



Ministry of the Interior and  
Kingdom Relations

# The Environment and Planning Act of the Netherlands

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## **Rules on the protection and utilisation of the physical environment (Environment and Planning Act)**

# Chapter 1 General provisions

## Section 1.1 Definitions

### Article 1.1

#### (definitions)

- (1) The Annex to this Act contains definitions for the application of this Act and the provisions based thereon.
- (2) Definitions that are included in an annex to an order in council based on this Act shall also apply to a ministerial decree based on this Act, unless otherwise specified in that regulation.

## Section 1.2 Scope of application and objectives

### Article 1.2

#### (the physical environment)

- (1) This Act is concerned with:
  - a. the physical environment, and
  - b. activities that affect or may affect the physical environment.
- (2) The physical environment shall, in any event, include:
  - a. buildings,
  - b. infrastructure,
  - c. water systems,
  - d. water,
  - e. soil,
  - f. air,
  - g. landscapes,
  - h. the natural environment,
  - i. cultural heritage,
  - j. world heritage.
- (3) Consequences for the physical living environment shall in any case be regarded as consequences that may arise from:
  - a. making changes to components of the physical environment or portions thereof,
  - b. the use of natural resources,
  - c. activities that give rise to emissions, nuisance or risks,
  - d. failure to carry out activities.
- (4) Effects upon the physical environment are also deemed to include effects upon humans, insofar as they are or may be affected by or via elements of the physical environment.

### Article 1.3

#### (objectives of the Act in relation to society)

With a view to ensuring sustainable development, the habitability of the land and to protecting and enhancing this environment, this Act aims to achieve the following interrelated objectives:

- a. to achieve and maintain a safe and healthy physical environment and good environmental quality, also because of the intrinsic value of the natural world, and
- b. to effectively manage, use and develop the physical environment in order to fulfil societal needs.

### Article 1.4

#### (relationship to other legislation)

This Act shall not apply to subjects relating to the physical environment or components thereof that are exhaustively regulated by or pursuant to a different act, unless the provisions of this Act show otherwise.



**Article 1.5****(application within the exclusive economic zone and internationally)**

- (1) This Act shall apply within the exclusive economic zone, with the exception of Article 5.1, paragraph one, introduction and items a and b, and paragraph two, introduction and item a.
- (2) A rule laid down by virtue of this Act by an order in council or by ministerial decree shall apply within the exclusive economic zone as stipulated in that rule.
- (3) A rule laid down laid down under or pursuant to this Act on deposition activities at sea shall also apply to vessels and aircraft that are registered in the Netherlands but are located outside of the Netherlands and the exclusive economic zone.
- (4) A rule laid down under or pursuant to this Act pertaining to the capture, killing or processing of whales shall also apply to vessels registered in the Netherlands that are located outside of the Netherlands and the exclusive economic zone.

**Section 1.3****Care for the physical environment****Article 1.6****(duty of care for every party)**

Every party shall take sufficient care of the physical environment.

**Article 1.7****(activity with adverse consequences)**

Every person who is aware or who may reasonably suspect that his or her activity may adversely affect the physical environment shall be obliged:

- a. to take all measures that may be reasonably expected of him or her to prevent those consequences,
- b. insofar as those effects cannot be prevented: to minimise or undo those consequences as much as possible,
- c. if those effects cannot be sufficiently limited: to refrain from that activity insofar as that may reasonably be expected of him or her.

**Article 1.7a****(prohibition of activity with significant adverse consequences)**

a(1) It is prohibited to perform or to refrain from performing an activity if the performance or omission of said activity results in significant adverse consequences for the physical environment or if such consequences threaten to arise from it.

a(2) The application of the first paragraph shall be elaborated or restricted by order in council. The elaboration or restriction, in any event, aims to implement the Environmental Criminal Law Directive and relates to:

- a. the extent of the adverse consequences on the physical environment,
- b. the cases in which paragraph one is applicable.

**Article 1.8****(relationship to specific rules)**

(1) The obligations referred to in Articles 1.6 and 1.7 shall in any case be considered to be fulfilled insofar as specific rules laid down by a statutory regulation or decree with a view to achieving the objectives of the Act, and those rules are complied with.

(2) Article 1.7a is not applicable insofar as specific rules are laid down by a statutory regulation or decree with a view to achieving the objectives of the Act.

## Chapter 2 Duties and powers of administrative bodies

### Section 2.1 General provisions

#### Article 2.1

##### **(performing duties and exercising powers)**

(1) An administrative body of a municipality, a province or the State or, in observance of the Water Boards Act, of a water board shall perform its duties and exercise its powers by virtue of this Act with a view to achieving the objectives of the Act, unless specific rules have been laid down in this regard.

(2) In doing so, the administrative body shall take account of the relationship between the relevant components and aspects of the physical environment and the interests directly involved in this.

(3) The application of paragraphs one and two may be elaborated or restricted in relation to the rules laid down by virtue of this Act. This elaboration or restriction may in all cases concern the following:

- a. ensuring safety,
- b. safeguarding health,
- c. protecting the environment,
- d. securing the sustainable supply of public drinking water,
- e. protecting rural or urban development parameters,
- f. preserving cultural heritage,
- g. preserving the exceptional universal value of world heritage,
- h. protection of the natural world,
- i. countering climate change,
- j. the quality of buildings,
- k. the balanced allocation of functions to sites,
- l. preserving the condition and functioning of the infrastructure against the adverse consequences of activities,
- m. managing infrastructure,
- n. managing water systems,
- o. managing geobiological and geothermal systems and ecosystems,
- p. managing natural resources,
- q. managing nature conservation areas,
- r. the use of buildings,
- s. promoting accessibility to the outdoor public space for people.

(4) Notwithstanding paragraph three, the importance of safeguarding health must always be taken into account when establishing rules with a view to the balanced allocation of functions to sites.

#### Article 2.2

##### **(coordination and collaboration)**

(1) In the performance of its duties and powers under this Act, an administrative body shall take into account the duties and powers of other administrative bodies and, if necessary, coordinate with these other administrative bodies.

(2) Administrative bodies may perform their duties and exercise their powers jointly. This does not provide for a transfer of duties or powers.

(3) When performing its duties and exercising its powers by virtue of this Act, an administrative body shall take account of the duties and powers of other administrative bodies.

**Article 2.3****(general criteria for the distribution of duties and powers)**

- (1) The performance of the duties and powers based on this Act shall reside with the administrative bodies of the municipality, unless other rules have been established.
- (2) A provincial administrative body shall exercise a duty or power, should this be stipulated in the regulation thereof, only if it is necessary:
- a. with a view to the provincial interest and if that interest cannot be promoted efficiently and effectively manner by the municipal administration, or
  - b. for the efficient and effective exercise of the duties and powers based on this Act or the implementation of an obligation under international law.
- (3) An administrative body of the State shall exercise a duty or power, should this be stipulated in the regulation thereof, only if it is necessary:
- a. with a view to the national interest and if that interest cannot be promoted efficiently and effectively by the provincial or municipal administration, or
  - b. for the efficient and effective exercise of the duties and powers based on this Act or the implementation of an obligation under international law.
- (4) Administrative bodies of the State shall also exercise the duties and powers for the non-provincial and municipal categorised areas.

**Section 2.2****Physical environment plan, water board regulation and environmental regulation****Article 2.4****(physical environment plan)**

The Municipal Council shall establish a single physical environment plan for the entire territory of the municipality containing rules relating to the physical environment.

**Article 2.5****(water board regulation)**

The governing board of the water board shall lay down a single water board regulation containing rules relating to the physical environment.

**Article 2.6****(environmental regulation)**

The Provincial Council shall lay down an environmental regulation containing rules relating to the physical environment.

**Article 2.7****(mandatory inclusion and exclusion of decentralised rules)**

- (1) By order in council, cases may be designated in which rules on the physical environment may be incorporated only in the physical environment plan, the water board regulation or the environmental regulation.
- (2) By order in council, cases can be designated in which rules on the physical environment may not be incorporated in the physical environment plan, the water board regulation or the environmental regulation.

**Article 2.8****(delegation)**

The Municipal Council, the governing board of a water board or the Provincial Council may delegate the power to adopt parts of the physical environment plan, the water board regulation or the environmental regulation to the Municipal Executive, the daily management board of the water board or the Provincial Executive, respectively.

## Section 2.3 Environmental values

### Section 2.3.1

#### *General provisions*

#### **Article 2.9**

##### **(environmental values)**

- (1) Environmental values shall be determined pursuant to this section with a view to achieving the objectives of the Act.
- (2) An environmental value shall determine the following in relation to the physical environment or a part thereof:
  - a. the desired condition or quality,
  - b. the permissible impact caused by activities,
  - c. the permissible concentration or deposition of substances.
- (3) An environmental value is expressed in measurable or calculable units or in otherwise objective terms.

#### **Article 2.10**

##### **(nature, period and sites of environmental values and substantiation)**

- (1) When setting an environmental value, the following shall be determined:
  - a. whether this parameter entails an obligatory outcome, an obligation to act or a different obligation to be specified in that case,
  - b. the sites where the environmental value are applicable.
- (2) When determining an environmental value, a period may be set within which the obligation referred to in paragraph one, item a, must be fulfilled.
- (3) When determining an environmental value, reasons shall be provided as to which duties and responsibilities are to be carried out in any event by virtue of this or any other Act in order to achieve the environmental value.
- (4) Notwithstanding paragraph one, introduction and item a, and paragraph two, rules may be laid down by order in council concerning the nature and the period if the environmental value is a noise-production ceiling.

### Section 2.3.2

#### *Environmental values determined by the municipality*

#### **Article 2.11**

##### **(environmental values determined by the municipality)**

- (1) Environmental values may be determined on the basis of a physical environment plan.
- (2) No environmental values may be determined on the basis of a physical environment plan that are in addition to or contrary to the environmental values set by an environmental regulation, an order in council or by a decision as referred to in Article 2.12a, paragraph one, Article 2.13a, paragraph one, or Article 2.15, paragraph two, unless otherwise specified in that environmental regulation, order or decision.

#### **Article 2.11a**

##### **(mandatory environmental values set by the municipality relating to noise produced on industrial sites)**

Noise-production ceilings shall be determined in any case on the basis of a physical environment plan as environmental values around industrial areas where activities designated by order in council may be performed that can generate significant noise.

### Section 2.3.3

#### *Environmental values determined by the province*

#### **Article 2.12**

##### **(environmental values determined by the province)**

- (1) With due regard for the limits of Article 2.3, paragraph two, environmental values may be established for an environmental regulation.
- (2) No environmental values may be determined on the basis of an environmental regulation that are in addition to or contrary to environmental values established by an order in council or decision as referred to in Article 2.15, paragraph two, unless otherwise specified in the order or decision.

- Article 2.12a** **(environmental values determined by the province regarding noise produced on industrial sites)**  
 (1) At the request of the Municipal Council, noise-production ceilings can be set around the industrial sites referred to in Article 2.11a by means of a of Provincial Council decision, if this is necessary to effectively control the noise from those industrial sites.  
 (2) The Provincial Council may delegate this power to the Provincial Executive.
- Article 2.13** **(mandatory environmental values determined by the province for water systems)**  
 (1) With a view to ensuring safety and preventing or limiting excess water, environmental regulations shall, in any case, determine environmental values for:  
 a. the safety of water defences, other than primary ones, designated by the regulation, insofar as they are not managed by the State,  
 b. the average annual risk of flooding in areas designated by the regulation, with a view to the storage and disposal capacity to which regional waters should be directed.  
 (2) By or pursuant to the regulation, and for the application of paragraph one, item a, for sites to be indicated therein, further rules shall be elaborated regarding the determination of the water-retention capacity of the water defences referred to therein.
- Article 2.13a** **(mandatory environmental values determined by the province for noise produced by roads and local railways)**  
 (1) The Provincial Council shall establish, by decision, noise-production ceilings as environmental values on both sides of the following conveyances designated by environmental regulation:  
 a. roads managed by the province,  
 b. local railways insofar as they are located outside the areas designated on the basis of Article 20, paragraph three, of the Passenger Transport Act of 2000 [Wet personenvervoer 2000].  
 (2) The Provincial Council may delegate this power to the Provincial Executive.
- Section 2.3.4** ***Environmental values determined by the State***
- Article 2.14** **(environmental values determined by the State)**  
 With due regard for the limitations of Article 2.3, paragraph three, environmental values may be set by an order in council.
- Article 2.15** **(mandatory environment values set by the State)**  
 (1) Environmental parameters shall in any case be set for the following by an order in council with a view to ensuring safety, safeguarding health, protecting the environment and managing natural resources:  
 a. the quality of the ambient air, including the deposition and concentrations of pollutants in the ambient air, also in connection with human exposure to those substances, in implementation of the Air Quality Directive and the Dangerous Emissions Directive,  
 b. the chemical and ecological quality of bodies of surface water and the chemical quality and quantitative condition of bodies of ground water, in the implementation of the Water Framework Directive, the Groundwater Directive, and the Priority Substances Directive,  
 c. the quality of bathing water, in the implementation of the Bathing Water Directive,  
 d. the safety of primary water defences,  
 e. the safety of water defences other than primary ones, insofar as they are managed by the State.

- (2) As a guiding principle for determining the environmental values referred to in paragraph one, item d, a minimum level of protection is applicable with which, in 2050, the mortality risk from the flooding of a primary water defence does not exceed 1 in 100,000 per year. A higher level of protection will be offered in places that may have:
- a. large groups of fatalities,
  - b. substantial economic damage, or
  - c. serious damage due to the failure of vital and vulnerable infrastructure of national significance.
- (3) Our Minister of Infrastructure and Water Management shall establish by decision environmental values for the noise-production ceilings made by either side of the following conveyances which have been designated by ministerial decree:
- a. roads managed by the State,
  - b. primary railways.
- (4) For the application of paragraph one, items d and e, a ministerial decree shall lay down further rules relating to the locations to be designated for determining the hydraulic load and the strength of the water defence.
- (5) The further rules referred to in paragraph four shall be revised in relation to primary water defences at least every twelve years.

## Section 2.4

### Section 2.4.1

#### Article 2.16

## Assignment of duties and designation of sites

### *Assignment of specific duties to municipalities, water boards, provinces and the State*

#### **(municipal duties for the physical environment)**

- (1) In addition to the duties assigned to that board pertaining to the physical environment elsewhere in this Act and on the basis of other laws, the following duties reside with the municipal administration:
- a. regarding the management of water systems and water chains:
    1. efficient collection of precipitation run-off, insofar as the holder cannot reasonably place the precipitation run-off onto or into the soil or a body of surface water, and the transport and processing thereof,
    2. taking measures in the public municipal area to prevent or limit the structurally adverse consequences of fluctuations in the groundwater level for the functions assigned to the physical environment on the basis of this Act, insofar as taking these measures is effective and is not the purview of a water board, a province or the State on the basis of Articles 2.17, 2.18 or 2.19,
    3. collection and transport of urban wastewater,
    4. management of water systems, insofar as they are allocated by environmental regulation as referred to in Article 2.18, paragraph two, or by ministerial decree as referred to in Article 2.20, paragraph three,
    5. purification of urban wastewater, in cases where Article 2.17, paragraph three, may apply.
  - b. safeguarding the condition and functioning of public roads, insofar as they are not managed by a water board, a province or the State against the adverse consequences of activities on or around those roads,
  - c. controlling the noise originating from roads managed by the municipality, local railways, insofar as these have not been designated on the basis of Article 2.13a, paragraph one, introduction and item b, and industrial sites.

- (2) Pursuant to paragraph one, item a, point 3°, urban wastewater shall be collected and transported to a water treatment plant if it is discharged:
- a. on the parcels located within a built-up area from which urban wastewater with a pollution value of at least two thousand population equivalents, as referred to in the Urban Wastewater Directive, is discharged by a public wastewater sewerage,
  - b. on other plots, insofar as this can be effectively carried out with a public wastewater sewerage.
- (3) Rather than a public wastewater sewerage and a water treatment plant, other appropriate systems managed by a municipality, a water board or a legal entity entrusted with the management by a municipality or water board may be used if the same level of environmental protection is achieved.

## Article 2.17

### (duties of the water board in relation to the physical environment)

- (1) In addition to the duties for the physical environment assigned to that water board's management elsewhere in this Act and on the basis of other laws, the water board's management has the following duties:
- a. regarding the management of water systems and water chains:
    1. management of water systems, insofar as they are allocated to the water board by provincial regulation as referred to in Article 2.18, paragraph two, or by ministerial decree as referred to in Article 2.20, paragraph three,
    2. purification of urban wastewater transported via a public wastewater sewerage to a water treatment plant,
  - b. preservation of the condition and functioning of public roads against the adverse consequences of activities on or around those roads, insofar as the management of these roads has been allocated by provincial regulation to the water board,,
  - c. control of the noise originating from roads as referred to in item b.
- (2) The water board's management may entrust another legal entity with the operation of a water treatment plant.
- (3) Contrary to paragraph one, the water board administration and the municipal administration may, by joint decision, stipulate that the purification task referred to in paragraph one, item a, point 2°, falls within the remit of the municipality, if this is more efficient for the purification of urban wastewater.

## Article 2.18

### (the provincial duties relating to the physical environment)

- (1) In addition to the tasks assigned to the provincial government for the physical environment elsewhere in this Act and on the basis of other laws, the provincial government has the following tasks:
- a. with due regard for the limits of Article 2.3, paragraph two, the area-focused coordination of the exercise of the duties and powers by municipalities and water boards,
  - b. preventing or limiting noise pollution in quiet areas,
  - c. protecting the quality of groundwater in groundwater protection areas, in connection with the extraction thereof for the preparation of water intended for human consumption,
  - d. regarding the management of water systems and bathing water:
    1. managing water systems, insofar as this is allocated to the province by environment regulation as referred to in paragraph two or provided by ministerial decree as referred to in Article 2.20, paragraph three,
    2. supervising the management of water systems to the extent that is allocated to the water boards, with the exception of the management of primary water defences,
    3. managing the quality of the bathing water, in any case, by taking management measures as referred to in Article 2, paragraph seven, of the Bathing Water Directive, insofar as this duty does not reside with a municipality, a water board or the water authority pursuant to Article 2.16, 2.17 or 2.19 of the State,

- e. safeguarding the condition and functioning of the following infrastructure from the adverse consequences of activities on or around that infrastructure:
    - 1. civil airports of regional significance,
    - 2. local railway infrastructure,
    - 3. roads managed by the province,
  - f. the control of noise originating from roads and local railways designated under Article 2.13a, paragraph one, and industrial terrains as applied in Article 2.12a,
  - g. in the natural world:
    - 1. the maintenance or recovery of plant and animal species occurring naturally in the Netherlands in the wild, their biotopes and habitats, and the types of natural habitat prevalent in the Netherlands, in accordance with the obligations of international law,
    - 2. ensuring that measures are taken:
      - for Natura 2000-sites, in accordance with the Birds Directive and the Habitats Directive, with the exception of Natura 2000 sites or portions thereof, for cases designated by order in council, and
      - special national nature conservation areas, which are necessary to achieve the conservation objectives for the various areas, for cases designated by order in council,
    - 3. the prevention and control of the introduction and spread of invasive alien species, for cases designated by order in council.
- (2) By provincial regulation, with due observance of Article 2, paragraph two, of the Water Boards Act, the management of regional waters shall be allocated to water boards. The following may occur under environmental regulation:
- a. the management of regional waters may be allocated to other public bodies,
  - b. the management of waterways may be allocated to water boards.
- (3) Notwithstanding paragraph one, the duty referred to in the first paragraph, item e, introduction and point 2°, resides in areas referred to in Article 20, paragraph three, of the 2000 Passenger Transport Act designated by the daily management of the public body referred to in that paragraph.

## Article 2.19

### (governmental duties regarding the physical environment)

- (1) In addition to the duties concerning the physical environment allocated to the State elsewhere in this Act and under other acts, Our Minister whom it concerns, has the duties mentioned in paragraphs two through five, inclusive.
- (2) The following duties for water systems reside with Our Minister of Infrastructure and Water Management:
- a. the management of national waters,
  - b. preventing or combating the landward displacement of the coastline, to the extent that is necessary, according to the minister to fulfil an environmental value for the security of primary water defences as referred to in Article 2.15, paragraph one, item d,
  - c. supervising the management of primary water defences by a water board or other public body,
  - d. establishing and providing technical guidance on the design and management of primary water defences.
- (3) The following duties relating to infrastructure and other facilities reside with Our relevant Minister:
- a. with Our Minister of Infrastructure and Water Management: the preservation of the condition and functioning of the infrastructure against the adverse consequences of activities on or around this infrastructure:
    - 1. Schiphol Airport and other nationally significant civil airports,
    - 2. the primary railway infrastructure and the special railway infrastructure,
    - 3. roads managed by the State,
    - 4. communication, navigation and radar equipment outside of airports as defined under point 1°,



- b. by Our Minister of Infrastructure and Water Management: the control of noise originating from roads managed by the State and primary railways designated under Article 2:15, paragraph two,
  - c. by Our Minister of Defence: the preservation of the condition and functioning of the infrastructure and other facilities for defence and national security against the adverse consequences of activities on or around that infrastructure and other facilities:
    - 1. military airfields
    - 2. low-lying flight paths for fighter and transport aircraft,
    - 3. military terrains,
    - 4. munitions storage depots,
    - 5. radar stations and transmitting and receiving installations located outside of military airfields.
- (4) Our Minister of the Interior and Kingdom Relations is tasked with supervising the performance of duties by a water board for the digital system, as referred to in Section 20.5.
- (5) The following duties relating to the natural world reside with Our Minister concerned:
- a. with Our Minister of Agriculture, Nature and Food Quality:
    - 1. ensuring that measures are taken as referred to in Article 2.18, paragraph one, item g, point 2°, second line, especially with regard to particular national nature conservation areas, except in the cases designated by order in council as referred to in the latter portion of the article,
    - 2. to the extent possible, quantifying the conservation objectives of the Natura 2000 sites and particular national nature conservation areas that protect habitats and species,
    - 3. creating red lists for insight into the animal and plant species that occur naturally in the Netherlands and that are endangered or threatened with extinction,
    - 4. preventing and controlling the introduction and spread of invasive alien species, excepting the cases designated under Article 2.1a8, paragraph one, item g, point 3°,
  - b. with Our Minister appointed by order in council:
  - c. ensuring that measures are taken as referred to in Article 2.18, paragraph one, item g, point 2°, the first line, for Natura 2000 sites or portions thereof:
    - 1. a body of surface water that is managed by the State,
    - 2. that is used for military purposes,
    - 3. that is managed by a Minister other than Our Minister of Agriculture, Nature and Food Quality, or owned by the State of the Netherlands, in cases designated by order in council.

