

Order on safety work and occupational health in fishing vessels¹

In pursuance of section 1(2), section 3(1)(vi) and section 32(8) of the act on safety at sea (*lov om sikkerhed til søs*), cf. consolidated act no. 72 of 17 January 2014, and section 1(2), section 3(1)(vi) and section 32(2) of the act on safety at sea as enacted for Greenland by decree no. 71 of 29 January 2013, the following provisions are laid down by authority in pursuance of section 1(1)(iii), of order no. 744 of 24 June 2013 on the transfer of certain powers to the Danish Maritime Authority and the right of appeal, etc.:

Part 1

Application and purpose

Section 1. This order shall apply to fishing vessels registered in Denmark and Greenland.

Subsection 2. This order shall cover all persons employed by the shipowner or by another employer (in the following referred to as the shipowner) to carry out commercial work on board.

Subsection 3. This order shall cover all types of work carried out on board fishing vessels.

Subsection 4. A fishing vessel means a ship used for commercial fishing of fish, etc. and the certificate of nationality of which is provided with a port number.

Section 2. The purpose of the safety work in fishing vessels is to promote, secure and maintain a good, safe and healthy physical and mental working environment.

Part 2

Common provisions

The shipowner's and master's obligations, etc.

Section 3. The health and safety work in ships shall be carried out in cooperation between the shipowner, the master, the ship officers, the share fishermen and others performing work on board.

Subsection 2. The shipowner and the master shall have the overall responsibility for arranging the work on board so that it is carried out in an appropriate manner in terms of health and safety.

Subsection 3. Each and everyone on board shall – on their own and together – have the responsibility for the work on board being carried out in an appropriate manner in terms of health and safety.

Subsection 4. Members of the safety organisation shall strive to solve any health and safety problems on board.

Section 4. As regards compliance with the provisions of section 3(2), the shipowner and the master shall have the responsibility for establishing, developing and maintaining a safety organisation in accordance with the provisions below, which is well-functioning and contributes to promoting health and safety during work on board.

¹ This order implements parts of Council Directive 89/391/EEC of 12 June 1989 on the introduction of measure to encourage improvements in the safety and health of workers at work, Official Journal 1989, no. L 183, p. 1.

Section 5. The shipowner shall ensure that the members of the safety organisation have the time necessary available to perform their duties in relation to safety work.

Subsection 2. The shipowner shall give the members of the safety organisation the possibility of acquiring the necessary knowledge about or education/training in health and safety issues.

Subsection 3. The shipowner shall pay the expenses incurred by the members of the safety organisation in connection with the performance of their duties and reimburse lost wages, including expenses and lost wages in connection with the necessary participation in safety and occupational health courses, etc.

Subsection 4. The shipowners concerned shall be obliged to make the members of the safety organisation for a relevant area acquainted with requirements that the Danish Maritime Authority make in writing on a fishing vessel registered in the area in addition to what is covered by the periodic surveys.

Section 6. Disputes about the issues mentioned in section 5(3), including the issue of which rules apply and issues of breach or interpretation of the rules, shall be settled by industrial procedure according to the provisions of the act on the industrial tribunal and industrial arbitration courts (*lov om Arbejdsretten og faglige voldgiftsretter*).

Section 7. Members of the safety organisation shall be protected against notice of dismissal or other impairment of their conditions in the same manner as shop stewards within the relevant or similar professional area.

Education and training, "section 8 course"

Section 8. All members of a safety organisation, as described in parts 3, 4 and 5, shall have completed an occupational health course for fishing vessels approved by the Danish Maritime Authority.

Subsection 2. Persons who have – in connection with a maritime training programme, cf. the act on maritime training programmes (*lov om maritime uddannelser*) – completed occupational health training/education corresponding to the occupational health course for safety committees and safety groups in fishing vessels (section 8 course) shall be considered to comply with the requirement stipulated in subsection 1.

