

Übersetzung durch den Sprachendienst des Bundesministeriums für Verkehr und digitale Infrastruktur.

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Version information: The translation includes the amendment(s) to the ordination by the ordination of 9 June 2016 (Federal Law Gazette I p. 1350)

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Safe Manning Ordinance (SchBesV)

Safe Manning Ordinance of 18 July 2013 (Federal Law Gazette I, p. 2575), as as last amended by ordination of 9 June 2016 Federal Law Gazette I, p.1350)

Pursuant to Section 9 (1), first sentence, no.3, in conjunction with the second sentence and with paragraph 2, third sentence, of the Maritime Shipping (Federal Competences) Act in the version promulgated on 26 July (Federal Law Gazette I p. 2876) of which Section 9 (1), first sentence, no. 3 was last recast by Article 2 (1) (6) of the Act of 20 April 2013 (Federal Law Gazette I p. 868) and Section 9 (2), third sentence, was inserted by Article 2 (1) (6) of the Act of 20 April 2013 (Federal Law Gazette I p. 868), the Federal Ministry of Transport, Building and Urban Development, in agreement with the Federal Ministry of Labour and Social Affairs and the Federal Ministry of Food, Agriculture and Consumer Protection and

pursuant to Section 113 (1), first sentence, no. 2 in conjunction with the second sentence no. 1 of the Maritime Labour Act of 23 April 2013 (Federal Law Gazette I p. 868), the Federal Ministry of Transport, Building and Urban Development, in agreement with the Federal Ministry of Food, Agriculture and Consumer Protection,

decrees:

§ 1

Scope and definitions

(1) This Ordinance shall apply to the manning of merchant vessels flying the flag of the Federal Republic of Germany (ships).

(2) The following definitions shall apply

1. "Maritime Labour Convention" means the 2006 Maritime Labour Convention of the International Labour Organization of 23 February 2006 (Federal Law Gazette 2013 II p.763, 765), as amended,
2. "Berufsgenossenschaft" (Accident Insurance Fund) means the Occupational Accident Insurance Fund for Transport, Post-Logistics Telecommunication,
3. "Citizen of the Union" means a national of a Member State of the European Union.

To the extent that, in accordance with these Regulations, a citizen of the Union holds or has been assigned rights or obligations or that provisions are applicable which require the citizenship of the Union, a national of a Contracting State of the Agreement on the European Economic Area which is not a Member State of the European Union shall be treated in the same way as a citizen of the Union.

§ 2

Obligations of the Shipowner

(1) The shipowner shall man the ship with due regard to the number, competence and qualification of the crew members so as to ensure

1. the safety of the ship,
2. the safe watchkeeping,
3. the observance of the provisions of health and safety at work, including the restrictions on working hours, of on-board medical care and of marine environmental protection,
4. the maintenance of public safety and order on board and
5. the language communication among the crew members.

Moreover, for the manning of the ship, the operational requirements, especially the type of ship, the level of automation, the equipment, the intended use, the sequence of ports, the route and the type of freight carried shall be taken into account.

(2) Without prejudice to his obligation under paragraph 1 and of the obligations of the master under Section 3, the shipowner shall ensure that

1. the ship is manned according to the safe manning document issued pursuant to Section 8 (1),
2. the orders of the Berufsgenossenschaft in accordance with Section 9 (2), first sentence, are complied with and
3. the safe manning document is carried on board.

§ 3

Obligations of the Master

Within the scope of his powers, the master has to ensure on board the ship that

1. the ship under his command is manned according to the safe manning document issued pursuant to Section 8 (1),
2. the orders of the Berufsgenossenschaft in accordance with Section 9 (2), first sentence, are complied with and
3. the safe manning document
 - (a) is carried on board,
 - (b) is presented to the Berufsgenossenschaft, the Federal Police, the customs authorities and the river police of the federal states upon their request and
4. a copy of the safe manning document is displayed at an appropriate location on board.

§ 4

Master

Regardless of the gross tonnage of the ship the master must be a citizen of the Union.

