

**Translation: Only the Danish document has legal validity.**

*Order no. 417 of 28 May 2009 issued by the Danish Maritime Authority*

## **Order on technical regulation on safety of navigation in Greenland territorial waters**

In pursuance of section 1(3), section 3, section 6 and section 32 of the Act on Safety at Sea, cf. Consolidated Act no. 903 of 12 July 2007, as put into force by Decree no. 882 of 25 August 2008 on the entry into force of the Act on Safety of Sea in Greenland, after consultation with the Greenland Home Rule and by authority, the following provisions are laid down:

### *Application*

**Section 1.** This regulation shall apply to all cargo ships with a gross tonnage of or above 150 and ships carrying more than 12 passengers and engaged in voyages in Greenland territorial waters with the exceptions stipulated in subsection 2.

*Subsection 2.* Sections 5-7 shall not apply to foreign ships that only pass Greenland territorial waters.<sup>1</sup>

### *Definitions*

**Section 2.** An “iceberg” shall mean ice broken away from a glacier and rising more than 5 metres above the sea, as defined by the International Hydrographic Organization.

*Subsection 2.* “Pass” shall mean that foreign ships traverse outer Greenland territorial waters without entering inner waters or that ships, without interruption and appropriately fast, call at a roadsted or port facility.

*Subsection 3.* “Territorial waters” shall mean waters within the base line as stipulated in Decree no. 191 of 27 May 1963 on the delimitation of the territorial waters around Greenland, as amended by Decree no. 636 of 6 September 1991 and by Decree no. 1004 of 15 October 2004, as well as the outer territorial waters extending 3 nautical miles from the base line. The base line is shown in official charts published by the National Survey and Cadastre.

*Subsection 4.* A “track” shall mean a navigation route previously navigated by own or other ships without underwater obstacles having been observed.

### *Reporting*

**Section 3.** All ships engaged on voyages to Greenland waters shall submit GREENPOS reports<sup>2</sup> and shall, upon request, submit copies to the Danish Maritime Authority of the valid certificates carried on board.

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<sup>1</sup> Regulations on passage as well as exemptions from requirements for design, construction, manning or equipment are found in promulgation no. 17 of 21 July 2005 of the United Nations Convention on the Law of the Seas of 10 December 1982.

## *Navigational measures*

**Section 4.** Navigation is prohibited in areas delimited in the charts by a dotted line informing about “numerous rocks” or similar indication in other countries’ charts.

*Subsection 2.* Navigation is prohibited in areas indicated in the charts as “foul” or “unsurveyed” or similar indication in other countries’ charts or where sounding is not indicated in a greater area.

*Subsection 3.* The waters mentioned in subsection 2 may be navigated if the ship follows previously used tracks that the master has assessed as having a sufficient safety margin in relation to the ship’s draught and breadth.

*Subsection 4.* The waters mentioned in subsection 2 may be navigated if all the measures are taken on board necessary for the voyage to be safe, including:

- 1) The position of the ship is determined by means of terrestrial and/or radar navigation;
- 2) Only the speed necessary to maintain the ship’s manoeuvrability is used;
- 3) The sea in front of the ship is explored by means of soundings or the like to the extent such a possibility is available;
- 4) Watertight doors, hatches and similar below the waterline are closed to ensure the watertight integrity of the ship;
- 5) Prohibition against unnecessary stay on deck below the waterline is established.
- 6) Stern anchors are lowered to warn of underwater obstacles if deemed appropriate, among other things in consideration of the expected character of the seabed; and

*Subsection 5.* Ships shall navigate with intensified vigilance in consideration of the danger of unknown underwater obstacles in areas where depths are indicated by means of a single sounding line. Such sounding lines may only be considered as reconnaissance.

*Subsection 6.* Intensified lookout for ice shall be made through the use of all available means when navigating in waters where there may be a risk of colliding with ice of a size that may pose a danger to the ship. The speed shall be adjusted so that it is possible for the ship to stop or sail around ice that may harm the ship. In the dark, the ship shall use ice searchlights to light up the sea in front of the ship.<sup>3</sup>

*Subsection 7.* Ships shall keep a safe distance to icebergs and the master shall determine safety distances to icebergs in consideration of the safety of the ship, the crew and the passengers. If it is necessary in order to call at a port, roads or place or in order to navigate narrow waters or the like to sail close to icebergs, the greatest possible distance shall be observed permitted by the actual conditions of the waters.

