

Translation: Only the Danish document has legal validity.

*Order no. 361 of 25 of March 2023
issued by the Danish Maritime Authority*

Executive Order on the inspection and certification of merchant ships in accordance with the UN International Labour Organisation's Maritime Labour Convention (MLC)

Pursuant to Section 70 and Section 74b(1) of the Danish Seafarers' Conditions of Employment Act, cf. Consolidation Act no. 1662 of 17 December 2018, and Section 1(2) and (3), Section 3(1)(1 and 3), and Subsection 2, Section 5(1), Section 20b, Section 22(1) and (2), and Section 32(9) of the Danish Maritime Safety Act, Consolidation Act no. 221 of 11 February 2022, is determined by authorisation pursuant to Section 1(1)(3) of Executive Order no. 261 of 23 March 2020 on the delegation of certain powers to the Danish Maritime Authority and on the right of appeal, etc:

Chapter 1

Purpose

Section 1. The purpose of this Executive Order is to ensure that merchant ships are inspected, approved and, when required, certified in accordance with the UN International Labour Organisation's Maritime Labour Convention (MLC).

Subsection 2. This Executive Order contains provisions which, among other things, are based on the UN International Labour Organisation's Maritime Labour Convention (MLC), and thus does not affect other existing international, regional or national requirements that may relate to inspections and certification as contained in, e.g., the MLC. UN International Maritime Organisation Convention for the Safety of Life at Sea (SO-LAS), Regulation (EU) No. 1257/2013 of the European Parliament and of the Council of 20 November 2013 on ship recycling or the Executive Order on the inspection and certification of ships using ballast water and on ballast water plans and records.

Chapter 2

Scope and definitions

Scope

Section 2 The Executive Order shall apply to all Danish merchant ships, cf. however Subsection 2.

Subsection 2. The Executive Order shall not apply to

- 1) Fishing vessels,
- 2) Warships,
- 3) Naval auxiliary ships,

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- 4) Recreational craft, and
- 5) Small commercial vessels covered by the Executive Order on the construction and equipment of small commercial vessels and cargo vessels, etc.

Definitions

Section 3. For the purposes of this Order:

- 1) Merchant ship: Any ship other than fishing vessels and recreational craft.
- 2) New ship: A ship whose keel is laid or which is at a similar stage of construction on or after 20 August 2013, the date of entry into force of the MLC.
- 3) Seafarer: Any person, including the master, who is employed, engaged or working on board a Danish ship and who does not work exclusively on board while the ship is in port.
- 4) International trade: Trade between Danish and foreign ports or between two foreign ports, as well as trade between Denmark and the Faroe Islands or Greenland and trade between the Faroe Islands and Greenland.
- 5) Domestic trade: All trade that is not international trade.

Chapter 3

Inspection

Approval and inspection of seafarers' working conditions

Section 4. The Danish Maritime Authority approves and inspects merchant ships in accordance with this Executive Order, cf. however Subsection 2.

Subsection 2. Organisations recognised in accordance with the current Executive Order on recognition and authorisation of organisations performing inspection and surveys of ships may be authorised to carry out inspections or approval work on behalf of the Danish Maritime Authority.

Section 5. All new merchant ships and merchant ships changing flag to a Danish flag must, prior to the inspection, submit ship drawings, information on the ship's expected trade area and pattern, gross tonnage and number of crew members, including the distribution of crew members by categories, for the Danish Maritime Authority's approval.

Subsection 2. The ship's drawings in accordance with Subsection 1 shall show the location, size and layout of the working areas and living quarters, the utilisation of space, the arrangement of furniture and accessories and the arrangement of heating, ventilation, exits, etc.

Subsection 3. Ship drawings and information in accordance with Subsection 1 shall also be submitted to the Danish Maritime Authority before the working areas or living quarters in an existing ship are altered or remodelled.

Inspection dates for the inspection of seafarers' working and living conditions on ships of 500 gross tonnage and above

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Section 6. Ships with a gross tonnage of 500 and above shall be subject to an inspection as mentioned below:

- 1) An inspection in connection with the statutory first inspection in accordance with the applicable regulations before the ship is put into service.
- 2) An inspection in connection with the statutory intermediate inspections or renewal inspections in accordance with the applicable regulations, but no later than every 5 years.

Subsection 2. Ships with a gross tonnage of 500 or more that are exclusively engaged in domestic voyages may, instead of fulfilling the requirements of Subsection 1, be inspected in accordance with Section 7.

Inspection dates for the inspection of seafarers' working and living conditions on ships with a gross tonnage of less than 500

Section 7. Ships with a gross tonnage of less than 500 shall be subject to an inspection as mentioned below:

- 1) An inspection in connection with the statutory first inspection in accordance with the applicable regulations before the ship is put into service.
- 2) An inspection in connection with the statutory renewal inspection in accordance with the applicable regulations, but no later than every 3 years.

