



Syllabus Maritime Dutch Law Assessment

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STC Next
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SYLLABUS

DUTCH MARITIME LAW AND PUBLIC ORDER (in compliance with Regulation 1/10, paragraph 2 of the STCW)

For masters holding foreign certificates of competency on ships registered in the Netherlands

Introduction

The purpose of this syllabus is to give the Master sufficient actual working knowledge of the major Dutch maritime legislation in order to enable him to fulfil all his tasks and responsibilities in relation to the ship, its crew, its cargo, the ship-owner, the environment and the Dutch (flag state Authorities).

The aim is not to give all specific aspects of general international rules and regulations since the Master is well aware of them due to his prior studies, knowledge and experience obtained in the earlier part of his career.

It is therefore of great importance to the Master to gain insight into the most relevant aspects of Dutch maritime acts and decrees wherein the requirements are laid down.

See also: www.overheid.nl

As it is an impossible task to deal in detail with all the elements of the Master's tasks and responsibilities, only outlines are given in this manual. The syllabus that will be found on board gives all the assistance needed.

Regulation I/10 of the STCW clearly states that

- 'Measures shall be established to ensure that seafarers who present, for recognition, certificates issued under the provisions of regulations 11/2, 111/2 or 111/3, or issued under regulation VII/1 at the management level, as defined in the STCW Code, have an appropriate knowledge of the maritime legislation of the Administration relevant to the functions they are permitted to perform'.

In order to meet these requirements the Dutch Seafarers Act allows seafarers in the functions of Second-Engineer, Chief-Engineer or Chief Mate to show evidence that they have gained knowledge of the Dutch maritime legislation, but the Master has to give proof of having this knowledge by means of a proficiency test based on Dutch standards. After a successful test a Certificate indicating that the Master has knowledge of the Dutch legislation will be issued by STC.

This Certificate is compulsory in order to sail as master on a Dutch ship.

Note: The current legislation (October 2020) states "Minister of Infrastructure and the Environment". However, it is already known that this will soon be changed to "Minister of Infrastructure and Water Management". At the request of ILT, the reference in this document is made to "Minister of Infrastructure and Water Management".

Addresses

In case difficulties arise on board concerning the management of a Dutch ship the Master may at all times call upon expert assistance of the 'Shipping Inspectorate' in the Kingdom of the Netherlands and of the Dutch Embassies and Consulates abroad.

In all cases, the officials for the Enforcement and Control of compliance with the appropriate Dutch legislation and investigation of all other matters and aspects of Dutch seagoing shipping, are the officials of ILT, appointed by the Minister.

The addresses of the 'Shipping Inspections' are mentioned hereafter.

The Netherlands

The Netherlands Shipping Inspectorate (ILT/Shipping)

Telephone: +31 (0)88-489 00 00

Website: www.ilent.nl

When these number is dialed during evening hours and weekends, an answering machine will give a number of a pager of the inspector on duty. You will be contacted as soon as possible after dialing that number.

Curaçao

Maritime Authority of Curacao

Kaya Afido z/n

Seru Mahuma

Willemstad Curacao

Central phone number: +599(9) 839-3700 / 839-3701

Fax: +599(9) 868-9964

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On duty officer: +599(9) 564-7000

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Chapter 1. Nationality and Registration of seagoing ships

Legislation:

1. Code of Commerce (CoC), Update November 2019 Stb.2019.416 (Wetboek van Koophandel);
2. Certificates of Registry Act (ACR);
3. Act Nationality of ships in on Bareboat Charter (ABC).

1.1 Nationality

Article 311 CoC

- A seagoing ship registered in the Public Cadastral Register in the Netherlands by a ship-owner who meets the conditions; or

Article 3 ABC

- is registered in the bareboat register:
 - becomes a Dutch ship when it is issued a Certificate of Registry (in Dutch a Zeebrief) and as such is entitled to fly the flag of the Kingdom of the Netherlands, including Bonaire, St. Eustatius and Saba, (*Seagoing ships registered in Curacao, Aruba or Saint Martin are also entitled to fly the flag of the Kingdom, but are not considered to be Dutch ships*).

1.2 Registration (based on ownership)

Article 311 CoC

The conditions a ship-owner has to meet in order to register his ship in the Netherlands are (*not all conditions are indicated*):

- The ship must belong to:
 - Natural persons with the nationality of an EU-member state, Iceland, Liechtenstein, Norway or Switzerland; or
 - Legal bodies subject to the laws of an EU-member state, Iceland, Liechtenstein, Norway or Switzerland;

The following conditions must also be met:

- The owner has its head-office or a branch according to the commercial;
- Register Act in the Netherlands, and;
- One or more natural persons holding office in the Netherlands who, on behalf of the owner are responsible for the ship, master and other members of the crew including all other matters connected thereto and were given the power of attorney to decide and act in all these matters.

* *When the ship-owner has transferred his responsibility for the management of the ship to a legal body (Ship Management Company), and that legal body meets the requirements indicated for this, the ship concerned meets the conditions.*

1.3 Registration (based on bareboat charter)

Article 3 ABC

The conditions a ship-owner has to meet in order to register his ship in the bareboat register are:

- The seagoing ship, registered outside the Netherlands is bareboat chartered to:
 - One or more natural persons with the nationality of a member state of the EU, Iceland, Liechtenstein, Norway or Switzerland; or
 - Legal bodies subject to the laws of an EU-member state, Iceland, Liechtenstein, Norway or Switzerland.

The following conditions must also be met:

- The bareboat charterer has its head-office or branch according to the commercial Register Act in the Netherlands;
- One or more natural persons holding office in the Netherlands, who on behalf of the owner is/are responsible for the ship, master and other members of the crew including all other matters connected thereto and have been given the power of attorney to decide and act in all these matters;
- At least one of the persons mentioned under b or when absent a substitute is available at all times and has the power of attorney to decide and act in all situations;
- The owner and/or the bareboat-out charterer have agreed in writing that the ship will fly the Dutch flag;
- The bareboat-in charterer accepts all responsibilities for ship and persons on board arising from the capacity of being a Dutch ship; and
- The legislation in the country of registration allows bareboat registration with the consequences of obtaining the Dutch flag arising from the bareboat charter agreement.

1.4 Certificates of Registry

Article 2 ACR

Excluded from the Certificates of Registry Act are:

- Warships;
- Ships owned by the Government or any public body intended for public service;
- Non-commercial ships (*pleasure crafts*);
- Lifeboats;
- and Fishing vessels.

Purpose of the Certificates of Registry Act

Giving the conditions and requirements in order to entitle seagoing ships to fly the Dutch flag after a Certificate of Registry has been issued.

Restriction on issuing Certificates of Registry

Certificates of Registry, provisional certificates of registry or extraordinary certificates of registry are issued only to ships recorded in the Public Register or the bareboat register.

Contents of the Certificate of Registry (ownership)

Article 5 ACR

- The name of the ship and that of the office of registration; - The tonnage at which it has been measured in accordance with the existing regulations;
- The description of the ship in accordance with the register record;
- The name of the natural person, the legal body, the ship-owner or the company the ship belongs to.

Contents of the Certificate of Registry (bareboat charter)

Article 5a ACR

The Certificate of Registry for bareboat ships states:

- The name of the ship and that of the office abroad where the ownership of the ship is registered;
- The tonnage at which it has been measured in accordance with the existing regulations;
- The description of the ship in accordance with the register record;
- The name of the natural person, the legal body, the ship-owner or the company to whom the ship has been bareboat chartered;
- Date of expiration of the certificate of registry.

Issuing authority

In all cases the Certificate of Registry is issued by the Ministry of Infrastructure and Water Management being in charge of the enforcement of this Act.

Application

Article 7 ACR

- The ship-owner or the person on his behalf, produces a copy of the recorded registry and certificate of tonnage, issued no more than 2 days before application;
- In case of bareboat charter, the applicant produces a recent copy of the registration in the bareboat register and the certificate of tonnage.

Provisional Certificate of Registration

Article 11 ACR

A provisional Certificate of Registry may be issued in case of:

- Purchase or (re)building of a ship outside the Netherlands; and
- Because of extraordinary circumstances, such as not being able to produce the certificate of tonnage.

A provisional certificate states the same issues as the 'regular' Certificate of Registry with the exception of the office of Registration and is valid for a period stated in the Certificate therein but not exceeding 6 months.

Extraordinary Certificate of Registry

Article 12 ACR

When a ship has been built, purchased or equipped in the Netherlands on foreign account an extraordinary Certificate of Registration may be issued for a given period in order to enable the ship to sail under the Dutch flag directly to the country of destination.

Expiration of Certificates of Registry

Article 8 ACR

- On the date, when applicable, stated in the Certificate of Registry;
- When the ship is no longer registered in the Public Register in the Netherlands;
- When the name or the tonnage of the ship has been changed or the ship has been reconstructed;
- When the ship has been dismantled, has perished or is taken by pirates or enemies;
- When for six months after the last sailing no communication at all has been received from the ship.

Revoking a Certificates of Registry

Article 8,4 ACR

A Certificate of Registry may be revoked by the Minister of Infrastructure and Water Management when:

- The ship is used for privateering, piracy or slave-trade;
- The ship is purposely used in such a way that danger arises that the Netherlands will be involved in war;
- Any particular regulation issued and published by the Government in order to maintain non-belligerence is trespassed on purpose with the ship.

An expired or revoked certificate has to be returned to the Ministry of Infrastructure and the Environment.

Chapter 2. Crew, Principles of manning and Certificates

Legislation:

1. Seafarers Act (SA), Update November, 2020, Stb.2019.417 (Wet zeevarenden);
2. Seafarers Decree (SD), Update July 2019, Stb.2019.408 (Besluit zeevarenden);
3. Seafarers Regulations (SR), Update October 2019, Stcrt.2019.60689 (Regeling zeevarenden);
4. Code Of Commerce (CoC), Update November 2019 Stb.2019.416 (Wetboek van Koophandel);

2.1 Relevant Definitions

Article 1 SA

- Crew: The master, ship officers, ratings and the other seafarers listed in the muster roll.
- Dutch ship: A ship that according to Dutch legislation has the right to fly the flag of the Netherlands.
- International voyage: A voyage between two different countries or between ports in another country, etc., and where a transatlantic voyage between different parts of the Kingdom of the Netherlands is considered to be an international voyage.
- Manning Certificate: The certificate issued by the Minister stating the minimum number of crew with their functions on board the ship concerned (based on the manning plan).
- Manning plan: A proposal by the ship-owner or bareboat charterer to the Shipping Inspection indicating the number of crew and their functions on board with which he wants to man the ship involved.
- Maritime Disciplinary Board: The disciplinary board for shipping.
- Master: The person having command of a Dutch ship.
- Minister: The Minister of Infrastructure and Water Management.
- Person on board: Every person on board during the voyage of the ship.
- Pleasure craft: A Dutch ship not intended to be used and is not used for trade or professional purposes.
- Sailing ship: A Dutch ship that is intended and designed to be propelled mainly by use of sails.
- Seafarer: Any person who is employed or engaged or works in any capacity on board of a Dutch ship.
- Ship Security Officer: The person on board, responsible to the master or the master himself, who has been appointed by the ship-owner as the person responsible for the security of the ship, including the implementation and maintenance of the ship security plan and for liaison with the ship manager the

security Officer of the shipping company and the security officers of the port facilities (definition in Seafarers Decree).

- Ship-owner: The owner or bareboat charterer of a ship, or a legal body to whom the owner has transferred the responsibility for the management of the ship (a ship management company).

Scope of Application

Article 2 SA

This act is applicable to Dutch ships, excluding:

- Ships navigating exclusively in Dutch inland waters or waters within, or closely adjacent to, sheltered waters or areas where Dutch port regulations apply;
- Unmanned ships not equipped with mechanical propulsion power;
- Warships or naval auxiliaries;
- Lifeboats;
- Pleasure craft.

2.2 Manning a ship

Duties of the ship-owner

Article 3 SA

It is the ship-owners responsibility to man a ship in compliance with this act and provide the master with all necessary means in order to comply with this act.

Article 4 SA

It is the ship-owners responsibility to man a ship in such a way that within reason all tasks, taking into consideration the applicable working and resting hours and also taking into consideration the management, the prevention of fatigue of the seafarers, the perils of the sea and the cargo, without danger for the persons on board, the ship, its cargo, the environment and the ship traffic can be conducted.

It is the ship-owners responsibility that crewmembers before starting their functions on board are familiarized with their specific duties and all regulations, on board procedures and characteristics of the ship in relation to their duties both under normal and emergency situations.

It is the ship-owners responsibility that the seafarers before starting their functions on board have attended the, by law required, supplementary and refreshment trainings.

Duties of the Master

Article 4 SA

The master ensures that the crew is capable at all times to perform the tasks required. The master ensures that the crews with watch keeping duties will observe the watch keeping arrangements and principles for a safe watch.

The master ensures that the tasks and watch keeping duties are organized in such a way that the watch keeping crew will start their watch adequately rested and fit for duty. The master may not leave the ship during the voyage or in imminent danger, unless his absence is absolutely necessary or in order to save his life.

The crew may not leave the ship without permission of the master, unless a physician or dentist is to be visited in a port of call.

Manning plan (to be submitted by the ship-owner)

Article 8 SA

The Minister, when of the opinion that with the proposed crew in the manning plan the ship or ships concerned will be able to sail safely and environment friendly, will issue a safe manning certificate. However before doing so, he may consult the master concerned.

