

Executive Order on navigational safety regarding construction work and other activities in Danish waters

Pursuant to section 1(2) and (3), section 3(1), section 6 and section 32(9) of the Danish Maritime Safety Act, cf. Consolidation Act no. 221 of 11 February 2022, it is laid down pursuant to section 1(1)(3) of Executive 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.:

Chapter 1

Usage and definitions

Application

Section 1. The Executive Order shall apply to matters concerning safety in connection with building and construction work at sea, work on facilities, scheduled events, events and similar activities in Danish waters involving Danish and foreign ships and maritime units.

Subsection 2. The Executive Order also applies to other activities at sea that may affect navigational safety in Danish waters.

Subsection 3. The Danish Maritime Authority may decide whether a given activity, cf. subsection 1, is covered by this Executive Order.

Subsection 4. The Executive Order does not apply to defence activities, including warships, troop transport ships and other ships under the control of the Danish armed forces.

Definitions

Section 2. For the purposes of this Order:

- 1) Pilot vessel: A vessel that has special duties for warning and guiding other ships and vessels.
- 2) Activity: Any work or event, other than ordinary navigation and fishing, which may impair safety to a not insignificant degree or impede freedom of navigation, including maritime construction works, projects, blasting, shooting, scheduled events, etc.
- 3) Autonomous vessel: A vessel that operates entirely or partially without physical human interaction.
- 4) Construction: Work on facilities, structures, bridges, tunnels, harbours, pipelines, etc.
- 5) Danish waters: The internal and external territorial waters and the exclusive economic zone (EEZ).
- 6) Person responsible: Any natural or legal person, or their representative, who plans, initiates or carries out an activity.
- 7) Drone: A craft that is remotely controlled by human behaviour.
- 8) Ships and maritime units: Any form of floating equipment that can be used as a means of transport or work platform in the maritime element, including barges, construction vessels, cranes, submarines, etc.

9) Submarine: A manned vessel used for submerged navigation, including vessels as defined in IMO MSC/Circ. 981 "Guidelines for the design, construction and operation of passenger submersible craft".

Chapter 2

Navigational safety

Section 3. An activity may only be carried out if the person responsible has made a specific assessment of the risk, which shows that navigational safety will not be significantly impaired and that free navigation will not be impeded.

Subsection 2. The assessment of navigational safety, cf. subsection 1, shall be documented. The documentation must be kept for at least three months after the activity has been completed and must be submitted to the Danish Maritime Authority upon request.

Subsection 3. The assessment of navigational safety must include a specific assessment of the relevant risks that the activity entails, as well as a description of preventive measures to minimise and/or prevent these ¹.

Subsection 4. For building and construction work at sea, the Danish Maritime Authority may require the person responsible to prepare an overall risk analysis in accordance with internationally recognised standards².

Subsection 5. Navigation with manned submarines under the surface of the water may not take place without authorisation from the Danish Maritime Authority. An application for authorisation must be submitted to the Danish Maritime Authority no later than 4 weeks before the planned voyage and contain the information specified in Appendix 1.

Subsection 6. Navigation with autonomous vessels or drones controlled without a fixed cable connection may not take place unless authorised by the Danish Maritime Authority. An application for authorisation must be submitted to the Danish Maritime Authority no later than 4 weeks before the planned voyage and contain the information specified in Appendix 2.

Sectio 4. When an activity has a major impact on navigational safety either by virtue of its nature and/or when it is to be carried out in areas where navigational safety may be affected to a particular degree, the person responsible for the activity must submit relevant material about the activity to the Danish Maritime Authority no later than 4 weeks before it is planned to commence.

Subsection 2. Navigational safety may be particularly affected by activities in the following areas, among others:

- 1) Through spans in bridges,
- 2) Narrow shipping lanes and channels,
- 3) Vessel traffic routes,
- 4) Ship routing systems, including traffic separation systems and deep-water routes, etc.³,
- 5) Entrance to harbours, in narrow channels and dug channels,
- 6) Beacon lines and beacon angles; and
- 7) Anchorage areas.

Subsection 3. The deadline referred to in subsection 1 may be waived by agreement with the Danish Maritime Authority if it is demonstrated that the work is of an urgent nature.

Subsection 4. The Danish Maritime Authority's website contains guidance on the material that the Danish Maritime Authority must use for case processing under subsection 1.

Subsection 5. Material under subsection 1 must also be submitted if:

- 1) The person responsible wishes to use preventive measures that require regulatory authorisation,
- 2) Existing water depths will be reduced, or
- 3) Fixed structures must be established that can damage ships in the event of collision.

