

Translation: Only the Danish document has legal validity.

*Order no. 1116 of 11 November 2019
issued by the Ministry of Industry, Business and Financial Affairs*

Order on accommodation, etc. in fishing vessels¹

In pursuance of section 1(2), section 3(1)(vi) and (vii), section 4(1), section 5(1) and section 32(9) of the Danish Act on Safety at Sea (*lov om sikkerhed til søs*), see Consolidated Act no. 1629 of 17 December 2018, section 1(2), section 3(1)(vi) and (vii), section 4(1) section 5(1) and section 32(2) of the Decree on the entry into force for Greenland of the Act on Safety at Sea, see Consolidated Decree no. 1674 of 16 December 2015, 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., and section 1(1)(ii) of Order no. 211 of 29 March 2005 for Greenland on the transfer of certain powers to the Danish Maritime Authority and on the right of appeal, etc.:

Part 1

Purpose

Section 1. The purpose of this Order is to ensure that fishers working or living on board fishing vessels, see Part 2, have decent accommodation consistent with promoting the fishers' health and well-being.

Subsection 2. This Order contains provisions on accommodation prepared, *inter alia*, on the basis of the United Nations International Labour Organisation's Work in Fishing Convention and thus does not affect any other existing international, regional or national requirements applicable to the arrangement, etc. of accommodation, such as provisions on fire protection, including means of escape, laid down in the Torremolinos Protocol relating to the Torremolinos International Convention for the Safety of Fishing Vessels 1977 adopted by the United Nations International Maritime Organisation integrated into EU law by Council Directive 97/70/EC, EU regulations on requirements laid down in food law and on the hygiene of foodstuffs and the Danish Act on Smoke-free Environments (*lov om røgfri miljøer*).

Part 2

Application, definitions and deviations, etc.

Application

Section 2. This Order applies to new fishing vessels with decks, see section 3(1)(iv), whether publicly or privately owned.

Subsection 2. Existing fishing vessels, see section 3(1)(v), may choose to apply this Order as an alternative to the set of rules otherwise applicable to the vessel concerned, see section 46(3).

Subsection 3. This Order does not apply to:

- (i) merchant ships;
- (ii) warships;

¹This Order contains provisions implementing parts of Council Directive 2017/159/EU of 19 December 2016 implementing the Agreement concerning the implementation of the Work in Fishing Convention, 2007 of the International Labour Organisation, concluded on 21 May 2012 between the General Confederation of Agricultural Cooperatives in the European Union (Cogeca), the European Transport Workers' Federation (ETF) and the Association of National Organisations of Fishing Enterprises in the European Union (Europêche), Official Journal 2017, no. L 25, page 12.

- (iii) naval auxiliaries; or
- (iv) recreational craft.

Definitions

Section 3. For the purposes of this Order, the following definitions apply:

- (i) 'fisher' means any person, including the master, who is employed or engaged or works in any capacity on board a fishing vessel;
- (ii) 'officer' means mates and engineers;
- (iii) 'fishing vessel' means a vessel the certificate of nationality of which is provided with a port number;
- (iv) 'new fishing vessel' means a fishing vessel for which:
 - (a) the building or major conversion contract is placed on or after the date of entry into force of this Order; or
 - (b) the building or major conversion contract is placed before the date of entry into force of this Order, and which is delivered three years or more after that date; or
 - (c) in the absence of a building contract on or after the date of entry into force of this Order, the keel is laid, or construction identifiable with a specific vessel begins, or assembly has commenced comprising at least 50 tonnes or 1% of the estimated mass of all structural material, whichever is less;
- (v) 'existing fishing vessel' means a fishing vessel which is not a new fishing vessel;
- (vi) 'length (L)' shall be taken as 96% of the total length on a waterline at 85% of the least moulded depth measured from the keel line or as the length from the foreside of the stem to the axis of the rudder stock on that waterline, if that be greater. In ships designed with a rake of keel the waterline on which this length is measured must be parallel to the designed waterline;
- (vii) 'accommodation' means such sleeping rooms, mess rooms, sanitary facilities, hospital accommodation, recreational spaces, offices, etc. as are provided for the use of fishers.

Derogations, etc.

Section 4. The Danish Maritime Authority may, after consultation, allow derogations for fishing vessels the daily seagoing service of which does not exceed 24 hours and where the fishers are not living on board the vessel while in port, on condition that the fishers concerned have adequate facilities for resting, eating and sanitation purposes.

Subsection 2. The Danish Maritime Authority may, after consultation, allow exemptions from the provisions of this Order to take account, without discrimination, of the interests of fishers having differing and distinctive religious and social practices, on condition that such exemptions do not result in overall conditions less favourable than those which would result from the application of this Order.

