

**Translation. Only the Danish version is authentic.**

*Danish Maritime Authority Order no. 790 of 10 July 2006*

## **Order on the investigation of accidents at sea<sup>1)</sup>**

In pursuance of Section 1 (3), Section 4 (3) and Section 32 (4) of the Act on Safety at Sea, cf. Consolidated Act no. 627 of 26 July 2002, as amended by Act no. 1465 of 22 December 2004, of Section 13, Section 16 (2) and Section 24 (4) of the Act on Diving Operations and Diving Equipment, etc., cf. Consolidated Act no. 18 of 7 January 2000, and of Section 473 and Section 481 of the Merchant Shipping Act, cf. Consolidated Act no. 538 of 15 June 2004, the following provisions are laid down:

### *Investigation of accidents at sea – the Division for Investigation of Maritime Accidents*

**Section 1.** The investigation of accidents, deaths at sea as well as pollution incidents in connection with bunkering in which Danish ships are involved shall be carried out by a Division for Investigation of Maritime Accidents established by the Director General of the Danish Maritime Authority. The Division may also investigate incidents where there has been an imminent danger of such accidents. The Division also investigates accidents in connection with diving operations covered by the Act on Diving Operations and Diving Equipment, etc. as well as accidents on Danish offshore installations that are not covered by the Act on Certain Offshore Installations.

*Subsection 2.* Furthermore, the Division for Investigation of Maritime Accidents may take part in or be in charge of investigations of accidents at sea as well as pollution incidents in connection with bunkering on foreign ships if Danish interests are involved. If the accident has occurred outside Danish territorial waters, the investigation shall be carried out in cooperation with the maritime authorities of the flag State.

*Subsection 3.* The investigations of the Division for Investigation of Maritime Accidents shall be carried out separate from the other functions and activities of the Danish Maritime Authority, cf. section 6 (1) though. The employees of the Division may however be authorised to detain ships in accordance with the rules pertaining hereto, but shall not in any other way take part in surveys carried out by the Danish Maritime Authority.

**Section 2.** The purpose of investigating accidents and deaths at sea as well as pollution incidents in connection with bunkering is to obtain information about the actual circumstances of the accident

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<sup>1)</sup> The Order contains provisions implementing parts of Council Directive no. 99/35/EC on a system of mandatory surveys for the safe operation of regular ro-ro ferry and high speed passenger craft services, Official Journal 1999 L 138.

and to clarify the causes and the sequence of events that led to the accident in order that the Danish Maritime Authority or others can take measures to reduce the risk of recurrences. The aim of such investigations is not to take a position on the aspects of criminal liability or liability for damages in connection with the accidents.

*Subsection 2.* The investigations shall be carried out in accordance with the principles of the International Maritime Organization's (IMO) Code for the Investigation of Marine Casualties and Incidents. The involved ships' and shipping companies' safety management system (ISM) shall be included in the investigations when relevant.

**Section 3.** Accidents, etc. involving only pleasure craft shall be investigated only if it is assessed that there is a special need for this. Furthermore, it may be decided not to investigate accidents, etc. that involve vessels other than pleasure craft.

*Subsection 2.* The provisions on the investigation of accidents in article 12 of the Council Directive on a system of mandatory surveys for the safe operation of regular ro-ro ferry and high speed passenger craft services shall apply when investigating accidents covered by the said Directive.

#### *Contact persons, etc.*

**Section 4.** The Danish Maritime Authority shall designate eight persons with special maritime expert knowledge on the recommendation of the organisations represented on the Ships Inspection Council and after consultation with the said Council, who shall be affiliated with the Division for Investigation of Maritime Accidents and who shall, upon request of the Division, assist when special need for this arises. The experts shall be designated so that four persons have special insight into the conditions of the merchant fleet and four persons have special insight into the conditions of the fishing industry. Representatives of the seafarers' organisations and of the shipowners' organisations shall be equally represented.

*Subsection 2.* Furthermore, the Division for Investigation of Maritime Accidents may be assisted by other persons or institutes in its investigations.