## *Navigator’s qualifications*

**Section 5.** Ships shall have at least one navigator available on board with the necessary local knowledge of the waters to be navigated

*Subsection 2.* The shipping company shall be able to document the navigator’s experience with and knowledge of navigation in Arctic desolate and icy waters.

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<sup>2</sup> Cf. Order on ship reporting systems in Greenland waters (reporting service in Greenland) (Order no. 170 of 17 March 2003).

<sup>3</sup> Cf. technical regulation no. 169 of 4 March 2009 on the use of ice searchlights during navigation in Greenland waters.

*Subsection 3.* The navigator shall have the qualifications that would give him the right to navigate the ship in question. However, a valid certificate of competency shall not be required.

### *Equipment*

**Section 6.** Open survival craft shall not form part of the ship's rescue emergency preparedness.

### *Design*

**Section 7.** Navigation in ice may form part of the planning of the ship's voyage only if the structural design of the ship is intended for navigation in the relevant type of ice.

### *Safety management*

**Section 8.** Ships required to have a safety management system according to the International Safety Management (ISM) Code shall have procedures and contingency plans that take into consideration the special conditions related to navigation in Arctic waters, including the existing search and rescue emergency preparedness.

*Subsection 2.* The procedures and contingency plans mentioned in subsection 1 shall be drawn up in consideration of the guidelines for navigation in Arctic, ice-covered and desolate areas adopted by the IMO.<sup>4</sup>

### *Penalty clauses*

**Section 9.** In case of contraventions of sections 4-8, measures may be laid down in accordance with the Criminal Code for Greenland.

*Subsection 2.* It shall be regarded as aggravating circumstances if:

- 1) the contravention has caused damage to life or health or risk of such damage;
- 2) an injunction or order has previously been issued in connection with the same or equivalent situations; or
- 3) the contravention has produced or has been intended to produce financial benefits to the contravener or others.

*Subsection 3.* If the profits gained through the contravention are not confiscated in pursuance of the provisions of the Criminal Code, particular account shall, when meting out penalties, including additional penalties, be taken of the scale of any economic benefit achieved or sought.

*Subsection 4.* If the contravention has been committed by companies, etc. (legal entities), liability to pay a fine may be incurred by the legal entity as such. If the contravention has been committed by the State, the Greenland Home Rule, a municipality, a municipal

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<sup>4</sup> IMO MSC.1/Circ.1æ184 (Enhanced contingency planning guidance for passenger ships operating in areas remote from SAR facilities) and IMO MSC/Circ.1056 (Guidelines for ships operating in Arctic ice-covered waters).

cooperative covered under section 64 of the Landsting Act on municipal councils and local authorities, etc. or a local authority, liability to pay a fine may be incurred by the relevant public authority as such.

*Subsection 5.* If the relevant party is not resident in Greenland or his connection to Greenland society is otherwise so remote that the prerequisites for measures to be taken do not exist, legal proceedings may be instigated or the case may be referred for trial in Denmark.

**Section 10.** In the cases stipulated in section 9(5), contraventions of sections 4-8 shall be punishable by fine or imprisonment for a period not exceeding 1 year.

*Subsection 2.* The penalty may be increased to imprisonment for a period not exceeding 2 years if

- 1) the contravention has caused damage to life or health or risk of such damage;
- 2) an injunction or order has previously been issued in connection with the same or equivalent situations; or
- 3) the contravention has produced or has been intended to produce financial benefits to the contravener or others.

*Subsection 3.* Companies etc. (legal personalities) may be liable to punishment according to the provisions of chapter 5 of the Penal Code.

#### *Entry into force*

**Section 11.** This regulation shall enter into force on 1 July 2009. However, section 6 shall not enter into force until 31 December 2010.

*Danish Maritime Authority, 28 May 2009*  
Per Sønderstrup / Søren Østerberg Forup