

Selected Examples of National Laws Governing Space Activities: Netherlands

Rules Concerning Space Activities and the Establishment of a Registry of Space Objects (Space Activities Act)

[NOTE: English version of this text provided by the Netherlands]

BILL
(13.06.06)

We Beatrix, by the grace of God Queen, Princess of Orange-Nassau, etc., etc., etc.

Greetings to all who shall see or hear these presents! Be it known:

Whereas We have considered that it is necessary to lay down rules with regard to space activities and the establishment and management of a registry of space objects;

We, therefore, having heard the Council of State, and in consultation with the States General, have approved and decreed as We hereby approve and decree:

CHAPTER 1. GENERAL PROVISIONS

Section 1

The following definitions shall apply in this Act and its constituent provisions:

- a. Our Minister: Our Minister of Economic Affairs;
- b. space activities: the launch, the flight operation or the guidance of space objects in outer space;
- c. space object: any object launched or destined to be launched into outer space;
- d. Dutch ship: a ship as referred to in Section 1, paragraph b, of the Netherlands Seafarers Manning Act;
- e. Dutch aircraft: an aircraft registered in the Netherlands under Section 3.3 of the Aviation Act;
- f. Outer Space Treaty: the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (Bulletin of Treaties 1967, 31), concluded on 27 January 1967 in London/Moscow/Washington;
- g. Liability Convention: the Convention on International Liability for Damage Caused by Space Objects (Bulletin of Treaties 1981, 37), concluded on 29 March 1972 in London/Moscow/Washington.

Section 2

- 1. This Act applies to space activities that are performed in or from within the Netherlands or else on or from a Dutch ship or Dutch aircraft.
- 2. By Order in Council this Act can also be declared wholly or partly applicable to:
 - a. designated space activities that are performed by a Dutch natural or juridical person on or from the territory of a State that is not party to the Outer Space Treaty or on or from a ship or aircraft that falls under the jurisdiction of a State that is not party to the Outer Space Treaty;
 - b. the organization of outer-space activities by a natural or juridical person from within the Netherlands.

CHAPTER 2. LICENCES

§ 1. Licence for space activities

Section 3

1. It is prohibited to perform space activities as referred to in Section 2 without a licence issued for this purpose by Our Minister.
2. Subsection 1 is not applicable to space activities that are performed under the responsibility of one or more of Our Ministers.
3. Regulations and restrictions can be attached to the licence for the following purposes:
 - a. the safety of persons and goods;
 - b. protection of the environment in outer space;
 - c. financial security;
 - d. protection of public order;
 - e. security of the State;
 - f. fulfilment of the international obligations of the State.
4. The licence is issued on the condition that the prospective holder shall have and maintain what Our Minister considers to be the maximum possible cover for the liability arising from the space activities for which a licence is requested. Account is taken here of what can reasonably be covered by insurance.
5. A time limit can be attached to the licence within which the licence-holder must begin the space activities.
6. The licence is issued for the duration of the space activities.
7. Further rules can be imposed by Ministerial Order in order to implement the provisions of subsection 4.

§ 2. Licence application

Section 4

1. The licence application shall be submitted to Our Minister.
2. Further rules can be imposed by Ministerial Order with regard to the way in which the application takes place and the information and documents that are furnished by the applicant.
3. In addition, requirements can be imposed by Ministerial Order which the applicant must fulfil in order to be eligible for a licence. These requirements may relate to:
 - a. the applicant's knowledge and experience;
 - b. authorization for the use of frequency space.

Section 5

Our Minister will decide on a licence application within six months after having received it.

Section 6

1. A licence will be refused if:
 - a. this is necessary in order to comply with a treaty or a binding decision of an international institution;
 - b. in the view of Our Minister, facts or circumstances suggest that the safety of persons and goods, environmental protection in outer space, the maintenance of public order or national security might be jeopardized by issuing the licence;
 - c. its issuance would contravene rules laid down by or pursuant to this Act.
2. A licence can be refused by Our Minister if:
 - a. a previously issued licence has been revoked owing to infringement of rules laid down by or pursuant to this Act or of the regulations attached to the licence;
 - b. the applicant has not discharged his obligations under a previously issued licence;
 - c. the application or the applicant does not comply with the rules laid down by or pursuant to this Act;
 - d. there is good reason to fear that the applicant will not act in accordance with the rules laid down by or pursuant to this Act;
 - e. this is necessary in order to protect the interests referred to in Section 3, subsection 3.

