

Translation. Only the Danish document has legal validity.

Technical regulation no. 13 of 13 November 2000 issued by the Danish Maritime Authority

Technical regulation on the safe operation of passenger ships (ISM Code) exclusively engaged on voyages in port areas, on lakes, etc.¹

In pursuance of sections 3-5, section 17(5) and section 32 of the Act on Safety at Sea, cf. Consolidated Act no. 554 of 21 June 2000, and in pursuance of section 2(5), section 4, section 11(2) and section 28 of Act no. 98 of 12 March 1980 on Ship Safety, etc., as amended, and in consultation with the Faroese regional government and the Greenland Home Rule and by authority of the Minister of Economic and Business Affairs, the following provisions are laid down:

Application

Section 1. This technical regulation covers passenger ships registered in Denmark, in the Faroese Islands or in Greenland, which:

- 1) are exclusively engaged on voyages with passengers in port areas or on lakes, and
- 2) passenger ships constructed by materials other than steel not covered by the technical regulation on traditional ships (ships worthy of preservation, sport fishing vessels, etc.), respectively the regulations on high-speed craft.

Subsection 2. This technical regulation shall also apply to the companies operating these ships.

Definitions

Section 2. For the purposes of this technical regulation, the following definitions shall apply:

- 1) “The ISM Code”: The International Management Code for the Safe Operation of Ships and for Pollution Prevention, as adopted by the International Maritime Organization (IMO), as amended.
- 2) “Safety Management System” (SMS): A structured and documented system enabling Company personnel to implement effectively the Company safety and environmental protection policy.
- 3) “Auditing”: a systematic and independent examination to determine whether the safety management activities and related results are implemented effectively and are suitable to achieve objectives.
- 4) “Non-conformity”: An observed situation where objective evidence indicates the non-fulfilment of a specified requirement.
- 5) “Major non-conformity”: An identifiable deviation that poses a serious threat to the safety of personnel or the ship or a serious risk to the environment that requires immediate corrective action and includes the lack of effective and systematic implementation of a requirement of the ISM Code.
- 6) “Document of Compliance”: A document issued to a company as an expression that the company’s shore-based functions are carried out in accordance with the approved safety management system. In companies where there are no shore-based company functions as such, only a Safety Management Certificate shall be issued to the company’s ships.
- 7) “Safety Management Certificate”: A certificate issued to a ship as evidence that the ship is operated in compliance with the approved safety management system.

¹ A draft of this technical regulation has been notified in accordance with Directive 98/34/EC of the European Parliament and of the Council laying down a procedure for the provision of information in the field of technical standards and regulations and of rules on information society services, as amended most recently by Directive no. 98/48/EC.

- 8) "Port area/lake": An area that, according to the Danish Maritime Authority's definition, is not a sea area and that stretches to the most remote fixed installation parts forming an integrated part of the port or to boundaries defined by natural geographical characteristics protecting a mouth of a river, a lake or a similar shielded area.
- 9) "Shore-based company functions": Administrative functions directly connected with the company's safety management system and carried out from facilities ashore.
- 10) "Passenger": Any person, except for:
 - a) the master and the crewmembers or other persons that have been engaged or employed in any capacity on board a ship, and
 - b) children below the age of 1 year.
- 11) "Passenger ship": A ship carrying more than 12 passengers.
- 12) "Company": The owner of the ship or any other organization or person such as the manager, or the bareboat charterer, who has assumed the responsibility for operation of the ship from the shipowner and who on assuming such responsibility has agreed to take over all the duties and responsibility imposed by this technical regulation.

Safety management system

Section 3. The company shall establish and maintain a safety management system (SMS) in the company's possible shore-based organisation as well as on board each individual company ship in order to ensure safe operation, maintenance as required by law and in order to prevent pollution.

Subsection 2. The safety management system shall be in accordance with the ISM Code.

Certification and control

Section 4. Upon completion of satisfactory audits of companies with shore-based company functions, the Danish Maritime Authority shall issue a Document of Compliance. The document shall be valid for a period of five years at a time.

Subsection 2. Upon completion of a satisfactory audit of a passenger ship, the Danish Maritime Authority shall issue a Safety Management Certificate. The certificate shall be valid for five years at a time.

Subsection 3. The shipowner is responsible for companies covered by subsection 1 as well as for passenger ships covered by subsection 2 holding the above-mentioned valid certificates.

Subsection 4. The company shall carry out internal audits of its safety management system (SMS) at least once every 12 months. The necessary documentation hereof shall be presented to the Danish Maritime Authority upon request.

Subsection 5. Once a year, the Danish Maritime Authority shall be requested to carry out annual audits of companies covered by subsection 1. Annual audits shall, insofar as possible, be carried out at intervals of 12 months calculated from the date of issue of the relevant Document of Compliance.

Subsection 6. The Danish Maritime Authority shall be requested to carry out at least one intermediate audit of passenger ships during the five-year period stipulated in subsection 2. This intermediate audit shall be carried out between 24 and 36 months after the date of issue of the relevant Safety Management Certificate.

Subsection 7. The Danish Maritime Authority may, when deemed necessary, carry out extraordinary audits.

Section 5. For newly established companies, in connection with major changes to the use of a ship, major rebuildings, purchases of ships or the delivery of newbuildings, the Danish Maritime

Authority may, on more specific conditions, issue temporary certificates under this technical regulation with a validity of up to six months.

Section 6. A certificate issued under this technical regulation may be withdrawn by the Danish Maritime Authority if major non-conformities from the safety management system are found of if annual or intermediate audits are not requested.

Subsection 2. If a Document of Compliance is withdrawn in accordance with subsection 1, the Safety Management Certificate for the company's ships shall be withdrawn at the same time.

Penalty and entry into force, etc.

Section 7. Contraventions of this technical regulation shall be punishable by fine, simple detention or imprisonment for a period not exceeding 1 year.

Subsection 2. The penalty may be increased to simple detention or imprisonment for a term not exceeding two years if the contravention has been committed wilfully or by gross negligence and if:

- 1) the contravention has caused damage to life or health or risk of such damage; or
- 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. It shall be considered especially aggravating circumstances if the violation has resulted in damage to the life or health of young people below the age of 18, or risk of such damage, cf. subsection 2, item 1.

Subsection 4. If the financial benefit achieved is not confiscated, special consideration shall be given to the size of the achieved or intended financial benefit when determining the size of the fine, including supplementary fine.

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

Subsection 6. If the circumstance is only covered by the Act on Ship Safety, etc., the punishment may only consist in a fine or simple detention.

Section 8. This technical regulation shall enter into force on 1 January 2001.

Subsection 2. Technical regulation no. 2 of 11 January 1996 on the safe operation of passenger ships (ISM Code) shall be repealed.

Subsection 3. Certificates issued in accordance with technical regulation no. 2 of 11 January 1996 on the safe operation of passenger ships (ISM Code) shall remain valid until the Danish Maritime Authority issues new certificates in accordance with this technical regulation.

Danish Maritime Authority, 13 November 2000

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