

DMA RO Circular no. 014

Smoking prohibition on Danish flagged ships

1. Rule reference

- Act no. 512 of 6 June 2007 on a smoke-free environment (as attached).

2. Explanatory note

From 15 August 2007, it is prohibited to smoke indoors on Danish ships (cf. section 6 of the act). It can be decided to arrange special rooms for smoking or smoking booths in which smoking is permitted (cf. section 6(3) of the act). The act applies to all Danish flagged vessels and offshore installations (MODUs).

According to the act, all employers are to draw up a written smoking policy that must be accessible to all the employees (cf. section 5 of the act). The smoking policy must contain information on whether and where smoking is permitted at the workplace as well as information about the consequences of violating the smoking policy.

The ROs are kindly requested to verify the existence of the required smoking policy during ISM audits, both on board the ships and at the company offices, and should issue a non-conformity notice if a written smoking policy cannot be presented or if the crew is unfamiliar with the policy.

From 15 August 2007 until 1 January 2008, the Danish Maritime Authority will primarily advise shipowners regarding interpretations of the act. During this period, the ROs are kindly asked to forward any questions asked by shipowners to the Danish Maritime Authority, css@dma.dk.

Disclaimer:

According to Danish legislation, the only authentic version of any rules or regulations is the Danish version of the actual documents. Accordingly, any documentation provided by the Danish Maritime Authority in English is a translation of the relevant Danish text and provided as a service only.

Ministry of the Interior and Health, Denmark

Act No. 512 of 6 June 2007

Smoke-free Environments Act

Part 1

Purpose, scope, etc.

§1. The purpose of the Act is to promote smoke-free environments with the aim of preventing harmful health effects of environmental tobacco smoke and to prevent involuntary exposure to environmental tobacco smoke.

§2. This Act shall apply to:

- 1) workplaces, including offshore installations;
- 2) institutions and schools for children and adolescents;
- 3) other educational institutions;
- 4) indoor rooms to which the public has access;
- 5) means of public transport and taxis; and
- 6) hospitality establishments.

Subsection 2. Subsection 1 includes Danish ships, aircraft registered in Denmark and aircraft registered in other countries that operate under a Danish operating permit, regardless of whether the ship or aircraft is located outside Danish territory. The Act shall not apply, however, to ships based in the Faroe Islands or Greenland or to aircraft from airline companies based in the Faroe Islands or Greenland.

§3. A special room for smoking shall be defined in this Act as a special room with good opportunities for natural or artificial ventilation. The room may not serve as a passage or contain functions used by other people.

Subsection 2. A smoking booth shall be defined in this Act as a detached unit with a natural or artificial ventilation system.

Part 2

General provisions

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§4. In rooms etc. that are governed by this Act, smoking shall be prohibited indoors, unless the other provisions of this Act state otherwise.

§5. Each employer shall prepare a written policy on smoking that shall be accessible to all the employees of the workplace.

Subsection 2. The smoking policy shall contain at least the following:

- 1) information on whether and where smoking is permitted at the workplace;
- 2) information on the consequences of violating the smoking policy of the workplace.

Part 3

Workplaces, institutions, schools etc.

Indoor workplaces

§6. Smoking shall be prohibited indoors at workplaces, cf. §4.

Subsection 2. It may be decided that smoking is permitted in work rooms that solely serve as a workplace for one person at a time.

Subsection 3. It may be decided to arrange special rooms for smoking or smoking booth in which smoking is permitted.

Institutions and schools for children and adolescents

§7. At child-care centres, primary and lower secondary schools, leisure centres and the like that mainly have enrolled children and adolescents younger than 16 years, children, adolescents and students shall be prohibited from smoking on the property of the institution.

Subsection 2. For residential institutions, accommodation facilities, boarding schools, continuation schools and the like that mainly have enrolled adolescents 15–16 years old and older and that also serve as dwellings for these adolescents, it may be decided that the adolescents are allowed to smoke in designated smoking rooms and in their own rooms.

§8. For people not governed by §7, smoking shall be prohibited on the outdoor areas of the institution to which children and adolescents have access.

Subsection 2. It may be decided to arrange special rooms for smoking or smoking booths where the relevant people are permitted to smoke.

Other educational institutions

§9. At educational institutions not governed by §7, it may be decided that students may smoke in rooms that are made available as a studying space and are only used by one student at a time.

Subsection 2. It may be decided to arrange special rooms for smoking and smoking booths in which students are permitted to smoke.

Special workplaces

§10. Hospitals and similar institutions may permit patients and their family members to smoke in extraordinary circumstances.

