

Translation: Only the Danish document has legal validity.

*Order no. 933 of 23 June 2020
issued by the Danish Maritime Authority*

Order on medical examination of seafarers and fishersⁱ

In pursuance of section 4(3), section 70 and section 75a of the Act on Seafarers' Conditions of Employment, etc. (*lov om søfarendes ansættelsesforhold m.v.*), see Consolidated Act no. 1662 of 17 December 2018, and section 19(1)(iii) and (iv) of the Act on the Manning of Ships (*lov om skibes besætning*), see Consolidated Act no. 74 of 17 January 2014, the following provisions are laid down as authorised under section 1(1)(vi) of Order no. 261 of 23 March 2020 on the transfer of certain powers to the Danish Maritime Authority and on the right of appeal, etc., and following consultation with the shipowners' and seafarers' organisations:

Part 1

Application

Section 1. This Order applies to employees on board ships, see section 1(1) and section 49 of the Act on Seafarers' Conditions of Employment, etc., except for employees on board cargo ships with a gross tonnage below 20 engaged only on voyages within Danish ports, rivers, lakes or similar sheltered waters and part-time professional fishers.

Subsection 2. In case of doubt whether the person concerned is to be considered as employed on board and thereby covered by this Order, the issue must be decided by the Danish Maritime Authority following prior consultation with the shipowners' and seafarers' organisations which the issue concerns.

Subsection 3. This Order also applies to the owner of the ship if the owner serves on board the ship.

Section 2. This Order also applies to persons who are required to hold a valid health certificate in connection with the following:

- (i) the acquisition or renewal of certificates of competency under the provisions of the Act on the Manning of Ships;
- (ii) the enrolment as a student at an approved training programme covered by the Act on Maritime Training Programmes (*lov om maritime uddannelser*); or
- (iii) the completion of a smoke diver training programme as part of a training programme approved by the Danish Maritime Authority.

Part 2

Health certificate

Section 3. Employees serving on board a ship shall hold a valid health certificate.

Subsection 2. A health certificate is issued to persons who have been subject to a medical examination according to the provisions of this Order and have been declared fit for ship service, possibly with limitations, see sections 6 and 9.

Subsection 3. Health certificates issued by a foreign authority which has implemented the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW Convention) and in accordance with the provisions thereon in the Maritime Labour Convention (MLC) are considered equivalent to health certificates issued under of this Order.

Subsection 4. The provision of subsection (1) also applies to the owner of the ship if the owner serves on board the ship.

Section 4. The purpose of the medical examination is to ensure the health of the individual seafarer and fisher as well as the safety of the ship.

Part 3

Medical examination

Section 5. Medical examinations must be carried out by medical practitioners approved by the Danish Maritime Authority, see section 12.

Subsection 2. Medical examinations may also be carried out by duly qualified medical practitioners in Greenland. The doctor shall use the medical certificate designated by the Danish Maritime Authority on its website at www.dma.dk.

Subsection 3. Persons who are to be subject to medical examinations in pursuance of this Order may themselves choose the medical practitioner who is to perform the examination, but see section 16(6).

Section 6. During the examination, the medical practitioner shall assess whether the examined person's physical and mental condition generally is such that the person in question is fit for serving on board a ship, possibly with limitations, see section 9.

Subsection 2. In making the assessment, the medical practitioner shall consider:

- (i) whether the disease or condition involves an increased risk of acute complications which cannot be treated by a layman on board a ship and which may, consequently, represent a considerable risk to the seafarer or fisher concerned;
- (ii) whether an acute disease in the person examined represents a risk to the safety of the ship or places other crew members in an unnecessarily difficult situation; and
- (iii) whether the disease or condition means that the person examined would have difficulties handling an emergency on board.

Subsection 3. When assessing persons who sign on for the first time, the medical practitioner shall consider whether the disease or condition could be expected to become worse during the working life of the person examined.

Section 7. For the examination, the medical practitioner shall use the annexes to this Order.

