

Order on safety of navigation in connection with engineering works and other activities, etc. in Danish waters

In pursuance of section 1(2) and (3), section 3(1), section 6(i)-(vii), and section 32(8) of the act on safety at sea (*lov om sikkerhed til søs*), cf. consolidated act no. 654 of 15 June 2010, and in accordance with the authority granted, the following provisions are laid down:

Part 1

Scope and definitions

Scope

Section 1. The order shall apply to issues related to safety of navigation in connection with works on installations, scheduled events, arrangements and similar activities in Danish waters and on participating Danish and foreign ships.

Subsection 2. The order shall not apply to Navy ships, including war ships and troop ships.

Subsection 3. The order does not regulate the procedures applicable to applications for permits to carry out activities requiring a permit pursuant to any other legislation, including projects adopted by law.

Definitions

Section 2. For the purposes of this order, the following definitions shall apply:

- 1) Ship: Any type of floating material useable as a means of transport on the water, including barges, cranes, etc.
- 2) Danish waters: The outer and inner territorial waters and the exclusive economic zone (EEZ).
- 3) Safety of navigation: Safety of ships in relation to the risk of allision, grounding or collision.
- 4) Activity: Any work or arrangement, except for ordinary navigation and fishing, which may impair safety of navigation to a not inconsiderable degree or impede free navigation, including projects, engineering works, blasts, shootings, scheduled events and the like.
- 5) Work vessel: A ship participating in or contributing to the preparation and carrying out of an activity.
- 6) Guard vessel: A work vessel that, without exercising any authority, has special tasks warning and guiding other ships.
- 7) Person responsible: Any physical or legal person or its substitute planning, launching or carrying out an activity.

Part 2
General provisions
Assessment of safety of navigation

Section 3. An activity shall be carried out only if the person responsible has made a specific risk assessment demonstrating that safety of navigation will not be impeded seriously and that free navigation will not be impeded.

Subsection 2. The Danish Maritime Authority may decide whether a given activity, cf. section 2(5) is covered by this order.

Subsection 3. The Danish Maritime Authority may, when establishing major installations in Danish waters, require a risk assessment to be made according to internationally recognised standards.¹

Subsection 4. The assessment of safety of navigation, cf. subsection 1, shall be documented. The documentation shall be kept until the activity has been completed and shall be forward to the Danish Maritime Authority upon request.

Subsection 5. Guidance about methods for assessing safety of navigation and examples of preventive measures, etc. are available from the webpage of the Danish Maritime Authority.

Section 4. On the webpage of the Danish Maritime Authority, guidance is available about the material that the Danish Maritime Authority will need for its case consideration when it is intended to carry out an activity in areas where safety of navigation may be affected to a special degree.

Subsection 2. The person responsible shall, inter alia in order to warn ship traffic, in general forward the material no later than six weeks before it is intended to carry out an activity. It shall be possible to deviate from the time-limit in accordance with an agreement with the Danish Maritime Authority if it is proven that the work is of an urgent nature.

Subsection 3. Safety of navigation may be affected to a special degree in, inter alia, the following areas:

- 1) Navigable spans;
- 2) narrow fairways and channels;
- 3) ship traffic routes;
- 4) ship routeing systems, including traffic separation systems and deepwater routes, etc.²
- 5) port entrances;
- 6) leading lights and light sectors;
- 7) anchorages;
- 8) within 200 metres of submarine cables or submarine pipelines; and
- 9) pilot boarding places as shown in charts.

Subsection 2. The material shall also be submitted if

- 1) the person responsible wants to use preventive measures requiring the authorities' approval;
- 2) existing water depths will be reduced; or
- 3) it is then intention to establish bottom-fixed structures that may damage ships in case of collision.

¹ In connection with large-scale projects, it shall be most convenient to make the risk assessment according to the method described in the guidance "Formal Safety Assessment, FSA" issued by the United Nations' International Maritime Organization (IMO).

² Ship routeing systems may consist of the elements mentioned in the IMO Ship's Routeing and will be marked in official charts.

