

Order on the protection of seafarers and fishermen against the risks of exposure to biological agents at work (Working environment on ships)

Pursuant to Section 1(2 and 3), Section 3(1)(nos. 6 and 7), and Section 32(9), of the Maritime Safety Act, cf. Order No. 1629 of 17 December 2018, and Section 1(2 and 3), Section 3(1)(nos. 6 and 7), and Section 32(2) of the Order on the entry into force for Greenland of the Maritime Safety Act, cf. Order No. 1674 of 16 December 2015, shall be determined after authorisation in accordance with Section 1(1)(no. 3), in 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 Section 1(1)(no. 2), in Order No. 279 of 23 March 2020 for Greenland on the transfer of certain powers to the Danish Maritime Authority and on the right of appeal, etc.:

Purpose

Section 1. The purpose of this Order is to protect seafarers and fishermen against hazards to their health and safety, including the prevention of such hazards which arise or may arise from exposure to biological agents at work.

Areas of application

Section 2. The Order applies to all commercial activities carried out on board new and existing ships registered in Denmark and Greenland which, by reason of their nature or the conditions under which they are carried out, involve the possibility of exposure to biological agents. Annex 1 to this Order contains an indicative list of such activities.

Subsection 2. The Order shall not apply to commercial activities on board

- 1) Warships,
- 2) Naval auxiliary ships or
- 3) Recreational craft.

Definitions

Section 3. For the purposes of this Order:

- 1) Biological agents: micro-organisms, including genetically modified micro-organisms, cell cultures and endoparasites in humans, capable of producing an infectious disease, allergy or toxic effect.
- 2) Microorganism: a cellular or non-cellular microbiological entity capable of replication or of transferring genetic material.
- 3) Cell culture: in vitro culture of cells from multicellular organisms.

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Section 4. Biological agents shall be classified into 4 risk groups according to the degree of risk of infection, as specified in Annex 2.

Subsection 2. The classification of biological agents in risk groups 2, 3 and 4 shall be carried out in accordance with the Danish Working Environment Authority's current Order on biological agents and the working environment.

Planning and execution of work

Section 5. Activities whose primary purpose is the use of biological agents are not permitted.

Subsection 2. Biological agents which may endanger health and safety may not be used if they can be replaced by a non-hazardous, less dangerous or less troublesome biological agent. Specific measures in the current regulations on the working environment on ships concerning substances and materials apply accordingly.

Section 6. The assessment of the safety and health conditions during work in accordance with the applicable regulations on the working environment on ships shall include a determination and assessment of the nature, degree and duration of the exposure to biological agents and the risk thereof. The assessment shall be carried out based on the classification of biological agents set out in the Danish Working Environment Authority's current Order on biological agents and the working environment, and otherwise in accordance with the guidelines in Annex 3 to this Order.

Subsection 2. The assessment shall be updated whenever there are changes in the work, working methods and processes, etc., which have an impact on the company's working environment, but at the latest every three years.

Subsection 3. Work shall be planned and organised taking into account this assessment in accordance with the general rules on the working environment on ships. This shall include ensuring that, where necessary, the special measures referred to in Sections 8 to 13 are taken before work commences.

Section 7. The work must be planned, organised and carried out in such a way as to avoid the effects of biological agents.

Subsection 2. Where it is not possible to avoid exposure to biological agents, effective measures shall be taken to counter the risk of accidents and injuries, and to reduce exposure to the lowest level that is necessary for that purpose.

Section 8. Where necessary for the work to be carried out in a fully safe and health-related manner, the following measures shall also be implemented, taking into account the assessment in accordance with Section 6:

- 1) Limit the number of workers exposed or potentially exposed to the lowest possible.
- 2) Control releases of biological agents at the workplace by technical procedures.
- 3) Establish collective and/or individual protection measures if exposure cannot be avoided by other means.
- 4) Prevent or limit the accidental release of a biological agent from the workplace by hygiene measures.
- 5) Marking of areas where there are exposures from the biological agents being worked with. The marking shall be by means of the marking and other appropriate warning signs shown in Annex 4.

