorised persons referred to in the first sentence shall be notified of this automatically by the Federal Waterways and Shipping Agency, without granting the access referred to in the first or second sentence.

(5) The personal data stored in accordance with subsection 2 may be transmitted for the purpose of

1. performing administrative functions
 - a) in accordance with this Act or legal provisions adopted on the basis of this Act, the Inland Navigation Responsibilities Act (BinSchAufgG) or the Maritime Safety Investigation Act (SUG), or
 - b) on the basis of the water acts of the federal states or on the basis of statutory instruments adopted based on these acts,

including ascertaining the fitness, reliability and competency of a person, to offices of the Federal Waterways and Shipping Administration, the police departments of the Länder, the offices of the waterways and shipping administrations of the federal states, the Federal Bureau for Maritime Casualty Investigation, the entities commissioned with holding examinations in maritime shipping and the entities to which statutory powers have been transferred in accordance with Section 7(1),
2. prosecuting criminal offences related to shipping to courts, public prosecutor's offices, the Federal Criminal Police Office as law enforcement authority and the police departments of the federal states,
3. prosecuting administrative offences in the field of shipping to courts, public prosecutor's offices, offices of the Federal Waterways and Shipping Administration and the police departments of the federal states, or
4. enforcing an order concerning the suspension of rights to operate pleasure craft, certificates of qualification, certificates of competency and certificates of equivalent competency, their withdrawal, their taking back, their revocation or their suspension to offices of the Federal Waterways and Shipping Administration and the police departments of the federal states

to the extent that this is necessary in each individual case for the performance of the functions mentioned in paras. 1 to 4.

(6) The personal data stored in accordance with subsection 2 may be transmitted to the competent bodies of the European Union as well as to international organizations and other states where an appropriate standard of data protection is ensured, insofar as this is necessary in the respective individual case,

1. for administrative functions in the field of shipping, including the proper conduct of examination procedures or the withdrawal of certificates of competency,
2. for the prosecution of infringements of legal provisions in the field of shipping, or
3. for the prosecution of criminal offences in accordance with the provisions on international mutual legal assistance in criminal matters.

The recipient shall be informed that the data may only be used for the purpose for which they were transmitted.

(7) The personal data stored in accordance with subsection 2 shall be deleted without delay as soon as they are no longer required for the functions set out in subsection 1, but no later than

1. when the certificate of competency is given back,
2. when an official notification of the death of the holder of the certificate of competency is received.

(8) The entities to which statutory powers have been transferred in accordance with Section 7(1) shall transfer the entire common register of holders of certificates for operating a pleasure craft in recreational shipping that are valid for waterways navigable by sea-going ships to the Federal Waterways and Shipping Agency in a file format agreed upon with the said agency by 31 December 2023. After the complete transfer, the common register of holders of certificates for operating pleasure craft shall be deleted without delay by the entities to which statutory powers have been transferred in accordance with Section 7(1). The Federal Waterways and Shipping Agency shall be authorised to collect the data transmitted in accordance with the first sentence, to store them in the file referred to in subsection 1 and to use them for the purposes set out in subsection 1.

Section 10 (repealed)

Section 11

The Federal Ministry for Digital and Transport shall be authorised to prohibit by statutory instrument the transmission of documents relating to shipping business (especially contracts, records, letters, studies, market reports, statistics, expert opinions) and the provision of related information to foreign authorities or other foreign organisations or to require that this shall be subject to approval in order to protect German shipping and its freedom of economic activity.

Section 12

The competent authority shall be entitled to receive a security deposit of up to the expected amount of the fees and expenses for the inspection of ships flying foreign flags in a German port before the sea-going ship leaves the port.

Section 13

(1) Charges shall be levied from users for navigating the Kiel Canal as well as for using Government-owned ports. The owner of the ship shall also be liable to pay charges. Several debtors shall be jointly liable for payment. The creditor shall be the Federal Government.
(2) The Federal Ministry for Digital and Transport shall be authorised to determine by statutory instrument the level of the charges in consultation with the Federal Ministry of Finance. Where the statutory instrument makes reference to charges for navigating the Kiel Canal, the coastal states shall be consulted in advance. The level of charges shall be calculated in such a way that the revenue generated does not exceed the costs of the canal and the Government-owned ports including the costs of operation and maintenance; the competitive situation of the canal and the benefit of the person liable to pay the charge by navigating the canal or using Government-owned ports shall be taken into account. The expenses to be reimbursed, the due date, the statute of limitations, exemptions from the obligation to pay as well as the charging procedure may be specified by the statutory instrument.

Section 14

(1) Anyone wishing to practise the profession of canal steersman on the Kiel Canal must be licensed in order to address threats to the safety and efficiency of navigation. The profession of canal steersman shall be open to anyone who

1. has the necessary nautical and seafaring knowledge required for the safe steering of a vessel on the Kiel Canal,
2. has the necessary fitness for sea service,

3. is reliable.

The required nautical and seafaring knowledge must be demonstrated by successfully passing an examination. A licensed canal steersman must undergo further training.

