

(Translation. Only the Faroese version has legal validity.)

Executive Order No. 4 of 6 January 2017 on Insurance or other Financial Security for Covering the Shipowner's Liability towards the Seafarer and the Master in case of Breach of the Employment Agreement

Under the provisions of section 68 and section 71 a, subsections 4 and 5 in Parliamentary Act No. 4 of 15 January 1988 on seafarers' conditions of employment etc. as amended by section 1 in Parliamentary Act No. 71 of 30 May 2011 and Parliamentary Act No. 133 of 20 December 2016, the following shall be laid down:

Section 1. This Executive Order shall apply to seafarers and masters employed on board a Faroese vessel cf. section 1, subsection 1 and section 47 of the Parliamentary Act, irrespective of trade area and type of ship, with the exception of fishing vessels and pleasure vessels.

Section 2. The shipowner shall take out an insurance or provide other similar financial security which covers claims from employees abandoned against the shipowner and the employer if they are not the same, in cases where the shipowner or the employer, contrary to their obligations according to the employment contract, including the collective agreement that may apply, or the Parliamentary Act and regulations stipulated pursuant to the Parliamentary Act:

- 1) does not cover the employee's repatriation costs,
- 2) has left the employee without what is necessary for subsistence or economic support, or
- 3) in any other manner unilaterally and unjustifiably has interrupted the connection to the employee, including if the person concerned has not received wages for at least two months.

Section 3. The insurance or the other similar financial security shall, cf. however subsections 2 and 3, cover:

1) the essential needs of the employee until his/her arrival at home, including food, securing of heat, electricity, communication, hygiene and any necessary medical treatment, etc., cost of repatriation as well as any other reasonable expenses that arise because the seafarer has been abandoned, and

2) four months' outstanding wages and other entitlements and others which the seafarer is entitled to receive according to the conditions of the employment.

Subsection 2. The insurance or the other similar financial security shall not cover the claims mentioned in subsection 1, No. 2 to the extent that the Employees' Guarantee Fund (*Trygdargrunnurin fyri avreiðingar og lønir*) is obliged to pay for these claims.

Subsection 3. The insurance or the other similar financial security shall not cover

1) claims that the person concerned may have for refunds of expenses for medical treatment, dental treatment, medicaments, etc. which are covered by public refunding, pursuant to Parliamentary Act on Public Health Insurance and executive orders under the provisions of this Parliamentary Act, and may be made by the employee against the Faroese National Health Insurance (*Heilsutrygd*).

2) claims for payment of sickness benefits, pursuant to Parliamentary Act on Sickness Benefits etc. and executive orders under the provisions of this Parliamentary Act under this executive order on deviation from residence- and tax liability in the Faroe Islands with regard to the Parliamentary Act on Sickness Benefits etc. to the extent that these claims are covered by public refunding and may be made by the employee against the Social Office (*Almannaverkið*)

3) claims for payment of maternity/paternity benefits pursuant to Parliamentary Act on the Maternity/paternity System (*Barsilsskipanin*) and executive orders under the provisions of this Parliamentary Act, under this executive order on private insurance of maternity/paternity benefits to employees engaged on ships registered in FAS, to the extent that these claims are covered by public refunding and may be made by the employee against the Maternity/paternity System, and

4) the same shall apply if the person concerned is entitled to payment according to other public social insurance systems.

Section 4. For the purposes of this Executive Order, approved insurance or other similar financial security shall mean:

1) a P&I insurance Protection & Indemnity, on normal conditions, which is offered by a member of the International Group of P&I Clubs for which a certificate has been issued in accordance with section 6,

2) an insurance for which a certificate has been issued in accordance with section 6 from an insurance company established in another Nordic country and which is entitled to offer the relevant insurance in accordance with the provisions on insurance business and the legislation in the country concerned,

3) another insurance or financial security approved by the Faroese Maritime Authority for which a certificate has been issued in accordance with section 6, which is offered by an insurance company or a bank entitled to offer the relevant service in accordance with the legislation in force in the country where the company is domiciled. The approval may be based on an approval which a maritime authority in another Nordic country, which has also implemented the MLC, has carried out.

Subsection 2. As regards ships owned by authorities, schools, institutions or the like covered by a State or municipal self-insurance scheme, a declaration issued by the relevant authority stating that the relevant ship's conditions of employment are covered by the self-insurance scheme shall be considered sufficient guarantee. The declaration shall also contain the information mentioned in section 6 subsection 1, Nos. 1-4 and 6.

