

For shipowners, contracting authorities and employers

## Minimum protection of certain categories of persons on board ships

14 June 2017

Case no.:  
EMN- 2016-00601

Seafarers who are covered by the act on seafarers' conditions of employment, etc. (lov om søfarendes ansættelsesforhold m.v.) pursuant to the act are guaranteed specific protection. In many respects, this protection arises from and is established with the particular circumstance in mind that the seafarer is employed to take up lodgings on and carry out his or her work on board a ship, which in addition to being able to move from place to place is also characterised by imposing limitations on the freedom of action and movement of those on board.

However, other persons than seafarers also carry out their work on board and based on ships, and in connection with their stay on board may find themselves in situations in which they require the same protection which, pursuant to the act, seafarers are entitled to. For this reason, the Danish Maritime Authority has issued an order on minimum protection of certain (other) categories of persons on board ships, also referred to below as the employee. The term 'contracting authority' is used in the sense the party with whom the shipowner has entered into a contract but who is not necessarily the employer of the employees.

The Order puts into force a range of the protective regulations applicable to seafarers for certain other categories of persons on board ships. All persons covered by these protective regulations have the right to a written employment contract and **must be informed of their minimum rights, as stipulated in the Order**. The annex to this document contains information which – provided that the notice is put up at an easily accessible location on board the ship – shall be regarded as fulfilling the company's duty of disclosure which arises from the Order.

The shipowner should ensure that the contracting authority, and the employer which places certain other categories of persons on board a ship, is familiar with the duties and the rights which result from the Order, and that they provide the shipowner with the opportunity to fulfil the duties which as a consequence of this Order are incumbent upon the shipowner.

The present guidelines may, as required, be used by the shipowner, the shipmaster, the contracting authority or the employer to inform or clarify what is stated in the annex to this document.

A Word version of the document 'Information for employees on board concerning the minimum protection with accompanying annex 1' for use as a notice on board a ship can be viewed [here](#) (under 'Information DOC of 14 June 2017').

In italics below, are the detailed and explanatory remarks to the framed passages which are presented in the annex.

If you fall into the category of personnel which is covered by the protection and which is defined more precisely in the appended annex to the Order, the following shall apply:

- Nobody younger than 16 years of age shall work or perform tasks on board ships.
- You have the right to a written employment contract. It is your employer who must ensure that you are provided with a written employment contract, but the shipowner also has a duty to ensure that you have such a contract or are able to obtain one.

*The employee does not need to have, and the shipmaster does not need to check whether the employee has an employment contract; however the employee, if he or she is unable to get his or her employer to draw up such a contract, may make use of the ship's complaints system and via the intervention of the shipowner have the matter resolved. If the employer fails to do this, the ship-*

*owner may then refuse to allow the employee in question on board the ship.*

- You are secured the necessary access to food and drinking water.

*To the extent that no agreement has been entered into between the shipowner and the contracting authority/employer concerning provisioning on board the ship, it is assumed that this is either due to the fact that: the stay on board is short in duration and provisioning is accordingly not necessary; the employee has the possibility of bringing his or her own food, or other arrangements have been made e.g. in the form of provisioning on shore without the involvement of the shipowner, or whereby the employee, after having carried out a day's work on board the ship, returns to a support or hotel ship belonging to another shipowner.*

*If the stay on board, in the event that no agreement has been reached concerning provisioning, unintentionally becomes significantly longer in duration than expected, the employee shall have the same opportunity to access food and drinking water as seafarers on board the ship enjoy. If provisions are available on board, the employee shall have the same access to these as seafarers. If there are no provisions on board the ship, the shipmaster must take the necessary measures to address this situation e.g. by calling into port or by other means securing the necessary provisions. These necessary provisions must be made available to the employee free of charge.*

*To the extent that an agreement has been reached between the shipowner and the contracting authority concerning provisions, the matter of whether and how much the employee shall pay for the provisions, where applicable, shall be regarded as being a contractual matter between the employee and his or her employer. If no agreement has been entered into concerning this matter, it shall be incumbent on the employer to cover these costs. Via the on board complaints system employees have a means of lodging a complaint concerning the cost or price of the food.*

