

Translation. Only the Danish document has legal validity.

Order no. 829 of 10 December 1990 issued by the Ministry of Trade

**Order on the right to care and a free journey home, etc.
under the seamen's act (*sømandsloven*)**

In pursuance of section 73 of the seamen's act (*sømandsloven*) no. 420 of 13 June 1973, the following provisions are laid down:

Section 1. For the purposes of this order, a "seaman" shall mean any person, except for the master, employed by the shipowner to carry out ship service. The order shall not apply to persons who carry out work on board the ship only while it is berthed in a port; "a Danish representation" shall mean any Danish diplomatic or consular representation (embassy, general consulate, consulate or vice-consulate); "a venereal disease" shall mean one of the diseases mentioned in section 1 of act no. 287 of 22 May 1973, i.e. syphilis, gonorrhoea, venereal ulcer (soft chancre) and lymphogranuloma inguinale, when these diseases occur in an infectious or any other fresh form requiring treatment. Complications that do not occur until a number of years after the primary disease, such as late-syphilitic heart and nervous diseases, shall not be covered by this concept.

Section 2. In Greenland, the Governor shall perform the functions that are conferred on the Danish representations in the following with the assistance of the local treasurers and the local inspector. In Eastern Greenland, the tasks shall be carried out by the local inspectors.

I. Care

Section 3. A right to care shall be due to the following persons on the conditions stipulated in sections 27 and 30 of the act, cf. section 35:

- a. a sick or injured seaman;
- b. a person suffering from a venereal disease or tuberculosis who is employed by the shipowner to carry out other work on board than ship service or who is employed on board by others than the shipowner.

Section 4. Care covers subsistence, medical care and medicaments. Subsistence covers hospital stays, board and lodging as well as care attention for as long as the person concerned is unfit for work due to illness. However, allowance for lodgings shall be paid only when the care takes place outside the place of residence. Medical care covers medical examinations with associated prescriptions and treatments, including medical attention, operations, x-rays and the like. Furthermore, the making of declarations and prescriptions, etc. as well as transport to and from doctors, hospitals or any other location of treatment shall be included here. Medicaments cover medicine, bandages, physiotherapeutic treatment insofar as the treatment takes place in connection with medical or hospital treatment, but not glasses, hernial bandages, crutches, artificial limbs and the like.

Section 5. The master shall ensure that a sick or injured seaman on board or ashore receives proper care. This obligation shall not depend on who is obliged to pay the expenses for the care, cf. section IV.

Subsection 2. The treatment on board while the ship is at sea shall be in accordance with the instructions of a medical book for seafarers approved by the Ministry of Trade and, in cases where it is possible and required, in accordance with the telegraphic or radiotelephonic medical advice acquired from medical centres ashore.

Subsection 3. If the ship is in a port or if it is so close to a shore that the possibilities of care ashore may and should be considered, the master shall decide – in consideration of the nature of the case and the seaman’s wishes – whether to continue the care provided aboard, whether to call or consult a doctor from ashore or whether hospital treatment – either ambulant treatment or hospitalisation – is to be arranged for.

Subsection 4. If a ship’s doctor is present on board, the care shall be left to him.

Section 6. If a sick seaman is left abroad, the master shall entrust him to the care of a Danish representation or, if no Danish representation is found, in some other way obtain proper care for the seaman and inform the nearest Danish representation hereof. If the seaman so wants, the master shall inform his closest relatives.

Subsection 2. Reports for a Danish representation on a sick seaman left abroad shall be made on forms prescribed by the Ministry of Trade following consultation with the Ministry of Foreign Affairs.

II. Free journey home with subsistence allowance

Section 7. A free journey home with subsistence allowance shall be due on the conditions given in the act:

- a. in case of retirement after rather long service: to any seaman domiciled in Denmark (section 8 of the act);
- b. in case of certain diseases: to any seaman (section 30(3)-(4) of the act, cf. section 35);
- c. in case of retirement following wrongful dismissal: to any seaman (section 18(2) of the act);
- d. in case of retirement because an important condition of the articles of agreement has failed: to any seaman (sections, 11, 12 (half of the expenses), section 13, section 14(1), cf. subsection 3, and section 16(1)(iv), cf. subsection 3, of the act);
- e. in case the contract of service is discontinued due to loss of the ship: to any seaman (section 19(2) of the act);
- f. in case of retirement due to pregnancy: to any seaman meeting the requirements on this stipulated in the order of 29 November 1973 on seafarers’ right to require dismissal and a free journey home in case of pregnancy.