Danger to navigation

Section 5. If an activity causes danger to the safe or free navigation of ships, the person responsible for the activity must notify the Danish Maritime Authority as soon as possible. When the danger is no longer present, the person responsible must report that the danger is no longer present.

Nautical charts and publications

Section 6. When an activity entails that official nautical charts, harbour plans or descriptions in nautical publications published by the Danish Geodata Agency must be updated, the person responsible for the activity must submit information and drawing material to the Danish Geodata Agency no later than 3 weeks after an activity is completed. The deadline may be deviated from by agreement with the Danish Geodata Agency.

Subsection 2. The water depths indicated for a harbour in official nautical charts, harbour plans or nautical publications, etc., published by the Danish Geodata Agency shall be checked regularly by the harbour, and if water depths less than those indicated are found to be of importance to navigational safety, this shall be reported as soon as possible to both the Danish Maritime Authority and the Danish Geodata Agency.

Subsection 3. In case of doubt, the Danish Geodata Agency can be contacted for guidance on whether there is a need to update official nautical charts, harbour plans or descriptions in nautical publications published by the Danish Geodata Agency.

Vessel Traffic Services (VTS) area

Section 7. Within a VTS area, the person responsible for the activity must cooperate with the VTS on the realisation of an activity.

Communication, etc.

Section 8. In addition to following the applicable rules of navigation, involved ships and maritime units, including guide vessels, must

- 1) Be able to communicate with other ships on the maritime VHF channels and keep a constant listening watch on VHF channel 16 and other relevant channels; and
- 2) Increase their radar visibility if they are less than 12 metres in length at any point, with equipment designed for this purpose.

Subsection 2. If, outside the sea area of a port, work is carried out near the areas mentioned in section 4(2), and the ship or maritime unit has a total length of 12 metres or more, the ship or maritime unit shall be fitted with an Automatic Identification System (AIS) class A.

Subsection 3. Ships and maritime units shall, at all times, have an overview of the vessel traffic in the area, including sailing out from nearby harbours, fjords, shipping lanes, etc., and shall be able to:

- 1) Alert approaching ships of an ongoing activity,
- 2) Provide guidance on how to safely pass through an area; and
- 3) Warn about restrictions or blockages.

Subsection 4. If the tasks referred to in subsection 3 cannot be fully performed by the ships or maritime units involved or from a shore facility, there shall be one or more guidance vessels present in the area where the activity is taking place that can handle the communications referred to in subsections 1 and 3.

Subsection 5. A pilot vessel may only carry ship's lights and signalling devices, as well as emit sound signals authorised by the Law of the sea, and may not, in the course of its navigation, place a ship to be guided in a situation where it has to give way to the pilot vessel, or otherwise interfere with the navigation of other ships.

Chapter 3

Special rules

Seabed activities, surveys, etc.

Section 9. The person responsible for activities on and in the seabed has a duty to investigate the hazards and restrictions that may be associated with them.

Subsection 2. If residues of ammunition, war gases or unidentified objects that may be dangerous are found, work must be temporarily stopped and Navy Command must be contacted.

Subsection 3. Activities on the seabed in prohibited areas where there may be ammunition residues or war gases, etc., require authorisation in accordance with a special procedure, which can be found on the Danish Maritime Authority's website.

Blasting, shooting, etc.

Section 10. In the case of blasting, shooting or other firing, the person responsible must determine a safety distance and a safety area with a sufficient margin within which the blasting, shooting, firing or fallout associated with it can take place.

Subsection 2. The person responsible for the activity must be able to fully monitor the safety area.

Subsection 3. Blasting, shooting or firing may not be carried out if there is any kind of unauthorised ship or person within the safety area.

Subsection 4. The person responsible must cease blasting, shooting or firing if the visibility in the area deteriorates to less than twice the safety distance.

Offshore wind turbines

Section 11. The Danish Maritime Authority may require that offshore wind turbines have a procedure for stopping rotation and disconnecting electricity in the event of an imminent danger of a ship colliding with them. The procedure must be approved by the Danish Maritime Authority.

Being on the water

Section 12. In addition to prohibitions that appear from the regulations for harbours, etc., persons may not, without permission from the Danish Maritime Authority, be on the water or near the following areas, which are shown in the official nautical charts published by the Danish Geodata Agency

- 1) Vessel traffic routes,
- 2) Ship routing systems ⁴⁾, including closer than 2 nautical miles to the ends of traffic separation systems or deep-water routes,
- 3) Bridge spans used for passage, and
- 4) Harbour entrances and exits.

