

Translation: Only the Danish document has legal validity.

*Order no. 1114 of 11 November 2019
issued by the Ministry of Industry, Business and Financial Affairs*

Order on the activities of private recruitment and placement services for fishers¹

In pursuance of section 8 b(2), section 65(3) and section 70(1) of the Danish Act on Seafarers' Conditions of Employment, etc. (*lov om søfarendes ansættelsesforhold m.v.*), see Consolidated Act No. 1662 of 17 December 2018, and section 20 a(3) and section 20 b of the Danish Act on Safety at Sea (*lov om sikkerhed til søs*), see Consolidated Act no. 1629 of 17 December 2018, the following provisions are laid down as authorised under section 1(1)(iii) and (vii) 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

Definitions and application

Section 1. This Order applies to private recruitment and placement services in Denmark the primary purpose of which is to recruit or place fishers for work on board fishing vessels or which recruit or place a considerable number of fishers for work on board fishing vessels.

Subsection 2. A fishing vessel means a vessel used for catching fish, whales, seals, walrus or other living resources of the sea and the certificate of which is provided with a port number.

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

(i) 'private recruitment and placement service for fishers' means any private person or company, institution, agency or other organisation, not established in the public sector, which is engaged in recruiting or placing fishers for work on board fishing vessels;

(ii) 'recruitment of fishers' means the conclusion of an employment agreement with a fisher as authorised on behalf of somebody else;

(iii) 'placement of fishers' means the establishment of contact between a specific fisher without a job and an employer who has a vacant position on board a fishing vessel. Information about vacant positions for fishers on the websites of shipping companies or trade unions in the form of ordinary job advertisements is not considered placement service.

(iv) 'fisher' means any person who is employed, engaged or works on board a fishing vessel and who does not carry out work on board only when the vessel is in port.

Part 2

Certification and obligations of the recruitment and placement service

Section 3. A recruitment and placement service for fishers shall hold a valid certificate in order to carry out its activities.

Subsection 2. The certificate must be issued by the Danish Maritime Authority or anyone authorised by the Danish Maritime Authority to do so. It is valid for five years unless the Danish Maritime Authority determines a shorter period of validity.

Subsection 3. It is a condition for acquiring a certificate pursuant to subsection (1) that the recruitment and placement service can prove to the Danish Maritime Authority that the service has established procedures ensuring compliance with the obligations resting with recruitment and placement services pursuant to sections 4-5 and sections 8-9, including procedures for ensuring the availability of the necessary knowledge in order to meet these obligations.

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.

Subsection 4. The certificate will lapse in case of the bankruptcy of the recruitment and placement service. The certificate may be withdrawn in case of gross or repeated contraventions of the provisions of sections 4-5 or sections 8-9.

Section 4. A recruitment and placement service shall ensure that the fisher recruited or placed for work on board a fishing vessel:

- (i) is qualified and holds the documents necessary for the work which the person concerned is to carry out on board;
- (ii) has the prescribed documentation for being fit in terms of health for the work to be carried out on board;
- (iii) concludes a written employment agreement which is in accordance with the laws and regulations in force in the country whose flag the vessel flies;
- (iv) is informed about his or her rights and obligations under the employment agreement, including about the employer's employment policy;
- (v) has a possibility of going through the employment agreement when it is signed, at the latest; and
- (vi) receives a signed copy of the employment agreement and of any collective agreements forming part of the employment agreement.

Section 5. The recruitment and placement service may not, directly or indirectly, partly or in full, require payment from the fisher, however, see subsection (2).

Subsection 2. Subsection (1) does not apply to expenses for compliance with the flag State's requirements for certificates of competency, other similar certificates or any discharge book as well as expenses for passports or other personal travel documents, except expenses for any necessary visa.

Part 3

Certification and control by the Danish Maritime Authority

Section 6. The Danish Maritime Authority shall issue certificates to recruitment and placement services in Denmark, see section 3(2).

Subsection 2. The Danish Maritime Authority may approve that recognised organisations, other companies or individual persons issue certificates for private recruitment and placement services in Denmark.

Section 7. The Danish Maritime Authority shall supervise private recruitment and placement services in Denmark certified by the Danish Maritime Authority.

Part 4

Special provisions

Section 8. A recruitment and placement service may not use means or keep records suitable to prevent fishers from getting work on board.

Section 9. Payment for certification by the Danish Maritime Authority is determined according to the regulations of the Danish Ministry of Finance on the calculation of fees. The Danish Maritime Authority shall publish the current fee on the website of the Danish Maritime Authority at www.sofartsstyrelsen.dk.

Part 5

Penalty provisions

Section 10. Contravention of section 3(1), section 4, section 5(1) and section 8 is punishable with a fine.

Subsection 2. Criminal liability may be imposed on companies, etc. (legal persons) under the rules of Part 5 of the Danish Criminal Code (*straffeloven*).

Part 6

Ikrafttræden

Section 11. This Order enters into force on 15 November 2019.

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

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