

## **Order on the Danish Shipping Tribunal (Rules of procedure)**

The following shall be laid down pursuant to section 21 of the Act on Safety at Sea, cf. Consolidated Act no. 627 of 26 July 2002, as amended by Act no. 1173 of 19 December 2003:

**Section 1.** The Danish Shipping Tribunal shall consider complaints against decisions to the extent stipulated by or in accordance with the following acts:

- 1) Act on the Manning of Ships,
- 2) Act on Safety at Sea,
- 3) Act on Diving Operations and Diving Equipment,
- 4) Merchant Shipping Act,
- 5) Seamen's Act and
- 6) Act on Protection of the Marine Environment.

*Subsection 2.* Complaints against the decisions mentioned in subsection 1 shall be submitted within 4 weeks. The Shipping Tribunal may ignore the time-limit when special reasons apply.

*Subsection 3.* The address of the Danish Shipping Tribunal is the Danish Shipping Tribunal, c/o the Danish Maritime Authority, Vermundsgade 38 C, 2100 Copenhagen Ø, Denmark.

**Section 2.** The Danish Shipping Tribunal consists of a Chairman appointed by the Danish Minister of Economic and Business Affairs, a Deputy Chairman as well as a number of expert members appointed for a term of 4 years. It shall not be possible to appoint members who are authorised to make decisions that may be brought before the Shipping Tribunal.

*Subsection 2.* The Danish Fishermen's Association (Danmarks Fiskeriforening) shall nominate 2 members and the Danish Shipowners' Association (Danmarks Rederiforening), the Danish Car Ferry Association (Bilfærgernes Rederiforening), the Shipowners' Association for Smaller Vessels (Rederiforeningen for mindre Skibe), the Shipowners' Association of 1895 (Rederiforeningen af 1895) shall jointly nominate 12 members with technical or nautical expert knowledge.

*Subsection 3.* Danish Maritime (the Shipbuilders' Association – Skibsværtsforeningen) shall nominate 2 members with technical expert knowledge.

*Subsection 4.* The United Federation of Danish Workers (Fagligt Fælles Forbund), the Seamen's Union (Sømandenes Forbund), Danish Metal Shipping Workers' Union (Metal Søfart), Danish Maritime Officers (Dansk Navigatørforening – Søfartens Ledere), Danish Engineers' Association (Maskinmestrenes Forening), Danish Maritime Catering Union (Dansk Sø-restaurations Forening), the National Danish Restaurant Trade Union (RestaurationsBranchens Forbund) and the Radio Operators' Association of 1917 (Radiotelegrafistforeningen af 1917) shall each nominate 2 members with technical or nautical expert knowledge.

*Subsection 5.* The National Board of Health shall nominate 2 members with expert knowledge in the field of maritime medicine.

*Subsection 6.* Persons who are 67 years of age or older may not be appointed members of the Danish Shipping Tribunal, but may retain their seats until the age of 70. It shall be possible to re-appoint the Chairman and the other members.

*Subsection 7.* The Chairman and the Deputy Chairman shall be judges.

**Section 3.** The chairmanship shall organize the work of the Danish Shipping Tribunal and see to it that meetings are adjourned, shall chair the meetings and ensure that the work is performed in a relevant way, including expedient consideration of cases concerning ship detentions and refusals of calls.

*Subsection 2.* The Danish Maritime Authority shall provide the Danish Shipping Tribunal with secretarial assistance.

*Subsection 3.* The Danish Maritime Authority shall pay the expenses incurred in connection with the Danish Shipping Tribunal's work.

**Section 4.** If the Chairman does not decide otherwise, the Chairman or the Deputy Chairman as well as 4 members shall participate in the decision of each individual case, cf. however subsections 2 and 3. In consideration of the nature of each individual case, the Chairman shall appoint the members who are to participate in the consideration and decision of the case so that the necessary expert knowledge is provided.

*Subsection 2.* When considering the cases stipulated in section 16 of the Act on the Manning of Ships, the members nominated by the seafarers' associations within whose service area (deck, machinery, catering or radio operation) the cases belong as well as a similar number of members nominated by the shipowners' associations shall participate.

*Subsection 3.* When considering complaints against decisions made by maritime doctors on the suitability of seafarers and fishermen for duty on board ships, the Chairman or the Deputy Chairman as well as two members shall participate in each individual decision. One of these members shall possess expert knowledge within the field of maritime medicine.

*Subsection 4.* When considering cases, as stipulated in section 16(4) of the Act on Safety at Sea, an equal number of members nominated by the seafarers' associations, cf. section 2(4), and by the shipowners' or shipyards' associations, cf. section 2(2) and (3), shall participate if the decision complained against concerns the application of the technical regulation issued by the Danish Maritime Authority on occupational health on board ships.

**Section 5.** A complaint shall not have a delaying effect, unless stipulated in other legislation or determined by the authority against whose decision a complaint has been filed. Should special reasons indicate so, the Danish Shipping Tribunal or the Chairman on its behalf may, however, decide that a complaint should have a delaying effect.

*Subsection 2.* It shall not be possible to bring the decisions made by the Danish Shipping Tribunal before another administrative authority.

