FORSVARET

Guidelines of 2nd of April 2024 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 2nd of April 2024 and onwards, until new guidelines are published. The previous guidelines, *"Note regarding the calculation of claims in connection with oil pollution incidents – 2022"*, will then only apply to contingency and combating operations initiated on the 28th June 2022 until 1st of April 2023 (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 four categories: Motor Rescue Boat (MRB), Fast Rescue Boat (FRB), Rigid-hull Inflatable Boat (RHIB) and jet ski.

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. 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.

2.1.2. 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. The costs are based on the market price.

2.1.3. 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 above-mentioned information is the vessels' incident reports, from which the course of events appears.

As a consequence of the above-mentioned, 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. Maintenance expenses

Maintenance expenses per day of sailing are based on the following:

- Maintenance services from external providers and consumption of existing stock – a five-year average of the actual costs divided by the actual days of sailing outside base port.
- Salary costs related to internal maintenance – the planned expenses of the year divided on the planned days of sailing outside base port of the year.

The following table shows the set maintenance expenses per day of sailing:

Vessel Unit	GUTH/GUNS	MAR/METT Per day	DIANA-KL
Total	**64.371**	**29.040**	**26.816**

The maintenance expenses are calculated on a yearly basis the Danish Ministry of Defence Acquisitions and Logistics Organisation.

Generally, maintenance rates are calculated as a one day's rate[1]. 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.

2.1.5. Household expenses

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

Generally, household rates are calculated as a one day's rate[2]. 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.

The household rates for 2024 are calculated based on a 5-year average of household expenses starting from 2019 and balanced against the available sailing days as demonstrated in the following table:

[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 maintenances are paid

Type	2019	2020	2021	2022	2023	**2024 Daily rate**
GUNS og GUTH						
Household costs	189.765	123.509	217.279	188.573	194.772	
Available sailing days	640	639	506	563	156	
Price per sailing day per unit	296,51	193,28	429,41	334,94	1248,54	**500,54**
MARI og METT						
Household costs	150.744	134.537	116.572	88.404	116.982	
Available sailing days	654	657	511	722	237	**255,89**
Price per sailing day per unit	230,49	204,79	228,13	122,44	493,59	
DIANA-klassen						
Household costs	551.582	356.935	395.303	378.357	519.795	
Available sailing days	1095	1095	1095	1180	1217	**387,69**
Price per sailing day per unit	503,73	325,97	361,01	320,64	427,11	

The household expenses are calculated on a yearly basis the Danish Ministry of Defence Acquisitions and Logistics Organisation.

2.1.6. Salaries

2.1.6.1. 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). [3] 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.

[3] 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.

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

Naval vessels:
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.

2.1.6.2. 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 day[4]
- 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)

2.1.6.3. 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.

[4] 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.

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.

2.1.7. Expenses according to invoice

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.

Maintenance costs are included in the calculation of the reimbursement claim and furthermore includes maintenance services from external providers, consumption of existing stock and salary costs related to internal maintenance. A five-year average of the actual costs are included, divided on the separate years actual hours of sailing.

Furthermore, fuel consumption costs are settled as the technical fuel consumption (litre per hour) times the latest price per litre.

The calculation of reimbursement also includes depreciation and administration costs.

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

Vessel	MRB	FRB	RHIB	Jet ski
Unit	Per hour			
Total	**20.029**	**6.675**	**10.174**	**937**

The Danish Ministry of Defence Acquisitions and Logistics Organisation annually calculates the hourly rate for deployment of Coastal Rescue Service vessels.

The deployed vessel forwards an incident report for each incident that states the purpose of the deployment and the duration hereof. Calculation of the time used is generally from the time the vessel is notified until it returns to base port or is assigned to another task. The final operation will be rounded up to the next full hour.

3. Aircraft and helicopters

3.1. Hourly rates

The Ministry of Defence Acquisitions calculates the hourly rate annually and Logistics Organisation based on the total running costs.
Maintenance costs included in the hourly rate consists of the following:

- Maintenance services from external providers and consumption of existing stock – a five-year average of the actual costs divided by the actual days of sailing outside base port.
- Salary costs related to internal maintenance – the planned expenses of the year divided on the planned hours of flying of the year.

Furthermore, the fuel consumption costs is settled on the basis of a five-year average of the actual fuel consumption in litres, times the average price per litre, divided on the a five-year average of actual activity.

The hourly rates for aircraft and helicopters, when deployed in maritime environmental tasks, includes depreciation, administration costs, Danish Defence Command salary costs for crew, indirect costs for the supporting structure, long term debt and commercial return. The price is indexed for the current year.

TYPE	2024 Hourly rate
Challenger	95.361 kr.
EH101	159.657 kr.
SEAHAWK	152.896 kr.
Sundt Air A/S	39.000 NOK[5]
Britten-Normann Defender	10.840

Costs directly linked to the separate flights such as route expenses, starting- and landing expenses, expenses for catering etc., is not included in the hourly rates and will be invoiced separately – except for CL-604 in which it is included in the price.

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.

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.

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

[5] Hertil kommer et startgebyr på 19.000 NOK, såfremt flyet ikke allerede er i luften. Der omregnes til DKK valutakurs svarende til den dag, hvor Sundt Air fremsender fakturaen til Forsvarskommandoen.

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

In incidents where the Naval Home Guard vessels are deployed, the reimbursement claim is calculated by an hourly rate, based on the costs of operating the vessels.

Maintenance costs are included in the reimbursement claim and consists of maintenance services from external providers, consumption of existing stock and salary costs for internal maintenance. A five-year average of the actual costs are included, divided on the separate years actual hours of sailing.

Furthermore, the fuel consumption costs is settled on the basis of a five-year average of the actual fuel consumption in litres, times the average price per litre, divided on the a five-year average of actual activity.

The calculation of reimbursement also includes depreciation and administration costs.

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

Vessel	MHV 900	MHV 800
Unit	Per hour	
Total	**4.185**	**3.797**

The Danish Ministry of Defence Acquisitions and Logistics Organisation calculates the hourly rate for deployment of Coastal Rescue Service vessels, annually.

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 practice.

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.