Part 3

General requirements for accommodation

Headroom

Section 5. There shall be adequate headroom in all fishers' accommodation.

Subsection 2. The minimum permitted headroom in all fishers' accommodation where full and free movement is necessary shall be not less than 200 centimetres.

Openings into and between accommodation spaces

Section 6. There shall be no direct openings into sleeping rooms from cargo and machinery spaces or from galleys, storerooms, drying rooms, communal sanitary areas, laundry rooms, rooms for storing paint, storerooms or similar rooms. That part of the bulkhead separating such places from sleeping rooms and external bulkheads shall be efficiently constructed of steel or another approved material and shall be watertight and gas-tight.

Subsection 2. Common toilet rooms shall, if intended for more than two persons, be separated from sleeping rooms.

Insulation

Section 7. Accommodation shall be adequately insulated, including to prevent condensed water or overheating, see also section 9.

Subsection 2. The materials used to construct internal bulkheads, panelling and sheeting, floors and joinings, shall be suitable for the purpose and conducive to ensuring a healthy working environment.

Mosquito-infested areas

Section 8. In vessels regularly operating in mosquito-infested areas, measures shall be taken to protect accommodation spaces against mosquitoes and other insects.

Subsection 2. Vessels provided with air-conditioning systems meeting the requirements for such systems are considered to meet the requirement stipulated in subsection (1).

Section 9. Accommodation and recreational and catering facilities shall meet the applicable requirements on health and safety protection and accident prevention, with respect to preventing the risk of exposure to hazardous levels of noise and vibration and other ambient factors and chemicals on board ships, and to providing an acceptable occupational and onboard living environment for fishers.

Part 4

Ventilation and heating

Section 10. Accommodation spaces shall be adequately ventilated and the ventilation system shall constantly supply fresh air in a satisfactory condition whenever fishers are on board.

Subsection 2. All rooms used for sanitary facilities, cooking, medical treatment, laundry facilities or the like shall have ventilation to the open air, independently of any other part of the accommodation so as to prevent disease or bad smell or air from spreading.

Subsection 3. Adequate heating shall be provided, taking into consideration climatic conditions, except in vessels exclusively engaged on voyages in tropical climates.

Subsection 4. For fishing vessels of or above 24 metres in length (L), adequate heating shall be provided through an appropriate heating system, except in fishing vessels operating exclusively in tropical climates. The heating system shall provide heating in all conditions, as necessary, and shall be in operation when fishers are living or working on board, and when conditions so require.

Subsection 5. For fishing vessels of or above 24 metres in length (L), with the exception of those regularly engaged in areas where temperate climatic conditions do not require it, air conditioning shall be provided.

Subsection 6. Ventilation and air-conditioning systems shall be provided with appropriate filters at air inlets and shall be designed for the special conditions characteristic of operation at sea and shall not cause annoying noise or vibrations, see also section 9.

Subsection 7. Ventilation and air-conditioning systems shall be adjustable and shall be designed and dimensioned in accordance with a recognised international or Danish standard, so that the air is constantly satisfactory and the circulation of air sufficient under all weather and climatic conditions, including to protect non-smokers from tobacco smoke, see also section 9.

Section 11. For fishing vessels of or above 24 metres in length (L), however see section 10(2), air conditioning shall be provided on the bridge, in the radio room and any centralised machinery control room.

Part 5

Lighting

Section 12. All accommodation shall be provided with adequate lighting.

Subsection 2. Wherever practicable, accommodation shall be lit by natural light in addition to electric light. However, a means of blocking the light shall be provided in sleeping rooms.

Subsection 3. Electric light shall be arranged so that it offers the greatest possible benefit to the persons in the room.

Subsection 4. In sleeping rooms, a reading lamp with a switch shall be provided for every berth.

Section 13. Recognised international or Danish standards or the Danish Working Environment Authority Guidelines on artificial lighting may be applied to satisfy requirements for adequate lighting.

Part 6

Special provisions concerning sleeping rooms

Section 14. The following provisions apply only when sleeping accommodation on board fishing vessels is required.

Location of sleeping rooms

Section 15. Where the design, dimensions or purpose of the vessel allow it, the sleeping rooms shall be located so as to minimise the effects of motion and acceleration.

Section 16. Sleeping rooms shall in no case be located forward of the collision bulkhead.

Size of sleeping rooms

Section 17. Sleeping rooms shall be of adequate size and properly equipped so as to ensure reasonable comfort and to facilitate cleaning.

Floor area of sleeping rooms

Section 18. The number of persons per sleeping room and the floor area per person, excluding space occupied by berths and lockers, shall be such as to provide adequate space and comfort for the fishers on board, taking into account the work on board the fishing vessel.

