

Order on the discharge of oil from ships¹

The following shall be laid down pursuant to section 2(3), section 6(2), section 7, section 11(3), section 19b(2) and section 61 of the act on protection of the marine environment (*lov om beskyttelse havmiljøet*), cf. consolidated act no. 116 of 26 January 2017, as amended by section 2 of act no. 427 of 18 May 2016:

Part 1

Scope

Section 1. This order shall apply to all ships, irrespective of size, unless expressly provided otherwise.

Subsection 2. The order shall not apply to warships and other ships owned or used by a State for as long as the ship is exclusively used for non-commercial State service, cf. section 2(2) of the act.

Subsection 3. Furthermore, the order shall not apply to the discharge of clean or segregated ballast. If ballast water covered by this order is discharged into the sea, the discharge of the ballast water shall furthermore be subject to the requirements of the order on the management of ballast water and sediments from ships' ballast water tanks.

Part 2

Definitions, etc.

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

- 1) *Segregated ballast* means the ballast water introduced into a tank which is completely separated from the cargo oil and oil fuel system and which is permanently allocated to the carriage of ballast or to the carriage of ballast or cargoes other than oil, cf. paragraphs (ix) and (x), or noxious substances according to the definitions of the MARPOL Convention.
- 2) *Ballast water* means water, including water with suspended substances, taken on board a ship to regulate the ship's trim, list, draught, stability or load. Water taken on board a ship solely for other reasons than the above-mentioned, including in order to refrigerate and carry articles of food, shall not be considered ballast water.
- 3) *Fuel oil* means any oil used as fuel for propulsion and auxiliary machinery on board the ship.
- 4) *Arctic waters* means those waters which are located north of a line extending from latitude 58°00'.0 N, longitude 042°00'.0 W to latitude 64°37'.0 N, longitude 035°27'.0 W and thence by a rhumb line to latitude 67°03'.9 N, longitude 026°33'.4 W and thence by a rhumb line to Sørkapp, Jan Mayen and by the southern shore of Jan Mayen to the Island of Bjørnøya and thence by a great circle line from the Island of Bjørnøya to Cap Kanin Nos and thence by the northern shore of the Asian continent eastward

¹ This order contains provisions implementing parts of Directive of the European Parliament and of the Council 2005/35/EC of 7 September 2005 on ship-source pollution and on the introduction of penalties for infringements (Official Journal 2005 no. L 255, page 11) as well as parts of directive 2009/123/EC of the European Parliament and of the Council of 21 October 2009 amending directive 2005/35/EC on ship-source pollution and on the introduction of penalties for infringements (Official Journal 2009 no. L 280, page 52).

to the Bering Strait and thence from the Bering Strait westward to latitude 60° N as far as Il'pyrskiy and following the 60th North parallel eastward as far as and including Etolin Strait and thence by the northern shore of the North American continent as far south as latitude 60° N and thence eastward along parallel of latitude 60° N, to longitude 56°37'.1 W and thence to the latitude 58°00'.0 N, longitude 042°00'.0 W.