(Note: *Article 32 SA* The ship-owner ensures that the master's position in the company will not be prejudiced by giving his opinion with respect to articles 4 and 8. The master may require the district court to order the ship-owner to comply with this article.)

The Minister, when of the opinion that the proposed crew in the manning plan, the ship or ships will not be able to sail safely and environment friendly, he will decide on the crew by virtue of his office and issue a manning certificate in accordance with his decision.

The ship-owner will provide a copy of the manning plan to the master, including possible additional information given that is part of the safe manning certificate. When a ship has more than one manning arrangement, all arrangements will clearly be distinguished in the safe manning certificate.

2.3 Safe Manning certificate

Article 5 SA

A ship is in the possession of a valid safe manning certificate issued by the Minister and as a minimum shall be manned in accordance with this certificate.

Article 6 SA

A safe manning certificate is valid for a period not exceeding 5 years and the Master ensures that a copy of the manning plan is displayed in a clearly visible place

Article 10 SA

The master will record in the logbook according to which manning arrangement the ship is manned and the facts and circumstances that are contrary to it (see also under manning plan 4th part).

Complementary means

Article 12 SA

The master, when circumstances are forcing him to do so and he is not able to meet the manning requirements, will request the ship-owner to provide him within a specified time with the means needed. An oral request shall be confirmed in writing as soon as possible. When the ship-owner does not or not comply in time, the master will inform the Minister in writing.

Withdrawal of a safe manning certificate

Article 13 SA

The Minister will withdraw a safe manning certificate when:

- Issued on the base of incomplete or incorrect data that, that when correct or complete the safe manning certificate would have been denied; or
- The ship is used contrary to that mentioned in the certificate and to his opinion this use requires another manning arrangement.

Dispensation

Article 16 SA in connection with Article 3 SD

The Minister may at the ship-owner's request, grant dispensation to a specific ship for a period not exceeding six months to man a ship in accordance with the safe manning certificate, when:

- Short time before the ships' departure one or more crewmembers are not available;
- Urgent circumstances are forcing the ship not to delay the departure any longer, and With the crew present on board, taking into account the particulars of the voyage, the voyage can be undertaken without danger to the ship or other goods, persons, environment or shipping.

2.4 Certificate of Competency

Article 18 SA

Anyone performing a position on board falling under the scope of this act has a valid Certificate of Competency for his function, issued by the Minister.

Dutch Certificates of Competency

Article 12-28 SD

According to these articles, appropriate certificates of competency are issued based on difference in education and training, seagoing service, tonnage, propulsion power and area of navigation of a ship.

The certificates for 'worldwide area of navigation' are:

- Master all ships;
- Master ships less than 3000 GT;
- First maritime officer all ships;
- First maritime officer ships less than 3000 GT and 3000 kW;
- Maritime officer all ships;
- Maritime officer ships less than 3000 GT and 3000 kW;
- Chief mate all ships;
- Chief mate ships less than 3000 GT;
- Watchkeeping mate all ships;
- Watchkeeping mate less than 3000 GT;
- Chief engineer ships all ships;
- Chief engineer ships less than 3000 kW propulsion power;
- Second engineer all ships;
- Second engineer ships less than 3000 kW propulsion power;
- Watchkeeping engineer all ships;
- Watchkeeping engineer ships less than 3000 kW propulsion power;
- Watchkeeping engineer Fisheries.

Certificates for the 'limited-areas of navigation' are:

- Master all ships limited to contractor's equipment;
- First maritime officer all ships limited to contractor's equipment;
- Maritime officer all ships limited to contractor's equipment;
- Chief mate all ships limited to contractor's equipment;
- Chief engineer all ships limited to contractor's equipment;
- Second engineer all ships limited to contractor's equipment;
- Master ships less than 500 GT and limited to voyages in the vicinity of the international coast;
- Master ships less than 500 GT and limited to voyages stretching from the Dutch coast to the Dutch territorial sea, Dutch contiguous zone and Dutch Exclusive Economic Zone;

- Master ships less than 500 GT and limited to voyages stretching from the Dutch coast to the Dutch territorial sea and Dutch contiguous zone;
- Chief mate ships less than 500 GT and limited to voyages in the vicinity of the international coast;
- Chief mate ships less than 500 GT and limited to voyages stretching from the Dutch coast to the Dutch territorial sea, Dutch contiguous zone and Dutch Exclusive Economic Zone;
- Chief mate ships less than 500 GT and limited to voyages stretching from the Dutch coast to the Dutch territorial sea and Dutch contiguous zone;
- Chief engineer ships less than 3000 kW propulsion power and limited to voyages in the vicinity of the international coast;
- Chief engineer ships less than 3000 kW propulsion power and limited to voyages stretching from the Dutch coast to the Dutch territorial sea, Dutch contiguous zone and Dutch Exclusive Economic Zone;
- Chief engineer ships less than 3000 kW propulsion power and limited to voyages stretching from the Dutch coast to the Dutch territorial sea and Dutch contiguous zone;
- Second engineer ships less than 3000 kW propulsion power and limited to voyages in the vicinity of the international coast;
- Second engineer ships less than 3000 kW propulsion power and limited to voyages stretching from the Dutch coast to the Dutch territorial sea, Dutch contiguous zone and Dutch Exclusive Economic Zone;
- Second engineer ships less than 3000 kW propulsion power and limited to the Dutch territorial sea and Dutch contiguous zone.

First issue of a Certificate of Competency

Article 8 SD

A Certificate of Competency is issued if the applicant's certificate of knowledge that he wishes to have endorsed has been issued no more than 4 years before the date of application.

Revalidation of a valid Certificate of Competency

A valid Certificate of Competency may be revalidated if the applicant has:

- Seagoing service for a period of at least twelve months in total during the preceding five years; or
- Three months in total during the preceding six months immediately prior to revalidating.

Revalidation of an expired Certificate of Competency

The holder of a Certificate of Competency, expired no more than 5 years ago, may apply for revalidation, if he has:

- Successfully completed an approved training course; or
- Completed approved seagoing service in a function considered appropriate by the Minister in a lower function than the function for which the expired certificate was valid.

At the request of the holder of the expired Certificate of Competency the Minister will issue a Certificate of Competency with a period of validity of no more than 6 months in order to obtain the seagoing service in a lower function.

Recognition of a Foreign Certificate of Competency

Article 22a SA

The Minister issues a Dutch Certificate of Competency for service on Dutch ships when he has recognized a Certificate of Competency issued by or under the competent authority of another EU-member state, Iceland, Lichtenstein, Norway and Switzerland, **not** including certificates of competency for seagoing fisheries.

Such Certificate of Competency has the same limitations on functions, tasks and level of responsibility as indicated in the original certificate and contains an official declaration that the certificate has been issued based on the recognition of a Certificate of Competency.

Additional requirement with recognition

Article 10 SD

In order to issue a Certificate of Competency as master the applicant must submit a Certificate Dutch Law and Public Authority.

Withdrawal of a Certificate of Competency Unfit for duty

Article 24 SA

The Minister may withdraw a Certificate of Competency when:

- Examination shows that the holder of the Certificate of Competency no longer meets the standards of competency;
- The holder, after medical examination appears to be unfit to perform his function on board or is declared permanently unfit;
- Fraud or deceit.

The Minister may withdraw a Certificate of Competency or an application for recognition of a Certificate of Competency or a Certificate of Proficiency for service on tankers when it is evident that during application for the certificate incorrect information was given and/or false or falsified documents have been submitted.

Emergency situations

The Minister may in order to prevent an emergency situation or danger to shipping ban the holder of a valid Certificate of Competency to perform his function or execute duties for a period not exceeding 24 hours.

Foreign Certificate of Competency

The Minister withdraws a Certificate of Competency or a Certificate of Proficiency issued on the basis of foreign certificates, when the validity of these certificates have been suspended or withdrawn by the foreign competent authorities.

Exemption

Article 25 SA

The Minister may exempt a member of the crew of a particular ship of the obligation to have a valid Certificate of Competency for a period not exceeding 6 months.

2.5 Of the Master

Article 27 SA

The master has the authority to maintain public order on board and has disciplinary authority over all persons on board and may, within reason, take all measures necessary for maintaining order.

The master may not task a member of the crew with duties requiring specific competencies if this crewmember does not possess the required competencies.

The persons on board shall obey the orders given by the master in the interest of safety or maintaining order including public order.

Authority

Article 28 SA

The master has full authority as soon as he is on board and has taken on or taken over the command. He keeps his command as long as he has not transferred it or the ship-owner has not relieved him of the command.

Nationality of the Master

Article 30 SA

- Dutch citizens;
- Citizens of an EU-member states, Iceland, Liechtenstein, Norway or Switzerland;
- Citizens of a countries wherewith the Netherlands have concluded a MoU in conformity with Regulation I/10 of the STCW Convention, but only if they are in the possession of a declaration of no objection, issued by the committee of maritime social partners.

Absence of the Master

Article 31 SA

In the absence or default of the master the command of the ship will fall upon the chief mate or the first maritime officer. If no first mate or first maritime officer is available the command of a ship will fall upon a person appointed by the ship-owner.

2.6 Mustering

Muster roll

Article 33 SA

On board a muster roll (IMO Crew List FAL form 5) shall be drawn up and signed by the master. The muster roll contains at least:

- The functions in accordance with the safe manning certificate;
- The names of the crew including the master; and
- The crewmembers added to the crew by the master or the ship-owner.

Thereover the muster roll contains of each crewmember:

- Date of birth;
- Number of the seaman's book;
- Name, call sign and (for passenger ships of more than 100 Gt and other ships of 300 Gt and over the IMO-number;
- Place and day of signing on and signing off;
- Period of validity.

The muster roll has a period of validity not exceeding 12 months.

Drawing up and action to be taken thereafter

Article 94 SD

The muster roll is to be drawn up before the first departure and thereafter at intervals not exceeding twelve months. Each change in the ship's complement is to be recorded in the muster roll. After drawing up the muster roll the master will send a specimen to the ship-owner within a week or from the next port.

The ship-owner registers the date of receipt of the muster roll. The specimen of the muster rolls are kept in the ship-owner's office in the Netherlands and are readily available for control and supervision by ILT.

2.7 Seaman's book (also called seaman's discharge book)

Article 35 SA

Dutch nationals Foreign nationals

Crewmembers, recorded in the muster roll, have a valid Dutch seaman's book. Crewmembers with a nationality other than Dutch are excluded from having a Dutch seaman's book if they are in the possession of a valid seaman's book in English issued by the competent authority of another country.

Period of validity

Article 37 SA

A seaman's book is valid for a period of 10 years after the date of issue.

Making notes in the Seaman's book

Article 38 SA

The master notes in the seaman's book or issues a document with the following details:

- The day of enrolment;
- The day and place of signing off;
- The capacity in which was served, including an overview of the tasks performed;
- The name, call sign and (for passenger ships of more than 100 Gt and other ships of 300 Gt and over) the IMO-number of the ship;
- Gross tonnage (Gt) of the ship;
- Propulsion power in Kilowatt (kW) of the ship;
- Kind of ship, merchant ship, fishing vessel or sailing ship;
- The means of mechanical propulsion: internal combustion-driven, electrical-driven or steam-driven; and
- Type of ship, oil tanker, chemical tanker, liquefied gas tanker, high-speed craft or passenger ship.

In the seaman's book no mention shall be recorded of wages or of any form of behavior.

Holding the seaman's book by the Master

Article 38a SA

The master holds the seaman's book after signing on and returns it to the crewmember during signing off.

If the master is unable to return the seaman's book to the crewmember he sends it to the ship-owner who thereafter will send it to the Minister stating the reason for not returning it to the seafarer.

Candidates for a seaman's book

Article 97 SD

The Minister (*on his behalf KIWA*) issues the seaman's book. A request is granted only if the applicant shows proof:

- That he has a Seafarers' Employment Agreement (SEA) with a ship-owner or employer; or
- Is studying for a profession where a Certificate of Competency is required.

Other categories of applicants for a seaman's book

Article 2.2 SR

In addition to persons mentioned in article 97 SD, a seaman's book may also be issued to professionals mentioned hereafter if they can show proof of needing a seaman's book for performing their duties on board of a ship during voyages at sea: a.

Nautical/technical surveyors of recognized Organizations;

- Registered Pilots;
- North Sea pilots;
- Maritime researchers;
- Staff performing services on board of ships;
- Nautical/technical maintenance staff;
- Nautical/technical support staff;
- Seafarers in the possession of a valid Certificate of Competency not having a SEA;
- Persons intended to work on board of seagoing ships and hired from a manning agent; and
- Public officials charged with control and enforcement on board of seagoing ships.

Issuing a seaman's book

Article 99 SD

Before issuing a seaman's book the Minister records in any case:

- Name and surname;
- Place and date of birth;
- Nationality;
- Place and date of issue;
- Date of expiry.

Furthermore the seaman's book contains a photograph and signature of the holder. Without signature the seaman's book is invalid.

Loss

Article 100 SD

In case of loss of a seaman's book, the applicant must also submit a statement of having reported the missing or another form of proof in connection with the loss.

Renewal or expiration

When applying for a new seaman's book the applicant produces the old respectively the no longer usable seaman's book.