(2) The Federal Ministry for Digital and Transport shall be authorised, by statutory instrument and without the consent of the Bundesrat, to

1. regulate the detailed requirements for licensing as a canal steersman and the procedure to be followed, in particular with regard to the withdrawal, revocation and suspension of a licence,
2. regulate the content and scope of the training and examination as well as the examination procedure,
3. define the type and extent of further training with regard to the knowledge and skills required for the profession of canal steersman,
4. make provisions with regard to age restrictions based on the requirements of exercising the profession of canal steersman,
5. define a probationary period with size restrictions in terms of the ships that may be steered for the first two years after licensing,
6. entrust a legal person under private law with the provision, operation and maintenance of the facilities required for the canal steering service as well as with the functions resulting from paras. 1 to 5 who can provide sufficient guarantees that the functions to be delegated will be performed properly and on a permanent basis,
7. designate authorities of the Federal Waterways and Shipping Administration as supervisory authorities.

In the event of functions being entrusted in accordance with para. 6 of the first sentence, the person entrusted shall be subject to the technical supervision of the supervisory authorities where the safety and efficiency of navigation are affected; otherwise, the supervisory authorities shall only act as legal supervisors.

(3) For the services of canal steersmen on the Kiel Canal, fees shall be charged by the person who arranges these services in his own name or in the name of a third party. The owner of the ship shall also be liable to pay the fees. Several debtors shall be jointly liable for payment.

(4) The Federal Ministry for Digital and Transport shall be authorised, after consulting the coastal states, to determine the level of fees for the services of the canal steersmen on the Kiel Canal by statutory instrument without the consent of the Bundesrat. The fees shall be calculated in such a way that the income of the canal steersmen corresponds to that of comparable professional groups in maritime shipping and that the provision, operation and maintenance of the necessary facilities and the performance of the functions resulting from paras. 1 to 5 of the first sentence of subsection 2 are appropriately covered.

(5) The fees of the canal steersmen shall be levied by an authority of the Federal Waterways and Shipping Administration that is to be specified in subsection 4 of the statutory instrument. This shall be governed by provisions of the Administrative Enforcement Act (VwVG).

Section 15

(1) An administrative offence shall be deemed to have been committed by any person who, intentionally or negligently,

1. in contravention of Section 7a(1) in connection with a statutory instrument as referred to in subsection 3(1), puts on the market, installs, maintains or uses marine equipment,

- 1a. fails to comply with an enforceable order issued in accordance with the second sentence of Section 7a(2),
- 1b. in contravention of the first sentence of Section 8(2), fails to permit a measure to be carried out, to provide information or documentation or to provide correct or complete information or documentation or to provide information or documentation in a timely manner or to permit inspection or to permit inspection in a timely manner,
- 1c. fails to comply with an enforceable order issued in accordance with the second sentence of Section 8(2),
2. acts in contravention of a statutory instrument as referred to in the first or third sentence of Section 9(1), the first sentence of subsection 2, subsection 3 or 4, in each case in conjunction with Section 9c, or acts in contravention of an enforceable order issued on the basis of such statutory instrument, provided that the statutory instrument refers to the present provision for specific elements of an offence,
3. acts in contravention of a statutory instrument as referred to in paras. 2, 3 or 4 of Section 7a(3) or the first sentence of Section 9a, also in conjunction with Section 9c, or acts in contravention of an enforceable order issued on the basis of such a statutory instrument, provided that the statutory instrument refers to the present provision for specific elements of an offence,
4. acts in contravention of a requirement or prohibition of an international maritime shipping convention specified in the Annex that, in terms of content, corresponds to a requirement or prohibition in
- a) para. 1a or
 - b) para. 1 or 1b,
- provided that a statutory instrument in accordance with subsection 4 refers to the present provision for specific elements of an offence,
5. acts in contravention of a requirement or prohibition of an international maritime shipping convention specified in the Annex that, in terms of content, corresponds to a regulation authorised by the provisions in
- a) para. 2 or
 - b) para. 3
- provided that a statutory instrument in accordance with subsection 4 refers to the present provision for specific elements of an offence,
6. acts in contravention of a directly applicable provision in legal acts of the European Union which, in terms of content, correspond to a requirement or prohibition in
- a) para. 1a or
 - b) para. 1 or 1b,
- provided that a statutory instrument in accordance with subsection 6 refers to the present provision for specific elements of an offence,
7. acts in contravention of a directly applicable provision in legal acts of the European Union which, in terms of content, corresponds to a regulation authorised by the provisions in
- a) para. 2 or

b) para. 3

provided that a statutory instrument in accordance with subsection 6 refers to the present provision for specific elements of an offence,

(2) In the cases referred to in subsection 1(1a), (2), (4)(a), (5)(a), (6)(a) and (7)(a), any person committing an administrative offence shall be liable to a fine not exceeding fifty thousand euros; in the other cases, they shall be liable to a fine not exceeding ten thousand euros.