## Section 2.4.2

### Article 2.20

### Article 2.21

## Designation of sites

### (designation and demarcation of national bodies of water)

- (1) For the purposes of this Act, with due regard for the limitations set forth in Article 2.3, paragraph three, the water defences and bodies of surface water, or portions thereof, shall be designated by order in council as belonging to the national waters.
- (2) The bodies of surface water or portions thereof belonging to the national waters shall be geometrically defined by ministerial decree.
- (3) National waters may be designated, in whole or in part, by ministerial decree, notwithstanding paragraph one, for which the management is entrusted to public bodies that are not associated with the State.

### (basis for the designation and demarcation of other sites)

- (1) For the purposes of this Act, with due regard to the limitations set forth in Article 2.3, sites other than those referred to in Article 2.20 may be designated and geometrically defined by ministerial decree.

- (2) In any case, the following locations will be designated on the basis of paragraph one:
- a. the Dutch portions of the river basin districts of the Rhine, Meuse, Scheldt and Ems, including the allocation of groundwater bodies to these river basin districts, as referred to in the Water Framework Directive,
  - b. The zones and agglomerations referred to in the Environmental Noise Directive, the Air Quality Directive and the Hazardous Emissions Directive.

#### Article 2.21a

#### Article 2.21a (designation and demarcation of restricted areas)

- (1) Pursuant to Article 2.21, paragraph one, in any case, restricted areas shall be designated and geometrically defined with regard to:
- a. roads managed by the State,
  - b. water control works managed by the State,
  - c. primary railway infrastructure,
  - d. facilities within a water control work, other than mining installations.
- (2) As long as paragraph one has not been applied, the restricted areas shall consist of the location of the work or object for which the restriction area is designated and the locations that lie within a distance around that work or object determined by order in council.

## Section 2.5

## Instruction rules and instructions

### Section 2.5.1

### Implementation of policy through instruction rules

#### Article 2.22

#### (basis for general instruction rules issued by the province)

- (1) Rules may be laid down by means of an environmental regulation, with due regard for the limitations in Article 2.3, paragraph two, in relation to the performance of duties or exercising of powers by administrative bodies in order to comply with environmental values set in an environmental regulation or to achieve other objectives relating to the physical environment.
- (2) Instead of the Provincial Council, the Provincial Executive may establish rules in the environmental regulations if they concern:
- a. the geometric definition of locations or substantiation of the exercise of a duty or power covered by the rule, or
  - b. technical, administrative and measurement or calculation requirements.

#### Article 2.23

#### (content of instruction rules issued by the province)

- (1) Rules pursuant to Article 2.22 may only be laid down with regard to:
- a. the contents or justification of:
    1. a programme of the Provincial Executive as referred to in articles 3.4 and 3.8 of a programme referred to in Article 3.6, 3.7 or Section 3.2.4 that is not established by an administrative body of the State,
    2. a physical environment plan or water board regulation,
    3. a custom requirement,
    4. a project decision of the Provincial Executive or the daily management of the water board,
    5. a decision to refrain from applying the rules referred to in Article 5.53, paragraph three,
    6. a land registry, including a technical management register, or a decision relating to the water level as referred to in Article 2.39 or 2.41 that is not determined by the administrative body of the State.
  - b. the performance of a duty as referred to in Article 2.16, 2.17 or 2.18.
- (2) The rules may serve to implement a programme of the Provincial Executive as referred to in Section 3.2.4.
- (3) Rules relating to the content or justification of an environment plan or water board regulation may only be laid down with regard to:

- a. the performance of tasks as referred to in Section 2.4.1, including rules on the environmental values to be included or that are already included, environmental permits for an environmental planning activity and environmental permits as referred to in Article 5.3,
  - b. environmental values included in a physical environment plan other than as referred to in item a,
  - c. rules to be included or that have already been included:
    - 1. in a physical environment plan as referred to in Article 4.2, paragraph one,
    - 2. as referred to in Article 4.6,
    - 3. on monitoring as referred to in Articles 20.1 and 20.2, and data collection as referred to in Article 20.6.
- (4) The regulations may define a period within which the rules must be implemented.
- (5) The rules determine in which cases and under what conditions the rules may be deviated from if the application of the rules is either insufficient for, or hinders, the achievement of the objectives of the Act.

#### **Article 2.24**

##### **(basis for general instruction rules issued by the State)**

- (1) Rules may be laid down by an order in council, with due regard for the limitations in Article 2.3, paragraph three, in relation to the performance of duties or exercising of powers by administrative bodies in order to fulfil environmental values set by an order in council or in order to achieve other objectives relating to the physical environment.
- (2) Notwithstanding the provisions of paragraph one, rules may be laid down by means of a ministerial decree if they contain the following:
- a. the designation or definition of a site or otherwise than the geometric definition or further specification of the performance of a duty or exercising of a power to which the rule relates, or
  - b. rules concerning implementation, administration and measurements or calculations.
- (3) Rules referred to in paragraphs one and two may also relate to the performance of the duties referred to in Article 2.19, paragraph three, item b, by the manager referred to in Article 1, paragraph one, of the Railways Act.

#### **Article 2.25**

##### **(content of the instruction rules issued by the State)**

- (1) Rules pursuant to Article 2.24 may only be laid down with regard to:
- a. the contents or justification of:
    - 1. a programme as referred to in Section 3.2.2, Article 3.14a or Section 3.2.4,
    - 2. a physical environment plan, water board regulation or an environmental regulation,
    - 3. a custom requirement,
    - 4. a project decision,
    - 5. a decision to refrain from applying the rules referred to in Article 5.53, paragraph three or four,
    - 6. a land registry, including a technical management register, or decision relating to the water level as referred to in Article 2:39 or Article 2:41,
    - 7. an emergency plan as referred to in Article 19.14,
    - 8. a monitoring programme as referred to in Article 20.2, paragraph four,
    - 9. a decision establishing the noise-production ceilings and environmental values as referred to in Article 2.12a, paragraph one, Article 2.13a, paragraph one, or Article 2:15, paragraph two, or a decision establishing soundproofing measures as referred to in Article 2:43,
    - 10. a decision relating to the designation of nature conservation areas as referred to in Article 2.21a,
    - 11. a decision for recognition pursuant to Article 4.32, paragraph two, item a,
    - 12. a plan as referred to in Article 16.53c,

- b. performing a duty as referred to in Section 2.4.1, the exercise of powers as referred to in Article 2.44, paragraphs two to four, 2.38 or 2.45 or taking measures as referred to in Article 3.10, paragraph two, item b, point 2°.
- (2) The rules may serve to implement a programme of Our Minister whom it concerns, as referred to in Section 3.2.4.
- (3) Rules concerning the content or justification of a physical environment plan, water board regulation or environmental regulation may only be laid down with regard to:
- a. the performance of duties referred to in Section 2.4.1, including regulations about environmental values already included or to be included, environmental permits for an environmental planning activity and environmental permits as referred to in Article 5.3 or Article 5.4,
  - b. inclusion in a physical environment plan or environmental regulation other than the environmental values referred to in item a,
  - c. rules to be included or already included:
    - 1. in an environmental regulation as referred to in Article 2:22, 5.19, paragraph one, 5.34, paragraph three, item c, point 1°, 8.1, paragraph four, or 8.2, paragraph four or 5.34, paragraph three, item c, point 1°,
    - 2. in a physical environment plan as referred to in Article 4.2, paragraph one,
    - 3. in a physical environment plan relating to construction activities,
    - 4. in a physical environment plan as referred to in Article 16.55, paragraph four,
    - 5. as referred to in Article 4.6,
    - 6. on monitoring as referred to in articles 20.1 and 20.2, and data collection as referred to in Article 20.6.
- (4) The regulations may define a period within which the rules must be implemented.
- (5) The rules determine in which cases and under what conditions the rules may be deviated from if the application of the rules is either insufficient for, or hinders, the achievement of the objectives of the Act.
- (6) Without prejudice to paragraph three, item c, the rules relating to an environmental regulation shall entail the following in relation to that regulation:
- a. different rules may be laid down,
  - b. further rules are or may be laid down.

## Article 2.26

### **(mandatory instruction rules laid down by the State in relation to programmes)**

- (1) With a view to ensuring security, safeguarding health, protecting the environment, protecting the natural world and managing water systems and nature conservation areas, rules pursuant to Article 2.24 shall be laid down in any event in relation to programmes as referred to in Section 3.2.2 that arise as a result of obligations under international law.
- (2) The rules shall serve to prevent or limit deterioration of the condition or quality of the physical environment.
- (3) The rules shall, in any case, serve to implement the following:
- a. the Groundwater Directive,
  - b. the Habitats Directive,
  - c. the Marine Strategy Framework Directive,
  - d. the Maritime Spatial Planning Framework,
  - e. the Water Framework Directive,
  - f. the National Emission Ceilings Directive,
  - g. the Air Quality Directive,
  - h. the Environmental Noise Directive,
  - i. the Flood Risks Directive,
  - j. the Birds Directive.

**Article 2.27****(mandatory instruction rules laid down by the State in relation to an environmental regulation)**

Rules pursuant to Article 2.24 shall be laid down, in any event, in relation to environmental regulations for the following purposes:

- a. preserving cultural heritage,
- b. preserving the exceptional universal value of world heritage, at least for the implementation of the UNESCO World Heritage Convention,
- c. safeguarding health and protecting the environment in relation to preventing or limiting noise in quiet areas,
- d. safeguarding health, protecting the environment, managing natural resources and safeguarding the public drinking water supply in relation to protecting the quality of regional bodies of water from which water is obtained for the preparation of water intended for human consumption, at least for the implementation of the Water Framework Directive,
- e. preserving the condition and functioning of:
  1. civil airports of regional significance,
  2. the local railway infrastructure, outside of the areas designated under Article 20, paragraph three, of the Passenger Transport Act of 2000 and to the extent to which no application is made for this infrastructure to Article 4, paragraph three, from the Local Railways Act [Wet lokaal spoor] against the adverse consequences of activities on or around that infrastructure,
- f. safeguarding health in relation to controlling the noise originating from roads and local railways.

**Article 2.28****(mandatory instruction rules laid down by the State in relation to the physical environment plan and the project decision)**

Rules pursuant to Article 24 shall be laid down in any event relating to physical environment plans and project decisions for the following purposes:

- a. preserving cultural heritage, including known or demonstrably anticipated archaeological heritage sites or monuments, in any case, for the implementation of the European Landscape Convention, the Granada Convention and the Valletta Convention,
- b. preserving the exceptional universal value of world heritage, in any case, for the implementation of the World Heritage Convention,
- c. ensuring safety, safeguarding health and protecting the environment in relation to external safety risks associated with the storage, production, usage and transport of hazardous substances, in any case, for the implementation of the Seveso Directive,
- d. safeguarding health in relation to controlling the noise originating from roads, railways and industrial sites,
- e. preserving the condition and functioning of the infrastructure or facilities referred to in Article 2.19, paragraph three, item a, point 4°, and item c, points 2° to 5°; against the adverse consequences of activities carried out on or around that infrastructure or other facilities.
- f. preserving the condition and functioning of the local railway infrastructure within the areas designated under Article 20, paragraph three, of the Passenger Transport Act of 2000 against the adverse consequences of activities carried out on or around that infrastructure,
- g. promoting new developments in the public access to space for people,
- h. excluding the usage of locations on the Wadden Islands and in the Wadden Sea for mining work to locate or extract minerals,
- i. protecting health and the environment in relation to safeguarding the soil or preventing unacceptable risks to health due to the use of the soil,

- j. designating sites in which:
  1. hunting may not be practised with the use of a rifle,
  2. the rules referred to in Article 4.3 about the felling of timber stands are not applicable.

**Article 2.29****(mandatory instruction rules laid down by the State in relation to the physical environment plan and project decision for airports)**

(1) Rules pursuant to Article 2.24 shall be laid down in any case in relation to physical environment plans and project decisions with a view to ensuring safety, safeguarding health around airports, preserving the condition and functioning of airports and the balanced allocation of functions to sites in the immediate vicinity thereof. The rules shall in any event be drawn up for the implementation of the Chicago Convention.

(2) The rules in any event shall concern the following:

inclusion of the airport area associated with the following in the physical environment plan or project decision:

3. Schiphol Airport,
  4. other civil airports of national significance that are subject to an Airport Decree,
  5. those military airfields subject to an Airport Decree,
- k. the function of and the activities carried out on the site within the airport area, as referred to in item a, insofar as such rules are necessary with a view to using the area as an airport,
  - l. the inclusion in the physical environment plan or project decision of the restricted area associated with the airports, as referred to in item a, and the restricted area, as referred to in Article 8a.54 in conjunction with Article 8a.55 of the Aviation Act [Wet Luchtvaart], associated with airports in other countries,
  - m. the restrictions upon the function of and activities carried out within the restricted area, as referred to in item c, insofar as those rules are necessary with a view to flight security or in connection with external security risks and noise caused by airport aviation traffic.

(3) Contrary to Article 2.25, paragraphs one and three, the rules on civil airports of regional significance that are subject to an Airport Decree may also contain a mandate to adopt those rules in the Airport Decree or to state more specific rules in the Airport decree.

**Article 2.29a****(mandatory instruction rules laid down by the State in relation to noise-production ceilings)**

Rules pursuant to Article 2.24 shall be laid down in any event with regard to decisions establishing noise-production ceilings and environmental values in order to safeguard health.

**Article 2.30****(mandatory instruction rules laid down by the State in relation to bathing sites)**

Rules pursuant to Article 2.24 shall be laid down with regard to the following in any event, with a view to ensuring safety and safeguarding health:

- a. the designation of bathing sites for the implementation of the Bathing Water Directive,
- b. the performance of the duties relating to bathing sites, as referred to in Article 2.18, paragraph one, item d, point 3°, and the powers as referred to in Article 2:38,
- c. the determination of the bathing season by the Provincial Executive as referred to in Article 2, item 6, of the Bathing Water Directive.

**Article 2.31****(mandatory instruction rules laid down by the State in relation to urban wastewater)**

- (1) Rules pursuant to Article 2.24 shall be laid down in any event with regard to the design, construction and maintenance of public wastewater sewerage, with a view to safeguarding health and managing water systems.
- (2) The rules shall in any event be drawn up for the implementation of the Urban Wastewater Treatment Directive.

**Article 2.31a****(mandatory instruction rules laid down by the State on nature conservation areas, flora and fauna)**

Rules pursuant to Article 2.24 shall be laid down in any event to ensure the protection, restoration and development of the natural world and landscapes:

- a. to maintain or restore the conservation status of animal species, plant species, biotopes and habitats in order to comply with obligations under international law,
- b. for the designation, conservation objectives and the protection of Natura 2000 sites,
- c. for the designation, conservation objectives and the protection of particular nature conservation areas insofar as is necessary for the implementation of the Birds Directive and the Habitats Directive,
- d. for the designation and protection of sites associated with the National Ecological Network [Natuur netwerk Nederland], insofar as is necessary to comply with obligations under international law,
- e. for the designation of national parks,
- f. for administrative bodies to establish plans as referred to in Article 6, paragraph three of the Habitats Directive.

**Article 2.32****(exemption from instruction rules)**

- (1) With regard to a rule pursuant to Article 2.22, paragraph one, it may be stipulated that the Provincial Executive may grant an exemption from that rule at the request of an administrative body of a municipality or water board.
- (2) With regard to a rule pursuant to Article 2.24, paragraph one, it may be stipulated that Our Minister whom it concerns may grant an exemption from that rule at the request of an administrative body of a municipality, water board or province. The rule may specify that the decision to grant an exemption requires the agreement of Our Minister whom it concerns or Our Minister of the Interior and Kingdom Relations.
- (3) With regard to a rule pursuant to Article 2.24, paragraph one, it may be stipulated that the Provincial Executive, at the request of an administrative body of a municipality or a water board, may grant an exemption to that rule if the designation or demarcation of a site covered by that rule is determined by a decision of an administrative body of the province.
- (4) If it has been stipulated in relation to a rule pursuant to Article 2.25, paragraph five, that it is possible to deviate from a rule or that further rules already are or may be set in an environmental regulation, it may also be stipulated in that regard that the Provincial Executive may grant an exemption from that rule or further rules at the request of an administrative body of a municipality or a water board.
- (5) An exemption shall be granted only if the performance of the duty or exercising of powers for which exemption is being requested is being disproportionately hindered in proportion to the interest being served by the rule from which exemption is being requested.
- (6) Regulations may be attached to an exemption. It may be stipulated in the exemption that it applies for a period set in that regard.

## Section 2.5.2

### Implementation of policy through instructions

#### Article 2.33

##### (basis for instruction issued by the province)

- (1) With due regard for the limitations of Article 2.3, paragraph two, the Provincial Executive may issue an instruction on the performance of a duty or the exercising of powers to the Municipal Council or the water board's management whose management area lies entirely or largely within the province in question.
- (2) An instruction may only be issued to the following:
  - a. the Municipal Council on the establishment of rules in a physical environment plan as referred to in Article 4.2, paragraph one, if necessary, to ensure a balanced allocation of functions to sites,
  - b. the water board's management, if this is necessary to effectively control the noise originating from roads as referred to in Article 2.17, paragraph one, item c,
  - c. the water board's management, if that is necessary for consistent and effective regional water management,
  - d. the daily management of the water board in relation to a project decision, if necessary to ensure a balanced allocation of functions to sites.
- (3) Article 2.23, paragraph two and four, shall apply mutatis mutandis to issuing instructions.
- (4) An instruction cannot be issued if the following can be applied:
  - a. Articles 124, 124a or 273a of the Municipalities Act [Gemeentewet], or
  - b. Article 156, paragraph one, of the Water Board Act [Waterschapswet].

#### Article 2.34

##### (basis for instruction issued by the State)

- (1) Our Minister whom it concerns, in accordance with Our Minister of the Interior and Kingdom Relations may, with due regard for the limitations of Article 2.3, paragraph three, issue an instruction to the provincial administration, the municipal administration or the water board administration in relation to the performance of a duty or exercising of powers.
- (2) An instruction may only be issued with regard to the following:
  - a. the Provincial Council in relation to laying down rules in the environmental regulation as referred to in Article 2.22 or 4.1, paragraph one, if that is necessary in order to achieve a balanced allocation of functions to sites,
  - b. the Provincial Executive in relation to a project decision, if necessary to ensure a balanced assignment of functions to sites,
  - c. the Provincial Council in relation to a decision to establish noise-production ceilings and environmental values on and around industrial sites as defined in Article 2.12a, paragraph one, where defence facilities are located,
  - d. the Municipal Council on the establishment of rules in a physical environment plan as referred to in Article 4.2, paragraph one, if necessary to ensure a balanced allocation of functions to sites,
  - e. the daily management of the water board in relation to a project decision, if necessary to ensure a balanced allocation of functions to sites.
- (3) In addition to paragraph two, Our Minister of Infrastructure and Water Management may issue instructions to the province's management or the water board's management with regard to performing a duty or exercising a power relating to managing water systems or water cycle management, if that is necessary in order to achieve coherent and effective water management,
- (4) In addition to the second paragraph, Our Minister of Education, Culture and Science may, in accordance with Our Minister of the Interior and Kingdom Relations, issue instructions to the Municipal Council to incorporate the function designation of State-protected urban or village conservation areas into the physical environment plan, and to stipulate the protection of the urban or village conservation areas should this be necessary to preserve cultural heritage.



(5) Article 2.25, paragraphs two and four, shall apply mutatis mutandis to issuing instructions.

(6) An instruction cannot be issued if the following can be applied:

- a. Articles 124a, 124b or 268 of the Municipalities Act,
- b. Articles 121 or 261 of the Provinces Act [Provinciewet], or
- c. Compliance with European Regulations (Public Entities) Act [Wet Naleving Europese regelgeving publieke entiteiten].

## Article 2.35

### (application of instructions)

(1) An instruction cannot be issued if it is intended for repeated execution by multiple administrative bodies.

(2) An instruction with a view to an interest as referred to in Article 2.3, paragraph two, item a, or paragraph three, item a, can be given only if the interest is indicated in a document made public by an administrative body of the province or the State.

## Section 2.5.3

### *Substitution and nullification of decisions by the water board*

## Article 2.36

### (powers of substitution)

6 par.1 The Provincial Executive may, on behalf of the water board's management and at the expense of the water board, provide for the claim, if the water board's management:

- a. does not execute an instruction on the basis of Article 2.33 within the specified period or Article 12.18,
- b. does not or does not properly make a decision required by or pursuant to Section 18.3 or does not or does not properly perform an act requested by or pursuant to that section.

(2) Our Minister whom it concerns may, on behalf of the water board administration and at the expense of the water board, provide for the claim if the water board authority:

- a. does not carry out an instruction pursuant to Article 2.34 within the period set for that purpose,
- b. does not or does not properly take a decision or does not or does not properly take an action claimed in or under Chapter 18,
- c. does not or not properly carry out a task assigned under Section 20.5.

(3) Article 121, paragraphs two and four, and Articles 121a to 121e, of the Provinces Act shall apply mutatis mutandis to the exercise of the power referred to in paragraph two.

## Article 2.37

### (nullification by the State of decisions made by the water board)

(1) A decision or unwritten resolution intended to have any legal consequence for the water board's management can be nullified by Royal Decree if the decision or resolution was taken contrary to:

- a. a rule pursuant to Article 2:24 or an instruction pursuant to Article 2.34,
- b. the provisions under or pursuant to Chapter 18.