2.8 Medical certificate and medical examination

Possession of a valid medical certificate

Article 40 SA

Each seafarer is in the possession of a valid medical certificate of fitness for seafaring showing that he meets the requirements for medical fitness issued by a medical doctor appointed or recognized by the Minister.

Foreign medical certificate

Article 40a SA

A valid medical certificate of fitness for seafaring issued by a doctor or medical specialist appointed or recognized by another EU-member state, Iceland, Lichtenstein, Norway or Switzerland is considered to be a valid medical certificate.

Medical certificate and mustering

Article 41 SA

The valid medical certificate of fitness must be presented when mustering.

Expenses of medical examination

Article 112 SD

The expenses of a medical examination, re-examination or a specialized examination are borne by the ship-owner or employer. If there is no ship-owner or employer the expenses are borne by the person who ordered the examination.

Period of validity

Article 107 SD

A certificate of medical fitness is valid for a period not exceeding 2 years or 1 year if the examined person is under 18 years. However, the medical doctor may issue such certificate for a period less than 2 years or 1 year or issue a certificate for a limited area of sailing based on medical grounds.

Unfit for duty

Article 108 SD

A medical doctor may declare an examined person temporarily or permanently unfit for seafaring. The declarations possible are:

- Temporarily unfit if may be expected that the person will remain unfit for a period not exceeding three years;
- Permanently unfit if may be expected that the person will remain unfit for a period of more than three years.

Dispensation of having a valid medical certificate

Article 45 SA

If short time before departure of the ship the crew has to be replenished, the Minister may, if urgent matters require the enrolment of persons not in the possession of a valid medical certificate grant dispensation for a period not exceeding 3 months to a seafarer in the possession of a recently expired medical certificate.

Expired medical certificate

Article 47 SA

When the medical certificate expires during a voyage, the seafarer may continue to do his duties until the next port of call where a medical examination by an appointed medical doctor can be performed.

The period of time between the expiration date of the medical certificate during the voyage and the medical examination will not exceed 3 months.

Chapter 3. Certificates of Proficiency

Legislation:

1. Seafarers Act (SA), Update July, 2019, Stb.2019.416 (Wet zeevarenden);
2. Seafarers Decree (SD), Update July 2019, Stb.2019.408 (Besluit zeevarenden)

3.1 Requirements concerning Safety

Article 40 SD

Basic training

Masters, mates, engineers, maritime officers, electro-technical officers and other seafarers designated on muster lists with safety tasks or tasked with preventing pollution of the seas, have to possess a certificate of basic training. Exempted are seafarers who can submit evidence of already working on seagoing ships prior to August 1st, 1998.

Survival craft

Master, mates, engineers, maritime officers and electro-technical officers do possess a certificate Survival craft and rescue boats other than fast rescue boats.

High-speed craft

Seafarers assigned in the muster list with the care and use of high-speed craft do possess a certificate High-speed craft.

Advanced fire fighting

Master, mates, engineers, maritime officers and electro-technical officers do possess a certificate Advanced firefighting.

Safety familiarization

Other seafarers than mentioned under 'Basic Training' will, prior to the beginning of their work on board, attend a training for personal safety on board or will have sufficient information and instruction, in order to:

- Communicate with other persons on board on elementary safety matters and understand safety information symbols, signs and alarm signals;
- Know what to do if:
 - A person falls overboard, fire or smoke is detected, the fire or abandon ship alarm is sounded;
 - Know the position of lifejackets and don a lifejacket;
 - Raise the alarm and have knowledge of the use of portable fire extinguishers;
 - Take immediate action upon encountering an accident or other medical emergency before seeking further medical assistance on board;
 - Close and open the fire, weathertight and watertight doors fitted in the particular ship other than those for hull openings; and
 - Identify muster and embarkation stations and emergency escape routes.

Revalidation of certificates of proficiency

Article 108 SD

A seafarer needs to show by means of a certificate that he has attended an appropriate refreshment course with intervals not exceeding 5 years, when he is in the possession of one of these certificates:

- Basic training;
- Survival craft;
- High-speed craft; or
- Advanced firefighting.

3.2 Requirements concerning Security

Article 41 SD

Ship security Officer

Seafarers appointed as designated ship security officer, need to possess a certificate for Ship Security Officer.

Security Executive

Seafarers other than the designated ship security officers assigned and with duties in the field of security as indicated in the ships security plan, need to possess a certificate for Security Executive.

Security Awareness

Seafarers other than mentioned before need to possess a certificate for Security Awareness.

The holder of a certificate for Ship Security Officer is also considered to meet the requirements for Security Executive and Security Awareness.

Familiarization

Before being assigned to shipboard duties, all seafarers shall receive approved security related familiarization training, conducted by the Ship Security Officer or an equally qualified person, in order to be able to:

- Report a security incident;
- Know the procedures to follow when they recognize a security threat; and
- Take part in security-related emergencies and contingency procedures.

3.3 Certificates for service on Special types of ships

3.3.1 Tankers

Article 35 SD

Oil and chemical tankers

Officers and ratings who are assigned with specific duties and responsibilities related to cargo or cargo equipment on oil or chemical tankers, need to possess a certificate for Basic Training for Oil and Chemical Tanker Cargo Operations.

Oil tankers

Masters, Chief Engineers, Chief Mates, Second engineers, first maritime officers and any person with immediate responsibility for loading, discharging, care in transit, handling of cargo, tank cleaning or other cargo-related operations on oil tankers shall hold a certificate in advanced training for oil tanker cargo operations.

Chemical tankers

Masters, chief engineers, chief mates, second engineers, first maritime officers and any person with immediate responsibility for loading, discharging, care in transit, handling of cargo, tank cleaning or other cargo-related operations on chemical tankers shall hold a certificate in advanced training for chemical tanker cargo operations.

Gas tankers

Officers and ratings assigned specific duties and responsibilities related to cargo or cargo equipment on liquefied gas tankers shall hold a certificate in Basic Training for liquefied gas tanker cargo operations.

Masters, Chief Engineers, Chief Mates, Second Engineer Officers and any person with immediate responsibility for loading, discharging, care in transit, handling of cargo, tank cleaning or other cargo-related operations on liquefied gas tankers shall hold a certificate in advanced training for liquefied gas tanker cargo operations.

Revalidation

These certificates of proficiency are valid for a period of 5 years and may be revalidated if the holder:

- Has at least 3 months seagoing service on the type of tanker indicated in the certificate during the period of 5 years preceding the date of application; or
- Is in the possession of a certificate showing that he successfully passed an approved and appropriate refreshment training.

3.3.2 Passenger ships and ro-ro passenger ships

Article 36 SD

Crowd management

Masters, Chief Mates, Chief Engineers, Second Engineers, First Maritime Officers and all other seafarers are designated on muster lists to assist passengers in emergency situations on board and written proof must be on board showing that they have been trained in crowd management.

Service to passengers

Of all seafarers providing direct service to passengers in passenger spaces, written proof must be on board showing that they have been trained in service to passengers.

Crisis management

Masters, Chief Mates, Chief Engineers, Second Engineers, First Maritime Officers and all other seafarers have the responsibility for the safety of passengers in emergency situations and must be in the possession of a Certificate Crisis Management and Human Behavior.

Passenger safety

Masters, Chief Mates, Chief Engineers, Second Engineers, First Maritime Officers and all other seafarers have the responsibility for embarking and disembarking passengers, for loading, discharging or securing cargo and for closing hull openings, and they must be in the possession of a Certificate Passenger Safety, Cargo Safety and Hull Integrity (*see also under Equivalence*).

**This requirement is not applicable to sailing ships with less than 36 passengers.*

Familiarization

Before being assigned on a passenger ship, all seafarers designated with special tasks are given a familiarization training.

Revalidation

The seafarers mentioned above need to show by means of documented evidence or a certificate (with intervals not exceeding 5 years) that he:

- Has successfully participated in an appropriate refreshment course;
- Has at least 12 months seagoing service on a passenger ship or a ro-ro passenger ship during the preceding 5 years; or
- Has at least 3 months seagoing service on a passenger ship or a ro-ro passenger ship during the preceding 6 months.

Equivalence

Article 36, par.7 SD

Equivalent to the certificates Crisis Management or Passenger Safety are the records of the ship-owner stating that the seafarer has successfully undergone the proper training.

3.3.3 High-Speed Craft

Article 37 SD

Masters, Mates, Engineers and Maritime Officers of high-speed crafts need to be in the possession of a Certificate Type Rating HSC for the ship they are working on.

Revalidation

These seafarers need to submit evidence that they have served for a period of at least 6 months on board of the high-speed craft named in the certificate with intervals not exceeding 2 years.

3.3.4 Means of Propulsion Power

Article 38 SD and article 39 SD

Chief Engineers, Second Engineers and First Maritime Officers on board of ships propelled by marine steam driven engines need to possess the following certificates:

- Steam propulsion;
- Marine Gas turbine driven engines;
- Gas turbine propulsion.

3.4 Requirements concerning Medical first Aid and Medical Care

Article 42 SD

In unlimited area of navigation

The Master and the Seafarer appointed for the medical aid on board of the ship need to possess the certificate Medical First Aid and the certificate Medical Care On Board.

In near coastal voyages

The Master and the Seafarer appointed for the medical aid on board of the ship need to possess the certificate Medical First Aid when they are in an area of navigation stretching from the Dutch coast to the Dutch territorial sea, Dutch contiguous zone and Dutch Exclusive Economic Zone.

3.5 Requirements concerning Ships' cook

Article 43 SD

A Ships' Cook has the certificate of proficiency as Ships' Cook.

Ships' cook mandatory

Article 120 SD

On a ship that is required to have 10 or more crewmembers, a qualified cook needs to be in charge of the preparation of the food.

Ships' cook not mandatory

Article 120a SD

On a ship that is not required to have 10 or more crewmembers, anyone who is in charge of the preparation of the food, needs to have had a training or instruction in food, personal hygiene and the treatment and storage of food on board of ships.

3.6 Separate provisions for the crew

Survival craft and rescue boats

Article 117 SD

Before undertaking a voyage, the Master needs to ensure that a sufficient number of seafarers possess a Certificate of Proficiency in Survival Craft and Rescue Boats other than fast rescue boats.

**Master, Mates and Maritime Officers are expected to have this Certificate as standard.*

Fast rescue boats

In case fast-rescue boats are carried on board, at least two seafarers per boat are in the possession of a Certificate for Fast Rescue Boats.

Doctor on board

Article 119 SD

On a ship sailing an international voyage of more than 3 days and having 100 or more persons on board, a doctor needs to be present on board.

GMDSS-Radio operator Voyages outside Area A1

Article 121 SD

On board of a ship undertaking voyages outside Area A1, at least one seafarer in charge of the Navigational Watch needs to possess a Certificate General GMDSS-Radio Operator.

Voyages in Area A1

On board of a ship undertaking voyages exclusively in Area A1, at least one person in charge of the navigational watch needs to possess a Certificate Limited GMDSS radio operator.

3.7 Obligations to the ship-owner

Communication

Article 122 SD

The ship-owner shall ensure that effective communication between crewmembers about safety matters and between ship and the authorities ashore, can take place in a common language or in the language of the Authorities.

Working language on board ships

On board of ships a working language is established and registered in the ship's logbook.

For assisting passengers in emergency

On board of passenger ships crewmembers assigned in the muster list to assist passengers in an emergency have adequate communicative capabilities and are clearly recognizable.

On tankers

On board of oil-, chemical- or gas tankers crewmembers are able to communicate with each other in one or more working languages.

3.8 Complaint Procedures for Seafarers (not applicable on fishing ships)**On-board complaint procedures**

Article 69a SA

On board of each ship a complaint procedure determined by the ship-owner is applicable for filing complaints concerning compliance or alleged violations of the Maritime Labour Convention.

Copy of the Complaint Procedure

Before commencing his services on board each seafarer will receive a copy of the current on-board complaint-procedures from the master.

Complaint to the Competent Authorities

Article 69b SA

Each seafarer on board of a Dutch ship may file a complaint concerning the alleged violation of the Maritime Labour Convention, or a complaint concerning an alleged unlawful order given by the master to the official designated thereto by ILT .

3.8.1 Other obligations to the Ship-owner**Seafarers' Employment Agreement on board (not applicable on fishing ships)**

Article 69c SA

The ship manager shall ensure that copies are present on board of the by the seafarer and the employer signed SEA, the applicable collective bargaining agreement, other information applicable to the employment agreement and that a copy of the current text of the Maritime Labour Convention is available.

Maritime labor certificate and Declaration of maritime labor compliance

The ship-owner shall ensure that a copy of the Maritime labor certificate and the Declaration of maritime labor is available in a place clearly visible and accessible to the crew.

Language of documents

All agreements and documents mentioned, including the results of the examination the ship was subject to during obtaining and renewing the maritime labor certificate or during the period of validity, are available in Dutch and in English*.

**If the ship does not make international voyages no English translation of Dutch documents is obliged.*

3.9 Enforcement, Control and Investigation

Article 49 SA

Other officials and persons may also be appointed by the Minister.

Authority of officials

Article 50 and 51 SA

The officers, within the limits of their authority may inspect objects, goods and ships and to enter any place on board, living quarters included. In case of just suspicion about actions contrary to the obligations of this act the official is authorized to require the master to heave to or to take his ship to an assigned safe mooring place or anchorage.

