

Translation: Only the Danish document has legal validity.

Order no. 229 of 7 March 2013 issued by the Danish Maritime Authority

Order on seafarers' right to free transportation with subsistence¹

Pursuant to section 73a(2) of the act on seafarers' conditions of employment, etc. (*lov om søfarendes ansættelsesforhold m.v.*), cf. consolidated act no. 742 of 18 July 2005, as amended by act no. 493 of 12 May 2010, the following provisions are laid down by authority:

Section 1. This order shall apply to employees on board ships, cf. section 1(1) as well as section 49 of the act on seafarers' conditions of employment, etc. (*lov om søfarendes ansættelsesforhold m.v.*) irrespective of the ships' type and trade areas, with the exception of fishing vessels and recreational craft.

Subsection 2. In case of doubt whether the person concerned is to be considered as employed on board, the issue shall be decided by the Danish Maritime Authority following previous consultation with the shipowner and seafarer organisations that the issue concerns.

Subsection 3. As regards the master of the ship, the provision of section 2 on free transportation home pursuant to sections 11-13 of the act shall not apply.

Section 2. Employees shall be entitled to paid transportation according to the provisions of section 6(5), section 8, section 10(3), sections 11-13, section 14(1), cf. subsection 3, section 18(2), section 18b(2), section 19(2), section 30(3) and section 35 of the act.

Section 3. Paid transportation shall include:

- 1) Transportation from the place where the employee was when the right to free transportation started to the place of destination.
- 2) Board and lodging during the entire voyage, during the stay at the place of departure, while the employee is waiting for the voyage to be arranged and until the arrival at the place of destination. Board and lodging shall be provided in consideration of the living expenses prevailing at the place concerned.
- 3) Carriage of personal effects with a total weight of no more than 30 kg, but not of other articles acquired during the voyage.

Section 4. The voyage shall be arranged so that it is carried out as soon as possible. The normal means of transport for voyages home should be by plane and otherwise by any public means of transport. However, any other special means of transport can be agreed. When arranging the voyage, consideration shall be taken of the employee's requests, health and the costs.

Section 5. In connection with termination for a voyage home to Denmark pursuant to section 8 of the act, the demand for a voyage home shall have been made at the same time as the employee's own notice or resignation.

¹ This order contains provisions implementing parts of Council Directive 2009/13/EC of 16 February 2009 implementing the Agreement concluded by the European Community Shipowners' Associations (ECSA) and the European Transport Workers' Federation (ETF) on the Maritime Labour Convention, 2006, and amending Directive 1999/63/EC, Official Journal 2009, no. L 124, pp. 30-50.

Section 6. The employee may renounce his right to paid transportation. However, this shall not apply to transportation to his domicile or to the place of engagement as part of care that is a consequence of illness or injury. The employee shall not be entitled to compensation for the unused right.

Section 7. Expenses for paid transportation shall be defrayed by the shipowner or the employer or, if these persons do not meet their legislative obligations, the one who has taken the place of the shipowner or the employer when the employee terminates employment:

- 1) outside the native country following the shipowner's notice of termination or the expiry of a time-limited employment contract;
- 2) as a consequence of the shipowner's bankruptcy, etc.;
- 3) as a consequence of the shipowner's unlawful notice of termination;
- 4) in case of notice of termination pursuant to section 11, 12, 13 or 14 of the act;
- 5) as a consequence of a danger of war, cf. sections 18a and 18b of the act;
- 6) as a consequence of illness or injury that have or could have caused the termination of employment; or
- 7) in case of termination of employment due to the ship's loss.

Subsection 2. As regards employees domiciled in Denmark, the State shall refund half of the expenses for the employee's voyage home with subsistence in case of termination of employment of long duration, cf. section 8(2) of the act.

Subsection 3. In cases where the shipowner is another person than the employer, the obligation to pay the travelling expenses shall also rest with the shipowner.

Section 8. The employee shall pay the expenses for his own voyage home as a consequence of fraudulently concealed diseases or sufferings or self-inflicted illness or bodily injuries. In this connection, venereal diseases shall not be considered self-inflicted.

Subsection 2. Furthermore, the employee shall pay the expenses for his own voyage home after the expiry of the time-limits mentioned in section 30(1)-(3) of the act, cf. section 35, of 16 or 2 weeks, respectively.

Section 9. As regards employees domiciled in Denmark, the State shall pay the travelling expenses for the voyage to the domicile in Denmark if the employee suffers from a venereal disease or from tuberculosis that has or could have caused the termination of employment.

Section 10. In cases where a measure mentioned in sections 2-5 is launched by somebody else than the one who is, according to the provisions above, to pay the expenses, the measure should be launched in consideration of generally sound economic practice.

Subsection 2. In the cases mentioned here, the one who has had to pay the expense so far, shall, in the usual way for use when presenting the reimbursement request, ensure the necessary documentation.

Section 11. In cases where the shipowner is somebody else than the employer, the obligation to pay the travel expenses shall also rest with the shipowner.

Section 12. If the shipowner does not, within reasonable time, take measures to arrange for the employee's voyage home pursuant to section 2, the Danish Maritime Authority shall ensure the employee's voyage home pursuant to the provisions of section 10a of the act.

Section 13. This order shall enter into force on 20 August 2013 and shall apply to voyages home initiated after the entry into force.

Danish Maritime Authority, 7 March 2013

Jan Gabrielsen / Jørgen Løje