

(Translation. Only the Faroese version has legal validity)

Executive order No. 107 of 2nd November 2012 on seafarer's hours of rest

Under the provisions in section 4 (3), section 55 (1) and section 68 in Act No. 4 from 15th January 1988 on seafarers, as amended by Act No. 71 from 30th May 2011, section 1 (2), section 39 and section 49 (2) in Act No. 165 from 21st September 2001 on Safety at sea amended by Act No. 71 from 30th May 2011, the following shall be laid down:

Definition and scope

Section 1. This executive order shall apply to seafarers who serve on ships cf. sections 1, 2 and 47 in Act on seafarers, irrespective of type of ship or trade area, except for fishing vessels and pleasure vessels.

Subsection 2. In case of doubt whether the person concerned shall be considered as employed on board, cf. subsection 1, the issue shall be decided by the Faroese Maritime Authority following previous consultation with the shipowner and seafarer organisations that the issue concerns.

Section 2. A period of rest means a period of no less than one hour, which is not working time.

Subsection 2. Hours of work means time during which a seafarer is required to work on account of the ship.

Subsection 3. A working day means a 24-hour period commencing the first time a seafarer starts working on a calendar day.

Subsection 4. A week means a period of seven consecutive days.

Section 3. No work may be carried out on foreign merchant ships in the Faroese trading area contrary to the restrictions concerning working and hours of rest laid down pursuant to the STCW Convention and MLC.

Section 4. The seafarers' normal working hour standard is, in principle, based on an eight-hour day with one day of rest per week and rest on public holidays. However, this does not prevent the collective bargaining agreements from identifying a working hour standard on other basis which is considered to be equivalent.

Subsection 2. This executive order shall only apply to seafarer's hours of rest.

Hours of rest etc.

Section 5. Seafarers shall have regular periods of rest of sufficient length to ensure health and safety.

Subsection 2. Within each working day seafarers of 18 years of age or more shall be entitled to a minimum hours of rest of 10 hours. Hours of rest may be divided into no more than two periods, one of which shall be at least 6 hours in length, and the interval between two consecutive rest periods shall not exceed 14 hours.

Subsection 3. The total hours of rest during a week shall be no less than 77 hours.

Subsection 4., Upon request from the shipowner, the Faroese Maritime Authority may allow the hours of rest pursuant to subsection 2 to be calculated within each calendar day.

Subsection 5. Seafarers may not be ordered on Sundays and holidays to carry out work, which can be postponed.

Subsection 6. Furthermore, on Sundays and holidays seafarers should if practicable be given an opportunity of undisturbed religious worship on board the ship.

Section 6. In collective bargaining agreements, deviation can be agreed from the provisions regarding hours of rest in section 5, subsection 2 and 3.

Subsection 2. For seafarers, who perform part of the regular bridge watch or engine watch and seafarers who have specific tasks related to safety, emergency and prevention of pollution, the hours of rest may be reduced to 70 hours in a week in a period of two weeks. The interval between two periods with deviation shall at least be the double of the period with deviation. In up to two days a week, the daily hours of rest may be divided into no more than three periods, one of which shall be at least 6 hours in length, and neither of the other periods less than one hour. The interval between two consecutive periods of rest shall not exceed 14 hours.

Subsection 3. Before applying a deviation from subsection 1 and 2, the deviation shall be registered with the Faroese Maritime Authority. The agreed text shall be established in Faroese and English and shall be kept on board and be easily accessible to the crew.

Section 7. Seafarers on call shall have an adequate rest period if the normal period of rest is disturbed by call-outs to work. The total hours of rest in a working day shall be at least ten hours which may be divided into more than two periods, of which one shall be at least 6 hours in length.

Section 8. Seafarers under 18 years of age shall be entitled to a minimum rest period of no less than 12 consecutive hours within the working day.

Subsection 2. The rest period may be divided into no more than two periods, one of which shall be at least 9 hours in length, and in the interval between 8 pm and 8 am.

Subsection 3. Subsection 2 and 3 shall not apply to seafarers under 18 years of age if another agreement of rest periods is necessary as part of professional training approved by Ministry of Education, Research and Culture, or similar training.

Section 9. Musters, fire-fighting and lifeboat drills and other prescribed drills shall be conducted in a way that minimise the disturbance of rest periods and in a way that does not induce fatigue.

Subsection 2. For seafarers who take part in mandatory drills as per subsection 1, the total hours of rest in a working day shall be at least 10 hours, which may be divided into more than two periods of which one shall be at least 6 hours in length.

Section 10. The master of a ship shall have the right to require a seafarer to perform any hours of work necessary for the immediate safety of the ship, persons on board or cargo, or for the giving of assistance to other ships or persons in distress at sea.

