

# Safety of Navigation Ordinance (SeeFSichV)

## Working Translation of parts of

### Verordnung über die Sicherung der Seefahrt (SeeFSichV)

#### **Purpose:**

In the following text, some passages have been translated and highlighted in yellow, mainly for the purpose of the course "German Maritime Law".

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## Safety of Navigation Ordinance (SeeFSichV)

SeeFSichV 1993

Ausfertigungsdatum: 27.07.1993

Vollzitat:

"Verordnung über die Sicherung der Seefahrt vom 27. Juli 1993 (BGBl. I S. 1417), die zuletzt durch Artikel 544 der Verordnung vom 31. August 2015 (BGBl. I S. 1474) geändert worden ist"

**Stand:** Zuletzt geändert durch Art. 544 V v. 31.8.2015 I 1474

### Fußnote

(+++ Textnachweis ab: 8.8.1993 +++)

### Eingangsformel

Auf Grund des § 9 Abs. 1 Satz 1 Nr. 2 und 6 und Abs. 3 des Seeaufgabengesetzes in der Fassung der Bekanntmachung vom 21. Januar 1987 (BGBl. I S. 541) und des § 36 Abs. 3 des Gesetzes über Ordnungswidrigkeiten in der Fassung der Bekanntmachung vom 19. Februar 1987 (BGBl. I S. 602) verordnet das Bundesministerium für Verkehr im Einvernehmen mit dem Bundesministerium der Justiz:

### Section 1 Scope

(1) This Ordinance shall apply on the maritime waterways and, moreover, to sea-going ships, including traditional ships and pleasure craft within the meaning of the Ship Safety Ordinance (SchSV) of 18 September 1998 (Federal Law Gazette I, pp. 3013, 3023) as amended, entitled to fly the flag of the Federal Republic of Germany.

(2) This Ordinance shall not apply to ships of the Federal Armed Forces.

(3) "Other person responsible for safety" within the meaning of this Ordinance shall be the person entrusted with tasks concerning the safety of navigation, within the scope of the tasks and powers assigned to him or her.

### Section 2 Provision of assistance in cases of distress at sea

(1) The master, or other person responsible for safety, of a ship at sea that is able to provide assistance and informed of persons being in distress at sea shall come to their rescue at maximum speed and, if possible, inform them or the relevant search and rescue service accordingly. The orders of the bodies that identify themselves vis-à-vis the master or other person responsible for safety as the organization entrusted with the coordination of search and rescue in cases of distress at sea in accordance with Chapter II of the Annex to the International Convention on Maritime Search and Rescue of 6 November 1979 (Federal Law Gazette 1982 II, p. 485) shall be complied with.

(2) If the ship that receives the distress alert is incapable of providing assistance or if the master or other person responsible for safety considers it unacceptable or unnecessary to provide assistance due to special circumstances, he shall, without delay, enter the reason for not providing assistance into the ship's logbook and inform the relevant search and rescue service.

(3) The master, or other person responsible for safety, of a ship in distress or the responsible rescue service shall, after conferring, if possible, with the masters, or other persons responsible for safety, of the ships that responded to the distress at sea alert, be authorized to requisition one or several ships that the master, or other person responsible for safety, of the ship in distress or the search and rescue service deems best suited to provide assistance. The master, or other person responsible for safety, of the requisitioned ship or the masters, or other persons responsible for safety, of the requisitioned ships shall be obliged to comply with the requisition by continuing to come to the rescue of the persons in distress at maximum speed.

(4) Masters or other persons responsible for safety shall, subject to subsection 5, be released from the obligation under subsection 1 as soon as they are informed that their ships have not been requisitioned or that one or several other ships have been requisitioned and are complying with that requisition. If a ship is not requisitioned, this shall, if possible, be communicated to the other requisitioned ships as well as to the search and rescue service.

(5) The master, or other person responsible for safety, of a ship shall only be released from the obligation under subsection 1 and, if his ship has been requisitioned, from the obligation under subsection 3, once he is informed by the persons in distress, the search and rescue service or the master of another ship which has reached these persons that the provision of assistance is no longer necessary.