§ 5

Ship officers, ship mechanics, crew members holding watchkeeping certificates

- (1) On ships with a gross tonnage of more than 500, at least one officer of the deck or engine department must be a citizen of the Union. On ships with a gross tonnage of more than 8,000, a further ship officer must be a citizen of the Union in accordance with the first sentence.
- (2) On ships with a gross tonnage of more than 1,600 and a propulsion power as from 750 kW, one ship mechanic must work in this function in accordance with the Ordinance on the Vocational Training for Seafarers. Trainees pursuant to the Ordinance on the Vocational Training for Seafarers in the second or third year of their traineeship shall be treated in the same way as ship mechanics in accordance with the first sentence.
- (3) On ships with a gross tonnage of more than 1,600, at least one crew member among those holding a watchkeeping certificate must be a citizen of the Union. On ships with a gross tonnage of up to 3,000, the ship mechanic required under paragraph 2 may be replaced by another crew member holding a watchkeeping certificate in accordance with the first sentence.

§ 6

Ship's Doctor, Health Care and Nursing Personnel

- (1) On ships engaged on voyages of more three days and with 100 persons or more on board a ship's doctor qualified in accordance with the requirements of the Marine Labour Act must be available on board who is responsible for providing medical care. The first sentence shall not apply if the ship is approved exclusively for domestic voyages. In the case of a trial run, the first sentence shall apply regardless of the duration.
- (2) On ships with more than 800 persons on board, paragraph 1 shall apply with the proviso that a second ship's doctor must be available.
- (3) On ships with a ship's doctor, a health care worker and a nurse must be available on board. On ships with more than 500 persons, two health carer workers and nurses must be available on board, on ships with more than 800 persons, three health care workers and nurses and on ships with more than 1,200 persons, four health care workers and nurses. For trial runs, these personnel may be replaced by the relevant number of paramedical or rescue personnel.

§ 7

Ship's Cook

- (1) On every ship, a ship's cook who is trained and qualified to prepare food must be available. This function may be assumed by crew members who
1. hold a certificate on the final examination as a professional cook or any other related regulated profession in accordance with domestic legislation or
 2. hold a certificate issued by a Chamber of Industry and Commerce on the participation in a hotel and catering training course in accordance with the legislation governing restaurants, pubs and bars or
 3. can furnish proof of their qualification to work as a ship's cook issued by a Contracting Party to the Maritime Labour Convention or
 4. hold any equivalent proof issued by a state other than those mentioned in no. 3.
- Crew members under 18 years of age must not work as ship's cook.
- (2) On ships requiring less than ten crew members, the shipowner may do without a ship's cook pursuant to paragraph 1 if the crew member who is responsible for the preparation of food has undergone training or received instructions in the sectors of foodstuffs and personal hygiene as well as with regard to the handling and storing of food supplies.

§ 8

Safe Manning Document

- (1) At the request of the shipowner, the Berufsgenossenschaft shall issue a safe manning document according to the model published in the Gazette of the Federal Ministry of Transport, Building and Urban Development if the requirements set out in Section 2 paragraphs 1 and 2 and in Sections 4 to 7 are complied with. It shall be possible to add, even subsequently, ancillary provisions to the safe manning document. Ships with a length of up to eight metres shall not require a safe manning document.
- (2) The safe manning document shall be valid for a period of five years from the date of issue. The Berufsgenossenschaft may adopt a shorter period of validity if, when submitting the application in accordance with paragraph 1, it is foreseeable that paragraph 3 becomes applicable due to the operation of the ship as well as in the cases specified in Section 10 (1).
- (3) The shipowner shall be obliged to immediately notify changes in the preconditions underlying the granting of the safe manning document and to apply for a safe manning document adapted accordingly. If the Berufsgenossenschaft issues a new safe manning document in this case, it will seize the previous safe manning document.

§ 9

Monitoring

- (1) The Berufsgenossenschaft shall monitor the observance of the provisions of this Ordinance and shall perform the necessary inspections. For this purpose, it may resort to the assistance for enforcement of the river police forces of the federal states in accordance with the agreements between the Federal Government and the federal states on the exercise of the executive functions of the shipping police as well as to the assistance of the Federal Police and the customs authorities.
- (2) If the ship does not have a valid safe manning document or if the ship is not manned according to the safe manning document, the Berufsgenossenschaft shall prohibit its departure or onward voyage or only grant permission to do so subject to conditions and requirements which ensure the safety of the ship and the persons on board. The Berufsgenossenschaft shall immediately inform the competent port authority about a prohibition to depart or proceed which is imposed in ports.

