

## Order on Reports pursuant to the Act on the Protection of the Marine Environment<sup>1</sup>

The following shall be laid down pursuant to section 39, section 61(1), section 62 of the Act on the Protection of the Marine Environment (*lov om beskyttelse af havmiljøet*), cf. Consolidated Act no. 47 of 7 January 2008, as amended by section 3 of Act no. 507 of 17 June 2008 amending the Act on the Protection of the Marine Environment (*lov om beskyttelse af havmiljøet*) and various other acts, section 26, section 44(1) and (3), and section 45 of Decree no. 1035 of 22 October 2004 on the entry into force for Greenland of the Act on the Protection of the Marine Environment (*lov om beskyttelse af havmiljøet*):

### Part 1

#### Reporting

**Section 1.** Reporting under this Order shall be made to the authorities and in the manner stipulated in sections 5 and 6.

**Section 2.** The master of a ship, the master of an aircraft, the head of an offshore installation or the person responsible for a pipeline shall report immediately any discharge or dumping or danger of discharge from the ship, the aircraft, the offshore installation or the pipeline in contravention of the Act or regulations issued in pursuance hereof, or which are covered by section 58 of the Act. For offshore installations without a head, the reporting obligation shall rest with the person responsible for the offshore installation. Furthermore, reports shall be made immediately after any form of collision, contact with the ground or grounding if there is, as a consequence of a fire, explosion, defect in machinery or equipment which may affect the manoeuvrability of the ship or offshore installation or for other reasons, a risk of discharge, including

- 1) a discharge or possible discharge of noxious substances in packaged form including such substances in containers, mobile tanks, vehicles and railway carriages as well as on board barges; or
- 2) in connection with damage to, defects in or collapse of a ship of a length of 15 metres or more, which
  - a) affects the safety of the ship and includes, but is not limited to collision, grounding, fire, explosion, damage to the construction of the ship, penetration of seawater, displacement of cargo or
  - b) results in impairment of the navigational safety of the ship and includes, but is not limited to defect or failure of the guidance system, the propulsion machinery, the power supply system, and important ship-related navigation devices.

*Subsection 2.* The master of a ship, the master of an aircraft, the head of an offshore installation or the person responsible for a pipeline shall report immediately any observation from the ship, the aircraft, the offshore installation or the pipeline of spills of oil or noxious liquid substances, including spills of noxious substances and materials carried in packaged form.

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<sup>1</sup> This Order contains provisions implementing parts of Directive of the European Parliament and the Council 2002/59/EC of 27 June 2002 establishing a Community vessel traffic monitoring and information system and repealing Council Directive 93/75/EEC (Official Journal 2002 no. L 208, page 10) and parts of Directive of the European Parliament and of the Council 2004/35/EC of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage (Official Journal 2004 no. L 143, p. 56).

*Subsection 3.* The master of a ship, the master of an aircraft or the head of an offshore installation shall report immediately if dumping or incineration at sea is carried out from the ship, the aircraft or the offshore installation for the purpose of securing their safety, saving life at sea or as a consequence of damage to the ship, the aircraft or the offshore installation pursuant to section 58 of the Act.

*Subsection 4.* The obligation pursuant to subsections 1-3 for immediate reporting rests with the owner or the user of the ship, the aircraft, the offshore installation or the pipeline.

*Subsection 5.* Furthermore, the obligation pursuant to subsections 1-3 for immediate reporting rests with the pilot of the ship or the offshore installation.

*Subsection 6.* The master of a ship shall immediately report situations at sea that may lead to pollution of Danish coasts or sea areas, including discharge or risk of discharge of polluting substances at sea.

*Subsection 7.* The master of a ship shall, furthermore, report observations of polluting discharges on the surface of the sea or drifting goods at sea.

*Subsection 8.* Only the information stipulated in sections 7-10 of relevance to the ship, aircraft, offshore installation or pipeline concerned shall be reported.

