

Translation: Only the Danish text has legal validity.

Order no. 285 of 14 March 2013 issued by the Danish Maritime Authority

Order on complaints on board Danish ships¹

The following shall be laid down pursuant to section 64(1) and section 70(1) of the act on seafarers' conditions of employment, etc. (*lov om søfarendes ansættelsesforhold m.v.*), cf. consolidated act no. 742 of 18 July 2005, as amended by act no. 493 of 12 May 2010, and by authority:

Section 1. This order shall apply to complaints from employees on board ships, cf. section 1(1) as well as section 49 of the act on seafarers' conditions of employment, etc. (*lov om søfarendes ansættelsesforhold m.v.*), irrespective of the type and trade area of the ships, except for fishing vessels and recreational craft.

Subsection 2. In case of doubt whether the person concerned shall be considered as employed on board, the issue shall be decided by the Danish Maritime Authority following previous consultation with the shipowner and seafarer organisations that the issue concerns.

Section 2. The shipowner shall be responsible for the drawing up of written procedures on reasonable, effective and fast consideration of complaints from employees about conditions related to the payment, ship service, conditions of employment as well as the accommodation, recreational facilities, health protection, food and board on board.

Section 3. The complaint procedure shall contain provisions stipulating that the employee always has a right to complain to the master or the shipowner and, if relevant, to the relevant authorities.

Subsection 2. It shall be evident from the complaint procedure that complaints shall be filed with the employee's superior. If the superior cannot solve the problem to the satisfaction of the seafarer, the seafarer may proceed to the master, who shall ensure the further consideration of the case.

Subsection 3. The master may complain directly to the shipowner.

Section 4. The complaint procedure shall ensure that the complaint is advanced without groundless delay, which will make it reasonably possible for the employee to bring on the complaint.

Subsection 2. It shall be clearly stated in the complaint procedure that the procedure does not replace the rights to complain that the seafarer may otherwise have pursuant to law, cf. section 9.

Section 5. The complaint procedure established shall contain measures protecting against the risk of victimization. Victimization covers any negative act by other crewmembers or others associated with the ship or the shipping company on the basis of a complaint the purpose of which is not exclusively to harm the shipping company or one of the employees.

Section 6. The procedure shall at any time give the complainant a right to be accompanied or represented during the complaint procedure.

¹ This order contains provisions implementing parts of Council Directive 2009/13/EC of 16 February 2009 implementing the Agreement concluded by the European Community Shipowners' Associations (ECSA) and the European Transport Workers' Federation (ETF) on the Maritime Labour Convention, 2006, and amending Directive 1999/63/EC, Official Journal 2009, no. L 124, pp. 30-50.

Section 7. All complaints and decisions concerning the complaints shall be registered on board and the complainant shall have a copy.

Section 8. All employees shall, in addition to their employment contract, be furnished with a copy of the procedures applicable to complaints on board the ship. This shall include contact information for the Danish Maritime Authority and the responsible authority in the employee's country of residence if they are not the same. The addition shall also state one or more persons on board the ship who can, in confidentiality, provide the employees with impartial advice about their complaint and in other ways help them follow the complaint procedures of the ship.

Subsection 2. Any subsequent amendments to the complaint procedure shall be handed out to all the employees.

Section 9. Depending on the contents of a dispute, complaints may be brought before:

- 1) a Danish court; or
- 2) the Danish system related to labour legislation

Subsection 2. Subsection 1(i) shall not apply if anything else follows from act no. 1563 of 20 December 2006 on the Brussels I Regulation, etc. (*lov om Bruxelles I-forordningen m.v.*), including orders issued pursuant to this act.

Section 10. Contraventions of sections 2-8 shall be liable to punishment by fine.

Subsection 2. Companies, etc. (legal persons) may incur criminal liability pursuant to the provisions of chapter 5 of the penal code (*straffeloven*).

Subsection 3. When determining criminal liability pursuant to subsection 2, persons employed to carry out work on board the ship by others than the shipowner shall also be considered as being associated with the shipowner. If a document of compliance has been issued pursuant to the International Safety Management Code or a certificate has been issued pursuant to the Maritime Labour Convention to another organisation or person, the master as well as the seafarers shall also be considered to be associated with the one to whom the document has been issued.

Section 1. This order shall enter into force on 20 August 2013.

Danish Maritime Authority, 14 March 2013

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