§11. At nursing homes, residential institutions for adults, accommodation facilities for adults with special needs and similar institutions, each resident may decide whether smoking is permitted in the room or dwelling that serves as the resident's private home.

Subsection 2. Residents may be instructed not to smoke in their room or dwelling during the time in which employed staff are present.

§12. In private homes in which a publicly funded service in the form of personal or practical help is delivered, residents may be instructed not to smoke during the time in which employed staff are present as a condition for receiving this service.

§13. In drop-in centres and similar facilities for socially vulnerable people in which there is only one room for users, it may be decided that smoking is permitted.

§14. In the institutions of the Danish Prison and Probation Service, the detainee or prisoner may decide whether smoking is permitted in the room of the detainee or prisoner.

Subsection 2. Detainees and prisoners may be instructed not to smoke in their rooms during the time in which a staff member is present.

Subsection 3. The Minister for Justice shall lay down more detailed regulations governing the matters specified in subsection 2.

§15. In municipal family child care and in other family child care regulated by a municipality, cf. §24 and §25 of the Act on Social Services, smoking shall be prohibited in the home in which family child care is provided and in other rooms used for child care during the operating hours of the family child care.

Subsection 2. Rooms that are primarily designed as the rooms in which the children play and are otherwise present will be required to be free of environmental tobacco smoke at all times.

§16. For workplaces in private dwellings in which the employer works in the home and in which external employees work, §6 shall apply.

Subsection 2. If the rooms in which work takes place serve as private dwelling space, smoking shall be permitted when the external employee is not at work.

§17. It may be decided that smoking is permitted on ships in rooms that serve as a private dwelling for one person at a time.

Part 4

Public space etc.

§18. Smoking shall be prohibited in indoor rooms to which the public has access, cf. §4.

Subsection 2. It may be decided that special rooms for smoking and smoking booths will be arranged in which smoking may take place.

§19. In hotel rooms, cabins on ships and similar rooms that host overnight guests on a commercial basis, it may be decided that the guests are permitted to smoke.

§20. In means of public transport and taxis, smoking shall be prohibited indoors, cf. §4.

Subsection 2. On passenger ships, it may be decided that special rooms for smoking and smoking booths will be arranged in which smoking is permitted.

Part 5

Hospitality establishments

§21. Smoking shall be prohibited indoors at hospitality establishments, cf. §4.

Subsection 2. A hospitality establishment shall be defined as a room in which food or beverages are served to be consumed at or near the place at which the sales take place.

Subsection 3. It may be decided that special rooms for smoking and smoking booths will be arranged in which smoking is permitted.

Subsection 4. Food and beverages shall be prohibited from being served or

brought into the special rooms for smoking or smoking booths at hospitality establishments. Each hospitality establishment may decide, however, to permit guests to bring their beverages into the special rooms for smoking or smoking booths.

§22. It may be decided that smoking is permitted indoors at small hospitality establishments (pubs) that:

- 1) have a licence to serve alcohol;
- 2) do not serve food;
- 3) have floor space not exceeding 40 m²; and
- 4) have tables and chairs on the floor space.

Subsection 2. Small hospitality establishments (pubs) located in the same building as another hospitality establishment shall be governed by subsection 1 if the small hospitality establishment (pub) has an independent entrance from the street and if it appears to be an independent small hospitality establishment (pub) to the customers.

Part 6

Provisions on supervision

§23. Each employer, owner, restaurant manager, supervisor and leaseholder shall ensure that smoking solely takes places in accordance with the provisions of this Act.

§24. The enforcement of compliance with this Act and the rules established pursuant to this Act shall be supervised by the Danish Working Environment Authority, cf. §79a of the Working Environment Act; the Danish Maritime Authority, cf. §20a of the Act on Safety at Sea; and the Minister for Transport and Energy, cf. §150f of the Air Navigation Act and §66a of the Offshore Safety Act.

Part 7

Employee relationships

§25. An employee's violation of the prohibition on smoking at a workplace shall be handled in accordance with the rules applying to the employee's other conditions of employment.

Part 8

Provisions on penalties

§26. A fine shall be imposed on anyone who:

- 1) violates §5; or
- 2) violates an order issued pursuant to §79a, subsection 1 of the Working Environment Act, §20a, subsection 1 of the Act on Safety at Sea, §15 of, subsection 1 of the Air Navigation Act or §66a, subsection 1 of the Offshore Safety Act.

Subsection 2. A fine shall be imposed on any employer, owner, restaurant manager, supervisor or leaseholder who permits smoking indoors in violation of the rules in this Act.

Subsection 3. Companies and the like (legal persons) may be penalized in accordance with the rules of Part 5 of the Criminal Justice Act.

