

Translation. Only the Danish document has legal validity.

Technical regulation no. 227 of 5 March 2013 issued by the Danish Maritime Authority

**Order on enhancing the security
of ships engaged on domestic voyages¹**

In pursuance of section 1(2) and (3), section 3(1)(v), section 28 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, the following provisions are laid down by authority:

Section 1. This order shall apply to passenger and cargo ships engaged on domestic voyages.

Section 2. Passenger ships engaged on domestic voyages of class A, cf. technical regulation on passenger ships engaged on domestic voyages (Notice D from the Danish Maritime Authority), and their ship-owners shall comply with the provisions of Regulation (EC) no. 725/2004 of the European Parliament and of the Council of 31 March 2004 on enhancing ship and port facility security.

Section 3. Other ships exclusively engaged on Danish domestic voyages and obliged to have a safety management system in accordance with the ISM Code (the International Code for the Safe Operation of Ships and Pollution Prevention) shall in the safety management system have procedures for assessing the security threat against the ship and relevant nearby port areas and shall, against this background, have relevant procedures for countering the threats identified, including specifically for awareness training of the crew and relevant shore-based personnel.

Section 4. The Danish Maritime Authority may, in exceptional cases and according to a specific assessment, grant permission for cargo ships certified pursuant to the ISPS Code (International Ship and Port Facility Security Code), but primarily engaged in Danish domestic voyages, to call at non-secured port facilities in special cases.

Section 5. Contraventions of sections 2 and section 3 shall be liable to punishment by fine or imprisonment for a period not exceeding one year.

Subsection 2. The punishment may be increased to imprisonment for a period not exceeding 2 years if

- 1) the contravention has resulted in damage to life or health, or risk of such damage;
- 2) an injunction or enforcement notice has previously been issued in connection with the same or equivalent situations; or
- 3) the contravention has given or has been intended to give financial benefits to the transgressor or others.

Subsection 3. It shall be considered especially aggravating circumstances if the contravention has resulted in damage to the life or health, or risk of such damage, to young persons below the age of 18, cf. subsection 2(i).

¹ This order contains provisions necessary for the application of Regulation (EC) no. 725/2004 of the European Parliament and of the Council of 31 March 2004 on enhancing ship and port facility security, as amended by Commission Decision 2009/83/EC of 23 January 2009, Official Journal 2009, no. L 29, page 53.

Subsection 4. If the benefit obtained through the contravention is not confiscated, the size of the financial benefit obtained or intended shall be taken into account when determining the fine, including supplementary fines.

Subsection 5. Companies, etc. (legal persons) may incur criminal liability according to the provisions in chapter 5 of the Criminal Code (*straffeloven*).

Section 6. This order shall enter into force on 11 March 2013.

Subsection 2. Order no. 10595 of 13 September 2006 on technical regulation on enhancing the security of ships engaged on domestic voyages shall be repealed on 11 March 2013.

Section 7. This regulation shall not apply to Greenland and the Faroe Islands.

Danish Maritime Authority / 5 March 2013

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Remarks on the order on enhancing the security of ships engaged on domestic voyages

This order has been drawn up on the basis of the requirement stipulated in article 3(3) of *Regulation (EC) no. 725/2004 of the European Parliament and of the Council of 31 March 2004 on enhancing ship and port facility security* on a periodic revision of the mandatory security-related risk assessment that is to form the basis of the decision whether ships engaged on domestic voyages shall be covered by the ISPS provisions.

Since the issue of the original order in September 2006, the systematics for assessing terror threats, etc. against Denmark and Danish interests abroad have been extended considerably, also with the establishment of the Center of Terror Analysis (CTA) at the Danish Security and Intelligence Service. From here, updated assessments of the threats, etc. against both Denmark as a whole and against individual industries and modes of transport are issued, when considered relevant. These assessments of the threats form the basis of the mandatory security-related risk assessment to be carried out by the Danish Maritime Authority at intervals of a maximum of five years and that form the basis of decisions on any revision of this order and/or on the issue of guidelines, etc. in the security area. Further reference is made to the webpage of the Danish Security and Intelligence Service, where the threat assessments are published: www.pet.dk.

In its work with the mandatory security-related risk assessment, the Danish Maritime Authority is assisted by a committee with participants from the National Commission of the Danish Police (PET), the Chief of Defence Denmark and the Danish Coastal Authority (as the authority responsible for port security).

In the future, the mandatory security-related risk assessment will be reconsidered every time the PET issues a new “Assessment of the terror threat against Denmark”, a “National threat assessment” and/or a “Maritime terror threat”, however at least every five years. Amendments of this order are envisaged only if very considerable changes occur in the threat assessments. However, guidelines, etc. may be issued as a consequence of changes to the threat scenario.

Common to recent years’ threat assessments is that focus has been moved from a general threat against the maritime infrastructure to a threat focused on what is termed “maritime crowded places”, which includes passenger ships, passenger terminals and small vessels on publically available voyages. It is considered that this threat is countered in the best possible manner by means of awareness training of crews and relevant shore-based personnel as well as ordinary common sense when using general criminality prevention measures such as, for example, locking, rather than the certified security system required by the ISPS Code.

Thus, it is sought to consider various means of transport equal and to parallelize various measures so that the same level of security is expected in, for example, trains, city buses and port buses and for large passenger ships with dedicated terminals.

The Danish Maritime Authority or the recognised organisations authorised by the Danish Maritime Authority (classification societies) will incorporate the requirements of this order in the first verification of the ISM system following the entry into force.