

Executive Order on Seafarers' hours of rest etc.¹⁾

The following shall be laid down pursuant to section 4(3), section 57 and section 70 of the Merchant Shipping (Masters and Seamen's) Act, cf. Consolidated Act no. 766 of 19 September 1995, as subsequently amended by section 1 of Act no. 277 of 8 May 2002 and section 1(3), section 3, nos. 2 and 4, section 16(3) and section 32 of the Safety at Sea Act, cf. Consolidated Act no. 554 of 21 June 2000, as amended by section 2 of Act no. 277 of 8 May 2002 and after authorisation from the Minister for Economic and Business Affairs:

Definitions

1.-(1) A "merchant ship" means any ship except for warships and troopships as well as fishing vessels and leisure crafts.

(2) A "period of rest" means a period of no less than one hour, which is not working time.

(3) "Hours of work" means time during which a seafarer is required to work on account of the ship.

(4) A "working day" means a 24-hour period commencing the first time a seafarer starts working on a calendar day.

(5) A "week" means a period of seven consecutive days.

Scope

2.-(1) This Executive Order shall apply to seafarers covered by sections 1 and 2 of the Merchant Shipping (Masters and Seamen's) Act and who serve on Danish merchant ships.

(2) Section 4(1)-(4) and (6), section 5(1), sections 9, 10 and section 11(1) and (4) shall apply to masters performing part of the regular bridge watch on board by analogy. Section 4(1) shall apply to the master irrespective of whether he forms part of the bridge watch.

(3) No work may be carried out on foreign merchant ships in Danish territorial waters contrary to the restrictions concerning working time and hours of rest laid down pursuant to the STCW Convention and sections 1-12 of the agreement attached as an annex to Council Directive 1999/63/EC.

*Throughout the translation the term "shipowner" is used to denote the Danish term "reder" for which there is no directly equivalent English term. The "reder" is the entity that operates the ship for its own account, typically the owner or demise charterer of the ship. Time and voyage charterers are not considered "reder".

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3.-(1) The normal working hours' standard of seafarer is, in principle, based on an eight-hour day with one day of rest per week and rest on public holidays.

(2) For seafarers only hours of rest shall be adjusted, cf. section 57 of the Merchant Shipping (Masters and Seamen's) Act.

Hours of rest etc.

4.-(1) A seafarer shall have regular periods of rest of sufficient length to ensure health and safety.

(2) Within each working day seafarers of 18 years of age or more shall be entitled to a minimum hours of rest of 10 hours. Hours of rest may be divided into no more than two periods, one of which shall be at least six hours in length, and the interval between two consecutive rest periods shall not exceed 14 hours.

(3) The total hours of rest for a week shall be no less than 77 hours.

(4) The Danish Maritime Authority may, on request from the shipowner* allow the hours of rest pursuant to subsection (2) to be calculated within each calendar day.

(5) Seafarers may not be ordered to carry out work which can be postponed on Sundays and holidays.

(6) Furthermore, on Sundays and holidays seafarers should, if practicable be given an opportunity of undisturbed religious worship on board the ship.

5.-(1) By collective agreements the provisions regarding hours of rest stated in the hours of rest regulations in section 4(2) and (3) may be departed from for watch-keeping seafarers or seafarers engaged on ships on short voyages, taking into account more frequent or longer periods of leave or the granting of compensatory days off and with due consideration for the seafarers' health and safety.

(2) Departure from provisions pursuant to subsection (1) shall be registered with the Danish Maritime Authority before they may be applied.

6. Seafarers on call shall have an adequate rest period if the normal period of rest is disturbed by call-outs to work.

7.-(1) Seafarers under 18 years of age shall be entitled to a minimum rest period of no less than 12 consecutive hours within the working day.

(2) In general the rest period shall be in the interval from 8 pm to 6 am.

(3) For watchkeeping seafarers under 18 years of age the rest period may be divided into no more than two periods, one of which shall be at least eight hours in length, and in the interval between 8 pm and 6 am.

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(4) The interval between two consecutive rest periods shall not exceed 12 hours.

(5) The total hours of rest within a week shall be no less than 84 hours.

(6) Subsections (2) and (3) shall not apply to seafarers under 18 years of age if another arrangement of rest periods is necessary as part of professional training, maritime training approved by the Danish Maritime Authority, or similar training of no less than two years giving professional qualifications.