Subsection 2. The minimum floor area per person of sleeping rooms, excluding space occupied by berths and lockers, shall be as follows:

- (i) In vessels of less than 24 metres in length (L): 0.75 m²
- (ii) In vessels of or above 24 metres in length (L), but less than 45 metres: 1.5 m²
- (iii) In vessels of or above 45 metres in length (L): 2.0 m²

Number of sleeping rooms

Section 19. In vessels of or above 12 metres in length (L), a separate sleeping room shall be provided for the master and the ship's officers. In vessels of less than 12 metres in length, one or more separate sleeping rooms shall be provided for the ship's officers wherever practicable.

Subsection 2. In vessels of less than 45 metres in length (L), the number of persons allowed to occupy each sleeping room shall not be more than four.

Subsection 3. In vessels of or above 45 metres in length (L), the number of persons allowed to occupy each sleeping room shall not be more than two.

Section 20. The Danish Maritime Authority may permit exceptions to the requirements of section 19(1) in particular cases if the size, type or intended service of the vessel makes the requirements unreasonable or impracticable.

Subsection 2. The Danish Maritime Authority may furthermore permit exceptions to the requirements of section 19(2) in particular cases for fishing vessels of or above 24 metres in length (L), if the size, type or intended service of the vessel makes the requirements unreasonable or impracticable.

Section 21. The maximum number of persons to be accommodated in any sleeping room shall be legibly and indelibly marked in a place in the room where it can be conveniently seen.

Size of berths

Section 22. A separate berth for each fisher shall be provided.

Subsection 2. Mattresses shall be of a suitable material.

Subsection 3. In vessels of or above 24 metres in length (L), the minimum inside dimensions of the berths shall not be less than 198 by 80 centimetres.

Subsection 4. In vessels of less than 24 metres in length (L), the minimum inside dimensions of the berths shall not be less than 198 by 58 centimetres.

Subsection 5. Berths shall not be placed immediately next to each other.

Subsection 6. More than two berths shall not be placed on top of each other. An adequate distance shall be provided between the bottoms of the berths, between the bottom of the lower berth and the floor, and between the bottom of the top berth and the ceiling.

Arrangement of sleeping rooms

Section 23. Sleeping rooms shall be so planned and equipped as to ensure reasonable comfort for the occupants and to facilitate tidiness.

Subsection 2. Equipment provided shall include individual lockers sufficient for clothing and other personal effects, and a suitable writing surface.

Subsection 3. In vessels of or above 12 metres in length (L), a table or desk and an appropriate number of seats shall be provided. There shall be at least one seat for each person for whom the room is intended. Furthermore, there shall be lockable clothes lockers of sufficient size for clothing and other personal effects.

Section 24. Sleeping accommodation shall be situated or equipped, as practicable, so as to provide appropriate levels of privacy for men and for women.

Part 7

Special provisions concerning mess rooms

Section 25. Mess rooms shall be located as close as practicable to the galley, but shall in no case be located forward of the collision bulkhead.

Subsection 2. In vessels of or above 12 metres in length (L), and in vessels carrying a crew of four persons or more, mess rooms shall be separate from sleeping quarters.

Section 26. Mess rooms shall be of adequate size and comfort and properly furnished and equipped, taking into account the work on board fishing vessels and the number of fishers likely to use them at any one time.

Section 27. In vessels of or above 15 metres in length (L), there shall be access to appropriately placed cooling arrangements with a capacity corresponding to the number of persons using the mess room(s).

Subsection 2. Ongoing facilities for refreshment shall be provided, including facilities for getting hot drinks and facilities for getting chilled drinking water.

Part 8

Special provisions concerning sanitary facilities

Section 28. All fishers shall have convenient access on the vessel to sanitary facilities meeting minimum standards of health and hygiene and reasonable standards of comfort.

Section 29. The sanitary facilities shall allow for reasonable privacy.

Section 30. The sanitary installations shall be such as to eliminate contamination of other spaces.

Section 31. Hot and cold running fresh water shall be available in all wash places in sufficient quantities to allow for proper hygiene for all persons on board.

Section 32. All surfaces in sanitary accommodation shall be such as to facilitate easy and effective cleaning.
Subsection 2. Floors in all sanitary accommodation shall have a non-slip deck covering.

Section 33. In fishing vessels of or above 24 metres in length (L) and for all fishers who do not occupy rooms to which sanitary facilities are attached, there shall be provided at least one tub or shower or both, one toilet, and one washbasin for every four persons or fewer.