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- 6) Detection, if technically possible, outside closed systems, of the presence of the biological agents being worked with.
- 7) Collection, storage and disposal of waste containing biological agents that have been worked with using special and labelled containers.
- 8) Special treatment of the waste before disposal, including decontamination, if necessary, by autoclaving or chemical disinfection.
- 9) Preparation of a contingency plan to deal with accidents related to biological agents.
- 10) Take measures for the safe handling and transport of biological agents at the workplace.
- 11) Prohibition of consumption of food and drink in workrooms or other areas.
- 12) Offer of vaccinations to employees.

Subsection 2. If the work cannot be carried out in any other way that is entirely safe and healthy, personal protective equipment shall be used in accordance with the relevant rules, cf. the applicable rules on the use of personal protective equipment in the regulations on the working environment on ships.

Duty to instruct and inform, etc.

Section 9. The shipping company and the master shall ensure that workers and/or their representatives receive adequate and appropriate oral training based on all available information, including information and instruction concerning:

- 1) The potential health risk.
- 2) The measures to be taken to prevent exposure.
- 3) Hygiene regulations.
- 4) Use of protective equipment and clothing.
- 5) The measures to be taken by workers in the event of an accident and for the prevention of accidents.

Subsection 2. Training shall

- 1) Take place at the start of the work involving contact with biological agents;
- 2) Be adapted to take account of new or changing risks; and
- 3) If necessary, be repeated regularly.

Section 10. The shipping company shall ensure that instructions to employees are available in writing and, where appropriate, by means of notices, which shall at least specify the procedures to be followed in the event of:

- 1) Serious accidents or incidents related to the handling of biological agents.
- 2) Handling of a biological agent in group 4.

Section 11. The employees or the ship's safety committee shall be informed immediately of any accident or incident which may have resulted in the release of biological agents which may cause human illness.

Section 12. Where there has been exposure to biological agents in risk groups 3 or 4, the company shall keep a list of employees exposed to the biological agents concerned. The list shall include information on the type of work carried out and, if possible, the biological agent by which the workers have been affected and any records of exposures, accidents and incidents.

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Subsection 2. The data on the individual employee shall be kept for at least 10 years after the end of the last exposure.

Subsection 3. In the following cases of exposure to biological agents which may cause infection, the records of each employee shall be retained for 40 years after the last known exposure:

- 1) Exposure to biological agents known to cause persistent or latent infections.
- 2) Exposure where, based on current knowledge, the infection cannot be diagnosed until the disease breaks out many years later.
- 3) Exposure where the infection has a particularly long incubation period.
- 4) Exposure that causes a disease that occasionally flares up again over a long period of time despite treatment.
- 5) Exposure that may cause serious long-term sequelae.

Subsection 4. The company shall give the employees and the ship's security committee access to the information in the list which is not personal. The employer must also give employees access to the information listed about themselves.

Subsection 5. In the event of company's termination, the list shall be sent to the Danish Maritime Authority.

Section 13. The company shall ensure that seafarers and fishermen who are assessed as being likely to be exposed to risks to their safety or health as a result of exposure to biological agents have access to an occupational medical examination prior to employment and at regular intervals thereafter in accordance with the rules on occupational medical examinations in force in the regulations on the working environment on ships.

Penalties and measures, etc.

Section 14. Violation of this Order is punishable by a fine or imprisonment for up to 1 year.

Subsection 2. The penalty may increase to imprisonment for up to 2 years if

- (1) The infringement, including in connection with causing an accident at sea or sailing in breach of good seamanship, has caused injury to life or health or has created a danger thereof;
- (2) A prohibition or an order has previously been issued in respect of the same or a similar matter; or
- 3) The infringement has resulted in or is intended to result in a financial benefit for the person concerned or for others.

Subsection 3. Where no confiscation of the proceeds of the infringement is ordered, the amount of any financial advantage obtained or intended shall be taken into account, in particular in the assessment of any fine, including any additional fine.

Subsection 4. Criminal liability may be imposed on companies or other legal persons in accordance with the rules laid down in Chapter 5 of the Criminal Code.

Subsection 5. In imposing criminal liability under Subsection 4, persons employed to perform work on board the ship by persons other than the shipowner shall also be deemed to be associated with the shipowner. Where a document of compliance under the Safety Management Code or a certificate under the Seafarers' Employment Convention has been issued to another organisation or person, the master and seafarers shall also be deemed to be associated with the person to whom the document has been issued.