(3) Administrative authorities within the meaning of section 36(1)(1) of the Act on Regulatory Offences (OWiG) shall be,

1. in the cases referred to in subsection 1(1) and (1a), the Federal Maritime and Hydrographic Agency,

2. in the cases referred to in subsection 1(1b), the Federal Waterways and Shipping Agency,

3. in the cases referred to in subsection 1(1c), the authority that has issued the enforceable order.

(4) To the extent that this is necessary to enforce the international maritime shipping conventions referred to in the Annex, the Federal Ministry for Digital and Transport shall be authorised to make statutory instruments without the consent of the Bundesrat stipulating the offences that are to be penalized as administrative offences under subsection 1(4) or (5).

(5) The Federal Ministry for Digital and Transport shall be authorised to, through statutory instrument and without the consent of the Bundesrat, make amendments to the Annex where this is necessary to

1. incorporate amendments in international conventions in maritime shipping relating to the environment or climate change mitigation or

2. integrate new international maritime shipping conventions relating to the environment or climate change mitigation

to the extent that they have been adopted as binding under international law and are to be applied on the basis of national law.

(6) To the extent that this is necessary to enforce the legal acts of the European Union, the Federal Ministry for Digital and Transport shall be authorised to make statutory instruments without the consent of the Bundesrat to designate those offences which may be punished as an administrative offence pursuant to subsection 1(6) or (7).

**Section 16
(repealed)**

**Section 17
(repealed)**

Section 17a

If another state requests the Federal Republic of Germany to carry out measures within the framework of the functions referred to in paras. 3(a), (b) or (e) of Section 1 in respect of ships that are not entitled to fly the flag of the Federal Republic of Germany, carrying out the task may be made subject to the assurance by the requesting State that it will indemnify the Federal Republic of Germany against claims for compensation that may arise in connection with the lawful performance of the requested measures.

**Section 18
(repealed)**

Section 19

The responsibility of the Federal Government within the framework of Section 1(2) and Section 9(1) shall not apply to the parts of the Elbe Federal Waterway within the area of the port of Hamburg.

Section 20

(1) This Act shall not affect

1. the Reich Insurance Code (Reichsversicherungsverordnung),
2. the Telecommunication Facilities Act (Gesetz über Fernmeldeanlagen),
3. (repealed)
4. the Atomic Energy Act (Atomgesetz),
5. the following legislation of the federal states under the agreement on the execution of shipping police enforcement tasks
 - a) Bremen, of 12 April 1955 (Gesetzblatt der Freien Hansestadt Bremen, p. 59)
 - b) Hamburg, of 5 May 1956 (Hamburgisches Gesetz- und Verordnungsblatt I, p. 83)
 - c) Mecklenburg-Western Pomerania, of 12 November 1992 (Gesetz- und Verordnungsblatt für Mecklenburg-Vorpommern, p. 660)
 - d) Lower Saxony, of 23 December 1955 (Niedersächsisches Gesetz- und Verordnungsblatt, p. 293)
 - e) Schleswig-Holstein, of 15 July 1955 (Gesetz- und Verordnungsblatt für Schleswig-Holstein, p. 137).

(2) It shall not affect functions in the field of maritime shipping that have been transferred to the Federal Government by legal provisions issued at an earlier date.

Section 21

The fundamental rights of physical well-being (first sentence of Article 2(2) of the Basic Law), of personal freedom (second sentence of Article 2(2) of the Basic Law), of the privacy of letters, mail and telecommunications (Article 10(1) of the Basic Law) as well as the inviolability of the home (Article 13 of the Basic Law) shall be restricted in accordance with this Act.

Section 22

The Federal Ministry for Digital and Transport may, by means of general administrative regulations, regulate the details of the uniform application of the provisions of this Act or of the statutory instruments adopted on the basis of this Act by its executive agencies or the legal entities entrusted by it.

Section 22a (repealed)

Section 22b

- (1) Section 3e(7) and (3) of the Annex shall not be applied until the day on which the Ballast Water Convention enters into force for the Federal Republic of Germany.
- (2) The Federal Ministry for Digital and Transport shall announce the date referred to in subsection 1 in the Federal Law Gazette.

Section 23 (Entry into force, expiry)

Annex (re Section 15(1)(4) and (5), subsections 4 and 5)

(Source: Federal Law Gazette I 2016, p. 1503)

International Conventions

1. International Convention on the Control of Harmful Anti-fouling Systems in Ships of 5 October 2001 (AFC Convention) (Federal Law Gazette 2008 II, p. 520, 522),
2. International Convention for the Prevention of Pollution from Ships of 2 November 1973 and the Protocol thereto of 17 February 1978 (Federal Law Gazette 1982 II, p. 2, 4; 1996 II, p. 399), last amended by resolution MEPC.324(75) of 20 November 2020 (Federal Law Gazette 2022 II, p. 155),
3. International Convention for the Control and Management of Ships' Ballast Water and Sediments of 13 February 2004 (Federal Law Gazette 2013 II, pp. 42, 44), last amended by resolution MEPC.325(75) of 20 November 2020 (Federal Law Gazette 2022 II, p. 155).