(7) Seafarers under 18 years of age shall be entitled to a rest period of two consecutive days in a week. If necessary, the weekly days off may be postponed provided that they are substituted by similar leave later.

8. Musters, fire-fighting and lifeboat drills and other prescribed drills shall be conducted in a manner that minimises the disturbance of rest periods and does not induce fatigue.

9.-(1) The master of a ship shall have the right to require a seafarer to perform any hours of work necessary for the immediate safety of the ship, persons on board or cargo, or for the giving of assistance to other ships or persons in distress at sea.

(2) The provisions in sections 4, 5 and 7 may be derogated from in the situations mentioned in subsection (1).

(3) As soon as practicable after the normal situation has been restored, the master shall ensure that any seafarer who has performed work in a scheduled rest period is provided with an adequate period of rest.

Notice and registration

10. Records with information on seafarers' function on board and hours of work at sea and in port, including watchkeeping periods for watchkeeping seafarers, shall be kept on board and be easily accessible to the crew. These records shall be established in Danish and English and the format shall be approved by the Danish Maritime Authority. Annex 1 is a table approved by the Danish Maritime Authority.

11.-(1) The seafarers' daily periods of rest shall be registered regularly in a special hours of rest table in Danish and English and the format shall be approved by the Danish Maritime Authority. The table shall be kept in two copies. Annex II is a table approved by the Danish Maritime Authority.

(2) The master, or a person authorised by the master, and the seafarer shall sign the hours of rest table each month.

(3) At regular intervals and at the end of service, the seafarer shall receive a signed copy of the hours of rest table.

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(4) A copy of the hours of rest table shall be available on board six months after the time of service. The shipping company shall subsequently keep the table for three years.

(5) A copy of the hours of rest table dealt with in subsection (4) shall be submitted to the Danish Maritime Authority for control and endorsement if the Authority so requests.

(6) The Danish Maritime Authority may allow the information on hours of rest to be kept electronically, and the submission of this information to be carried out electronically to the Danish Maritime Authority. The Danish Maritime Authority may determine that storage and submission of the information shall take place in a special format.

12. The shipowner* shall ensure that it is possible to meet the obligations on board following from this Executive Order.

13.-(1) The Danish Maritime Authority shall supervise compliance with the provisions of this Executive Order.

(2) In the event of non-compliance with the provisions of this Executive Order, the Danish Maritime Authority shall with, regard to binding international conventions, take the steps necessary to ensure against such fatigue presenting a danger to the safety and health of the seafarers. Such steps may include prohibition against the ship leaving port until the seafarers have had adequate rest.

(3) The Danish Maritime Authority's decision on detention of a ship may be brought before the Ship Detention Committee by the shipowner* or operator of a ship concerned or the relevant representative in Denmark. A case brought before the Committee shall not act as stay of proceedings.

14. In dealing with cases pursuant to this Executive Order, the Danish Maritime Authority may require information on seafarers' working conditions from masters and shipowners*.

Penalties

15.-(1) Any person violating section 4(1)-(3), (5) and (6), section 5(2), section 7(1), (3)-(5) and (7), section 9(3), section 10, section 11(1)-(5), sections 12 or 14 shall be liable to a fine or imprisonment for up to one year.

(2) Any person failing to comply with prohibition or order pursuant to section 13(2) or a condition stipulated pursuant to section 11(6) shall be liable to a fine or imprisonment for up to one year.

(3) The penalty pursuant to subsections (1) and (2) may be increased to a prison sentence of up to 2 years if it is found that the violation was committed intentionally or as a result of gross negligence, or if

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- 1) the violation has caused harm to life or health or a risk hereof, or
- 2) prohibition or order on the same or similar conditions has been given previously, or
- 3) the violation has achieved or was intended to achieve economic advantages for the offender or for others.

(4) It shall be considered as an aggravating factor if harm to the life or health of young people under 18 years of age has been caused or there has been risk of such harm, cf. subsection (3), no. 1.

(5) If the benefit obtained through the violation is not confiscated, the size of such financial benefit obtained shall be taken into account when determining the fine, including additional fines.

(6) Companies etc. (legal persons) may incur criminal liability according to the regulations in chapter 5 of the Danish Penal Code.

Entry into force

16.-(1) This Executive Order shall enter into force on 30 June 2002.

(2) Sections 1 and 15 shall not apply to Greenland.

