

**DSB
Directorate for Civil Protection
And Emergency Planning**

Are You Operating Safely?

Guidance for Providers of Consumer Services at Sea

Foreword

In this guide, you can read more about the responsibility of providers of consumer services at sea. Consumer Services at sea include the offer of boat rentals, organized trips and other leisure activities.

The responsibility concerns *inter alia* information obligations, risk assessment, requirements for ship and boat drivers, contingency requirements and so on. As a representative of a company you are expected to obtain good knowledge of the contents of the rules that apply to your business.

The guide is prepared by the authorities who enforce the legislation applicable to these services, in collaboration with others who also have knowledge and experience in the field. Those who have participated in the preparation are the Directorate for Civil Protection and Emergency Planning (DSB), the Norwegian Maritime Directorate, the Norwegian Police, the Joint Rescue Coordination Centers (JRCC), the Norwegian Coast Guard, Norwegian Society for Sea Rescue (NSSR) and the Norwegian Hospitality Association (NHO Reiseliv). It has furthermore received input from stakeholders in the market.

The instructions are supposed to be a tool of prevention with respect to the activities offered at sea.

The guide can also be found on the web www.tryggdrift.no and www.dsb.no

We will help you make your service safe and secure!

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Are you aware of your responsibility?

Did you know that:

- If you offer boats by loan, rental or sublet (e.g. as a rental agency), you provide a consumer service.
- If you arrange boat trips with a skipper, you also provide a consumer service.
- If you own the boat and / or offer a consumer service, it is you who will carry the primary responsibility for the security of the service.
- You are responsible even if you do not charge the service.

Responsibilities and duties

A consumer service is a service that is primarily designed to address private individuals. Even if the service is additionally offered to e.g. employees, it does not mean that the responsibility is reduced or lapsed.

You need the necessary knowledge to assess the hazard/ risk of the service. Even if you use the assistance of a consultant or have any external help in the assessment, the security of the service is still your responsibility.

If you lease a boat or otherwise provide consumer services via an agency or the like, you still have the responsibility to ensure that your customers are correctly informed and that the safety of service is safeguarded.

As a service provider, you also have a responsibility for the safety of products that are part of the service, such as boat and rescue equipment, communication equipment, ropes and the like.

You are required to provide sufficient information so that the customer can evaluate the safety and take precautions against any danger. Such information does not exempt you from the other measures you should take for the protection of the service. If you can document the proper securing of the service, the customer alone has to bear the responsibility for his actions.

You can always set more stringent requirements than those defined by law. For example, you can require the use of a life jacket on board of the boat, put restrictions on how far the customer can lead the boat out at sea, set age requirements for the captain of the boat or prohibit drinking of alcohol on board. Any violation of such rules could then lead to an increase of responsibility for the customer.

However, it must be documented that these instructions are communicated to the customer before the rental or before the consumer service takes place.

Risk Assessment of Services

Remember your internal control system!

Be continuously focused on safety - avoid last-minute work!

The goal of a risk assessment is to establish a high level of safety for the services that are offered. It is assumed that you, as a provider of a consumer service, exercise appropriate forethought and that you are able to identify factors associated with the service which may present a danger and pose an unacceptable risk to customers and third parties. If these factors mean that the risk of service is considered unacceptable, you must take the necessary measures before the service can be offered. You must be able to document that you have checked the customer's competence in relation to a proper implementation of the service. This also applies in regard of the use of equipment provided and included in the service. Documentation can have the form of a checklist or other means.

You should draw up and maintain a checklist which indicates potential hazardous situations and factors linked to the service, such as requirements for the necessary expertise. Go through the list together with the customer and explain what has to be done if things do not go as expected.

Show a good “sea-sense”

Remember that the responsibility for the protection of your service also extends to third parties, such as other travelers at sea.

A simple risk assessment consists of asking and answering four questions

- What can go wrong?
- What is the likelihood that this goes wrong?
- What are the consequences if this happens?
- What can be done in order to prevent something goes wrong or to reduce the consequences?

Example of what might be relevant to document when assessing dangers of the service:

What can happen, and what can cause this to happen?