Section 9. Members of the safety group who have not completed the training programme in occupational health mentioned in subsection 1 shall, immediately after having been elected or appointed, be enrolled for the training programme with a provider of the training programme approved by the Danish Maritime Authority. The shipowner or the master shall ensure that the registration takes place.

Section 10. The training programme shall have been completed within six months after the relevant safety steward or management representative having been elected or appointed.

Part 3

The safety organisation of fishing vessels on which seven or fewer persons are working, including the master

Section 11. Common safety committees shall be established within an appropriate number of areas following negotiations between the organisations of the fishing industry. The number of safety committees shall be revised according to need.

Subsection 2. Each safety committee shall consist of a similar number of share fishermen and shipowners. The number of share fishermen, on the one hand, and shipowners, on the other, shall be at least two and not more than six. The number of representatives shall be determined following negotiations between the organisations of the fishing industry.

Section 12. A safety committee shall elect its chairman among its members. Every second year, the chairmanship shall alternate between a share fisherman and a representative of a shipowner.

Subsection 2. An occupational health consultant on the part of the share fishermen and an occupational health consultant on the part of the shipowners may be affiliated with the safety committee.

Subsection 3. The share fishermen shall elect members of the safety committee for the area concerned. The election shall be valid for two years or until an elected share fisherman stops working within the industry. Re-election may take place.

Subsection 4. The shipowners concerned shall elect members of the safety committee for the area concerned. The election shall be valid for two years or until an elected representative stops working within the industry. Re-election may take place.

Subsection 5. Elections shall take place according to a special procedure agreed upon by the organisations of the fishing industry.

Subsection 6. An overview of the members of the safety committees shall be published and kept so that the overview is updated as soon as possible after the election of the members.

Subsection 7. Disputes about the guidelines for the election and eligibility, including the issue of which rules apply and issues of breach or interpretation of the rules, shall be settled by industrial procedure according to the provisions of the act on the industrial tribunal and industrial arbitration courts (*lov om Arbejdsretten og faglige voldgiftsretter*).

Section 13. The safety committee shall plan, manage and coordinate the health and safety work in relation to fishermen as regards both physical and mental issues. The committee shall record the fishermen's occupational health problems and offer advice for solutions to occupational health issues.

Subsection 2. The safety committee shall ensure that the reasons for accidents, poisonings and work-related sufferings as well as signs hereof are examined and arrange for measures to be taken to prevent recurrence.

Subsection 3. The safety committee shall keep itself informed of the provisions on health and safety that have been laid down to protect the fishermen. The committee shall lay down the principles of the necessary training and instruction and shall ensure that compliance with the safety provisions is checked on a continuous basis.

Section 14. The safety committee shall hold an ordinary meeting regularly. Furthermore, the committee shall hold a meeting when serious accidents, serious poisoning or other serious health injuries occur as

well as when any other need for a meeting arises. An extraordinary meeting shall be held when the chairman deems it necessary or if at least two members of the committee request this.

Subsection 2. Ordinary meetings of the safety committee shall be convened in due time.

Subsection 3. Minutes of safety committee meetings shall be prepared. Minutes from meetings in the safety committee shall be forwarded to all the relevant organisations in the area.

Subsection 4. Once a year, the committee shall make a consolidated overview of the committee's work. This overview shall be forwarded to the Danish Maritime Authority upon request.

Part 4

The safety organisation of fishing vessels with eight or more employees, including the master

Section 15. It is possible to establish a safety organisation for fishing vessels on board which eight to fifteen persons are working, including the master, following negotiations between the organisations of the fishing industry and in accordance with the provisions of sections 16-18.

Subsection 2. If a safety organisation is not established in pursuance of subsection 1, the provisions on the safety organisation in fishing vessels where 16 or more persons are working, including the master, shall apply.

Section 16. The master shall appoint a management representative among the supervisors on board, and the ratings shall appoint a safety steward among themselves.

Subsection 2. Together, the management representative appointed and the safety steward appointed shall constitute the safety group of the vessel.

