

Translation: Only the Danish document has legal validity.

*Order no. 1466 of 29 of June 2021
issued by the Danish Maritime Authority*

Order on sea marking in the Danish and Greenlandic marking area, etc. (The Marking Order)

Pursuant to Section 8(1 and 4), Section 17(5), and Section 32(9) of the Maritime Safety Act, cf. Consolidated Act No. 1629 of 17 December 2018, and pursuant to Section 8(1 and 4), Section 17(4), and Section 32(2) of the Order on the entry into force for Greenland of the Maritime Safety Act, cf. Order No. 1674 of 16 December 2015, shall be determined after authorisation in accordance with Section 1, Subsection 1, No. 3, in Order No. 261 of 23 March 2020 on the transfer of certain powers to the Danish Maritime Authority and on the right of appeal, etc., and Section 1(1)(No. 2), in Order No. 279 of 23 March 2020 for Greenland on the transfer of certain powers to the Danish Maritime Authority and on the right of appeal, etc.:

Application

Section 1. The Order shall apply to sea marking and navigation systems in the Danish and Greenlandic marking areas.

Definitions

Section 2. The Danish marking area is understood as:

- 1) The internal and external territorial waters as specified in the Act on the marking of the maritime territory and the Order on the marking of the maritime territory of Denmark.
- 2) The exclusive economic zone (EEZ) as defined in the Order on Denmark's exclusive economic zone.

Subsection 2. The Greenlandic marking area is understood as:

- 1) The inner and outer territorial waters, meaning the waters within the baseline as specified in the Order on the marking of the maritime territory of Greenland, as well as the outer territorial waters extending 3 nautical miles from the baseline.
- 2) The exclusive economic zone (EEZ) as defined in the Order on Denmark's exclusive economic zone.

Subsection 3. The Order shall also apply where Denmark is the nearest country to where marking is carried out, etc.

Section 3. Sea marking and navigation systems shall include assistance in determining position and navigation when establishing:

- 1) Floating and fixed markings, including buoys, beacons, boats, racon and fog signals,
- 2) Navigation systems and electronic marking, as well as other systems and devices established to guide the navigation of ships; for example, AIS marking (Automatic Identification System),
- 3) Markings and signs; and
- 4) Other devices and lighting for navigational purposes.

Translation: Only the Danish document has legal validity.

*Order no. 1466 of 29 of June 2021
issued by the Danish Maritime Authority*

Control and payment of costs

Section 4. The Danish Maritime Authority shall monitor the sea marking referred to in Section 3 and shall ensure that it is reasonable and necessary, having regard to the volume of shipping traffic and the level of risk.

Section 5. The Danish Maritime Authority shall carry out and bear the costs of sea marking in main and fairway waters and for safe anchorage in Danish waters.

Subsection 2. The Danish Maritime Authority shall carry out and bear the costs of sea marking in Greenlandic waters along the coasts and into major towns.

Section 6. The costs of sea marking not covered by Section 5 shall be borne by the person whose presence creates a need for sea marking, including the relevant owners of ports, bridges, wind farms, offshore installations, cables and pipelines.

Section 7. Questions concerning the delimitation between Sections 5 and 6 shall be decided by the Danish Maritime Authority.

Permission

Section 8. No sea marking covered by Section 6 may be established without permission from the Danish Maritime Authority.

Subsection 2. The Danish Maritime Authority shall grant permission for the establishment, alteration or withdrawal of sea markings and navigation systems on application.

Subsection 3. The application pursuant to Subsection 2 shall at least contain information on:

- 1) Purpose.
- 2) Position.
- 3) Period of operation (e.g., year-round or seasonal).
- 4) Time of establishment, modification or withdrawal.
- 5) Type of marking according to the publication, Marking of Danish waters, available on the Danish Maritime Authority's website.
- 6) Contact details of the applicant.
- 7) Contact details of the owner.
- 8) Contact details of the person who maintains the marking.

Subsection 4. Permission shall be granted subject to conditions relating to the giving of notice, establishment, operation, maintenance, withdrawal, etc.

Subsection 5. Permission may be withdrawn if the conditions laid down are not complied with.

Subsection 6. Permission may be withdrawn if safety of navigation considerations or changes in the use of the waters make this necessary.

Section 9. For installations in the Danish marking area that are operated for the purpose of producing energy from renewable energy sources, the provisions of Chapter 3 of the Order on the contact point and deadlines for the renewable energy permit process shall apply to the application for a permit pursuant to Section 8.

