

TRANSPORT NEWSLETTER DECEMBER 2011**The Revised Text of the State Ports and Merchant Marine Act approved**

Royal Legislative Decree 2/2011, of 5 December 2011, came into effect on 21 October 2011 and approves the Revised Text of the State Ports and Merchant Marine Act which harmonises the regulatory law on this subject and clarifies the contents of the regulations.

The first heading contains the general provisions referred to by the Act: ports and the Merchant Marine.

Under the relevant headings, Book One, which covers the state port system, discusses the organisation in charge of the management and budgetary, tax and equity system and the operation and control of this organisation; the planning system and the construction of ports of general interest and environmental and safety requirements; the state port public domain; the provision of services and the system regarding the personnel who provide the port with goods handling services; and the economic processes of the port system.

Book Two about the Merchant Marine looks at the work of shipping companies and the navigation system, maritime administration, pilotage service and fees.

Book Three concerning the policing system looks at the port operation system, surety measures for port and navigation operations and disciplinary law.

Streamlining measures adopted for legal proceedings

The entry into effect on 1 November of Law 37/2011, of 10 October 2011, regarding legal proceeding streamlining measures will help reduce proceedings and facilitate case management in civil, criminal and judicial review laws.

In civil law, the measures introduced are limited to the inclusion of the amount of the legal fee in court costs; the system of small debts proceedings is extended to eviction proceedings due to non-payment; appeals are excluded from verbal proceedings given the sum involved, when this is in excess of € 3,000; the remittance proceedings preparation stage is abolished; in terms of final appeals, a modification is made to decisions subject to appeal given the amount involved; aspects relating to the relationship between the execution of a special and an ordinary mortgage are clarified; the stages involved in the completion of third-party claims and those with a better right are reduced; and the quantitative limit of small debts proceedings is abolished.

Modifications are introduced to criminal law regarding the procedural implications of the criminal liability system for organisations.

In terms of judicial review, modifications are made to provisions relating to the evidence for reducing procedures; the possibility is introduced into abbreviated proceedings of not having to hold the hearing in appeals where no request is made for the interlocutory stage of proceedings to be opened and the defendant Administration does not request that this be held; the sum in cases to be resolved by abbreviated proceedings is raised to € 30,000; the quantitative limit for accessing appeals and final appeals is increased; regulations regarding these highly precautionary measures are modified; the expiry criterion concerning court costs is established for processes of sole and first instances.

Regulations to shipowners' insurance for maritime law claims

In fulfilment of European Parliament and Council Directive 2009/20/CE, of 23 April 2009, and in accordance with the provisions of Article 254 of the Revised Text of the State Ports and Merchant Marine Act, Royal Decree 1616/2011, of 14 November 2011, has been drawn up which states that owners of civil ships that sail under the Spanish flag – whose gross tonnage is equal to or over 300 tons – must take out insurance or another type of financial surety to cover these ships in the event of a claim made under maritime law. This insurance or financial surety will also be required for owners of civil ships whose gross tonnage is equal to or over 300 tons that sail under the European Union flag or the flag of a third-party country when, in accordance with international law, they access a Spanish port or from the moment when they are sailing through Spanish waters. The insurance or other financial sureties regulated by this Royal Decree will cover the maritime law claims that are limited by the terms established by the 1996 Agreement.

Official complaint lodged against the International Agreement for the unification of certain rules relating to the preventive embargo for seafaring ships, established in Brussels on 10 May 1952.

Following the adaptation to Spanish law through Royal Decree Law 12/2011, of 30 August 2011, regarding the new 1999 Ship Preventive Embargo Agreement, Spain has denounced the International Agreement for the unification of certain rules relating to the preventive embargo for seafaring ships, established in Brussels on 10 May 1952. This official complaint will come into effect for Spain as of 28 March 2012.

Ratification Instrument issued for the ILO Agreement regarding identity documents for seafarers (revised), 2003

The approved and ratified Agreement adopts a series of proposals for a more secure identification system for seafarers to streamline their entry into Spain to provide them with shore permission, transfer, re-embarkation on another ship and repatriation.

Protocols concerning the conduct and training of crews and shipping company personnel regarding care given to people with disabilities.

Ruling PRE/3028/2011, of 4 November 2011, establishes and regulates the protocols concerning the conduct and training of crews and the training of shipping company personnel who provide services in offices located in port terminals regarding aspects related to the care given to people with disabilities during embarkation and disembarkation procedures from ships and during crossings involving everything associated with the care, help and support given to these people and, where appropriate, to guide dogs and assistance in emergency situations.

Modification to the combined nomenclature of goods

Regulation (UE) no. 1006/2011 of the EU Commission, of 27 September 2011, has been published which modifies Appendix I of Council Regulation (CEE) no. 2658/87, regarding the tariff and statistical nomenclature and common customs tariff.