(3) Executive Order no. 662 of 5 July 1996 on young people working on board ships (*unges arbejde i skibe*) and section 7 of Executive Order no. 240 of 27 April 1998 on Watchkeeping on Ships (*vagthold i skibe*) shall be repealed, but shall remain in force for Greenland until the regulations have been repealed or replaced by new regulations.

The Danish Maritime Authority, 21 June 2002

Niels J. Bagge

/Jørgen Løje Hansen

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ANNEX 1

STANDARDMODEL FOR OVERSIGT OVER TILRETTELÆGGELSE AF ARBEJDET OM BORD

MODEL FORMAT FOR TABLE OF SHIPBOARD WORKING ARRANGEMENTS

Skibets navn: _____ Skibets flag: _____

Name of ship: _____ Flag of ship: _____

IMO nr. (hvis det findes): _____ Seneste ajourføring af oversigten: _____

IMO number (if any): _____ Latest update of table: _____

Side () af () sider

Page () of () pages

Reglerne om søfarendes samlede hviletid findes i den danske sømandslovs § 57, jf. bekendtgørelsen om søfarendes hviletid mv., som er udstedt i overensstemmelse med ILO's konvention nr. 180 om søfarendes arbejdstid og bemanning af skibe af 1996 og i overensstemmelse med enhver gældende kollektiv overenskomst registreret i henhold til denne konvention og med den internationale konvention om uddannelse af søfarende, om sønæring og om vagthold af 1978, i ændret form (STCW-konventionen).¹⁾

The minimum hours of rest are applicable in accordance with article 57, cf. Order on seafarers' hours of rest issued in conformity with ILO's Seafarer's Hours of Work and the Manning of Ships Convention 1996 (No. 180) and with any applicable collective agreement registered in accordance with that Convention and with the International Convention on standards of training, certification and watchkeeping for seafarers, 1978, as amended (STCW Convention).

Minimal hviletid

- 1) For søfarende på danske handelsskibe må hviletiden efter ovennævnte regler ikke være mindre end: i) 10 timer i arbejdsdøgnet og 77 timer om ugen.
- 2) Hviletiden i arbejdsdøgnet må ikke opdeles i mere end to perioder, hvoraf den ene mindst skal være på seks timer. Tiden mellem to på hinanden følgende hvileperioder må ikke overstige 14 timer.
- 3) For vagtgående søfarende eller for søfarende, der arbejder om bord på skibe på korte rejser, kan man under hensyntagen til hyppigere eller længere fridagsperioder, eller hvor der sker sikring mod kompenserende fridage ved kollektive aftaler fravige ovennævnte hviletidsregler i det omfang, der tages behørigt hensyn til de søfarendes sundhed og sikkerhed. Aftalerne om fravigelser skal være registreres i Søfartsstyrelsen, før de må anvendes.

Minimum hours of rest

- 1) For seafarers serving on Danish merchant ships the hours of rest according to the above mentioned rules shall not be less than: (i) 10 hours in a 24-hour period, and (ii) 77 hours in a seven-day period.
- 2) Hours of rest may be divided into no more than two periods, one of which shall be at least six hours in length, and the interval between consecutive periods of rest shall not exceed 14 hours.
- 3) By collective agreements the provisions regarding rest hours stated above may be departed from for watchkeeping seafarers or seafarers engaged on ships on short voyages taking into account more frequent or longer periods of leave or the granting of compensatory days off and with

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Skibsførerens underskrift

(signature of the master)

UDDRAG FRA ILO-KONVENTION Nr. 180 OG STCW-KONVENTIONEN

ILO-konvention nr. 180

Artikel 5

1. Begrænsningerne i arbejdstiden eller hviletiden fastsættes som følger: a) den maksimale arbejdstid må ikke overstige: i) 14 timer i nogen 24-timers-periode, og ii) 72 timer i nogen syvdøgnperiode, eller b) minimumsvarigheden af hvileperioden må ikke være mindre end: i) 10 timer i nogen 24-timers-periode, og ii) 77 timer i nogen syvdøgnperiode.
2. Hviletiden må ikke opdeles i mere end to perioder, hvoraf den ene skal være af mindst 6 timers varighed. Tiden mellem to på hinanden følgende hvileperioder må ikke overstige 14 timer.
6. Intet i stk. 1 og 2 er til hinder for, at medlemsstaten har national lovgivning eller forskrifter eller en procedure for, at den kompetente myndighed kan tillade eller registrere kollektive overenskomster, der tillader fravigelser fra de fastsatte begrænsninger. Sådanne fravigelser skal så vidt muligt følge de fastsatte normer, men kan tage højde for hyppigere eller længere frihedsperioder eller indrømmelse af kompenserende frihed for vagtgående søfarende eller søfarende, der arbejder om bord på skibe på korte rejser.

