

Translation: Only the Danish text has legal validity

Order no. 1084 of 30 November 2011 issued by the Danish Maritime Authority

Order on technical regulation on measures for preventing piracy and armed robbery against Danish ships

Pursuant to section 6, section 17(6), section 22 and section 32 of the act on safety at sea (*lov om sikkerhed til søs*), cf. consolidated act no. 654 of 15 June 2010, and by authority, the following provisions are laid down:

Application of the regulation to Danish and foreign ships

Section 1. This regulation shall apply to merchant vessels flying the Danish or Greenland flag, cf. however subsection 2.

Subsection 2. This regulation shall not apply to ships exclusively engaged in voyages to Greenland, Faroese, Icelandic or European ports and to shipping companies exclusively operating such ships.

Measures for preventing piracy and armed robbery on Danish ships

Section 2. Merchant ships shall have procedures for navigation or port calls in areas representing a risk of piracy and armed robbery against ships.

Section 3. As regards merchant ships obliged to have a safety management system according to the ISM Code (International Safety Management Code) or a security plan pursuant to the ISPS Code (International Ship and Port Facility Security Code), the procedures mentioned in section 2 shall either be contained in the safety management system or in the security plan. If the procedures are contained in the ship security plan, they shall be made available to the ship's crew in the same way as the procedures in the safety management system.

Section 4. Shipping companies whose ships are covered by sections 2-3 shall, furthermore, in their safety management systems have established procedures for assessing whether an area represents a risk of piracy or armed robbery against ships.

Section 5. Merchant ships not obliged to have a safety management system pursuant to the ISM Code or a security plan pursuant to the ISPS Code as well as shipping companies operating such ships shall have procedures corresponding to those mentioned in sections 3-4.

Section 6. The procedures mentioned in sections 2-5 shall contain provisions on the prevention of armed robbery, including:

- 1) an assessment whether an area represents a risk of piracy or armed robbery against ships;

- 2) updating of the situation on relevant websites, such as MSCHOA,¹ NATO Shipping Center, ReCAAP ISC² and through NAVWARNS;
- 3) relevant measures for protecting the ship and its crew;
- 4) radar monitoring of the entire horizon and continuous watchkeeping to assist the navigating officer of the watch 24 hours a day when navigating areas that the master assesses represent a considerable risk of the ship being exposed to piracy or armed robbery;
- 5) how the crew shall act in case of armed robbery, capture or attempts hereof and on instruction of the crew each time the ship is about to enter an area representing a considerable risk of the ship being exposed to piracy or armed robbery;
- 6) reporting to the shipping company, the authorities and other ships in the area in case of armed robbery, capture or attempts hereof.

Subsection 2. The procedures shall be developed in consideration of the recommendations and guidelines issued by the International Maritime Organization (IMO) on navigation in areas representing a risk of piracy and armed robbery. When assessing what measures to take on each individual ship, consideration shall be paid to the current threat in the relevant area, the ship's size, its speed and equipment as well as any other measures taken outside the ship, such as watchkeeping on the quay.

Subsection 3. The recommendations and guidelines mentioned in subsection 2 are available from the webpage of the Danish Maritime Authority, www.dma.dk.

Section 7. If a master turns off the ship's AIS transmission due to a risk of piracy and armed robbery, it shall be recorded in the ship's log stating the time and position, just as the shipping company shall be informed. Subsequently, the shipping company shall regularly be notified about the ship's position until the AIS transmission is resumed unless the master assesses that such notification could endanger the ship's crew. Similarly, it shall be recorded in the ship's log when the AIS transmission is resumed again.

Special measures in the high risk area

Section 8. As regards ships engaged on voyages in the area defined as the high risk area in the "Best Management Practices for Protection against Somalia Based Piracy" (BMP), the procedures mentioned in sections 2-6 shall, furthermore, to the extent relevant be made in consideration of the industry's recommendations in "Best Management Practices for Protection against Somalia Based Piracy" (BMP), which is available from the webpage of the Danish Maritime Authority, www.dma.dk.

Section 9. In the high risk area the reports mentioned in section 6(1)(vi) shall also be made to UKMTO³ and MSCHOA.

Section 10. Shipping companies shall monitor their ships when they navigate the high risk area.

¹ Maritime Security Center Horn of Africa (MSCHOA).

² Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia Information Sharing Center (ReCAAP ISC).

³ UK Maritime Trade Operations (UKMTO).

Subsection 2. When a ship enters or leaves the high risk area, the master shall notify the shipping company. As long as the ship is in the high risk area, the master shall at least every fourth hour notify the shipping company of the ship's position unless the master assesses that such notification would endanger the crew.

Subsection 3. The shipping company shall designate a contact person to receive the notifications mentioned in subsection 2.

Subsection 4. The ongoing notification of the shipping company mentioned in subsection 2 may be replaced by the shipping company's monitoring of the ship by means of an automatic electronic tracking system at minimum the same frequency.

Section 11. When a ship navigates the areas defined in the BMP as the high risk area and the "UKMTO Voluntary Reporting Area", respectively, the recommendations in the BMP to register with MSCHOA and to report to UKMTO shall be observed.

Verification

Section 12. The procedures required pursuant to this technical regulation shall form part of the verification of ISM and ISPS made by the Danish Maritime Authority or an organisation recognized by the Danish Maritime Authority.

Penalty provisions

Section 13. Contraventions of this regulation shall be liable to punishment by fine or imprisonment for a term not exceeding 1 year.

Subsection 2. The penalty may be increased to imprisonment for a term not exceeding 2 years if:

- 1) the contravention has caused injury to life or health or a risk hereof;
- 2) a prohibition notice or injunction has previously been issued for the same or similar actions;
- 3) the contravention has resulted in or aimed at a financial benefit for the contravener or others.

Subsection 2. It shall be considered especially aggravating circumstances if the contravention has caused injury to the life or health of young people below the age of 18 or a risk hereof, cf. subsection 2(i).

Subsection 3. If the benefit obtained through the contravention is not confiscated, the size of such financial benefit obtained or sought obtained shall be taken into account when determining the fine, including additional fines.

Subsection 4. Companies, etc. (legal persons) may incur criminal liability according to the regulations in chapter 5 of the penal code (*straffeloven*).

Section 14. If the condition is covered by the decree on the entry into force for Greenland of the act on safety at sea (*lov om sikkerhed til søs*), measures may be laid down in accordance with the penal code for Greenland.

Subsection 2. The conditions referred to in section 9(2) and (3) shall be considered aggravating circumstances.

Subsection 3. If the benefit obtained through the contravention is not confiscated, cf. section 166(1) of the penal code (*straffeloven*), the size of such financial benefit obtained or sought obtained shall be taken into account when determining the fine, including additional fines.

Subsection 4. If the contravention is committed by companies etc. (legal persons), liability to pay a fine may be incurred by the legal person as such. If the contravention is committed by the State, the Greenland Government, a municipality, a municipal cooperative covered under section 64 of the Landsting act on municipal councils and local authorities, etc. or a local authority, liability to pay a fine may be incurred by the relevant public authority as such.

Subsection 5. If the relevant party is not resident in Greenland, or if his connection to Greenland society is otherwise so remote that the prerequisites for measures to be taken do not exist, legal proceedings may be instigated or the case may be referred for trial in Denmark.

Entry into force, etc.

Section 15. This order shall enter into force on 1 January 2012.

Subsection 2. Order no. 9721 of 20 February 2008 on technical regulation on measures for preventing piracy and armed robbery against Danish ships shall be repealed.

Danish Maritime Authority, 23 November 2011

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