Section 5. The insurance or the other similar financial security mentioned in section 2 shall not lapse until the expiry of the period of validity unless the insurance company or other has informed the Faroese Maritime Authority about this at least 30 days in advance.

Subsection 2. The insurance or the similar financial security shall provide a possibility of acquiring compensation for the claims mentioned in section 3. If the insurance has been maximised, documentation shall be available stating that the claims mentioned in section 3

are covered. The documentation shall be forwarded to the Faroese Maritime Authority upon request.

Subsection 3. It shall be possible to direct the claims mentioned in section 3 directly to the insurer or the guarantor. The insurer or the guarantor may invoke the conditions related to exemption from liability that the shipowner or the employer would have been entitled to invoke against the employee. On the other hand, the insurer or guarantor may not invoke any objections that he or she would have been able to invoke against the shipowner or the employer.

Subsection 4. Claims made by the employee or by somebody acting on his or her behalf against the insurer or the guarantor shall be accompanied by the necessary documentation. As regards claims where there is doubt whether the person concerned is entitled to have the claim paid in full or in part by the Employees' Guarantee Fund the person concerned shall either authorise the insurer to acquire information about the coverage from the fund or acquire such information by himself/herself.

Section 6. As confirmation of the availability of the insurance or other similar financial security mentioned in section 2, a certificate issued by the insurer or the provider of the other financial security shall be available to the seafarers on board the ship. The certificate shall contain the following information:

- 1) name of the ship.
- 2) port of registry of the ship.
- 3) call sign of the ship.
- 4) IMO number of the ship.
- 5) the name and address of the provider or the providers of the financial security.
- 6) contact details of the persons or entity responsible for handling seafarers' request for relief.
- 7) name of the shipowner
- 8) the period of validity of the financial security.
- 9) attestation from the financial security provider that the financial security covers the claims mentioned in section 3.

Subsection 2. Confirmation by the insurance company that the insurance complies with Standard A 2.5.2 of the Maritime Labour Convention (MLC) shall be equal to the declaration mentioned in subsection 1 No. 9.

Subsection 3. In case several insurance companies or providers of financial security provide coverage, certificates from each company or provider containing information about which claims each scheme covers shall have been made available to the seafarers on board the ship.

Subsection 4. As regards ships where the seafarers are covered by the Employees' Guarantee Fund, a declaration issued by the Employees' Guarantee Fund, and by the Faroese National Health Insurance, the Social Office and the Maternity/Paternity System, respectively, on the schemes mentioned in section 3 subsection 3 shall have been made available to the seafarers on board the ship.

Subsection 5. As regards ships where the public sector is self-insured, the declaration to this effect mentioned in section 4 subsection 2 shall be available to the seafarers on board the ship.

Subsection 6. Declarations and certificates shall have been issued in the working language of the ship or in English. If the ship is engaged in international voyages, it shall be in English or a translation into English shall be attached.

Section 7. The Faroese Maritime Authority may require documentation that the insurer is entitled to run insurance business and has been approved by the insurance inspection authority in the country where the company has its place of business or head office and that the insurance meets the requirements of this Executive Order. In special cases, the Faroese Maritime Authority may, as regards insurances and other similar insurances covered by section 4 subsection 1, No. 3, require it to be documented as well that the relevant company, etc. is solvent and capable of meeting its obligations. The Faroese Maritime Authority may also reject to issue an approval or withdraw an already issued approval if the Faroese Maritime Authority acquires information that renders it likely that there is a risk that the company concerned cannot meet its obligations.

Subsection 2. The Faroese Maritime Authority may limit the approval in time and make it conditional upon the insurances and guarantees mentioned in section 4 subsection 1, No. 3.

Subsection 3. In case of amendments of importance to the coverage of the insurance or the other similar financial security, the shipowner shall be obliged to inform the Faroese Maritime Authority about this immediately after having become aware of it.

Section 8. Violation of sections 2 and 5 - 7 in this Executive Order shall be punishable by a fine.

Subsection 2. Companies and other legal persons shall incur criminal liability pursuant to the provisions of chapter 5 of the penal code.

Section 9. This Executive Order shall enter into force 18 January 2017.

Subsection 2. The insurances mentioned in section 2 shall have been established no later than by 18 January 2017 so that they enter into force from this day.

Uttanríkis- og Vinnumálaráðið, 6 January 2017

Poul Michelsen
Minister of Foreign Affairs
and Trade

/Herálvur Joensen