Section 7

1. The licence will be revoked if:
 - a. this is requested by the licence-holder;
 - b. this is necessary in order to comply with a treaty or a binding decision of an international institution;
 - c. there is good reason to fear that the maintenance of the licence will jeopardize the safety of persons and goods, environmental protection in outer space, the maintenance of public order or national security.
2. A licence can be revoked by Our Minister if:
 - a. the rules laid down by or pursuant to this Act or the regulations pertaining to the licence have been, or are being, infringed;
 - b. the space activities have not been commenced within the stipulated time limit;
 - c. the purpose of the space activities for which the licence was issued has changed substantially;
 - d. this is justified by a change in the technical or financial capabilities of the licence-holder;
 - e. the information or documents furnished with the application prove to be so incorrect or incomplete that a different decision would have been made on the application if the true circumstances had been known at the time of its assessment;
 - f. this is necessary in order to protect the interests referred to in Section 3, subsection 3.
3. Before the licence is revoked, Our Minister will take any steps necessary to ensure the safety of persons and goods, environmental protection in outer space, the maintenance of public order or national security. Our Minister will provide the necessary instructions to the party whose licence will be revoked. This party is obliged to follow the instructions.
4. Our Minister can also amend the licence on the grounds referred to in subsection 2 instead of revoking it.

Section 8

1. The licence is not transferable.
2. On request, Our Minister can adjust the name entered in the registry if the licence is held by a juridical person that is merged, divided or changes its name.

Section 9

1. It can be decreed by Order in Council that, in order to cover the costs of work or services designed to implement the provisions by or pursuant to this Act, compensation is payable by the party for whom work or services have been performed in accordance with rules laid down by or pursuant to Order in Council.
2. If a sum payable under subsection 1 has not been paid within the appointed period, the statutory interest will be added to the sum in question, calculated from the day on which that time limit elapsed.
3. If payment is not made within the period referred to in subsection 2, the offending party will be ordered in writing to pay the sum it owes within two weeks, plus the statutory interest and the costs of the demand for payment.

§ 3. Disasters

Section 10

1. If an incident occurs or has occurred that may jeopardize the safety of persons and goods, environmental protection in outer space, the maintenance of public order or national security, or otherwise cause damage, the licence-holder shall, without delay, take the steps that can reasonably be expected of it in order to prevent the consequences of that event or, where those consequences cannot be prevented, to limit and rectify them as far as possible.
2. The licence-holder shall, without delay, notify Our Minister of an incident as referred to in subsection 1 and shall also, as soon as practicable, furnish information with regard to:
 - a. the causes of the incident and the circumstances under which the incident occurred;
 - b. the relevant information that is needed in order to assess the nature and the seriousness of the consequences of the incident;
 - c. the steps that have been taken or are being contemplated in order to prevent, limit or rectify the consequences of the incident;

d. the steps that have been taken or are being contemplated in order to prevent such an incident recurring during a space activity.

CHAPTER 3. REGISTRY OF SPACE OBJECTS

Section 11

1. Our Minister shall maintain a registry with information concerning space objects that are being used in connection with space activities as referred to in Section 2.
2. The licence-holder shall, at times to be determined by Order in Council, furnish the information required for the registry.
3. Our Minister will be responsible for registering space objects that are being used in connection with space activities that are performed under the responsibility of one or more of Our Ministers.
4. Rules will be laid down by or pursuant to an Order in Council with a view to implementing this Section.

