

Technical regulation on administration of the Regulation of the European Parliament and the Council on enhancing ship and port facility security¹

The following shall be laid down pursuant to section 1(3), sections 3, 17(5) and 32 of the Safety at Sea Act (*lov om sikkerhed til søs*), cf. Consolidated Act no. 627 of 26 July 2002, as amended by Act no. 1173 of 19 December 2003 and Act no. 1231 of 27 December 2003 and in consultation with the Minister for Transport, the Minister of Justice and the Defence Minister:

Administrative Provisions

Section 1. The Danish Maritime Authority shall administrate the provisions on enhanced ship security of Regulation (EC) no. 725/2004 of 31 March 2004 of the European Parliament and the Council on enhancing ship and port facility security.

Subsection 2. The Regulation has been printed as annexes to this technical regulation.

Section 2. The Regulation shall apply to:

- 1) ships covered by the SOLAS Convention's special measures to enhance maritime security and the ISPS Code, and
- 2) passenger ships engaged on domestic voyages, of class A, cf. article 4 of Council Directive 98/18/EC of on safety rules and standards for passenger ships as well as their shipping companies, as defined in SOLAS, chapter IX, regulation 1.

Subsection 2. Other categories of ships engaged on domestic voyages and their shipping companies may be fully or partly covered by the provisions of the Regulation after a mandatory security-related risk assessment, which shall be made no later than 1 July 2007, cf. article 3(3) of the Regulation.

Penalties and entry into force

Section 3. Unless more severe punishment is incurred under other legislation, violations of the provisions on enhancing ship security of Regulation (EC) no. 725/2004 of the European Parliament and the Council shall be punishable by a fine or imprisonment for up to one year.

Subsection 2. The penalty may be increased to imprisonment of up to two years, if

- 1) the violation has resulted in damage to the environment, life or health, or risk of such damage,

Translation: Only the Danish version is authentic

- 2) an injunction or order has previously been issued in connection with the same or equivalent situations, or
- 3) the violation has given or has been intended to give financial benefits to the transgressor or others.

Subsection 3. It shall be considered an especially aggravating circumstance if the violation has caused injury to life or health of young people of less than 18 years of age or provoked a risk of injury, cf. subsection (2-1).

Subsection 4. If the benefit obtained through the violation is not confiscated, the size of such benefit obtained shall be taken into account when determining the fine, including supplementary fines.

Subsection 5. Criminal liability may be imposed on corporations etc. (legal persons) according to the rules of Part 5 of the Danish Criminal Code.

Section 4. This technical regulation shall enter into force on 1 July 2004.

The Danish Maritime Authority, 7 June 2004

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¹ As an annex to this technical regulation, Regulation (EC) no. 725/2004 of 31 March 2004 of the European Parliament and the Council on enhancing ship and port facility security, EUT no. L 129 2004, p. 6, is included. Reproduction of the Regulation in this Technical Regulation is exclusively due to practical considerations and does not affect the validity of the Regulation in Denmark.