Subsection 3. The position as a safety steward shall be held until the safety steward's work function or service on board ceases; however, for a maximum of two years. Re-election may take place.

Subsection 4. The master shall be informed about the result of the elections immediately after the election.

Section 17. The safety group shall be actively engaged in ensuring good cooperative relations on board about health and safety issues.

Subsection 2. The safety group shall check that the conditions of work and the work are arranged and performed in an appropriate manner in terms of health and safety, including that effective training and instruction is provided and that tools and other technical aids, etc. are arranged and used in an appropriate manner in terms of health and safety.

Subsection 3. The safety group shall take part in workplace and risk assessments of the health and safety conditions.

Subsection 4. The safety group shall also function as a contact link to the port safety committee mentioned in section 4 and, inter alia, keep the port safety committee informed about occupational health issues and present any proposals for improvements to the committee.

Subsection 5. The safety group shall ensure that occupational health risks are countered, including that the issue is reported to the master if it is not possible to counter the risk on the spot. If there is no time to inform the master and if the safety group considers that there is an immediate danger to the health and safety of the crew that it cannot avert, the group may stop the work or the work process to the extent that this is

necessary to avert the danger. The safety group shall immediately inform the master about the stop and explain why it was considered necessary.

Subsection 6. The safety group shall inform about the on-board work of the safety committee mentioned in section 18.

Section 18. A common safety committee shall be established for fishing vessels covered by section 15(1).

Subsection 2. The common safety committee shall consist of a similar number of members from the safety groups and the shipowners.

Subsection 3. At least one of the members of the safety group of a ship shall represent the ship concerned on the common safety committee.

Subsection 4. The common safety committee shall otherwise observe the provisions in force on the safety committee, cf. sections 11-14.

Part 5

The safety organisation of fishing vessels on which 16 or more persons are working, including the master

Section 19. The ratings shall elect two safety stewards among themselves from the work areas on board where most persons are working and inform the master about the result of election immediately after the election.

Subsection 2. Ratings shall mean all the employees mentioned in section 1(2) who are not ship officers or other similar supervisors.

Subsection 3. The position as a safety steward shall be held until the safety steward's service on board ceases; however, for a maximum of two years. Re-election may take place.

Section 20. The master shall appoint two management representatives among the supervisors on board from the work areas on board where most persons are employed.

Section 21. Together with the safety stewards, the management representatives shall constitute the ship's safety groups.

Section 22. The safety groups shall – together with the master – establish a safety committee. The master shall be the chairman of the committee.

Subsection 2. If there is agreement about this, the safety committee may add other persons to its number.

Section 23. The safety group shall check:

- 1) that the conditions of work and the work are arranged and performed in an appropriate manner in terms of health and safety;
- 2) that substances and materials are used only in connection with work processes and methods that effectively secure the employees against accidents and diseases;
- 3) that effective training and instructions are given; and

- 4) that tools and other technical aids, etc. are arranged and used in an appropriate manner in terms of health and safety.

Subsection 2. The safety group shall try to make each individual person behave in a manner that promotes the health and safety of himself and others, including inform about the provisions laid down to promote health and safety on board.

Subsection 3. Within its area, the safety group participates in the planning of the health and safety work, including in the risk assessment of the conditions of health and safety.

Subsection 4. The safety group shall:

- 1) function as a contact link between the employees and the port safety committee;
- 2) keep the committee informed about occupational health issues; and
- 3) present any proposals for improvements to the committee.

Subsection 5. The safety group shall ensure that occupational health risks are countered. If it is not possible to counter the risk on the spot, the safety group shall ensure that the master is informed about the issue.

Section 24. If there is no time to inform the master and if the safety group considers that there is an immediate danger to the health and safety of the crew that it cannot avert, the group may stop the work or the work process to the extent that this is necessary to avert the danger. The safety group shall immediately inform the master about the stop and explain why it was considered necessary.