Section 8. The medical practitioner may collect relevant information about the person examined, including information about any use of medication and medical history where this is deemed necessary to carry out the medical examination, based on a concrete, factual medical assessment and subject to the explicit consent of the person examined. medical practitioner shall document why the collection of the above-mentioned information is deemed necessary.

Section 9. In the assessment, the medical practitioner may limit the examined person's fitness for ship service in relation to the following:

- (i) the validity period of the health certificate;
- (ii) the field of work on board;
- (iii) the trade area, see subsection (2).

Subsection 2. Annex 4 sets out the limitations as regards trade areas that should normally be applied.

Subsection 3. The health information of the person examined must not appear from any limitations applied.

Section 10. The medical practitioner shall report the results of the medical examination to the Danish Maritime Authority using the Authority's digital reporting system without disclosing health information.

Section 11. The medical practitioner shall document the examination, including by recording the individual measurements, estimates and professional reasons for the assessment.

Subsection 2. If the medical practitioner, in making the assessment, deviates from the requirements set out in the annexes to this Order, this must appear from the documentation required under subsection (1).

Part 4

Maritime medical practitioners

Section 12. Maritime medical practitioners may be approved by the Danish Maritime Authority upon application. The Danish Maritime Authority shall regularly assess the need for approving new medical practitioners so as to ensure satisfactory availability of a local medical practitioner throughout the country.

Subsection 2. It is a precondition for approval as a maritime medical practitioner that the person concerned holds an authorisation in accordance with Part 8 of the Danish Act on Authorisation of Health Care Professionals and on Health Care Services (*lov om autorisation af sundhedspersoner og om sundhedsfaglig virksomhed*). A medical practitioner who loses or surrenders such authorisation shall also cease working as a maritime medical practitioner.

Subsection 3. In order to be approved as a maritime medical practitioner, the person concerned must undergo a qualification course with a maritime medical practitioner approved by the Danish Maritime Authority. The course must be organised as peer learning and consist in participation in at least ten medical examinations according to this Order within a period not exceeding one year.

Subsection 4. The Danish Maritime Authority shall supervise the approved maritime medical practitioners. The Danish Maritime Authority may withdraw a medical practitioner approval in case of gross or repeated negligence in the performance of medical examinations under this Order.

Section 13. Maritime medical practitioners and medical practitioners in Greenland carrying out medical examinations in accordance with this Order shall professionally be completely independent when making their medical assessment during the medical examinations in accordance with this Order.

Section 14. Persons under 18 years of age must be found fit for ship service or, if relevant, fit with limitations, see sections 6 and 9, at medical examinations at intervals of no more than one year.

Subsection 2. Persons aged 18 years or more must be found fit for ship service or, if relevant, fit with limitations, see sections 6 and 9, at medical examinations at intervals of no more than two years.

Section 15. If a person is found unfit for ship service or fit with limitations, a new medical examination in accordance with this Order may only be carried out if the Danish Maritime Authority so permits, but see subsection (4).

Subsection 2. The Danish Maritime Authority may grant the permission referred to in subsection (1) when:

- (i) it is documented that the health condition of the person concerned has changed; or
- (ii) special circumstances suggest that a new medical examination should be carried out.

Subsection 3. The Danish Maritime Authority may furthermore permit a person who has been declared unfit for ship service or fit with limitations to obtain a statement from a specialist doctor, such statement to be obtained for further clarification of the significance of a diagnosed disease or condition to the person's fitness for ship service.

Subsection 4. Permission from the Danish Maritime Authority under subsection (1) is not required if:

- (i) more than two years have elapsed since the last medical examination; or
- (ii) a person has been declared fit with limitations at the latest medical examination and the validity period of that person's health certificate will expire within six months at the time of the new medical examination.

Section 16. The Danish Maritime Authority may decide that a person holding a valid health certificate must undergo a new medical examination when, on the basis of available information, it must be considered doubtful whether the person concerned is still fit for his or her work on board or still fit for look-out duty.

Subsection 2. When circumstances so require, the Danish Maritime Authority may decide that a person must not serve on board a ship if a new medical examination is required in accordance with subsection (1).