- How likely is the incident to occur, and if it occurs what are the consequences?
- Are the risks of the service acceptable? If so, are there still issues you should inform the customer about? Remember that it is your assessment of the customer's competence, the need for a type of equipment and the safety conditions of the equipment which will determine whether the risk of the service is acceptable. You should draw up a separate checklist for securing the necessary maintenance of the service you offer. In addition, you should make sure there is an understanding that certain preconditions of the customer must be pre-assessed; possibly also make clear to what extent the customer himself needs to safeguard the security and maintenance. This can happen for example by presenting and reviewing the service history of equipment, as well as by checklists for the customer.
- Are the risks of the service unacceptable? What measures should you take to make the risk acceptable, in order for you to be able to provide the service in the market?
- Weather conditions can affect the service offered. Rapidly changing weather, strong wind and increased rainfall can cause a risk of storm surges and increased wave height. These are factors that may affect the safety at sea and that must be taken into account during the planning and facilitation of (rental) services. It is also necessary to inform customers who may not have the same knowledge of weather and sea conditions as you about possible weather conditions and risks.

DSB has issued a guide on risk assessment of hazardous consumer services. This can be found under the category "Fact Sheet" on the agency's homepage. The guide gives tips on how you can document the schematic analysis of the elements you find relevant in a risk-/danger assessment. The documentation is adapted to the business' nature, activities, risks and size.

Competence requirements

You have the responsibility to ensure that your clients and your own employees have the necessary certificates, evidence, or other satisfactory to operate the boats.

If a recreational vessel exceeds 10 hp, 10 knots of speed or is 8+ feet long, the driver must be 16 years or older.

On May 1, 2010 the requirement for a mandatory Boat Driver's License ("Båtførerbevis") will be introduced in Norway. The requirement applies to all persons born after 01/01/1980 who are to lead a boat that is over 8 feet or equipped with an engine of more than 25 hp. The person in charge of the rental must keep himself informed about the foreign qualifications approved in Norway when the scheme comes into force.

Familiarize yourself with the rules at sea, as discussed below:

Part a) states the following: "Nothing in these rules shall exempt any vessel, its owner, captain or crew from any failure by following these rules or at all to observe such precautions as a general seaman's practice or case specific circumstances may indicate."

Part b) states further: "When interpreting these rules, and when they are being followed, all dangers of navigation and possible collisions shall be taken into consideration, as shall all particular circumstances, including the vessel's lacking capabilities of maneuver, which could make it necessary to deviate from these rules to avoid immediate danger."

To drive a boat that is 15 meters long or more, you need a leisure boat skipper certificate as a minimum requirement.

The upper limit for this certificate is a gross tonnage of 50.

With additional courses and a subsequent leisure boat skipper exam and certificate you are permitted to operate passenger boats carrying maximum 12 passengers. These regulations are under revision.

Requirements Related to Boats and Equipment on Board

The boat must be equipped in accordance with the applicable regulations and specific risk factors.

All recreational boats should be equipped with what is considered as general boat equipment in Norway. Among other things, there should be fire extinguisher on board

and a ladder if someone should fall into the sea.

Further relevant equipment can be:

- life vests for everyone on board
- knife
- boat hook
- anchor and hawser
- oars
- oarlocks
- bailer
- a rope

Boats that are intended to be used in open seas should also have a drift anchor. Modern communication equipment is also important. The telephone number of the boat owner/rental company and the emergency number 112 should be marked in the boat.

You must always choose the right boats depending on expected use and other needs. Regulations on the production and sale of recreational boats etc. set requirements for the CE marking of recreational boats and indicates a categorization of critical levels. Other relevant legislation is the law regarding leisure and small boats, as well as the Norwegian Sea Law ("Sjøloven").

All recreational boats in transit have to be equipped with suitable float equipment for everyone on board. This regulation includes the requirements for life vests in the appropriate size of the customer. Floating equipment shall be tested and CE- marked.

In an open boat one must have access to the floating equipment!

Engines should be easy to start and in good condition. There should be reserve fuel on board, and the customer must be told to exercise extreme caution when filling gasoline in the boat.

In closed boats a copy of the rules at sea must be provided on board. If the customer does not understand Norwegian, the rules should be translated into a language he understands. A map of the area should also be available on board.

Information for the Customer

Necessary information for the customer must be given in advance (during the booking), and upon arrival before implementing the consumer service. Information should be clear, readily available and customer-friendly. For customers from abroad there may be a need for information in other languages and for specific information on current risk factors associated with traffic in the Norwegian waters. You must ensure that the information is understood. Standard information can be given in the form of written material.