Section 5. The Danish Maritime Authority shall not require material to be submitted when it is possible, cf. section 3(1), to carry out an activity and it is not covered by section 4.

Danger to navigation

Section 6. If a danger arises to ships' safe or free navigation in connection with an activity, the person responsible shall as soon as possible inform the Danish Maritime Authority hereof. When the danger is no longer there, the person responsible shall cancel the danger.

Charts and nautical publications

Section 7. When an activity necessitates the updating of official charts, port plans or descriptions in nautical publications published by the Danish Geodata Agency, the person responsible shall in general no later than three weeks after the completion of an activity forward information and drawing material to the Danish Geodata Agency. Requirements for information and drawing material will be evident from the webpage of the Danish Geodata Agency.

Vessel traffic service (VTS) areas

Section 8. Within a VTS area, the person responsible shall cooperate with the VTS about the carrying out of the activity.

Work vessels

Section 9. In addition to observing the navigational regulations in force, work vessels, including guard vessels, shall:

- 1) be capable of communicating with other ships on the maritime VHF channels and keep a constant listening watch on VHF channel 16 and other relevant channels; and
- 2) increase their radar visibility by means of equipment for this purpose if they have a length overall below 12 metres.

Subsection 2. If work is carried out outside the waters of a port close to the places mentioned in section 4 and the work vessel has a length overall of or above 12 metres, the vessel shall be fitted with an automatic identification system (AIS) of class A.

Subsection 3. Work vessels shall be capable of warning approaching ships about an activity and provide guidance about how to pass an area safely and warn about restrictions or blocking by having an overview of the ship traffic in the area at any time, including an overview of ships leaving nearby ports, fjords, fairways, etc.

Subsection 4. If the tasks mentioned in subsection 3 cannot be taken fully care of by work vessels or from ashore, one or more guard vessels shall be present.

Subsection 5. Guard vessels shall carry only the lights and shapes and sound only the signals permitted by the regulations for preventing collisions at sea and shall not through their navigation to get within hailing distance bring the ship that is to be hailed in a situation where it must give way to the guard vessel or in other manners inconvenience other ships' navigation.

Part 3
Special provisions

Section 10. For an activity mentioned in this part, the general provisions of part 2 shall apply in addition to the individual special provisions of this part.

Bridge regulations and bridge work

Section 11. The Danish Maritime Authority shall regulate ships' safe navigation through bridges by means of an order on navigation through certain bridges in Danish waters and otherwise by means of bridge regulations to be approved by the Danish Maritime Authority.

Subsection 2. Bridge regulations or amendments to these shall enter into force on the date of their announcement in Notices to Mariners. Subsequently, they shall be included in "Den Danske Havnelods".

Subsection 3. When constructing new passage bridges, the person responsible shall draw up draft bridge regulations to be approved by the Danish Maritime Authority.

Subsection 4. A bridge owner may forward proposals for amendments to bridge regulations, including changes of opening hours or the conditions of passage, together with unsolved objections from the parties concerned to the Danish Maritime Authority for approval no later than six weeks before they are intended to become effective.

Subsection 5. The minimum contents and format of the bridge regulations shall be determined by the Danish Maritime Authority.

Subsection 6. The person responsible for a bridge project shall ensure on an ongoing basis, including especially in connection with construction, maintenance and repair works, that a danger does not arise that passing ships are hit by objects falling down from the bridge.

Subsection 7. Around the bridge piers of passage bridges, the bridge owner shall ensure the establishing of physical measures that may help reduce any damages caused by allision.

Port conditions

Section 12. Within the waters of a port, the port may request the Danish Maritime Authority to lay down special navigational regulations, including deviations from the applicable regulations for preventing collisions at sea.

Subsection 2. The water depths of a port given in official charts, port plans or nautical publications, etc. published by the Danish Geodata Agency shall be checked by the port on an ongoing basis and, if water depths lower than those indicated of importance to safety of navigation are identified, the Danish Maritime Authority and the Danish Geodata Agency shall be informed hereof as soon as possible.