Detention of a ship

Article 52 SA

(Only) The officer of ILT has the authority to detain a ship prior to departure for sea when:

- The safe manning certificate is lacking or invalid;
- The crew is not in compliance with the minimal requirements indicated in the safe manning certificate;
- Use is made or will be made by the ship other than allowed by the safe manning certificate;
- No maritime labor certificate has been issued or invalid;
- Serious or repeated violation of the Maritime Labour Convention has been found; or
- A serious threat exists to the safety, health or security of the seafarers.

The ILT official is also authorized to detain a ship in case cooperation is refused or access to the ship to officials is denied.

Lifting of detention

The detention will be lifted as soon as the reason for it has been removed.

Informing a detention

Article 53 SA

Immediately after a detention the official of ILT informs:

- The Minister with the reasons for detaining the ship; and
- The concerned officer of Customs and Excise.

The Custom's officer concerned will not release the ship as long as he has not been notified of the lifting of the detention of the ship.

3.10 Disciplinary Justice

Maritime Disciplinary Board General

Article 55a-55t SA

The master and the ship officers are subject to the disciplinary justice for any act or negligence contrary to the rules and care of good seamanship they are expected to observe concerning the persons on board, the ship, the cargo, the environment and shipping.

Duties and Residence

The Maritime Disciplinary Board is charged with disciplinary justice and keeps office in Amsterdam. Its hearings are open to the public and its decisions are open for appeal.

Composition of the board

The board consists of 12 members, 20 substitute members, 2 substitute chairmen and is chaired by a chairman. All are appointed by the Minister for a period not exceeding 4 years and may be re-appointed immediately thereafter.

Background of the board members

- The chairman and 2 substitute chairmen are graduated Masters in Law from a Dutch university;
- Eight members and 8 substitute members during the preceding 10 years have been active as master or ships' officer on board of a ship other than a fishing ship;
- Four members and four substitute members during the preceding 10 years have been active as skipper or ship officer on board of a fishing ship;

Also appointed as substitute members are:

- Two ship-owners;
- Two civil engineers;
- Two pilots; and
- Two hydrographers.

The procedure

A request from the Minister or a founded complaint from an interested party may start proceedings by submitting the reasoned request or complaint to the chairman of the board in writing or digital. The request or complaint will not be admitted if the conduct concerned happened more than 2 years before the date of the request or complaint.

Preliminary investigation

The chairman may decide on instituting a preliminary investigation to be done by one or more members or substitute members of the board. Immediately after concluding the preliminary investigation, a copy of the request or complaint is sent to the master or ship officer involved, by the secretary of the board. The master or ship officer involved may within a period of 6 weeks after receiving the copy give his reaction in writing or digital. The secretary will send a copy of the reaction to the person that lodged the request or complaint.

Hearings

The chairman will set a date for the hearing and the secretary will call up the master or ship officer involved at least 4 weeks prior to the hearing.

Presence during the hearing

Presence of the master or ship officer at the hearing is mandatory. The master or ship officer involved may be assisted by an adviser, preferably a lawyer. The Minister or the complainer may be represented by a representative empowered by him or assisted by an adviser. The Board may call up witnesses and experts and hear them.

Decision and disciplinary measures and penalties

If the Board is of the opinion that the request or complaint is sound it may decide upon one or more of the following disciplinary measures:

- Warning;
- Reprimand;
- Fine of up to EUR 4.500,-;
- Suspending the Certificate of Competency for a period of up to 2 years.

Moreover the Board may decide to publish the decision, including the grounds for it in one or more selected magazines or newspapers.

Appeal

Within a period of 6 weeks after the day of the decision was send an appeal against the decision may be made by:

- The master or ship officer involved when the request or complaint was considered well-founded or partly-founded;
- The Minister; or
- The complainer when his complaint was unfounded or partly unfounded.

Chapter 4. Working Conditions Seafarers

Legislation:

1. Working Conditions Act (WCA), Update December 2019, Stb.2019.483 (Arbeidsomstandighedenwet)
2. Working Conditions Decree (WCD), Update April 2020, Stb.2020.135 (Arbeidsomstandighedenbesluit)
3. Working and resting Hours Decree Transport (WHD), Update December 2019, Stb.2019.13 (Arbeidstijdenbesluit vervoer)

4.1 Introduction

The Working Conditions Act (*the working name in the Netherlands is ARBO-wet*) is the Dutch law containing the rules, circumstances and conditions for employers* and for all workers in all sectors of the economy in order to promote health, safety and well-being of workers and freelancers in order to prevent accidents and occupational illness.

The major part of acts and decrees is derived from European Directives and ILO conventions. Together with the Working Conditions Decree it creates a well-organized system of regulations for labor-protection. In the framework of this manual the focus will be mainly towards the seagoing shipping in the Working Conditions Act and 'lower' legislation like the Working Hours Decree.

**Where the law states 'employers', for seafarers the word 'ship-owner' is used.*

Application of the WCA

Article 2 WCA

The Working Conditions Act is applicable in the territory of the Netherlands but is expanded by article 2: To persons working on board seagoing ships flying the Dutch flag.

Policy on Working conditions Obligations of the ship-owner

Article 3 WCA

The ship-owners shall ensure the safety, health and well-being of the workers in all aspects of labor and implements a policy aimed at optimization of the working conditions.

Reporting and administrating Occupational accidents and Occupational diseases

Article 9 WCA

Occupational accidents leading to the death, permanent injury or hospitalization of the worker shall be reported immediately by the ship-owner to the official appointed for these matters.

General obligations of the workers

Article 11 WCA

The worker shall behave himself on his working place in accordance with his education and training and the instructions given by the ship-owner and take care as far as possible of his own safety and health and that of other persons.

In particular the worker is committed to:

- Use tools, appliances and dangerous goods in the correct way;
- Use personal safety equipment in the proper way and after use return it to the proper storing place;
- Use safeguards in the proper way and not to change them or remove safeguards without a valid reason for doing so;
- Cooperate in instructions and trainings intended for the workers;
- Report immediately to his superior any hazard for the safety and health.

Officials assigned for Inspection and Enforcement

Article 24 WCA

The Minister of Social Affairs and Employment appoints the officials*.

The official may enter premises, including the living quarters without prior permission of the inhabitant or come on board for inspection bringing with them the equipment necessary.

** The Minister of Social Affairs and Employment and the Minister of Infrastructure and Water Management have agreed that on seagoing ships the officials of ILT have these tasks.*

Closing down work

Article 28 WCA

The official is authorized to order that persons may not stay in places indicated by him or to close down or prohibit the start of work indicated by him, if he is of the opinion that staying or working in these places leads to serious danger to persons.

Sanctions

Article 32 WCA

It is illicit for the employer to act or fail to act in accordance with this act or on legislation founded on this act, if he is aware or within reason ought to be aware that danger to life or to serious damages to the health of persons arises or may be expected to arise.

Interruption of work

Article 1.20 WCD

Article 29 of the Working Conditions Act wherein the worker is granted the possibility of interruption of work, is not applicable if this contravenes with the obligations deriving from the masters authority

**Loading and unloading a ship is regulated in the Stevedores Act.*

4.2 Working and resting Hours Seagoing ships and Harbor tugs

Introduction

The decree contains concrete rules for all areas of labor and is divided into areas or subjects. The regulations are formulated in a general way and indicate the objectives of the policy. Here we will limit ourselves to Chapter 6 of the Working Hours Decree Transport (WHD), stating the rules for the working and resting hours on board of seagoing ships and on harbor tugs. This chapter contains the Dutch implementation of the Maritime Labour Convention and concerns all seafarers, (including the master), unless explicitly excluded.

**The Dutch working hours decree approach for shipping is the period of rest and not the working hours.*

4.2.1 Seagoing ships

Definitions

Article 6.1.2 (WHD)

- Master: Seafarer having the command of the ship.
- Seafarer: Seafarer in accordance with the Seafarers Act.
- Young seafarer: Seafarer of 16 or 17 years.

Period of rest

Article 6.1.3 WHD

A period of rest means a period of at least one hour wherein no work is done.

Obligations for the master

Duty-roster (table with shipboard working arrangements)

Article 6.4.1 WHD

The master takes care that on board a duty-roster of all seafarers is posted in an accessible place.

Registration

Article 6.4.2 WHD

The master takes care that within a week the working-and resting-periods are recorded in the standardized form. The completed record shall be endorsed by the master, or a person authorized by the master, and by the seafarer. The master takes care that every seafarer will receive a copy of this record. The master will see to it that the completed and signed records are presented to the ship-owner at the latest eight weeks after being drawn up.

4.2.1.1 Seafarers 18 years and over

Minimum number of hours of rest

Rest in any 24-hour period

Article 6.5.2 WHD

The master organizes work in such a way that the minimum hours of rest of the seafarers aged 18 and over, are not less than 10 hours in any 24-hour period, counted from the beginning of the rest period.

Rest in any 7-day period

The master organizes work in such a way that the minimum hours of rest of the seafarers aged 18 and over, shall not be less than 77 hours in any 7-day period.

Maximum number of rest-periods

The period of rest may be divided into no more than two periods, one of which shall be an uninterrupted period of at least six hours in length. In that case the period of 24 hours will be counted starting at the beginning of the longest period of rest.

4.2.1.2 Young seafarers (16 and 17 years old)

Article 6.5.3 WHD

The master organizes work in such a way that young seafarers:

- Perform no more than 8 hours of work in any 24-hours period;
- Have a period of rest of not less than 12 in any 24-hours period, whereof 9 hours are uninterrupted, including the period between 00.00 and 05.00 hours;
- Perform no more work than 40 hours per week;
- Have an uninterrupted period of rest of no less than 36 hours in any period of 7 times 24 hours; and
- In principle perform no work on Sundays.

Young seafarers are given a break, where possible uninterrupted, of no less than 30 minutes after having worked for 4,5 hours.

Exceptions

Contrary to the provisions under a and b young seafarers may:

- Perform a maximum of 12 hours work in any 24-hour period if, due to the watch schedule is actually keeping watch during these hours; and
- Perform work between 00.00 hours and 05.00 hours if necessary in the framework of their education.

4.2.1.3 Other obligations for the master

Short break

Article 6.5.4 WHD

The master organizes work in such a way that the work of the seafarers is interrupted by a short break after a period not exceeding 7-hours.

Disturbance by Call-outs to work

Article 6.5.5 WHD

When a seafarer is on call and is disturbed by call-outs to work he shall have adequate compensatory rest.

Drills

Article 6.5.6 WHD

The master organizes the musters, fire-fighting and lifeboat drills, and drills prescribed by national laws and regulations in a manner that minimizes the disturbance of rest periods and does not induce fatigue.

Suspending schemes during emergency

Article 6.5.7 WHD

The master may suspend the working- and resting hours schemes and require a seafarer to perform work necessary for the immediate safety of the ship, persons on board or cargo, the environment or for the purpose of giving assistance to other ships or persons in distress at sea.

As soon as the normal situation has been restored, the master shall ensure that the seafarer who has performed work in a scheduled rest period are provided with an adequate period of rest as compensation.

4.2.2 Harbor tugs

Article 6.6.1 WHD

Applicable on seagoing ships during service as harbor tug.

4.2.2.1 Seafarers 18 years and over

Rest per 7 or 10 days

Article 6.6.2 WHD

Seafarers* of 18 years and over shall have an uninterrupted period of rest of no less than 36 hours in any period of 7 times 24 hours if not 72 hours in any period of 10 times 24 hours. These periods are counted from the day the seafarer started his function on board.

**The term seafarer includes the master.*

Daily rest

Article 6.6.3 WHD

The master organizes work in such a way that the minimum hours of rest of the seafarers aged 18 and over, are not less than 10 hours in any 24-hour period. The seafarers shall have an uninterrupted period of rest of 8 hours in any period of 24 hours. The master organizes work in such a way that an uninterrupted period of rest of 8 hours may be reduced at a maximum to 3 times per week to no less than a period of 6 uninterrupted hours.

Weekly work

The master organizes the work in such a way that the seafarers of 18 years and over have a period of rest of no less than 77 hours in any period of 7 times 24 hours. A period of 24 hours will be counted starting at the beginning of the longest period of rest. The period between two periods of rest shall not be more than 14 hours.

Total working hours in a period of 13 weeks of seafarers 18 years and over

Article 6.6.4 WHD

The master organizes the work in such a way that seafarers of 18 years and over have an average number of working hours per week not exceeding 48 in any period of 13 weeks.

4.2.2.2 Young seafarers

Resting hours

Article 6.6.5 WHD

The master organizes the work in such a way that young seafarers:

- Have an uninterrupted period of rest of no less than 36 hours in any period of 7 times 24 hours, Sundays included;
- Have a period of rest of no less than 12 hours in any period of 24 hours, whereof 9 hours are uninterrupted, including the period between 22.00 and 06.00 hours or the period between 23.00 and 07.00 hours.

Working hours

The master organizes the work in such a way that young seafarers:

- Perform work not exceeding 8 hours in any period of 24 hours;
- Perform work not exceeding 40 hours in any period of 7 times 24 hours;
- Are given a short break, where possible uninterrupted, of no less than 30 minutes after having worked for 4 to 5 hours.

Exceptions

A young seafarer is allowed to perform work between 22.00 and 06.00 hours or between 22.00 and 07.00 hours when necessary in the framework of his training.