- While on board ship, you are covered by the regulations for seafarers concerning:
  - o **Seafarers' right to hours of rest**, which states that, on each working day, you are entitled to at least 10 hours' rest, which may be divided between a maximum of two rest periods, of which one must be a minimum of 6 hours in duration. *The rules concerning notice and registration do not apply, and it is incumbent upon the employer to ensure that the employee is provided with the necessary hours of rest, and in so far as it is necessary document these hours.*
  - o **Seafarers' right to care**, which obligates the shipmaster to ensure that you receive proper treatment and care in the event that you fall ill or suffer an injury. *In the event of illness or accident, the shipowner has a duty to treat and look after the employee in the same manner as the shipowner would for seafarers. The shipowner's duty of care lasts until the responsibility for the employee can be transferred to the contracting authority/employer. Costs of doctor's visits and/or admission to a hospital are incumbent upon the contracting authority/ employer unless it has been agreed that the costs shall be borne by the shipowner.*
  - o **Occupational health on board ships**, which states that work carried out on board the ship must take place in a manner which incorporates due health and safety precautions. *As the supreme authority on board the ship, the shipmaster is responsible for ensuring that all occupational health directives are complied with. If employees are to carry out work on board the ship, the shipmaster must be consulted or participate in the organisation of this work, and the guidelines which he/she issues must be observed.*
  - o **The right to a free journey home**, which guarantees that, if required, your journey home will be arranged on your behalf after you have completed work on board the ship. *In*

*the event that the employee, having completed his or her work aboard the ship, is put ashore at another location than agreed/expected, it is incumbent upon the employer to arrange and cover the costs of the employee's journey back to this or another location agreed with the employee, e.g. the employee's place of residence.*

- **The right to retire in case of a risk of war or other ominous situations**, which grants you the right to disembark the ship in the event that it is on course for areas in which there is a risk of war or similar hazardous situations. *In the event that the ship is instructed to sail into areas in which there is a potential of being exposed to a risk of war, piracy or robbery etc., the shipmaster has a duty to inform employees on board the ship of this, and the latter have the right to demand to be allowed to disembark the ship and travel home and have their travel expenses paid for primarily by the employer.*
- **The right to retire in the event of exceptional circumstances**, which grants you the right to retire in the event of pregnancy and maternity/paternity leave as well as when compelling family reasons necessitate this. *An employee may in the stated circumstances invoke the same right to retire as a seafarer, i.e. the employee may be entitled to go ashore. When a seafarer invokes this right, an evaluation will be made of what implications this will have for the conditions of employment. This does not apply to other employees who invoke this right.*
- **The right to compensation for personal belongings**, which grants you the right to compensation for personal belongings lost in the event that the ship suffers a shipwreck or other accident. *An employee has the right to compensation for loss of personal belongings up to a maximum value of approximately DKK 25,000, including books, IT equipment or tools for use in his or her work which are lost as the*

*result of the ship suffering shipwreck, piracy, fire or another catastrophic event. The liability to pay compensation lies primarily with the employee's employer, but also with the shipowner.*

- You are, to the same extent as other seafarers, entitled to lodge a complaint if your employer fails to observe your rights. Any complaints shall be submitted via the ship's "on board complaints system". Notices clarifying this complaints procedure have been made public and/or can be obtained from the shipmaster.

*All ships must have in place an on board complaints procedure which ensures that those on board the ship can easily lodge complaints concerning unacceptable conditions. The procedure must ensure that such complaints are processed in a structured, efficient and speedy manner. Although the complaints procedure applies to seafarers, it must also be accessible to other employees to the extent that they wish to submit a complaint concerning conditions on board which, as set out in the foregoing, are applicable to them. Unless otherwise stated in the procedure, employees may submit complaints to the shipmaster. In the event that the complaint cannot be resolved immediately, the shipmaster will reach a decision pursuant to the procedure as to how the complaint will be handled. The shipmaster must ensure that the facts of the case for the purposes of the processing of the complaint are adequately disclosed and documented. For the authorities who supervise whether the Order has been complied with it will be of relevance to investigate any on board complaints and how they have been processed. If the complaint(s) concern e.g. a lack of employment contract or other external circumstances which the shipmaster is not in a position to rectify, the complaint will typically be passed on to the shipowner, who must raise the matter with the contracting authority/employer. It is not acceptable for the complaint, which will be registered on the ship, to remain unresolved for a prolonged period of time.*

In addition, conditions may be stipulated requiring that, prior to boarding the ship, you must undergo a medical examination pursuant to regulations laid down for seafarers and possess a valid medical certificate. Furthermore, conditions may be stipulated requiring that you complete a specific safety training course.

