

Order on safety work and occupational health in merchant ships^{1 2}

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(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) or order no. 744 of 24 June 2013 on the transfer of certain powers to the Danish Maritime Authority and on the right of appeal, etc.:

Part 1

Application

Section 1. This order shall apply to all merchant ships 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 new and existing ships registered in Denmark and Greenland.

Subsection 3. A merchant ship means any ship, except for fishing vessels and recreational craft. A passenger ship means a merchant ship carrying more than 12 passengers. A cargo ship means a merchant ship that is not a passenger ship.

Subsection 4. Ratings mean all the employees mentioned in subsection 2 who are not ship's officers or other similar supervisors.

Part 2

Purpose

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

Subsection 2. The health and safety work in ships shall be carried out in cooperation between the shipowner, the master, the ship officers, and the ratings on board.

Subsection 3. 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 4. 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 5. As regards compliance with the provisions of subsection 3, the shipowner and the master shall have the responsibility for establishing, developing and maintaining a safety organisation which is well-functioning and contributes to promoting health and safety during work on board, cf. however section 3(2).

¹ This order contains provisions implementing 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, and 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, p. 30.

² This order contains provisions implementing parts of United Nations International Labour Organization's Maritime Labour Convention, 2006, and the order takes account of the ILO "Guidelines for implementing the occupational safety and health provisions of the Maritime Labour Convention, 2006".

Section 3. In merchant ships where the required crew, including the master, consists of five or more persons, a safety organisation shall be established in accordance with the provisions below.

Subsection 2. In ships where a safety organisation is not required to be established, the master shall ensure – through instructions, training and inspection – that the work on board is carried out in an appropriate manner in terms of health and safety.

Part 3

Safety organisation in cargo ships

Safety representative

Section 4. In cargo ships where the required crew, including the master, consists of five or more persons, but fewer than 15 persons, the ratings shall elect one safety representative among themselves.

Subsection 2. In cargo ships where the required crew, including the master, consists of 15 or more persons, the ratings shall elect two safety representatives among themselves from the working areas on board where most persons are employed.

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

Section 5. The master shall be informed about the result of the election immediately after the election.

Safety group and committee

Section 6. The master shall appoint, among the ship's officers or other similar supervisors on board, a management representative who, together with the safety representative, constitute the safety group of the ship.

Subsection 2. In cargo ships with two safety representatives, cf. section 4(2), the safety groups shall consist of a safety representative and a management representative from each working area.

Subsection 3. Together with the master, the safety group or groups shall establish a safety committee.

Subsection 4. The master shall be the chairman of the committee. If there is agreement about this, the safety committee may add other persons to its number.

Part 4

Safety organisation in passenger ships

Safety representative

Section 7. In passenger ships where the required crew, including the master, consists of five or more persons, but fewer than 15 persons, the ratings shall elect one safety representative among themselves.

Subsection 2. In passenger ships where the required crew, including the master, consists of 15 or more persons, the ratings shall elect two safety representatives among themselves from each working area.

Subsection 3. The election of a safety representative shall be valid for two years or until the safety representative's job function ceases. Re-election may take place.

Section 8. The master shall be informed about the result of the election immediately after the election.

Safety group

Section 9. In the passenger ships mentioned in section 7, the master shall appoint, among the ship's officers or other similar supervisors on board, a management representative who, together with the safety representative, constitute the safety group of the ship.

Subsection 2. In the passenger ships mentioned in section 7(2), the master shall appoint, among the ship's officers or other similar supervisors from each working area who have elected a safety representative, a management representative from the working areas concerned. Together with the safety representative, the management representative concerned shall constitute the safety group of the working area.

Subsection 3. Where more than 50 persons are employed in a working area, the master may, in cooperation with the safety representatives elected and the management representatives appointed, decide that the ratings shall, among themselves, elect several safety representatives within the working area. The safety group of the ship shall consist of the same number of elected safety representatives as appointed management representatives.

Section 10. In the passenger ships mentioned in section 7(2), the master shall, in cooperation with the safety representatives elected and the management representatives appointed, ensure that all employees can get in contact with their safety representatives so that all the employees can discuss issues related to occupational health with members of the occupational health organisation while they are on board.

Safety committee

Section 11. Together with the master, the safety group or groups shall establish a safety committee on each individual passenger ship. The master shall be the chairman of the committee.

Subsection 2. The safety committee in the passenger ships mentioned in section 7(1) may be common to several passenger ships on the same crossing if the ships are of the same type and are served by changing crews.

Subsection 3. In passenger ships with more than three safety groups, a safety committee shall, however, be established by the safety representatives and the appointed management representatives, respectively, electing among themselves three members for the committee. A master or a responsible representative of the shipowner shall function as the chairman. However, at least one master shall be a member of the committee.

Section 12. If there is agreement about this, the safety committee may add other persons to its number.

Part 5
Common provisions
Shipowner's and master's obligations

Section 13. The shipowner shall ensure that the necessary means are made available to the health and safety work and shall, in this connection, pay the expenses incurred by the members of his own safety organisation and reimburse expenses and lost wages in connection with the necessary participation in occupational health training pursuant to section 16.