### § 3

(weggefallen)

### § 4

(weggefallen)

### § 5

(weggefallen)

## Section 6 Special provisions on the behaviour after collisions

(1) If ships have collided, the masters or other persons responsible for safety involved shall provide assistance to all persons affected by the collision, provided they are able to do so without putting their ship and the persons on board at considerable risk.

(2) The masters or other persons responsible for safety shall keep their ships together until they are satisfied that no further assistance is required. If they continue their voyage, they shall inform the other craft involved in the collision of their name and address as well as the name, distinctive number or letters, home port and the ports of departure and destination of their ship. If a master or other person responsible for safety cannot comply with the obligation under the first sentence, he shall record this along with the reasons in the ship's logbook if he is under an obligation to maintain one. The master or other person responsible for safety shall inform the port administration of the next port of call that he did not comply with his obligation under the first sentence.

(3) The provisions of subsections 1 and 2 shall apply accordingly to collisions with shipping installations of any kind.

## Section 7 Reporting of certain events with relevance for maritime safety

(1) The master of a ship that flies the flag of the Federal Republic of Germany or, if the master is indisposed, any other member of the crew or, if none of these persons is able to do so, the operator of the ship shall, without delay, report to the Federal Bureau of Maritime Casualty Investigation (BSU) any event concerning the ship that is relevant to maritime safety within the meaning of subsection 2 and transmit the following information, if possible:

1. name and current whereabouts of the reporting person;
2. location (geographical position) and time at which the event occurred;
3. name, IMO ship identification number, distinctive number or letters and flag of the ship as well as the maritime mobile service identity (MMSI) of that ship;
4. type, purpose, length and draught of the ship;
5. name of the operator of the ship;
6. name of the responsible master;
7. last port of departure and next port of call of the ship;
8. number of crew members and further persons on board;
9. extent of personal injury and damage to property;
10. information on goods carried;
11. account of the course of the event;
12. information about other ships involved in the event;
13. weather conditions;
14. description of the risk of marine pollution.

(2) It shall be compulsory to report the following:

1. any event resulting in at least one of the following consequences:

- a) death or severe injury of a person caused by or in connection with the operation of a ship;
- b) the disappearance of a person from a ship caused by or in connection with the operation of a ship;
- c) loss, probable loss or abandonment of a ship;
- d) damage to a ship;
- e) running aground or shipwreck of a ship or involvement of a ship in a collision;
- f) property damage caused by or in connection with the operation of a ship;
- g) environmental damage as the result of damage to one or several ships caused by or in connection with the operation of one or several ships;

2. any event caused by or in connection with the operation of a ship that endangers a ship or a person or that could result in severe damage to a ship, a marine-engineering structure or the environment.

(2a) If an event within the meaning of subsection 2 occurs, the master of a ship navigating the German maritime waterways shall, without prejudice to subsections 1 and 2, report the following information to the relevant responsible traffic service centre without delay:

1. identification of the ship (name, distinctive number or letters, IMO ship identification number);
2. position of the ship;
3. total number of persons on board;
4. ship's last port of departure and next port of call;
5. name and communications link via which detailed information on the ship's cargo can be obtained;
6. details of the event.

The information referred to in the first sentence shall also be reported where containers, breakbulk cargo or sludges of environmentally hazardous substances drifting at sea are observed.

(3) Irrespective of subsection 1, the German Social Accident Insurance Institution for the Transport Industry (BG Verkehr), a classification society commissioned by or on behalf of the shipowner and the pilots of the ship concerned shall also be under an obligation to report to the Federal Bureau of Maritime Casualty Investigation (BSU) the occurrence of the events specified in subsection 2.

(4) The federal shipping police authorities shall, without delay, notify the Federal Bureau of Maritime Casualty Investigation (BSU) of any event within the meaning of subsection 2 that falls within the scope of their activities within the framework of addressing and combating threats within the meaning of the Maritime Shipping Responsibilities Act (SeeAufgG).

(5) For completion of the report, the operator of the ship shall be obliged to submit, at the request of the Federal Bureau of Maritime Casualty Investigation (BSU), a comprehensive account on a form transmitted to him.