Subsection 3. If the person concerned serves on board a ship at the time when a medical examination is required in accordance with subsection (1), the Danish Maritime Authority may require that the person concerned signs off or that the examination must be carried out within a stipulated time-limit. If the Danish

Maritime Authority requires that the person concerned signs off, the Authority shall pay the expenses for transportation with subsistence to the person's home address.

Subsection 4. If a person has previously been found unfit for work on board ships, the Danish Maritime Authority may – irrespective of the result of the latest medical certificate – require that the person concerned signs off in the first port at which the ship calls and from where a home journey may conveniently be arranged.

Subsection 5. The person concerned must not serve on board a ship after the time-limit stipulated in subsection (3) unless the medical examination establishes that he or she is still fit for his or her field of work.

Subsection 6. The Danish Maritime Authority may designate a medical practitioner to carry out a new medical examination in accordance with subsection (1).

Part 5

Health certificate

Section 17. The Danish Maritime Authority shall determine the form and contents of the health certificate.

Subsection 2. The health certificate will be issued upon automatic data processing based on the results of the medical examination.

Subsection 3. Health certificates issued on the basis of medical examinations performed in Greenland, see section 5(2), must be issued or endorsed by the master in accordance with the medical certificate.

Section 18. An employee commencing service on board a ship shall make his or her health certificate available to the master for as long as the employee serves on board.

Subsection 2. The master shall make health certificates available if so requested by the Danish Maritime Authority.

Subsection 3. Persons holding a health certificate shall submit documentation to that effect if so requested by the Danish Maritime Authority.

Section 19. If the validity period of the health certificate expires during a voyage, the health certificate will remain valid until the first call at a port where a medical examination can be carried out without undue delay, but see subsection (2).

Subsection 2. However, the health certificate will remain valid for no more than three months after the expiry of the validity period.

Part 6

Appeals

Section 20. The person examined, the shipping company or the Danish Maritime Authority may bring the result of a medical examination in accordance with sections 6 and 9 before the Danish Shipping Tribunal.

Subsection 2. The person examined or the shipping company may bring a decision made in accordance with section 16(1) before the Danish Shipping Tribunal.

Subsection 3. The decisions of the Danish Shipping Tribunal cannot be appealed to any other administrative authority.

Subsection 4. Appeals to the Danish Shipping Tribunal must be submitted in writing to Nævnenes Hus, Toldboden 2, DKK-8800 Viborg.

Subsection 5. The time-limit for appealing decisions referred to in subsection (1) and (2) is eight weeks. The Danish Shipping Tribunal may disregard the time-limit if special reasons make it appropriate.

Section 21. The Danish Maritime Authority's decisions on approval of a maritime medical practitioner in accordance with section 12(1) and on withdrawal of approval as a maritime medical practitioner in accordance with section 12(4) cannot be appealed to a higher administrative authority.

Part 7

General provisions

Section 22. Persons wearing glasses, contact lenses, hearing aids or any other aid to meet the requirements set out in this Order or its annexes shall use the aid during work and shall at any time during the ship service be in possession of an extra aid.

Section 23. Persons who are examined in pursuance of this Order shall be able to present photo ID upon request.

Part 8

Payment for medical examination

Section 24. Medical examinations pursuant to this Order must be paid by the shipping company, but see subsections (2), (4) and (5).

Subsection 2. If the person examined is not employed by a shipping company at the time of the medical examination, the first employer who hires him or her in a position for which a valid health certificate is required shall refund the expenses paid for the medical examination provided that the person examined is able to provide documentation of the payment.

Subsection 3. Medical examinations of maritime students who have concluded a training and educational agreement with an approved shipping company must be paid by the relevant shipping company.

Subsection 4. The Danish Shipping Tribunal shall pay for medical examinations required by the Tribunal for its case consideration.

Subsection 5. The Danish Maritime Authority shall pay for medical examinations required by the Danish Maritime Authority pursuant to section 16(1) and for medical examinations of other students enrolled at approved maritime training programmes other than those referred to in subsection (3) where it is an admission requirement that the student holds an approved health certificate.

