

(Translation. Only the Faroese version has legal validity)

Executive order No. 90 of 27 May 2021 on free repatriation with subsistence allowance and on financial security

Under the provisions in section 68, section 70, section 71 a subsection 4 and 5 and section 71 c in Parliamentary Act No. 4 of 15 January 1988 on seafarers' conditions of employment, etc., as amended by Parliamentary Act No. 71 of 30 May 2011 and Parliamentary Act No. 133 of 20 December 2016, the following shall be laid down:

Scope

Section 1. This executive order shall apply to employees on board ships, pursuant to section 1, subsection 1 and section 47 in the Act, irrespective of the vessel's type, however, with the exception of pleasure vessels.

Subsection 2. In case of doubt whether 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.

The right to free repatriation

Section 2. The right to free repatriation includes:

- 1) transportation from the place where the employee is situated when the right to free repatriation comes into 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 3. 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 4. When the employee is discharged and the repatriation to the Faroe Islands is pursuant to section 8 in the Act, the demand for repatriation must have been made at the same time as the employee's own notice or resignation.

Section 5. The employee may renounce his right to free repatriation. 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 repatriation.

Section 6. Expenses for repatriation shall be defrayed by 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,
- 3) as a consequence of the shipowner's unlawful notice of termination,
- 4) in case of notice of termination or own retirement pursuant to sections 11-14 of the Act,
- 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 repatriation with subsistence allowance in case of termination of employment of long duration pursuant to section 8, subsection 1 in the Act.

Subsection 3. In cases where the employer is another person or company than the shipowner, the obligation to pay the travelling expenses shall also rest with the employer.

Subsection 4. If the shipowner or the employer do not meet their legislative obligations, the one who has taken the place of the shipowner or the employer shall temporarily pay the travelling expenses cf. however section 9.

Section 7. The employee is not entitled to care or free repatriation if the person concerned fraudulently suppressed the illness or injury at the time of the engagement. The same shall apply if the person concerned after the engagement wilfully or because of gross negligence inflicted the illness or injury.

Subsection 2. Furthermore, the employee shall pay the expenses for the repatriation after the expiry of the time-limits of 16 or 2 weeks, respectively, mentioned in section 30, subsection 2, cf. section 35 in the Act.

Section 8. As regards employees domiciled in the Faroe Islands, the State shall pay the travelling expenses for the repatriation and to the domicile in the Faroe Islands if the employee suffers from illness according to section 30, subsection 5 in the Act that has or could have caused the termination of employment.

Section 9. In cases where somebody else, than the one who pursuant to section 6 subsections 1-3 and section 8, is to pay the travelling expenses, arranges the journey pursuant to the rules in sections 2,3 and 5, the person concerned shall take into consideration generally sound economic practice.

Subsection 2. In cases mentioned in subsection 1, the one who has had to pay the expenses so far, shall, when presenting the reimbursement request ensure the necessary documentation.

Financial security

Section 10. The shipowner or the employer, if he is another person or company than the shipowner, shall provide financial security for the employee's travelling expenses in connection with repatriations.

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

Subsection 3. The shipowner or the employer, if he is another person or company than 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.

Subsection 4. Subsections 1-3 do not apply to fishing vessels.

Penalty

Section 11. Violation of sections 6 and 10 shall be punished by fine.

Subsection 2. Companies and other legal persons shall incur criminal liability under the regulations in chapter 5 of the Faroese Penal Code.

Subsection 3. When determining criminal liability according to subsection 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 pursuant to the Maritime Labour Convention or the ILO Convention 188 Work in Fishing has been issued to another company 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

Section 12. This executive order comes into force the day after it has been promulgated. At the same time executive order No. 112 of 21 August 2013 on free transportation with subsistence allowance and on financial security shall be repealed.

Ministry of Environment, Industry and Trade, 27 May 2021

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Minister

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