CHAPTER 4. REDRESS

Section 12

1. If the State is obliged to pay compensation under Article VII of the Outer Space Treaty or the Liability Convention, the State is entitled to recover this sum, in full or in part, from the party whose space activity has caused the damage.
2. For each event or series of events with the same cause, the licence-holder is liable for damage caused by its space activities, up to the value of the sum insured, as specified in Section 3, subsection 4.
3. Should the occasion arise, the State will exercise the right of redress, as specified in subsection 1, against the licence-holder up to the value of the sum insured, as specified in Section 3, subsection 4.
4. Should the occasion arise, the State can likewise exercise the right of redress, as specified in subsection 3, against the licence-holder's insurer.

CHAPTER 5. ENFORCEMENT

Section 13

1. The officials designated by order of Our Minister have been charged with the supervision of compliance with the provisions by or under Section 3, Section 7, subsection 3, third sentence, Section 10 and Section 11, subsection 2.
2. An order such as that referred to in the subsection 1 will be announced by placement in the Government Gazette.

Section 14

1. Our Minister is empowered to use administrative orders to enforce Section 3, Section 7, subsection 3, Section 10 and Section 11, subsections 2 and 4, of this Act and Section 5:20 of the General Administrative Law Act.
2. For the application of subsection 1, the requirement of speed as referred to in Section 5:24, subsection 5, of the General Administrative Law Act is, in any case, present if the non-fulfilment of the obligations referred to in subsection 1 poses a serious and direct threat to the safety of persons and goods, national security or public order.

Section 15

1. If the provisions by or pursuant to Section 3, subsections 1, 3 and 4, Section 7, subsection 3, third sentence, Section 10, or Section 5:20 of the General Administrative Law Act are contravened, Our Minister can impose an administrative penalty of up to € 450,000 or 10 per cent of the relevant annual sales of the company in the Netherlands, whichever is the greater.
2. If the provisions by or pursuant to Section 11, subsections 2 and 4, are contravened, Our Minister can impose an administrative penalty of up to € 100,000.
3. The size of the administrative penalty shall in any event be commensurate with the seriousness and duration of the infringement, and also with the extent to which the perpetrator is at fault.

Section 16

1. Our Minister shall not impose an administrative penalty if the infringement cannot be imputed to the perpetrator.
2. Our Minister shall not impose an administrative penalty if:
 - a. the perpetrator is deceased;
 - b. an administrative penalty has already been imposed on the perpetrator previously for the same infringement;
 - c. notice has been published, as referred to in Section 20, subsection 3, paragraph a;
 - d. criminal proceedings have been instituted and the hearing has begun, or
 - e. the right to institute criminal proceedings under Section 74 or 74c of the Netherlands Criminal Code or under Section 37 of the Economic Offences Act has lapsed.
3. An administrative penalty will expire if it is not irrevocable at the time of the death of the perpetrator. An irrevocable administrative penalty will expire if it has not yet been paid at that time.

Section 17

1. The power to impose an administrative penalty will lapse five years after the infringement is committed.
2. If objections are raised to the administrative penalty or an appeal is brought, the expiry date will be deferred until a final and conclusive decision has been made on the objection or appeal.

Section 18

1. If an official as referred to in Section 13 determines that an infringement as referred to in Section 15 has been committed, he shall prepare a report.
2. The report is dated and states:
 - a. the name of the perpetrator;
 - b. the infringement and also the statutory provision that has been contravened;
 - c. the facts and circumstances on the basis of which it has been determined that an infringement has been committed;
 - d. where and when the facts and circumstances referred to under c occurred.
3. A copy of the report will be sent to the party that has committed the infringement.
4. If so requested by an interested party who does not adequately understand the report owing to his poor knowledge of the Dutch language, Our Minister shall, as far as possible, ensure that the party concerned is notified of the content of the report in a language that he understands.

Section 19

1. A person with regard to whom an act is performed by Our Minister from which he can reasonably deduce that an administrative penalty will be imposed on him on account of an infringement shall not be

obliged to make any statement regarding the matter.

2. The perpetrator shall be notified thereof before he is requested to furnish information.

Section 20

1. Notwithstanding Chapter 4.1.2 of the General Administrative Law Act, the person concerned will be summoned in writing to express his views with regard to the report, either in writing or verbally, as he chooses.