§ 9a

Ensuring safe watchkeeping

- (1) The shipowner and the master have to ensure that all crew members detailed for watchkeeping know and adhere to the regulations, principles and instructions contained in the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers of 7. July 1978 (BGBl 1982 II S. 297) as amended (STCW Convention) so that it is assured that watches are stood at all times in a manner that is adequate to the prevailing circumstances and conditions and without temporal interruptions.
- (2) Furthermore, the master has especially to ensure that, under the master's general direction,
1. officers in charge of the navigational watch during their periods of duty shall be physically present on the navigating bridge or in a directly associated location such as the chartroom or bridge control room at all times, and are responsible for navigating the ship safely,
 2. officers in charge of an engineering watch under the direction of the chief engineer officer, shall immediately be available and on call to attend the machinery spaces and, when required, shall be physically present in the machinery space during their periods of responsibility,
 3. an appropriate and effective watch are maintained for the purpose of safety at all times, while the ship is at anchor or moored and, if the ship is carrying hazardous cargo, the organization of such watches takes full account of the nature, quantity, packing

and stowage of the hazardous cargo and of any special conditions prevailing on board, afloat or ashore, and

4. appropriate and effective watches are maintained for the purpose of security.

Sentence 1 number 1 does not apply on fishing craft in coastal fishing and in high sea fishing.

§ 10

Exceptions

(1) Upon the request of the shipowner, the Berufsgenossenschaft may issue further safe manning documents for a specific ship if the operational requirements so justify or require. In the case of the first sentence, Section 8 (3), second sentence, shall not apply.

(2) In emergencies, the Berufsgenossenschaft may grant an exemption according to which a ship may, by derogation from Section 2 (2) (1) and Section 3 (1), during a certain leg of the voyage, depart or proceed with a crew other than that stated in the safe manning document. The first sentence shall apply in particular if a crew member is, due to serious illness or any other circumstances for which neither the shipowner nor the master are responsible, prevented from performing the tasks assigned to him on board the ship.

(3) In emergencies, the Berufsgenossenschaft may grant an exemption according to which, by derogation from Section 7 (1), any other crew member may perform the tasks of a ship's cook for a limited period of time until reaching the next easily accessible port of call or for a maximum period of up to one month. In such cases, the crew member must have undergone training or received instructions in the sectors of hygiene of foodstuffs and personal hygiene as well as with regard to the handling and storing of foodstuffs on board to such an extent as is necessary for the performance of the tasks.

§ 11

Administrative offences

An administrative offence under Section 15 (1) (2) of the Maritime Shipping (Federal Competences) Act shall be deemed to have been committed by anyone who, either intentionally or negligently:

1. contrary to Section 2 (2) (1) or Section 3 (1), does not ensure that the ship is manned,
2. contrary to Section 2 (2) (3) or Section 3 (3) (a), does not ensure that the safe manning document is carried on board,
3. contrary to Section 3 (3) (b), does not ensure that the safe manning document is presented to an agency mentioned there,
4. contrary to Section 3 (4), does not ensure that a copy of the safe manning document is displayed or
5. fails to comply with an enforceable order or an enforceable requirement in accordance with Section 9 (2), first sentence.

§ 12

Transitional provisions, implementation provisions

(1) The effectiveness of a safe manning document issued before the entry into force of this Ordinance shall not be affected by its entry into force.

(2) Until the expiration of 30 June 2021, § 5 is to be applied in the following version:

§ 5

Ship officers

On ships with a gross tonnage of more than 8,000, at least one officer of the deck department or engine department must be a citizen of the Union.

(3) The effects of section 2 will be evaluated after the expiration of four years, starting on 17 June 2016.

§ 13

Entry into force, termination

- (1) The present Ordinance shall enter into force on 1 August 2013.
- (2) At the same time, the Safe Manning Ordinance of 26 August 1998 (Federal Law Gazette I p. 2577) as last amended by Article 524 of the Ordinance of 31 October 2006 (Federal Law Gazette I p. 2407) shall cease to have effect.