Call-outs to work*Article 6.6.6 WHD*

When a seafarer of 18 years and over is on call and is disturbed by call-outs to work he shall have adequate compensatory rest.

The compensation shall not be less than the remaining period of rest or short break at the moment of the call-out or short break. `

Call-out over a longer period

The master organizes the work in such a way that the seafarers in any period of 4 weeks shall not be assigned:

- On-call duty for a period of no less than 14 times 24 consecutive hours; and
- Work or on-call duty for a period of not less than 48 consecutive hours.

4.3 Obligations of the ship-owner*Article 6.7.1 WHD*

The ship-owner takes care that the text of this Act and this Chapter (6) of the Working Hours Decree are present on board.

Chapter 5. Authority and General duties and Tasks of the Master

Legislation:

1. Code of Commerce Authority (CoC), Update November 15, 2019 Stb.2019.416/35194 (Wetboek van Koophandel)

Article 1. Seafarers Act

The master is in command of a Dutch ship.

5.1 Before the voyage*Article 343 CoC*

The master shall carry out conscientiously the customary rules and existing regulations in order to ensure the seaworthiness and safety of the ship, the safety of those on board and of matters on board. He will not undertake the voyage unless the ship is suitable for doing so properly equipped and adequately manned.

5.2 During the voyage*Article 344 CoC*

The master shall make use of a pilot anywhere where law, custom or prudence requires so.

Leaving the ship*Article 345 CoC*

During the voyage or in imminent danger the master may not leave the ship unless his absence is strictly necessary or saving his own life compels him to do so.

Certificates and documents on board*Article 347 CoC*

The master shall have on board:

- The Certificate of Registry;
- The Tonnage certificate;
- An extract from the ship's registration;
- The cargo manifest;
- The charter party;

- Bills of lading or copies of it; and
- Dutch laws and regulations relevant to the voyage.

Logbooks

Articles 348-351 CoC

The master ensures that a logbook is kept on board wherein which all matters of any importance occurring during the voyage are accurately recorded. In addition the master ensures that an engine-room logbook is kept by one of the engineers. The logbooks are, if possible daily, be kept, dated and signed by the master and the seafarer made responsible for keeping the logbook.

Access to logbooks

The master, the ship-owner and the bareboat charterer shall at the request of interested parties give access to these logbooks and provide copies of the logbooks against payment of costs.

Consultation with the crew

When the master has a consultation with members of the crew about matters of importance, the advices given to him by these members are recorded in the logbook.

Ship's protest

Article 353 CoC

After arrival in a port the master may have a ship's protest drafted by a notary concerning incidents during the voyage. If a ship or goods on board have suffered damage or if any extraordinary incident has taken place the master shall have a preliminary protest drafted within 48 hours after arrival to be followed by a full and definite protest within eight days (Sundays and Bank holidays excluded (Article 354)).

In the Kingdom of the Netherlands outside Europe the master must contact the competent authorities and outside the Kingdom the Dutch Consul or in his absence the competent authorities. The notary, or outside the Kingdom of the Netherlands the Dutch Consul shall issue copies to anyone who so desires against payment of costs.

Cooperation of the crew

Article 355 CoC

Seafarers designated by the master shall cooperate in drafting the ship's protest by recording their findings.

Saving the ship *Article*

357 CoC

The master is authorized, if necessary for saving the ship or its cargo, to jettison ship's appurtenances and parts of the cargo or to utilize them.

Emergency

Article 358 CoC

In case of emergency, the master is authorized to confiscate foodstuffs belonging to persons on board or are part of the cargo in order to be consumed by all persons on board. Compensation for the confiscation has to be paid.

Render assistance

Article 358a CoC

The master shall render assistance to persons in distress at sea and in particular when his ship has been involved in a collision he shall render any assistance in his power to all other ships involved and the persons on board without seriously endangering his own ship and those on board.

If possible, the master shall give the name of his ship, his home port and the ports of departure and destination to all other ships involved in the collision.

Assist a Dutch seafarer in need of help

Article 358b CoC

At the request of the Dutch consul or, if absent, the local authorities the master of a Dutch ship bound for the Netherlands shall transport Dutch seafarers in need of help. The costs are to the expense of the Treasury.

Save lives

Article 370 CoC

The master is authorized to deviate from his course in order to save lives.

Stowaways

Article 371a CoC

If during the voyage somebody is discovered on board not in the possession of a valid ticket and not prepared or not in a position to pay for the transport, the master has the right to detain him for duties and to remove him from the ship on the first occasion available.

Carriage of goods on own account

Article 372 CoC

The master nor any another person on board may transport goods in the ship on his own account unless permitted to do so by the ship-owner or, if the ship is under charter by the charterer.

5.3 After the voyage

Article 388 CoC

After termination of the voyage the master shall hand over the ship's documents to the ship-owner against a certificate of receipt.

Chapter 6. Labour and Employment

Legislation:

1. Book 7, Civil Code (CC7), Update July 2020, Stb.2020.293 (Burgerlijk Wetboek Boek 7);
2. Seafarers Act (SA), Update November, 2020, Stb.2019.417 (Wet zeevarenden).

Introduction

In Dutch law, a labor agreement is the agreement whereby one party, the employee, commits himself to another party, the employer, to perform labor for a certain period against payment.

When signing the ratification of the Maritime Labour Convention 2006 (MLC), the Netherlands has implemented the employment aspects of seafarers deriving from the MLC together with the existing national rules on employment in the Civil Code, Book 7, Title 10 (Employment agreements), and Section 12 called:

6.1 Provisions in respect of maritime employment

Seafarers Employment Agreement (SEA)

Article 694 CC7

The SEA is the employment agreement, including the employment contract with a manning agency, wherein the seafarer commits himself to perform labor on a seagoing ship (under Dutch flag).

Exemption

After consultation with the organizations of ship-owners and seafarers concerned the Minister of Labour and Employment may designate categories of seafarers who are not considered to be seafarers as mentioned before.

Signing of the SEA

Article 697 CC7

The SEA must be entered into by both parties in writing and signed by them and each party must have a signed original of the SEA.

Information about the SEA

Article 698 CC7

Every seafarer must be able to take note of his SEA and the applicable collective bargaining agreement and obtain information about labor conditions not appearing therein.

6.1.1 Contents of the SEA

Article 699 CC7

The Sea Employment Contract (SEA) shall in any case contain the following particulars:

- The name and surname of the seafarer, date of birth or age and birthplace or, when applicable, unknown of this is the case in any of these data;
- The employers' name and address;
- Place where and date when the SEA is entered into;
- The name of the ship or ships whereon the seafarers committed himself to perform labor or the declaration that he will perform labor on one or more seagoing ships to be determined by the ship-owner;
- The voyage or voyages, if pre-defined;
- The amount of the seafarer's wages or, where applicable, the formula used for calculating them;
- The amount of paid leave or, where applicable, the formula used for calculating it;

- The amount of wages to be paid during leave and, where applicable, the formula used for calculation;
- The health and social security protection benefits to be provided to the seafarer by the ship-owner;
- The capacity in which the seafarer is to be employed;
- If possible, the place where and the date whereon the labor on board will commence;
- The termination of the SEA and the conditions thereof, in particular:
 - If the agreement has been made for a definite period, the date fixed for its expiry and the condition that the SEA ends at the first port, the ship will call after that time has passed and, if necessary, termination occurred;
 - If the agreement has been made for a definite voyage, the port agreed for termination of the agreement, or if the voyage ends in another port the SEA will terminate at the time when the seafarer is duly repatriated;
 - If the agreement has been made for an indefinite period, the conditions entitling either party to terminate it, as well as the required notice period, which shall not be less for the ship-owner than for the seafarer;
- The seafarer's entitlement to repatriation; and
- Reference to the collective bargaining agreement, if applicable.

Checking contents of SEA by ship-owner

Article 69d SA

The ship manager ensures that the SEA is signed by both parties and contains all particulars given in article 699 (see above under Contents of the SEA).

6.2 Service on the ship

Article 702 CC7

The seafarer is in the ship service between the time of beginning his services on board and the time whereon he puts down or is released of these services on board.

The master representing the employer

Article 703 CC7

The master represents the employer in the performance of the SEA with the seafarers, who are in the service of the ship he commands.

Duties assigned by the master

Article 704 CC7

The seafarer is obliged to perform all duties assigned by the master, even if the duties are different to the ones he performs on board in accordance with his SEA.

The seafarer is obliged to cooperate in the preservation of the ship, the persons on board and the property.

Jurisdiction on a SEA

Article 705 CC7

In disputes concerning SEA, collective employment agreement or arrangement, regardless of the applicable law, the district judge of the District Court of Rotterdam has exclusive jurisdiction

6.3 Remuneration

Article 706 CC7

Payment of the wages earned in the service of a seagoing ship is made:

- In the currency, expressed in the SEA;
- In the currency prevailing at the location of payment;
- By bank transfer, calculated at the exchange rate on the day of payment, if conversion is necessary.

Transmitting wages

Article 707 CC7

The seafarer may require the employer in writing to transmit all or part of his wages to the person or persons nominated by him.

Payment of wages

Article 708 CC7

The seafarer is entitled to payment of his wages in any port the ship will call during the voyage, provided seven days have elapsed since the last payment.

Intervals between payments

The payment of the wages will not be later than the day following the arrival, but in any case before leaving port, provided that the interval between 2 payments may not be more than 1 month.

Right on extra payments

Article 711 CC7

If the seafarer contributes to the preservation of the ship, the crew and the property, he is entitled to an extraordinary reward for the days during which he was employed for the sake of preservation.

Share in the towage

Article 712 CC7

If a ship, not intended for towing services, renders towing services to a ship encountered in the open sea under circumstances that do not give the right to remuneration to salvors, the seafarers are entitled to a share of the towage.

No right on wages

Article 716 CC7

No wages is due for the period during which the seafarer has refused to perform the contracted - or otherwise assigned work without a valid reason.

6.4 Monetary compensation in case of shipwreck or shipping disaster and in case of death of the seafarer

Shipwreck or other shipping disaster

Article 719 CC7

The employer is liable to the seafarer for the damages resulting from a shipwreck or other disaster that happened on the ship. In case of total or partial loss of the equipment of the seafarer resulting from shipwreck or other disaster to the ship, the seafarer is entitled to a benefit. In the event of unemployment resulting from shipwreck or other disaster to the ship, the seafarer is entitled to a payment equal to the wages agreed in the SEA for the duration of unemployment but not exceeding two months. This allowance will be reduced with the wages the seafarer was entitled to.

6.5 Death of the seafarer

Article 719 CC7

If the seafarer loses his life through shipwreck or other disaster to the ship, the benefits shall accrue to his survivors.

Payment of funeral expenses of the seafarer

Article 720 CC7

If the seafarer dies during services on board the seagoing ship or on shore in connection with the service on board, the employer shall bear:

- If the funeral services take place outside the country of domicile or country of residence, the costs incurred for that purpose;
- If the funeral services take place in the country of domicile or country of residence, the costs of and in connection with the transportation of the remains to the domicile or country of residence in that country, as well as the costs of and in connection with the requisite excavation of the remains

The Master and the belongings of the seafarer

Article 720 CC7

The master is obliged to ensure the belongings left on board of a seafarer who became ill, is missing or in case of death. He is obliged to record these belongings in the presence of 2 seafarers and have the record signed by himself and those seafarers. The master shall ensure that these matters are delivered to the seafarer or in case of missing or death to the survivors of the seafarer concerned.

6.6 Termination of the Seafarers employment agreement

SEA for a Defined period

Article 722 CC7

If the agreement has been made for a definite period the agreement ends in the first port the ship after the date fixed for its expiry.

SEA with an undefined period (permanent)

Article 724 CC7

During the period that the seafarers is employed on board a seagoing ship either party may in writing terminate a SEA for an indefinite period in any port of call, subject to a notice period of no less than seven days. The notice period shall not be less for the ship-owner than for the seafarer.

6.6.1 Termination of SEA during a voyage

Article 725 CC7

During a voyage of the ship either party may terminate the SEA sea-employment only for an urgent reason, communicating at the same time the reason to the other party. The party who terminates without an urgent reason or not communicating the urgent reason at the same time is liable for damages.

Urgent reasons for termination (*by ship-owner*)

Article 726 CC7

Urgent reasons are acts or behavior of the seafarer which have the effect that, within reason, the employer cannot be expected to continue the SEA.

Urgent reasons do include:

- Producing false or forged document or deliberately giving false information to the employer when entering the SEA;
- Seriously missing ability and is unqualified for the work required;
- Drunkenness or disorderly conduct;
- Stealing, embezzlement, fraud or other crimes making him unreliable for the employer;
- Deliberately damaging property of the employer;
- Deliberately exposing himself or others to serious danger;
- Revealing information about the employer that he ought to keep secret;
- Refusing to comply with reasonable orders or instructions given by or on behalf of the employer;
- Grossly neglecting the duties the SEA requires;
- Through intent or recklessness incapable to perform the duties required;
- When a person on board the seagoing ship is abused, grossly insulted, seriously threatened or seduced or tried to seduce to acts contrary to law or morality;
- When the seafarer either temporarily or permanently is deprived of his competence to serve in a position he agreed to serve in;
- The seafarer has taken contraband or kept in his possession, or in case of the master has taken contraband on board, kept it in his possession or has admitted it to be there.