(2) Articles 266 to 274a, of the Provinces Act shall apply mutatis mutandis to a nullification. Sections 10.2.2 and 10.2.3 of the General Administrative Law Act shall apply mutatis mutandis to the nullification of an unwritten resolution intended to have a legal consequence.

## Section 2.6 Special duties and powers

### Section 2.6.1 *Special management duties and powers for water, water control works and roads*

#### Article 2.38

#### **(bathing prohibition and recommendation against bathing)**

The Provincial Executive is authorised to issue a recommendation against or to prohibit swimming in bathing waters or bodies of surface water with a view to ensuring safety and protecting health.

#### Article 2.39

#### **(land registry)**

(1) The administrator of water control works shall establish a land registry which sets the standard for the physical properties or condition of water management structures according to shape, dimensions and construction.

(2) Paragraph one shall not apply to water control works pursuant to Article 2.18, paragraph two, or Article 2.20, paragraph three, that are under management by a public body other than a water board or the State.

(3) As an Annex to the land register for which environmental values are determined in accordance with Article 2.13, paragraph one, item a, or 2.15, paragraph one, item e, a technical management register is included, in which the characteristic data on the maintenance of the water-retention capacity data characterising the structure and the actual condition thereof are described in detail.

(4) An exemption from the obligations referred to in paragraph one for water control works that by their nature or function do not lend themselves to the description of those elements may be granted by or pursuant to an environmental regulation or by order in council for water control works managed by the State that have limited dimensions.

#### Article 2.40

#### **(refusal of access to water control works and roads)**

(1) Our Minister of Infrastructure and Water Management may restrict or prohibit access to a water control work or a road managed by the State through the site, or in another suitable manner, to be published.

(2) Paragraph one is not applicable to the use of public transport.

#### Article 2.41

#### **(decision relating to the water level)**

(1) The water board's management or the competent administrative body of another public body whereby, pursuant to Article 2:18, paragraph two, water systems are managed, lays down one or more decisions relating to the water level for bodies of surface water, bodies of groundwater or portions thereof that are part of those water systems that have been designated by environmental regulation.

(2) Our Minister of Infrastructure and Water Management shall establish one or more decisions relating to the water level of bodies of surface water, bodies of groundwater or portions thereof belonging to the national waters that have been designated by order in council.

(3) A decision relating to the water level provides for the determination of water levels or bandwidths within which water levels may vary, which are maintained as much as possible during the periods or conditions indicated.

#### Article 2.42

#### **(ranking by scarcity of water)**

(1) The hierarchy of social and environmental needs shall be established by order in council, which is crucial for water scarcity or impending water scarcity for the distribution of the available surface water.

(2) By or pursuant to the order and, if that is determined by the order, further rules on the ranking can be established by an environmental regulation. With these rules, the ranking may be declared correspondingly applicable to the available groundwater.

**Section 2.6.2*****Special powers relating to noise*****Article 2.43****(soundproofing measures in buildings)**

(1) The Municipal Executive of the municipality, the daily management of the water board, the Provincial Executive and Our Minister of Infrastructure and Water shall determine by decision whether, and if so, which measures will be taken to reduce the noise in buildings. The first sentence is applicable only to cases designated by order in council.

(2) The decision shall be revoked in cases or on grounds that are determined by order in council.

**Section 2.6.3*****Special powers relating to nature and landscapes*****Article 2.44****(designation of nature conservation areas and landscapes)**

(1) For the implementation of the Birds Directive and the Habitats Directive, Our Minister of Agriculture, Nature and Food shall appoint Natura 2000 sites, as well as establish conservation objectives for these areas.

(2) For the implementation of the Birds Directive and the Habitats Directive, the Minister of Agriculture, Nature and Food may appoint special national conservation areas and establish conservation objectives for these areas.

(3) Our Minister of Agriculture, Nature and Food may designate national parks.

(4) The areas that belong to the National Ecological Network will be designated by environmental regulation.

(5) With environmental regulations, areas excluding Natura 2000 sites or areas referred to in paragraph four shall be designated as special provincial nature conservation areas and special provincial landscapes.

**Article 2.45****(restricted access to nature conservation areas)**

(1) The Provincial Executive may fully or partially restrict or prohibit access a Natura 2000 site.

(2) The power referred to in paragraph one resides with Our Minister of Agriculture, Nature and Food if a Natura 2000 site is fully or partially managed by one of Our Ministers other than Our Minister of Agriculture, Nature and Food Quality.

(3) Our Minister of Agriculture, Nature and Food Quality may fully or partially restrict or prohibit access to a special national nature conservation area.

(4) The power referred to in paragraph three resides with the Provincial Executive in cases where that is determined by order in council.

## Chapter 3 Environmental strategies and programmes

### Section 3.1 Environmental strategies

#### Article 3.1

##### **(establishing the environmental strategy)**

- (1) The Municipal Council shall establish an environmental strategy.
- (2) The Provincial Executive shall establish an environmental strategy for the province.
- (3) In accordance with Our Ministers whom it concerns, Our Minister of the Interior and Kingdom Relations shall establish a national environmental strategy.

#### Article 3.2

##### **(content of the environmental strategy)**

An environmental strategy shall contain, partly for the exercise of functions and powers referred to in Article 2.1, paragraph one:

- a. a description of the main features of the quality of the physical environment,
- b. the main features of the proposed development, usage, management, protection and conservation of the territory,
- c. the main points of the comprehensive policy for the physical environment.

#### Article 3.3

##### **(implementation of principles)**

An environment strategy shall take into account the precautionary principle, the principle of preventive action, the principle that environmental damage by preference should be contested at the source, and the principle that the polluter pays.

### Section 3.2 Programmes

#### Section 3.2.1

##### **General provisions**

#### Article 3.4

##### **(establishing a programme)**

The Municipal Executive of the municipality, the governing board of the water board, the Provincial Executive and Our Minister whom it concerns may establish programmes.

#### Article 3.5

##### **(content of a programme)**

a programme includes, also for the performance of the duties and powers referred to in Article 2.1, paragraph one, for one or more components of the physical environment:

- a. an elaboration of the policy to be pursued for the development, use, management, protection or preservation of this,
- b. measures to fulfil one or more environmental values or to achieve one or more objectives for the physical environment.

**Section 3.2.2****Mandatory programmes****Article 3.6****(mandatory programmes established by the municipality)**

(1) The Municipal Executive of a municipality that lies in an agglomeration within the meaning of Article 3, item k of the Environmental Noise Directive, as designated by Our Minister of Infrastructure and Water Management, shall establish an action plan within the meaning of Article 8 of that Directive in relation to the following sources of noise:

- a. roads and railways therein,
- b. other railways,
- c. airports,
- d. an activity or a collection of activities that is subject to a rule as referred to in Article 2.22, paragraph one, or 2.24, paragraph one, or Section 4.1.1 in relation to noise pollution.

(2) The action plan shall be established on the basis of the noise mapping established for those sources of noise pursuant to Article 20.17.

**Article 3.7****(mandatory programmes established by the water board)**

The administrative body of the water board shall establish a water management programme for the water systems that are managed by the water board, which takes account of the regional water programme for those water systems, insofar as it concerns the elements that implement the Directives referred to in Article 3.7, paragraph two.

**Article 3.8****(mandatory programmes established by the province)**

(1) In the implementation of the Environmental Noise Directive, the Provincial Executive shall establish an action plan in accordance with Article 3.5 in relation to the following noise sources:

- a. major roads within the meaning of Article 3, item n of that Directive and that concern roads that:
  1. are managed by the province, or
  2. are managed by a municipality or water board and are located outside a metropolitan area as defined in Article 3.6, paragraph one,
- b. major railways within the meaning of Article 3, item o, of that Directive and other than those referred to in Articles 3.6, paragraph one, item b and 3.9, paragraph one, item b, point 2°,
- c. civil airports of regional significance, when it comes to major airports referred to in Article 3, item p, of that Directive.

(2) The Provincial Executive establishes regional water programmes for the implementation of the Groundwater directive, the Water Framework directive, the Flood Risk directive, the Bathing Water directive and other European directives on water.

(3) The Provincial Executive of the province in which a Natura 2000 site is located or, if that area is in more than one province, the Provincial Executive of the province in which that area is largely located, shall establish a management plan for that area.

**Article 3.9****(mandatory programmes established by the State)**

(1) Our Minister of Infrastructure and Public Works shall establish the following programmes:

- a. A national NEC programme as referred to in Article 6 of the NEC Directive,
- b. In the implementation of the Environmental Noise Directive, Our Minister shall establish an action plan in accordance with Article 3.6 in relation to the following sources of noise:
  1. roads managed by the State,
  2. primary railways,
  3. Schiphol Airport and other civil airports of national significance, when it comes to major airports referred to in Article 3, item p, of that Directive.

(2) Our Minister of Infrastructure and Water Management, in accordance with Our Ministers concerned, shall establish the following programmes:

- a. the river basin management plans, as referred to in Article 13 of the Water Framework Directive, for the Dutch portions of the river basin districts of the Rhine, Maas, Schelde and Eems,
- b. the flood risk management plans, as referred to in Articles 7 and 8 of the Floods Directive, in relation to the river basin districts, as referred to in item a,
- c. a programme of measures for the Marine Strategy as referred to in Article 5, paragraph two, item b, of the Marine Strategy Framework Directive,
- d. a maritime spatial plan as referred to in Article 4 of the Maritime Spatial Planning Framework Directive,
- e. a national water programme.

(3) Notwithstanding Article 3.7, paragraph three, the management plan for a Natura 2000 site that is managed in whole or in part by one of Our Ministers — other than Our Minister of Economic Affairs — shall be established for that area or that part by: that region or area determined by Our Minister who, under Article 2.19, paragraph five, item b, is tasked with ensuring that measures are taken for Natura 2000 sites.

(4) Our Minister of Agriculture, Nature and Food Quality and the Minister of Infrastructure and Water Management shall establish a programme-based approach to nitrogen to reduce the load of nitrogen deposition into habitats in Natura 2000 sites that are sensitive to nitrogen that are included in the programme and the achievement of the conservation objectives for these habitats within the foreseeable future.

### Article 3.10

#### **(mandatory programme in the event of, or at risk of, exceeding the environmental value)**

(1) If it is likely that an environmental value is not being met or will not be met, the Municipal Executive of the municipality where that is the case shall establish a programme that aims to meet that environmental value.

(2) Contrary to paragraph one:

- a. the governing board of the water board or Our Minister of Infrastructure and Water Management shall establish the programme if the environmental value concerns a water system that falls under the management of the water board or the State,
- b. with due regard for Article 2.3, paragraphs two and three, by an order in council or environmental regulation,
  1. a different administrative body shall be designated that establishes the programme,
  2. shall be determined that in place of the duty, as referred to in paragraph one, a designated administrative body or other authority will take measures aimed at fulfilling the environmental value.

### Article 3.11

#### **(change in order to achieve a target)**

(1) The administrative body that has established a programme as referred to in this section shall make changes to that programme if the monitoring activities referred to in Article 20.1 indicate that it will not be possible to meet the environmental value by means of that programme.

(2) The programme shall be changed so that the environmental value will be met within an appropriate period.

### Article 3.12

#### **(implementation of measures)**

It may be stipulated by an order in council that the measures incorporated in the programmes or the measures referred to in Article 3.10, paragraph two, item b, point 2° must be implemented or must be operational in accordance with the rules to be laid down in this regard.

- Article 3.13** **(joint establishment of programmes)**  
Administrative bodies may be obliged by an order in council to jointly establish programmes as referred to in this section.
- Section 3.2.3** ***Non-mandatory programmes***
- Article 3.14** **(municipal sewerage programme)**  
In the implementation of the duty referred to in Article 2.16, paragraph one, item a, points 1° to 3° the Municipal Executive may establish a municipal sewerage programme.
- Article 3.14a** **(land use programme)**  
If, with respect to an area, the Provincial Executive proceeds to set up land use as referred to in Article 12.3, paragraph one, it shall set up a programme aimed at improving the layout of the area. The land use programme in any event shall include the measures and provisions referred to in Article 12.3.
- Section 3.2.4** ***Programme-based approach***
- Article 3.15** **(scope of programme-based approach)**
- (1) This section shall apply to programmes referred to in paragraphs two to four, inclusive.
  - (2) Programmes referred to in Article 3.16 may be designated that relate to the environmental values of the municipality as referred to in Section 2.3.2 or to any other objective for the physical environment for which, in that physical environment plan, a rule about the granting or refusal of an environmental permit for an environmental plan activity has been established.
  - (3) Programmes as referred to in Article 3.16 may be designated by environmental regulation that relate to the environmental values of the province referred to in Section 2.3.3 or any other objective for the physical environment for which a rule as referred to in Article 2:22, paragraph one, Article 5:19, paragraph, or Article 5.30 has been established.
  - (4) Programmes as referred to in Article 3.16 may be designated by environmental regulation that relate to the environmental values of the province referred to in Section 2.3.4 or to any other objective for the physical environment for which a rule as referred to in Article paragraph one, Article 02:24, paragraph, or Article 5.30 has been established.
  - (5) A physical environment plan, environmental regulation or order in council shall determine which administrative body may establish a programme.
- Article 3.16** **(content and functioning of the programme-based approach)**
- (1) A programme shall indicate which space in a designated area and time that is available for activities, given the environmental value or the other objectives.
  - (2) A physical environment plan, environmental regulation or order in council shall describe:
    - a. how the environmental value or other objective is involved in the performance of duties and powers,
    - b. where appropriate, which provisions are relevant pursuant to Article 22.2, paragraph one, 2.24, paragraph one, 5.18, 5.19, paragraph one, or 5.30, or which rules laid down in the physical environment plan for granting or refusing an environmental permit for all or part of the environmental planning activity.
- Article 3.17** **(requirements for programmes with programme-based approach)**
- (1) The programme, in any event, shall contain a description of:
    - a. the area to which the programme applies,
    - b. the period to which the programme relates,
    - c. the environmental value or the other objective for which purpose the programme was established,

- d. the condition of the element of the physical environment for which the programme is being established,
- e. the expected developments in the area that are expected to affect the fulfilment of the environmental value or achievement of the other objective,
- f. the activities that are expected to be carried out in the area during the period to which the programme relates, which are expected to have an effect on:
  - 1. the fulfilment of the environmental value or the achievement of the other objective, or
  - 2. the manner in which the capacity that is available for activities is determined and divided up, taking into account the environmental value or the other objective,
- g. the effects of the developments referred to in item e, and the activities referred to in item f, in relation to that element of the physical environment,
- h. the measures that contribute toward fulfilling the environmental value or achieving the other objective, the expected effects of this upon that element of the physical environment and the period within which these measures are taken.
- i. (2) Insofar as the measures referred to in paragraph one, item h, include changing the requirements for an environmental permit or revoking an environmental permit, the programme may also include a description of when and under which conditions that implementation can or should be effected.

### **Article 3.18**

#### **(implementation obligation for the programme-based approach)**

- (1) The administrative bodies that have been designated for the programme shall ensure the implementation of the measures contained therein within the period indicated.
- (2) The implementation obligation only applies:
  - a. provided that the programme shows that the administrative bodies have approved the inclusion of the measures, or
  - b. if the programme follows the rules and instructions referred to in Article 2.23, paragraph one, item b, and paragraph two, Article 2.25, paragraph one, item b, and paragraph two, Article 2.33 and Article 2.34.
- (3) Paragraphs one and two shall apply mutatis mutandis to a programme as referred to in Articles 3.8, paragraph three, and 3.9, paragraph three.

### **Article 3.19**

#### **(change to a programme in a programme-based approach)**

- (1) The administrative body that has been designated for this purpose in the programme may do the following:
  - a. amend, replace or terminate on its own initiative any measure, activity or development included in that programme; and
  - b. add measures, activities or developments to the programme if it is shown that, on balance, these changes fit in, or at least do not conflict with, the programme.
- (2) The administrative authorities, as referred to in Article 3:18, paragraph one, may request a change to the programme. With regard to that request, a reasonable case shall be made to show that the requirement in paragraph one has been met.
- (3) The administrative body that has established a programme shall change that programme if, according to that administrative body, the monitoring activities as referred to in Article 20.1, paragraphs one and two, show that Article 3.15, paragraph two, can no longer be reasonably applied to that programme.



## Chapter 4 General rules regarding activities in the physical environment

### Section 4.1 General provisions for rules regarding activities

#### Section 4.1.1 General rules

##### Article 4.1

##### **(decentralised rules regarding activities)**

- (1) With a view to achieving the objectives of the Act, the physical environment plan, the water board regulation and the environmental regulation may lay down rules regarding activities that (may) have an impact on the physical environment.
- (2) Measurement and calculation requirements may be laid down by ministerial decree concerning activities as referred to paragraph one.
- (3) The limits of Article 2.3, paragraphs two and three, are to be observed when establishing rules in the environment regulation and the ministerial decree.

##### Article 4.2

##### **(assignment of functions to sites)**

- (1) The physical environment plan consists of a balanced assignment of functions to sites in the entire municipal territory, as well as other rules that are necessary with a view to ensuring this.
- (2) The environmental regulation consists solely of an assignment of functions to sites and rules laid down with a view to doing this, if the subject of the care activities cannot be served efficiently and effectively by means of an instruction rule as referred to in Article 2.22, paragraph one, or an instruction as referred to in Article 2.33, paragraph one.

##### Article 4.3

##### **(basis for governmental regulations)**

- (1) Rules shall be laid down by means of an order in council regarding the following activities that (may) impact the physical environment:
  - a. construction, demolition activities and the use and the maintenance of structures,
  - b. environmentally harmful activities,
  - c. discharging activities at the site of:
    1. a body of surface water,
    2. a water treatment plant,
  - d. a water extraction activity,
  - e. a mining location activity,
  - f. a restricted area activity with respect to:
    1. a road,
    2. a water control work,
    3. an installation in a water control work,
  - g. providing opportunities for swimming and bathing,
  - h. activities concerning cultural heritage,
  - i. activities concerning world heritage,
  - j. Natura 2000 activities and activities with possible deterioration of, or a significantly disturbing effect on a particular national nature conservation area,
  - k. the pursuit of hunting activities and managing populations of wildlife or combating damage caused by animals,
  - l. the use and possession of resources or facilities and the application of methods to capture or kill animals,
  - m. the capture, processing, and killing of whales,
  - n. activities that cause or may cause the introduction or spread of invasive alien species,
  - o. the felling and management of timber stands,
  - p. land development activities.

- (2) Rules shall be laid down by order in council regarding the following activities with animals, plants, substances or items whose prior acquisition or production has or may have consequences for the physical environment:
- a. trading, having, for a reason other than sale, and bringing animals, plants or products thereof inside or beyond the territory of the Netherlands,
  - b. trading and transporting timber and timber products into the territory of the Netherlands,
  - c. trading and transporting means or systems to kill or capture animals inside or beyond the territory of the Netherlands.
- (3) With a view to the objectives of the Act, rules may be laid down by order in council with regard to the following activities that have or may have consequences for the physical environment:
- a. excavation activities,
  - b. deposition activities at sea,
  - c. restricted area activities related to:
    1. an airport,
    2. a primary railway, local railway or special railway,
  - d. flora and fauna activities.
- (4) Rules may be set by ministerial decree when implementing technical, administrative and measurement or calculation methods.
- (5) The limits of Article 2.3, paragraph three, shall be observed when establishing rules.

## Section 4.1.2

### Contents

#### Article 4.4

#### (notification or environmental permit)

- (1) Rules referred to in Section 4.1.1 may include a prohibition to perform an activity without prior notification to the competent authority.
- (2) The rules in the physical environment plan, the water board regulation or the environment regulation can impose a prohibition on performing an activity without an environmental permit.

#### Article 4.5

#### (custom requirements of permit requirements)

- (1) For the rules referred to in Section 4.1.1, subjects may be designated for which the competent authority may lay down custom requirements or attach requirements to an environmental permit. Section 4.3.2 shall apply mutatis mutandis to the formulation of custom requirements based on regulations as referred to in Article 4.3.
- (2) The custom requirements or permit requirements may deviate from rules referred to in Section 4.1.1, if that is provided for by the rules. The extent to which the rules may deviate and for how long may also be stipulated in those rules.
- (3) Rules referred to in Section 4.1.1 may also provide that a custom requirement cannot be considered as a subject that can be attached a provision to a physical environment.

#### Article 4.6

#### (custom rules)

- (1) With regard to rules as referred to in Article 4.1 that are included in the environmental regulation, it can be stipulated that custom rules may be established in the physical environment plan or the water board regulation on designated subjects.
- (2) The rules referred to in Article 4.3 may stipulate that custom rules can be laid down in the environmental plan, the environmental regulation or the water board regulation in relation to the designated subjects of these rules. Section 4.3.2 shall apply mutatis mutandis to the formulation of custom rules.

(3) The custom rules may deviate from the rules laid down in the environmental regulation or the rules referred to in Article 4.3, if that is stipulated within those rules. The extent to which the rules may deviate and for how long may also be stipulated in those rules.

#### **Article 4.7**

##### **(equivalence)**

(1) If rules as referred to in Section 4.1.1 require that a measure be taken, permission to take an equivalent measure in its place may be granted upon application. The equivalent measure shall achieve at least the same outcome as that which was intended with the required measure.

(2) With regard to rules as referred to in Section 4.1.1, an equivalent measure may be applied without prior permission, whether or not it is subject to a prohibition from applying the rule without prior notification to the competent authority.

(3) With regard to rules as referred to in section 4.1.1, further rules may be laid down regarding the application of paragraphs one and two, or the application of an equivalent measure may be excluded.

#### **Section 4.1.3**

##### **Competent authority**

#### **Article 4.8**

##### **(competent authority for local regulations)**

(1) For the physical environment plan, the Municipal Executive; for the water board, the daily management of the water board; and for the environment regulation, the Provincial Executive is:

- a. the competent authority to whom a notification shall be given,
- b. the competent authority that may lay down a custom requirement,
- c. the competent authority that decides on an application for permission to take an equivalent measure.

(2) Paragraph one shall apply mutatis mutandis to the measurement and calculation requirements laid down by ministerial decree, as referred to in Article 4.1, paragraph two, insofar as these relate to activities for which rules have been laid down; respectively, within the physical environment plan, the water board regulation and the environmental regulation.