- 5) *Category A ship* means a ship certified, according to the ship's Polar Ship Certificate, as a category A ship by a classification society approved by the Danish Maritime Authority.
- 6) *A combination carrier* means a ship designed for carrying either oil or solid cargoes in bulk.
- 7) *The MARPOL Convention* means the International Convention for the Prevention of Pollution from Ships, 1973/78, including Protocols, as amended.
- 8) *Nearest coast* means the baseline from which the territorial waters of the territory concerned is determined in accordance with international law; however, with the addition that "from the nearest coast" off the north-eastern coast of Australia shall mean from a line drawn from a point on the coast of Australia in
latitude 11°00' S, longitude 142°08'E
to a point in latitude 10°35' S, longitude 141°55' E,
thence to a point latitude 10°00' S, longitude 142°00' E,
thence to a point latitude 9°10' S, longitude 143°52' E,
thence to a point latitude 9°00' S, longitude 144°30' E,
thence to a point latitude 10°41' S, longitude 145°00' E,
thence to a point latitude 13°00' S, longitude 145°00' E,
thence to a point latitude 15°00' S, longitude 146°00' E,
thence to a point latitude 17°30' S, longitude 147°00' E,
thence to a point latitude 21°00' S, longitude 152°55' E,
thence to a point latitude 24°30' S, longitude 154°00' E,
thence to a point on the coast of Australia in
latitude 24°42' S, longitude 153°15' E, cf. section 6(1) of the act.
- 9) *Oil* means any type of mineral oil, including crude oil, natural gas condensate, fuel oil, oil sludge, oil waste and refined products, except for petrochemicals covered by the provisions of annex II of the MARPOL Convention. Furthermore, the definition includes the substances listed in appendix I to annex I to the MARPOL Convention without this being taken as a limitation of the scope of this definition, cf. section 9(1) of the act.
- 10) *Oily mixture* means a mixture containing oil, cf. section 9(1) of the act.
- 11) *Oil tanker* means a ship built or arranged for primarily carrying oil in bulk in the cargo holds, including combination carriers as well as chemical tankers as defined in chapter XXII, cf. Notice B from the Danish Maritime Authority, Technical regulation on the construction and equipment, etc. of ships, chapter XXII, Control with noxious liquid substances in bulk, and gas tankers as defined in chapter II-1 when carrying a cargo or a partial cargo of oil in bulk, cf. Notice B from the Danish Maritime Authority, Technical regulation on the construction and equipment, etc. of ships, chapter II-1, Structure – Construction, sub-division and stability, machinery and electrical systems.
- 12) *Ppm (parts per million)* means oil-water mixture measured as ml/m³, by volume.
- 13) *Clean ballast* means the ballast in a tank which, since oil was last carried therein, has been so cleaned that effluent therefrom, if it were discharged from a ship which is stationary into clean calm water on a clear day, would not produce visible traces of oil on the surface of the water or on the adjoining shore-

lines or cause sludge or emulsion to be deposited beneath the surface of the water upon adjoining shorelines. If the ballast is discharged through an oil discharge monitoring and control system approved by the Danish Maritime Authority or by other EU authorities, including institutes recognised by these authorities, or by other Parties to the MARPOL Convention, and this system shows that the oily contents of the effluent is not greater than 15 ppm, the ballast may be considered clean irrespective of visible traces.

- 14) *Crude oil* means any liquid hydrocarbon mixture occurring naturally in the earth irrespective of whether it has been processed to make it suitable for transport or not and includes crude oil from which certain distillates may have been removed and crude oil to which certain distillates may have been added.
- 15) *Ship* means a seagoing vessel, irrespective of flag, of any type operating in the marine environment, including hydrofoil vessels, hovercraft, submersibles and floating equipment.
- 16) *Ship built* means a ship the keel of which is laid or which is at a similar stage of construction.
- 17) *Ship delivered after 31 December 1979* means a ship for which the building contract is placed after 31 December 1975; or in the absence of a building contract, the keel of which is laid or is at a similar stage of construction after 30 June 1976; or the delivery of which is after 31 December 1979; or which has undergone a major conversion for which the contract is placed after 31 December 1975; or in the absence of a contract, the construction work of which is begun after 30 June 1976; or which is completed after 31 December 1979.
- 18) *Ship delivered on or before 31 December 1979* means a ship for which the building contract is placed on or before 31 December 1975; or in the absence of a building contract, the keel of which is laid or is at a similar stage of construction on or before 30 June 1976; or the delivery of which is on or before 31 December 1979; or which has undergone a major conversion for which the contract is placed on or before 31 December 1975; or in the absence of a contract, the construction work of which is begun on or before 30 June 1976; or which is completed on or before 31 December 1979.
- 19) *A slop tank* means a tank especially designed for collecting tank sludge, tank washings and other oily mixtures.
- 20) *Major conversion* means a conversion of an existing ship which substantially alters the dimensions or carrying capacity of the ship; or which changes the type of the ship; or the intent of which is substantially to prolong its life; or which otherwise so alters the ship that, if it were a new ship, it would become subject to relevant provisions of the present order not applicable to it as an existing ship. Notwithstanding the provisions of this definition, the following conversions shall not be deemed to constitute a major conversion for the purpose of this order:
 - a) conversion of an oil tanker of 20,000 tonnes deadweight and above, as according to the definition in regulation 1(28.3), cf. Notice B from the Danish Maritime Authority, Technical regulation on the construction and equipment, etc. of ships, chapter XXI, Prevention of oil pollution from ships, delivered on or after 1 June 1982, to meet the requirements of regulation 18 of the said chapter of Notice B from the Danish Maritime Authority, Technical regulation on the construction and equipment, etc. of ships; or
 - b) conversion of an oil tanker, as according to the definition in regulation 1(28.5), cf. Notice B from the Danish Maritime Authority, Technical regulation on the construction and equipment, etc. of ships, chapter XXI, Prevention of oil pollution from ships, delivered before 6 July 1996, to meet the requirements of regulation 19 or 20 of the said chapter of Notice B from the Danish Maritime Authority, Technical regulation on the construction and equipment, etc. of ships.

