

**Guidelines of 28th June 2022
regarding reimbursement
in connection with oil pollution
incidents**



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In case of possible interpretive disputes between the English translation and the original Danish version of these guidelines, the Danish version prevails.

1. Legal framework

In accordance with section 34 of the Danish Act on Protection of the Marine Environment, the Minister of Defence in cooperation with the emergency management authorities is responsible for combating pollution by oil and chemicals.

According to section 183, sub-section 1, section 190a, section 191, sub-section 1, and section 206, sub-section 2, of the Danish Merchant Shipping Act, the owner of a vessel is liable (strict liability) for any and all expenses resulting from reasonable measures taken in connection with incidents which cause or threaten to cause harm to the environment by oil.

The term "harm to the environment" must be understood as loss or damage external to the vessel, and refers to pollution caused by the expulsion of oil.

The abovementioned rules are supplemented by section 44, sub-section 1, in the Danish Act on Protection of the Marine Environment. According to section 44, the owner of a vessel is liable (strict liability) for any and all expenses for reasonable measures taken in connection with an incident. This includes leakage or risk of leakage of oil, hazardous or noxious substances.

The rates in these guidelines apply to contingency and combating operations initiated on the 28th June 2022 and onwards, until new guidelines are published. The previous guidelines, "*Note regarding the calculation of claims in connection with oil pollution incidents – 2021*", will then only apply to contingency and combating operations initiated on the 24th september 2021 until 27th June 2022 (both dates included).

2. Royal Danish Navy, Danish Coastal Rescue Service and Naval Home Guard vessels

The Royal Danish Navy has four environmental vessels: two large environmental vessels of the SUPPLY class named GUNNAR THORSON (GUTH) and GUNNAR SEIDENFADEN (GUNS), and two smaller environmental vessels of the SEATRUCK class named MARIE MILJØ (MARI) and METTE MILJØ (METT).

GUNNAR THORSON and METTE MILJØ are based in the port of Frederikshavn, and GUNNAR SEIDENFADEN and MARIE MILJØ are based in the port of Korsør.

Furthermore, the Royal Danish Navy has six naval vessels of the DIANA-class that patrol the Danish Waters and carry out maritime surveillance, environmental surveillance and pollution control.

In addition, the Danish Coastal Rescue Service has rescue vessels that are divided into two categories: Medium rescue vessels (category 1) and light rescue vessels (category 2).

The vessels of the Naval Home Guard are divided into two categories: MHV 800-class and MHV 900-class.

The costs of deployment of environmental and naval vessels are calculated based on the actual expenditures incurred in connection with the specific deployment, while the costs of deployment of rescue vessels and the vessels of the Naval Home Guard are calculated based on an hourly rate.

2.1. Environmental and naval vessels

2.1.1. Maintenance expenses

The maintenance expenses of the Royal Danish Navy's vessels cover spare parts, services, use of stock and salaries.

The calculation of the maintenance expenses are based on the number of days the vessels are available for deployment. The periods where the vessels cannot be deployed within the fixed response time are deducted. The calculation therefore includes the vessels' maintenance cycle – from one periodical survey through periodical dock time and other maintenance tasks to the next periodical survey.

The maintenance rates for 2022 are calculated based on a 5-year average of maintenance expenses starting from 2017 and balanced against the available sailing days as demonstrated in the following table:

Maintenance expenses ENVIRONMENTAL AND NAVAL VESSELS						
All prices are in DKK						
TYPE	2017	2018	2019	2020	2021	2022 DAILY RATE
GUNS & GUTH						
Maintenance costs	6.697.637	8.832.777	10.425.024	3.792.112	23.241.988	18.182,76
Available sailing days	683	682	640	639	506	
Price per sailing day per unit	9.806,20	12.951,29	16.289,10	5.934,45	45.932,78	
MARI & METT						
Maintenance costs	2.657.513	4.402.172	4.877.712	7.614.230	18.635.207	13.177,75
Available sailing days	675	684	654	657	511	
Price per sailing day per unit	3.937,06	6.435,92	7.458,28	11.589,39	36.468,12	