Special inspection and inspection dates

Section 8. The Danish Maritime Authority may, after a specific assessment, decide that a ship shall be subject to an extraordinary inspection.

Subsection 2. For laid-up ships, the Danish Maritime Authority may authorise the prescribed periodical inspections to be omitted in whole or in part as long as the ship remains laid up and no seafarers are hired on board.

Content and scope of the inspection

Section 9. The inspections mentioned in Sections 6 and 7 include inspections of seafarers' working conditions, including at a minimum:

- 1) Minimum age,
- 2) Health certificates,
- 3) The qualifications of seafarers,
- 4) Contract of employment,
- 5) The use of authorised, certified or regulated hiring and brokerage services,
- 6) Rest hours,
- 7) The ship's crew,
- 8) Working areas and living quarters,
- 9) On-board leisure facilities,
- 10) Food and catering,
- 11) Health and safety protection and accident prevention,
- 12) On-board medical treatment,
- 13) On-board complaint procedures,

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- 14) Payment of wages,
- 15) Financial security for repatriation; and
- 16) Financial security for liability for occupational injuries and diseases.

Subsection 2. Inspection of working areas and living quarters, leisure facilities on board, as well as food and catering, cf. Subsection 1 (8, 9 and 10), shall be carried out in accordance with applicable executive orders on living quarters and leisure facilities on merchant ships and food and drinking water, etc., on merchant ships to the extent that these apply to the ship.

Chapter 4

Certificate on seafarers' working and living conditions and declaration of conformity on seafarers' working and living conditions

Issuance

Section 10. Ships of 500 gross tonnage or more engaged on international voyages and ships operating from or between ports in another country shall, before being put into service, have a certificate concerning seafarers' working and living conditions.

Subsection 2. The certificate is issued on the basis of an inspection in accordance with Section 6 or Section 7, which includes an inspection of seafarers' working conditions in accordance with Section 9.

Subsection 3. Ships with a gross tonnage of less than 500 which, at the request of the company, wish to have a certificate issued in accordance with Section 11 shall undergo an inspection as specified in accordance with Section 9.

Section 11. The Danish Maritime Authority shall issue certificates concerning seafarers' working and living conditions and the related declarations of conformity (Part I and Part II) concerning seafarers' working and living conditions under this Executive Order, cf. however Subsection 2.

Subsection 2. Organisations recognised in accordance with the current Executive Order on recognition and authorisation of organisations performing inspections and surveys of ships may be authorised to issue certificates on behalf of the Danish Maritime Authority.

Section 12. The declaration of conformity Part I and Part II on seafarers' working and living conditions shall be attached to the certificate on seafarers' working and living conditions.

Subsection 2. Part I shall be in the form issued by the Danish Maritime Authority at any given time and shall

- 1) Specify the list of conditions to be inspected as a minimum, cf. Section 9(1),
- 2) Refer to the relevant national rules implementing the relevant provisions of the MLC and, where necessary, provide precise information on the main content of the national requirements,
- 3) Refer to requirements specific to the ship type according to national legislation,

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4) Clearly indicate any exemption granted by the Danish Maritime Authority as specified in the applicable Executive Orders on living quarters and recreational facilities on merchant ships and food and drinking water, etc., on merchant ships.

Subsection 3. Part II shall be prepared by the shipowner and shall indicate the measures in place to ensure ongoing compliance with national requirements and the measures in place to ensure continuous improvement.

Validity and validity period

Section 13. A certificate concerning seafarers' working and living conditions shall be issued for a period not exceeding 5 years, cf. Subsections (2) to (4).

Subsection 2. For renewal inspections completed more than 3 months before the expiry of the existing certificate, the new certificate on seafarers' working and living conditions shall be valid for a period not exceeding 5 years from the date of completion of the renewal inspection.

Subsection 3. For renewal inspections completed within 3 months before the expiry of the existing certificate, the new certificate on seafarers' working and living conditions shall be valid from the date of completion of the renewal inspection for a period not exceeding 5 years from the date of expiry of the existing certificate.

Subsection 4. In situations where a renewal inspection has been completed before the expiry of the existing certificate on seafarers' working and living conditions and the inspection has shown that the ship continues to comply with the applicable rules and measures for the issue of the certificate, but where a new certificate cannot immediately be issued or sent to the ship, the Danish Maritime Authority or a recognised organisation may extend the period of validity of the certificate for a period not exceeding 5 months from the date of expiry of the certificate and endorse the certificate accordingly. When a new certificate is subsequently issued, the validity period of the certificate is 5 years from the time specified in Subsection 3.

Section 14. The validity of the certificate concerning seafarers' working and living conditions is subject to an intermediate inspection in accordance with Sections 6 and 7.

Subsection 2. If only one intermediate inspection is carried out and the validity period of the certificate is 5 years, the inspection must take place between the second and third year of the certificate.