#### **Article 4.9**

##### **(municipal competent authority for government regulations)**

Unless otherwise determined under Articles 4:10 to 4:13, pursuant to Article 4.4, the Municipal Executive shall be designated as:

- a. the competent authority to whom a notification shall be given,
- b. the competent authority that may lay down a custom requirement,
- c. the competent authority that decides on an application for permission to take an equivalent measure.

#### **Article 4.10**

##### **(competent authority for government regulations on water-related activities)**

Pursuant to Article 4.3, with a view to the efficient water management for water-related activities, cases shall be designated in which the daily management of the water board, the Provincial Executive or Our Minister of Infrastructure and Water Management is the competent authority.

#### **Article 4.11**

##### **(the province as the competent authority for government regulations)**

(1) By virtue of Article 4.3, cases may be designated for the following activities for which the Provincial Executive is the competent authority:

- a. providing opportunities for swimming and bathing,
- b. environmentally harmful activities that affect or may affect the groundwater,
- c. restricted area activities related to local railways,

- d. Natura 2000 activities and activities with possible deterioration of, or a significantly disturbing effect on a particular national nature conservation area,
  - e. flora and fauna activities,
  - f. activities to manage populations of wild animals or to combat damage caused by animals, with the exception of hunting,
  - g. the use and possession of resources or facilities and the application of methods to capture or kill animals or,
  - h. activities that result in or may result in the introduction or spread of invasive alien species,
  - i. the felling and management of timber stands,
  - j. land development activities.
- (2) When designating cases, the limits of Article 2.3, paragraph two, shall be observed.
- (3) Notwithstanding paragraph one, introduction and item c, if an area has been designated on the basis of Article 20, paragraph three, of the Passenger Transport Act of 2000, or for cases designated on the basis of Article 4.3, the daily management of the public body referred to in that paragraph is the competent authority for restricted area activities related to local railways in that area.

#### Article 4.12

#### **(The State as the competent authority for government regulations)**

- (1) By virtue of Article 4.3, cases may be designated for the following activities for which one of Our Ministers designated therein serves as the competent authority:
- a. environmentally harmful activity:
    - 1. with regard to a mining work,
    - 2. involving national security interests or other vital national interests,
    - 3. involving transmitting fertiliser onto or into the soil,
  - b. excavation activities in national waters,
  - c. mining activities,
  - d. restricted area activities related to:
    - 1. roads managed by the State,
    - 2. airports other than civil airports that have regional significance,
    - 3. primary railways and special railways,
    - 4. mining installations in a water control work,
  - e. activities that occur entirely or primarily within:
    - 1. the territorial sea insofar as it is located outside a municipality or province,
    - 2. the exclusive economic zone,
  - f. Natura 2000 activities and activities with possible deterioration of, or a significantly disturbing effect on, a particular national nature conservation area,
  - g. flora and fauna activities,
  - h. the pursuit of hunting activities to manage populations of wild animals or to combat damage caused by animals,
  - i. the use, possession, trading and transporting within or beyond the territory of the Netherlands of means or facilities and the application of methods to capture or kill animals, or
  - j. trading, having, for a reason other than sale, and bringing animals, plants or products thereof inside or beyond the territory of the Netherlands,
  - k. catching, processing and killing whales,
  - l. activities that result in or may result in the introduction or spread of invasive alien species,
  - m. the felling and management of timber stands,
  - n. bringing timber and timber products within the territory of the Netherlands and trading in timber and timber products.
- (2) When designating cases, the limits of Article 2.3, paragraph three, shall be observed.

**Article 4.13****(competent authority for government regulations in combination with an environmental permit)**

- (1) Cases may be designated by virtue of Article 4.3 where the administrative body that is authorised to decide on the application for an environmental permit is the competent authority. These are cases in which activities are performed that require an environmental permit in conjunction with activities for which rules apply in accordance with Article 4.3.
- (2) In any case, environmentally harmful activities shall be designated:
- a. with respect to an IPPC installation,
  - b. that are covered by the Seveso Directive.

**Article 4.13a****(flexibility arrangements for the competent authority)**

- (1) An administrative authority that has been designated as a competent authority by or pursuant to this section may transfer that authority to another administrative body if that administrative authority so agrees.
- (2) An order in council may be issued to provide rules concerning the application of paragraph one.

**Section 4.2****Preparatory protection****Article 4.14****(preparatory decision on an environmental plan)**

- (1) The Municipal Council may take a preparatory decision for a location with a view to preparing rules to be established in the physical environment plan.
- (2) The preparatory decision shall utilise pre-protection regulations to amend the physical environment plan.
- (3) Pre-protection regulations are intended to prevent the location from becoming less suitable for achieving the purpose of the rules referred to in paragraph one, and may only include:
- a. a prohibition or prohibition on carrying out designated activities without prior notification or without an environmental permit, that are permitted under the physical environment plan, but that have not yet taken place,
  - b. the designation of subjects for which the competent authority may impose custom requirements or may attach requirements to an environmental permit,
  - c. the designation of administrative bodies or other bodies that are given the opportunity to advise the competent authority on an application for a decision based on pre-protection regulations as referred to in item a or b.
  - d. declaring that the rules established in the physical environment plan that are in conflict with pre-protection rules as referred to in item a or b shall not apply.
- (4) The pre-protection regulation in the physical environment plan shall expire after one year and six months or, if the decision to adopt or change the environmental plan of which the rules referred to in the first paragraph form a part is published within that period, at the time when that decision takes effect or has been nullified.
- (5) The Municipal Council may delegate the power referred to in paragraph one to the Municipal Executive.

**Article 4.15****(preparatory decision on an environmental regulation)**

- (1) With due observance of the limits of Article 2.3, paragraph two, the Provincial Executive may take a preparatory decision for a location with a view to preparing rules to be established in the environmental regulation.
- (2) The preparatory decision shall use pre-protection regulations to amend the physical environment plan.
- (3) Article 4.14, paragraphs three and four, shall apply mutatis mutandis, whereby in Article 4.14, paragraph three, items a and d and paragraph four, 'physical environment plan' shall always be taken to mean 'environmental regulation'.

(4) The Provincial Council may delegate the power referred to in paragraph one to the Provincial Executive.

#### Article 4.16

#### **(preparatory decision in association with a project decision, instruction rules or instructions)**

(1) With due observance of the limits of Article 2.3, paragraph two, the Provincial Executive may take a preparatory decision for a site with a view to preparing a project decision, an instruction rule, as referred to in Article 2.22, paragraph one, or an instruction as referred to in Article 2.33, paragraph one, with a view to establishing rules in the physical environment plan.

(2) Our Minister whom it concerns, in accordance with Our Minister of the Interior and Kingdom Relations, may, taking into account the limits of Article 2.3, paragraph three, make a preparatory decision for a site with a view to the preparation of a project decision, an instruction rule such as as referred to in Article 2.24, paragraph one, or an instruction as referred to in Article 2.34, paragraph one, with a view to establishing rules in the physical environment plan. If, pursuant to Article 5.44, paragraph two, no agreement is required for a project decision, then no agreement as referred to in the first sentence is required for a preparatory decision with a view to the preparation of that project decision.

(3) The preparatory decision shall utilise pre-protection regulations to amend the physical environment plan.

(4) Articles 4.14, paragraph three, and 4.15, paragraph four, shall apply *mutatis mutandis*.

(5) The pre-protection regulations in the physical environment plan shall expire after one year and six months or, if the project decision, instruction line or instruction is published within that period, at the time when the project decision or the physical environment plan is amended in accordance with the instruction rule or instruction that takes effect or is nullified.

## Section 4.3

## Special provisions for rules on activities

### Section 4.3.1

### *Decentralised rules*

#### Article 4.17

#### **(updating in connection with environmental planning activities)**

The physical environment plan shall, in any case, be aligned with that permit five years after the environmental permit becomes irrevocable for a continuous environmental planning activity that is out of plan, which is not subject to a period as referred to in Article 5.36, paragraph one, with regard to:

- a. an environmental planning activity that consists of the maintenance of a building structure,
- b. an environmental planning activity, other than item a, which is not in accordance with a function assigned to a site.

#### Article 4.18

#### **(designation of modernisation sites)**

Locations can be designated in the physical environment plan at which the structures present there must be modernised or replaced by similar buildings. As long as this modernisation or replacement has not been achieved, the use of these structures shall be considered to deviate from the assigned function.

#### Article 4.19

#### **(rules about the appearance of building structures)**

If rules are included in the physical environment plan about the appearance of buildings and the application thereof necessitates explanation, the Municipal Council shall establish policy rules for assessing whether a structure complies with those rules. These policy rules shall be tailored as much as possible to the various buildings.

**Article 4.19a****(no impediment to a project decision and a preparatory decision)**

- (1) No environmental rules shall be established in a physical environment plan that impede the implementation of a project for which a project decision has been adopted by an administrative body of the province or the State.
- (2) No rules may be laid down in a physical environment plan that conflict with rules contained therein on the basis of a preparatory decision by an administrative body of the province or the State.
- (3) A period for the application of paragraph one shall be established in a project decision. If the administrative body that has adopted the project decision considers it necessary for the implementation of the project, the period may be extended one time.
- (4) Paragraph one does not apply to the extent that an instruction rule, as referred to in Article 2.24 or an instruction as referred to in Article 2.34, requires the establishment of such rules.
- (5) Paragraph one does not apply insofar as the project decision has been adopted by an administrative body of the province and an instruction rule as referred to in Article 2.22 or an instruction as referred to in Article 2.33 requires the establishment of such rules.
- (6) Article 5.53a, paragraphs two and four, shall apply mutatis mutandis to the establishment of rules as referred to in Article 4.2, paragraph two.

**Section 4.3.2****Government regulations****Article 4.20****(government regulations relating to the implementation of obligations under international law)**

On the basis of Article 4.3, rules are in any case laid down for the implementation of::

- a. Benelux legislation on hunting and the protection of birds,
- b. European CITES regulations,
- c. European regulations on exotics,
- d. European FLEGT regulation,
- e. European Timber regulation,
- f. European regulations on seals,
- g. the Groundwater Directive,
- h. the Habitats Directive,
- i. the Waste Framework Directive,
- j. the Water Framework Directive,,
- k. the End-of-Life Vehicles Directive,
- l. the Petrol Vapour Recovery Directive,
- m. the Energy Performance of Buildings Directive,
- n. the Directive on Port Reception Facilities,
- o. the Renewable Energy Directive,
- p. the Industrial Emissions Directive,
- q. the Urban Wastewater Treatment Directive,
- r. the Mining Waste Directive,
- s. the Seveso Directive,
- t. the Bern Convention,
- u. the Bonn Convention,
- v. the Granada Convention,
- w. the Valletta Convention,
- x. the UN Convention of the Rights of People with Disabilities,
- y. the Birds Directive,
- z. the International Convention for the Regulation of Whaling,
- aa. the Leghold Traps Regulation.

**Article 4.21****(government regulations relating to buildings)**

(1) The rules referred to in Article 4.3 relating to construction activities, demolition activities and the use and maintenance of buildings are laid down with a view to:

- a. ensuring safety,
- b. safeguarding health,
- c. sustainability and usability.

(2) The rules shall serve to ensure in any event that:

- a. the minimum quality standard of existing buildings and those yet to be built is safeguarded,
- b. the use of buildings that comply with fire safety regulations is ensured,
- c. the interest of health and safety in the immediate vicinity of construction and demolition activities is safeguarded,
- d. the accessibility to new, as yet unconstructed, buildings and the immediate surroundings is guaranteed for people with disabilities.

**Article 4.22****(government regulations relating to environmentally harmful activities)**

(1) The rules referred to in Article 4.3 in relation to environmentally harmful activities shall be laid down with a view to:

- a. ensuring safety,
- b. safeguarding health,
- c. protecting the environment, including safeguarding and improving the quality of the air, soil and the chemical and ecological quality of water systems, the economical use of energy and raw materials and the efficient management of waste substances.

(2) The rules shall serve to ensure in any event that:

- a. all suitable preventive measures are taken against pollution,
- b. all appropriate preventive measures are taken in the interest of health,
- c. the best available techniques are applied,
- d. no significant pollution is caused,
- e. the generation of waste substances is to be avoided as much as possible, and the waste substances that are created are to be managed efficiently,
- f. energy is to be used efficiently,
- g. measures are taken to prevent accidents and to limit the effects thereof,
- h. measures are taken once activities are completed in order to prevent significant adverse consequences for the environment.

**Article 4.23****(government regulations concerning water-related activities)**

(1) The rules referred to in Article 4.3 relating to discharge activities in a body of surface water or a water treatment plant, water extraction activities and restricted area activities concerning a water control work or an installation, i.e., not a mining installation in a water control work, shall be laid down with a view to:

- a. preventing and, where necessary, limiting floods, excess water and scarcity of water,
- b. safeguarding and improving the chemical and ecological quality of water systems,
- c. fulfilling the social functions assigned to water systems,
- d. protecting the efficient operation of a water treatment plant.

(2) The rules relating to discharging activities at the site of a body of surface water or a water treatment plant serve to ensure in any event that:

- a. all suitable preventative measures are taken against pollution,
- b. all of the best available techniques are used,
- c. no significant pollution is caused.

(3) Notwithstanding the provisions of paragraph one, the rules concerning a restricted area activity relating to a water control work shall be laid down with a view to achieving the objectives of the Act, insofar as that activity takes place outside an area designated as being under provincial and municipal jurisdiction.



**Article 4.24****(government regulations relating to mining site activities)**

(1) The rules referred to in Article 4.3 in relation to mining site activities shall be laid down with a view to:

- a. ensuring safety,
- b. a balanced assignment of functions to sites.

(2) The rules shall serve to ensure in any event that:

- a. the interests of safety in relation to navigation and shipping are safeguarded,
- b. the interests of being able to undertake activities relating to national defence are safeguarded,
- c. the interests of electricity generation using wind in a wind farm and the safety of the wind farm are safeguarded.

(3) The rules shall also serve to ensure that:

- a. no mining installations for the exploration or extraction of minerals will be allowed by virtue of Article 2.44, paragraph one, in the designated Natura 2000 site in the North Sea coastal zone, in the territorial sea north of the Natura 2000 site designated North Sea coastal zone, on the basis of Article 2.43, paragraph one, new mining installations for the exploration or extraction of minerals are permitted only to the extent that co-use of existing mining installations is not possible and the visual nuisance caused by those new mining installations is minimised.

**Article 4.25****(government regulations relating to restricted area activities on roads)**

(1) The rules referred to in Article 4.3 in relation to restricted area activities concerning a road shall be laid down with a view to preserving the condition and functioning of a road against the adverse consequences of activities on or in the vicinity of that road, which may also include the interest of expanding or altering that road.

(2) The rules shall serve in any case to ensure the efficient and safe use of roads.

**Article 4.26****(government regulations relating to restricted area activities concerning a mining installation in a water control work)**

(1) The rules referred to in Article 4.3 in relation to restricted area activities concerning an installation in a water control work, insofar as it concerns a mining installation, shall be laid down with a view to preserving the condition and functioning of the mining installation against the adverse consequences of activities carried out on or around the installation.

(2) The rules shall serve in any event to prevent adverse consequences on the safe and efficient use of mining installations in a water control work.

**Article 4.27****(government regulations relating to providing the opportunity to swim and bathe)**

(1) The rules referred to in Article 4.3 relating to providing the opportunity to swim or to bathe shall be laid down with a view to ensuring safety and safeguarding the health of users.

(2) The rules shall in any event serve to control the risk of significant adverse consequences to the health and safety of users, with due regard for users' own responsibility.

**Article 4.28****(government regulations relating to cultural heritage)**

(1) The rules referred to in Article 4.3 relating to activities concerning cultural heritage shall be laid down with a view to preserving cultural heritage.

(2) The rules in any case are intended to prevent damage to or destruction of cultural heritage, and to preserve it, as far as monuments are concerned.

- Article 4.29** (government regulations relating to world heritage)
- (1) The rules referred to in Article 4.3 on activities relating to World Heritage shall be laid down with a view to preserve the exceptional universal value of world heritage.
- (2) The rules shall, in any event, serve to prevent damage to or destruction of world heritage.
- Article 4.30** (government regulations relating to the nature conservation areas)
- (1) The rules referred to in Article 4.3 concerning Natura 2000 activities and activities with potentially deteriorating or significant disruptive consequences for a special national nature conservation area are laid down with a view to protecting the natural world.
- (2) The rules aim at least to prevent possible deterioration of or significant disruptive consequences for the area concerned.
- Article 4.31** (government regulations relating to hunting, population management and damage control)
- (1) The rules referred to in Article 4.3 concerning the pursuit of hunting, activities to manage populations of wild animals or to combat damage caused by animals are laid down with a view to:
- a. the protection of the natural world,
  - b. good huntsmanship,
  - c. preventing and controlling damage caused by animals,
  - d. ensuring safety.
- (2) The rules shall serve to ensure in any event:
- a. that the hunting and activities as referred to in paragraph one take place in accordance with a fauna management plan,
  - b. to determine the period during which hunting of animals of a particular species is permitted, the means of hunting that may be used and the circumstances in which hunting is prohibited.
- Article 4.32** (government regulations relating to the methods and systems for capturing or killing animals)
- (1) The rules referred to in Article 4.3 on the use, possession, trading and transporting into or beyond the territory of the Netherlands of resources or facilities and the application of methods to capture or kill animals are laid down with a view to:
- a. protecting the natural world,
  - b. ensuring safety,
  - c. safeguarding health,
  - d. protecting the environment.
- (2) The rules shall serve to ensure in any event that:
- a. the person using a rifle, hunting bird or duck decoy has the required expertise and has passed an examination that has been recognised by Our Minister of Agriculture, Nature and Food Quality or that he has deemed equivalent to examinations recognised by him,
  - b. the person using a rifle is covered by civil liability insurance for damages that the rifle may give rise to,
  - c. the person who has been granted an environmental permit for a hunting activity involving a rifle is to provide a fauna management unit with information about the animals he or she has killed.
- Article 4.33** (government regulations relating to whales)
- (1) The rules referred to in Article 4.3 regarding the catching, killing or processing of whales are laid down with a view to protecting the natural world.
- (2) The rules aim, in any case, to prevent potentially adverse consequences for the conservation of the whale population.

**Article 4.34****(government regulations relating to exotic species)**

- (1) The rules referred to in Article 4.3 concerning activities that have or may have led to the introduction or spread of invasive alien species, with a view to protecting nature, safeguarding health or protecting the environment.
- (2) The rules shall, in any case serve, to prevent or limit the adverse consequences for the sake of biological diversity.

**Article 4.35****(government regulations relating to timber stands)**

- (1) The rules referred to in Article 4.3 concerning the felling and management of timber stands shall be laid down with a view to the conservation of the forest area, the protection of nature or the protection of landscape values.
- (2) The rules shall aim in any case that, after the felling or destruction otherwise of a timber stand, replanting is to take place in a forest-responsible manner.

**Article 4.36****(government regulations relating to the trade in and the retention of animals, plants and products)**

- (1) The rules referred to in Article 4.3 regarding the trade, the possession for reasons other than sale or the transportation of animals, plants and products thereof inside or beyond the territory of the Netherlands with a view to protecting the natural world.
- (2) The aim of the rules, in any case, is that the activities shall not pose a risk to the conservation status of the species concerned.
- (3) The rules may serve to entrust organisations with legal entities with the task of issuing marks, markings or rings for birds, plants or products thereof in accordance with the rules laid down thereby.

**Article 4.37****(government regulations relating to timber and timber products)**

- (1) The rules referred to in Article 4.3 concerning the trading of timber and timber products as referred to in the European FLEGT regulations or the European timber regulations shall be laid down with a view to protecting nature, protecting the environment, combating climate change or managing natural resources.
- (2) The rules shall in any case serve only to implement the European FLEGT regulation and the European timber regulations.

**Article 4.38****(government regulations relating to flora and fauna activity)**

- (1) The regulations on flora and fauna activities referred to in Article 4.3 are made with a view to protecting the natural world.
- (2) The rules aim at least to prevent possible adverse consequences for the conservation status of naturally occurring animal or plant species.

**Article 4.39****(government regulations relating to land development)**

- (1) The rules are made pursuant to Article 4.3 on land development activities with a view to the effective implementation of a land use programme.
- (2) The rules shall in any case serve to ensure that the implementation of a land use programme is not seriously impeded.

# Chapter 5 The environmental permit and the project decision

## Section 5.1 The environmental permit

### Section 5.1.1

### Prohibitions

#### Article 5.1

#### (activities subject to the environmental permit under this Act)

(1) The following activities are prohibited without an environmental permit:

- a. an environmental planning activity,
- b. activity involving nationally listed monuments,
- c. excavation activity,
- d. activity involving deposition activities at sea,
- e. a Natura 2000 activity,
- f. a hunting activity involving rifles,
- g. activity involving falconry,

unless such concerns a case designated by an order in council.

(2) The following activities are prohibited without an environmental permit:

- a. construction activity,
- b. environmentally harmful activity,
- c. discharge activity to:
  1. a body of surface water,
  2. a water treatment plant,
- d. water extraction activity,
- e. mining location activity,
- f. a restricted area activity with respect to:
  1. a road,
  2. a water control work,
  3. an airport,
  4. a primary railway, local railway or special railway,
  5. an installation in a water control work,
- g. a flora and fauna activity,

insofar as it concerns a case designated by an order in council.

#### Article 5.2

#### (permit obligation for demarcation under Article 5.1)

(1) When designating cases by virtue of Article 5.1, the limits of Article 2.3, paragraph three are to be respected. In addition, for:

- a. an environmental planning activity,
- b. an excavation activity,
- c. an environmentally harmful activity,
- d. a discharge activity:
  1. a body of surface water,
  2. a water treatment plant,
- e. a water extraction activity,
- f. a mining location activity,
- g. a restricted area activity with respect to,
- h. Natura 2000 activity,
- i. a flora and fauna activity,
- j. a hunting activity involving a rifle,

cases are designated in which, within the limits specified by that designation, the physical environment plan, the water board regulation or the environmental regulation may deviate from said designation.