Urgent reasons for termination (*by seafarer*)

Article 727 CC7

Urgent reasons for the employee are circumstances having the effect that with all reason it cannot be expected from the seafarer to continue his employment. Urgent reasons do include:

- Abuse, grossly insult or serious threat by the ship-owner;
- Seduced or tried to be seduced to acts contrary to law or morality by the employer;
- Not receiving wages at the appropriate time;
- Not properly receiving accommodation, food and drink.

Additional urgent reasons for termination (*by seafarer*)

Article 727 CC7

In addition to the urgent reasons for employees, specific urgent reasons are stated for seafarers, such as:

- Orders given to him that conflict with the SEA or legal obligations of the seafarer;
- The ship is destined for a port in a country having an armed conflict or to a port that is blocked, unless the SEA explicitly allows this and is entered into after the outbreak of the conflict or after the proclamation of the blockade;
- Orders are given to him to leave for a hostile port;
- The ship is used in an armed conflict;
- The ship is used for committing crimes;
- The danger for abuse by another seafarer is threatening him;
- When the accommodation, food or drinking water on board is harmful to the health of the seafarers; and
- The ship losing the right to fly the Dutch flag.

6.6.2 Incapacity and rights of the Seafarer

Illness

Article 734 CC7

The seafarer incapacitated by illness, pregnancy or childbirth and unable to perform the duties required retains the right to full pay while he is on board.

Medical care

Article 734a CC7

Until his recovery the seafarer is entitled to adequate medical care and medical treatment, unless the seafarer is staying in his country of domicile or his country of residence, and ends when the seafarer has returned or could have returned to his country of domicile or his country of residence.

Sick Pay

Article 734b CC7

Seafarers from an EU-member state, Iceland, Lichtenstein, Norway or Switzerland are entitled to a period of sick pay not exceeding 104 weeks.

Sick Pay to foreign seafarers

Article 734d CC7

Seafarers, other than the seafarers mentioned above are entitled to a period of sick pay not exceeding 52 weeks. If the disease is a result of intentional acts of the seafarer, the wage claim may be forfeited or reduced.

Accident

In addition to the sick pay the seafarer who had an accident while doing duties during his SEA is entitled to benefits and services such as:

- Continuation of sick pay after 52 weeks in case of temporary disability, ending on the day whereon permanent disability occurs, or 3 years after the 52 week period ended;
- The seafarer with a permanent disability to work is entitled to a lump sum payment.

Death

If the seafarer dies as a result from the accident, the rights are transferred to his survivors. These survivors are also entitled to a lump sum, depending on the wages, civil status and number of children of the seafarer.

6.7 Repatriation

6.7.1 Entitlement to repatriation

Article 718, paragraph 1

The seafarer is entitled to repatriation in a rapid and convenient way, if possible by airplane to a place of destination chosen by himself in case of:

- Termination of the SEA;
- Illness that requires repatriation;
- Recovery from illness, when he is left outside the country of domicile or country of residence or the place where the SEA has been concluded;
- Shipwreck;
- The employer is unable to fulfil his legal or contractual obligations due to bankruptcy, the sale of the ship, a change in the registration of the ship or for any other similar reason;
- The ship setting course to a war zone, while the seafarer refuses to go to that area; or
- Expiration of a period of 12 months wherein the seafarer has been employed on the ship.

6.7.2 Destination for repatriation

Article 718, paragraph 3

A place of destination is:

- The place where the SEA has been concluded;
- The country where the seafarer has his domicile or country of residence; or
- The location determined in the SEA or in the applicable collective bargaining agreement.

6.7.3 Reimbursement of expenses

Article 718, paragraph 2

In the case of repatriation, the employer is obliged to reimburse the following expenses:

- The journey to the place of destination;
- Accommodation and food from the day on which the seafarer has left the ship until he has reached his destination;
- Wages and allowances from the date on which the seafarer has left the ship until he has reached his destination;
- Medical treatment, if necessary, until the health of the seafarer allows travelling to the destination.

Failure to repatriate

Article 718, paragraph 6

If the employer fails to meet the obligations relating to repatriation in time, the ship-owner will be responsible for its performance.

Chapter 7. The master

Legislation:

1. Book 8, Civil Code, Title 4, The master (CC8), Update May 2019, Stb.2019.201 (Burgerlijk Wetboek Boek 8);
2. Act Loading and unloading of seagoing ships (LUSV), Update December 2010, Stb.2010.866 (Wet laden en lossen zeeschepen);
3. Criminal Code (CC), Act of 3 March 1881.

7.1. The master in loading and unloading

Bill of lading and other agreements

Article 260 CC8

Authority and General duties and Tasks of the Master

The master is authorized to undertake legal acts with the direct purpose of bringing or keeping the ship in service (*accepting a declaration is considered to be a legal act*).

The master is authorized to issue a bill of lading for goods, received and accepted for transport and tickets for passengers who are to be carried by the ship. He is also authorized, on behalf of the ship-owner and the rightful owner of the goods on board the ship to conclude an agreement on assistance as well as to collect the salvage rewards and other special compensation.

Guarding the interest of the shipper

Article 261 CC8

The master is to guard the interests of shippers and of the rightful owners to the goods on board, if possible also after the unloading thereof and take all measures necessary for that purpose. If it is necessary to take immediate action for the protection of those interests, the master is authorized to undertake legal acts, including receiving a declaration.

Limitations to authorization

Article 262 CC8

Limitations of the legal authority of the master are only valid against third parties when they were informed about that.

Exceeding authorization

The master commits himself only then, when exceeding the limits of his authorization.

7.2 Loading and unloading of bulk carriers

Legislation: Act Loading and unloading of seagoing ships (LUSV)

Applicable to:

Seagoing bulk carriers calling at a terminal for the loading or unloading of solid bulk cargoes and to terminals visited by bulk carriers.

Not applicable to:

Facilities used only in exceptional circumstances, for the loading or unloading of solid bulk cargoes nor when exclusively using the equipment for loading and unloading of the bulk carrier.

Obligations of the terminal operator Verifying

Article 3 LUSV

The terminal operator verifies that a bulk ship operated by a terminal will call him, has been operational for the loading or unloading of solid bulk cargoes.

Ensuring

Article 4 LUSV

The terminal operator ensures that only bulk carriers are allowed at the terminal who can safely berth, taking into account manuals are available to the bulk carriers masters berthing at the terminal for loading or unloading solid bulk cargoes.

Quality Management System

Article 5 LUSV

The terminal operator ensures that the terminal a certified quality management system is implemented, which meets the ISO -or equivalent standards by ministerial regulation.

Terminal representative

Article 6 LUSV

The terminal operator appoints one or more persons as terminal representatives, responsible for the preparation, execution and completion of loading or unloading at the terminal for the purpose of a particular bulk carrier.

Obligations for the master in respect of bulk-carriers Information to the terminal

Article 7 LUSV

Well before the time of arrival the master will provide the terminal representative the estimated time of arrival of the bulk carrier at the terminal, and other information required.

Information from the terminal

Article 7 LUSV

After having received the initial notification of the estimated time of arrival of the bulk carrier, the terminal representative provides the master with the information necessary.

Duties of the master in loading and unloading of bulk-carriers

Article 8 LUSV

The master:

- Is at all times responsible for the safe loading and unloading of the bulk carrier under his command;
- Performs the tasks required by ministerial regulations before commencing and during the loading and unloading operations;
- Ensures that he has received, before any solid bulk cargo is loaded, the data to be determined by ministerial regulation.

Duties of the terminal representative

Article 8 LUSV

Performs before loading or unloading is commenced and during loading or unloading, the tasks to be determined by ministerial regulation. Verifies that the master at the earliest possible stage has the data to be set by ministerial regulation.

Loading or unloading plan

Article 9 LUSV

The master and the terminal representative before any solid bulk cargo is to be loaded or unloaded, reach agreement on a loading or unloading plan that ensures that the maximum longitudinal forces and bending moments determined for the bulk ship will not be exceeded during loading or unloading. The loading or unloading plan is accompanied by checklists.

Changes in Loading or unloading plan

Article 9 LUSV

About any change in the loading or unloading plan that according to the master or the terminal representative may affect the safety of the bulk ship or its crew agreement in the form of a revised plan is agreed.

Signing of a (changed) loading- or unloading plan

Article 9 LUSV

The loading or unloading plan, including changes to the plan, and checklists are signed by the master and the terminal representative to confirm their agreement.

Conduct during operations

Article 10 LUSV

The master and the terminal representative shall conduct the loading or unloading operations in accordance with the agreed loading or unloading plan. The master and the terminal representative establish an effective way of communication in order to respond to requests for information on the loading or unloading process and to ensure prompt action in the case the master or the terminal representative orders the stopping of the operations. The remaining sections of this Act contain provisions inter alia on document retention, damage to the ship by loading or unloading, inspection and sanctions

7.3 The master and Crimes on Board

Legislation: Criminal Code (CC)

Explanation:

The Criminal Code together with the Criminal Procedure Code is the basis for the Dutch criminal law. In addition, there are crimes and offenses in seagoing shipping stated in the Economic Offences Act and the Working Conditions Act.

Applicable

Article 2 CC

Dutch Criminal law is to any person who is guilty of any criminal offense in the Netherlands.

Applicability on Dutch ships

Article 3 CC

Dutch criminal law is applicable to everyone who commits on board a Dutch ship of any criminal offense outside the Netherlands.

7.4 Crimes and offenses by seafarers on Dutch ships

Article 7 CC

The Dutch criminal law is applicable to the master and crew of a Dutch ship if they commit outside the Netherlands on board as well as ashore one or more of the offenses defined in Title XXIX of Book 2 (Shipping offences) and Title IX of Book 3 (Shipping crimes).

Penalties

Principal penalties:

- Imprisonment;
- Custody;
- Community service;
- Fine.

Additional penalties

- Deprivation of certain rights;
- Forfeiture;
- Publication of the verdict.

7.4.1 Shipping crimes (examples)

Piracy

Article 381 CC

For taking on service as master or working on a ship, knowing that it is intended to be used to commit violence against other ships in the open seas or against the persons or property thereon, without the authorization of a belligerent power or belonging to the navy of a recognized state.

Taking possession of a ship

Article 386 CC

The person on board a Dutch ship who illegally take possession of the ship.

Forged ship's protest

Article 389bis CC

The master of a Dutch ship drafting a ship's protest knowing that the contents are in contravention to the truth. Crewmembers cooperating with the drafting of such a protest knowing that the contents are in contravention to the truth.

Evading command of the ship

Article 390 CC

The master of a Dutch ship who deliberately evades the command of the ship during the voyage therewith endangering the safety of the persons on board, the ship or the cargo.

Insubordination

Article 395 CC

A person on board a Dutch ship who actually assaults the master, or the crewmember who actually assaults his superior, opposes him with violence or threats of violence or intentionally depriving him of his freedom of action.

Mutiny

Article 396 CC

Mutiny is insubordination committed by two or more persons in conspiracy.

Disobedience

Article 400 CC

The person on board a Dutch ship who deliberately disobeys any order given by the master in the interest of safety on board. The person, other than a crewmember, on board a Dutch ship who deliberately disobeys any order given by the master in the interest of maintaining order and discipline.

Failing to act

The person on board a Dutch ship, being aware that the master has been deprived of his freedom to act, who does not render all assistance within his power.

Damages

Article 408 CC

The person who on board intentionally destroys, damages or renders useless cargo, ship's stores or provisions on board.

Flying the Dutch flag

Article 409 CC

The master of a ship flying the Dutch flag knowing that he is not entitled to do so.

No certificate of Competency

Article 411 CC

The person who without the need for doing so, acts as master, mate or engineer knowing that he is not qualified to do so.

Not rendering assistance

Article 414 CC

The master who willfully fails his obligation to render assistance if his Dutch ship was involved in a collision.

7.4.2 Shipping offences (examples)**Leaving without documents**

Article 470 CC

The master of a Dutch ship leaving for sea without having on board the ship's papers, certificates, books, documents or other data required by law.

Log books

Article 471 CC

The master of a Dutch ship who does not ensure that the required log books on board of his ship are kept in pursuance with the legal requirements or does not show them when the law requires to do so. The master of a Dutch ship who refuses interested parties at their request inspection of or the issue of a copy of the log books on board against payment of costs.

Not recording birth or death

Article 472 CC

The master of a Dutch ship who does not comply with his legal obligation concerning entering and announcing births and deaths occurred during a voyage.

Chapter 8. The Master as Registrar and Notary

Legislation:

1. Book 1, Civil Code (CC1), Update July 2019, Stb.2019.352 (Burgerlijk Wetboek Boek 1);
2. Book 4, Civil Code (CC4), Update September 2018, Stb.2018.312 (Burgerlijk Wetboek Boek 4);
3. Burial and Cremation Act (BCA), Update April 2018, Stb.2018.224 (Wet op de lijkbezorging).
4. Burial and Cremation Decree (BCD), Update January 2019, Stb.2019.46 (Besluit op de lijkbezorging);
5. Birth and Death Certificates (BDC), (Geboorte- en overlijdingsakte);

8.1 Birth

Article 19a CC1

The master of a Dutch seagoing ship shall register a Provisional Certificate of Birth in the ship's log book in the presence of two witnesses and if possible the father within 24 hours.

8.2 Death

Article 19g CC1

The master of a Dutch seagoing ship shall register a Provisional Certificate of Death in the ship's log book in the presence of two witnesses within 24 hours.