*The shipmaster shall ensure that those employees who are taken on board the ship possess a valid medical certificate and have completed the prescribed security training. The specific requirements will depend on how the employees in question feature in the annex to the Order, the duration of their stay on board the ship and the type of ship and how it is fitted out. An agreement should be reached between the shipowner and the contracting authority/employer concerning what requirements the employees must fulfil and what documentation they must have with them or submit in advance to the shipowner/shipmaster in order to avoid being refused embarkation when attempting to board the ship.*

If you are in doubt concerning whether you are covered by the minimum protection order, or if you have any other questions concerning your rights when on board the ship, these may be directed to the shipmaster or to your employer.

*The category 'seafarer' typically encompasses those persons who, in a broad sense, carry out work on board the ship of significance to the ship's operation. First and foremost this includes the ship's regular maritime crew, but if for instance a passenger ship houses a hairdresser's, the hairdresser shall be regarded as a seafarer. The Order operates with three categories of personnel. There are those persons who definitely are seafarers and who are not covered by the Order (Annex 2, item 1), and then there are those persons who definitely are not seafarers (Annex 2, item 2) and who likewise are not covered by the Order, unless a written agreement stipulates otherwise. The Order does not concern these two categories of personnel per se, but instead concerns the category of personnel which lies between these two definitions, and which in some respects may be regarded as seafarers but not in others, e.g. because their regular place of work is on land and their conditions of employment are accordingly regulated and covered by the regulations, contracts and*





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*collective agreements which apply to such work. The purpose of the Order is to safeguard such employees in a proper manner if for a period or periods, as an element of their work duties, they are required to reside on or work on a ship. This protection is necessary because on board a ship one may be subject to conditions and be exposed to circumstances which, as part of one's regular conditions of employment on land, one has not made allowances for.*

Kind regards,

Bertil Hohlmann  
+45 33 48 92 54  
[bho@danishshipping.dk](mailto:bho@danishshipping.dk)



## **Order on minimum protection of certain categories of persons on board ships**

Pursuant to section 70(1) and section 75(2) and (3) of the act on seafarers' conditions of employment, etc. (*lov om søfarendes ansættelsesforhold m.v.*), cf. consolidated act no. 73 of 17 January 2014, as amended by act no. 740 of 1 June 2015, section 3(1)(vi) and (vii), section 16(3) and section 32(8) of the act on safety at sea (*lov om sikkerhed til søs*), cf. consolidated act no. 72 of 17 January 2014, and section 6(3) and section 27(3) of the act on the manning of ships (*lov om skibes besætning*), cf. consolidated act no. 74 of 17 January 2014, and by authority, the following provisions are laid down:

### *Scope of application*

**Section 1.** The persons mentioned in annex 1 shall not be considered seafarers and are covered by the provisions of this order.

**Section 2.** This order shall not apply to the persons mentioned in annex 2, cf. however subsection 2.

*Subsection 2.* Irrespective of the provisions of subsection 1, it may be agreed in writing between the parties that the persons mentioned in annex 2, paragraph 2, are to be covered by the provisions of this order.

**Section 3.** In case of doubt whether a category of persons shall be considered to be covered by section 1, cf. annex 1, or section 2, cf. annex 2, this issue shall be decided by the Danish Maritime Authority following consultation with the shipowner and seafarer organisations affected by the issue.

**Section 4.** The annexes mentioned in sections 1 and 2 may be adjusted by the Danish Maritime Authority following a joint approach by the shipowner and seafarer organisations affected or as the Danish Maritime Authority considers necessary. If the annex is adjusted without any previous approach by the organisations affected, the Danish Maritime Authority shall consult these before adjusting the annex.