- 21) *A tank* means an enclosed space delimited by the ship's structure arranged to carry liquids in bulk.
- 22) *Instantaneous rate of discharge of oil contents* means the rate of discharge of oil in litres per hour at any instant divided by the speed of the ship in knots at the same instant.

Section 3. *Special area* means a sea area where, for recognised technical reasons to its oceanographical and ecological condition and to the particular character of its traffic, the adoption of special mandatory methods for the prevention of sea pollution by oil is required.

Subsection 3. For the purposes of this order, the following areas shall be defined as special areas:

- 1) the *Mediterranean Sea* area means the Mediterranean Sea proper including the gulfs and seas therein with the boundary between the Mediterranean and the Black Sea constituted by the 41° N parallel and bounded to the west by the Straits of Gibraltar at the meridian 005°36' W.
- 2) the *Baltic Sea* area means the Baltic Sea proper with the Gulf of Bothnia, the Gulf of Finland and the entrance to the Baltic Sea bounded by the parallel of the Skaw in the Skagerrak at 57°44.8' N.
- 3) the *Black Sea* area means the Black Sea proper with boundary between the Mediterranean and the Black Sea constituted by 41° N.
- 4) the *Gulfs area* means the sea area located north west of the rhumb line between Ras al Hadd (22° 30' N, 59° 48' E) and Ras al Fasteh (25° 04' N, 61° 25' E).
- 5) *the Antarctic* sea area means the sea south of latitude 60° S.
- 6) *the North West European waters* include the North Sea and its approaches, the Irish Sea and its approaches, the Celtic Sea, the English Channel and its approaches and part of the North East Atlantic immediately to the west of Ireland. The area is bounded by lines joining the following points:
48°27' N on the French coast
48°27' N, 006° 25' W
49° 52' N, 007° 44' W
50° 30' N, 012° W
56° 30' N, 012° W
62° N, 003° W
62° N on the Norwegian coast
57° 44.8' N on the Danish and Swedish coasts.
- 7) *the Southern South African waters* means the sea area enclosed by the following co-ordinates:
31° 14' S, 017° 50' E
31° 30' S, 017° 12' E
32° 00' S, 017° 06' E
32° 32' S, 016° 52' E
34° 06' S, 017° 24' E
36° 58' S, 020° 54' E
36° 00' S, 022° 30' E
35° 14' S, 022° 54' E
34° 30' S, 026° 00' E
33° 48' S, 027° 25' E
33° 27' S, 027° 12' E

Part 3

Discharge outside special sea areas

Section 4. Outside special sea areas, discharge of oil or oily mixtures from ships with a gross tonnage of or above 400 may take place only if all of the following conditions are met, cf. however subsections 5 and 6:

- 1) The ship is proceeding en route.
- 2) The ship is using a filtering system meeting the provisions of regulation 14 of Notice B from the Danish Maritime Authority, Technical regulation on the construction and equipment, etc. of ships, chapter XXI, Prevention of oil pollution from ships.
- 3) The oil content of the effluent without dilution shall not exceed 15 ppm.
- 4) The oily mixture shall not originate from the cargo pump room in oil tankers.
- 5) The oily mixture from oil tankers shall not contain oil residues originating from the cargo.