Part 9

Provisions governing entering into force, amendment etc.

§27. This Act shall enter into force on 15 August 2007.

Subsection 2. When this act enters into force, Act No. 436 of 14 June 1995 on smoke-free environments in public premises, means of transport and the like shall be repealed.

§28. In Act No. 213 of 31 March 2004 on the prohibition of sales of tobacco and alcohol to persons younger than 16 years, the following change shall be effected:

1. §7 shall be repealed.

§29. In the Working Environment Act, cf. Consolidated Act No. 268 of 18 March 2005 as amended by Act No. 300 of 19 April 2006 and Act No. 175 of 27 February 2007, the following change shall be effected:

1. After §79, the following shall be inserted:

“§79a. The Danish Working Environment Authority shall supervise as part of its supervisory activity pursuant to this Act the compliance with the legislation on smoke-free environments. The Danish Working Environment Authority may, while imposing specific conditions if desired, order that activities violating the legislation on smoke-free environments be rectified

immediately or within a specific time limit.

Subsection 2. §76 and the rules established pursuant to this shall similarly apply.

Subsection 3. The Minister for Employment may, after negotiations with the Minister for the Interior and Health, lay down specific rules on the exercise of the supervision.

Subsection 4. Decisions made by the Danish Working Environment Authority pursuant to subsection 1 may be appealed to the Working Environment Appeals Board. §81, subsections 1–5, shall similarly apply.”

§30. In the Act on Safety at Sea, cf. Consolidated Act No. 627 of 26 July 2002, as last amended by §1 of Act No. 349 of 18 April 2007, the following changes shall be effected:

1. In §17, subsection 2, “and §8” shall be changed to “§8 and §20a”.

2. After §20, the following shall be inserted into Part 6:

“**§20a.** The Danish Maritime Authority shall supervise as part of its supervisory activity pursuant to this Act the compliance with the legislation on smoke-free environments on ships registered in Denmark. The Danish Maritime Authority may, while imposing specific conditions if desired, order that activities violating the legislation on smoke-free environments be rectified immediately or within a specific time limit.

Subsection 2. §17, subsections 7 and 8, §19, §22 and §24, subsections 1–3 and 5 and the rules established pursuant thereto and §25 shall similarly apply.

Subsection 3. The Minister for Economic and Business Affairs may, after negotiations with the Minister for the Interior and Health, lay down specific rules on the exercise of the supervision.”

§31. In the Air Navigation Act, cf. Consolidated Act No. 1484 of 19 December 2005, as amended by Act No. 1114 of 29 December 1997, §97 of Act No. 538 of 8 June 2006, §5 of Act No. 542 of 8 June 2006 and Act No. 242 of 21 March 2007, the following change shall be effected:

1. After §150e the following shall be inserted:

“**§150f.** The Minister for Transport and Energy shall supervise as part of its supervisory activity pursuant to this Act the compliance with the legislation on smoke-free environments. The Minister for Transport and Energy may,

with specific conditions if desired, order that acts violating the legislation on smoke-free environments be rectified immediately or within a specific time limit.

Subsection 2. §150e, subsections 2 and 3, §152, subsection 1 and §152a shall similarly apply.

Subsection 3. The Minister for Transport and Energy may, after negotiations with the Minister for the Interior and Health, lay down specific rules on the exercise of the supervision.”

§32. In Act No. 1424 of 21 December 2005 on safety etc. on offshore installations for the exploration, extraction and transport of hydrocarbons (Offshore Safety Act), as amended by Act No. 107 of 7 February 2007, the following changes shall be effected.

1. After §66, the following shall be inserted in Part 6:

“**§66a.** The Minister for Transport and Energy shall supervise as part of its supervisory activity pursuant to this Act the compliance with the legislation on smoke-free environments. The Minister for Transport and Energy may, while imposing specific conditions if desired, order that acts violating the legislation on smoke-free environments be rectified immediately or within a specific time limit.

Subsection 2. §61, subsection 3, §62 and §65 and the rules established pursuant to these shall similarly apply.

Subsection 3. The Minister for Transport and Energy may, after negotiations with the Minister for the Interior and Health, lay down specific rules on the exercise of the supervision.

Subsection 4. Decisions made pursuant to subsection 1 by the Minister for Transport and Energy or the person or agency empowered to do so may be appealed to the Energy Board of Appeal. §67, subsections 2 and 3, subsection 4, no. 2 and subsection 6 and §68 shall similarly apply.”

§33. The Minister for the Interior and Health shall submit a proposal for amending this Act in the 2009/2010 Folketing session.

§34. This Act shall not apply to the Faroe Islands and Greenland.