### *Minimum age*

**Section 5.** Nobody younger than 16 years of age shall work or perform tasks on board ships.

### *Complaint procedure*

**Section 6.** As regards the rights that have, pursuant to this order, been bestowed on employees other than seafarers, the persons concerned shall – just like seafarers – be entitled to complain about these rights. Regulations on complaints laid down in pursuance of the act on seafarers' conditions of employment, etc. (*lov om søfarendes ansættelsesforhold m.v.*) shall also apply.

## *Employment or supplementary agreement*

**Section 7.** The employee shall have a written employment agreement meeting the requirements following from:

- 1) the act on employment agreements (*ansættelsesbevisloven*);
- 2) regulations implementing in another EU/EEA member State Council directive (91/533/EEC) of 14 October 1991 on an employer's obligation to inform employees of the conditions applicable to the contract or employment relationship; or
- 3) regulations in force in the place where the person concerned is employed or has his main employment.

*Subsection 2.* In case no written employment contract has been drawn up as mentioned in subsection 1, the employee shall be entitled to an employment agreement meeting the conditions on the employer's obligation to conclude a written contract with the seafarer on the conditions of employment stipulated pursuant to the act on seafarers' conditions of employment, etc. (*lov om søfarendes ansættelsesforhold m.v.*).

*Subsection 3.* Furthermore, all employees shall be informed in writing about the minimum rights following from this order as well as on the complaint procedure, cf. section 6.

## *Minimum rights*

**Section 8.** As regards persons who are not considered seafarers, but who are covered by section 1, the following provisions shall also apply, which have been laid down in or in pursuance of the act on seafarers' conditions of employment, etc. (*lov om søfarendes ansættelsesforhold m.v.*) as well as the act on safety at sea (*lov om sikkerhed til søs*), when the persons concerned are on board:

- 1) The regulations on seafarers' right to hours of rest;
- 2) The regulations on seafarers' right to care;
- 3) The regulations on occupational health on board ships;
- 4) The regulations on the right to a free journey home with subsistence when the journey home takes place immediately after the person concerned has performed tasks on board or has been working on board or from a ship;
- 5) The regulations on the right to retire in case of a risk of war or other ominous situation, in case of pregnancy and maternity/paternity leave as well as when compelling family reasons necessitate this.
- 6) The regulations on compensation for belongings that have gone lost in a shipwreck or other average with the maximum following from section 3(1)(iv) of order no. 130 of 6 February 2013 with any subsequent adjustments unless a higher amount has been agreed.

**Section 9.** Everybody working or performing tasks on board or from a ship, cf. sections 1 and 2, shall be secured the necessary access to food and drinking water, which shall be free of charge to the employee, cf. section 55 of the act on seafarers' conditions of employment, etc. (*lov om søfarendes ansættelsesforhold m.v.*). The provisions on food in Danish ships stipulated pursuant to the act shall also apply to the quality of the food and drinking water made available.

**Section 10.** The employer shall ensure that those who work or perform tasks on or from a ship, cf. section 1, are allocated the minimum rights following from sections 6-9. In cases where the employer is a person other than the shipowner, the obligation shall also rest with the shipowner.

### *Health and qualification requirements*

**Section 11.** The persons mentioned in section 1 shall, prior to the stay on board, be in possession of certificate stating that they have been subjected to a medical examination in pursuance of regulations laid down pursuant to the act on seafarers' conditions of employment, etc. (*lov om søfarendes ansættelsesforhold m.v.*) and the act on the manning of ships (*lov om skibes besætning*) and that they have, in the examination, been found fit for service on board ships.

*Subsection 2.* Subsection 1 shall not apply to the persons mentioned in annex 1, paragraphs 1 and 2, who merely in exceptional cases perform tasks on or from a ship for a shorter period of time.

**Section 12.** Persons covered by annex 1 shall have completed basic safety- and security-related instructions meeting the requirements of section A-VI/1, paragraph 1, as well as section A-VI/6, paragraph 1, of the STCW Code.

