

MODEL CLAUSE FLOODING OF NON-PRIMARY FLOOD DEFENCE STRUCTURES FOR LOCATIONS IN THE NETHERLANDS (2022)

The VNAB Modular Conditions for Property Damage and Loss of Profits Insurance VMZB 2021 are adjusted as follows:

1. EXTENSION MODULE I – PROPERTY DAMAGE, ART. 2 INSURED PERILS/EVENTS

Module I – Property Damage, art. 2 Insured perils/events is extended to cover:

2.26 FLOODING OF NON-PRIMARY FLOOD DEFENCE STRUCTURES FOR LOCATIONS IN THE NETHERLANDS

Coverage for loss or damage caused by **flooding of non-primary flood defence structures** for locations in the Netherlands is limited to the **first-loss** limit per policy year stated in the policy.

With respect to **flooding of non-primary flood defence structures** for locations in the Netherlands, an event is understood to mean an occurrence, or a series of interrelated occurrences arising from one and the same cause, resulting in damage within a period of 72 consecutive hours.

The insured is allowed to choose the date and time as of which the 72-hour period will commence, provided there is no overlap between two or more 72-hour periods.

2. ADJUSTMENT MODULE I – PROPERTY DAMAGE, ART. 7 INDEMNITY IN EXCESS OF THE SUM INSURED

In the event of an insured property damage caused by an insured peril/event as referred to in Module I -Property Damage, art. 2.26, the following applies:

CHANGE OF TITLE OF MODULE I – PROPERTY DAMAGE, ART. 7

The title of Module I – Property Damage, art. 7 is changed into:

“7. Indemnity up to the **first-loss** limit and not exceeding the sum insured”

ADJUSTMENT FIRST SENTENCE OF MODULE I – PROPERTY DAMAGE, ART. 7

The first sentence:

“Insofar as not or not sufficiently insured elsewhere, indemnity will be paid in excess of the sum insured, up to and not exceeding the applicable **first-loss** limit, for:”

is replaced by:

“Insofar as not or not sufficiently insured elsewhere, indemnity will be paid up to the applicable **first-loss** limit for **flooding of non-primary flood defence structures** and not exceeding the sum insured, for:”

EXTENSION COSTS QUALIFYING FOR INDEMNITY IN MODULE I – PROPERTY DAMAGE, ART. 7

Module I – Property Damage, art. 7 is extended to cover:

- 7.10** Costs of demolition, clearance, removal, dumping and destruction of uninsured property (including water, mud etc.) that ended up at the insured location due to the **flooding of non-primary flood defence structures**;
- 7.11** Costs of flushing out sewers and other pipes at the insured location.

3. REPLACEMENT EXCLUSION MODULE I – PROPERTY DAMAGE, ART. 4.4 FLOOD

In the event of an insured property damage caused by an insured peril/event as referred to in Module I -Property Damage, art. 2.26, Module I – Property Damage, art. 4.4 is replaced by the following exclusion:

4.4 FLOOD

Excluded from the insurance is:

- 4.4.1** Loss of or damage to **risk objects** caused by:
 - **flooding of primary flood defence structures**;
 - a combination of **flooding of primary** and **non-primary flood defence structures**;
 - **flooding** caused by direct government action;
 - water overflowing its banks in areas outside the dikes. For instance, ports and harbours, flood plains, and areas designated for water storage by the authorities, situated outside the dikes.
- 4.4.2** Module I – Property Damage, art. 7.5 Loss of rent
- 4.4.3** Module II – Loss of profits

These exclusions do not apply to fire or explosion caused by **flooding**.

4. DEFINITIONS

FLOODING

The flooding as a result of the failure or overflowing of dikes, quays, sluices, banks or other water-retaining structures.

PRIMARY FLOOD DEFENCE STRUCTURES

Objects, works, constructions, banks or other (natural) water-retaining structures that provide protection against flooding by **external water**. The flood defence structures qualifying as such, are defined in the **Water Act [Waterwet]**.

NON-PRIMARY FLOOD DEFENCE STRUCTURES

Objects, works, constructions, banks or other (natural) water-retaining structures in the Netherlands that provide protection against **flooding** and are not defined as **primary flood defence structure** according to the **Water Act**. A cross-border **non-primary flood defence structure** running uninterruptedly into Belgium or Germany is, up to 25 kilometres from the Dutch border, also deemed to be a **non-primary flood defence structure** in Belgium or Germany within the meaning of this clause.

WATER ACT

Act of 29 January 2009, containing rules and regulations on the management and use of water systems (Water Act). See www.overheid.nl

*The VNAB model policy conditions and clauses only serve as **model**. They may be adjusted by alterations, additional provisions and/or clauses. VNAB market parties are free to offer other policy conditions to their customers.*

The VNAB is not liable for the application or the content of the model conditions and clauses.

In case of any difference between the original Dutch wording of this text and the English translation, the Dutch wording will prevail.

The official title of these conditions is: "Flooding of non-primary flood defence structures for locations in the Netherlands-2022". The wording is available via the website of the Dutch Insurance Exchange Association, www.vnab.nl.

EXPLANATORY NOTES

The flooding in Limburg of July 2021 was reason for VNAB to explore the possibility of introducing a model clause to stimulate the insurability of flood risks in the co-insurance market for corporate insurance.

Towards the end of 2021, VNAB and the Dutch Association of Insurers commissioned Royal Haskoning DHV to conduct a study into flood risks. The results of this study were shared with VNAB and Association members at the beginning of 2022. Following this, VNAB's Technical Committee Property started collecting more information and preparing a draft version of a model clause. The model clause for flooding of non-primary flood defence structures for locations in the Netherlands aligns with the VMZB 2021.

With this model clause the Technical Committee Property aimed to contribute to the insurability of the risk of flooding of non-primary flood defence structures in the corporate insurance market by formulating a specifically defined coverage that can be used by market parties, whether or not by adjustment of the model wording.

The objective was to develop a model clause that provides clarity to all parties and does not lead to unnecessary complexities in the claim settlement if the occasion arises. This is in the interest of all parties and in the insured's interest in particular.

The model clause only provides cover for physical damage resulting from flooding of non-primary flood defence structures.

Indemnity based on a first-loss limit per (policy) year is a result of the demand for clarity in the claim settlement phase. With this form of indemnity it is clear in advance up to which (annual) limit property damage will be paid. Which provides clarity to both insured parties and insurers, the latter being of importance for reinsurance purposes.

For the avoidance of uncertainty about the time of the start and end of a single event, this clause provides that an occurrence or series of occurrences with one and the same cause resulting in damage in a period of 72 hours, is regarded as a single event. This may be relevant if a deductible per event applies. It is furthermore provided that the insured is allowed to choose at which time a 72-hour period will commence. This choice prevents any overlaps between several 72-hour periods. If and up to which amount a deductible is applied, should be shown in the policy.

The model clause introduces changes in the VMZB 2021, Module I – Property Damage. Article 2.26 is inserted, describing the insured event. Article 7 is adjusted by the provision that the costs therein referred to are not paid in excess of the sum insured but up to the first-loss limit. Furthermore, three types of costs are added. The “flood” exclusion in article 4.4 is replaced. Flooding of primary flood defence structures remains excluded. In the event of property damage insured under this clause, caused by flooding of a non-primary flood defence structure, loss of rent and loss of profits are excluded.

For insured parties located in the Dutch regions bordering on Germany and Belgium, flood defence structures in these countries are also deemed to be non-primary flood defence structures up to 25 kilometres from the Dutch border. Provided such flood defence structures are an uninterrupted continuation of a non-primary flood defence structure in the Netherlands.