(2) For an activity related to a nationally list archaeological monument, the decision to designate an archaeological moment as a nationally listed monument, as referred to in Article 3.1 of the Heritage Act, may also indicate cases in which the prohibition referred to in Article 5.1, paragraph one, introduction and item b, does not apply. These cases relate only to components of the archaeological monument that have no value in terms of archaeological heritage.

(3) When designating cases by virtue of Article 5.1, paragraphs one and two, cases may be designated for:

- a. a Natura 2000 activity,
- b. flora and fauna activity,
- c. a hunting activity involving rifles,
- d. an activity involving falconry,

in which, within the limits specified by that designation, the physical environment plan, the water board regulation or the environmental regulation may deviate from said designation.

(4) When designating cases by virtue of Article 5.1, paragraphs one and two, cases may be designated for:

- a. a Natura 2000 activity,
- b. flora and fauna activity,

in which, within the limits specified by that designation, a programme can deviate from the designation.

(5) By virtue of Article 5.1, cases will be designated, in any event, to implement the:

- a. Habitats Directive,
- b. Waste Product Framework Directive,
- c. Water Framework Directive,
- d. London protocol,
- e. EIA Directive
- f. OSPAR Convention,
- g. Industrial Emissions Directive,
- h. Offshore Safety Directive,
- i. Urban Wastewater Directive,
- j. Mining Waste Directive,
- k. Seveso Directive,
- l. Aarhus Convention,
- m. Valletta Convention,
- n. Bern Convention,
- o. Bonn Convention,
- p. Birds Directive.

### **Article 5.3**

#### **(environmental permit requirement for the water board regulation)**

It is forbidden to carry out an activity without an environmental permit if this is stipulated in the water board regulation.

### **Article 5.4**

#### **(environmental permit requirement for the environmental regulation)**

It is forbidden to carry out an activity without an environmental permit if this is stipulated in the environmental regulation.

### **Article 5.5**

#### **(prohibition to trade contrary to environmental permit requirements)**

(1) It is prohibited to act in contravention of a requirement of an environmental permit for:

- a. an environmental planning activity, to the extent that the provision is made with a view to:
  1. ensuring safety, safeguarding health and protecting the environment,
  2. protecting and improving the chemical and ecological quality of water systems,
  3. protecting the efficient operation of a water treatment plant,

- 4. protecting monuments or archaeological monuments,
  - b. an activity involving nationally listed monuments,
  - c. deposition activity at sea,
  - d. an environmentally harmful activity,
  - e. a discharge activity:
    - 1. a body of surface water,
    - 2. a water treatment plant,
  - f. a restricted area activity,
  - g. a flora and fauna activity.
- (2) It is prohibited to act in contravention of a provision of an environmental permit for:
- a. an environmental planning activity: in cases other than those specified in paragraph one, item a,
  - b. an excavation activity,
  - c. a building activity,
  - d. a water removal activity,
  - e. a mining location activity,
  - f. a Natura 2000 activity.
- (3) It is prohibited to act in contravention of a provision of an environmental permit for:
- a. a hunting activity involving rifles,
  - b. an activity involving falconry.
- (4) It is prohibited to act in contravention of a provision of an environmental permit as referred to in Article 5.3:
- a. to the extent that that provision is made with a view to:
    - 1. protecting and improving the chemical and ecological quality of water systems,
    - 2. protecting the efficient operation of a water treatment plant,
  - b. in other cases than those referred to under a.
- (5) It is prohibited to act in contravention of a provision of an environmental permit as referred to in Article 5.4:
- a. to the extent that that provision is made with a view to:
    - 1. ensuring safety, safeguarding health and protecting the environment,
    - 2. protecting and improving the chemical and ecological quality of water systems,
    - 3. protecting the efficient operation of a water treatment plant,
    - 4. protecting monuments or archaeological monuments,
  - b. in cases other than those referred to under a.

**Article 5.6****(prohibition for a building constructed without a permit to remain)**

It is forbidden to maintain a building or part thereof that has been built without the environmental permit required for a building activity.

**Section 5.1.2*****Scope of application for an environmental permit and designation of competent authority*****Article 5.7****(separate or simultaneous application)**

- (1) An application for an environmental permit may, according to the decision of the applicant, relate to one or more activities.
- (2) With a view to efficient water management, an environmental permit for water-related activities, in cases designated by order in council, shall be applied for separately from the environmental permit for other activities referred to in Articles 5.1 and 5.4.
- (3) An environmental permit for an activity where the location is of secondary importance is, in cases designated by order in council, applied for separately from the environmental permit for other activities.
- (4) An environmental permit for an environmentally harmful activity, and an environmental permit for a water-related activity, with the exception of a restricted area activity that can be classified as a water activity, shall be simultaneously applied for if:

- a. these activities relate to the same IPPC system, or
- b. the Seveso Directive applies to these activities.

(5) This article shall apply mutatis mutandis to applications to amend the requirements of an environmental permit.

#### **Article 5.8**

##### **(municipality as the competent authority in the case of an application for a single activity)**

The Municipal Executive shall decide on the application for an environmental permit involving a single activity unless, by virtue of Article 5.9, 5.9a, 5:10 or 5:11, another administrative body has been designated.

#### **Article 5.9**

##### **(competent authority in the case of an application for a single activity)**

By order in council, with a view to the efficient water management of water-related activities, cases are designated for which the daily management of the water board, the Provincial Executive or Our Minister of Infrastructure and Water Management decide on the application.

#### **Article 5.9a**

##### **(competent authority in the case of an application for a hunting activity involving rifles)**

The police commissioner shall issue a decision on the application for an environmental permit for a hunting activity involving rifles.

#### **Article 5.10**

##### **(competent authority for the province regarding the application a single activity other than in Article 5.9)**

(1) Cases shall be designated, by order in council, for the following activities in which the Provincial Executive decides on the application:

- a. environmental planning activities of provincial interest,
- b. excavation activities:
  - 1. in the winter bedding of one of the rivers belonging to the national waters,
  - 2. outside of national waters,
- c. environmentally harmful activities:
  - 1. with respect to an IPPC unit,
  - 2. with respect to any other environmentally harmful installation,
  - 3. to which the Seveso Directive applies,
  - 4. that affect or may affect groundwater,
- d. restricted regional activities with regard to:
  - 1. regionally significant civil airports,
  - 2. local railways,
- e. Natura 2000 activities and flora and fauna activities,
- f. activities as intended in Article 5.4.

(2) When designating cases, the limits of Article 2.3, paragraph two, shall be observed.

(3) In derogation from paragraph one, introduction and item d, introduction and point 2°, if an area has been designated pursuant to Article 20, paragraph three, of the Passenger Transport Act of 2000, cases will be designated by order in council in which the daily management of the public body referred to in that paragraph decides on the application for an environmental permit for a restricted area activity with regard to a local railway in that area.

**Article 5.11****(the State as the competent authority in the case of an application for an activity other than referred to in Article 5.9)**

(1) Cases shall be designated, by order in council, for the following activities in which one of our Ministers decides on the application:

- a. environmental planning activities of national interest,
- b. nationally-listed monument activities related to an archaeological monument,
- c. excavation activities in national waters, with the exception of the cases referred to in Article 5.10, paragraph one, item b, point 1°,
- d. environmentally harmful activity:
  1. with regard to a mining work,
  2. involving national security interests or other vital national interests,
- e. mining location activity,
- f. restricted area activities concerning:
  1. roads managed by the State,
  2. airports other than civil airports that have regional significance,
  3. primary railways and special railways,
  4. mining installations in a water control work,
- g. Natura 2000 activities and flora and fauna activities of national interest,
- h. activities other than those covered by points a to g, carried out wholly or mainly in:
  1. the territorial sea insofar as it is located outside the provincial or municipal classified area,
  2. the exclusive economic zone,
- i. an activity involving falconry.

(2) When designating cases, the limits of Article 2.3, paragraph three, shall be observed.

(3) Notwithstanding Articles 5.8 and 5.10 and paragraph one, Our Minister of Infrastructure and Water Management shall decide, in cases other than those referred to in paragraph one, item d, item 2, on an application for an environmental permit if that is required for national security interests or other vital national interests.

**Article 5.12****(competent authority in the case of an application for multiple activities)**

(1) An application for an environmental permit that relates to more than one activity shall be decided by an administrative body that would be competent to decide on an application for at least one of those activities pursuant to Articles 5.8, 5.9, 5.9a, 5.10 or 5.11. The following paragraphs are hereby taken into account.

(2) If the Municipal Executive is an administrative body as referred to in the paragraph one, the Municipal Executive shall decide on the application, unless another administrative body is designated by order in council. With that designation, the limits of Article 2.3 will be respected.

(3) In cases other than those referred to in paragraph two, a decision shall be taken on the application by the relevant administrative body that is designated by order in council. By way of derogation from paragraph one and subject to the limits of Article 2.3, an administrative body other than one of the administrative bodies concerned may be designated by that order in council.

(4) By way of derogation from paragraphs one to three, Our Minister of Infrastructure and Water Management may decide on the application if this is necessary for national security interests or other vital national interests.

**Article 5.13****(once a competent authority, always a competent authority)**

3,(1) Notwithstanding Articles 5.10, 5.11, paragraph one, and Article 5.12, paragraphs one to three, cases may be designated for which the Provincial Executive or Our Minister whom it concerns may decide on any application for an environmental permit relating to a site to which an environmental permit that was previously granted by them applies.

3,(2) The first paragraph does not apply if the application for an environmental permit relates to an activity referred to in Article 5.9 or 5.9a.



- Article 5.14** (competent authority in the case of an application for an activity extending over more than one jurisdiction)  
If an application for an environmental permit relates to an activity that takes place in the territory of more than one municipality, water board or province, that application will be decided by the administrative body of the municipality designated for that purpose on the basis of Articles 5.8, 5.9, 5.10 or 5.12, the water board or the province where the activity will mainly be carried out.
- Article 5.15** (competent authority for application of Section 5.1.5)  
The administrative body that is competent to decide on an application for an environmental permit shall also be competent to apply Section 5.1.5.
- Article 5.16** (flexibility arrangements for the competent authority)  
(1) An administrative body that is competent to decide on an environmental permit or is competent to apply Section 5.1.5 may transfer that competence to a different administrative body, if that administrative body agrees to this.  
(2) Rules may be laid down regarding the application of paragraph one by order in council.
- Section 5.1.3** *The assessment of the application*
- Article 5.18** (assessment rules for application of Article 5.1 to activities by order in council)  
(1) Rules are to be laid down by order in council about the granting or refusal of an environmental permit for an activity as referred to in Article 5.1.  
(2) Rules may also be laid down regarding the reasons for the decision to grant or refuse.  
(3) Article 2.32, paragraphs two to six; shall apply mutatis mutandis to those regulations.
- Article 5.19** (assessment rules in Article 5.1 relating to an application for environmental permitting activities)  
(1) An environmental regulation may lay down rules on the granting or refusal of an environmental permit for an environmentally harmful activity, unless it is a case designated pursuant to Article 5.26, paragraph four.  
(2) The limits of Article 2.3, paragraph two, are observed when establishing rules. Article 2.32, paragraphs one, five and six, shall apply mutatis mutandis to those rules, whereby a request as referred to in Article 2.32, paragraph one, may also be made by Our Minister whom it concerns.
- Article 5.20** (assessment rules in Article 5.1 relating to an application for a construction activity)  
(1) For a construction activity, the rules referred to in Article 5.18, are established with a view to:  
a. ensuring safety,  
b. safeguarding health,  
c. sustainability and usability.  
(2) The rules aim to grant the environmental permit only if it is plausible that the rules on construction activities, as referred to in Article 4.3, paragraph one, introduction and item a, or custom rules on this are complied with.

**Article 5.21****(Article 5.18 assessment rules relating to the application for an environmental planning activity)**

- (1) The rules referred to in Article 5.18 for an environmental planning activity are established with the aim of achieving the objectives of the Act.
- (2) The rules shall serve to ensure in any event that:
- a. The environmental permit shall be granted subject to the rules laid down in the physical environment plan,
  - b. the environmental permit may also be granted with a view to a balanced assignment of functions to sites,
  - c. as to the decision as to whether the environmental permit can be granted in a case referred to under b, if it concerns an environmental planning activity other than one of provincial or national interest as a whole and if it concerns an environmental planning activity of provincial or national interest as a whole, the following shall apply *mutatis mutandis* in part:
    1. the rules on physical environment plans pursuant to Articles 2.22 and 2.24,
    2. the instructions on physical environment plans pursuant to Articles 2.33 and 2.34.
- (3) The rules referred to in paragraph two, introduction and item c, point 1°, also mean that if a rule laid down on the basis of Article 2.22 applies to Article 2.32, paragraph one, then a request as referred to in that paragraph can also be made by Our Minister whom it concerns.
- (4) It is possible to deviate from paragraph two for an environmental planning activity that relates to a custom rule.

**Article 5.22****(Article 5.18 assessment rules relating to the application for an activity involving a nationally listed monument)**

With regard to an activity relating to a nationally listed building, the rules as referred to in Article 5.18 shall be laid down with a view to preserving cultural heritage, and within that scope to:

- a. prevent the disfigurement, damage, demolition or relocation of monuments and archaeological monuments,
- b. promote the use of monuments, as necessary by altering those monuments, taking account of their historic value,
- c. preserve and maintain archaeological monuments, preferably in situ.

**Article 5.23****(assessment rules in Article 5.18 relating to the application for a soil extraction activity)**

The rules as referred to in Article 5.18 shall be laid down in relation to a soil extraction activity with a view to achieving the objectives of the Act.

**Article 5.24****(assessment rules in Article 5.18 relating to the application for a water-related activity)**

- (1) The rules as referred to in Article 5.18 shall be laid down in relation to a water-related activity with a view to:
- a. preventing and, where necessary, limiting floods, excess water and scarcity of water,
  - b. protecting and improving the chemical and ecological quality of water systems,
  - c. fulfilling the social functions of water systems,
  - d. protecting the efficient operation of a water treatment plant.
- (2) Article 4.23, paragraph two, shall apply *mutatis mutandis* to establishing the rules for discharge activities into a body of surface water or a water treatment plant.
- (3) For deposition activity at sea, rules shall also be laid down relating to the implementation of the London Protocol and the OSPAR Convention.
- (4) Notwithstanding paragraph one, the rules for a restricted area activity related to a water control work, to the extent that it occurs outside the provincial and municipal classified area, are established to ensure the objectives of the Act.

- Article 5.26** (assessment rules in Article 5.18 relating to the application for an environmentally harmful activity)
- (1) For an environmentally harmful activity, the rules referred to in Article 5.18 are laid down with a view to guaranteeing safety, safeguarding health and protecting the environment.
- (2) Article 4.22, paragraph two, applies mutatis mutandis to the establishment of these rules.
- (3) These rules also mean that the decision as to whether the environmental permit may be granted is subject to the rules laid down in Article 5.19, paragraph one, in the environmental regulation about granting or refusing an environmental permit for an environmentally harmful activity.
- (4) Notwithstanding paragraph two, the rules for cases of environmentally harmful activities designated for this purpose by order in council serve only to assess whether there are significant environmental effects, as referred to in Article 16.43, second paragraph.
- Article 5.27** (assessment rules in Article 5.18 relating to the application for a mining location activity)
- (1) For a mining site activity, the rules referred to in Article 5.18 are set with a view to:
- a. ensuring safety,
  - b. a balanced assignment of functions to sites.
- (2) Article 4.24, paragraph two, and paragraph three, introduction and item b, shall apply mutatis mutandis to the establishment of these rules.
- Article 5.28** (assessment rules in Article 5.18 relating to an activity involving a restricted area other than a water-related activity)
- For a restricted area activity regarding:
- a. a road,
  - b. an airport,
  - c. a railway,
  - d. a mining installation in a water control work,
- the rules referred to in Article 5.18 are established with a view to safeguarding the condition and operation thereof against the adverse consequences of activities, which may also include the importance of widening or changing the works and objects referred to in item a to d, inclusive.
- Article 5.29** (assessment rules in Article 5.18 relating to an application for an activity impacting a Natura 2000 site and an activity impacting flora and fauna)
- (1) For Natura 2000 activity and flora and fauna activity, the rules are established in Article 5.18, to ensure the protection of the natural world.
- (2) These rules serve in any event to implement Article 6, paragraphs two, three and four, and Article 16 of the Habitats Directive and Article 9 of the Birds Directive.
- Article 5.29a** (assessment rules in Article 5.18 relating to applications for a hunting activity involving rifles and an activity involving falconry)
- With a view to protecting the security of nature, the rules referred to in Article 5.18 shall be laid down for a hunting activity involving rifles or an activity involving falconry.
- Article 5.30** (assessment rules in Articles 5.3 to 5.4 regarding activities)
- Providing that the application relates to an activity referred to in Article 5.3 or 5.4, the environmental permit can only be granted or refused on the grounds defined in the Water Board Regulation or the environment regulation, respectively.

**Article 5.31****(refusal of a permit due to the BIBOB Act)**

(1) The competent authority may refuse the environmental permit in the event of, and under the conditions referred to, in Article 3 of the BIBOB Act by the public administration, provided that the application relates to:

- a. a construction activity,
- b. an environmental planning activity:
  1. consisting of a construction activity or the maintenance of a building structure,
  2. other than point 1° that is carried out in the context of the exercise of an establishment a business as referred to in Article 7 of this Act,
- c. an environmentally harmful activity designated by order in council.

(2) For the purposes of paragraph one, the person concerned under Article 3 of the BIBOB Act also refers to the one who, on the basis of facts and circumstances, may reasonably be treated as an equal to the applicant for the environmental permit.

(3) Before applying paragraph one, the competent authority may ask the bureau, as referred to in Article 8 of the Integrity Assessment by the Public Administration Act, for a recommendation as referred to in Article 9 of that Act.

**Article 5.32****(permit refusal due to serious health risks)**

The competent authority may refuse an environmental permit if he or she believes there are exceptional circumstances such that granting the permit would lead to serious or potentially serious adverse health effects.

**Article 5.33****(granting or refusing the permit based on approval)**

Insofar as the application relates to an activity for which the decision on the application based on Article 16.16 requires the approval of another administrative body, the environmental permit will be granted or refused subject to the decision on consent.

**Article 5.33a****(partial granting of an environmental permit with an application for multiple activities)**

(1) Insofar as the application relates to more than one activity, if there is a rule laid down by or pursuant to this paragraph, pursuant to which part of those activities must be refused an environmental permit, the permit will only be refused for those activities and granted for the other activities.

(2) Notwithstanding paragraph one, the environmental permit will be refused in its entirety at the request of, or with the consent of, the applicant.

**Section 5.1.4****Content and functioning****Article 5.34****(environmental permit requirements)**

(1) The regulations attached to an environmental permit are necessary for the regulations referred to in Articles 5:18, 5:19, 5:30 and 5:31.

(2) Notwithstanding Article 13.5, paragraphs one to five, and Article 13.6, rules shall be laid down by or pursuant to an order in council for activities designated for this purpose regarding the application of paragraph one. In addition, rules may be laid down regarding:

- a. provisions that aim to use techniques other than those described in the documents or data in the application,
- b. provisions that cannot be linked to the environmental permit even though they relate to regulations referred to in paragraph one.

(3) Rules about how to attach requirements to an environmental permit may also be established by:

- a. a physical environment plan insofar as it relates to an environmental permit for an environmental planning activity,
- b. a water board regulation insofar as it relates to an environmental permit for an activity as referred to in Article 5.3,

- c. an environmental regulation insofar as it relates to an environmental permit for:
  - 1. an environmentally harmful activity, unless it concerns a case designated by virtue of Article 5:26, paragraph four,
  - 2. an activity as referred to in Article 5.4.
- (4) When establishing rules, as referred to in paragraph three, introduction and item c, the limits of Article 2.3, paragraph two, shall be observed.

**Article 5.36****(time limits for environmental permits)**

- (1) An environmental permit for a continuous activity may stipulate that that permit shall apply for a specified period.
- (2) It can be determined, in an environmental permit for an expiring activity that, after the expiry of a period set within the permit, the permit holder has restored the condition that existed before the permit was granted or has achieved another condition described in the environmental permit. The first sentence does not apply to an environmental permit for a mining location activity relating to the instalment of a mining installation.
- (3) An environmental permit can stipulate that the designated regulations, after the permit has lost its validity, remain in force for a specified period.
- (4) Cases shall be designated by order in council for which a period, as referred to in paragraph one or two, is set. With regard to that period, the order in council may cover:
  - a. the maximum duration,
  - b. the cases whereby an extension is possible.

**Article 5.36a****(time limits for seasonal and floating structures)**

- (1) An environmental permit for a construction activity for a seasonal building or for an environmental planning activity consisting of a construction activity for a seasonal building:
  - a. may stipulate that the building can be constructed and demolished during consecutive calendar years on the basis of that permit, and
  - b. may stipulate within which consecutive periods of a calendar year the construction and demolition of the structure is to take place.
- (2) An environmental permit for a construction activity for a floating structure, or for an environmental planning activity consisting of a construction activity for a floating structure, shall also include the permission to relocate the structure for work and to place it back at the same location.
- (3) An environmental permit for a construction activity for a floating structure, or for an environmental planning activity consisting of a construction activity for a floating structure, may stipulate that the structure can also be relocated on the basis of that permit in cases other than those referred to in paragraph two and can be replaced at the same location.

**Article 5.36b****(conversion of an environmental permit into a permit for a water-related activity due to a new authorisation for a deposition activity at sea)**

If the prohibition, as referred to in Article 5.1, paragraph one, to carry out a deposition activity at sea without an environmental permit by an amendment to Annex 4 to the London Protocol, applies to an activity for which an environmental permit for a discharge activity into a body of surface water or for an activity in restricted area with regard to a water control work as referred to in Article 5.1, paragraph two, has already been granted, that environmental permit shall apply as a permit for a deposition activity at sea, provided that that Annex to the London Protocol states that a permit may be granted for that activity.