Section 25. Students at the approved maritime training programmes referred to in section 24(3) and (5) shall document to the medical practitioner that they have been admitted to an approved maritime training programme on the condition that they acquire a health certificate meeting the admission requirements.

Section 26. In cases where medical examinations in accordance with section 24(1) and (3) must be paid by a shipping company, the medical practitioner shall collect his or her fee from the person examined, who is entitled to a refund of the fee from the shipping company.

Section 27. Medical practitioners must receive a fee for examinations paid by the Danish Maritime Authority in accordance with section 24(5) when the result of the examination has been received by the Danish Maritime Authority

Section 28. The fee for medical examinations carried out according to the provisions of this Order is determined following negotiations between the Danish Maritime Authority and the Committee of Medical Certificates and Attestations of the Danish Medical Association.

Part 9

Master's responsibilities

Section 29. The master of the ship is responsible for ensuring that the provisions of section 5(2), section 16(4) and (5) and section 18(1) and (2) are complied with.

Part 10

Penalty provisions

Section 30. Contravention of section 3(1) and (4), section 18(3), section 24(1)-(3) and section 29 is punishable with a fine.

Subsection 2. Criminal liability may be imposed on companies, etc. (legal persons) under the rules of Part 5 of the Danish Criminal Code (*straffeloven*).

Subsection 3. When imposing criminal liability under subsection (2), persons who are hired to perform work on board the ship by others than the shipowner are also considered to be associated with the shipowner. If a document of compliance has been issued in accordance with the International Safety Management Code or if a certificate has been issued in accordance with the Maritime Labour Convention to another organisation or person, the master of the ship and the seafarers are also considered to be associated with the one to whom the document has been issued.

Part 11

Entry into force and interim provisions

Section 31. This Order enters into force on 1 July 2020.

Subsection 2. Order no. 999 of 12 August 2013 on medical examinations of seafarers and fishermen is repealed.

Section 32. Health certificates issued in accordance with the rules applicable hitherto will remain valid on the conditions stipulated on the certificate.

Section 33. Medical practitioners approved in accordance with the rules applicable hitherto will retain their permit to carry out medical examinations of seafarers and fishers.

Section 34. This Order does not apply to Greenland.

Danish Maritime Authority, 23 June 2020

Rasmus Høy Thomsen

/ Kristina Ravn

ⁱ This Order contains provisions implementing parts of Council Directive 2009/13/EC of 16 February 2009 implementing the Agreement concluded by the European Community Shipowners' Associations (ECSA) and the European Transport Workers' Federation (ETF) on the Maritime Labour Convention, 2006, and amending Directive 1999/63/EC, Official Journal 2009, no. L 124, pages 30-50, and parts of Council Directive 2003/88/EC of 4 November 2003 concerning certain aspects of the organisation of working time, Official Journal 2003, no. L 299, pages 9-19, and parts of Council Directive 2017/159/EU of 19 December 2016 implementing the Agreement concerning the implementation of the Work in Fishing Convention, 2007 of the International Labour Organisation, concluded on 21 May 2012 between the General Confederation of Agricultural Cooperatives in the European Union (Cogeca), the European Transport Workers' Federation (ETF) and the Association of National Organisations of Fishing Enterprises in the European Union (Europêche), Official Journal 2017, no. L 25, page 12, and parts of Directive 2008/106/EC of the European Parliament and of the Council of 19 November 2008 on the minimum level of training of seafarers (recast), Official Journal 2008, no. L 323, page 33, as amended by Directive 2012/35/EU of the European Parliament and of the Council of 21 November 2012 amending Directive 2008/106/EC on the minimum level of training of seafarers, Official Journal 2012, no. L 343, page 78, and Directive (EU) 2019/1159 of the European Parliament and of the Council of 20 June 2019 amending Directive 2008/106/EC on the minimum level of training of seafarers and repealing Directive 2005/45/EC on the mutual recognition of seafarers' certificates issued by the Member States, Official Journal 2019, no. L 188, page 94.