Subsection 2. Recreational diving, swimming, bathing and the like should be avoided in or near the following areas, which are shown in the official nautical charts published by the Danish Geodata Agency

- 1) Anchorage areas,
- 2) Pilot meeting places,
- 3) Beacon lines and beacon angles, and
- 4) Shipping lanes and narrow channels.

Subsection 3. Within the sea area of a harbour, being on the water may take place as determined by the harbour authority if it does not affect the safe and free navigation or manoeuvrability of ships.

Chapter 4

Penalty provisions

Section 13. Violation of the rules in chapters 2 - 3 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 offence has caused harm to life or health or caused 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. 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.

Entry into force

Section 14. This Executive Order shall enter into force on 1 January 2024.

Subsection 2. Executive Order no. 1351 of 29 November 2013 on navigational safety regarding construction works and other activities, etc., in Danish waters is repealed.

The Danish Maritime Authority, 3 October 2023

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Appendix 1

Navigation with manned submarines under the surface of the water

Prior to navigating with manned submarines in a submerged state, the person responsible must submit the following information to the Danish Maritime Authority.

A risk assessment that includes an account of:

- 1) The safety of the voyage and the associated risks,
- 2) The impact on freedom of navigation; and
- 3) The measures taken to prevent possible impacts on safety and vessel traffic in the area.

Information and a substantiated assessment of:

- 1) The operator and the person responsible for the preparation of the risk statement and the information provided,
- 2) The nature and suitability of the area for diving, including depth and bottom conditions, navigation obstacles, etc,
- 3) The expected vessel traffic in the area and the nature of this traffic,
- 4) Plan for warning vessel traffic during diving,
- 5) The need for assistance from surface vessels,
- 6) Possibilities for communication with possible rescue vessels, as well as vessel traffic in the area,
- 7) Use of surface buoys,
- 8) Maximum submersion depth,
- 9) The duration of the dive,
- 10) Procedures for safe submersion and diving,

- 11) The number and composition of the crew,
- 12) The crew member's education, training and experience in operating manned submarines in a submerged state; and
- 13) The vessel's safety instructions, including emergency plans, evacuation plans and the vessel's back-up systems.

Information about the suitability of the vessel

- 1) The vessel is built in accordance with the rules of a recognised organisation or recognised standards, including IMO MSC/Circ. 981, "Guidelines for the design, construction and operation of passenger submersible craft"; and
- 2) The vessel is certified by a recognised organisation and is surveyed at regular intervals as laid down in IMO MSC/Circ. 981, "Guidelines for the design, construction and operation of passenger submersible craft".

The Danish Maritime Authority may require additional information regarding the authorisation and may, based on the submitted material, issue specific orders regarding the vessel's construction, equipment and operation, as well as the planned navigation or activity.

Appendix 2

Navigation with autonomous vessels or drones controlled without a fixed wired connection

Prior to navigation with autonomous vessels or drones controlled without a fixed cable connection, the person responsible must submit the following information to the Danish Maritime Authority.

A risk assessment that includes an account of:

- 1) The safety of the voyage; and
- 2) The impact on the freedom of navigation for vessel traffic in the area.

Information about:

- 1) The nature and suitability of the area for the purpose,
- 2) The expected vessel traffic in the area and the nature of this traffic,
- 3) The need for advance warning of vessel traffic during the voyage and, where appropriate, a plan for this,
- 4) The need for associated auxiliary vessels,
- 5) The planned voyage, including its safety parameters,
- 6) How the voyage can be conducted so that the international Law of the Sea is complied with; and
- 7) How to ensure that the craft/drone is in a safe and secure condition.

The Danish Maritime Authority may require additional information regarding the authorisation. Based on the submitted material, the Danish Maritime Authority may issue specific orders regarding the vessel's construction, equipment and operation, as well as the planned voyage or activity.

Official notes

¹⁾ Guidance on methods for assessing navigational safety and examples of preventive measures, etc., can be found on the Danish Maritime Authority's website.

²⁾ For example, according to the principles of the UN International Maritime Organisation's (IMO) guidance, most recently MSC-MEPC. 2/Circ. 12/Rev. 2, Revised guidelines for formal safety assessment (FSA) for use in the IMO rule-making process.

³⁾ Ship routing systems may consist of the elements specified in IMO Ship's Routing and will be plotted on official charts.

⁴⁾ Ship routing systems may consist of the elements specified in IMO Ship's Routing and will be plotted on official charts.