

Regulatory framework

Backgrounds and content

1. General

The maritime regulations for ships sailing under the Dutch flag are to a large extent laid down at the international level. The SOLAS 1974 and MARPOL 1973/78 conventions, with all the accompanying codes, resolutions and circulars from the International Maritime Organisation (IMO), form the main basis. IMO member states incorporate these agreements into their national regulations and can develop these further. The European Union is also increasingly active in developing maritime regulations.

For several years the Dutch government has endeavoured to make maritime regulations much simpler and to bring them more in line with international and European frameworks. In doing so, an attempt has been made to reduce the number of additional national provisions to a minimum. One result of this was the introduction of the first part of the Ships Decree 2004 on 1 January 2005. A system of dynamic referencing means that the international agreements come into force immediately and changes to these are automatically carried through into Dutch legislation. When the first part (for convention-ships) of the Ships Decree 2004 came into force, a large number of national provisions ceased to apply. The Ministry of Transport, Public Works and Water Management is working hard on the second part (for non-convention-ships) of the Ships Decree 2004 and on a similar restructuring of the maritime environmental regulations based on the MARPOL convention. This will involve further reductions in national regulations.

The regulatory framework published by the Transport and Water Management Inspectorate includes all the regulations from the conventions and the EU as well as the national regulations. The regulations laid down in the conventions are in (the original) English. The regulations from the EU are in Dutch and English and, in line with the sector's wishes, parts of the remaining national regulations have also been given in English.

The changes in legislation are still ongoing. The published regulatory framework will incorporate any further changes and will therefore also be amended considerably in future.

Nevertheless the changes already made mean that the regulatory framework can now offer a considerable contribution to improving the accessibility of the complex and wide-ranging set of maritime regulations.

The regulatory framework has been published on the website of the Transport and Water Management Inspectorate using the Easyrules programme¹

In this, a distinction has been made depending on the status of the regulations:

- Mandatory regulation
- Policy rule
- Information
- Instructions to Recognized Organizations

Should there be a need for further interpretation, in addition to this regulatory framework, the IACS-interpretations can be used unless the Netherlands Shipping Inspectorate specifically states otherwise. The IACS-interpretations are not included in EasyRules.

Historical regulations

The regulatory framework also includes historical regulations for ocean-going ships. After all, in many cases a ship has to comply with the regulations that were applicable in the year of construction.

Easyrules contains these regulations, including the end date, and once the date of construction of the ship has been entered, will give an overview of the legislation and regulations applicable at that time.

¹ The information in Easyrules does not constitute formal publication on behalf of the Netherlands' government. Only publication in official journals made available in the name of the government is official. All documentation on the website is offered as a service only.

2. Mandatory regulation

This relates to universally binding rules: legislation and regulations that must be observed based on the official publications of the Dutch government. Unless exemption or special dispensation is granted, it is not possible to deviate from these rules. The regulatory framework does not contain any new information in this respect but only shows, in a clearer and more accessible way, what has already been published in the legally prescribed manner.

International regulations

- the international conventions implemented by the Netherlands
- the mandatory codes laid down under the auspices of the IMO
- the mandatory IMO resolutions and circulars
- the equivalent arrangements under various conventions reported to the IMO by the Netherlands

Since the Ships Decree 2004 and the Decree on the prevention of pollution from ships use dynamic referencing, most of the international conventions (for example, SOLAS, LoadLine, COLREG, MARPOL, etc.) are applicable via this route.

Codes, resolutions and circulars can be declared to be mandatory regulations in various ways, for example, by means of the convention provision on which they are based or because the national regulations directly refer to them.

Equivalent arrangements make it possible to deviate from the requirements laid down in conventions and codes. If the shipowner chooses such an option, then it is not possible to deviate from the provisions in the equivalent arrangement.

EU regulations

- Directives
- Regulations
- Decisions of the European Commission and the Council of the European Union

Regulations and decisions are directly applicable. Directives must be transposed into national legislation. This is done partly by means of dynamic referencing, and partly by incorporating the content into Dutch regulations.

National regulations

- Acts (wetten)
- Decrees (besluiten/AMVB)
- Ministerial orders (ministeriele regelingen)
- Notices to Shipping (bekendmakingen aan de scheepvaart)
- Circulars / Notifications (circulaires/mededelingen)

It goes without saying that acts, decrees and ministerial orders are mandatory.

Notices to Shipping on the basis of art. 174 of the Ships Decree 1965 have also been included. By far the majority of these lapsed when the Ships Decree 2004 came into force on 1 January 2005. They have however been included (with the date on which they lapsed) because there are ships that were built in accordance with these rules and that must comply with them permanently.

The circulars and notifications include a number of notifications from the Minister of Transport, Public Works and Water Management about the coming into force of international agreements etc.

3. Policy rule

Policy rules usually elaborate on or provide a further concrete interpretation of a mandatory rule. A deviating interpretation can be permitted if it can be demonstrated that the mandatory rule has been observed to the same extent as it would have been had the policy rule been applied. The level of safety or environmental protection must be at least as high. This is assessed by the recognized organisation (classification society) that issues the certificate and/or by the Transport and Water Management Inspectorate.

International policy rules

These are codes, resolutions and circulars laid down under the auspices of the IMO that have not (yet) been imposed as mandatory by the IMO or the Dutch legislature.

However, the Inspectorate regards the content of the documents included as so important that a lower level of safety and/or environmental protection cannot be accepted. The intention is to lay down a formal policy rule (beleidsregel) as defined in the General Administrative Law Act (Algemene wet bestuursrecht) at a later stage.

National policy rules

Under this classification, four existing, already published national policy rules for merchant shipping have been included.

4. Information

Under the heading information you will find the other documentation that may be of use when applying the legislation and regulations. Shipowners, shipyards and other relevant parties are advised to take due regard of this and to use this for their own benefit. This is not however supervised by the Transport and Water Management Inspectorate.

Most of the information is international in origin.

This status also covers the Technical Guidelines (Technische richtlijnen), as issued in the past by the Netherlands Shipping Inspectorate. These ceased to apply when the Ships Decree 2004 came into force on 1-1-2005, but may still contain useful information.

This section also contains part of the maritime legislation of the Netherlands Antilles and Aruba. Since the Transport and Water Management Inspectorate will no longer be involved in the certification of ships registered in the Netherlands Antilles or Aruba from 1 August 2006 onwards, these regulations will not be updated.

5. Instructions to RO's

This section contains instructions that specifically relate to the operating procedure of the recognized organizations (classification societies) which, pursuant to the agreement with the Transport and Water Management Inspectorate, issue the statutory certificates and carry out the surveys required for this. Most of these instructions are international in origin: resolutions and circulars from the IMO. There are also a number of instructions with a specifically national character. These also include a few so-called NSI-circulars, which were issued as working instructions to the classification societies under the, now lapsed, agreement between the Netherlands Shipping Inspectorate and the classification societies (agreement of 25 July 2000). Most of these circulars are now no longer in force. The intention is to cancel the last of the NSI-circulars upon the introduction of the second part of the Ships Decree 2004.