Section 34. In fishing vessels of or above 45 metres in length (L), there shall be easy access to sanitary facilities from the bridge. In fishing vessels of or above 85 metres in length (L), an additional separate toilet shall be provided conveniently close to the machinery space.

Part 9

Laundry facilities

Section 35. There shall be suitably placed and equipped facilities for laundering and drying of clothes as required, taking into account the work on board fishing vessels.

Subsection 2. In vessels of or above 24 metres in length (L), there shall be suitable facilities for laundering, drying and ironing clothes.

Subsection 3. In vessels of or above 45 metres in length, adequate facilities for laundering, drying and ironing clothes shall be provided in a compartment separate from sleeping rooms, mess rooms and toilets, and it shall be adequately ventilated, heated and equipped with lines or other means for drying clothes.

Part 10

Special provisions concerning hospital accommodation

Section 36. A room shall be made available/designated on board for sick or injured fishers whenever necessary.

Section 37. In vessels carrying 15 fishers or more and engaged on a voyage of more than three days, and in vessels of or above 45 metres in length, there shall be a separate sick bay used exclusively for medical purposes.

Subsection 2. It shall be ensured that the hospital accommodation will, in all weathers:

- (i) be easy of access;
- (ii) provide comfortable housing for the occupants; and
- (iii) be conducive to their receiving prompt and proper attention.

Subsection 3. In vessels where each fisher has his or her own sleeping cabin with toilet and bath, a treatment room (casualty room) may be set up instead of the hospital accommodation required under subsection (1), such treatment room to be appropriately fitted out, including a washbasin and an emergency treatment area. One bed in the treatment room shall suffice, irrespective of the size of the vessel.

Subsection 4. It shall be ensured that bed-ridden persons have access to call for assistance.

Subsection 5. It shall be ensured that injured persons can be transported safely from the accident site to the hospital accommodation or a treatment room.

Subsection 6. Appropriate means of communication shall be available in the hospital accommodation, enabling the medical practitioner to communicate with Radio Medical.

Part 11

Lockers for work clothes

Section 38. A place for hanging foul-weather gear and other personal protective equipment shall be provided outside of, but convenient to, sleeping rooms.

Part 12

Special provisions on bedding and mess utensils

Section 39. Appropriate eating utensils, and bedding and other linen shall be provided to all fishers on board.

Part 13

Recreational facilities, etc.

Section 40. In fishing vessels of or above 24 metres in length, appropriate recreational facilities, amenities and services shall be provided for all fishers on board.

Subsection 2. Where appropriate, mess rooms may be used for recreational activities.

Communication facilities

Section 41. All fishers on board shall be given reasonable access to communication facilities, to the extent practicable, at a reasonable cost and not exceeding the full cost to the fishing vessel owner.

Part 14

Clean and habitable accommodation, etc.

Section 42. Accommodation spaces shall be kept clean and habitable and free of goods and stores that are not the personal effects of persons on board or for use for their safety or evacuation.

Inspections

Section 43. The master, or the person to whom the master has delegated this task, shall ensure by way of regular inspections that fishers' accommodation is clean, decently habitable and maintained in a good state of repair.

Subsection 2. The results of each such inspection must be recorded and be available for review.

Part 15

Penalty provisions

Section 44. Contravention of this Order is punishable with a fine or imprisonment for up to one year.

Subsection 2. The penalty may be increased to imprisonment for up to two years if:

- (i) the contravention, including in connection with a marine accident or navigation in a manner contrary to good seamanship, 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; or
- (iii) the contravention has resulted in or aimed at a financial benefit for the person committing it or others.

Subsection 3. If the profit obtained through the contravention is not confiscated, the amount of such financial benefit obtained or sought obtained must be taken into particular account in the determination of the fine, including additional fines.

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

Section 45. 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.

Subsection 2. The matters referred to in section 44(2) are considered aggravating circumstances.

Subsection 3. If the profit obtained through the contravention is not confiscated, see section 120(1) of the Penal Code, the amount of such financial benefit obtained or sought obtained must be taken into particular account in the determination of the fine, including additional fines.

Subsection 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.

Subsection 5. If the relevant person is not resident in Greenland, or if such person's ties with Greenland society are otherwise so remote that the prerequisites for sanctions to be imposed do not exist, legal proceedings may be instigated or the case may be referred for trial in Denmark.

Part 17

Entry into force, etc.

Section 46. This Order enters into force on 15 November 2019.

Subsection 2. The provisions on accommodation laid down in previously issued regulations will henceforth not apply to vessels comprised by section 2 of this Order.

Subsection 3. The construction requirements laid down in previous provisions continue to apply to existing vessels unless otherwise provided in this Order, see section 2(2).

Ministry of Industry, Business and Financial Affairs, 11 November 2019

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