

Translation. Only the Danish document has legal validity.

Order no. 238 of 7 March 2013 issued by the Danish Maritime Authority

Order on the employer's obligation to conclude a written contract with the seafarer on the conditions of employment

The following is laid down pursuant to section 3(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 the conditions of employment of employees on board ships, cf. the act on seafarers' conditions of employment (*lov om søfarendes ansættelsesforhold*), section 1(1) and section 49, 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 consultation with the shipowner and seafarer organisations that the issue concerns.

Section 2. The shipowner or the employer or the one acting on behalf of the shipowner or the employer shall, prior to commencing service, conclude a written employment contract with the employee.

Subsection 2. The employment contract shall contain information about all important conditions of the employment relationship, including the following:

- 1) The employee's full name, date and year of birth or age and place of birth.
- 2) The employer's name and address.
- 3) The place and date of the conclusion of the employment contract.
- 4) The position for which the employee is hired.
- 5) The date of taking up the position.
- 6) The date from which the wages shall be calculated.
- 7) The amount of wages agreed.
- 8) Place of discharge and length of period of notice. If the employment is time-limited, it shall be stated as well as information about when the contract will terminate.
- 9) Rights regarding holiday, holiday pay or wages during holidays.
- 10) Normal daily or weekly working hours.
- 11) Right to be discharged.
- 12) The shipowner's and the employer's obligation to take out health protection and social security for the employee.
- 13) Information on what collective agreement or contract regulates the employment relationship. If the collective agreement or contract has been concluded by parties outside the company, information shall be given about these parties' identity.

Subsection 2. The employee shall be furnished with a copy of the employment contract signed by the employer.

Subsection 3. When the employment relationship is terminated, the date of notice/date of dismissal and the date of discharge as well as the reason for the termination of the employment relationship shall be given in writing.

Section 3. In case of changes to the conditions mentioned in section 2(2)(i)-(xii), a new written employment contract or an addition to the employment contract shall be concluded with the employee. However, this shall not apply to amendments to the acts, orders or collective agreements applicable to the employment relationship.

Section 4. As regards the information of section 2(2)(vi)-(xii), the obligation to conclude a written employment contract pursuant to section 2(2) shall be considered met if, in the employment contract, reference is made to acts, administrative provisions, statutory provisions or collective agreement applicable to the conditions concerned.

Section 5. All employees commencing service on board a ship shall, before the ship's departure, procure a copy of the employment contract for the master, who shall keep it on board for as long as the employee serves on board. The seafarer's signature shall be evident from the copy.

Subsection 2. For ships engaged on international voyages, the standard version of the employment contract shall as a minimum be available on board in English.

Subsection 3. If a collective agreement constitutes the entire or a part of the employee's employment contract, the shipowner shall ensure that a copy of this collective agreement is available on board. For ships engaged in international voyages, the parts of the collective agreement(s) subject to port State control inspections and applicable to the employees on board shall be available in English.

Section 6. The provisions of this order shall not, by individual or collective agreement, be deviated from to the detriment of the employee.

Section 7. A copy of the seafarers' employment contracts shall be forwarded to the Danish Maritime Authority upon request.

Subsection 2. The master shall be responsible for the forwarding pursuant to subsection 1.

Section 8. Contraventions of section 2, section 3, section 5 and section 7 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 be considered to be associated with the one to whom the document has been issued.

Section 9. This order shall enter into force on 20 August 2013.

Subsection 2. Order no. 848 of 15 October 2002 on the shipowner's obligation to conclude a written employment contract with the seafarer on the conditions of employment shall be repealed, cf. however subsection 3.

Subsection 3. Employment contracts concluded pursuant to the order mentioned in subsection 2 and not meeting the provisions of this order shall meet the provisions of this order no later than three months after the date mentioned in subsection 1.

Subsection 4. All employment contracts concluded after the entry into force of this order shall be made in accordance herewith. The same shall apply to employment contracts that are renewed after the entry into force of this order.

Danish Maritime Authority, 7 March 2013

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