Section 5. Outside special sea areas, discharge of oil or oily mixtures from the cargo area of an oil tanker shall take place only if all of the following conditions are met, cf. however subsections 5 and 6:

- 1) The tanker is more than 50 nautical miles from the nearest coast.
- 2) The tanker is proceeding en route.
- 3) The instantaneous rate of discharge of oil content does not exceed 30 litres per nautical mile.
- 4) The total quantity of oil discharged into the sea does not exceed for tankers delivered on or before 31 December 1979, as defined in section 2(1)(xvi), 1/15,000 of the total quantity of the particular cargo of which the oil residue formed a part, and does not exceed for tankers delivered after 31 December 1979, as defined in section 2(1)(xvii), 1/30,000 of the total quantity of the particular cargo of which the oil residue formed a part.
- 5) The tanker has in operation an oil discharge monitoring and control system and a slop tank arrangement as required by regulations 29 and 31 of Notice B from the Danish Maritime Authority, Technical regulation on the construction and equipment of ships, chapter XXI, Prevention of oil pollution from ships.

Section 6. In Arctic waters any discharge into the sea of oil or oily mixtures from any ship shall be prohibited, cf. however subsection 2.

Subsection 2. If a category A ship constructed before 1 January 2017 cannot comply with the prohibition of subsection 1 for oil or oily mixtures from machinery spaces and it is likely that the ship will be operating continuously in Arctic waters for more than 30 days, the ship shall forward a written notification to the Danish Environmental Protection Agency before the planned voyage.

Subsection 3. The notification shall contain the following information:

- 1) Name of ship, IMO number and the ship's distinctive number or letters.
- 2) Ship's port of registry.
- 3) Ship's gross tonnage.
- 4) Ship's oil storing capacity.
- 5) The duration of the planned voyage.
- 6) Ship's next intermediate survey or renewal survey.

Subsection 4. If the Danish Environmental Protection Agency states, no later than 2 weeks after receipt of the notification, that the ship cannot be considered to comply with the criteria of subsection 2, the

ship is permitted to discharge oil or oily mixtures originating from the ship's machinery space if complying with the conditions stipulated in section 7.

Subsection 5. The exception of subsection 2 shall apply only until the ship's first intermediate survey or renewal survey after 1 January 2018, whichever is first.

Part 4

Discharge in special sea areas

Section 7. In special sea areas, cf. however sections 8-10, discharge of oil or oily mixtures from ships with a gross tonnage of or above 400 shall take place only if the following conditions are met:

- 1) The ship is proceeding en route.
- 2) The ship uses a filtering system meeting the provisions of regulation 14(7) of Notice B from the Danish Maritime Authority, Technical regulation on the construction and equipment, etc. of ships, chapter XXI, Prevention of oil pollution from ships.
- 3) The oil content of the effluent without dilution shall not exceed 15 ppm.
- 4) The oily mixture shall not originate from the cargo pump room in oil tankers.
- 5) The oily mixture from oil tankers shall not contain oil residues originating from the cargo.

Section 8. In special sea areas, discharge of oil or oily mixtures from the cargo area of an oil tanker shall not take place.

Section 9. In Danish territorial waters, oil shall not be discharged, cf. section 11(1) of the act.

Section 10. In the Antarctic sea area, oil or oily mixtures shall not be discharged.

Subsection 2. Any ship navigating the Antarctic sea area shall, prior to entry into this area and for as long as it operates there, be fitted with sufficient capacity to store all oil sludge, dirty ballast, tank washing and other oil residues and oily mixtures.

Subsection 3. Furthermore, any ship shall, prior to entry into the Antarctic sea area, have concluded an agreement to deliver oil residues as mentioned in subsection 2 to a reception facility when the ship has left the sea area.

Subsection 4. The storage capacity mentioned in subsection 2 shall have been approved by the Danish Maritime Authority or by other EU authorities, including institutes recognised by these authorities or by other Parties to the MARPOL Convention.