Artikel 7

1. Intet i denne konvention begrænser skibsførerens ret til at kræve, at en søfarende gør tjeneste i det antal timer, der er nødvendigt af hensyn til den umiddelbare sikkerhed for skibet, personer om bord, last eller med det formål at yde assistance til andre skibe eller personer i nød til søs.
3. Hurtigst muligt efter, at normale forhold er blevet genoprettet, skal skibsføreren sikre, at søfarende, der har udført arbejde i en planlagt hvileperiode, gives en passende hvileperiode.

STCW-konventionen

Afsnit A-VIII/1 i STCW-koden (obligatorisk)

1. Enhver, som pålægges tjeneste som overordnet vagthavende officer, skal have mindst 10 timers hviletid i enhver 24-timers-periode.
2. Hviletiden kan opdeles i højst to perioder, hvoraf den ene skal være på mindst 6 timer.

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3. Kravene om hviletid i stk. 1 og 2 skal ikke nødvendigvis overholdes i en nødsituation eller ved beredskabsøvelse eller ved andre driftsforhold af altoverskyggende vigtighed.
4. Minimumstiden på 10 timer kan nedskæres til ikke under 6 sammenhængende timer, forudsat at en sådan nedskæring ikke strækker sig over mere end to dage, og at der gives mindst 70 timers hvile i hver syvdøgnperiode; se dog bestemmelserne i stk. 1 og 2.
5. Administrationerne skal kræve, at vagtplanerne opslås på et lettilgængeligt sted.

Afsnit B-VIII/1 i STCW-koden (vejledende)

3. Der skal ved anvendelse af regulativ VIII/1 tages hensyn til følgende:

- 1) bestemmelserne til at forebygge træthed bør sikre, at der generelt ikke er tale om overdrevne eller urimelige arbejdstider. Navnlig må minimumshviletiden, som er specificeret i afsnit A-VIII/1, ikke fortolkes på en sådan måde, at al anden tid kan anvendes til vagttjeneste eller anden tjeneste.
- 2) hyppigheden og varigheden af orlov og kompenserende orlov er afgørende faktorer, når det drejer sig om at hindre, at det opbygges træthed over et vist tidsrum.
- 3) der kan afviges fra bestemmelsen på skibe i short-sea-fart, hvis der foreligger særlige sikkerhedsordninger.

SELECTED TEXTS FROM ILO CONVENTION No 180 AND THE STCW CONVENTIONS

ILO Convention No. 180

Article 5

1. The limits on hours of work or rest shall be as follows: (a) maximum hours of work shall not exceed: (i) 14 hours in any 24-hour period; and (ii) 72 hours in any seven-day period, or (b) minimum hours of rest shall not be less than: (i) 10 hours in any 24-hour period, and (ii) 77 hours in any seven-day period.
2. Hours of rest may be divided into no more than two periods, one of which shall be at least six hours in length, and the interval between consecutive periods of rest shall not exceed 14 hours.
6. Nothing in paragraphs 1 and 2 shall prevent the Member from having national laws or regulations or a procedure for the competent authority to authorise or register collective agreements permitting exceptions to the limits set out. Such exceptions shall, as far as possible, follow the standards set out but may take account of more frequent or longer leave periods or the granting of compensatory leave for watchkeeping seafarers or seafarers working on board ships on short voyages.

Article 7

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1. Nothing in this Convention shall be deemed to impair the right of the master of a ship to require a seafarer to perform any hours of work necessary for the immediate safety of the ship, persons on board or cargo, or for the purpose of giving assistance to other ships or persons in distress at sea.

3. As soon as practicable after the normal situation has been restored, the master shall ensure that any seafarers who have performed work in a scheduled rest period are provided with an adequate period of rest.

STCW Convention

Section A-VIII/1 of the STCW Code (Mandatory)

1. All persons who are assigned duty as officer in charge of a watch or seafarer on watch shall be provided with a minimum of 10 hours' rest in any 24-hour period.