Offshore wind farms

Section 13. The Danish Maritime Authority may require that for offshore wind farms a procedure is available for rotation stop and disconnection of electricity in case there is an imminent danger of a ship colliding with an offshore wind turbine. The procedure shall be approved by the Danish Maritime Authority.

Activities on the bottom of the sea, investigations and the like

Section 14. The person responsible for activities on and in the bottom of the sea shall be obliged to investigate the dangers and restrictions that may be associated herewith.³

Subsection 2. If remnants of ammunition, war gases or unidentified objects that could be dangerous are found, the work shall be temporarily stopped and the Admiral Danish Fleet shall be contacted.

Subsection 3. Activities on the bottom of the sea in areas of prohibition where there may be remnants of ammunition or war gases, etc. shall require a permit according to a special procedure available from the webpage of the Danish Maritime Authority.

Blasts and shootings, etc.

Section 15. In connection with blasts, shootings or other firings, the person responsible shall determine a safety distance and a safety area with a sufficient margin within which the blast, shooting, firing or falling objects in this connection may take place.

Subsection 2. The person responsible shall be able to monitor the safety area in its entirety.

Subsection 3. Blasts, shootings or firing shall not be carried out if any type of unauthorised vessel or person is present within the safety area.

Subsection 4. The person responsible shall stop blasts, shootings or firing if the visibility in the area is impaired to below twice the safety distance.

Stays in the water

Section 16. In addition to the prohibitions evident from port regulations, etc., persons shall not without the Danish Maritime Authority's permission be staying in the water in or close to the following areas, which are shown in official charts published by the Danish Geodata Agency:

- 1) Ship traffic routes;
- 2) ship routeing systems, cf. note 2, including closer than 2 nautical miles in the extension of the ends of traffic separation systems or deepwater routes;
- 3) bridge spans used for passage; and
- 4) port entrances.

³ Including at present order no. 135 of 4 March 2005 on prohibition against navigation, anchoring and fishing, etc. in certain areas in Danish waters issued by the Danish Maritime Authority, the prohibitions and warnings evident from official charts and the annual article in Notices to Mariners (article A/8).

Subsection 2. Recreational diving, swimming, bathing and the like should be avoided in or close to the following areas, which are shown in official charts published by the Danish Geodata Agency:

- 1) Anchorages;
- 2) pilot boarding places;
- 3) leading lights and light sectors; and
- 4) channels and fairways.

Subsection 3. Within the waters of a port, stays in the water may take place in accordance with the provision of the port authority if it does not affect ships' safety of navigation or manoeuvrability.

Section 17. When diving with diving equipment⁴ coming from another place than a ship, the person responsible shall mark the place of diving, in accordance with what is applicable to ships, cf. regulation 27(e)(ii) of the regulations for preventing collisions at sea, with distended reproduction of the international signalling flag ALFA of a height of at least one metre, which shall be visible from all directions and be lit during the night and in low visibility.

Subsection 2. The signalling flag ALFA shall be shown only when diving does actually take place.

Subsection 3. Diving so close to the surface that it is possible for ships to hit the diver shall take place within 50 metres of the displayed signalling flag ALFA.

Part 4

Penalty provisions

Section 18. Contraventions of the provisions of parts 2 and 3 shall be liable to punishment by fine or imprisonment for a term not exceeding one year.

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

- 1) the contravention has caused damage to life or health or risk of such damage;
- 2) an injunction or order has previously been issued in connection with the same or equivalent situations;
or
- 3) the contravention has produced or has been intended to produce financial benefits to the contravener or others.

Subsection 3. Companies etc. (legal personalities) may be liable to punishment according to the provisions of part 5 of the penal code (*straffeloven*).

Entry into force

Section 19. This order shall enter into force on 7 December 2013.

Danish Maritime Authority, 29 November 2013
Michael Skov / Søren Østerberg Forup

⁴ A composition of diving material making it possible to maintain breathing during stays in water 0.4 metres or more below the surface.