Notice from the Danish Maritime Authority A
15 December 2009

Technical regulation on occupational health in ships

Introduction

This set of regulations contains provisions on conditions related to occupational health on board new and existing Danish ships. Foreign ships and platforms carrying out construction work in Danish territorial waters for a period of 14 days or more shall also be covered by the provisions that are consequential upon EC Directives.

This set of regulations consists of a short technical regulation and a number of annexes in the form of chapters.

The technical regulation contains the statutory basis, the general scope (details about the scope are found in the individual chapters), provisions on penalties and entry into force, and a list of the contents of the chapters. The chapters have been printed as booklets. One chapter may have been divided into several booklets. The number of the chapter, date, subject and list of contents are stated on the front of each booklet.

In the event of future amendments to the chapters, the booklet being amended will be replaced. The chapter will enter into force by the issuance of a new technical regulation.

Section 8 of the technical regulation stipulates special provisions for Greenland. When looking in the set of regulations for conditions on Greenland ships, it shall hence always be checked by means of this section whether the relevant provisions apply to Greenland.

Amended chapters

Chapter II A on chemical occupational health effects


In continuation hereof, it is the intention that ships not covered by REACH use the same safety standards as stipulated in this Regulation. This means that the requirements for safety data sheets are amended and that products containing substances included on the list of substances in REACH, annexes XIV and XVII, may not be used unless approved for the intended purpose according to article 56 of this Regulation or used in accordance with the restrictions stipulated in article 67.

A few linguistic amendments have also been made in the chapter. The term “mixtures” is now used to be in line with the terms used in REACH and has been inserted where relevant. However, there may be some uncertainty about the terms used in the future as a consequence of different terms in existing legislation on chemical substances.

Chapter XII on the occupational health services

The financial framework of the occupational health boards has been changed as a consequence of the changes made in the similar schemes for the industries covered by the Act on Occupational Health.
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In pursuance of section 1(2) and (3), sections 3-5, section 20(4), section 27(4) and section 32 of the Act on Safety at Sea, cf. Consolidated Act no. 903 of 12 July 2007 as enacted by Decree no. 882 of 25 August 2008 on the entry into force for Greenland of the Act on Safety at Sea, the following provisions are laid down by authority:

Section 1. This technical regulation shall apply to all occupational employment carried out on board new and existing ships registered in Denmark and Greenland.

Subsection 2. Detailed rules have been printed as booklets as annexes to this technical regulation.

Subsection 3. The rules mentioned in subsection 2 shall not limit the application of the directives mentioned in section 3.

Subsection 4. The provisions stipulated in section 3 shall also apply to foreign ships which, for a period of 14 days or more, are used in connection with construction work in Danish territorial waters.

Subsection 5. Ships used only for the carriage of goods shall not be covered by subsection 4.

Section 2. The chapters and chapter booklets are as follows:

Chapter I Performance of work
A I A Performance of work, dated 1 July 2002
A I B Young people’s work on board ships, dated 1 July 2002

Chapter II Chemical occupational health effects
A II A Substances and materials, dated 15 December 2009
A II B Code-numbered products, dated 1 April 2003
A II C Carcinogenic substances and materials, including asbestos and mutagens, dated 1 January 2006

A II D Breathing apparatus air, dated 1 July 2002

Chapter III Physical occupational health effects
A III A Manual handling of loads, dated 1 July 2002
A III B (1) Noise, dated 1 January 2006
A III B (2) Vibrations, dated 1 July 2005
A III C Work in an atmosphere presenting an explosion hazard, dated 1 April 2003

Chapter IV (Reserved)

Chapter V Mental occupational health effects
A V A Mental occupational health (Reserved)
A V B Rest hours (Reserved)

Chapter VI Technical aids (machinery, scaffolding, etc.)
A VI Use of work equipment on board ships, dated 1 July 2004

Chapter VII Personal protective equipment
A VII Use of personal protective equipment, dated 1 January 2006

Chapter VIII Safety signs, etc.
A VIII Minimum requirements for signalling, safety signs, marking and giving signs, dated 1 July 2002

Chapter IX Examinations, medical treatment and ship medicine
A IX A Occupational medical examinations, dated 1 July 2002
A IX B Medical treatment and medicine on board ships, dated 1 September 2007
Section 3. The following directives shall apply to Danish ships:


Section 4. A copy of this technical regulation shall be available on board merchant ships with four or more crewmembers, including the master of the ship, as well as on board fishing vessels of 45 metres in length and over. This shall not exclude the use of an electronic medium provided that it is possible to read the technical regulation on board.

Section 5. Violations of this technical regulation shall be punishable by fine or imprisonment for a term not exceeding one year.

Subsection 2. The penalty may be increased to imprisonment for a term not exceeding two years if
1) the violation has resulted in 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 violation has given or has been intended to give financial benefits to the transgressor or others.

Subsection 3. 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 4. Companies etc. (legal persons) may be liable to punishment according to the provisions of Chapter 5 of the Penal Code.

Subsection 5. A legal person who is able to prove that everything necessary has been done to ensure safety and a good occupational health cannot be punished under circumstances where an employee
violates the regulations on use of personal protective equipment, extraction systems, other protective equipment or safety regulations specifically implemented as protection for the individual employee.

Section 6. If the contravention is covered by the Decree on the entry into force in Greenland of the Act on Safety at Sea, measures may be ordered in accordance with the Penal Code for Greenland.

Subsection 2. The conditions stipulated in section 5(2) shall be considered aggravating circumstances.

Subsection 3. If the financial benefit achieved is not confiscated, cf. section 116(1) of the Penal Code, 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 4. If the contravener is a company, etc. (legal person), the legal person may be liable to punishment by fine. If the contravener is the state, the Greenland Home Rule, a municipality, an inter-municipal enterprise covered by Section 64 of the Greenland Parliament Act on municipal councils and settlement councils, etc. or a settlement council, the relevant public authority shall be liable to punishment by fine.

Subsection 5. If the person in question is not resident in Greenland, or if his link to Greenland society is of such a loose nature that the preconditions for the application of the measures are not present, legal proceedings may be instituted in Denmark or the case may be sent for trial in Denmark.

Section 7. This Order shall enter into force on 17 December 2009.

Subsection 2. Technical regulation A of 16 August 2007 on occupational health in ships shall be repealed.

Section 8. The following provisions shall not apply to Greenland:
Section 1(3)-(5), sections 3 and 5, chapters A II A, A III B-2, A IX A, A XII A and A XII B as well as the references to the EC Directives in the other chapters.

The Danish Maritime Authority, 11 December 2009

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