**Section 6.** Cases brought before the Danish Shipping Tribunal shall be treated on a written basis. However, the Chairman may decide that a case is to be considered orally. The Chairman shall decide on the form of the oral consideration, including the order of succession in which the participants speak and when the proceedings have ended.

**Section 7.** The Danish Shipping Tribunal's consideration of cases, as stipulated in section 16 of the Act on the Manning of Ships, shall be oral.

*Subsection 2.* The complainant and the opposing party shall be entitled to argue the case before the Danish Shipping Tribunal. A request to do so shall be submitted at the same time as the submittal of the complaint.

*Subsection 3.* It shall not be possible for a member of the Danish Shipping Tribunal to participate in the same case as both a member of the Tribunal and an advocate.

**Section 8.** In cases considered orally by the Danish Shipping Tribunal, a representative of the authority against whose decision a complaint is filed may, in agreement with the Chairman of the Danish Shipping Tribunal, be permitted to give an oral account of the individual cases at a meeting of the Tribunal, and the Chairman may summon special experts.

**Section 9.** The general public shall not have access to the oral consideration unless the complainant and the authority complained against agree so and the Chairman permits, after negotiation with the members of the Shipping Tribunal taking part in the consideration of the case.

*Subsection 2.* In cases where procedures are in accordance with the provisions of section 6(2), the procedure shall be open to the public unless the Chairman decides otherwise, after negotiation with the parties.

*Subsection 3.* In cases where it has been decided in accordance with the provisions of subsection 2 that the procedure shall be open to the public, this shall be announced with a notice of at least 3 days on the website of the Danish Maritime Authority ([www.sofartsstyrelsen.k](http://www.sofartsstyrelsen.k)) indicating the time and place of the hearing.

*Subsection 4.* The internal discussions and deliberation of the Danish Shipping Tribunal shall be in camera.

**Section 10.** The Danish Shipping Tribunal shall have the right to carry out investigations on board ships and offshore drilling rigs, etc. to the same extent as the authority against whose decision a complaint has been filed. Both representatives of the authority which has made the decision as well as the ship's owner and master or the person responsible for the offshore drilling rig shall be entitled to be present during such investigations and to make remarks.

*Subsection 2.* In connection with the consideration of a complaint in accordance with the Act on the Protection of the Marine Environment, section 51(5), the Danish Shipping Tribunal shall consult an expert appointed by the Danish Ministry for the Environment about the case. If an oral statement is made, it shall be made before the Danish Shipping Tribunal.

*Subsection 3.* Furthermore, the Danish Shipping Tribunal may acquire information and reports about the case from the authority which has made a decision in the relevant case and initiate investigations and acquire further information or statements from experts. The complainant and the defendant shall be admitted to get acquainted with the material before the Danish Shipping Tribunal unless the right of access to documents has been restricted by other legislation.

**Section 11.** The Danish Shipping Tribunal or the Chairman on its behalf may reject complaints not covered by the authority of the Tribunal, submitted too late or submitted by someone who does not have the right to file complaints.

**Section 12.** The decisions of the Danish Shipping Tribunal shall be made through majority votes with a reasoned decision. Each member entitled to attend meetings in each individual case shall have one vote. In cases considered orally, the Chairman shall be the last person to cast a vote. In these cases, the Chairman may postpone the voting.

*Subsection 2.* When the decision is not unanimous, the distribution of votes shall be provided. Should the minority request so, a reason for the lack of support for the decision may also be given together with the decision.

**Section 13.** A record of the meetings held by the Danish Shipping Tribunal shall be kept to be signed by the Chairman and the Secretary at the end of each meeting. The time and place of the meeting shall be given in this record as well as whether the members of the Tribunal appear in person or are represented by substitutes. In addition, the reference number of the case shall be recorded with the complainant's name, the documents presented in the case, the name of the persons present as parties, on behalf of the parties or for their assistance, and whether the procedure is open to the public. Furthermore, the record shall contain a brief account of the negotiations indicating the parties' claims, allegations and evidence.

*Subsection 2.* As soon as possible after the consideration of a case by the Danish Shipping Tribunal, the complainant and the authority against whose decision a complaint has been filed shall be informed about the decision and the reason for this.

**Section 14.** The general legal provisions on the duty of confidentiality of persons who perform public duties or tasks for a public authority shall apply to the members of the Danish Shipping Tribunal.

**Section 15.** The Order shall enter into force the day after its publication in the Danish Law Gazette.

*Subsection 2.* The Order shall also apply to cases submitted to the Danish Shipping Tribunal after 1 April 2005.

*Subsection 3.* Cases submitted to the Danish Detention Board before 1 April 2005 shall be considered in accordance with the provisions of Order no. 254 of 11 April 2001 on the rules of procedure of the Danish Detention Board.

*Subsection 4.* Cases submitted to the Danish Manning Board before 1 April 2005 shall be considered in accordance with the provisions of the rules of procedure of 14 August 1985 of the Danish Manning Board.

*Subsection 5.* Cases submitted to the Danish Health Board for Seafarers and Fishermen before 1 April 2005 shall be considered in accordance with the provisions of Order no. 230 of 30 March 2001 on the rules of procedure of the Danish Health Board for Seafarers and Fishermen.

*Subsection 6.* Order no. 155 of 10 March 2005 on the Danish Shipping Tribunal shall be repealed.

Ministry of Economic and Business Affairs, 6 June 2005

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