DIANA-class						
Maintenance costs	(6 units) 42.946.846	(6 units) 41.889.974	(6 units) 18.828.178	(6 units) 22.754.048	(6 units) 27.497.396	28.112,59
Available sailing days	1095	1095	1095	1095	1095	
Price per sailing day per unit	39.220,86	38.255,68	17.194,68	20.779,95	25.111,78	

Generally, maintenance rates are calculated as a one day's rate¹. If the final deployment lasts less than five hours, only half a day's rate is calculated, and if deployment lasts more than five hours, a full day's rate is calculated. However, every case is individually assessed depending on the specific incident and deployment.

2.1.2. Depreciation and return on investment

Due to the age of the environmental vessels, depreciation and return on investment are not included in the reimbursement claim. However, they will be included when the environmental vessels are replaced by new vessels.

Depreciation and return on investment are not included in the reimbursement claim regarding naval and rescue vessels, because these vessels are not used exclusively for the marine environmental task.

2.1.3. Salaries

2.1.3.1. Fixed salary

Fixed salary for personnel is agreed through collective labour agreements. The fixed salary has been calculated on the basis of the average annual salary in the Navy for each individual personnel category in the vessel crew. The fixed salary includes pension, holiday pay and fixed allowances.

The fixed allowances have their origin in historical conditions, as they are composed of the allowances paid to any given crew at any given time, adjusted to current rates.

Environmental vessels:

The fixed salary is normally calculated on the basis of one day's rate per commenced working day of 7.4 hours (hours beyond 7.4 hours per 24 hours is paid with variable salaries).² However, an estimate can be made so that in case of deployment for less than half a working day, only half a day's rate is calculated.

For very brief deployments an hourly rate per commenced hour is used.

Naval vessels:

¹ If the deployment starts e.g. a Monday at 23:00 and ends the following Wednesday at 01:00 three maintenances are paid

² If the deployment starts e.g. a Monday at 23:00 and ends the following Wednesday at 01:00 three fixed daily rates are paid.

In case of reimbursement for the deployment of a naval vessel, costs regarding salary are normally calculated on an hourly basis. If the duration of the deployment is more than 7.4 hours the salary is calculated as a daily rate plus variable salaries.

2.1.3.2. Variable salaries

The variable salaries which the crew receive and the rates of these are also agreed through collective labour agreements. The variable salaries are calculated based on the incident reports from the vessels, which the Royal Danish Navy subsequently ensures is in accordance with the collective labour agreements.

In general:

- Meal allowance for breakfast, lunch and dinner is calculated per day, when deployment overlaps a main meal outside normal working hours
- Cash allowance is calculated per commenced hour, though not for regular sailing duty during the day and only after 24 hours sailing
- Per Diem allowance is calculated per commenced hour. These allowances are rarely paid, as they are mainly paid for travel in connection with a change of crew

Deployments with duration of 24 hours or more:

- One "sea exercise day" allowance is paid per sailed 24-hour duty
- If the duration of the deployment is more than 24 hours, one "sea exercise day" allowance is paid pr. commenced calendar day³
- If the total duration of a deployment of an environmental vessel (from base port and back) is more than 24 hours, but reimbursement is only claimed for a period of less than 24 hours, "sea exercise day" allowances are paid to the crew and will accordingly be included in the reimbursement claim
- Naval vessels of the DIANA-class are on 24 hour patrol during longer periods of time and the crew therefore receive "sea exercise day" allowances. "Sea exercise day" allowances are therefore always included in the reimbursement claim equivalent to the time spent on the pollution incident (converted to an hourly rate)

Deployments with duration of less than 24 hours:

- Deployment of less than 24-hours is paid as an hourly rate per commenced hour
- Nightly allowance etc. is calculated per hour of duty between 17:00 and 06:00
- A weekend allowance is paid per hourly duty between Saturday 14:00 and Monday 06:00, as well as duty on holidays
- Naval vessels of the DIANA-class are on 24 hour patrol during longer periods of time and the crew therefore receive "sea exercise day" allowances. "Sea exercise day" allowances are therefore always included in the reimbursement claim equivalent to the time spent on the pollution incident (converted to an hourly rate)

2.1.3.3. Earned leave

Overtime is an average hourly rate for the crew plus 50%. Overtime is paid when deployment takes place outside regular working hours but only if the deployment lasts less than 24 hours.

Leave for duty at sea is a compensation for unused days off, as it is a compensation per commenced day of sailing on Saturdays, Sundays and holidays.

³ If the deployment starts e.g. a Monday at 23:00 and ends the following Wednesday at 01:00 three "sea exercise day" allowances are paid.

2.1.3.4. Calculation of time used

The intersection points for the calculation of reimbursement claims are as follows:

Start: When the environmental vessel is alerted. If the vessel is in (base) port and it takes a relatively long time (several hours) from the time the vessel receives the alarm and until the vessel deploys to the scene of the incident, then the calculation is based on the time where the vessel leaves the (base) port.

Regarding the naval vessels, the starting point is the arrival on the location of the incident.

End: When the operation is concluded and the vessel is released, or transferred to another deployment, or arrives at the (base) port. To cover any post-deployment activities, the ending point of the final operation will be rounded up to the next full hour.

Regarding the naval vessels, the ending point is when the vessel is released and leaves the location of the incident, or is transferred to another deployment, rounded up to the next full hour.

The source of the abovementioned information is the vessels' incident reports, from which the course of events appears.

As a consequence of the above, time used for pre-deployment preparations and post-deployment activities are not always included, and are rarely included to the full extent. This is an individual assessment depending on the specific incident and deployment.

2.1.4. Household expenses

Household expenses include payments of daily necessities such as cleaning products, protective gloves, stationery, disposable overalls, disposable oil testing equipment etc.

The household rates for 2022 are calculated based on a 5-year average of household expenses starting from 2017 and balanced against the available sailing days as demonstrated in the following table:

TYPE	2017	2018	2019	2020	2021	2022 DAILY RATE
GUNS & GUTH						
Household costs	181.176	170.453	189.765	123.509	217.279	
Available sailing days	683	682	640	639	506	286,88
Price per sailing day per unit	265,26	249,93	296,51	193,28	429,41	

MARI & METT						
Household costs	163.430	132.323	150.744	134.537	116.572	219,80
Available sailing days	675	684	654	657	511	
Price per sailing day per unit	242,12	193,45	230,49	204,79	228,13	
DIANA-class						
Household costs	357.801	551.582	551.582	356.935	395.303	404,24
Available sailing days	1095	1095	1095	1095	1095	
Price per sailing day per unit	326,76	503,73	503,73	325,97	361,01	

Generally, household rates are calculated as a one day's rate per commenced day⁴. If deployment lasts less than five hours, only half a day's rate is calculated, and if deployment lasts more than five hours, a full day's rate is calculated. However, every case is individually assessed depending on the specific incident and deployment.

2.1.5. Fuel and oil consumption

Fuel and oil consumption includes use of gas oil, petrol, lubricating oil and hydraulic oil.

Gas oil is used on board the vessels and petrol is used on board the rigid inflatable boats.

The used fuel and oil is stated in the vessels' incident reports. For naval vessels the fuel and oil consumptions are calculated from the arrival on the location of the incident until the vessel is released and leaves the location of the incident, or is transferred to another deployment.