Section 25. The safety committee shall plan, manage and coordinate the health and safety work and all measures that may be of importance of the health and safety of the employees on board. The committee shall record occupational health problems and offer advice for solutions to occupational health issues.

Subsection 2. The safety committee shall be consulted prior to any request for assistance to the ship for solving health and safety issues.

Subsection 3. The safety committee shall – in cooperation with the relevant safety group – ensure that the reasons for accidents, poisonings and health injuries and signs hereof are examined and arrange for measures to be taken to prevent recurrence.

Subsection 4. The safety committee and the relevant safety group shall have access to the lists and the described accounts of incidents in reports on marine accidents on the ship that are to be drawn up.

Subsection 5. The safety committee shall

- 1) keep informed about the provisions on health and safety that have been laid down to protect the employees on board;
- 2) assist in the drafting of principles for sufficient and necessary training and instructions adapted to the conditions of work on board the ship; and
- 3) ensure that compliance with the safety requirements is continuously checked.

Subsection 6. The safety committee shall help arrange coordination of the work on health and safety with other employers who perform work on board.

Subsection 7. Members of the safety organisation shall endeavour to perform their obligations in a manner that presents as little interruption as possible of their own or others' normal work on board.

Section 26. The safety committee shall hold ordinary meetings regularly. Furthermore, the safety committee shall hold meetings when serious accidents, serious poisoning, other health injuries or serious incidents occur that could have resulted in accidents or health injuries.

Subsection 2. The chairman shall convene the meetings. If at least two committee members request it, the chairman shall convene a meeting.

Subsection 3. The ship's survey book shall be available and accessible to the members during safety committee meetings.

Subsection 4. Minutes of safety committee meetings shall be prepared. The minutes from meetings shall be handed out to the committee members, be made available to the employees on board and be forwarded to the shipowner.

Subsection 5. In addition to the ordinary members, safety committee meetings may be attended by persons from the Danish Maritime Authority.

Subsection 6. If the safety committee members agree hereon, other persons may be permitted to attend the meetings.

Part 6

Penalty provisions

Section 27. Contraventions shall be liable to punishment by fine or imprisonment for a term not exceeding 1 year.

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

- 1) the contravention has caused injury to life or health or a risk hereof;
- 2) a prohibition notice or injunction has previously been issued for the same or similar actions;
- 3) the contravention has resulted in or aimed at a financial benefit for the contravener or others.

Subsection 3. If the benefit obtained through the contravention is not confiscated, the size of such financial benefit obtained or sought shall be taken into account when determining the fine, including additional fines.

Subsection 4. Companies, etc. (legal persons) may incur criminal liability according to the regulations in part 5 of the penal code (*straffeloven*).

Subsection 5. A legal person who proves that he has done everything necessary to ensure a sound and safe working environment shall, however, not be punished in cases where an employee contravenes the provisions of this order on the use of personal protective aids, exhaust measures, protective equipment or safety provisions solely for the purpose of protecting himself.

Section 28. If the condition is covered by the decree on the entry into force for Greenland of the act on safety at sea (*lov om sikkerhed til søs*), measures may be laid down in accordance with the penal for Greenland.

Subsection 2. The conditions referred to in section 5(2) and (3) shall be considered aggravating circumstances.

Subsection 3. If the benefit obtained through the contravention is not confiscated, cf. section 116(1) of the criminal code (*kriminalloven*), the size of such financial benefit obtained or sought shall be taken into account when determining the fine, including additional fines.

Subsection 4. If the contravention is committed by companies etc. (legal persons), liability to pay a fine may be incurred by the legal person as such. If the contravention is committed by the State, the Greenland Government, a municipality, a municipal 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 if 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.

Part 7

Entry into force, etc.

Section 29. This order shall enter into force on 1 July 2017.

Subsection 2. Chapter XI, part B, of order no. 1246 of 11 December 2009 on Notice A from the Danish Maritime Authority, technical regulation on occupational health in ships, shall be repealed.

Danish Maritime Authority, 22 June 2017

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