**Article 5.37****(the party to an environmental permit and designation of the permit holder)**

- (1) An environmental permit is applicable to the person who performs the activity to which it relates. The person is the permit holder who shall ensure compliance with the permit requirements.
- (2) If an environmental permit that is applied for or granted shall be applicable to someone other than the applicant or the permit holder, the applicant or the permit holder shall inform the competent authority of this at least four weeks in advance. Rules shall be laid down by ministerial decree on the information that is to be provided.
- (3) Notwithstanding paragraph one, first sentence, the competent authority may stipulate in the environmental permit that it applies only to the person to whom it has been granted if the person indicated as the permit holder is important for the application of the rules on granting or refusing the environmental permit.

**Article 5.37a****(distribution of responsibilities regarding permit holders)**

- (1) Notwithstanding Article 5.37, paragraph one, the competent authority may determine in the environmental permit that a permit holder only ensures compliance with the permit requirements for the activity or portion of the activity that he or she performs, insofar as the activity or portion thereof can be distinguished from the activity, unless it is a case designated by order in council.
- (2) Further rules may be laid down by order in council on the the application of paragraph one.

**Section 5.1.5*****Updating, modification, revocation and revision of permits*****Article 5.38****(updating of environmental permits)**

- (1) To the extent that an environmental permit involves:
- a. deposition activity at sea,
  - b. an environmentally harmful activity, unless it concerns a case designated by virtue of Article 5.26, paragraph four,
  - c. discharge activity:
    1. a body of surface water,
    2. a water treatment plant,
- the competent authority shall regularly review whether the requirements of the permit are adequate with a view to developments in the technical possibilities for protecting the environment and the developments with regard to the quality of the environment.
- (2) Developments in the technical possibilities for protecting the environment also refer to the adoption of new or revised conclusions on the best available techniques, as referred to in Article 13, paragraphs five and seven, of the Industrial Emissions Directive.
- (3) With a view to protecting the environment, rules shall be laid down by order in council about how to apply paragraph one to activities designated for this purpose. The order may stipulate that the relevant rules apply only to cases designated therein.

**Article 5.39****(obligation to amend requirements of an environmental permit and revocation of an environmental permit)**

- The competent authority shall amend the provisions of an environmental permit or shall revoke an environmental permit:
- a. in cases or for reasons specified by an order in council,
  - b. for an activity referred to in Article 5.3 or 5.4: in cases or for reasons specified in the water board regulation or the environmental regulation.

**Article 5.40****(authorisation to amend environmental permit requirements or to revoke an environmental permit)**

(1) The competent authority may amend the requirements of an environmental permit:

- a. in cases or for reasons specified by an order in council,
- b. for an activity as referred to in Article 5.31, paragraph one: if it concerns the removal or limitation of danger as referred to in Article 3, paragraph seven, of the Integrity Assessment by the Public Administration Promotion Act [BIBOB Act], whereby Article 5.31, paragraph two and three, shall apply mutatis mutandis,
- c. for an activity referred to in Article 5.3 or 5.4: in cases or for reasons specified in the water board regulation or the environmental regulation, respectively.

(2) In cases other than those referred to in Article 18.10, the competent authority may revoke an environmental permit:

- a. in cases or for reasons determined by order in council,
- b. if no activities have been performed that make use of the permit for a year or a longer period specified in the permit,
- c. at the request of the permit holder,
- d. for an activity as referred to in Article 5.31, paragraph one: in the case and under the conditions referred to in Article 3 of the Integrity Assessment by the Public Administration Promotion Act, whereby Article 5.31, paragraphs two and three shall apply mutatis mutandis,
- e. for an environmentally harmful activity or a water-related activity for which environmental permits have been granted in coordination with the application of Article 16.7, paragraph one, introduction and item b: if the environmental permit for the associated water activity or the environmentally harmful activity has been revoked,
- f. for an activity as referred to in Article 5.3 or 5.4: in cases or for reasons specified in the water board regulation or the environmental regulation, respectively.

**Article 5.41****(application of Articles 5.39 and 5.40 at the request of approval body)**

(1) The competent authority shall amend the requirements of an environmental permit for an activity or revoke the environmental permit for an activity in application of Article 5.39 or 5.40, at the request of the administrative body that has decided on the approval of the intended action pursuant to Article 16.16, paragraph one, on the application for the environmental permit for that activity or based on Article 16.16, paragraph three or four, has determined that consent is not required.

(2) Paragraph one shall apply, mutatis mutandis, to a request from Our Minister of Justice and Security to revoke an environmental permit for a hunting activity involving rifles as referred to in Article 5.42, paragraph three.

**Article 5.42****(implementation of an order in council under Articles 5.39 and 5.40)**

(1) If an activity as referred to in Article 5.1 is applied to Article 5.39, item a or 5.40, paragraph one, item a or paragraph two, item a, then an order in council shall determine the cases or grounds for the same purpose as the purpose with which rules about that activity are laid down on the basis of Article 5.18.

(2) The case, as referred to in Article 5.39, item a, in which the competent authority amends the requirements of an environmental permit, is in any case designated as the case in which application of Article 5.38 has shown that the activity concerned has had adverse consequences on the environment:

- a. given the developments of the technical possibilities for protecting the environment, can be further restricted, or
- b. given the developments concerning the quality of the environment, must be additionally limited.

(3) The case referred to in Article 5.39, item a, in which the competent authority revokes the environment permit for an activity involving hunting rifles is, in any case, designated as the case in which the permit holder has misused weapons or ammunition or the authority to possess them, or in which there are other indications that the possession of weapons or ammunition can no longer be entrusted to him or her.

(4) If the case referred to in Article 5.40, paragraph one, item a or paragraph two, item a, is designated as a case in which the environmental permit requirements may be changed or the environmental permit may be revoked, with a view to taking appropriate preventive measures to protect health, as referred to in Article 4.22 paragraph two, item aa.

### Article 5.43

#### **(revision of a permit)**

(1) Where different environmental permit(s) are in force for one or more activities, the competent authority may, in the interests of efficient implementation and enforcement, grant ex officio an environmental permit replacing the previously granted environmental permit(s).

(2) If the environmental permits are not issued by the same competent authority, paragraph one may be applied by each of the administrative bodies, if the other administrative bodies involved have applied Article 5.16.

(3) The first paragraph may also be applied at the same time:

- a. to decide on an application for a new environmental permit, whereby, notwithstanding the first paragraph, this shall also apply if only one environmental permit is in force,
- b. to amend the requirements of an environmental permit in force or to revoke an environmental permit in force pursuant to Articles 5.39 or 5.40.

(4) An environmental permit granted pursuant to this Article shall suspend the operation of the environmental permits it replaces from the date on which it enters into force, and thereafter, during the period in which this permit is not yet irrevocable. These environmental permits shall expire on the date on which the environmental permit based on this Article has been granted is irrevocable.

## Section 5.2

## Project procedure

### Section 5.2.1

### *General provisions for the project decision*

### Article 5.44

#### **(competent authority project decision)**

(1) With a view to executing a project, operating it or maintaining it, a project decision may be adopted. A project decision shall be established by the daily management of the water board or the Provincial Executive or by Our Minister whom it concerns, in accordance with Our Minister of the Interior and Kingdom Relations.

(2) Agreement as referred to in paragraph one is not required for a decision to elaborate a project decision as referred to in Article 5.54 and for a decision to amend a project decision. By regulation of Our Minister of the Interior and Kingdom Relations, in accordance with Our Minister whom it concerns, project categories can be designated for which no agreement is required for the adoption of a project decision. In other cases, Our Minister of the Interior and Kingdom Relations, in accordance with Our Minister concerned, may also determine that no agreement is required to adopt a project decision.

(3) When the Provincial Executive or Our Minister whom it concerns adopt a project decision, the limits of Article 2.3 will be observed.

(4) The daily management of the water board can adopt a project decision only with a view to the tasks referred to in Article 2.17, paragraph one, introduction and item a.



**Article 5.44a****(priority rule on competent authority for project decision)**

- (1) The Provincial Executive of the province where the project is implemented is authorised to determine the project decision.
- (2) The daily management of the water board where the project is implemented is authorised to determine the project decision.
- (3) If the Provincial Executive of one or more provinces and the daily management of one or more water boards are to jointly carry out a project, the Provincial Executive of the province where the project entirely or substantially is implemented shall be authorised to determine the project decision.
- (4) If Our Minister whom it concerns, in accordance with Our Minister of the Interior and Kingdom Relations, and the Provincial Executive of one or more provinces or the daily management of one or more water boards wish to jointly implement a project, Our Minister whom it concerns is authorised to determine the project decision in accordance with Our Minister of the Interior and Kingdom Relations.

**Article 5.44b****(flexibility arrangements for the project decision by the State)**

- (1) Our Minister whom it concerns, in accordance with Our Minister of the Interior and Kingdom Relations, may transfer the authority to determine a project decision to the Provincial Executive where the project is being carried out in full or primarily, should they so agree.
- (2) An order in council may be issued to provide rules concerning the application of paragraph one.

**Article 5.45****(coordination of decisions to execute)**

- (1) The competent authority for the project decision may stipulate that Article 16.7 applies to the coordination of the decisions to execute the project decision.
- (2) Article 16.7 shall apply to the coordination of the decisions to execute the project decisions referred to in Article 5.46.
- (3) The competent authority shall act as the coordinating administrative body for the project decision.
- (4) Notwithstanding paragraph three, the following shall act as the coordinating administrative body:
  - a. the Provincial Executive: if the daily management of the water board is authorised to determine the project decision,
  - b. Our Minister whom it concerns: if he or she is authorised on the basis of Article 5.44, paragraph one, or on the basis of Article 5.44a, paragraph four, to determine the project decision in accordance with Our Minister of the Interior and Kingdom Relations.

**Article 5.45a****(powers of substitution)**

- (1) If the Provincial Executive acts as the coordinating administrative body for the decisions to implement a project decision, the Provincial Executive may adopt the decision, rather than the originally competent administrative body, so long as that administrative body is not an administrative body of the State and:
  - a. the administrative body has failed to make a decision or failed to do so in a timely manner, or
  - b. the decision of that administrative body impeded the execution of the project decision.
- (2) If Our Minister whom it concerns acts as the coordinating administrative body for the decisions to implement a project decision, he may provide the decision, instead of the originally competent administrative body, so long as:
  - a. the administrative body has not made a decision or has failed to do so in a timely manner, or
  - b. the decision of that administrative body impedes the execution of the project decision.

(3) When applying the first or second paragraph, the decision of the coordinating administrative authority shall replace the decision that the originally competent administrative authority should have made or has made.

Article 5.45a(4) If the administrative body originally competent to deal with an application for a decision for which the first or second paragraph has been applied has levied duties, that administrative body shall pay the duties received into the coffers of the province to which the coordinating administrative body belongs or into the coffers of the State.

## Article 5.46

### **(project decision for the main infrastructure and primary water defences)**

(1) Our Minister of Infrastructure and Water Management, in accordance with Our Minister of the Interior and Kingdom Relations, shall in any case adopt a project decision for works with a national interest for the following projects:

- a. the construction of a motor traffic road or motorway, railway or waterway,
- b. a change to a motor traffic road or motorway that consists of:
  1. the conversion of a road into a motorway, or
  2. the extension of a road with one or more lanes, if the road section to be expanded connects two junctions or connections,
- c. a change to a railway consisting of:
  1. an extension of that railway with one or more tracks, if the part of the railway to be extended connects two connections,
  2. the construction of railway structures,
  3. the construction of a connecting arch, or
  4. a set of inter-dependent measures for that railway,
- d. the re-commissioning of an already constructed railway that is five kilometres or longer,
- e. the modification of a waterway consisting of an enlargement or deepening that increases the surface area of the waterway by at least twenty per cent or a permanent deepening of the waterway in which more than five million cubic metres of ground is displaced,
- f. the construction, relocation or reinforcement of primary water defences that are managed by the State.

(2) The daily management of the water board will in any case determine a project decision for the construction, relocation or reinforcement of primary water defences that do not fall under paragraph one, introduction and item f.

## Section 5.2.2

### ***Intentions, exploratory study and preferential decision***

## Article 5.47

### **(intentions)**

(1) The competent authority shall provide notice of its intention in order for an exploratory study to be carried out into a potentially existing or future task in the physical environment and in order to:

- a. adopt a project decision without a prior preferential decision, or to
- b. adopt a project decision and take a preferential decision in preparation for this.

(2) Decisions may be made by order in council or by decision of the competent authority when a preferential decision is to be taken in any event.

(3) When forming the intentions, and in order to ensure the exploratory study, the competent authority will provide everyone the opportunity to propose solutions for the task within a period that it sets. The competent authority shall elaborate the principles for the reasonable consideration of those solutions.

(4) No later than the start of the exploratory study, the competent authority shall indicate, notwithstanding paragraph three, how the citizens, companies, civil society organisations and administrative bodies shall be involved.

(5) Further rules may be laid down by order in council on the provisions of paragraph four.

**Article 5.48****(exploratory study)**

(1) In the exploratory study, the competent authority shall gather the necessary knowledge and information relating to:

- a. the nature of the task,
- b. the developments that are relevant to the physical environment, and
- c. the possible solutions for that task.

(2) The person who has proposed a potential solution as referred to in Article 5.47, paragraph three, may request that the competent authority requests the advice of an independent expert. The competent authority may also, on its own initiative, request the advice of an independent expert.

(3) The competent authority shall decide whether the proposed potential solutions should reasonably be considered.

**Article 5.49****(preferential decision)**

The preferential decision may consist of:

- a. the execution of a project,
- b. a solution without a project,
- c. a combination of elements a or b and the execution of other projects, or
- d. choosing not to work out a solution in greater detail.

**Article 5.50****(elaboration or amendment of project decision without Section 5.2.2)**

This section shall not apply to an elaboration of a project decision under Article 5:54 or to an amendment of a project decision.

**Section 5.2.3****Project decision****Article 5.51****(content of project decision)**

The project decision shall indicate how citizens, companies, civil society organisations and administrative bodies will be involved in the preparation and what the results are of the exploratory study carried out, whereby at least the possible solutions proposed by third parties and the opinions issued by experts are discussed.

**Article 5.52****(integral decision)**

(1) The project decision amends the physical environment plan with rules that are necessary for the implementation and operation or the maintenance of the project.

(2) To the extent that this is expressly stipulated in the project decision, the project decision shall apply:

- a. as an environmental permit for activities for the execution of the project decision,
- b. as a decision designated by order in council.

(3) The order in council may specify rules that apply to the decision designated therein.

**Article 5.53****(assessment rules)**

(1) With a view to applying Article 5.52, paragraph one, Articles 4.1 and 4.2, paragraph one, and Sections 4.1.2 and 4.3.1 shall apply mutatis mutandis.

(2) With a view to applying Article 5.52, paragraph two, item a, Sections 5.1.3 to 5.1.5; and the rules laid down on that basis, shall apply mutatis mutandis.

(3) If the implementation of a project decision, adopted by the Provincial Executive, is disproportionately impeded by rules laid down by or pursuant to a regulation of a municipality other than a physical environment plan by or pursuant to a regulation of a water board, those rules may, for urgent reasons, be excluded from the project decision or by decision of the Provincial Executive.

(4) If the implementation of a project decision, as determined by Our Minister whom it concerns, in accordance with Our Minister of the Interior and Kingdom Relations, is disproportionately impeded by rules imposed by, or pursuant to, a regulation of a municipality other than a physical environment plan or by or pursuant to a regulation of a province or a water board, these rules may be excluded, for urgent reasons, from the project decision or from the decision of Our Minister whom it concerns, in accordance with Our Minister of the Interior and Kingdom Relations, or Our Minister whom it concerns.

#### **Article 5.53a**

##### **(no impediment to a project decision and a preparatory decision)**

- (1) Article 4.19a, paragraphs one, two, four and five shall apply mutatis mutandis to a project decision adopted by the daily management of a water board.
- (2) A project decision or a preparatory decision taken by the Provincial Executive shall not lay down rules that:
- a. impede the implementation of a project for which a project decision has been adopted by the administrative body of the State, or
  - b. are in contravention of the rules laid down in the physical environment plan on the basis of a preparatory decision of an administrative body of the State.
- (3) A project decision made by the State shall set a period for the application of paragraph two. If the administrative body deems it necessary for the implementation of the project, this period may be extended once.
- (4) Paragraph two, introduction and item a shall not apply insofar as an instruction rule under Article 2:24 or instructions as referred to in Article 2.34 require the establishment of such rules.

#### **Article 5.54**

##### **(elaboration within the decision)**

- (1) With a project decision, it can be stipulated that the competent authority may elaborate the decision with due observance of the relevant preconditions.
- (2) This elaboration forms part of the project decision and can, as long as the elaboration has not yet been achieved, be replaced by a new elaboration.

#### **Section 5.2.4**

##### ***Municipal projects of public interest***

#### **Article 5.55**

##### **(a municipal project of public interest)**

If the inclusion of rules in the physical environment plan aimed at implementing and operating or maintaining a project of public interest is prepared with corresponding application of Articles 5.45, first and third paragraphs, 5.47, 5.48, 5.49 and 5.51, then Article 16.87 shall apply mutatis mutandis.

# Chapter 6

[Reserved]

# Chapter 7

[Reserved]

## Chapter 8 Additional rules on population control, damage control and hunting

### Article 8.1

#### **(game management units and fauna management plans)**

- (1) Within the province, there are one or more fauna management units.
- (2) A fauna management unit shall prepare a fauna management plan for its operational area. The fauna management plan requires approval from the Provincial Executive of the province in which the operating area of the fauna management unit is located.
- (3) Rules shall be laid down on fauna management units and fauna management plans by order in council. The rules are intended to guarantee the transparent, coherent and regionally embedded implementation of the sustainable management of populations of wild animals, and the implementation of damage control by land users and hunting by hunting permit holders. The rules shall, in any case, concern the legal form and composition of the board of a fauna management unit. Further rules on fauna management units and fauna management plans shall be laid down by an environmental regulation.
- (4) For the implementation of the rules of the order in council and the environmental regulation referred to in paragraph three, the Provincial Executive is the competent authority.
- (5) Cases may be designated by order in council in which Our Minister of Agriculture, Nature and Food Quality decides on the approval of a fauna management plan, is authorised to lay down further rules as referred to in paragraph three, fourth sentence, or the competent authority referred to in paragraph four. The limits of Article 2.3, paragraph three, are hereby observed.

### Article 8.2

#### **(special provision for a duty to connect for game management units)**

- (1) Hunting permit holders who have been granted an environmental permit for a hunting activity involving rifles shall organise themselves with others into a game management unit.
- (2) The legal form of a game management unit is an association.
- (3) A game management unit shall implement the fauna management plan referred to in Article 8.1, paragraph two, and promote the sustainable management of populations of wild animals, the control of animals who cause damage and hunting that will be carried out in collaboration with, and at the service of, land users or site managers.
- (4) Land users and site managers may also join the association.
- (5) Rules shall be laid down about game management units by an environmental regulation. These rules in any case shall cover:
  - a. the size and boundaries of the area over which the care provided the game management unit may extend, and
  - b. the cases and conditions under which hunting permit holders shall be exempt from paragraph one.
- (6) By order in council, cases may be designated in which Our Minister of Agriculture, Nature and Food Quality is authorised to lay down rules as referred to in paragraph four. The limits of Article 2.3, paragraph three, are hereby observed.

**Article 8.3****(special provisions on hunting)**

(1) The following parties are entitled to engage in hunting in on hunting grounds, mutually exclusive:

- a. the owner of the land;
- b. the hereditary long-term leaseholder or usufructuary of the land, unless the owner has reserved the hunting right when establishing the leasehold or right of usufruct or if the hunting right was already leased when the leasehold or right of usufruct was established;
- c. the leaseholder of the land, unless the lessor was not entitled to pursue hunting when entering into the lease or reserved the right to practice the hunt, and unless the right to hunt was already available at the time that the lease entered into was rented out, or
- d. the person who rented the hunting right by written and dated agreement for a period of at least six years and at most twelve years from the person entitled to pursue hunting at the time of entering into the lease:
  1. the owner, hereditary long-term leaseholder, usufructuary or leaseholder of the land, with the permission of the land user if the landlord is not also a land user, or
  2. the tenant of the hunting right, with the permission of the owner, hereditary long-term leaseholder, usufructuary or leaseholder who has leased the hunting right to this tenant, and provided that the hunting right is re-let in its entirety.

(2) In the rental agreement referred to in paragraph one, item d, there can be no derogation from Article 226, paragraph one, two and three of Book 7 of the Dutch Civil Code. The rental agreement shall not contain an option or extension clause.

(3) It may be arranged by order in council, in which cases it is permitted for the period referred to in paragraph one, item d to be shorter than six years.

(4) Only animals of the following species may be hunted:

- a. small game: pheasant (*Phasianus colchicus*), hares (*Lepus Europaeus*);
- b. waterfowl: wild ducks (*Anas platyrhynchos*);
- c. other game: wood pigeons (*Columba palumbus*) or rabbits (*Orycto-Lagus cuniculus*).

**Article 8.4****(special provision on liability insurance for hunting rifles)**

(1) The person who has suffered damage as a result of the use of a rifle for the implementation of this Act has his or her own right to compensation against the insurer by whom the civil liability for that damage is covered, up to a maximum amount to be determined by order in council. The cancellation of his fault to the insured does not release the insurer vis-à-vis the injured party, unless the latter has been compensated.

(2) No nullity or defence or expiry arising from the provisions of the Dutch Civil Code relating to the insurance contract or from this contract itself may be invoked by an insurer against an injured party.

(3) The insurer who fully or partially compensates the damage suffered by an injured party, even though the liability for that damage was not covered by an agreement concluded with it, shall recover the amount of compensation from the person liable for the damage.

(4) If the agreement contains a clause that the insured person will contribute in part to the compensation of the damage, the insurer will nevertheless be obliged to pay to the injured party the compensation payment that will remain payable by the insured person under the agreement.

**Article 8.5****(right of enclosure relating to duck decoys)**

(1) It is prohibited for anyone other than the decoy person of a duck decoy, for which right of enclosure as applied on 31 March 1977, or the one acting with the permission of that decoy person, to perform activities within the enclosure circle of that cage that may disturb the ducks within the enclosure circle.