As 'registrar' the master will send a copy of the provisional certificates to the Civil Register of the City of The Hague (or 's-Gravenhage) who will thereafter make up the certificate of birth or of death on the basis of the copy received.

8.2.1 Burial and Cremation

Article 70 BCA

States that rules are given in the BCD for the treatment of the dead bodies of persons who died on board or of stillborn infants on Dutch ships, including the cases where the dead body may be committed to the deep or is subject to a preservation process.

Burial

Article 18 BCD

Dead bodies of persons who died on board a Dutch ship at sea may be dealt with in accordance with the wishes of the deceased. If his wish is not known the mode of burial shall be in accordance with the wishes of his spouse, registered partner or other partner. The dead bodies of stillborn infants on a Dutch ship at sea are dealt with in accordance with the wishes of the mother or both parents.

Transport to the country of domicile

Article 19 BCD

If no specific wishes of the deceased or others are known the dead body will be transported back to the country of domicile of the deceased or the country of domicile of the mother of the stillborn infant, in order to be buried or cremated there.

Custody over the dead body

Article 20 BCD

Depending on the expected period of time wherein the dead body is to be kept on board, custody is to start the day after the death or the stillborn birth for a period:

- Of up to five days: separated from the persons on board;
- Of up to eight days: in surroundings wherein the temperature is not in excess of 4 degrees Celsius packed in an hermetically sealed wrapping; or
- Of more than eight days: in surroundings where the temperature is not in excess of 15 degrees below zero Celsius packed in an hermetically sealed wrapping.

Commission to the deep

Article 21 BCD

If the person who died on board a Dutch ship or the mother of the stillborn infant had the wish to do so, the dead bodies may be committed to the deep, but not sooner than 36 hours after the time of death or the stillborn birth.

Other issues

Articles 22 to 25 BCD

These articles contain provisions concerning committing the dead body to the sea for the sake of health on board, suspicion or indications of non-natural death and the recording in the ship's log book of all acts, experiences and the position of the ship.

8.3 Last will

Last will and testament during a voyage

Article 101 CC4

Those on a voyage on board a seagoing ship may make a last will in the presence of the master or the first officer or in absence of these persons in the presence of the person who substitutes them.

Making up a last will

Article 103 CC4

The last will is made up in writing in a proper way in the presence of two witnesses and signed thereafter by the testator, the witnesses and the person in whose presence they were made up. The witnesses shall be of age and understand the language in which the last will is made up.

Private statement as last will

Article 104 CC4

The testator is authorized to make a signed and dated last will and hand it for custody to the master or to the person who substitutes him, in the presence of 2 witnesses. The master or his substitute will immediately draft a certificate of deposit on the last will, the cover or on a separate paper.

Decease before custody

Article 105 CC4

If the testator dies and the last will has been and dated but not given in custody, the last will nevertheless be valid unless the testator reasonably speaking could have made a last will and have put it into custody.

Chapter 9. About War

Legislation:

1. Constitution, Update November 2018, Stb.2018.493 (Grondwet);
2. Code of commerce (CoC), Update November 2019, Stb.2019.416 (Wetboek van Koophandel).

Declaration of war

Article 96 Constitution

No declaration of war is proclaimed but after preliminary consent of the States-General in united session of both Chambers (Name of the Dutch Parliament, constituted by the First and Second Chamber).

Declaring the end of war

For a declaration that the war is ended preliminary consent of the States-General in united session of both Chambers is also needed.

Civil Defense

Article 99a Constitution

by Law, rules duties may be imposed for the purpose of civil defense

Concerning the master

Neutral port

Article 367 CoC

The master having been informed that the flag is no longer free (*the Netherlands are at war*) is obliged to enter the nearest neutral port and stay there until he can safely depart or has received explicit orders to depart from a person authorized to do so.

Blocked port

Article 368 CoC

if it is apparent to the master that the port where the ship is destined is blocked, he is obliged to enter the nearest most suitable port.

Chapter 10. Safety of Navigation

Legislation:

1. Ships Act (ShA), Update October 2019, Stb.2019.56 (Schepenwet);
2. Ships Decree 2004 (ShD), Update December 2016, Stb.2016.505 (Schepenbesluit);
3. Marine Equipment Act (AME), Stb. 2004, 553; English, uncontrolled version;
4. Seafarers Act (SA), Update November, 2020, Stb.2019.417 (Wet zeevarenden).

Introduction

The Ships Act is primarily intended to prevent shipping disasters at sea and regulates among other things the technical requirements for the safety of ships and the investigation of shipping disasters. A ship must possess certificates before it is allowed to sail. In addition, it must meet safety requirements such as the presence of charts and rescue- and safety equipment. The master must adhere to a number of obligations. Accidents such as collisions, groundings, fires or capsizes must be reported immediately to the Dutch Shipping Inspectorate (ILT).

The most important chapters and subjects of this act for this syllabus are

1. Prevention of shipping disasters;
2. Replaced by Safety Investigation Board;
3. Replaced by Safety Investigation Board;
4. Replaced by Maritime Disciplinary Board (See under crew);
5. Obligations and penalties.

10.1 Prevention of shipping disasters

Certificates

Article 3 ShA

No voyage shall be undertaken without the required and valid certificates.

Issue of Certificates

Article 3a ShA

A certificate is issued only if the ship and the management of the ship, both on board and ashore, meet the requirements set by the Minister.

10.2 Required valid certificates on board (see Ships Decree)

International Load Lines Certificate

Article 4 ShD

An International Load Lines Certificate for ships of 24 meters and over, engaged in international voyages is required.

International Safety Certificates

*Article 5 ShD**

For passenger ships

The passenger ship safety certificate.

For cargo ships of 500 GT or over**

The cargo ship safety certificate.

For cargo ships of 300 GT or over but less than 500 GT**

The cargo ship radio safety certificate.

** Not applicable to sailing ships of less than 500 GT, used for the carriage of no more than 36 passengers, and ships not equipped with mechanical propulsion.*

***For ships to which provision II-2/19 of the SOLAS Convention applies, the document of compliance for the carriage of dangerous goods mentioned therein is also required.*

National Safety certificate

Article 6 ShD

For a ship for which no safety certificate is required, other than a cargo ship of less than 12 meters, a national safety certificate is required.

High speed Craft safety certificate

*Article 7 ShD**

For a high-speed craft under HSC Code 1994 or HSC Code 2000 the High-speed craft safety certificate related to the relevant Code is required, as well as the operating license required by that Code.

** This safety certificate and the license replace the national or the international safety certificate.*

Certificate for ships with special cargo

Article 8 ShD

For ships carrying grain in bulk

In addition to the certificates above the following special certificates are required:
The document of authorization, related to the Grain Code.

For chemical tankers

The International Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk.

For gas tankers

The International Certificate of Fitness for the Carriage of Liquefied gases in Bulk.

For ships, used for the carriage in packaged form of irradiated nuclear fuel, plutonium or high-level wastes

The document of compliance, related to the INF Code.

Additional certificates

Article 9 ShD

A Safety Management Certificate and an International Ship Security Certificate, is also required for a ship:

- Issued with a Passenger Safety Certificate;
- Issued with a Cargo Ship Safety Certificate; or
- Issued with a High-speed craft safety certificate.

Certificate of exemption (of Load Lines Convention)

Article 11 ShD

An International Load Lines Certificate issued in accordance with the exemption or release, is accompanied by an international certificate of exemption or release.

Manning Certificate:

Article 5 SA

A ship is in the possession of a valid safe manning certificate issued by the Minister and shall be manned as a minimum in accordance with this certificate.

10.3 Obligations of the master before commencing a voyage

Article 4 ShA

The master is obliged, prior to undertaking a voyage with his ship to ensure that:

- The ship is completely seaworthy and all the appropriate internal and external openings have been adequately closed;
- The necessary lifesaving appliances and safety equipment as well as medicines and wound-dressing requirements and a relevant manual of medical instruction are on board in view of the service in which the ship is used, the nature and duration of the intended voyage, the number of persons on board and the necessary instructions for the efficient use of the lifesaving equipment have been posted;
- The necessary charts, sailing directions, pilots and navigation instruments are on board, have been properly kept up to date, maintained, checked and adjusted in good time;
- All the means necessary to comply with the regulations for preventing collisions at sea are on board and in good order, the navigation lights can be positioned in compliance with these requirements and in general the equipment of the ship complies with the requirements of seaworthiness and safety;
- The bilge-pump system is in order and of sufficient capacity;
- The electrical arrangements comply with regulations;
- The radio-installations are in proper working order;
- The cargo, stowage and ballasting of the ship are in compliance with seaworthiness and safety requirements;
- The ship is loaded in such a way that it has no less freeboard than allowed on the issued certificates;
- The ship is properly manned with competent crew, physically capable for duties assigned, all this with regard to the safety of the ship;
- The prescribed stability data are on board;
- Regulations relating to war or threat of war are respected;
- Regulations relating to the transport of cargo have been observed;
- If the ship is a passenger ship no more passengers are embarked than allowed on the issued certificates, the muster-roll has been announced, the prescribed roll calls have been held and the necessary instructions have been posted regarding the stations where life-saving appliances are stored or located, how these stations can be reached and how the life-saving equipment is to be used.

10.4 Obligations of the master during a voyage

Article 9 ShA part 1

During the voyage the master is obliged to:

- Give or have helm orders given in the direct sense;
- Maintain during the voyage everything belonging to the equipment of the ship in good and proper order and ready for immediate use, keep both the internal and external openings closed in so far as prescribed, hold the prescribed roll calls and drills and to comply with the articles 3a and 4 Ships act (see above);
- Have the defects repaired as far as possible that appeared during the voyage to the ship, the engines or the equipment;
- Measure the draft of the ship each time after loading cargo and fuel and see to it that the ship has no less freeboard than permitted according to the issued certificates;
- Take measures to prevent abuse of the international distress signal and the use of signals, which can be confused with an international distress signal;
- Render assistance to ships and aircraft in distress and on a request for assistance comply with relevant regulations;
- Ensure that the regulations for radio watches as well as those regarding warnings concerning dangers at sea are observed;
- Enter in the ship's log or in the engine-room log what action has been taken to meet the obligations imposed under b. to g;
- Ensure that the required certificates are at all times on board and that crewmembers may always look into these certificates or copies thereof;
- Article 9 contains no part j;
- Regulations relating to war or threat of war are respected;
- Ensure that regulations concerning the transport of cargo are observed.

Article 9 ShA part 2

The master ensures that the ship logs are properly kept and:

- are present on board at all times and that seamen can access these or copies thereof;
- ensure that the regulations given with regard to war or danger of war are complied with;
- ensure that the regulations given with regard to the carriage of cargo are complied with.

Supervision

Articles 10 ShA

All ships are subject to continuous supervision by the Government, executed by ILT appointed officers.

Detention

Article 16 ShA

(Only) The appointed officer of ILT is authorized to detain a ship that does not possess the necessary valid certificates.

If this officer has sound reasons to doubt the seaworthiness of a ship he is entitled to detain the ship for further examination.

10.5 Safety Committees

General Safety Committee

Article 26a ShA

There is a General Board for the Prevention of Labour Accidents to Seafarers (called ACVAZ). The Board is to advise the Minister regarding measures to be taken for preventing labor for accidents to seafarers.

The Safety committee on board

Article 26e ShA

The safety committee is to advise the master regarding measures to be taken for preventing labor accidents on board.

Appointment of the members

Article 26g ShA

The master appoints the members of the safety committee. The brochure: "Guidelines for the Safety Committee on board Dutch flag ships", gives all the information needed for the master. On appointment it states: The master will appoint, if possible, volunteers as member to the safety committee. All members must have at least one year of practice at sea. Both officers and crew and also the various departments should be represented as widely as possible. In some cases a "one person" committee may comply with the rules. The rules only specify the bare minimum. The master will record the members of the safety committee in the ship's log and the abbreviation 'VC' will be noted behind a member's name on the muster list.

Inquiry into shipping disasters

Since July 1, 2010 the Inquiry into shipping disasters is in the hands of the Safety Investigation Board. The Board is established in order to investigate accidents involving death or serious injury or significant damage to a ship, to the marine environment, to a mining facility or infrastructure which is caused and a Dutch ship is involved.

Incompetence of masters, mates, engineers and radio-operators

The investigation into possible incompetence is performed by the Maritime Disciplinary Board and is dealt with in the paragraph: Crew.

10.6 Equipment

Introduction

Based on EU-Directive 96/98/EG, the Load Lines Convention, Convention on the International Regulations for Preventing Collisions at Sea, the Convention of Prevention of Pollution from Ships and Solas it was necessary to have rules and regulations relating to the production and inspection of marine equipment.

Application

Article 2 Act Marine Equipment (AME)

Equipment intended for installation on board a Dutch ship, other than a naval or a naval auxiliary ship, meets the product requirements. Equipment referred to in the first paragraph is only marketed when marked with the mark of conformity.

The designation of conformity assessment bodies

Article 4 AME

The Minister notifies bodies entrusted with tasks in one or more modules of conformity assessment.

Article 6 AME

A notified body also means a body notified by another member state of the European Union in the context of performing tasks in one or more modules of conformity assessment.

Procedure for Conformity Assessment

Article 7 AME

The manufacturer follows a procedure for conformity assessment for equipment intended for installation on board a Dutch ship. A conformity assessment procedure is also followed before equipment is placed on the market.

