

Translation: Only the Danish document has legal validity.

*Order no. 462 of 11 May 2018
issued by the Danish Maritime Authority*

Order on third party liability insurance of speedboats with a hull length of less than 15 metres, water scooters and similar vessels

Pursuant to section 154 a(4) and section 514 a of the merchant shipping act (*Søloven*), cf. consolidated act No. 75 of 17 January 2014, as amended by act No. 374 of 1 May 2018, the following shall be laid down following authority under section 1(1)(x) of order No. 744 of 24 June 2013 on transfer of certain powers to the Danish Maritime Authority and on the right of appeal, etc.:

Section 1. A Danish speedboat with a hull length of less than 15 metres, a Danish water scooter and a similar Danish vessel, for the operation of which training requirements are prescribed for the master or any mate, shall, cf. section 154 a(1) of the merchant shipping act, be covered by an insurance to cover claims for damage caused by the vessel in connection with an accident at sea. Such insurance shall allow for the possibility of obtaining indemnity within the limits of liability stipulated in section 175 of the merchant shipping act. The duty to take out insurance shall rest with the person using the vessel or allowing the vessel to be used.

Subsection 2. For vessels that are used or allowed to be used by a central government, local government or a region, self insurance shall be equivalent to insurance, cf. section 154 a(2) of the merchant shipping act.

Subsection 3. However, pursuant to section 155 of the merchant shipping act, the provisions do not apply to warships or other ships owned or used by a central government and which are used for governmental, non-commercial purposes.

Duty to take out insurance for foreign vessels

Section 2. A foreign speedboat with a hull length of less than 15 metres, a foreign water scooter and a similar foreign vessel shall be covered by an insurance to cover claims for damage caused by the vessel in connection with an accident at sea provided that the master or any mate would be subject to training requirements had the vessel been Danish. The insurance company is liable towards injured parties to pay indemnity.

Subsection 2. Subsection 1 shall not apply to a foreign vessel in innocent passage without calling at or departing from a Danish port or coast or Danish internal waters. Vessels calling at Danish internal waters, but not a Danish port or coast as part of a passage, which is covered by the special strait regime, are not covered by the duty to take out insurance.

Subsection 3. The vessels specified in subsection 1 may only be operated by persons covered by the insurance.

Subsection 4. Section 1(1), second and third sentences, and section 1(2) and (3) shall also apply to insurance as specified in subsection 1. If the owner of the vessel or the person using the vessel or allowing it to be used, where that person is not the owner, resides in or has its registered office in Denmark, section 3(1), sections 4 and 6(1)-(5) shall also apply.

Duty to contract etc.

Section 3. Insurance for a speedboat with a hull length of less than 15 metres, a water scooter or a similar vessel comprised by section 1 shall be taken out with an insurance company which is a member of the association of insurance companies to take over liability for uninsured and unknown speedboats with a hull length of less than 15 metres, water scooters and similar vessels. Any liability insurance company that legally offers insurance in Denmark covering third party liability for speedboats, water scooters or similar vessels, is obligated to be a member of the association.

Subsection 2. Liability insurance companies which are members of the association are obligated to issue insurance to any person required to take out insurance who requests insurance with the company and is willing to submit to the insurance company's general conditions. This shall also apply to foreign vessels covered by section 2.

Subsection 3. The commencement of the insurance shall coincide with the reception of the insurance request by the company or its agent, unless the policyholder has requested a later commencement date.

Section 4 The company shall issue the insurance so that any liability for damage caused by the vessel in connection with an accident at sea affecting a third party rests with the company, regardless of who is liable. The fact that the policyholder acts against or fails to meet his/hers/its obligations towards the company shall not entitle the company to refuse payment to an injured party who is entitled to indemnity.

Subsection 2. If the company pays the amount of indemnity to the policyholder, it does so at its own risk, meaning that the company is liable towards the party entitled to indemnity, for any loss suffered by such party if the party therefore does not benefit from the indemnity.

Subsection 3. Subject to the restriction provided by section 154 b(2) of the merchant shipping act, the insurance company and the policyholder may agree that the policyholder carries the risk of any claims covered by the insurance in full or in part. The parties may not agree that the injured party should carry all or part of the risk.

Guarantee scheme

Section 5. The association of insurance companies to take over liability for uninsured or unknown speedboats with a hull length of less than 15 metres, water scooters and similar vessels has accepted an obligation vis-à-vis the Danish Maritime Authority to cover claims assumed to be caused by unknown vessels and – against recovery from the responsible party – to pay the indemnity in cases where the damage is caused by a speedboat with a hull length of less than 15 metres, a water scooter or a similar vessel for which no insurance has been taken out, or for which insurance has been taken out but has been terminated by the company or has not been kept in force. This shall apply regardless of whether the vessel is Danish or foreign. Indemnity is not provided in excess of the amounts specified in section 175 of the merchant shipping act. However, the association shall not cover vessels that are used or allowed to be used by a central government, local government or region.

Certificates, etc.

Section 6. The insurance company shall issue a certificate, which may be in digital format, to the policyholder. The certificate must confirm that the insurance taken out complies with the provisions of the merchant shipping act and this order. The certificate may consist of digital information to the effect that the insurance provides the required cover as well as access to check that the insurance is in force.

(2) In addition to the information specified in subsection 1, the certificate shall specify

1) the vessel's HIN number (Hull Identification Number) or other unambiguous identification of the vessel and

2) the name and address of the insurance company and the policyholder.

Subsection 3. For vessels covered by a central government's, local government's or region's self insurance, a proof issued by the relevant government authority or the financial controller of the local government or region to the effect that the ship in question is covered by the self-insurance scheme shall be equivalent to the certificate specified in subsection 1. Subsection (2) shall apply similarly.

Subsection 4. If the insurance terminates, the certificate shall be returned, destroyed or deleted.

Subsection 5. During sailing, the operator of a vessel shall be in possession of the certificate or proof of self insurance, cf. subsections 1-3. If the insurance company has not established a scheme that allows the authorities to check digitally whether the insurance is in force, the operator shall, during sailing, also be in possession of proof that the insurance premium has been paid. The vessel may not be used without a valid certificate, if necessary together with documentation that the insurance premium has been paid, or proof of self insurance. The certificate and proof shall be provided on demand to the authorities, cf. section 154 a(3) of the merchant shipping act.

Subsection 6. The operator of a foreign vessel that is not covered by subsections 1-5, cf. section 2(3), second sentence, must be able to document that insurance has been taken out in accordance with section 2.

Penalty

Section 7. A fine shall be imposed on any person who fails to insure the vessel subject to section 1 or 2 or violates section 3, 4 or 6.

Subsection 2. Companies, etc. (legal persons) may incur criminal liability under the rules of Part 5 of the criminal code.

Entry into force, etc.

Section 8. This order shall enter into force on 15 May 2018.

Subsection 2. Until 1 January 2019, the certificates specified in section 6(1), (2), (4) and (5) may consist of the insurance policy, if necessary together with documentation that the insurance premium has been paid.

Section 9. This order does not apply to the Faroe Islands and Greenland.

Danish Maritime Authority, 11 May 2018

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