2.1.6. Other expenses

Other expenses are paid according to the invoice, for example:

- Costs related to cleaning soiled vessels and equipment
- Replacement of non-functioning equipment etc.
- Pilot and port expenses
- Hotel expenses etc.
- Transportation expenses, e.g. to the Mobile Environmental Response Unit

2.2. Rescue vessels

Reimbursement is claimed when a rescue vessel from the Danish Coastal Rescue Service carries out environmental protection tasks in connection with an oil combating or contingency operation.

⁴ If the deployment starts e.g. a Monday at 23:00 and ends the following Wednesday at 01:00 three households are paid

The deployed vessel forwards an incident report for each incident that states the purpose of the deployment and the duration hereof.

Costs of deployment of rescue vessels are calculated based on an hourly rate as follows

TYPE	2022 HOURLY RATE
Medium rescue vessel, cat. 1	5.411,31 kr.
Light rescue vessel, cat. 2	1.763,95 kr.

The final operation will be rounded up to the next full hour.

3. Aircraft and helicopters

3.1. Hourly rates

The hourly rate is calculated annually by the Ministry of Defence based on the total running costs. The hourly rates for aircraft and helicopters, when deployed in maritime environmental tasks, are thus based on the expenditures concerning e.g. crew salary, maintenance, rent and depreciation of the units. Moreover, an average of the variable expenditures on e.g. various fees, possible bonuses or allowances, is included in the rates.

The calculation of crew salary is based on the minimum number of crew members for a flight. The actual number of crew members may vary depending on the purpose of the flight and of the type of aircraft. If more crew members – other than the minimum number – take part in a flight, an additional calculation is necessary, as expenses for extra crew members are not included in the hourly rate.

Fuel consumption per hour is based on an average consumption of litres per flying hour and the latest quarterly price per litre.

TYPE	2022 HOURLY RATE
Challenger	58,830 DKK
Helo EH-101	123,661 DKK
SEAHAWK	91,098 DKK
Sundt Air A/S	39,000 NOK ⁵
Britten-Normann Defender	10.840 DKK

3.2. Calculation of time used

The time used in an incident is stated in the aircraft's or helicopter's incident report.

The calculation of time, for which reimbursement is claimed, will typically be from take-off to landing.

If the deployed aircraft or helicopter is already in the air at the time of deployment, time is usually calculated from the deviation of the ordinary course, and until the aircraft resumes its ordinary course.

⁵ If the deployed aircraft is not already in the air their will be a start fee of 19.000 NOK. The final amount is converted to DKK based on the exchange rate on the day, on which Sundt Air forwards the invoice to Defence Command Denmark.

Whether or not a flight is included in the final reimbursement claim depends on an individual assessment of all the circumstances of the deployment and the incident. For example if the deployment has resulted in a significant deviation from the planned course, a significantly longer flight, or if the crew has handled specific tasks during the flight.

The expenditures of deployment of flying units are settled for a minimum of one hour, and then each following quarter of an hour.

4. Vessels from the Naval Home Guard

Costs of deployment of vessels from the Naval Home Guard are calculated based on an hourly rate as follows:

TYPE	2022 HOURLY RATE
MHV 800-class	6600 kr.
MHV 900-class	6921 kr.

The hourly rates are calculated by the Danish Home Guard based on the costs of operating the vessels and allowances to the crew.

The deployed vessel forwards an incident report for each incident that states the purpose of the deployment and the duration hereof.

The calculation of time, for which reimbursement is claimed, will typically be from the time the vessel is alerted to the time the vessel has returned to base port or is transferred to another deployment. The final operation will be rounded up to the next full hour

5. Administration

An administrative fee is added for the administrative tasks in connection with pollution incidents and operations, which is in accordance with common practise.

An administration fee of 10% will be added to the first 10 million DKK. An administration fee of 7.5% will be added to the next 10 million DKK. An administration fee of 5% will be added to amounts exceeding 20 million DKK.

Cost	Administration fee
DKK 0 – 10 million	10%
DKK 10 – 20 million	7.5%
DKK 20 million –	5%

The administration fee is calculated on the basis of all expenses, including all expenses separately invoiced.