Translation: Only the Danish document has legal validity.

*Order no. 1466 of 29 of June 2021
issued by the Danish Maritime Authority*

Orders

Section 10. The Danish Maritime Authority may issue orders concerning the maintenance, establishment, operation, alteration and withdrawal of sea markings not covered by Section 5.

Subsection 2. The Maritime Authority's order under Subsection 1 shall contain detailed conditions for execution and a time frame for when the order must be implemented.

Subsection 3. Costs in connection with orders shall be borne by the owner of the marker or by the person who, by their presence, creates a need for a sea marking, cf. Section 6.

Prohibitions

Section 11: There must not be:

- 1) Objects placed in the waters which may interfere with the safe navigation of ships,
- 2) Erected illuminated advertising lighting, signs or other devices which may interfere with the safe navigation of ships; or
- 3) Mooring, attachment of fishing gear, etc., to the sea mark.

Subsection 2. Underwater works shall not be carried out without the permission of the marker owner closer than 200 metres in the case of a bottom-fixed marker or closer than 50 metres plus 3 times the water depth in the case of a floating marker.

Damage to the sea marking

Section 12. In the event of collision with or other damage to the sea markings referred to in Section 5, the person who caused the damage shall be held liable to the greatest extent possible for the costs of repairing the damage if it is possible and financially justifiable for the State to identify and settle the claim against the person who caused the damage.

Section 13. Damage to or defects in sea markings that cannot be remedied immediately must be reported immediately to the Danish Maritime Authority.

Subsection 2. Notification of final rectification of defects shall also be reported to the Danish Maritime Authority.

Section 14. Information on changes to sea markings in the Danish and Greenlandic marking areas shall be published in Notices to Seafarers on the Danish Maritime Authority's website.

Penalties and measures

Section 15. Violation of Sections 8, 10, 11 and 13 in the Danish marking area is punishable by a fine or imprisonment for up to 1 year.

Subsection 2. The penalty may increase to imprisonment for up to 2 years if:

- 1) The infringement has caused damage to life or health or has created a danger thereof;
- (2) A prohibition or an order has previously been issued in respect of the same or a similar matter; or
- 3) The infringement has resulted in or is intended to result in a financial benefit for the person concerned or for others.

Translation: Only the Danish document has legal validity.

*Order no. 1466 of 29 of June 2021
issued by the Danish Maritime Authority*

Subsection 3. Criminal liability may be imposed on companies or other legal persons in accordance with the rules laid down in Chapter 5 of the Criminal Code.

Section 16. Measures may be taken in accordance with the Criminal Code for Greenland for infringements of Sections 8, 10, 11 and 13 in the Greenlandic marking area.

Subsection 2. For the purposes of sentencing, it shall be considered an aggravating circumstance if:

- 1) The infringement has caused damage to life or health or has created a danger thereof;
- (2) A prohibition or an order has previously been issued in respect of the same or a similar matter; or
- 3) Intended to confer a financial advantage on the person concerned or on others.

Subsection 3. Where the provisions of the Criminal Code do not provide for confiscation of the proceeds obtained by committing the offence, the amount of the financial advantage obtained or intended shall be taken into account in particular when imposing the fine, including the additional fine.

Subsection 4. Where an infringement is committed by companies or other legal persons, the legal person as such may be held liable to pay a fine. If the infringement is committed by the State, the Government of Greenland, a municipality, or a settlement board, the public authority as such may be held liable to a pay the fine.

Subsection 5. If a person is not resident in Greenland, or if the person's connection with Greenlandic society is of such a loose nature that the conditions for the application of measures are not met, the case may be brought or referred for prosecution in Denmark, cf. Section 7 of the Greenland Criminal Code.

Entry into force. etc.

Section 17. The Order shall enter into force on 30 June 2021.

Subsection 2. At the same time, Order No. 45 of 22 January 2015 on marking, etc., in the Danish marking area for the Danish and Greenlandic marking area (the Marking Order) is repealed.

Subsection 3. Order No. 229 of 4 April 1989 on marking, etc., in the Danish marking area shall, however, continue to apply to the Faroe Islands.

The Danish Maritime Authority, 29 June 2021

Jan Thorn

/ Kristina Ravn

Official notes

¹¹ The Order contains provisions implementing parts of Directive 2018/2001/EU of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources, Official Journal 2018, No. L 328, page 82.