(2) The prohibition referred to in paragraph one, if it cannot reasonably be expected that the activities will not be carried out in another way or at another time, shall not apply to the activities carried out:

- a. for the execution of public works;
- b. for the use and maintenance of that which is created by the works, or
- c. for the exercise of a profession or business.

(3) The person who carries out activities as referred to in paragraph two, shall compensate the decoy person for damage that ensues for the use of the duck decoy, unless otherwise agreed with the decoy person.

## Chapter 9 Pre-emption right

### Section 9.1 Establishment and validity of a pre-emption right

#### Article 9.1

#### **(basis and power to establish a pre-emption right in the name of the municipality, province or State)**

(1) The Municipal Council, Provincial Council or Our Minister of the Interior and Kingdom Relations may, by way of a pre-emption right decision on a real-estate property, establish a municipal, provincial or national pre-emption right insofar as that property forms part of a site to which:

- a. a non-agricultural function has been allocated within the physical environment plan and the use of which differs from that function,
- b. a non-agricultural function or modernisation site has been allocated within a municipal, provincial or national environmental strategy or in a programme, and the use of which differs from that function and the function has not been attributed in an physical environment plan,
- c. a non-agricultural function or modernisation location has been allocated within the decision on the pre-emption right and the use of which differs from that function and the function is not attributed within a municipal, provincial or national environmental strategy or a programme and has not been attributed within a physical environment plan.

(2) Prior to the establishment of a pre-emptive right on the grounds of paragraph one, the Municipal Executive and Provincial Executive may establish a municipal or provincial pre-emptive right on a real-estate property by means of a pre-emptive court decision insofar as that property forms part of a site to which a non-agricultural function or modernisation site has been allocated in that decision and the use of which differs from that function.

(3) A provincial pre-emption right may be established only with a view to a provincial interest.

(4) A national pre-emption right may be established only with a view to a national interest.

#### Article 9.2

#### **(exclusivity of a pre-emption right)**

(1) No provincial pre-emption right may be established on a real-estate property on which a provincial pre-emption right is established.

(2) No municipal or provincial pre-emption right may be established on a real-estate property on which a national pre-emption right is established.

(3) A municipal pre-emption right shall expire on the date that a provincial or national pre-emption right enters into force on the real-estate property.

(4) Notwithstanding paragraph three, a municipal pre-emption right shall remain inapplicable during the time that the real-estate property is subject to a pre-emption right that has been established by the Provincial Executive pursuant to Article 9.1, paragraph two.

(5) A provincial pre-emption right shall expire on the date that a national pre-emption right enters into force on the real-estate property.

#### Article 9.3

#### **(new establishment of a pre-emption right)**

(1) A pre-emption right on real-estate property cannot be re-established on the same basis by the same administrative body within two years of the revocation or expiry of a pre-emption right.

(2) Paragraph one does not apply to a pre-emption right that has not been recorded in the public register within the period specified in Article 16.82a.

**Article 9.4****(validity period of a pre-emption right)**

(1) A pre-emption right shall expire:

- a. in the case of a pre-emption right as referred to in Article 9.1, first paragraph, item c: three years after its commencement, unless the position for which the pre-emption right has been established is intended for an environmental strategy or a programme or has been allocated in the physical environment plan before that time,
- b. for a pre-emption right pursuant to Article 9.1, paragraph one, item b: three years after its commencement, unless the function for which the pre-emption right has been established has been allocated in the physical environment plan before that time,
- c. for a pre-emption right pursuant to Article 9.1, paragraph one, item a: five years after the commencement thereof or, if that period has been extended pursuant to paragraph two, at the end of the extended period.

(2) An administrative body that has established a pre-emption right pursuant to Article 9.1, paragraph one, item a, may decide to extend the period referred to in paragraph one, item c, one time for a maximum of five years.

Article 9.4(3) A pre-emption right pursuant to Article 9.1, paragraph two, shall expire three months after entering into force, or at the time that a pre-emption right as referred to in Article 9.1, paragraph one, enters into force; whichever is earlier.

Article 9.4(4) If a physical environment plan is nullified, a pre-emption right based on that physical environment plan shall remain in force until two year after the nullification, unless the pre-emption right is revoked earlier. If, within that time period, the basis for the pre-emption right is restored in the physical environment plan, the pre-emption right will have the duration it had immediately prior to the nullification.

**Article 9.5****(revocation and expiry of a pre-emption right or nullification of a pre-emption decision)**

(1) Should a pre-emption right no longer meet the requirements set out in Article 9.1, paragraphs one and two, or should the pre-emption right decision not be recorded in the public registers within the period referred to in Article 16.82a, the administrative body that established it shall immediately revoke the pre-emption right.

(2) The administrative body shall ensure that a pre-emption right that has been revoked or expired, or a pre-emption right decision that has been nullified, is immediately stricken from the public registers.

(3) The administrative body shall notify the owners of, and the persons with limited rights to, the real-estate property about the revocation or expiry of a pre-emption right or the nullification of a pre-emption right decision.

**Section 9.2****Transfer of ownership after pre-emption right establishment****Section 9.2.1****Competent authority****Article 9.6****(competent authority)**

The following shall be designated as a competent authority as provided for in this section:

- a. the Municipal Executive for a municipal pre-emption right,
- b. the Provincial Executive for a provincial pre-emption right,
- c. Our Minister of the Interior and Kingdom Relations for a national pre-emption right.

**Section 9.2.2****Main rule and exceptions thereto****Article 9.7****(main rule regarding a transfer of ownership)**

A transferor will not proceed with a transfer of ownership until he or she has given the legal entity in whose name the pre-emption right has been established, in accordance with Section 9.2.3, the opportunity to acquire the property.

**Article 9.8****(exceptions to a main rule)**

Article 9.7 does not apply to a transfer of ownership:

- a. to the spouse or registered partner, to relatives by blood or marriage up to the second degree or to a foster child who has been permanently maintained and brought up as a child of his or her own,
- b. because of the division of a community as referred to in Article 166 of Book 3 of the Dutch Civil Code,
- c. because of a will of last resort,
- d. because of an agreement with a municipality, a water board, a province, the State or a legal entity governed by public law or working in the public interest to be designated by Our Minister of the Interior and Kingdom Relations,
- e. due to a sale on the basis of a statutory provision, a court order or an enforceable sale, whereby the interim relief judge in a private sale as referred to in Section 268(2) of Book 3 of the Dutch Civil Code does not decide on the application for a private sale as long as the legal entity in whose name the pre-emptive right is established has not been given the opportunity to make a bid with a view to the more favourable bid, or
- f. due to an agreement concerning a real-estate property on which a pre-emptive right has been established as referred to in Article 9.1, paragraph one, item c, or paragraph two, concluded with a tenant who had a pre-emptive right on that property as referred to in Article 378 of Book 7 of the Dutch Civil Code at the time when the pre-emptive decision took effect.

**Article 9.9****(exception to the main rule in the event of a transfer of ownership due to a concluded agreement)**

(1) Article 9.7 does not apply to the transfer of ownership for an agreement on the real-estate property or an agreement containing an obligation of the transferor of the real-estate property, provided that:

- a. the transfer of ownership takes place according to an agreement in which the party is named and for a price determined in that agreement or determined in accordance with that agreement,
- b. the agreement has been recorded in the public registers before the pre-emption decision has been published, and
- c. the transfer of ownership takes place within six months from the date that the agreement was recorded in the public registers.

(2) An agreement as referred to in paragraph one may be entered into the public registers if it is contained in a deed.

(3) Paragraph one shall apply once during a period of three years to a transfer of ownership due to an agreement on a specific real-estate property or a portion thereof and to the transferor or the transferee named in the agreement. This period shall commence on the date and time of the initial registration of the agreement in the public registers.

**Article 9.10****(An exception to a general rule, relating to transfer of ownership due to important reasons)**

Article 9.7 does not apply to the transfer of ownership if the competent authority has decided to do so at the request of the transferor on serious grounds made plausible by the transferor. The competent authority may then impose restrictions.

**Section 9.2.3*****Transfer of ownership to a municipality, a province or the State*****Article 9.12****(invitation to negotiate about the transfer of ownership at the municipal, provincial or State level)**

- (1) If the transferor intends to transfer, and Article 9.7 applies, he or she shall invite the competent authority to enter into negotiations on the transfer of ownership to the municipality, the province or the State under conditions to be agreed upon.
- (2) If the proposed transfer of ownership involves real-estate property for which a pre-emption right has been established but which forms a coherent whole, the transferor may, subject to Section 11 of Title 5 of Book 7 of the Dutch Civil Code, impose the condition that this real-estate property in its entirety is involved in the transfer of ownership.
- (3) If the real-estate properties are operated as part of an enterprise, the transferor may stipulate that the company be involved in the transfer of ownership.
- (4) If Article 9.2, paragraph three or five, applies and there is already an invitation to negotiate to the Municipal Executive or the Provincial Executive, that invitation shall be considered as an invitation to the Provincial Executive or Our Minister of the Interior and Kingdom Relations.

**Article 9.13****(decision-making period for a decision on readiness to acquire)**

Within six weeks of receiving the invitation, the competent authority will decide whether the municipality, the province or the State is prepared to purchase the real-estate property or to acquire it on the basis of another title on terms to be agreed.

**Article 9.14****(legal consequence of absence of readiness or exceeding the decision-making period)**

- (1) After he or she has made the invitation, the transferor may transfer ownership of the goods mentioned in the invitation to third parties for a period of three years:
  - a. from the date on which the competent authority has decided that it is unwilling to purchase the property or acquire it on the basis of another title, or
  - b. after expiry of the period referred to in Article 9.13 if the competent authority has not made a decision within that period.
- (2) Notwithstanding the first paragraph, a pre-emption right that is based on a physical environment plan for at least a period of five years and for which the invitation has been issued, shall expire:
  - a. from the date after that on which the competent authority has decided that it is not willing to buy the property or to acquire it on the basis of another title, or
  - b. after the deadline specified in Article 9.13 if the competent authority has made a decision within that period.

**Section 9.2.4*****Legal proceedings for determining the price or for the transfer of the property*****Article 9.15****(scope of application)**

This section applies to a real-estate property for which an invitation under Article 9:12, paragraph one, has been issued.

**Article 9.16****(request for legal proceedings to determine the price)**

- (1) If, in principle, the competent authority is prepared to purchase the property or to acquire it on the basis of a different title and the conditions of the transfer of ownership have been negotiated between the transferor and the competent authority, the transferor may request that the competent authority ask the district court to provide a judgement on the price within four weeks of that request.
- (2) A copy of the transferor's request shall be attached to the request made by the competent authority at the district court.

**Article 9.17****(legal consequences of not submitting or of withdrawing the request)**

- (1) The transferor may proceed to the transfer of ownership to third parties for a period of three years from the moment that:
- a. the period referred to in Article 9.16, paragraph one, has expired and the competent authority has not submitted a request to the district court within that period,
  - b. the legal proceedings are terminated prematurely by the revocation of the request by the competent authority.
- (2) A pre-emption right that is based on a physical environment plan for a period of at least five years and for which the real-estate property to which it relates has been offered to the competent authority shall expire on the day after:
- a. the period referred to in Article 9.16, paragraph one, has expired and the competent authority has not submitted a request to the district court within that period, or
  - b. the legal proceedings are terminated prematurely by the revocation of the request by the competent authority.

**Article 9.18****(request for legal proceedings to transfer goods)**

- (1) The transferor may request the district court to determine that the legal entity in whose name the pre-emptive right is established is obliged, due to the special personal circumstances of the transferor, to cooperate in the transfer of the property at a price to be determined by the district court.
- (2) The request shall be submitted within two months from the date on which:
- a. the competent authority has decided not to submit the request referred to in Article 9.16, paragraph one,
  - b. the period referred to in Article 9.16, paragraph one, has been exceeded without the competent authority having made a decision, or
  - c. the revocation of the request has been received by the registrar.

**Article 9.19****(legal consequences of rejection of the request to transfer the good)**

The transferor may proceed to a transfer of ownership to third parties for a period of three years after the court order has become irrevocable, whereby the request referred to in Article 9.18, paragraph one, is rejected.

**Section 9.2.5*****Notarial deed of delivery of the real-estate property*****Article 9.20****(notarial deed of delivery)**

- (1) The competent authority shall participate in the drafting of a notarial deed for the delivery of the goods against payment to the transferor at the price specified in the decision referred to in Article 16.123, paragraph one, if the transferor submits a participation request, in writing, to the competent authority within a period of three months after the date of the irrevocability of the decision.
- (2) Paragraph one shall apply mutatis mutandis if there is a decision as referred to in Article 16.123, paragraph two, insofar as the request is granted by that decision.
- (3) The competent authority that established the pre-emption right shall ensure that, upon the delivery of the real-estate property, the pre-emption right, insofar as it relates to that property, is stricken from the public registers.

**Article 9.21****(Registration of notarial deed of delivery)**

- (1) Registration in the public registers of a deed of transfer of ownership other than to a municipality, a province or the State shall take place only if a notarial declaration is included on or with the document to be registered, which means that:
- a. a pre-emption right has not been established on the real-estate property, or
  - b. the transfer of ownership is not in contravention of this chapter and the provisions resting thereupon.

(2) For the application of paragraph one, the notarial statement referred to there shall be assimilated with a statement from a person as referred to in Article 91 of the Transitional Act to the New Dutch Civil Code, who has drawn up a private deed of delivery in accordance with the provisions there.

### **Section 9.2.6**

#### **Article 9.22**

### ***Nullity of legal acts in breach of the pre-emption right***

#### **(nullity of legal acts in breach of the pre-emption right)**

(1) A municipality, a province or the State can invoke the nullity of legal acts performed with the apparent intention of impairing a pre-emption right established in its name.

(2) A request for annulment will be filed with the district court within the jurisdiction where the real-estate property is wholly or mainly situated within eight weeks of the municipality, the province or the State having received a copy of the deed containing the Act.

(3) The application for annulment shall be inadmissible if the applicant has consented in writing to the legal act.

## Chapter 10 Obligations to consent

### Section 10.1 General provisions

#### Article 10.1

##### (definitions)

For the purposes of this chapter and the provisions based thereupon, the following are taken to mean:

*Initiator*: the person under whose responsibility a work of public interest for which an obligation to consent has been imposed is created or cleared;

*Rightholder*: anyone who has any right to the real-estate property in which, on which, above or under which:

- a. activities referred in Section 10.2, or
- b. a work of public interest is created or cleared up in situ;

*To create*: construct, maintain, modify, relocate or execute;

*Work of public interest*: work or activity referred to in paragraph 10.3.2.

#### Article 10.1a

##### (access to the real-estate property)

For activities referred to in Sections 10.2 and 10.3, and for the activities referred to in the decision on the obligation to consent, the initiator or his or her authorised representative shall have access to the real-estate property insofar as this is reasonably necessary for the implementation thereof.

### Section 10.2 Legal obligations to consent

#### article 10.2

##### (obligations to consent with regard to roads and water control works)

(1) A rightholder is obliged to consent to roads and water control works for:

- a. the performance by or on behalf of the manager of maintenance and repair work on the road or waterway,
- b. installing and maintaining measuring equipment, signals, markings, traffic signs or other signs by or on behalf of the manager, if he or she considers this necessary to fulfil the function of the road or the water control work,
- c. excavation or measurement activities with a view to designing, building, maintaining or altering road or water control works,
- d. the installation and maintenance of electrical conduits by or on behalf of the manager, insofar as this does not take place in enclosed gardens and estates forming a whole with inhabited plots.

(2) A rightholder who is obliged to consent to water control works shall tolerate the installation and maintenance of traffic signs by or on behalf of the competent authority on the basis of the Shipping Traffic Act.

#### Article 10.3

##### (obligations to consent with regard to water management)

(1) A rightholder is obliged to consent to work on lands located on or in a body of surface water whose maintenance is carried out by or on behalf of the manager: receiving, on those grounds, dredgings or cuttings that are removed from that body of surface water due to regular maintenance.

(2) For the application of paragraph one, lands that are separated from the body of surface water because of a road or a strip of land that is too narrow to receive the cuttings or the dredgings shall be regarded as land located on a body of surface water.



(3) Where groundwater is affected, a rightholder is obliged to consent to a water activity consisting of:

- a. the extraction of groundwater by dedicated equipment, or
- b. transmission of the extraction referred to in point a and b into the soil, in connection with that extraction, insofar as that activity is performed on the basis of an environmental permit or if notification as referred to in Article 4.4, paragraph one, is required: extraction or transmission into the soil as referred to in a and b.

(4) In relation to land located in or forming part of a body surface water or storage area, a rightholder is obliged to consent to: excess water and flooding due to the drainage or temporary storage of surface water.

(5) In the context of protecting the quality of groundwater bodies, a rightholder is obliged to consent to measures taken in:

- a. a regional water programme as referred to in Article 3.8,
- b. a programme of the water board, as referred to in Article 3.7, or
- c. a programme of the Municipal Executive.

#### **Article 10.4**

##### **(information requirement regarding intended activities)**

In case of the activities referred to in Articles 10.2 and 10.3, paragraph one, the manager will inform the rightholder in writing at least forty-eight hours in advance about the intended activities, unless this is not possible due to the urgent nature of those activities.

#### **Article 10.5**

##### **(authorisation to enter places)**

(1) The persons charged with the inspection of water systems or parts thereof, working under the responsibility of the manager, are authorised to enter any location with the necessary equipment, with the exception of homes, without the resident's permission.

(2) Our Minister of Infrastructure and Water Management or the daily management of a water board may provide an authorisation as referred to in Article 3, paragraph two, of the General Law on Entering [Algemene wet op het binnentreden] to enter a home by a resident without the consent of the occupant, via a decision designated for this purpose by Our Minister of Infrastructure and Water Management or that board, insofar as that home forms part of a water control work or is directly connected to it.

(3) Articles 5.13, 5.15, paragraphs two and three, 5.16 and 5.20, paragraphs one and two, of the General Administrative Law Act shall apply mutatis mutandis.

Article (4) Our Minister of Infrastructure and Water Management or the daily management of a water board are authorised to apply Article 5.20, paragraph three, of the General Administrative Law Act with respect to the persons referred to in paragraph one.

#### **Article 10.6**

##### **(obligations to consent with regard to the Environmental Management Act)**

(1) A rightholder entitled to a real-estate property where measures, as referred to in Article 8.49, paragraph one and two of the Environmental Management Act, are taken for a secure waste disposal facility, is obliged to consent to the activities carried out because of those measures.

(2) A rightholder entitled to a real-estate property where a professional or business activity, irrespective of whether it is public or private, profitable or non-profitable in nature, is carried out or where there is environmental damage or an imminent threat thereof, is obliged to consent to preventive or remedial measures as referred to in Title 17.2 of the Environmental Management Act.

#### **Article 10.7**

##### **(obligation to consent with regard to the Aviation Act)**

The operator of an airport as referred to in Article 8.1b of the Aviation Act is obliged to consent to electronic, meteorological and other aids at the airport, intended for the performance of the duties assigned to the LVNL as referred to in Article 1.1, paragraph one, of this Act, and the Royal Netherlands Meteorological Institute, for air traffic protection and aviation meteorological services.

- Article 10.8** **(obligations to consent with regard to the Railways Act and the Local Railways Act)**  
 (1) A rightholder to infrastructure, other than primary railways, the management of which is entrusted under or pursuant to the Act to, or which is under the management of, a public entity, is obliged to consent to contact, intersection or bridging of that infrastructure by main railways.  
 (2) Paragraph one also applies to rightholders to the land located below or next to the primary railway, the works located therein, and the buildings located thereupon.  
 (3) A rightholder is obliged to consent to the management of local rail infrastructure insofar as this is necessary for the proper implementation of that management.
- Article 10.9** **(obligation to consent with regard to the Mining Act)**  
 A rightholder is obliged to consent to the activities of the permit holder for the detection of CO<sub>2</sub> storage complexes, for the exploration for or extraction of minerals or geothermal heat or the storage of substances as referred to in Article 1 of the Mining Act, for the detection of CO<sub>2</sub> storage complexes, minerals or geothermal energy in the subsurface, for the tracking or extraction or storage of substances in accordance with the rules applicable to those activities, insofar as those activities take place at a depth of more than one hundred metres below the surface.
- Article 10.10** **(obligation to consent with regard to bathing water)**  
 A rightholder of a real-estate property in or on which signs providing information for the implementation of the Bathing Water Directive are affixed shall tolerate the affixing and maintenance of such signs.
- Article 10.10a** **(obligation to consent with regard to measures involving the chance discovery of pollution on or in the soil)**  
 (1) A rightholder is obliged to consent to temporary protection measures as referred to in Article 19.9c that are implemented to prevent or limit unacceptable health risks as a result of exposure to soil contamination.  
 (2) Article 5.27 of the General Administrative Law Act shall apply mutatis mutandis.
- Article 10.10b** **(obligation to consent with regard to nature conservation areas)**  
 (1) A rightholder of a real-estate property for which the Provincial Administration or one of Our Ministers performs the tasks referred to in Article 2.18, paragraph one, item g, point 2° and Article 2.19, paragraph five, item a, point 1°, and item b, performs actual acts that are necessary with a view to the conservation objectives for a Natura 2000 site or a particular national conservation area, is obliged to consent to the taking of these measures.  
 (2) The competent authority shall inform the rightholder, in writing, as referred to in paragraph one, at least four weeks in advance about the intended measures.  
 (3) Contrary to paragraph two, the information may be provided orally, and the period shall not apply if this is necessary because of the urgent nature of the measure.
- Article 10.10c** **(obligation to consent with regard to preparing land development)**  
 A rightholder is obliged to consent to sites being entered or excavation work or measurement work being carried out on them or signs being affixed, as the Provincial Executive of the province where those sites wholly or largely lie deems necessary for the preparation of land development as referred to in Article 12.3, paragraph one.
- Article 10.10d** **(obligation to consent with regard to land development)**  
 (1) A rightholder is obliged to consent to measuring activities or observations or signs that are performed within the area to be developed.

