

(Translation. Only the Faroese version has legal validity)

Executive order No. 112 of 21 August 2013 on free transportation with subsistence allowance and on financial security

Under the provisions in section 71a, subsection 2 and section 68 in Act on seafarers' conditions of employment, etc., as amended by Act No. 71 from 30 May 2011, the following shall be laid down:

Chapter 1

Scope

Section 1. This executive order shall apply to employees on board ships, cf. section 1, subsection 1 and section 47 in Act on seafarers' conditions of employment, etc., irrespective of the ships' type, except for fishing vessels and pleasure vessels.

Subsection 2. In case of doubt whether or not the person concerned is covered by the executive order, the issue shall be decided by the Faroese 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 in section 2 on free transportation home according to section 11, section 12(1) (l) and section 13 in Act on seafarers' conditions of employment etc., shall not apply.

Chapter 2

Right to free home journey

Section 2. Employees are entitled to free home journey according to the provisions in section 6 subsection 6, section 8 subsection 1, section 10 subsection 5, sections 11-14, section 18 subsection 2, section 19, section 30, section 43, section 46 subsection 2 and section 47 in Act on seafarers' conditions of employment, etc.,

Section 3. The right to free transportation includes:

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

Section 4. The journey shall be arranged so that it is carried out as soon as possible. The normal means of transport for journeys 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 journey, the employee's health condition and preferences shall be taken into consideration together with the cost aspect.

Section 5. In connection with termination for a journey home to the Faroe Islands according to section 8 in the Act on seafarers' conditions of employment, etc., the demand for a journey home must have been made at the same time as the employee's own notice or resignation.

Section 6. The employee may renounce his right to paid transportation. However, this shall not apply to transportation to the 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 to free home journey.

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 cf. section 10, subsection 4 and section 47, no.11 etc.
- 3) as a consequence of the shipowner's unlawful notice of termination
- 4) in case of notice of termination or own retirement according to sections 11-13 or section 14 in Act on seafarers' conditions of employment etc.,
- 5) as a consequence of illness or injury that have or could have caused the termination of employment; or
- 6) in case of termination of employment due to the ship's loss

Subsection 2. As regards employees domiciled in the Faroe Islands, the State shall refund half of the expenses for the employee's journey home with subsistence in case of termination of employment of long duration, cf. section 8, subsection 1 item 2 in Act on seafarers' conditions of employment, etc.,

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 journey home as a consequence of fraudulently concealed diseases or sufferings or self-inflicted illness or bodily injuries.

Subsection 2. Furthermore, the employee shall pay the expenses for his own journey home after the expiry of the time-limits mentioned in section 30, subsection 2, cf. section 35 in Act on seafarers' conditions of employment etc., of 16 or 2 weeks, respectively.

Section 9. As regards employees domiciled in the Faroe Islands, the State shall pay the travelling expenses for the home journey to the domicile in the Faroe Islands if the employee suffers from illness according to §30, subsection 5 in Act on seafarers' conditions of employment etc., 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 practices.

Subsection 2. In cases mentioned in subsection 1, the one who has had to pay the expenses 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 another person than the employer, the obligation to pay the travelling expenses shall also rest with the shipowner.

Chapter 3

Financial security

Section 12. The shipowner shall provide financial security for the employee's travelling expenses in connection with home journeys for which the shipowner is obliged under section 1, subsection 1.

Subsection 2. The financial security shall be provided by an insurance company, e.g. a P&I company.

Subsection 3. The shipowner is obliged to forward the insurance policy to the Faroese Maritime Authority where it subsequently will be registered. The Faroese Maritime Authority must be informed about any changes in the insurance requirements and must receive a new updated insurance policy before the new terms enter into force.

Chapter 4

Penalty and entry into force

Section 13. Violation of section 7 and section 12 is punishable by a fine.

Subsection 2. Legal persons shall incur criminal liability according to the regulations in chapter 5 of the Faroese Penal Code.

Subsection 3. When determining criminal liability according to section 2, 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.

Section 14. This executive order shall enter into force on the day following its day of promulgation.

Vinumálaráðið, 21 August 2013
Kaj Leo Holm Johannesen
Prime Minister

/Björgfríð Ludvig
Permanent Secretary