*Subsection 2.* Persons covered by annex 1, paragraph 1(a)-(d) and (h)-(j), shall have completed a safety course in accordance with section A-VI/1, paragraph 2, of the STCW Code. However, this shall not apply if the work takes place on board passenger ships or ships approved in accordance with the Special Purpose Ships Code.

*Subsection 3.* If a cargo ship carries persons who are not engaged in the operation of the ship in a wider sense and who are not passengers, the Danish Maritime Authority may – in connection with the approval of the ship or the renewal of it – make supplementary requirements for the relevant persons' safety- and security-related education and training as well as their participation in the safety work on board, etc. No more than 12 of the categories of persons mentioned in annex 1, paragraph 2, shall be carried on such cargo ships.

**Section 13.** The Danish Maritime Authority may upon request approve equivalent measures instead of the requirements mentioned in sections 11 and 12.

### *Penalty provisions*

**Section 14.** To the extent that the provisions to which reference is made and that apply by analogy are subject to punishment, violators of sections 5-9, section 11, section 12 and section 16(2) shall be liable to punishment by fine.

*Subsection 2.* Companies etc. (legal persons) may be liable to punishment in accordance with the provisions of part 5 of the penal code (*straffeloven*).

### *Entry into force and interim provisions*

**Section 15.** This order shall enter into force on 1 July 2017.

**Section 16.** The provision of section 1 shall apply to conditions of employment agreed after the entry into force of the order.

*Subsection 2.* If the employment concerning the categories of persons mentioned in annex 1 has been concluded before the entry into force of the order, the persons concerned shall – no later than by 1 October 2017 – be secured the rights following from sections 5-10. Section 3, section 10 and sections 12-14 shall also apply to these conditions of employment from this date.

*Subsection 3.* However, section 11 shall not apply until 1 January 2018.

*Danish Maritime Authority, 8 June 2017*  
Rasmus Høy Thomsen / Anders Fredrik Mihle

**Categories of persons covered by section 1**

1. The following persons shall be covered by section 1 when they do not perform work on board a ship that is of importance to the operation of the ship in a wider sense if they are, via their shore-based conditions of employment, secured in accordance with regulations, collective agreements or individual contracts at a level corresponding to the level of protection stipulated in the act on seafarers' conditions of employment, etc. (*lov om søfarendes ansættelsesforhold m.v.*) and orders issued in pursuance hereof:
  - 1) Offshore specialists, including:
    - a) Wind turbine fitters, wind turbine repairmen and wind turbine technicians, including on day-time voyages.
    - b) Surveyors and survey teams.
    - c) ROV operators.
    - d) Cable trenchers.
    - e) Customer representatives.
    - f) Marine warranty surveyors.
    - g) Insurance representatives.
    - h) Tow masters.
    - i) Special positioning technicians.
    - j) Divers.
  - 2) Journalists, researchers and similar groups of personnel.
  - 3) Medical teams.
  - 4) Maritime accident investigation teams.
  
2. The following categories of persons shall be covered by section 1 if they only occasionally perform tasks on board or from ships for a shorter period of time:
  - 1) Company, operational and ship surveyors and other supernumerary company employees.
  - 2) Super cargo and salvage surveyors.
  - 3) Supernumerary workmen, sales consultants, equipment and service technicians and other repairmen solving a specific task, testers.
  - 4) Journalists, researchers and similar groups of personnel.

**Categories of persons covered by section 2**

1. The following categories of persons, who are considered seafarers, shall be covered by section 2:
  - 1) Persons forming part of the ship's operational crew.
  - 2) Persons who have tasks in the ship's emergency preparedness.
  - 3) Persons who perform tasks related to the ship's general operation in a wide sense, including painting and repair teams, permanent servicing personnel on passenger ships, such as hairdressers, casino staff, orchestras, etc.
  
2. Furthermore, the following groups of persons shall be covered by section 2:
  - 1) Apprentices whose practical training does not take place as a part of the employment contract.
  - 2) Guest artists.
  - 3) Pilots, pilot trainees.
  - 4) Surveyors, i.e. ship surveyors, operational surveyors and company surveyors who merely perform inspection tasks as well as surveyors from public authorities or classification societies.

