

Bulletin of Acts and Decrees of the Kingdom of the Netherlands

Year 2011

336

Decree of 22 June 2011, laying down further regulations for loading times, unloading times and demurrage in inland waterway transport (Provisional decree loading and unloading inland waterway transport)

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

On the recommendation issued by the Minister of Security and Justice on 10 May 2011, no. 5695408/11/6, in consultation with the Minister of Infrastructure and the Environment;

Taking account of article 932, paragraph 4, of Book 8 of the (Dutch) Civil Code and of article 5 of the General Extension of Time-limits Act;

Having consulted the Advisory Division of the Council of State (opinion of 1 June 2011, no. W03.11.0166/II);

Having seen the more detailed report of the Minister of Security and Justice of 16 June 2011 no. 5699560/11/6, issued in consultation with the Minister of Infrastructure and the Environment;

Have approved and decreed the following:

Article 1

In this Decree the following terms shall mean:

loading place: municipality where loading needs to take place;

loading site: location in the loading place where loading needs to take place;

loading time: maximum number of hours during working hours that the consignor is allowed to hold the vessel for loading without demurrage being due;

unloading place: municipality where unloading needs to take place;

unloading site: location in the unloading place where unloading needs to take place;

unloading time: maximum number of hours during working hours that the consignee is allowed to hold the vessel for unloading without demurrage being due;

days treated as Sundays: New Year's Day, Easter Monday, Whit Monday, both days of Christmas, Ascension Day, as well as the day on which the King's birthday is celebrated;

motor vessel: vessel equipped to sail independently by means of one or more of its own mechanical propellants. Considered equivalent to a motor vessel are a coupled formation, a push-towed formation or a towed convoy, provided all the vessels that make up the formation remain at the loading site or the unloading site;

towed vessel or push barge:

1. inland waterway vessel not being a motor vessel, or
2. a motor vessel whose propellants are exclusively or almost exclusively used for warping or for control;

displacement: water displacement of an inland waterway vessel expressed in cubic metres up to the level of the maximum permitted draught;

transport document: document constituting proof of a transport contract and which demonstrates the acceptance or taking on board of goods by a carrier;

expected time of arrival: time expected by the carrier that the vessel will be ready for unloading in the unloading place, which time on working days will be at 6 a.m., at 12 noon or at 6 p.m.;

working day: other day than a Sunday or day that is considered equivalent to a Sunday;

working hours: hours during which the carrier is obliged to allow loading or unloading.

Article 2

This Decree applies to trip charters to the transport of goods on inland waterways by inland waterway vessel, unless otherwise agreed by the parties.

Article 3

1. If a time has been agreed on which the vessel should be ready for loading in the loading place and the vessel is ready for loading at the loading site at that time, the loading time will commence at that time and the short loading time will apply, as referred to in article 6.
2. If no time as referred to in paragraph 1 has been agreed or if the vessel is not ready for loading at the loading site at the time referred to in that paragraph, article 5 will apply.
3. If a time has been agreed on which the vessel should be ready for unloading in the unloading place and the vessel is ready for unloading at the unloading site at that time, the unloading time will commence at that time and the short unloading time will apply, as referred to in article 6.
4. If no time as referred to in paragraph 3 has been agreed, the unloading time will commence at the expected time of arrival and the short unloading time will apply, if the carrier:
 - a. informs the consignor or a person designated by him for that purpose as soon as possible after loading about the expected time of arrival, and
 - b. informs the consignor or the person referred to in part a. as soon as possible about a change in the expected time of arrival.

- Paragraph 4 does not apply if the consignor does not comply with parts a and b of that paragraph or if the vessel is not ready for unloading at the unloading site at the expected time of arrival, in which cases article 5 will apply.

Article 4

- If loading or unloading commences earlier than at the times referred to in article 3, the loading time or the unloading time will commence at the time when the loading or unloading commences.
- Loading or unloading in this article is considered equivalent to being ready for loading or unloading at the request of the consignor or the consignee.
- An expected time of arrival can no longer be changed after 12 noon on the last working day, not being a Saturday, preceding this expected time of arrival.

Article 5

- Notices of readiness for loading or unloading as referred to in articles 930, paragraph 1, or article 933 of Book 8 of the (Dutch) Civil Code may only be given on working days between 9 a.m. and 6 p.m., provided that they may only be given on Saturdays if on the working day preceding the Saturday the carrier has announced before 5 p.m. that he intends to give this notice on Saturday.
- Without prejudice to article 931, paragraph 5 of Book 8 of the (Dutch) Civil Code notices will allow the long loading time or unloading time to take effect at 6 a.m. on the working day following the working day on which the notice of readiness for loading or unloading has been given.

Article 6

- Depending on the weight of the goods transported or to be transported, the loading time and the unloading time is:

weight in 1000 kg	Loading time in working hours	Unloading time in working hours	Loading time in working hours	Unloading time in working hours	
<i>at least</i>	<i>less than</i>	<i>short</i>		<i>long</i>	
0	400	27	36	39	48
400	900	30	40	42	52
900	1400	33	44	51	62
1400	2200	36	48	60	72
2200	3300	39	52	63	76
3300	5500	42	56	66	80
5500		45	60	69	84

- The weight of the goods to be transported is determined by the transport agreement or, if this does not contain sufficient details, by other evidence.
- The weight of the transported goods is determined by the transport document or, if this is lacking or does not contain sufficient details, by other evidence.