*Subsection 3.* The general legal provisions on the duty of confidentiality of persons in public service or of persons who carry out tasks on behalf of a public authority shall apply to the persons mentioned in subsection 1 as well as to persons providing assistance under subsection 2.

#### *Reporting obligation*

**Section 5.** When a Danish merchant ship or fishing vessel is involved in a collision, grounding, fire, explosion, leakage, list, capsizing, when another incident with consequent substantial material damage has occurred, or when a death or serious personal accident has occurred on board the ship or to a person from the ship, the Division for Investigation of Maritime Accidents shall be informed of this immediately.

*Subsection 2.* For ships registered in Greenland of a scantling number below 20, cf. Notice from

the Danish Maritime Authority F, chapter 1, regulation 17, the Division for Investigation of Maritime Accidents merely has to be informed about deaths and serious personal injury.

*Subsection 3.* Furthermore, the Division for Investigation of Maritime Accidents shall be informed of accidents in connection with diving operations covered by the Act on Diving Operations and Diving Equipment.

*Subsection 4.* The reporting obligation shall rest with the master of the ship. If he or she is unable to meet this obligation, the obligation shall rest with the shipowner. In the case of offshore installations, the reporting obligation shall rest with the person responsible for the offshore installation.

*Subsection 5.* In the case of diving operations not carried out from a ship or an offshore installation, the reporting obligation shall rest with the employer and, where no employment contract exists, with the person who has ordered the diving operation.

**Section 6.** Employees at the Danish Maritime Authority's office in Greenland may, on request by the Division for Investigation of Maritime Accidents, collect data and conduct the necessary investigations in Greenland on behalf of the Division. The Greenland office will provide the Division with the collected data and the Division will conduct further investigations.

*Subsection 2.* The Chief Constable in Greenland or other Greenlandic authorities shall inform the Division for Investigation of Maritime Accidents about the occurrence of an accident or another incident which is covered by the reporting obligation, Section 5, and which is assumed not to be known by the Division.

*The Division for Investigation of Maritime Accident's access to ships, etc.*

**Section 7.** Under Section 19 (1) of the Act on Safety at Sea, the employees of the Division for Investigation of Maritime Accidents shall be permitted to access ships at any time upon presentation of due identification and without a court order if it is deemed necessary in connection with the performance of their tasks.

*Subsection 2.* The Division for Investigation of Maritime Accidents may carry out measurements, tests, technical examinations and reconstructions of importance when clarifying the reason for the accident. According to Section 19 (2) of the Act on Safety at Sea, the ship's owner, master and chief engineer or anyone acting on their behalf shall be obliged to provide the Division for Investigation of Maritime Accidents the assistance necessary for its investigations and provide the Division with any information in relation hereto, cf. however subsection 3.

*Subsection 3.* Before the Division for Investigation of Maritime Accidents obtains a statement from a person who, according to the Division's assessment, could face criminal proceedings in connection with the accident, the person in question shall be made aware that he or she has a right to remain silent.

*Subsection 4.* The Division for Investigation of Maritime Accidents shall record the statements given. It shall be clear from such records whether the person in question has received guidance under subsection 3. The person who has given a statement shall be given the opportunity to know the content of the record.

### *Shipping Inquiry*

**Section 8.** The Division for Investigation of Maritime Accidents may request a shipping Inquiry according to the provisions hereon of the Merchant Shipping Act.

### *Cooperation with foreign authorities*

**Section 9.** The Division for Investigation of Maritime Accidents may cooperate with the maritime authorities of other states concerned about investigations and may in this connection render information to these authorities to the extent necessary, including the rendering of information about records in the involved ships' Voyage Data Recorders.