**Section 3.** In case of environmental damage or an imminent risk of environmental damage, cf. section 47a of the Act, the persons responsible for the operation of a ship, an aircraft, an offshore installation or a pipeline, cf. section 47b of the Act, shall immediately report the environmental damage or the imminent risk of environmental damage.

*Subsection 2.* Furthermore, the obligation for immediate reporting pursuant to subsection 1 rests with the master of a ship, the master of an aircraft or the head of an offshore installation.

*Subsection 3.* If the owner of a ship, an aircraft, an offshore installation or a pipeline becomes aware that no reporting has been made pursuant to subsections 1 or 2, the owner shall immediately report this.

*Subsection 4.* Reporting pursuant to section 3 may form part of reporting to be made pursuant to section 2.

**Section 4.** The port committee shall report immediately any observation in the port of spills of oil or noxious liquid substances, including spills of noxious substances and materials carried in packaged form presenting a risk of marine pollution. If there is no port committee, the reporting obligation rests with the person responsible for the port.

**Section 5.** Reporting pursuant to sections 2 and 4 shall be made to the Admiral Danish Fleet. The Admiral Danish Fleet shall pass on reports on offshore installations and pipelines to the Danish Environmental Protection Agency. In waters outside territorial waters at Greenland, including in the exclusive economic zone, reports shall be made to the Island Command Greenland.

*Subsection 2.* Reports pursuant to section 3 shall be made to the Admiral Danish Fleet. Without making an environmental technical assessment, the Admiral Danish Fleet shall pass on the report to the environmental centres of the Danish Environmental Protection Agency in Aarhus, Odense and Roskilde for processing pursuant to part 14a of the Act. The report shall be sent to the environmental centre in the geographical area shown in the annex on the Marine Environment Act (*havmiljøloven*) in the Order on the Transfer of Tasks and Powers to the Danish Agency for Spatial and Environmental Planning and the Environmental Centres of the Danish Ministry for the Environment (*bekendtgørelse om henlæggelse af opgaver og beføjelser til By- og Landskabsstyrelsen og Miljøministeriets miljøcentre*).

*Subsection 3.* In the exclusive economic zone or outside Danish territorial waters, reports may also be made to the competent authorities in the nearest coast state. Reports from ships, offshore installations and pipelines shall be made through the nearest coast radio station or in some other manner which is the quickest at the time of reporting. Reports from aircraft shall be made through the air traffic control services unit with which the aircraft shall be in contact at any time.

*Subsection 4.* If reports have been made to foreign authorities in the circumstances mentioned in section 2(3), the dumping or incineration shall also be reported to the Admiral Danish Fleet no later than one week after the dumping or incineration took place. The Admiral Danish Fleet shall pass on reports on offshore installations and pipelines to the Danish Environmental Protection Agency.

**Section 6.** Reports shall be made over the radio, by telephone or in the manner which is the quickest at the time of reporting. Reports in the circumstances mentioned in section 5(4) may, however, be made in writing or by e-mail.

**Section 7.** Reports in the circumstances mentioned in section 2(1) shall contain all information which may be important for the assessment of the situation made by the authorities mentioned in section 5, including information on

- 1) name, home port and international radio call signal of the ship, the aircraft or the offshore installation;
- 2) type and tonnage of the ship, the aircraft or the offshore installation;
- 3) nature, amount and location of the cargo, including the options for transferring cargo or ballast to other ships or offshore installations;
- 4) nature, amount and place of the fuel supply;
- 5) time of the incident;
- 6) position, course and speed of the ship, the aircraft or the offshore installation when the incident took place;
- 7) course and speed of the ship, the aircraft or the offshore installation after the incident or, if the ship or offshore installation is grounded, draught bow or astern;
- 8) the last departure of the ship, the aircraft or the offshore installation and time and place of the nearest expected destination;
- 9) the prevailing winds, sea and current conditions as well as the visibility;
- 10) nature, cause and progress of the incident, including the location of any damage and whether any discharge will continue;
- 11) relevant conditions concerning the state of the ship, the aircraft, the offshore installation or the pipeline;
- 12) precautions taken to prevent or limit discharge;
- 13) to what extent assistance has been sought or obtained;
- 14) which radio frequency or channel is being listened to;
- 15) owner, user or nearest local agent of the ship, the aircraft, the offshore installation or the pipeline; and
- 16) information about the insurance conditions, including insurance company, of the ship, the aircraft, the offshore installation or the pipeline.