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Section 15. If the relationship is covered by an order on the entry into force for Greenland of the Act on Safety at Sea, measures may be taken in accordance with the Criminal Code for Greenland.

Subsection 2. The circumstances referred to in Section 14(2) shall be regarded as aggravating circumstances.

Subsection 3. If no confiscation of proceeds is made, cf. Section 120 of the Criminal Code for Greenland, the amount of any financial benefit obtained or intended shall be taken into account, in particular when imposing a fine, including an additional fine.

Subsection 4. Criminal liability may be imposed on companies, etc., (legal persons) in accordance with the rules laid down in Chapter 5 of the Criminal Code for Greenland.

Subsection 5. If a person is not resident in Greenland, or if the person's connection with Greenlandic society is of such a loose nature that the conditions for the application of measures are not met, the case may be brought or referred for prosecution in Denmark, cf. Section 7 of the Greenland Criminal Code.

Entry into force

Section 16. The Order shall enter into force on 1 July 2021.

The Danish Maritime Authority, 29 June 2021

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/ Peter Mikael Ostenfeld

Annex 1

Indicative list of activities that may be affected by exposure to biological agents, as referred to in Section 2(1)

The list below is intended as an example only and is not exhaustive. If the result of the risk assessment referred to in Section 6 indicates an unintentional exposure to biological agents, there may be other work activities not included in this Annex which should be taken into account.

1. Use of stagnant, insufficiently heated, utility water (*Legionella pneumophila*).
2. Staying in places with mould growth.
3. Work on research and environmental control vessels.
4. Work involving contact with animals, such as transporting animals.
5. Working with sewage on board.

Annex 2

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Classification of biological agents

Biological agents are classified into 4 risk groups according to the degree of risk of infection:

1. A group 1 biological agent means a biological agent that is unlikely to cause infectious disease in humans.
2. A group 2 biological agent means a biological agent that can cause infectious disease in humans and pose a risk to workers; there is a low risk of spread to the community; effective prevention or treatment is usually available.
3. A group 3 biological agent means a biological agent that can cause serious infectious disease in humans and poses a serious risk to workers; there may be a risk of spread to the community but effective prevention or treatment is usually available.
4. A group 4 biological agent means a biological agent that causes serious infectious disease in humans and poses a serious risk to workers; there may be a high risk of spread to the community; there is usually no effective prevention or treatment.

If a biological agent that is not listed in the Order on Biological Agents and the Working Environment cannot be classified with certainty in a risk group, it must be provisionally classified in the highest risk group among those that may be involved.

Annex 3

Basis for the workplace assessment according to Section 6

The assessment referred to in Section 6 shall be made based on all available information, and in particular:

1. The classification of biological agents as set out in the Danish Working Environment Authority's current Order on Biological Agents and the Working Environment.
2. Information on possible allergic or toxic risks related to exposure to biological agents, whether the biological agent belongs to risk group 1 according to the above classification, or whether it belongs to group 2, 3 or 4 and poses allergic or toxic risks in addition to infection risks.
3. Guidance or recommendation from a public authority, including the Danish Working Environment Authority or Danish Health Authority, that the biological agent should be controlled to ensure the safety and health of workers.
4. Information on diseases which may be contracted in the course of work or which have been diagnosed in an employee and which are directly related to work.
5. Information on the work processes during which exposure to biological agents may occur to determine the degree and duration of any exposure.

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Annex 4

Labels and signs indicating a biological hazard, cf. Section 8(1)(No. 1)



The symbol is black on a yellow background

Official notes

¹⁾ The Order contains provisions transposing part of Council Directive 2000/54/EC of 18 September 2000 on the protection of workers from risks related to exposure to biological agents at work (seventh individual Directive in accordance with Article 16(1) of Directive 89/391/EEC), Official Journal 2000, No. L 262, p. 21, as last amended by Commission Directive (EU) 2020/739 of 3 June 2020 amending Annex III to Directive 2000/54/EC of the European Parliament and of the Council as regards the inclusion of SARSCoV-2 in the list of biological agents known to be capable of causing infectious diseases in humans and amending Commission Directive (EU) 2019/1833, Official Journal of the European Union 2020, No. L 175, page 11.