### *Temporary detention of ships, removal of wreckage, etc.*

**Section 10.** If the onward voyage of a ship will be an obstacle to the investigations of the Division for Investigation of Maritime Accidents, the Division may order postponement of the ship's onwards voyage. Furthermore, the Division for Investigation of Maritime Accidents may order that instruments or the like may not be removed or touched until the Division has had an opportunity to carry out the examinations necessary. The Division for Investigation of Maritime Accidents shall see to it that ships are not unnecessarily detained and that the work on board is not unnecessarily obstructed. Section 16 (4) of the Act on Safety at Sea shall apply in connection with the orders mentioned in the first sentence. *Subsection 2.* The Division for Investigation of Maritime Accidents may decide that wreckage and pieces of wreckage may not be removed or touched until the Division has had the opportunity to carry out the examinations necessary. In cases where a ship has foundered, grounded or is drifting and may endanger safety of navigation or the environment, the Division for Investigation of Maritime Accidents shall agree with the Royal Danish Administration of Navigation and Hydrography or the Admiral Danish Fleet how to react.

*Subsection 3.* The Division for Investigation of Maritime Accidents may take the pieces of wreckage and instruments, etc. mentioned in subsections 1 and 2 in its possession if this is necessary to carry out the investigation.

**Section 11.** It shall be decided by agreement between the Division for Investigation of Maritime Accidents and the military authorities how to act in case of accidents at sea in which both civilian ships and warships or troopships are involved or which occur in military areas.

### *Marine accident reports, etc.*

**Section 12.** When the Division for Investigation of Maritime Accidents has completed its investigation, a report on the accident shall be drawn up. The report shall contain a description of the sequence of events and a conclusion about the cause of the accident to the extent that it has been possible to determine this. Furthermore, the report may contain recommendations for initiatives

intended to prevent accidents of the same or similar kind.

*Subsection 2.* The report shall be forwarded to those involved in the accident and shall be published unless special circumstances go against this. In order to contribute to preventing future accidents or to limit the consequences of such, the marine accident reports, which are made public, may contain information on the health of persons that have been involved in an accident. This is done to provide a true image of the accidents and the consequences.

*Subsection 3.* If new information occurs after the completion of the investigation that may be presumed to be of significant importance to the conclusions of the investigation, the Division for Investigation of Maritime Accidents may decide to reopen the investigation.

*Subsection 4.* When the result of the investigation of an accident or the nature of the accident goes against it, the Division for Investigation of Maritime Accidents may abstain from drawing up a report.

#### *Limited right of access to documents*

**Section 13.** The provisions in the Act on Public Access to Documents in Administration Files shall not apply to information, investigations, materials, etc. forming part of an ongoing investigation of an accident or a death at sea.

*Subsection 2.* The provision of subsection 1 shall apply only until the final casualty report is available or until a decision has been made not to draw up a report.

#### *Accident statistics*

**Section 14.** Statistics of accidents at sea shall be published at least once a year.

#### *Penalty and entry into force, etc. clauses*

**Section 15.** Persons contravening Section 5 shall be liable to punishment by fine. Persons who, contrary to Section 6 (1), obstructs the investigations of the Division for Investigation of Maritime Accidents or who do not provide the Division assistance or render information as prescribed in Section 6 (2) shall be liable to punishment by fine, cf. however the provision of Section 6 (3). Persons who act contrary to orders issued or provisions laid down under Section 9 (1), the first or the second sentence, or Section 9 (2), the first sentence, shall be liable to punishment by fine.

*Subsection 2:* Persons contravening provisions mentioned in Section 1 concerning accidents at sea on ships registered in Greenland shall be liable to punishment by fine.

**Section 16.** The Order shall enter into force on 1 February 2006.

*Subsection 2.* Order no. 1482 of 16 December 2005 on the Investigation of Accidents at Sea shall be repealed.

*The Ministry of Economic and Business Affairs, 2006*

Bendt Bendtsen/Frank Bjerg Mortensen

#### Official notes

The order lists provisions effecting parts of the Council's Directive no. 99/35/EF on mandatory surveys regarding safe operation of ro-ro ferries and high-speed passenger vessels – EF-Tidende 1999L 138

#### Links to EC Directives, cf. note 1

[Directive 1999/35/EC](#) Celex no. 31999L0035