2. The hours of rest may be divided into no more than two periods, one of which shall be at least six hours in length.

3. The requirements for rest periods laid down in paragraphs 1 and 2 need not be maintained in the case of an emergency or drill or in other overriding operational conditions.

4. Notwithstanding the provisions of paragraphs 1 and 2, the minimum period of 10 hours may be reduced to not less than 6 consecutive hours provided that any such reduction shall not extend beyond two days and not less than 70 hours of rest are provided each seven-day period.

5. Administrations shall require that watch schedules be posted where they are easily accessible.

Section B-VIII/1 of the STCW Code (Guidance)

3. In applying Regulation VIII/1, the following should be taken into account:

1. provisions made to prevent fatigue should ensure that excessive or unreasonable overall working hours are not undertaken. In particular, the minimum rest periods specified in Section A-VIII/1 should not be interpreted as implying that all other hours may be devoted to watchkeeping or other duties;

2. that the frequency and length of leave periods, and the granting of compensatory leave, are material factors in preventing fatigue from building up over a period of time;

the provision may be varied for ships on short sea voyages, provided special safety arrangements are put in place.

¹⁾ Se senere vedrørende uddrag af ILO konvention nr. 180 og STCW-konventionen. (See later for selected extracts from ILO Convention No. 180 and the STCW Convention.)

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²⁾ For de stillinger/rang, der også er opført på skibets "safe manning document", anvendes samme terminologi som i dette dokument. (For those positions/ranks that are also listed in the ship's safe manning document, the terminology used should be the same as in that document.)

³⁾ Vagtholdspersonalet kan under "kommentarer" angive det forventede antal timer, der skal anvendes til uplanlagt arbejde. (For watchkeeping personnel, the comment section may be used to indicate the anticipated number of hours to be devoted to unscheduled work.)

Bilag 2/Annex 2

STANDARDKEMA TIL REGISTRERING AF SØFARENDES DAGLIGE HVILETID I DANSKE SKIBE					
Record of hours of rest of seafarers in danish ships					
Søfarendes (fulde navn): _____		Fødselsdato: _____		År: _____	
Seafarer (full name)		Birthday		Year	
Stilling/rang: _____		Vagthavende: ¹⁾ ja nej		Skibets navn: _____	
Position/Rank		Watchkeeper yes no		Name of ship	
Følgende nationale love og administrative bestemmelser og/eller kollektive overenskomster om minimumshviletid gælder på skibet: The following national laws, regulations and/or collective agreements governing limitations on minimum rest periods apply to this ship: _____					
Måned: Month					
Dag:	Hvileperioder (fra-til)			Hviletid i alt	Kommentarer
Day	Periods of rest (from-to)			Hours of rest totally	Comments
1					
2					
3					

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Undertegnede erklærer herved, at dette skema præcist viser den pågældende søfarers hviletid.

I agree that this record is an accurate reflection of the hours of rest of the seafarer concerned.

Navn på skibsfører eller den person, der af skibsføreren er bemyndiget til at undertegne dette skema: _____

Name of master or person authorized by master to sign this record:

Skibsførerens eller den bemyndigede person underskrift: _____

Signature of master or authorized person:

Den søfarendes underskrift: _____

Signature of seafarer:

En genpart af dette skema gives til den søfarende.

A copy of this record is to be given to the seafarer.

Denne formular undersøges og påtegnes i henhold til procedurer fastlagt af:

This form is subject to examination and endorsement under procedures established by the:

Søfartsstyrelsen

Danish Maritime Authority

¹⁾ Det ikke-relevante krydses over (Delete as appropriate).

Official notes

¹⁾ This Executive Order implements parts of the Council Directive 94/33/EC of 22 June 1994 on the protection of young people at work, Official Journal 1994 L 216, page 12 and parts of the Council Directive 1999/63/EC of 21 June 1999 on the Agreement on the organisation of working time of seafarers concluded by the European Community Shipowners' Association (ECSA) and the Federation of Transport Workers' Unions in the European Union (FST), Official Journal 1999 L 167, page 33 and the Directive of the European Parliament and of the Council 1999/95/EC of 13 December 1999 concerning the enforcement of provisions in respect of seafarers' hours of work on board ships calling at Community ports, Official Journal 2000 L 14, page 29.

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