In accordance with Article 12 of Regulation (CEE) no. 2658/87, Appendix I of this Regulation must be replaced – as of 1 January 2012 – by the complete version of the combined nomenclature and the corresponding autonomous and conventional common customs tariff laws, resulting from the measures adopted by the Council or Commission.

Management service on the airport platform regulated

Royal Decree 1238/2011, of 8 September 2011, which regulates the management service on the airport platform, establishes the conditions for the provision of the management service on the platform, regulates the organisation and personnel who provide management services on the platform and service functions, responsibilities of the airport infrastructure manager in relation to the provision of the service and the required coordination with air traffic services.

Article 90b is added to Regulations on

This modification allows two or more operators to jointly use regular passenger road transport services.

Appointment of authorities granted the authority to issue Apostilles

The aim of Royal Decree 1497/2011, of 24 October 2011, which determines the functions and competent authorities to undertake the single legalisation or Apostille, is to establish the competent authorities and civil servants to apostille Spanish documents, enter the Apostille into electronic support and establish the possibility for the competent authorities to issue Apostilles irrespective of geographical location – within Spain – where legal or administrative documents have been issued.

Directive which facilitates the transborder exchange of information regarding traffic violations approved

Directive 2001/82/UE, which facilitates the transborder exchange of information regarding traffic violations concerning road safety, has been approved. The Directive will apply to cases involving excess speed; failure to wear a safety belt; not stopping at a red light; driving under the influence of alcohol and/or drugs; not wearing a crash helmet; driving along an unauthorised lane; the illegal use of a mobile telephone and any other communication device while driving.

The EU asks Spain to modify its tax regulations for vehicles from other Member States

EU regulations state that car registration tax is charged proportionally while the leased vehicle is being used. Spain charges full car registration tax for a vehicle that is being leased or rented by a Spanish resident in another member state, unless the lease period is less than 3 months in every 12-month period.

The European Commission has presented the FISCUS programme

The FISCUS programme will foster cooperation between tax and customs authorities and other government bodies to favour the domestic market; it will facilitate Internet connections, actions and joint training for managers of customs and tax activities; and it will finance a number of highly advanced IT systems that enable the development of bone fide electronic administrations for customs and tax authorities.

Passengers may claim for compensation

The EU Court of Justice has ruled that passengers have the right to moral compensation due to the cancellation of their flight when their plane has taken off but, for whatever reason, has had to return to the airport of origin and the passengers have finally been transferred to another flight.

BARCELONA

Beethoven 13, 7^o
08021 Barcelona
Tel: +34 93 241 3020
Fax: +34 93 414 3885 / 11 57
bcn@pintoruizdelvalle.com
www.pintoruizdelvalle.com

DELEGACIÓN ZAL

Service Center ZAL
Av. Ports Europa, 100, sala 6
08040 Barcelona
Tel: +34 93 241 3020
Fax: +34 93 414 3885 / 11 57
zal@pintoruizdelvalle.com

PALMA

Sindicato, 69-7^o
07002 Palma de Mallorca
Tel: +34 971 71 60 29
Fax: +34 971 71 90 75
palma@pintoruizdelvalle.com
www.pintoruizdelvalle.com

ALICANTE

César Elguezábal 39, pp 1 dcha
03001 Alicante
Tel: +34 96 514 39 28
Fax: +34 96 514 53 53
ali@pintoruizdelvalle.com
www.pintoruizdelvalle.com

MADRID

Velázquez, 146, 1^o Dcha
28002 Madrid
Tel: +34 91 563 86 78
Fax: +34 91 563 32 29
ma@pintoruizdelvalle.com
www.pintoruizdelvalle.com

Member of PANNONE LAW GROUP / A.E.I.E.

Alicante, Andorra, Beijing, Barcelona, Berlin, Bruxelles, Buenos Aires, Dili (Democratic Republic of East Timor), Düsseldorf, Frankfurt am Main, Genève, Lisboa, London, Lyon, Madrid, Manchester, Milano, Montevideo, Montreal, München, Nicosia, Palma de Mallorca, Paris, Québec, Roma, Rotterdam, San José de Costa Rica, Santiago de Chile, Sao Paulo, Shanghai, Tel-Aviv, Trois Rivières, Warsaw and Vienna.

© December 2011 Pintó Ruiz & Del Valle

In accordance with the Personal Data Protection Act 15/1999, of 13 December 1999, we would like to inform you of the existence of a file the property of the Bufete Pintó Ruiz S.L. which contains your personal details (which are exclusively your name, position, company telephone number and e-mail), and the aim of which is to inform you about legal and case law news. Similarly, we would also like to inform you about the possibility of exercising your rights of access, rectification, cancellation and opposition in the terms established in current law, by means of a letter which you may send to the BUFETE PINTÓ RUIZ S.L., Calle Beethoven 13, planta 7.ª Barcelona o by e-mail to the following address info@pintoruizdelvalle.com.