### **Section 7a Provisions on the behaviour after reportable events**

A master obliged to report an event under Section 7(2) and (2a) shall ensure, in the interest of a proper marine safety investigation, that:

1. all information from charts, ships' logbooks, electronic and magnetic recordings and video tapes, including information from the voyage data recorder and other electronic devices relating to the period preceding, during and after the marine casualty are secured and such devices are protected against malfunction;
2. the overwriting of or alterations to the information referred to in para. 1 are prevented;
3. other devices legitimately deemed essential for the safety investigation of the marine casualty are protected against malfunction;
4. all evidence for safety investigations of the marine casualty is collected and secured without delay.

### **Section 7b Reporting and removal of the wreck**

(1) The master of the ship, the other person responsible for safety of the ship and the operator of the ship shall, without delay, inform the relevant responsible vessel traffic service centre in accordance with subsection 3 if the ship was involved in a marine casualty resulting in a wreck located in the German exclusive economic zone. If one of the persons mentioned in the first sentence has made the report, the obligation to report of the other persons mentioned in the first sentence shall be deemed fulfilled.

(2) If the wreck is located:

1. in the exclusive economic zone;
  2. in the further convention area within the meaning of Article 1(1) of the Nairobi International Convention on the Removal of Wrecks, 2007 (Federal Law Gazette 2013 II, pp. 530, 531) (Wreck Removal Convention); or
  3. where the scope of application of the Convention has been expanded to include it, in the territorial sea;
- of another State Party, the report referred to in the second sentence and subsection 3 shall be addressed to the competent authority of that state. The Federal Ministry of Transport and Digital Infrastructure shall publish the reporting bodies referred to in the first sentence in the Federal Ministry of Transport Gazette.

(3) The reports referred to in subsections 1 and 2 shall contain the following information:

1. name and principal place of business of the registered owner;
2. geographical position of the wreck;
3. type, size and design of the wreck;
4. nature of the damage and condition of the wreck;
5. type and quantity of cargo, in particular of dangerous or toxic substances; and
6. quantities and types of oil on board, including bunker and lubricating oil.

(4) A marine casualty within the meaning of this provision is a collision of ships, the running aground or any other nautical incident or event on board or outside the ship that causes, or leads to an imminent risk of, damage to the ship or its cargo.

(5) A wreck resulting from a marine casualty within the meaning of this regulation is:

1. a ship that has sunk or run aground;
2. any part of a ship that has sunk or run aground, including all items that are or have been on board the ship;
3. all items a ship lost at sea and that have stranded or sunk or that are drifting on the sea; or
4. a ship that is sinking or running aground or a ship that will most likely sink or run aground if no effective measures are taken to assist the ship or the item in danger.

#### Footnote

(+++ Section 7b: see Section 11 in conjunction with the Notice of 12 March 2015 (Federal Law Gazette I, p. 320) re application +++)

#### § 7c Wrackbeseitigung im Ausland

In den Fällen des § 7b Absatz 2 kann die Generaldirektion Wasserstraßen und Schifffahrt anordnen, dass der eingetragene Eigentümer eines Schiffes, das die Bundesflagge führt, seiner Verpflichtung zur Beseitigung eines Wracks nach Artikel 9 Absatz 2 des Wrackbeseitigungsübereinkommens nachzukommen und vom zuständigen Küstenstaat dazu festgelegte Anforderungen einzuhalten hat, wenn der zuständige Küstenstaat festgestellt hat, dass von dem Wrack eine Gefahr ausgeht.

#### Fußnote

(+++ § 7c: Zur Anwendung vgl. § 11 vgl. Bek. v. 12.3.2015 I 320 +++)

#### Section 8 Ships' routeing – ship reporting systems

(1) The master or other person responsible for safety shall apply those provisions on the ships' routeing systems approved by the International Maritime Organization (IMO) that are mandatory for the type or cargo of his ship. This shall not apply if a specific ships' routeing system cannot be used for compelling reasons. Such reasons shall be entered into the ship's logbook without delay.

(2) The master or other person responsible for safety shall comply with those provisions on ship reporting systems approved by IMO that are mandatory for the type or cargo of his ship and shall report, without delay, all information required in accordance with the respective ship reporting system to the competent authority upon its request.

