

Translation: Only the Danish document has legal validity.

Order no. 846 of 25 June 2018
issued by the Danish Maritime Authority

Order on safety work in merchant ships (Occupational health in ships)¹⁾²⁾

In pursuance of section 1(2), section 3(1)(vi) and section 32(9) of the Danish Act on safety at sea (*lov om sikkerhed til søs*), see Consolidated Act no. 72 of 17 January 2014 as amended by Act no. 374 of 1 May 2018, and section 1(2), section 3(1)(vi) and section 32(2) of Decree no. 71 of 29 January 2013 on the entry into force for Greenland of acts amending the Act on safety at sea, the following provisions are laid down as authorised under section 1(1)(iii) of 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

Scope of application

Section 1. (1) This Order applies to all merchant ships registered in Denmark and Greenland.

(2) This Order covers 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.

(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 which is not a passenger ship.

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

Part 2

Purpose

Section 2. (1) The purpose of the safety work in ships is to promote, ensure and maintain a good, safe and healthy physical and mental working environment.

(2) The health and safety work in ships must be carried out in cooperation between the shipowner, the master, the ship's officers and the ratings on board.

(3) The shipowner and the master have the overall responsibility for arranging the work on board so that it is carried out in a fully appropriate manner in terms of health and safety.

(4) All persons on board are individually and collectively responsible for the work on board being carried out in a fully appropriate manner in terms of health and safety.

(5) As regards compliance with the provisions of subsection (3), the shipowner and the master are responsible for establishing, developing and maintaining a safety organisation which is well-functioning and contributes to promoting health and safety during work on board, but see section 3(2).

Section 3. (1) In merchant ships where the required crew, including the master, consists of five or more persons, a safety organisation must be established in accordance with the provisions below.

(2) In ships where it is not required to establish a safety organisation, the master shall ensure – through instructions, training and inspection – that the work on board is carried out in a fully appropriate manner in terms of health and safety.

Part 3

Safety organisation in cargo ships

Safety representative

Section 4. (1) 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 a safety representative among themselves.

(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.

(3) The position as safety representative is held until the safety representative's service on board ceases; however, for a maximum of two years. Re-election may take place.

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

Safety group and committee

Section 6. (1) The master shall appoint, among the ship's officers or other similar supervisors on board, a management representative who, together with the safety representative, constitutes the safety group of the cargo ship.

(2) In cargo ships with two safety representatives, see section 4(2), the safety groups must be composed of a safety representative and a management representative from each working area.

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

(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. (1) 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 a safety representative among themselves.

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

(3) Safety representatives are elected for a term of two years or until the safety representative's job function ceases. Re-election may take place.

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

Safety group

Section 9. (1) 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, constitutes the safety group of the ship.

(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 constitutes the safety group of the working area.

(3) Where more than 50 persons are employed in a working area, the master may decide, in cooperation with the safety representatives elected and the management representatives appointed, that the ratings shall elect among themselves additional safety representatives within the working area. The safety group of the ship must 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 ensure, in cooperation with the safety representatives elected and the management representatives appointed, that all employees can get in contact with their safety representatives so that 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. (1) 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.

(2) The safety committee on 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.

(3) In passenger ships with more than three safety groups, a safety committee must, 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 must 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. (1) The master shall ensure that all on-board employees and the shipowner are made aware of who are members of the safety groups and safety committees.

(2) The master shall ensure that the members of the safety organisation meet the training requirements set out in section 16.

Section 15. (1) The shipowner and the master shall ensure that the members of the safety committee:

- (i) receive all necessary information of importance to health and safety on board;
- (ii) get an opportunity to present proposals related to health and safety;
- (iii) are given reasonable time to perform their duties in relation to safety work;
- (iv) get an opportunity during work hours to acquire the necessary knowledge about or training in issues related to health and safety; and
- (v) 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.

(2) The shipowner and the master shall inform the safety committee about any written notices issued by the Danish Maritime Authority about workers' health and safety conditions.

Training, 'section 16 course'

Section 16. (1) Members of the safety group must have completed a training programme in occupational health in merchant ships approved by the Danish Maritime Authority, but see subsection (3).

(2) Persons who have, in connection with a maritime training programme, see the Danish 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) are considered to meet the requirement stipulated in subsection (1).

(3) In ships where the required crew, including the master, consists of five or six persons, the shipowner shall ensure that, for each voyage, at least one person on board has completed a training programme in occupational health approved by the Danish Maritime Authority.