Subsection 2. The provisions in sections 5-9 may be derogated from in the situations mentioned in Subsection 1.

Subsection 3. Upon restoration of normal conditions, the master shall, as soon as practicable, ensure that any seafarer who has performed work in a scheduled rest period is provided with an adequate period of rest.

Notice and registration

Section 11. Records with information on seafarer's functions on board shall be kept in an easily accessible place to the crew, and shall contain information about:

- 1) Hours of work at sea and in port, including watchkeeping periods for watchkeeping seafarers.
- 2) Minimum hours of rest according to this executive order or other collective bargaining agreements according to section 6.

Subsection 2. The table of rest hours shall be established in the working language on board and in English, and the format shall be approved by the Faroese Maritime Authority. An approved table is available in the Faroese Maritime Authority's homepages.

Section 12. The seafarer's daily periods of rest shall be registered regularly in a special hours of rest table in the working language on board and in English, and the table shall be kept in two copies. The format shall be approved by the Faroese Maritime Authority. An approved table of hours of rest is available on the Faroese Maritime Authority's homepage.

Subsection 2. The master, or a person authorised by the master, and the seafarer shall sign the hours of rest table each month.

Subsection 3. At regular intervals and at the end of service, the seafarer shall receive a signed copy of the hours of rest.

Subsection 4. A copy of the hours of rest table shall be available on board six months after the time of service. The shipping company shall subsequently keep the table for one year.

Subsection 5. A copy of the table of hours of rest according to subsection 4 shall be submitted to the Faroese Maritime Authority for control and endorsement if the Faroese Maritime Authority so requests.

Subsection 6. The Faroese Maritime Authority may allow the information on hours of rest to be kept electronically, and the submission of this information to be forwarded electronically to the Faroese Maritime Authority. The Faroese Maritime Authority may determine that storage and submission of the information shall take place in a designed format.

Section 13. The shipowner or the employer shall ensure that conditions on board comply with the requirements of this executive order. In cases where the shipowner is not the employer, it is likewise the shipowners' obligation to comply with item 1.

Section 14. The Faroese Maritime Authority shall supervise compliance with the provisions according to this executive order.

Subsection 2. In the event of non-compliance with the provisions of this executive order, the Faroese Maritime Authority will with regard to the binding international conventions take actions considered necessary to prevent fatigue that presents a danger to the safety and health of the seafarers. Such

actions may include prohibition against the ship to leave port until the seafarers have had adequate rest.

Subsection 3. The shipowner or operator of a ship, or the relevant representative in The Faroe Islands may bring such decision on detention by the Faroese Maritime Authority before the Maritime Committee of Appeals. However, the appeal to Maritime Committee of Appeals does not in itself have a releasing effect on the detention of the ship.

Section 15. During case proceedings the Faroese Maritime Authority may require information on seafarers' working conditions from the master and the shipowner.

Penalties

Section 16. Any person violating section 5 (1-3), (5 and 6), section 6 (2), sections 7 – 9 (2), section 10 (3), section 11, section 12 and section 13 shall be liable to a fine.

Subsection 2. Any person failing to comply with prohibition or order according to section 14 (2) shall be liable to a fine or imprisonment for up to one year.

Subsection 3. The penalty according to section 14 (2) may be increased to a prison sentence of up to two years if it is found that the violation was committed intentionally or as a result of gross negligence, or if

- 1) the violation has caused harm to life or health or a risk hereof, or
- 2) prohibition or order on the same or similar conditions has been given previously, or
- 3) the violation has achieved or was intended to achieve economic advantages for the offender or for others
- 4) it shall be considered as an aggravating factor if harm to the life or health of young people under 18 years of age has been caused or there has been risk of such harm, cf. subsection 3, no. 1
- 5) if the benefit obtained through the violation is not confiscated, the size of such financial benefit obtained shall be taken into account when determining the fine.
- 6) legal persons shall incur criminal liability according to the regulations in chapter 5 of the Faroese Penal Code.
- 7) When determining criminal liability pursuant to subsection 1, persons employed to carry out work on board the ship by others than the shipowner shall also be considered as being associated with the shipowner. If a document of compliance has been issued pursuant to the International Safety Management Code or a certificate has been issued according to the Maritime Labour Convention to another organisation or person, the master of the vessel as well as the seafarers shall be considered to be associated with the person to whom the document has been issued.

Entry into force etc.

Section 17. This executive order shall enter into force the day after it has been announced.

Subsection 2. For ships sailing in domestic waters this executive order shall enter into force on 1st January 2013. During the transitional period, the previous rules for hours of rest shall apply.

Vinnumálaráðið, 2nd November 2012

Johan Dahl (sign)

Minister of Trade and Industry

/Jóanna Djurhuus (sign)