*Subsection 2.* Moreover, reports in the circumstances mentioned in section 2(1) shall contain detailed information on the substances discharged or at risk of being discharged, including

- 1) clear indication or description of the substances, including the correct technical term;
- 2) indication or estimate of amounts, concentrations and likely state of the substances;

- 3) description of the extent and movement of the spill; and
- 4) name of the consignee, consignor, shipper or manufacturer of the substances.

*Subsection 3.* The report shall be supplemented if further developments change the conditions reported.

*Subsection 4.* Reports from the pilot shall contain the information mentioned in subsections 1-3 that the pilot is, or should be, familiar with.

**Section 8.** Reports in the circumstances mentioned in section 2(2) shall contain all information which may be important for the assessment of the situation made by the authorities mentioned in section 5, including

- 1) name, place of registration or international radio call signal of the ship, the aircraft or the offshore installation;
- 2) time of the observation;
- 3) position and extent of the spill observed;
- 4) the substances the spill consists of and the likely amount;
- 5) where the spill comes from; and
- 6) the prevailing winds, sea and current conditions as well as the visibility at the time of the observation.

**Section 9.** Reports on dumping pursuant to section 2(3) shall contain information on

- 1) name, home port or international radio call signal of the ship, the aircraft or the offshore installation;
- 2) time of the dumping;
- 3) position of the ship, aircraft or offshore installation when the dumping took place;
- 4) nature and amount of the substances and materials dumped;
- 5) the prevailing winds, sea and current conditions as well as the visibility;
- 6) method of dumping; and
- 7) the reasons which led to dumping being carried out.

**Section 10.** Reports on incineration at sea pursuant to section 2(3) shall contain information on

- 1) name, home port or international radio call signal of the ship, the aircraft or the offshore installation;
- 2) time of the incineration;
- 3) position of the ship, aircraft or offshore installation when the incineration took place;
- 4) nature and amount of the substances and materials incinerated;
- 5) the prevailing winds, sea and current conditions as well as the visibility;
- 6) method of incineration;
- 7) effect of the incineration; and
- 8) the reasons which led to incineration being carried out at sea.

**Section 11.** Reports in the circumstances mentioned in section 2(6) and (7) shall contain all information that may be of importance to the assessment of the situation of the authorities mentioned in section 5, including

- 1) the home port and international radio signal of the ship;
- 2) the position, port of loading and port of destination of the ship;
- 3) the position and extent of the pollution or drifting goods observed;
- 4) an address from which to acquire information on any dangerous or polluting goods carried on board;

- 5) the prevailing wind, sea and current conditions as well as the visibility; and
- 6) other relevant information as covered by IMO resolution A.851(20) (with the title “General Principles for Ship Reporting Systems and Ship Reporting Requirements, including Guidelines for Reporting Incidents involving Dangerous Goods, Harmful Substances and/or Marine Pollutants”). The resolution is available from [www.blst.dk](http://www.blst.dk).

**Section 12.** Reports of the circumstances mentioned in section 3 shall contain all information of importance to the assessment of the situation by the authorities mentioned in section 5, including

- 1) the name, home port and international radio call sign of the ship, aircraft and offshore installation;
- 2) the position of the ship, aircraft, offshore installation or pipeline;
- 3) the position and extent of the environmental damage or the imminent risk of environmental damage;
- 4) the time of the environmental damage or the imminent risk of environmental damage;
- 5) information about the insurance conditions, including insurance company, of the ship, aircraft, offshore installation or pipeline; and
- 6) the prevailing wind, sea and current conditions as well as the visibility.