(3) The Federal Ministry of Transport and Digital Infrastructure shall publish for information purposes the ships' routeing systems mentioned in subsection 1 and the ship reporting systems mentioned in subsection 2 in the

Notices to Mariners (official shipping publication of the Federal Maritime and Hydrographic Agency, BSH).

### § 8a Befahren des Panamakanals

Der Betreiber eines Seeschiffes unter Bundesflagge, das den Panamakanal befahren will, hat sicherzustellen, dass

1. spätestens nach dem Einlaufen in den ersten Hafen des Kanals die Regeln für das Befahren des Panamakanals in der jeweils geltenden Fassung sich an Bord befinden und mitgeführt werden und
2. die für die Durchfahrt allgemein anerkannten Regeln der Technik und der seemännischen Praxis eingehalten werden.

### Section 9 Decision-making independence of the master in the interest of safe navigation

The master shall not be prevented by the owner, charterer or any other person from making a decision that, in the master's professional judgement, is necessary for safe navigation, in particular in the case of rough weather and seas.

### Section 10 Administrative offences

(1) An administrative offence as defined by section 15(1)(2) of the Maritime Shipping Responsibilities Act (SeeAufgG) shall be deemed to have been committed by anyone who, either intentionally or negligently:

1. in contravention of the second sentence of Section 2(1) or the second sentence of Section 2(3), does not comply with an order mentioned therein or does not, or not in the prescribed manner, comply with a requisition;
2. in contravention of Section 2(2), does not make an entry or does not make it correctly, makes it incompletely or not in a timely manner or does not inform the search and rescue service, does not inform it correctly, informs it incompletely or not in a timely manner;
3. in contravention of Section 6(1), also in conjunction with subsection 3, does not assist a person affected by the collision;
4. in contravention of Section 6(2), also in conjunction with subsection 3, does not behave in the prescribed manner after a casualty, does not enter the required information into the ship's logbook or does not inform the port administration;
5. in contravention of Section 7(1) or the first sentence of section 7(2a), also in conjunction with the second sentence, does not make a report, does not make it correctly or does not make it in a timely manner;
- 5a. in contravention of the first sentence of Section 7b(1), also in conjunction with the first sentence of Section 7b(2), does not make a report, does not make it correctly, makes it incompletely or does not make it in a timely manner;
- 5b. acts in contravention of an enforceable order pursuant to Section 7c;
6. in contravention of the first or third sentence of Section 8(1), does not apply a provision mentioned therein or does not make an entry, does not make it correctly, makes it incompletely or does not make it in a timely manner; or
7. in contravention of the Section 8(2), does not comply with a provision mentioned therein or does not make a report, does not make it correctly, makes it incompletely or does not make it in a timely manner.

(1a) An administrative offence as defined by section 53(1)(1) of the Maritime Safety Investigation Act (SUG) shall be deemed to have been committed by anyone who, either intentionally or negligently, in contravention of Section 7a, does not ensure that the information specified therein is secured, its overwriting or other alteration is prevented, devices are protected or evidence is collected or secured.

(2) The responsibility for the prosecution and punishment of administrative offences under subsections 1 and 1a shall be transferred to the Federal Waterways and Shipping Agency (GDWS).

### Footnote

(+++ Section 10(1)(5a) and (5b): see Section 11 in conjunction with the Notice of 12 March 2015 (Federal Law Gazette I, p. 320) re application +++)

## **§ 11 Übergangsregelung**

(1) Die §§ 7b, 7c und 10 Absatz 1 Nummer 5a und 5b sind erst ab dem Tag anzuwenden, an dem das Wrackbeseitigungsübereinkommen für die Bundesrepublik Deutschland in Kraft tritt.

(2) Das Bundesministerium für Verkehr, Bau und Stadtentwicklung gibt den in Absatz 1 bezeichneten Tag im Bundesgesetzblatt bekannt.

### **Fußnote**

(+++ § 11 Abs. 2: Zur Anwendung ab dem 14.4.2015 vgl. Bek. v. 12.3.2015 I 320 +++)

### **Anlage 1**

(weggefallen)

### **Anlage 2**

(weggefallen)