



## GUIDELINE FOR COMPLETING A PLAINT

Complaints against captains and ship's officers who are sailing or used to sail on a ship under Dutch flag can be submitted, in writing or electronically, to the Maritime Disciplinary Court of the Netherlands (Tuchtcollege voor de Scheepvaart) by means of a complaint. Complaints can be made against: captains, navigation officers, marine engineers, maritime officers and radio operators.

A complaint can be made by an "interested party". Whether or not a complainant is justified to consider himself as an interested party will be decided by the board. At the bottom of page 1 of the downloaded complaint you can explain why you think you are an interested party in this matter.

The complaint should be based on: any action or negligence on the part of a ship's officer, which is in contravention of the care he should observe, as a good seaman, towards the crew and passengers, the ship, the cargo, the environment or shipping (*such action or negligence is called "challenged conduct" hereafter and in the example of the complaint form*).

The complaint must be submitted within two years of the challenged conduct taking place. (*The date when the complaint is received at the office of the Disciplinary Court is decisive in this respect.*)

The term "as a good seaman" is an open standard, which can be evaluated by the (deputy) chairman of the Court in the first instance to assess whether or not the complaint is well founded. If he decides, for instance, that the challenged conduct is clearly not in contravention with that standard, he will declare that the complaint is evidently non-founded, and notify the complainant of this in a statement which mentions the reasons.

It may be that the complaint does not comply with a (legal) regulation, for instance because certain details are missing or have not been filled in correctly. In such a case the complainant will be given the opportunity to



improve or provide the missing details within a period to be determined by the chairman. If the complainant fails to respond to this, the chairman will declare the complaint to be evidently disallowed, and the complainant will be notified of this, again with an explanation of the reasons.

It is also possible that the deadline for submitting the complaint has been exceeded. In that case the complaint will also be declared evidently disallowed by the chairman.

In order to prevent a complaint from being declared disallowed, the details that are obligatory in the plaint and have to be filled in correctly have been indicated with a red star (\*).

Perhaps an incident has occurred in which, according to a complainant, not one but several ship's officers have not acted or have failed to act, in the same incident, according to the standard of a good seaman. In such a case, a separate plaint must be submitted for each of those ship's officers. The chairman of the Disciplinary Court may then decide that the complaints will be combined and dealt with by the Disciplinary Court at the same time.

Other written documents may be submitted together with the plaint in support of the complaint.

Perhaps you are supported or represented by an attorney (who does not necessarily has to be a counsel) in the treatment of this case. In that case you should state his name, and the postal address and telephone number where he can be contacted during office hours.