**Section 13.** Reports in the circumstances mentioned in section 4 shall contain all information which may be important for the assessment of the situation by the Admiral Danish Fleet, including

- 1) position and extent of the spill observed;
- 2) the substances the spill consists of and the likely amount;
- 3) the prevailing winds, sea and current conditions; and
- 4) where the spill comes from.

**Section 14.** In the circumstances mentioned in sections 2-4, the persons mentioned and relevant port committee shall, on request, give the authorities mentioned in section 5(1) and (2) as well as the foreign authorities which pursuant to section 5(3) have received the report, all information important for implementing precautions to prevent or combat marine pollution.

## Part 2

### *Penalty provisions*

**Section 15.** Unless more severe penalty is due under other legislation, offenders shall be liable to a fine

- 1) for not reporting under sections 2-6;
- 2) for not providing all the information required by sections 7-13; or
- 3) not providing information as requested in section 14.

*Subsection 2.* The penalty may be increased to imprisonment for a maximum term of two years if the offender acted intentionally or by gross negligence, and if the infringement resulted in:

- 1) damage to the environment or a risk of damage; or
- 2) actual or intended financial advantage for the person in question or for others, including through cost savings.

*Subsection 3.* Companies etc. (legal persons) may incur criminal liability under the regulations of Chapter 5 of the Criminal Code (*straffeloven*).

*Subsection 4.* Subsections 4 and 6 shall not apply to violations committed from foreign ships unless the violation has been committed in inner territorial waters. For violations committed from foreign ships in outer territorial waters, the penalty may be increased to imprisonment for a term not exceeding 2 years in case of intentional and serious pollution of the marine environment.

*Subsection 5.* Unless stricter sanctions are imposed according to other legislation, anyone in Greenland violating the provisions of subsection 1 shall be liable to punishment by fine under the Criminal Code of Greenland.

*Subsection 6.* Violations in Greenland of the provisions of subsection 1 may lead to measures under the Criminal Code for Greenland if the violation has been committed intentionally or by gross negligence and if the violation has

- 1) caused damage to the environment or produced a risk of this; or
- 2) resulted in actual or intended financial benefit for the person concerned or other, including through cost-savings.

*Subsection 7.* In Greenland, violations by public limited companies, cooperative societies, private limited companies, or similar may be liable to punishment by fine under the Criminal Code for Greenland.

*Subsection 8.* If the violation has been committed by the Greenland Home Rule, a municipality or municipalities jointly covered by section 64 of the Greenland Home Rule Parliament Act on local councils and settlement councils etc. (*landstingslov om kommunalbestyrelser og bygdebestyrelser m.v.*), fines may be imposed on the Home Rule, the municipality or the municipalities jointly under the Criminal Code for Greenland.

### Part 3

#### *Entry into force, etc.*

**Section 16.** This Order shall enter into force on 1 July 2008.

*Subsection 2.* Order no. 771 of 24 October 1998 on Reports pursuant to the Act on the Protection of the Marine Environment (*indberetning i henhold til lov om beskyttelse af havmiljøet*) shall be repealed.

*Subsection 3.* The Minister for the Environment shall determine the time of entry into force for Greenland of this Order. Order no. 29 of 9 January 1999 on the entry into force for Greenland of the Order on Reports pursuant to the Act on the Protection of the Marine Environment (*bekendtgørelse om indberetning i henhold til lov om beskyttelse af havmiljøet*) shall remain in force for Greenland until the Minister for the Environment puts this Order in force for Greenland.

**Section 17.** Sections 3 and 12 shall not apply to Greenland.

*Ministry of the Environment, 18 June 2008*

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