Subsection 3. The certificate shall be endorsed after a satisfactory intermediate inspection.

Temporary certificate on seafarers' working and living conditions

Section 15. The temporary certificate concerning seafarers' working and living conditions may be issued for a period not exceeding 6 months for:

- 1) New vessels upon delivery,
- 2) A ship that changes flag to the Danish flag, and
- 3) A ship when a shipowner assumes responsibility for the operation of the ship that is new to that shipowner.

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Subsection 2. A temporary certificate relating to seafarers' working and living conditions may only be issued after verification that the ship has been inspected, so far as reasonable and practicable, for the matters specified in Section 9, taking into account the following:

- 1) The shipowner has documented to the Danish Maritime Authority established measures to ensure continuous compliance with the conditions stated in Section 9.
- 2) The master is familiar with the requirements of the MLC and the responsibility for the implementation of the MLC.
- 3) The relevant information has been submitted to the Danish Maritime Authority in order to issue a declaration of conformity regarding seafarers' working and living conditions.

Section 16. A complete inspection in accordance with Section 6(1)(2) (renewal inspection) or Section 7(2) (renewal inspection) shall be carried out before the expiry of the interim certificate to enable the issue of a certificate on seafarers' working and living conditions with a full period of validity.

Subsection 2. No further temporary certificates may be issued after the initial 6 months, cf. Section 15(1).

Subsection 3. It is not necessary to issue a declaration of conformity Part I and Part II concerning seafarers' working and living conditions for the period of validity of the temporary certificate.

Cancellation of the certificate's validity

Section 17. A certificate concerning seafarers' working and living conditions shall cease to be valid in the following cases:

- 1) If the relevant inspections have not been completed within the validity periods specified in Section 13(2), (3) or (4) and Section 14(1).
- 2) If the certificate is not endorsed in accordance with Section 10(2).
- 3) If the ship ceases to sail under the Danish flag.
- 4) If the shipowner ceases to assume responsibility for the operation of the ship.
- 5) If significant changes have been made to the ship's layout or to the working areas and living quarters and leisure facilities.
- 6) If the ship ceases to be a merchant ship.

Subsection 2. In the cases referred to in Subsection (1)(3-5), a new certificate may only be issued if the Danish Maritime Authority or a recognised organisation, cf. Section 10(2), in connection with the issue of a certificate, is satisfied that the ship complies with the requirements of Section 9.

Revocation

Section 18. The Danish Maritime Authority may revoke a certificate concerning seafarers' working and living conditions if it is found that the ship in question does not comply with the requirements of this Executive Order and any orders have not been complied with.

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Subsection 2. In assessing whether a certificate on seafarers' working and living conditions shall be revoked in accordance with Subsection (1), the seriousness and frequency of the deficiencies shall be taken into account.

Form of the certificate and declaration of conformity, etc.

Section 19. The certificate concerning seafarers' working and living conditions, the temporary certificate concerning seafarers' working and living conditions and the declaration of conformity Part I and Part II concerning seafarers' working and living conditions shall be issued in a form that appears on the website of the Danish Maritime Authority.

Availability of certificates, etc.

Section 20. Ships subject to certification, cf. Section 10(1), shall keep on board the certificate concerning seafarers' working and living conditions and the associated declarations of conformity of compliance (Part I and Part II) concerning seafarers' working and living conditions or a temporary certificate concerning seafarers' working and living conditions in their original form, cf. Subsection (2).

Subsection 2. If the original form is digital, it may be presented on digital media.

Subsection 3. If the certificate and the related declaration of conformity are not in English, an English translation shall also be provided, except if a ship is not engaged on international voyages.

Subsection 4. A copy of the certificate and associated declarations of conformity shall be posted in a conspicuous place on the ship where it is accessible to seafarers.

Subsection 5. A copy of the certificate and associated declarations of conformity shall be made available to seafarers on request.

Subsection 6. The certificate must be presented to the authorities on request.

Section 21. The result of all subsequent inspections and other verifications carried out in respect of the ship concerned and any significant deficiencies found during such verification shall be recorded by the company together with the date on which the deficiencies are found to have been rectified.

Subsection 2. The registration pursuant to Subsection 1, together with an English translation if it is not in English, shall be included in or attached to the declaration of conformity concerning seafarers' working and living conditions or otherwise made available to seafarers by the company.

Chapter 5

Penalty provisions

Section 22. Violations of Sections 5-7 are punishable by a fine or imprisonment of up to 1 year.

Subsection 2. Violations of Section 10(1) and Sections 20 and 21 are punishable by a fine.

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Subsection 3. Criminal liability may be imposed on companies or other legal persons in accordance with the rules laid down in Chapter 5 of the Criminal Code.

Chapter 6

Entry into force, etc.

Section 23. This Executive Order shall enter into force on 2 April 2023.

Section 24 This Executive Order shall not apply to Greenland.

The Danish Maritime Authority, 25 March 2023

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