2. If the person concerned expresses his views verbally, Our Minister shall, if so requested by the person concerned who does not adequately understand the Dutch language, ensure that an interpreter is appointed who can assist the person concerned at the hearing, unless it can reasonably be assumed that this is not necessary.

3. The perpetrator shall be notified in writing if, after the perpetrator has put forward his views, Our Minister should decide that:

- a. no administrative penalty will be imposed for the infringement, or
- b. the infringement will still be brought before the public prosecutor.

.

Section 21

1. The decision to impose an order with conditional penalty payments or an administrative penalty will, in any event, state:

- a. the infringement for which it has been imposed, and also the statutory regulation that has been infringed;
- b. if an order with conditional penalty payments is imposed, the name of the perpetrator, the content of the order and the period to which it applies;
- c. if an administrative penalty is imposed, the name of the perpetrator, the sum of money to be paid and also an explanation concerning the amount of the penalty.

2. If so requested by the perpetrator who does not adequately understand the decision owing to his poor knowledge of the Dutch language, Our Minister shall, as far as possible, ensure that the information given in that decision is communicated to the perpetrator in a language that he understands.

3. Our Minister shall, within 13 weeks after the date of the report, make a decision with regard to the imposition of an administrative penalty.

Section 22

1. An administrative penalty shall be paid within six weeks after the decision imposing the penalty has come into force.

2. Statutory interest will be added to the penalty, counting from six weeks from the day on which the decision referred to in subsection 1 was published.

3. If payment is not made within the period specified in subsection 1, the party concerned will be ordered in writing to pay the amount of the administrative penalty within two weeks, plus the interest payable under subsection 2 and the costs of the demand for payment.

4. The effect of a decision as referred to in subsection 1 will be suspended until the period for lodging an appeal has expired or, if an appeal has been lodged, until a decision has been given on the appeal.

Section 23

1. Where payment has not been made within the two-week period specified in Section 22, subsection 3, Our Minister can issue a notice demanding payment of the penalty owed by the perpetrator, plus the interest payable under Section 22, subsection 2, and the costs relating to the demand for payment and collection.

2. The notice demanding payment will be served by bailiff's writ, at the expense of the perpetrator, and shall be enforceable within the meaning of the Second Book of the Netherlands Code of Civil

Procedure.

3. For six weeks following the day on which the writ is served, objections to the notice demanding payment may be made by a writ against the State.

4. The objection has the effect of suspending execution. At the request of the State, the courts may cancel the suspension of execution.

CHAPTER 6. AMENDMENTS TO OTHER LEGISLATION

Section 24

1. The following has been inserted, in alphabetical order, in Section 1(1) of the Economic Offences Act: the Space Activities Act, Section 3, subsections 1 and 3, Section 7, subsection 3, and Section 10.

2. The following has been inserted, in alphabetical order, in Section 1(4) of the Economic Offences Act: the Space Activities Act, Section 11, subsections 2 and 4.

CHAPTER 7. CONCLUDING PROVISIONS

Section 25

1. Activities in outer space as referred to in Section 2 which are taking place on the date this Act comes into force can be continued without a licence for a period of 12 months from that date.

2. Anyone shall, within six months after the date this Act comes into force, notify Our Minister of the space activities that he is performing that may fall under this Act.

Section 26

If the Bill containing supplementary provisions to the General Administrative Law Act (Fourth tranche of the General Administrative Law Act, Parliamentary Papers II 2003/04, 29 702, No. 2), as submitted by Royal Message of 22 July 2004, is enacted and comes into force then Section 15, subsection 3, and Sections 16 to 23 of this Act shall cease to apply.

Section 27

This Act shall enter into force on a date to be determined by Royal Decree.

Section 28

This Act may be cited as: the Space Activities Act.

We order and command that this Act shall be placed in the Bulletin of Acts and Decrees and that all ministries, authorities, bodies and officials whom it may concern shall diligently implement it.

Done

The Minister of Economic Affairs