Article 7

- The working hours commence on Monday at 6 a.m. and end on Saturday at 6 p.m. On days that are treated as Sundays, the working hours end on the

preceding working day at 6 p.m. and commence at 6 a.m. on the next working day.

2. If the commissioning authority expects that loading or unloading will take place during working hours between 10 p.m. and 6 a.m. the next day, he will inform the carrier of this not later than 6 p.m. prior to this, and, if requested, in writing. Failure to provide such notice will exempt the carrier during this period from the obligation to allow loading or unloading, but this period will still count as working hours for the purpose of remuneration.
3. Loading or unloading outside working hours requires the express consent of the carrier.
4. If loading or unloading takes place outside working hours, contrary to the provisions in paragraph 1, only the worked hours will be regarded as working hours, while, in addition, the carrier will be entitled to a separate payment amounting to twelve hours of demurrage relating to each period from 6 a.m. to 6 p.m. and from 6 p.m. to 6 a.m. the next day, during which loading or unloading takes place, even though loading or unloading only takes place for part of that period.
5. Loading or unloading in this article is considered equivalent to the readiness to load or unload at the request of the consignor or consignee.

Article 8

1. In so far as the consignor or consignee holds the vessels after the loading time or the unloading time has expired, each hour counts as an hour of demurrage and demurrage will be due in respect to this.
2. The demurrage for each hour of demurrage is:
 - a. for motor vessels: €6.25 plus €0.019 per m³ of the displacement;
 - b. for *towed vessels or push barges*: 50% of the payment for motor vessels.
3. For the calculation of the demurrage, the displacement is rounded arithmetically to the nearest m³ and the demurrage per hour to cents.

Article 9

For the calculation of loading time, unloading time and demurrage an hour that has already started counts as a full hour.

Article 10

1. If loading or unloading needs to take place at more than one place:
 - a. article 3, paragraph 1 applies, for the first loading place or loading site, and article 3, paragraphs 2, 3 and 4 apply for the first unloading place or unloading site;
 - b. the notice as referred to in articles 930, paragraph 1, and 933 of Book 8 of the (Dutch) Civil Code applies to all relevant consignors and consignees jointly, and
 - c. irrespective of article 932 of Book 8 of the (Dutch) Civil Code, the total loading time or unloading time is determined in accordance with the provisions in article 4, paragraph 1, according to the total weight of the goods transported or to be transported.

2. In the cases referred to in this article, the part of the total loading time or unloading time available to each consignor or consignee is determined in proportion of the weight of the goods transported or to be transported by him to the total weight of the goods concerned.
3. In so far as a consignor or consignee exceeds the part of the loading time or unloading time available to him, he will owe compensation for each hour he exceeds this time, in accordance with article 8.
4. If loading or unloading for one consignor or consignee needs to take place in more than one place or site, the loading time, the unloading time or the demurrage will be suspended for the time needed to sail to a subsequent loading place or unloading place.
5. If loading or unloading for more than one consignor or consignee needs to take place in more than one place or site, the loading time, the unloading time and the demurrage will be suspended for the time needed to sail to a subsequent loading site or unloading site or loading place or unloading place.
6. A suspension as referred to in paragraphs 4 or 5 takes effect by the end of the full hour that the loading or unloading in one place or site has ended and lasts till the end of the full hour in which the time of arrival falls during the next place or site, even if loading or unloading has already started before the end of that hour. If the time of arrival in the next place or site does not fall within work time as referred to in article 7, paragraph 1, the suspension will at least end at 6 a.m. on the next working day after the time of arrival.
7. In the cases referred to in paragraph 5:
 - a. on arrival in one place or site, the carrier immediately informs the consignor or consignee of this arrival in the next place or site;
 - b. the carrier informs the consignor or consignee of his departure to the next place or site at such time that it allows him to take the necessary measures. The carrier will at least give notice not later than upon completion of the loading or unloading at the previous loading place or unloading place.

Article 11

The General Extension of Time-limits Act does not apply to the time limits in this Decree.

Article 12

The Decree governing loading and unloading times and demurrage in inland waterway transport 1991 is repealed.

Article 13

This Decree takes effect as from the day after the date of issue of the Bulletin of Acts and Decrees in which it is published, and will lapse as from the third year after that date.

Article 14

This Decree will be cited as: Provisional decree loading and unloading inland waterway transport.

We hereby order and command that this Decree and the accompanying Explanatory Memorandum will be published in the Bulletin of Acts and Decrees.

The Hague, 22 June 2011

Beatrix

The advice of the advisory division of the Council of State will not be published by virtue of article 26, paragraph 6, in conjunction with paragraph 5 of the Council of State Act because it is purely approbatory.

The Minister of Security and Justice,
I.W. Opstelten

Issued on the *fifth* of July 2011
The Minister of Security and Justice
I.W. Opstelten