## Information for employees on board concerning minimum protection

Via the order concerning minimum protection of certain categories of persons on board ships, the Danish Maritime Authority has, with respect to specific categories of personnel on board, put into force a selection of the protection rules applicable to seafarers.

If you belong to one of the categories of personnel covered by the protection rules, which are defined in more detail in Annex 1 of the Order (attached), the following shall apply:

- Nobody younger than 16 years of age shall work or perform tasks on board ships.
- You have the right to a written employment contract. It is your employer who must ensure that you are provided with a written employment contract, but the shipping company also has a duty to ensure that you have such a contract or are able to obtain one.
- You are secured the necessary access to food and drinking water.
- While on board ship you are covered by the regulations for seafarers concerning:
  - o **Seafarers' right to hours of rest**, which states that, on each working day, you are entitled to at least 10 hours' rest, which may be divided between a maximum of two rest periods, of which one must be a minimum of 6 hours in duration.
  - o **Seafarers' right to care**, which obligates the shipmaster to ensure that you receive proper treatment and care in the event that you fall ill or suffer an injury.
  - o **Occupational health on board ships**, which states that the work which is carried out on board the ship must take place in a manner which incorporates due health and safety precautions.
  - o **The right to a free journey home**, which guarantees that, if required, your journey home will be arranged on your behalf after you have completed work on board the ship.
  - o **The right to retire in case of a risk of war or other ominous situations**, which grants you the right to disembark the ship in the event that it is on course for areas in which there is a risk of war or similar hazardous situations.



- o **The right to retire in case of exceptional circumstances**, which grants you the right to retire in the event of pregnancy and maternity/paternity leave as well as when compelling family reasons necessitate this.
  - o **The right to compensation for personal belongings**, which grants you the right to compensation for personal belongings lost in the event that the ship suffers a shipwreck or other accident.
- You are, to the same extent as other seafarers, entitled to lodge a complaint if your employer fails to observe your rights. Any complaints shall be submitted via the ship's "on board complaints system". Notices clarifying this complaints procedure have been made public and/or can be obtained from the shipmaster.

In addition, conditions may be stipulated requiring that, prior to boarding the ship, you must undergo a medical examination pursuant to regulations laid down for seafarers, and must possess a valid medical certificate. Furthermore, conditions may be stipulated requiring that you complete a specific safety training course.

If you are in doubt concerning whether you are covered by the minimum protection order, or if you have any other questions concerning your rights when on board the ship, these may be directed to the shipmaster or your employer.

Kind regards

*Date and name and contact details of the shipowner*

*Appended: Annex 1 from Order no. 722 of 8 June 2017 concerning minimum protection of certain categories of persons on board ships.*

**Categories of persons covered by section 1**

1. The following persons shall be covered by section 1 when they do not perform work on board a ship that is of importance to the operation of the ship in a wider sense if they are, via their shore-based conditions of employment, secured in accordance with regulations, collective agreements or individual contracts at a level corresponding to the level of protection stipulated in the act on seafarers' conditions of employment, etc. (*lov om søfarendes ansættelsesforhold m.v.*) and orders issued in pursuance hereof:
  - 1) Offshore specialists, including:
    - a) Wind turbine fitters, wind turbine repairmen and wind turbine technicians, including on day-time voyages.
    - b) Surveyors and survey teams.
    - c) ROV operators.
    - d) Cable trenchers.
    - e) Customer representatives.
    - f) Marine warranty surveyors.
    - g) Insurance representatives.
    - h) Tow masters.
    - i) Special positioning technicians.
    - j) Divers.
  - 2) Journalists, researchers and similar groups of personnel.
  - 3) Medical teams.
  - 4) Maritime accident investigation teams.
  
2. The following categories of persons shall be covered by section 1 if they only occasionally perform tasks on board or from ships for a shorter period of time:
  - 1) Company, operational and ship surveyors and other supernumerary company employees.
  - 2) Super cargo and salvage surveyors.
  - 3) Supernumerary workmen, sales consultants, equipment and service technicians and other repairmen solving a specific task, testers.
  - 4) Journalists, researchers and similar groups of personnel.