

## **Order on seafarers' holidays<sup>1</sup>**

In pursuance of section 3(1) and (2) of the holidays with pay act (*ferieloven*), cf. consolidated act no. 202 of 22 February 2013, following consultation with the Danish Agency for Labour Market and Recruitment, and by authority, the following provisions are laid down:

**Section 1.** This order shall apply to employees on board ships, cf. section 1(1) as well as section 49 of the act on seafarers' conditions of employment, etc. (*lov om søfarendes ansættelsesforhold m.v.*), irrespective of the ships' type and trade areas, except for recreational craft, cf. section 2 of the holidays with pay act (*ferieloven*).

*Subsection 2.* In case of doubt whether the person concerned shall be considered as employed on board, the issue shall be decided by the Danish Maritime Authority following prior consultation with the shipowner and seafarer organisations that the issue concerns.

**Section 2.** The holidays with pay act (*ferielov*) in force at any time as well as the regulations laid down pursuant to this act shall also apply to employees who are wage earners unless provided otherwise in sections 3-11 of this order.

**Section 3.** In cases where the shipowner is somebody else than the employer, the obligation to pay wages during holidays or holiday pay shall also rest with the shipowner.

**Section 4.** As regards employees, the Danish Maritime Authority shall exercise the powers transferred to the Minister of Employment or the Director of the Danish Pensions Agency under the holidays with pay act (*ferieloven*). This shall, however, not cover the powers stipulated in section 30(6), sections 32, 34, 42 and 46.

**Section 5.** By collective agreement, it may be agreed that the holiday is held in the calendar year following the qualifying year. It is a condition that the collective agreement at the same time derogates from the provision of section 28(1) of the holidays with pay act (*ferieloven*) on the payment of holiday pay to FerieKonto (holiday account).

*Subsection 2.* Cargo ships engaged on international voyages shall not be covered by section 14(1) of the holidays with pay act (*ferieloven*) as regards the placing of the main holiday unless otherwise agreed.

*Subsection 3.* Where it may be desirable for operational reasons, it may be agreed by collective agreement that the remaining holidays are given as individual days.

**Section 6.** Following negotiations with the wage earner, the employer shall determine when the holiday is to be held. Unless otherwise agreed, the holiday shall be considered to be initiated from the day after the seafarer's arrival in his or her country of residence.

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<sup>1</sup> 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, pp. 30-50.

**Section 7.** As regards employees domiciled outside EU and EEA countries, holiday pay shall be paid for previous and current qualifying years by the shipowner, the employer, FerieKonto or the one administering the holiday pay when the employment relationship is terminated.

**Section 8.** For employees for whom a scheme with holiday payment card with a guarantee for the holiday pay has been arranged by collective agreement, cf. section 31 of the holidays with pay act (*ferieloven*) as well as for employees domiciled outside Denmark, the following shall apply:

- 1) The provisions in force on holiday pay info (*Feriepengeinfo*) shall not apply.
- 2) The shipowner, the employer or the one administering the scheme with holiday payment cards or holiday pay shall not be obliged to report information about holidays to the register of income.

**Section 9.** Employees covered by section 8 and receiving benefits from either an unemployment fund or a municipality shall have their holiday payment card certified by the unemployment fund or the municipality when the employee is on holiday.

*Subsection 2.* The unemployment fund or the municipality shall certify the holiday payment card as regards the number of holidays held and the date when the holiday is initiated. The identity of the unemployment fund or the municipality shall be evident from the certified holiday payment card.

**Section 10.** An administrator of a holiday payment card shall be obliged to inform the employee about his or her earned and remaining holidays, holiday pay and any holiday allowance in case the employee requests this.

*Subsection 2.* Information communicated to the employee in pursuance of subsection 1 shall provide a simple and clear overview.

**Section 11.** Where deviations have been agreed from the provision on the payment of holiday pay to FerieKonto by collective agreement for seafarers, cf. section 31 of the holidays with pay act (*ferieloven*), the contracting parties may use the part of amounts that have not been claimed or paid that shall, pursuant to section 36(2) of the holidays with pay act (*ferieloven*), go to the Danish Labour Market Holiday Fund for special holiday purposes for seafarers. The Danish Maritime Authority may lay down guidelines on and supervise the use of these means.

**Section 9.** This order shall enter into force on 28 March 2015.

*Subsection 2.* At the same time, order no. 1012 of 16 August 2013 on seafarers' holidays shall be repealed.

*Subsection 3.* Sections 8-10 of this order shall apply to the qualifying year 2015 and onwards.

*Subsection 4.* Disputes on holiday earned before the entry into force of this order shall be decided in accordance with the regulations in force until now.

**Section 13.** This order shall not apply to the Faroe Islands and to Greenland.

*Danish Maritime Authority, 26 March 2015*  
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