Section 17. Members of the safety group who have not completed the training programme in occupational health referred to 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 enrolment takes place.

Section 18. The training programme must be completed within three months after the safety representative or management representative is elected or appointed, but see section 20.

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

Section 20. (1) Until such time as 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 must receive occupational health training on board approved by the Danish Maritime Authority immediately after their 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.

(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. (1) Members of the safety organisation shall strive to solve any health and safety problems on board.

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

(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.

(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.

(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.

(6) The safety group shall:

(i) function as a point of contact between the crew and the safety committee;

(ii) keep the committee informed about occupational health issues; and

(iii) present any proposals for improvements to the committee.

(7) The safety group shall ensure that occupational health risks are addressed. If it is not possible to address a 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. (1) 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 workers on board. The committee shall record occupational health problems and offer advice for solutions to occupational health issues.

(2) The safety committee shall be consulted prior to any request for assistance to the ship for resolving health and safety issues.

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

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

(5) The safety committee shall:

(i) keep informed about the provisions on health and safety that have been laid down to protect the workers on board;

(ii) assist in the drafting of principles for sufficient and necessary training and instructions adapted to the conditions of work on board the ship;

(iii) contribute to well-being on board; and

(iv) ensure that compliance with the safety requirements is continuously checked.

(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. (1) 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.

(2) The safety representative is protected against dismissal or other impairment of their conditions in the same manner as shop stewards within the relevant or a similar professional area. The safety representative must not be placed at a disadvantage due to the activities related to the position.

(3) A management representative who is a member of the safety group must not be placed at a disadvantage due to the activities related thereto.

(4) The provisions on election of shop stewards within the relevant or a similar collective agreement area generally apply to eligibility and the validity of the elections.

Safety committee meetings

Section 26. (1) The safety committee shall hold ordinary meetings regularly, but see subsection (3).

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

(3) Furthermore, the safety committee shall hold meetings in case of occurrence of serious accidents, serious poisoning or other health injuries, or of serious incidents which could have resulted in accidents or health injuries.

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

(5) Minutes of safety committee meetings must be prepared. The minutes must be handed over to the committee members, be made available to the workers on board and be forwarded to the shipowner.

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

(7) If the safety committee members so agree, other persons may be permitted to attend the meetings.

Part 6

Penalty provisions

Section 27. (1) Contravention is punishable with a fine or imprisonment for up to one year.

(2) The penalty may be increased to imprisonment for up to two years if:

- (i) the contravention has caused injury to life or health or a risk thereof;
- (ii) a prohibition notice or an improvement notice has previously been issued for the same or similar matters;
- (iii) the contravention has resulted in or aimed at a financial benefit for the person committing it or others.

(3) If the benefit obtained through the contravention is not confiscated, the amount of such financial benefit obtained or sought must be taken into account when determining the fine, including additional fines.

(4) Criminal liability may be imposed on companies, etc. (legal persons) under the rules of Part 5 of the Danish Criminal Code (*straffeloven*).

(5) A legal person who substantiates having done everything necessary to ensure a sound and safe working environment shall, however, not be punished in cases where an employee fails to comply with the requirements laid down on the use of personal protective aids, exhaust measures, protective equipment or safety provisions solely intended to protect the relevant employee.

Section 28. (1) If the matter is covered by the Decree on the entry into force for Greenland of the Danish Act on safety at sea (*lov om sikkerhed til søs*), measures may be laid down in accordance with the Penal Code (*kriminalloven*) for Greenland.

(2) The matters referred to in section 5(2) are considered aggravating circumstances.

(3) If the benefit obtained through the contravention is not confiscated, see section 116(1) of the Penal Code, the amount of such financial benefit obtained or sought must be taken into account when determining the fine, including additional fines.

(4) If the contravention is committed by companies etc. (legal persons), a fine may be imposed on the legal person as such. If the contravention is committed by the State, the Greenland Government, a municipal authority, a municipal cooperative comprised by section 64 of the Landsting Act on municipal councils and local authorities, etc., or a local authority, a fine may be imposed on the relevant public authority as such.

(5) If the relevant party is not resident in Greenland, or if his ties with 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 enters into force on 1 July 2018.

Section 30. Order no. 863 of 22 June 2017 on safety work and occupational health in merchant ships is repealed.

Danish Maritime Authority, 25 June 2018

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