Section 14. The master shall ensure that all on-board employees and the shipowner are made aware who are members of the safety groups and safety committees.

Subsection 2. The master shall ensure that the members of the safety organisation meet the training requirements mentioned in section 16.

Section 15. The shipowner and the master shall ensure that the members of the safety committee:

- 1) receive all necessary information of importance to health and safety on board;
- 2) get an opportunity to present proposals related to health and safety;
- 3) are given reasonable time to perform their duties in relation to safety work;
- 4) get an opportunity during work hours to acquire the necessary knowledge about or education/training in issues related to health and safety; and
- 5) are consulted when planning and introducing new technology that may have consequences for health and safety in the choice of equipment, personal protective equipment and technical aids, etc.

Subsection 2. The shipowner and the master shall inform the safety committee about any orders that the Danish Maritime Authority issues in writing about employees' health and safety conditions.

Education and training, "section 16 course"

Section 16. Members of the safety group shall have completed a training programme in occupational health in merchant ships 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 a training programme in occupational health corresponding to the training programme in occupational health for members of the safety organisation in merchant ships (the section 16 course) shall be considered to meet the requirement stipulated in subsection 1.

Section 17. Members of the safety group who have not completed the training programme in occupational health mentioned in section 16 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 18. The training programme shall have been completed within three months after the relevant safety representative or management representative having been elected or appointed, cf. however section 20.

Section 19. In connection with E-training, the shipowner and master shall be responsible for ensuring that the participant has the necessary possibilities of completing the E-training programme in its entirety.

Section 20. Until such time when an approved E-training programme in occupational health is available, members of the safety group who have not completed a training programme in occupational health approved by the Danish Maritime Authority shall receive occupational health training on board approved by the Danish Maritime Authority immediately after the election or appointment. At the same time, the shipowner shall enrol these members for a training programme in occupational health approved by the Danish Maritime Authority.

Subsection 2. The Danish Maritime Authority shall publish approved providers of E-training programmes in occupational health on the website of the Danish Maritime Authority, www.sofartsstyrelsen.dk.

Section 21. The Danish Maritime Authority may consider a training programme in occupational health completed abroad equal to the training programme prescribed in section 16.

Tasks, obligations and rights of the safety organisation

Section 22. Members of the safety organisation shall strive to solve health and safety problems on board.

Subsection 2. The safety group shall strive to achieve a good on-board cooperation on health and safety issues, both physically and mentally. The safety group shall cooperate with the one responsible for the work area concerned to solve issues related to the employees' health and safety during the work.

Subsection 3. The safety group shall check that the conditions of work and the work are arranged and performed in a fully appropriate manner in terms of health and safety. In this connection, the group shall check that substances and materials are only used for work processes and methods that effectively protect the employees against accidents and diseases. It shall also check that effective training and instructions are provided and that tools and other technical aids, etc. are arranged and used in a fully appropriate manner in terms of health and safety. The group shall also consider the general well-being on board.

Subsection 4. The safety group shall influence everyone to behave in a manner that promotes the person's own and others' health and safety and, in this connection, inform about the provisions laid down to promote health and safety on board.

Subsection 5. Within its area, the safety group shall take part in the planning of the health and safety work, including the risk assessment of the health and safety conditions.

Subsection 6. The safety group shall

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

Subsection 7. The safety group shall ensure that occupational health risks are addressed. If it is not possible to address the risk right away, the safety group shall ensure that the master is informed about the issue.

Section 23. In case of insufficient time to inform the master and if the safety group considers that there is an imminent considerable risk to the health and safety of the crew that it cannot prevent on its own, the group may stop the work or the work process to the extent necessary to prevent the risk. The safety group shall immediately inform the master about the stop and explain why it was necessary.

Section 24. The safety committee shall plan, manage and coordinate the health and safety work and all measures that may be of importance to 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 on work on board the ship;
- 3) contribute to job satisfaction on board; 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.

Section 25. 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.

Subsection 2. Members of a safety group 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 and shall not be considered inferior due to the activities related to the position.

Subsection 3. The provisions on election of shop stewards within the relevant or similar collective agreement area shall normally apply to eligibility and the validity of the elections.

Safety committee meetings, etc.

Section 26. The safety committee shall hold ordinary meetings regularly, cf. however subsection 3.

Subsection 2. The committee should consider the following as ordinary agenda items at each meeting: risk assessments, mental occupational health, on-board job satisfaction, follow-up on accidents since the previous meeting, accident prevention as well as health.

Subsection 3. 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 4. The chairman shall convene the meetings. The chairman shall convene a meeting if at least two committee members request this.

Subsection 5. Minutes of safety committee meetings shall be prepared. The minutes shall be handed over to the committee members, be made available to the employees on board and be forwarded to the ship-owner.

Subsection 6. In addition to ordinary members, persons from the Danish Maritime Authority may attend safety committee meetings.

Subsection 7. 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 obtained 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 to have 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 regulation 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 code for Greenland.

Subsection 2. The conditions referred to in section 5(2) 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 obtained 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 A, 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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