

Answering the 7 questions from the Integrated Policy and Regulatory Framework (IAK)

Establishment and Activities Regulation BES

The integrated balancing framework for policy and regulation contains standards that good policy or good regulation must comply with. Detailed information can be found at www.naarhetaik.nl.

1. What is the reason?

The Public housing, Spatial planning and Environmental management Act BES is the legal basis for an order in council. This Act contains the obligation to draft regulations by an order in council to protect the environment against the negative effects that business activities may cause in the Public Entities Bonaire, Sint Eustatius and Saba. The draft Establishment and Activity Decree BES (hereinafter: IAB BES) implements this obligation and contains provisions to protect the environment in the Caribbean Netherlands. This Regulation further develops Article 2.1 of the draft decree IAB BES, which provides the legal basis to further develop quality requirements (general binding rules) for activities carried out by type I and type II establishments that have negative effects on the environment on the islands of Bonaire, Sint Eustatius and Saba. The quality requirements are further defined by Island Ordinances. The development of the general binding rules took place within the framework of the IAB BES implementation plan and the Letter of Intent signed in 2017 by the Minister of Infrastructure and Water Management and the Executive Council of Bonaire to promote the development of regulations and policies for a sustainable and safe environment tailored to the local situation.

In addition, in 2020, the Minister for Agriculture, Nature and Food Quality and also on behalf of the State Secretary of Infrastructure and Water Management and the State Secretary of the Interior and Kingdom Relations, the Nature and Environment Policy Plan Caribbean Netherlands 2020-2030 (hereinafter: NEPP-CN) was presented to the House of Representatives. NEPP-CN aims to improve the environmental quality of the islands, in particular the protection of marine coral reefs. The objectives for improving the environmental quality include waste separation and effective wastewater treatment by businesses. This Regulation implements this by general binding rules that set out conditions on these issues and as such contributing to the objectives of NEPP-CN.

2. Who is involved?

The Public Entities Bonaire, Sint Eustatius and Saba and business that are a type I and type II establishment as included in the draft decree IAB BES and that may cause negative effects on the environment due to their activities with regard to, for example, handling waste, wastewater, soil and external safety. This Regulation is expected to enter into force for the Public Entity Saba on 1 July 2026. This has been agreed with the Executive Council of Saba.

3. What is the problem?

The draft decree IAB BES lays down provisions for type I and type II establishments in Chapter 2 of the decree. These are businesses which, due to their activities, have a slight (type I establishment) or a moderate influence (a type II establishment) on the environment. Article 2.1 of the draft decree IAB BES states that the person carrying out a type I or type II activity shall respect the quality requirements and the detailed rules laid down by Island Ordinance. Article 2.2 lists the topics to which the quality requirements refer to. By this Regulation the provisions of Article 2.1 and Article 2.2 of the draft decree IAB BES are further developed. The Island Ordinance further specifies the quality requirements of this Regulation.

4. What is the goal?

The biodiversity of the islands both on land (national parks and internationally recognised wetlands) and in coastal waters (the coral reefs) is unique. In recent years, population growth on the islands, especially on Bonaire, has increased sharply. In the coming years, this growth is expected to continue. The Statistics Bureau Netherlands (CBS) has calculated that in 2030 there will be a further increase in the number of inhabitants of Bonaire by 16 percent. An increase of 10 percent is foreseen on Sint Eustatius and on Saba an increase in the number of inhabitants by 9 percent. This means that the pressure on the environment increases and a further (accelerated) deterioration of the environment.

In order to counter or minimise further deterioration, it is important to invest in modernising environmental policy and regulations through effective, implementable and enforceable set of rules. The draft decree IAB BES introduces the modernisation of the environmental regulations for the Caribbean Netherlands. Based on the draft decree IAB BES, this Regulation further develops the quality requirements. The quality requirements indicate the basic level of protection for various environmental topics.

For the level of protection, the European Netherlands has been used as a reference and has been further adapted to the situation on the islands. The topics covered by this regulation are both cross-sectorial, such as handling waste, soil, air, noise and external safety, as well as sector specific, such as marinas, agricultural activities, swimming pools and health care. The general binding rules result in a reduction of administrative burden for both businesses and public administration and strengthens the level playing field between businesses.

5. What justifies government intervention?

This Regulation further develops the rules of Article 2.1 of the draft decree IAB BES, which is the basis for setting quality requirements by ministerial regulation.

6. What is the best instrument?

The quality requirements in this Regulation provide a lower limit for type I and type II business activities that may have a negative impact on the environment. Based on Article 2.1 of the draft decree IAB BES, the islands lay down detailed rules on the quality requirements. This enables to further define the rules and adapt them to the local situation and provides the possibility to fulfil the specific environmental ambitions. At the same time, quality requirements ensure a minimum level of protection. An important advantage to include the quality requirements in a ministerial regulation is that due to the shorter procedural time, any changes can be made faster than in the case of an order in council. This also facilitates (higher) environmental ambitions of the islands in the future.

7. What are the consequences for citizens, businesses, government and the environment?

This Regulation further develops provisions of the draft decree IAB BES. The explanatory memorandum to the draft decree IAB BES states that the introduction of general binding rules will result in businesses not requiring a permit. This results in a reduction of administrative burden. This also applies to this Regulation. As part of the preliminary design of the IAB BES and the implementation plan IAB BES, a baseline measurement was carried out on Bonaire in 2014 for all type I and type II businesses (in total 600 businesses).

In 2017, a follow-up study was carried out on the level of ambition of the Regulation. This study in particular examined the facilities that businesses need to install and use in each business sector to protect the environment from the negative effects business activities may have within the local context of Bonaire. On Sint Eustatius a baseline measurement was carried out in 2021. In this study 86 type II businesses on Sint Eustatius were visited. Investments will be required for different sectors on the basis of the quality requirements set out in this Regulation. These include, among other things: wastewater treatment; soil protection facilities; grease separators; facilities for the storage of hazardous substances and energy-saving measures.

For certain business sectors, specific investments will be needed. For example amalgam separators for dental practices. As a result, a business may need to invest in several facilities. To accommodate this, the transitional law is broadly formulated and companies can spread the necessary financial investments.