Part 5

Requirements for ships with a gross tonnage of less than 400 in all other sea areas

Section 11. Ships with a gross tonnage of less than 400 shall either store oil or oily mixtures on board for later discharge to reception facilities or discharge them into the sea in accordance with the following provisions:

- 1) The ship is proceeding en route.

- 2) The ship shall have fitted equipment approved by the Danish Maritime Authority or other EU authorities, including institutes recognised by these authorities, or by other Parties to the MARPOL Convention ensuring that the oil content of the effluent without dilution does not exceed 15 ppm.
- 3) The oily mixture shall not originate from the cargo pump room in oil tankers.
- 4) The oily mixture from oil tankers shall not contain oil residues originating from the cargo.

Subsection 2. Subsection 1 shall not apply if the ship is in the Arctic sea area, cf. section 6, Danish territorial waters, cf. section 9, or in the Antarctic sea area, cf. section 10.

Part 6

Other provisions

Section 12. No discharge into the sea shall contain chemicals or other substances in quantities or concentrations that are harmful to the marine environment or chemicals or other substances used in order to circumvent the discharge conditions stipulated in this order.

Section 12. Oil residues that cannot be discharged into the sea in accordance with this order shall remain on board or be discharged to reception facilities.

Section 14. The management of ballast water shall comply with the requirements stipulated in the order on the management of ballast water and sediments from ships' ballast water tanks. Discharge of ballast water covered by this order shall furthermore meet the provisions laid down in this order.

Part 7

Cooperation with other States

Section 15. If, as a consequence of irregularities or information, a presumption or suspicion arises that a ship not calling at a Danish port has carried out illegal discharges and the next port of call of the ship is in an EU member State, the Joint Defence Command shall, to the extent necessary in cooperation with the police, cooperate with the competent authorities in the relevant EU member State on appropriate control of the ship and on appropriate measures related to the illegal discharge.

Subsection 2. If the ship's next port of call is not in an EU member State, the Joint Defence Command shall, to the extent necessary in cooperation with the police, take the necessary steps to ensure that the port of call is informed about the presumed discharge and request the competent authorities in the State of the port of call to take appropriate measures related to the discharge.

Subsection 3. Similarly, the relevant Danish authorities shall cooperate with the authorities from other states if, as a consequence of irregularities or information, a presumption or a suspicion arises that a ship calling at a Danish port has carried out illegal discharge.

Part 8
Penalties

Section 16. Unless severer penalty is due under other legislation, anyone shall be liable to punishment by fine who:

- 1) discharges oil in violation of sections 4-5, section 6(1), sections 7-8, section 10(1), section 11 or section 13;
- 2) gives false or misleading information in connection with a notification pursuant to section 6(2) and (3);
- 3) in violation of section 10(2) has not ensured that sufficient capacity is available for storing all oil sludge, dirty ballast, tank washings and other oil residues and oily mixtures while the ship is in the Antarctic sea area;
- 4) in violation of section 10(3) has not concluded an agreement before entering the Antarctic sea area to deliver oil residues as mentioned in section 10(2) to a reception facility when the ship has left the sea area;
- 5) discharges chemicals or other substances in violation of section 12; or
- 4) manages ballast water in violation of section 14.

Subsection 2. The penalty may be increased to imprisonment for a term not exceeding two years if the violation has been made intentionally or grossly negligently and if:

- 1) the violation has caused damage to the environment or risk of such damage; or
- 2) the violation has produced or has been intended to produce financial benefits to the contravener or others, including cost savings.

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

Subsection 4. When determining the size of a fine under subsection 1, an increased fine shall be meted out on the basis of the quantity of oil discharged.

Subsection 5. Subsection 2 shall not apply to violations committed from foreign ships unless the violation has been committed in inner territorial waters. For violations committed from foreign ships in outer territorial waters, the penalty may be increased to imprisonment for a term not exceeding two years in case of intentional and serious pollution of the marine environment.

Part 9
Entry into force, etc.

Section 17. This order shall enter into force on 1 July 2017.

Subsection 2. Order no. 174 of 25 February 2014 on the discharge of oil from ships shall be repealed.

Ministry of Environment and Food of Denmark, 22 May 2017
Esben Lunde Larsen / Hans Christian Karsten