Section 8. A free journey home shall include:

- a. transportation from the location where the person concerned was staying when the right to a free journey occurred and to the place of destination;
- b. subsistence allowance during the voyage as well as during the stay at the place of departure while waiting for the journey to be arranged;
- c. transportation of personal effects, but not of other goods acquired during the journey.

Section 9. If no special agreement has been made about the way of transportation, any public means of transport may be used for the transportation. The journey should be arranged so that it is

carried out as soon as possible. When arranging the journey, consideration shall be paid to the wishes of the seaman, his condition of health and the costs.

Subsection 2. If a journey from abroad is arranged by a Danish representation, the special way of transport stipulated in section 70 of the merchant shipping act (*sømandsloven*) may be used in cases where this may be appropriate.

Section 10. Subsistence allowance shall be paid in consideration of the cost of living in the place in question.

Section 11. In case of retirement in the cases mentioned in section 7a following the person's own resignation or letter of resignation, the requirement for a free journey home shall be made at the same time.

Section 12. Except for cases where it is decided, as part of the care of an ill or injured seaman, to send him for further care at the place of residence or the place of engagement, he may renounce his right to a free journey home with subsistence allowance; but the seaman shall not have a right to receive compensation for the unused right.

II. Burial and cremation

Section 13. If a seaman dies, the master shall notify the deceased person's bereaved family and arrange for his burial. If the death occurs abroad, the nearest Danish representation shall also be notified. As regards the master's reporting duty in connection with death during the ship's call at a Danish port, the provision of section 2(4) of act no. 225 of 31 May 1968 shall apply.

Section 14. If the death occurs while the ship is at sea and if the ship's arrival in a port or at a place where burial or cremation may take place cannot be awaited, the master shall ensure that the body is lowered into the sea in consideration of the forms and ceremonies normally observed in the merchant fleet. If the deceased person was a member of the Danish National Evangelical Lutheran Church, the master shall, insofar as possible, follow the directions contained in the "Guidance for religious service on board" (*Vejledning for kirkelig betjening om bord*) drawn up by the bishops.

Subsection 2. In other cases of a seafarer's death, the master shall arrange for the burial or cremation, including that it takes place in a proper way and, insofar as possible, in accordance with the deceased person's wishes and creed or in consideration of the religious ceremonial or other solemn forms normally observed in the deceased person's native country.

Subsection 3. Unless the master considers that the actual circumstances do not permit the bereaved family to arrange for the burial or cremation, he should accompany the notification mentioned in section 13 by a request to the bereaved family to immediately state their wishes in this regard. If a declaration is available in due time that the bereaved family will take over the necessary arrangements from now on as regards the burial or cremation, the master shall take the necessary measures as regards the preservation, etc. of the body.

Section 15. In a Danish port, the master may meet his obligations by leaving the burial or cremation to a firm of undertakers.

Section 16. If cremation takes place through arrangements made by the master, the master shall ensure that the ashes are sent home. Assistance in sending home the ashes may be requested from a Danish representation.

Section 17. Notification to a Danish representation of a death and of the measures that the master is taking in accordance with the provisions of this section shall be made on forms prescribed by the Ministry of Trade following consultation with the Ministry of Foreign Affairs.

Section 18. The master shall, as soon as possible after the death, preferably on the same day, have a list made of what the deceased person has left on board. The correctness of the list shall be confirmed by two persons. The master shall ensure that the list as well as the deceased person's belongings and wages are sent to the relevant Danish probate court or the nearest Danish representation.

Section 19. If a seaman dies after having been entrusted to the care of the representation in accordance with section 6, the representation shall assume the obligations mentioned above as regards burial or cremation.