If you do not meet the customer personally, you should ensure that a representative at the place where the service is received reviews the service and products/equipment.

It is important to provide information about the weather forecast and the customer's responsibility to familiarize with the local weather (www.yr.no/www.storm.no).

The customer has to receive information about who to contact in cases of emergency. This applies first of all to the emergency call 112, but also other important contact information, as the phone of the rental service.

Important information must be stated explicitly

Emergency Reaction Plan

Anyone who rents boats or otherwise participates in this consumer service must be informed about preventive measures which may be important if an incident occurs, and about what to do if something unforeseen happens. Information must be provided in a generally understandable way.

The following points should be clarified before start-up:

- Name of all persons on board (passengers and employees).
- Required expertise.
- Time of departure and the scheduled return.
- Duty to inform in case of any delays.
- Radius of the tour / itinerary (not all boats have GPS on board).
- Conditions which require the cancellation of the trip.
- Condition of location/ communication: In the coastal waters mobile phones will be the primary means of communication. On the open water CB radio is used, but this requires that the operator has a certificate. You must ensure that functioning means of communication are on board and inform about the emergency number 112, and all CB radio channels charterer and customers can use if necessary. Emergency and other important contact numbers should also be marked clearly on a list protected by waterproof plastic film and be placed secured in the boat. You should possess a list of telephone numbers of all passengers in the boat.
This applies even if they have their own instruments for guiding and locating the boat.
- Proper use of emergency /rescue equipment (flares, means of communication, personal life vests, etc.).
- Other after specific assessment.

On receiving notice of danger / accident you should immediately take telephonic contact with the emergency call 112 and communicate information about the situation. Remember that the responsibility to take reasonable measures continues even if you have called for assistance.

As a service provider you should draw up an overview of relevant devices that are available if an accident happens and also prepare a contact list and an action plan.

**The threshold for notification may be low, but early detection can save lives!
Call emergency number 112!**

Links to relevant laws and regulations

1976.06.11 Law No. 79 on the control of products and consumer services
(produktkontrolløven)
www.lovdatab.no/all/hl-19760611-079.html

1996.12.06 Regulation No. 1127 relating to systematic health, environment and safety
work in enterprises
(Internal Control Regulations)
www.lovdatab.no/cgi-wift/ldles?doc=/sf/sf/sf-19961206-1127.html

2004.12.20 Regulation No. 1820 on production and sales of recreational boats, etc.
www.lovdatab.no/cgi-wift/ldles?doc=/sf/sf/sf-20041220-1820.html

1994.06.24 Law No. 39 on shipping (the Sea Law)
www.lovdatab.no/all/hl-19940624-039.html

1998.26.06 Law No. 47 on leisure and small boats
www.lovdatab.no/all/hl-19980626-047.html

2007-02-16 Law no. 09: Law on ship security (Ship Safety Act)
<http://www.lovdatab.no/all/hl-20070216-009.html>

1975.12.01 Regulation No. 05 on the prevention of collisions at sea (by sea Rules)
www.lovdatab.no/for/sf/nh/xh-19751201-0005.html

www.regelhjelp.no – Reference to general assistance for businesses

Fact sheets and other information

NMD and the Norwegian Hospitality Association have prepared information on “good sea sense”, requirements for boats and other security requirements.
www.sjovett.no
www.nssr.no

Safety equipment to prevent falling overboard and how to react in “man over board” cases.
www.sjofartsdir.no/no/Publikasjoner/Faktaark/Fakta_10-07-Sikkerhetsutstyr__fall_over_bord/

Fact sheets on personal protective equipment (PPE)
www.dsb.no/File.asp?File=Publikasjoner/Faktaark/faktaarkpersonligverneutstyr.pdf

Feature Guide to risky consumer services
www.dsb.no/File.asp?File=Publikasjoner/temaveiledningrisikoanalyse.pdf

Contact information of agencies that have compiled Advisory Material:

Directorate for Civil Protection and Emergency Planning (DSB) www.dsb.no

NMD www.sjofartsdir.no

JRCC (Southern Norway and Northern Norway) www.hovedredningsentralen.no

Redningsselskapet www.nssr.no

Coast Guard www.mil.no / sea / qtr

Police www.politi.no

Norwegian Hospitality www.nhoreiseliv.no

Emergency line: 112