Notified bodies in the Netherlands in 2014

*Telefication B.V. Edisonstraat 12A
6902 PK Zevenaar*

*European Certification Bureau Nederland B.V.
Julianaweg 224A
1131 NW Volendam*

*Nippon Kaidji Kyokai (Netherlands) B.V.
Villapark Barendrecht, 1e Barendrechtseweg 48
2992 XC Barendrecht*

Mark of Conformity

Article 10 AME

The manufacturer affixes on equipment that meets the product requirements and for which an appropriate conformity assessment procedure has been followed, in the final stages of the production process the mark of conformity.

The mark of conformity and, where appropriate, the identification number is followed by the last two digits of the year in which the mark of conformity was affixed.

Testing equipment on board

Article 21 AME

For the purpose of testing equipment in operation on board a Dutch ship, the Minister may issue a certificate for equipment for which no conformity assessment is followed for a period no longer than reasonably necessary for the proper testing of the equipment.

To this certificate restrictions and conditions may be attached. These restrictions and conditions are specified in the certificate.

10.6.1 Prohibiting misuse of Mark of conformity

Article 26 AME

It is forbidden to market or to hold equipment intended for installation on board Dutch ships prohibited equipment intended for installation on board a Dutch ship, is not provided with the mark of conformity or is not accompanied by a certificate of equivalence for the purpose of testing.

Affix a mark of conformity

Article 26 AME

It is forbidden to affix a mark of conformity on equipment that does not meet the product requirements or for which no conformity assessment is followed.

Misleading mark of conformity

Article 26 AME

It is forbidden to affix marks or graphics that may mislead others as to the meaning or the graphics of the mark of conformity, or reduce the visibility or legibility of the brand.

Supervision

Article 27 AME

Officers appointed by the Minister are charged with the supervision of matters subject to this Act.

Chapter 11. Regulations for Shipping traffic

Legislation:

1. International Regulations for Preventing of Collisions at Sea (COLREGs)
2. Shipping Traffic Act (STA)

11.1 Colregs

Introduction

According to Regulation II/1 and more specific table A-II/1 of the STCW, officers in charge of a navigational watch on ships of 500 gross tonnage or more shall have thorough knowledge of the content, application and intent of the International Regulations for Preventing Collisions at Sea, 1972, as amended. The Colregs are published by the IMO and state "the rules of the road" that are to be followed by ships in order to prevent collisions between two or more ships. These rules are divided in the following parts:

1. The history of the rules.
2. Summary of the rules;
3. Part A – General;
4. Part B – Steering and sailing;
 - a. Section I (for any visibility);
 - b. Section II (for ships in sight of one another);
 - c. Section III (for restricted visibility);
5. Part C – Lights and shapes;
6. Part D – Sound and light signals;
7. Part E – Exemption; and
8. Annexes.

11.2 Shipping Traffic Act

General rules relating to navigation on inland waterways and at sea

The Shipping Traffic Act is a framework that provides the basis for regulating navigation on the Dutch inland waters and the territorial sea (Article 1 (d)), as well as for the organization of traffic in shipping lanes off the Dutch coast outside the territorial sea (Article 21). The latter include the regulation of traffic in the Dutch EEZ and adjacent areas for the implementation of treaties or decisions of international organizations (in particular the International Maritime Organization, IMO).

Scope and Competent authorities

Article 1 STA

The Act applies to the movement of all types of ships, including recreational. The competent authority for the purposes of the Act for the shipping routes in the North Sea is the Minister of Infrastructure and Water Management.

Core

Core of the Act is Chapter 2, containing the rules for the organization of all shipping traffic on Dutch inland waters and the territorial sea. The STA contains general rules for the safe and smooth conduct of shipping. The act applies to the movement of all types of ships, including recreational boating. The STA regards inter alia:

- The safety and flow of ship traffic;
- The preservation and maintenance of waterways;
- Preventing or limiting damage by shipping traffic including infrastructure;
- The prevention or limitation of pollution by shipping; and
- The pilotage of ships.

Chapter 12. Environment

Legislation:

1. Marpol 73/78
2. Act for the Prevention of Pollution by Ships (APPS)
3. Decree for the Prevention of Pollution by Ships (DPPS)

Introduction

The international Convention for the Prevention of Pollution by ships 73/78 (Marpol) is one of the most important international marine environmental conventions. Designed in order to minimize pollution of the seas, including dumping, sewage, oil and exhaust pollution. Its stated object is to preserve the marine environment through the complete elimination of pollution by oil and other harmful substances and the minimization of accidental discharge of such substances. The current convention is a combination of 1973 Convention and the 1978 Protocol. It entered into force in 1983 and over 99% of the world's shipping falls under the convention. All ships flagged under countries that have signed MARPOL are subject to its requirements regardless where they sail, and the flag states are responsible for ships flying their flag.

Annexes to Marpol 73/78

- Annex I: Prevention of pollution by Oil;
- Annex II: Control of pollution by noxious liquid substances;
- Annex III: Prevention of pollution by harmful substances in packaged form;
- Annex IV: Prevention of pollution by sewage from ships;
- Annex V: Prevention of pollution by garbage from ships;
- Annex VI: Prevention of air pollution from ships.

Appendices to Marpol 73/78

Appendix I: Mineral oils;
Appendix II: Harmful substances carried in bulk;
Appendix III: Harmful substances in packed units or in cargo-containers;
Appendix IV: Harmful sanitary waste;
Appendix V: Refuse;
Appendix VI: Air pollution; SO_x, NO_x and Sulphur emission;
Appendix VII: Ballast water (not yet effective)

For the construction, fitting up and equipment of ships specific requirements have been laid down, which also differ per appendix.

12.1 Scope and Application

Article 2 APPS

This Act is applicable to all ships flying the Dutch flag and also to foreign ships in the Dutch inland waters, the territorial waters and the Dutch Exclusive Economic Zone (EEZ), excluding navy and navy auxiliary ships.

General rule

Article 5 APPS

Discharge from a ship of harmful substances is prohibited.

Port provisions *Article*

6 APPS

Port Authorities are obliged to provide for adequate equipment to receive remainders of harmful substances from ships without causing them unnecessary delay.
All costs involved are on account of the delivering ships.

Ship requirements

Article 7 APPS

Requirements are laid down to the construction, fitting up and equipment a ship must comply with, in order to prevent or limit discharge of harmful substances.
The requirements may differ according to the varying categories of ships, the maritime areas to be navigated, the voyages to be made and the harmful substance to be carried.

12.2 Certificates

Article 8 APPS

A certificate is issued to a ship complying with the requirements of its category.

Expiry of validity

Article 9 APPS

A Certificates expire if:

- A ship ceases to belong to the category of ships to which such certificate is issued;
- The ship is rebuilt or substantial changes are made in the apparatus or equipment of the ship;
- The ship becomes a foreign ship;
- The period covered by the certificate, has expired;
- The prescribed examinations required during the period of validity of the certificate is not or have not been done in time.

12.3 Additional stipulations

Article 10 APPS

Rules are to be stipulated concerning:

- Instructions, directions for use and warnings at hand on board;
- Stowage, package and labelling of harmful substances, as well as the relevant cargo documents;
- Measuring and recording instruments as required on board as well as their use;
- Performance on board of activities relevant to harmful substances and their remainders as well as the management thereby.

12.4 Obligations of the master

Article 11 APPS

The master keeps a register wherein activities concerning transport and discharge of harmful substances are recorded. The master is obliged to provide the competent authorities, at their request, access to the journal and allows to make a copy of each entry in the journal. When requested to do so the master shall authenticate the copy*.

**Such authenticated copy of an entry in the journal will be admitted as evidence of the facts in Judicial proceedings in the Netherlands.*

Reporting an incident

Article 12 APPS

The master of a ship involved in an incident or an event wherein dangerous substances are released reports this incident immediately to the nearest coastal-state. The master of any ship of 300 GT or more, located in the Dutch territorial sea or the Dutch EEZ, shall promptly report:

- Any incident or accident;
- Any situation that could lead to pollution of the waters and the Dutch coast;
- Every spot of harmful substances that falls under the scope of Annexes I, II and III of the Treaty, drifting at sea and containers or packages seen;
- If the ship has been abandoned, this obligation goes to the ship-owner.

Leaving port

Article 13 APPS

It is prohibited to leave port if the ship is not provided with a valid certificate.

Detention

Article 20 APPS

The officer is authorized to detain a ship, if:

- It does not possess valid certificates or documents required;
- The officer is of the opinion that the ship does not meet the requirements for obtaining such licenses;
- The ship is so designed, furnished and equipped that it is a danger to the environment;
- The official is hampered in exercising his duties.

12.5 Decree on the prevention of pollution by ships (dpps)

12.5.1 Harmful substances

Article 2 DPPS

Harmful substances are:

- Oil and oily mixtures as referred to in regulation 1 to Annex I of the Convention;
- Noxious liquids, including traces thereof, or ballast water, washing water from tanks or other mixtures that contain such substances;
- Liquids which, on the basis of Annex II, have not been categorized or provisionally classified or assessed, or ballast water, washing water from tanks or other mixtures that contain such traces;
- Harmful substances in packaged form;
- Sanitary waste;
- Garbage as referred to in regulation 1 of Annex V to the Convention.

12.5.2 Requirements for ships

Article 5 DPPS

Each ship shall meet the requirements of Annex I to the Convention applicable to that ship. A ship intended or used for the transport of noxious liquids in bulk shall meet the requirements of Annex II to the Convention that apply to that ship. Ships making international voyages of 400 GT or more or ships of less than 400 GT and entitled to carry 15 persons or over, meet the requirements of Annex IV to the Convention applicable to that ship. Each ship shall meet the requirements of chapter 3 of Annex VI to the Convention applicable to that ship.

A ship that is equipped with one or more diesel engines to which regulation 13 of Annex VI to the Convention applies shall also meet the requirements included in the NOx Code in respect of those engines. Compliance with those requirements shall, for each of those engines, be evident from an Engine International Air Pollution Prevention certificate, issued in accordance with the NOx Code.

Requirements for ships on the basis of the Antarctic Treaty

Article 6 DPPS

One or more collection tanks with sufficient capacity for storing sanitary waste shall be present onboard each ship that is located in the Antarctic area.

12.5.3 Validity of Certificates

Article 23 DPPS

Certificates are valid for a period of 5 years. Engine International Air Pollution Prevention Certificate is valid throughout the full life of the engine, and the International Certificate on energy efficiency and the International certificate of anti-fouling paint system are valid indefinitely.

12.5.4 Carriage of Goods

Article 33 DPPS

Oil

Carriage of oil as referred to in regulation 1 to Annex I of the Convention and also ballast water is carried out in accordance with the regulations in the Annex.

Harmful substances in bulk

Carriage of harmful substances in bulk is carried out in accordance with the regulations in the Annex II of the Convention.

Harmful substances in packaged form

Carriage of harmful substances in packaged form is carried out in accordance with the regulations in the Annex III of the Convention.

Uncleaned packages of harmful substances

The carriage of not cleaned empty packaging used for transporting harmful packed substances is carried out in accordance with the regulations in the Annex III, unless sufficient measures are taken that assure that no remaining elements are left behind harmful for the maritime environment.

Obligations for the master

Article 34 DPPS

The master ensure that the regulations and obligations included in Annexes I, V and VI to the Convention are complied with on board the ship.

12.5.5 Keeping of record books

Article 36 DPPS

Oil record book

The master of an oil tanker of 150 GT or more or of a ship other than an oil tanker of 400 GT or more ensures that Part I of the oil record book, as referred to in regulation 17 of Annex I to the Convention, is kept on board in compliance with the regulations in that regard in that Annex.

In addition

The master of an oil tanker of 150 GT or more ensures also that Part II of the oil record book, as referred to in regulation 36 of Annex I to the Convention, is kept on board in compliance with the regulations in that regard in that Annex.

Noxious liquids in bulk

The master of a ship intended or used for the transport of noxious liquids in bulk or of a ship in domestic voyages ensures that the loading record book as referred to in regulation 15 of Annex II to the Convention is kept on board in compliance with the regulations in that regard in that Annex.

Antarctic region

The master of a ship in the Antarctic region ensures that each discharge of sanitary waste is recorded in a sanitary waste record book or in the garbage record book referred to in regulation 9 of Annex V to the Convention in compliance with the regulations in that regard in connection with garbage in that Annex.

Garbage

The master

- Of any ship in the Antarctic region; and
- Of any ship outside the Antarctic region with a tonnage of 400 GT or more or which may carry 15 or more people, ensures that the garbage record book as referred to in regulation 9 of Annex V to the Convention is kept in compliance with the regulations in that Annex.

Various types of fuel oil

The master of a ship that uses various types of fuel oil in order to comply with regulation 14 of Annex VI to the Convention ensures that a record book is kept on board in compliance with that regulation.

Ozone

The master of a ship to which regulation 6.1 of Annex VI of the Treaty applies with rechargeable systems that contain ozone depleting substances, ensures that on board the record book relating to ozone-depleting substances as referred to in Regulation 12 of Annex VI the Treaty is maintained in compliance with the applicable regulations in that annex.

Announcements of Codes*Article 41 DPPS*

The Minister ensures that the Codes applicable pursuant to this Decree are announced. The method of announcement will be published in the Government Gazette.