IV. Provisions on payment and refunding

Section 20. Expenses for the seaman's care shall be paid by:

- A. The shipowner
 - 1. during the service, cf. however below under B, items 1-2;
 - 2. from the termination of the service for up to 12 months, however not more than two weeks after he has arrived in the country where he resides, cf. furthermore below under B, items 1-2, and C; equal to the termination of the service shall be cases where the seaman is left (is signed off in a port without the service formally being terminated).
- B. The seaman
 - 1. in case of fraudulently concealed diseases or sufferings, i.e. such diseases or bodily injuries that the seaman may have concealed when employed though he knew or should have known that their non-existence was a condition for the employment;
 - 2. in case of self-inflicted disease or bodily injury, i.e. a disease or injury that he has inflicted on himself through irresponsible conditions – intentionally or grossly negligently. In this connection, venereal diseases shall not be considered as self-inflicted;
 - 3. in case of care beyond the time-limits mentioned under A.2 of 12 or two weeks, respectively.
- C. The State
 - as regards seafarers suffering from venereal diseases or tuberculosis during the period from the termination of the service to the expiry of the time-limits mentioned under A.2 of 12 or two weeks, respectively.

Subsection 2. If the seaman is covered by a social security scheme or insured in a foreign health insurance association, sick benefit association or private insurance company, the shipowner or the state shall not be obliged to pay such care after the termination of the service that may be required paid hereby, but shall pay the necessary expenses in advance until refunding is possible.

Section 21. The expenses for a free journey with subsistence allowance shall be paid:

- a. in case of retirement following rather long service (section 8 of the act): by the shipowner and the state, each paying half;
- b. in case of a free journey in connection with illness or injury that has or could have caused the termination of the service: by the shipowner or the state according to the same regulations as those stipulated in section 20 on the expenses for the seaman's care;
- c. in case of dismissal or retirement according to sections 11, 13, 14, 18 and 19 of the act: by the shipowner; however, as regards section 18, only in cases where a specific place of resignation has been agreed or where the service agreement under section 6 of the act may be terminated only for discontinuation in a Danish port. However, the expense shall be paid by the state in the case mentioned in section 16(3), cf. subsection 1(iv), where a seaman has to retire from service as part of a prescribed medical examination;
- d. in case of dismissal under section 12 of the act: by the shipowner and the seaman, each paying half.

Section 22. Expenses for burial or cremation as well as – in case of cremation – expenses for sending home the ashes and the entombment shall be paid:

- by the shipowner if the seaman has died in service or at a time when the shipowner's obligation to provide care still applied, cf. section 20(1)(A);
- by the state if the death has occurred while the seaman was entitled to receive care at the expense of the state, cf. section 20(1)(C).

Subsection 2. Section 20(2) shall also apply.

Section 23. The master may at any time approach any Danish representation requesting assistance for carrying out the duties that rest with him pursuant to this order.

Subsection 2. If the representation takes any of the measures required under this order on behalf of the shipowner, the master shall upon request give security for the expenses paid by the representation. The security may consist of a guarantee.

Subsection 3. The wages paid to the representation for a sick or injured seaman left abroad may, depending on the circumstances, serve as security for the expenses to be covered by the seaman himself.

Section 24. In cases where a measure mentioned in sections I-III is launched by somebody else than the one who is to pay the expenses according to the regulations above, the measure should be launched paying due consideration to principles of normal sound economy.

Subsection 2. In the cases mentioned here, the one who has had to pay the expense so far shall, as usual when requesting refunding, ensure the necessary documentation.

V. Special provisions

Section 25. To the master, sections 3-20, section 21(a), (b) and (c) and section 22 shall also apply.

Section 26. To persons employed by the shipowner to carry out other work on board than ship service as well as to persons employed on board by others than the shipowner sections 5 and 6, section 7(e) and (f), sections 9, 10, 12-19, section 20(1)(C), section 21(b) and (c) and section 22(1), last part, shall also apply to the extent that these persons are entitled to the services concerned pursuant to section 2(1).

VI. Entry into force

Section 27. This order shall enter into force on 1 February 1974.

Subsection 2. Decree no. 446 of 23 December 1952 on seafarers' right to care and a free journey home with subsistence allowance, etc., as amended by decree no. 103 of 4 April 1964, shall be repealed.

Danish Ministry of Trade, 29 November 1973

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