(2) Paragraph one shall apply, mutatis mutandis, to the person who has been given parcels for temporary use pursuant to Article 12.21, paragraph one.

#### Article 10.10e

##### **(obligation to consent with regard to work instructions)**

(1) A rightholder is obliged to consent to work on roads, water control works, areas of interest from the point of view of nature conservation or landscape conservation or of elements of scenic, recreational, geological or scientific value, or cultural heritage, or other facilities of public utility mentioned in an instruction as referred to in Article 12.18.

(2) Paragraph one shall apply, mutatis mutandis, to the person who has been given parcels for temporary use pursuant to Article 12.21, paragraph one.

#### Article 10.10 f

##### **article 10.10f(1) (obligation to consent with regard to land re-parcelling)**

Within a land consolidation block, a rightholder is obliged to consent to:

- a. timber being planted or felled, or sod, soil, dredgings and other soil being removed from its land or laid upon it,
- b. work being carried out for the opening up, water management, land development and profile building of the parcels,
- c. buildings being demolished, built or relocated as deemed necessary by the Provincial Executive for the implementation of the land use programme.

(2) Paragraph one shall apply, mutatis mutandis, to the person who has been given parcels for temporary use pursuant to Article 12.21, paragraph one.

#### Article 10.10g

##### **(obligations to consent to temporary use of parcels)**

A rightholder to a parcel that has been temporarily taken into use by a public body or legal entity pursuant to Article 12.21, paragraph three, is obliged to consent to this body or legal entity's performing the work it deems necessary for the implementation of the land use programme.

#### Article 10.10h

##### **(obligation to consent with regard to preparatory work for expropriation)**

(1) If use or management of the physical environment for which expropriation can be expropriated, excavation work, measurement work or the application of signs by the competent authority, referred to in Article 11.4, are deemed necessary for an intended form of development, the rightholder shall be obliged to consent hereto.

(2) Article 10.4 shall apply mutatis mutandis.

## Section 10.3

## Obligations to consent imposed by a decision

### Section 10.3.1

### General provisions

#### Article 10.11

##### **(application criteria)**

An obligation to consent under this Section may be imposed for a work of public interest if:

- a. a real-estate property should be used for a definite or indefinite period of time,
- b. no written agreement has been reached with the rightholder to the real-estate property in spite of a reasonable attempt to do so,
- c. the use of the real-estate property will not be hindered more than is reasonably necessary, and the interests of the rightholder cannot reasonably claim expropriation.
- d. the interests of the rightholder do not reasonably require expropriation.

#### Article 10.12

##### **(upon application and ex officio)**

The imposition of an obligation to consent on the basis of this section takes place at the application of the initiator or ex officio, if the initiator him or herself is authorised under this Act to impose an obligation to consent for the work of general interest.

**Section 10.3.2****Obligations to consent****Article 10.13****(obligations to consent with regard to infrastructure and water)**

- (1) Our Minister of Infrastructure and Water Management may impose on a rightholder an obligation to consent to the formation or clearance of:
- a. a work for primary railways,
  - b. infrastructure required for the production and distribution of drinking water as defined in Article 7, paragraph one, item b, in conjunction with Article 1, paragraph one, of the Drinking Water Act,
  - c. a work to implement the project decision to which Article 5.46, paragraph one, applies,
  - d. a work for the transportation of waste, carried out by a water board,
  - e. a work for the transport of wastewater, rainwater or groundwater, carried out by a municipality,
  - f. local railway infrastructure.
- (2) The daily management of a water board may impose an obligation to consent on a rightholder to create or clear a work to implement a project decision to which Article 5.46, paragraph two, applies.

**Article 10.13a****(obligation to consent with regard to waste disposal facilities)**

- (1) The competent authority for the application for an environmental permit for an environmentally harmful activity that relates to a waste disposal facility may impose an obligation to consent on a rightholder, to conduct an investigation at that waste disposal facility or in its immediate environment and for the application, presence, maintenance, use and disposal of the resources required for that investigation, if necessary, in the interest of soil protection.
- (2) Paragraph one does not apply to:
- a. the deposition of waste materials when it comes to burying mortal remains or spreading ash on or in the soil resulting from the incineration of mortal remains,
  - b. waste disposal facilities where only dredging spoil is deposited,
  - c. waste disposal facilities where waste disposal ended before 1 March 1995,
  - d. waste disposal facilities where on or after 1 March 1995 waste has only been or will be deposited for the application of an upper seal at that waste disposal facility, if the amount does not exceed 0.3 m<sup>3</sup> of waste per m<sup>2</sup> of surface area per waste disposal facility.

**Article 10.13b****(obligation to consent with regard to soil)**

- The Municipal Executive can impose an obligation to consent on a rightholder for:
- a. conducting an investigation into pollution of the soil to determine the effectiveness and impact of measures to implement rules on environmentally harmful activities under Article 4.1 or 4.3, or
  - b. the implementation of measures from an after-care plan as referred to in Article 39d or 39e of the Soil Protection Act or of measures in the context of after-care under Article 39b of that Act, as those articles read before the date of entry into force of Article 3.1 of the Soil Supplementation Act to the Environment and Planning Act.

**Article 10.14****(obligations to consent with regard to energy and mining)**

- Our Minister of Infrastructure and Water Management may, upon consultation with Our Minister of Economic Affairs and Climate, impose on a rightholder an obligation to consent to the formation or clearance of:
- a. an electrical grid, or, as defined in Article 1, paragraph one of the Electricity Act of 1998, a wind farm with a capacity of at least 5 MW,
  - b. a gas production net or gas transport net as defined in Article 1, paragraph one, of the Gas Act,
  - c. a mining work,

- d. works intended for the detection of CO<sub>2</sub> storage complexes as defined in Article 1 of the Mining Act,
- e. a development for which a permit is granted under Article 15, item b of the Nuclear Energy Act,
- f. a heating network as defined in Article 1 of the Heat Act.

**Article 10.15****(obligations to consent with regard to the Law executing the Dutch-German Boundary Treaty)**

Our Minister of Infrastructure and Water Management may, upon consulting the Minister of the Interior and Kingdom Relations, impose on a rightholder the obligation to consent to the creation or clearance of works for boundary waters as defined in Article 1 of the Law executing the Dutch-German Boundary Treaty [Uitvoeringswet Nederlands-Duits Grensverdrag].

**Article 10.16****(obligations to consent with regard to excavation activities)**

- (1) Our Minister of Infrastructure and Water Management may impose an obligation to consent to an investigation being conducted at a location associated with an environmental permit for an excavation activity or an application for such a permit.
- (2) Our Minister of Infrastructure and Water Management may, at the application of the applicant or holder of an environmental permit for an excavation activity, may impose on a rightholder the obligation to consent to an investigation and to applying, creating, maintaining and using the resources necessary for the investigation, if required for the excavation activity.
- (3) The powers referred to in the first and second paragraph reside with the Provincial Executive if it is the competent authority for the environmental permit.

**Article 10.17****(obligations to consent with regard to water control works)**

- (1) The manager may impose on a rightholder an obligation to consent to conducting the research that is required for the application or modification of an environmental permit for a water-related activity or to satisfy, in the context of water management pursuant to this Act, a water board regulation or an environmental regulation duty that resides with him or her.
- (2) The manager may, insofar as is reasonably necessary for the performance of his or her duties, impose an obligation to consent on a rightholder:
  - a. to conduct research on or in the soil and related activities associated with a water control work,
  - b. for the construction or modification of a water control work and related activities.

**Article 10.18****(obligation to consent with regard to air pollution)**

Our Minister of Infrastructure and Water Management can impose a duty of tolerance on a rightholder if a municipality, a province, the State or a public body has to make use of real-estate property to determine the degree of air pollution.

**Article 10.19****(obligations to consent with regard to archaeological research)**

- (1) Our Minister of Education, Culture and Science may impose on a rightholder an obligation to consent before entering areas in the interest of an archaeological research, then taking measurements performing excavation work there.
- (2) The administrative body charged with the preparation or implementation of a physical environment plan or an environmental permit for an environmental planning activity may impose on a rightholder an obligation to consent as referred to in paragraph one, insofar as that investigation serves to prepare or implement the physical environment plan or environmental permit.
- (3) Article 10.11, introduction and item d, shall not apply to the decision to impose an obligation to consent as referred to in this Article.

- Article 10.19a** **(obligation to consent with regard to defence structures)**  
Our Minister of Defence is entitled to impose an obligation to consent on a rightholder for the formation of or clearing up of works for the performance of defence tasks.
- Article 10.20** **Article 10:20 (obligation to consent with regard to the creation of a draft)**  
Our Minister of Infrastructure and Water Management, is entitled to impose an obligation to consent on a rightholder for the performance of measuring or excavation activities, the affixing of signs in, over or on the real-estate property, or conducting an investigation using the tools required for this purpose if these activities are necessary for creating a design for the construction, maintenance, modification, relocation or clearance of a work as referred to in Article 10.13, 10.14 or 10.15.
- Article 10.21** **(obligation to consent with regard to other works of public interest)**  
(1) Our Minister of Infrastructure and Water Management is entitled to impose an obligation to consent on a rightholder for the creation or clearance of a work of public interest that is not a work or activity as referred to in Articles 10.13 to 10.19a, if the interest of the public safety, the importance of protecting the physical environment, compelling economic interests or other compelling social interests warrant this.  
(2) If the imposition of an obligation to consent serves an interest for which the care does not rest with Our Minister of Infrastructure and Water Management, Our Minister of Infrastructure and Water Management will decide, in accordance with Our Minister whom it concerns.
- Article 10.21a** **(obligation to consent regarding the pollution of the soil, duty to care or an unusual incident)**  
In order to prevent, limit or reverse the contamination or deterioration of the soil, the Municipal Executive may impose an obligation on a rightholder to consent to:  
a. the carrying out of an investigation by the party responsible for the pollution or deterioration into the nature and extent of that pollution or deterioration,  
b. the taking of measures by the party responsible to prevent, reduce or eliminate such contamination or deterioration and its direct consequences.
- Section 10.3.3** ***The decision on the obligation to tolerate***
- Article 10.22** **(content of obligation to consent decision)**  
(1) A decision on the obligation to consent, in any event, contains a description of:  
a. the real-estate property related to the decision,  
b. the work of public interest covered by the decision,  
c. the activities and the preparations thereof,  
d. the duties of the rightholder,  
e. the rights and obligations of the initiator.  
(2) The decision on the obligation to consent shall specify whether the real-estate property is used for a definite or indefinite period of time.  
(3) If this is necessary for the maintenance of the work of public interest, the decision on the obligation to consent may determine an area around the work within which activities mentioned in the decision are not permitted without prior permission from the initiator.  
(4) Provisions may be attached to an obligation to consent.
- Article 10.23** **(amendment of decision on the obligation to consent)**  
(1) At the request of the rightholder, the decision on the obligation to consent may be amended with regard to the location of the work of public interest within the real estate concerned.  
(2) Paragraph one applies only if the rightholder has not yet reached an agreement with the initiator about the change of location despite a reasonable attempt to do so.

(3) The request will be rejected in any case if the work of public interest cannot reasonably be realised at another location.

### Section 10.3.4

#### Special provisions

##### Article 10.24

##### (trees and plant populations)

The person who is subject to an obligation to consent under Section 10.3.2 shall tolerate that the initiator uproots trees and plant populations, insofar as those trees and planting impede the creation or clearance of a work of public interest.

##### Article 10.25

##### (succession)

The rights and obligations of the rightholder and of the initiator included in the decision on the obligation to consent also reside with their legal successors.

##### Article 10.27

##### (clearance of a work of public interest)

- (1) If the decision on the obligation to consent has been revoked for a work of public interest, the initiator shall clear the work, unless otherwise agreed with the person on whom the obligation to consent was imposed.
- (2) In case of clearance, and unless otherwise agreed, the real-estate property shall be returned to its condition prior to the construction of the work of public interest to the extent possible.
- (3) Article 10.25 shall apply mutatis mutandis.

##### Article 10.28

##### (ownership of a work of public interest)

Article 20, paragraph two of Book 5 of the Dutch Civil Code shall apply mutatis mutandis to works of public interest that are constructed, maintained, modified or relocated pursuant to a decision on the obligation to consent.

## Section 10.4

### Miscellaneous

##### Article 10.29

##### (obligation to consent with regard to measures involving animal and plant populations)

- (1) The Provincial Executive or Our Minister of Agriculture, Nature and Food Quality may decide that the persons or groups of persons who have been granted an environmental permit for a flora and fauna activity to limit the size of the population of animals shall have access to the land where the animals are present.
- (2) Minister of Agriculture, Nature and Food Quality and the Provincial Executive may decide that the individuals or groups of individuals implementing the task, referred to respectively in Article 2.19, paragraph five, item a, point 4°, and Article 2.18, paragraph one, item g, points 1° or 3°, are responsible for the control of animal or plant of foreign species or feral animals, or the reduction of the numbers of the animals, and plants of that species, have access to the grounds where the animals or the plants are present.
- (3) A rightholder is obliged to consent to the presence on its grounds of persons or groups of persons referred to in paragraphs one and two.
- (4) The competent authority shall inform the rightholder as referred to in paragraph three at least forty-eight hours in advance in writing of the proposed measures.
- (5) Contrary to paragraph four, the information may be provided orally, and the time limit does not apply if this is necessary due to the urgency of the measure.

# Chapter 11 Expropriation

## Section 11.1 General provisions

### Article 11.1

#### (public interest)

Expropriation of real estate properties in the public interest provided for in Article 14 of the Constitution under this chapter takes place in the public interest of the development, use and management of the physical environment.

### Article 11.2

#### (expropriator)

(1) Expropriation can take place in the name of an expropriator.

(2) The expropriator may include:

- a. a municipality,
- b. a water board,
- c. a province,
- d. the State,
- e. another legal entity with the full legal capacity to which the achievement of the intended form of development, use and management of the physical environment is permitted.

## Section 11.2 Expropriation decision

### Article 11.3

#### (designation of real-estate property to be expropriated)

(1) The decision to expropriate designates the real-estate property to be expropriated.

(2) At the request of the owner, the competent authority shall also include the expropriation decision with a view to expropriation:

- a. an entire building, if the expropriator intends to expropriate only part of the building,
- b. fully inherit:
  1. if the expropriator intends to expropriate only part of a parcel of land, leaving twenty-five per cent or less of its size, or if the parcel of land becomes smaller than ten ares, and
  2. if the remaining property does not immediately border another property of the same owner.

### Article 11.4

#### (competent authority)

(1) An expropriation decision may be issued by:

- a. the Municipal Council of the municipality where the real-estate property is located,
- b. the governing board of the water board where the real-estate property is located,
- c. the Provincial Council of the province where the real-estate property is located,
- d. Our Minister whom it concerns.

(2) The governing board of a water board can issue an expropriation decision only with a view to the tasks referred to in Article 2.17, paragraph one, introduction and item a.

(3) Provincial Council can issue an expropriation decision only if:

- a. the expropriation interest is a provincial interest, or
- b. which is effective

(4) Our Minister whom it concerns may only issue an expropriation decision if:

- a. the expropriation is an important national interest, or
- b. that is effective.



**Article 11.5****(criteria: expropriation importance, necessity and urgency)**

An expropriation decision can only be issued:

- a. in the interest of developing, using or managing the physical environment,
- b. if expropriation is necessary, and
- c. if expropriation is urgent.

**Article 11.6****(grounds for expropriation interest)**

Expropriation of interest exists only if the intended form of development, use and management of the physical environment, the exclusion of the existing form of development, use and management is made possible:

- a. in an established physical environment plan,
- b. in an environmental permit that has been granted for an environmental planning activity that is out of plan,
- c. by an adopted project decision.

**Article 11.7****(substantiation necessity)**

(1) In any case, there is no need for expropriation if:

- a. the expropriator did not make a reasonable attempt to achieve an amicable acquisition of the real-estate property free of rights and encumbrances,
- b. the expropriator did not make a reasonable effort to reach agreement on the expiry of any rights in rem or personal rights to the real-estate property,
- c. it is likely that agreement can still be reached in the foreseeable future on the amicable acquisition of the real-estate property free of rights and encumbrances and that such agreement will lead to its prompt delivery, or
- d. it is plausible that agreement can still be reached on the expiry of rights in rem or personal rights to the real-estate property in the foreseeable future and that such agreement will lead to the rapid expiry of those rights.

(2) There is no need for expropriation if the owner or a limited owner of the real-estate property:

- a. demonstrates a willingness and ability to take on the realisation of the intended form of development, use or management of the physical environment,
- b. has concrete and executive intentions to that end and has notified said intentions to the competent authority, and
- c. will achieve the intended form of development, use or management of the physical living environment in the manner intended by the competent authority.

Paragraph two shall not apply in the case of a real-estate property for which:

- a. an expropriation decision has not previously been issued due to the absence of the need to expropriate, as referred to in Article 11.5, item b, in connection with that paragraph, and within three years of the notification referred to in that paragraph, item b, due to causes that the owner or the person with limited rights could have prevented, no start has been made on the realisation of the intended form of development, use or management of the physical environment, or
- b. in the ratification procedure or on appeal, the application for ratification of the expropriation decision has been rejected or the expropriation decision has been annulled because of the manifest lack of need for expropriation, as referred to in Article 11.5, item b, in connection with that paragraph, and no start has been made within three years after that decision on the realisation of the intended form of development, use or management of the physical environment due to causes that the owner or the person with limited rights could have prevented.

- Article 11.8** **(substantiation necessity in relation to public policy)**  
If the expropriation interest is related to the maintenance of public order around a building as defined in Article 13b, paragraph two of the Housing Act, which has been disrupted by the behaviour in that building, there is no need for expropriation, unless the exercise of powers referred to in Article 13b, paragraph two of that Act, has not offered hope of a lasting restoration of public order around the building.
- Article 11.9** **(substantiation necessity in connection with the Opium Law)**  
If the expropriation interest is related to the enforcement of Articles 2 and 3 of the Opium Act in a building referred to in Article 13b, paragraph two of the Housing Act, there is no need for expropriation, unless the exercise of the powers referred to in Article 13b, paragraph two of the Housing Act, has not offered hope given the permanent absence of a violation of Article 2 or 3 of the Opium Act in the building.
- Article 11.10** **(substantiation necessary in relation to the quality of life, health and safety)**  
If the expropriation interest is related to the lifting of an offence under Article 17 of the Housing Act in a building or the open premises of the property referred to in that article, there is no need for expropriation, unless the exercise of the powers referred Article 13b, paragraph two, of the Act, has not offered hope given the permanent absence of such a violation.
- Article 11.11** **(substantiation of urgency)**  
The urgency is lacking in any case, if not it is likely that, within three years after the writing of the compulsory purchase act, a start is made with the achievement of the intended shape of development, use or administration of the physical environment for which compulsory purchase is necessary.
- Article 11.12** **(expiry of an expropriation decision)**  
The expropriation decision shall expire if the expropriator fails, within twelve months after the decision has become irrevocable, to request the district court, in whose jurisdiction the real-estate property to be expropriated is wholly or largely situated, for a determination of the compensation according to Section 15.3.
- Article 11.13** **(no coordination with other decisions)**  
Article 3.20, introduction, and item b of the General Administrative Law Act and Article 5.45, paragraph one, shall not apply to an expropriation decision.

## Section 11.3 Compensation with regard to expropriation

- Article 11.14** **(Reference procedure compensation)**  
Once the expropriation decision has been published, the expropriator may request that the district court, in whose jurisdiction the real-estate property to be expropriated is wholly or largely situated, determine the compensation according to Section 15.3.

## Section 11.4 Expropriation deed

- Article 11.15** **(request to execute expropriation deed)**  
Within two months after all the conditions provided for in Article 11.16, paragraph one, are met, asks the expropriator shall request that a notary execute a deed of expropriation.
- Article 11.16** **(execution requirements expropriation deed)**  
(1) An expropriation act can be executed only if:  
a. the expropriation decision is irrevocable,

- b. the decision of the execution requiring the expropriation is irrevocable, and
  - c. provisional compensation under Article 15:43, or the agreed compensation included in a official report, has been paid.
- (2) Irrevocability of the expropriation decision is demonstrated by the production of:
- a. the outcome of an appeal against a ruling on a request for ratification, or
  - b. a certificate from the Registrar of the Administrative Division of the Council of State showing that not appeal against the ruling on the application for ratification within the period of appeal.
- (3) Irrevocability of the decision pursuant to which the expropriation is required, is demonstrated by the production of:
- a. the judgement against that decision by the Administrative Jurisdiction Division of the Council of State,
  - b. a statement by the clerk of the district court or a statement by the clerk of the Administrative Jurisdiction Division of the Council of State that no appeal has been lodged against that decision within the period of appeal, or
  - c. a statement from the Registrar of the Administrative Jurisdiction Division of the Council of State showing that no appeal has been lodged against the decision within the period of appeal.
- (4) The payment of provisional compensation or the agreed compensation shall be demonstrated by a receipt. The following qualify as proof of payment:
- a. proof that the sum of the provisional compensation or the agreed compensation has been transferred to an account held by the person entitled to receive it with a financial undertaking authorised to carry on the business of a bank in the Netherlands under the Financial Supervision Act [Wet op het financieel toezicht],
  - b. a certificate of consignment as referred to in Article 6(1) of the Money Consignation Act, if it is not sufficiently known who is entitled to receive it or if the consignment has taken place on the grounds of Articles 15:49 and 15:50.

**Article 11.17****(signature of expropriation deed)**

An expropriation deed is signed by the expropriator.

**Article 11.18****(legal consequences of registering expropriation deed)**

- (1) By registering an expropriation by a notary deed in the public registers, the expropriator acquires the property free of all encumbrances and rights that exist relating to the matter.
- (2) The registrar of the land register and the public registers shall automatically enter in the cadastral registry and in the public registers the registrations of mortgages and attachments which no longer exist as a result of the registration of the expropriation deed.
- (3) Easements can remain attached to the expropriated property. They are previously recorded in the expropriation deed. If they are not caused by settlement, the cadastral designation of the dominant property and a description of the easement are to be recorded in the expropriation deed.

**Article 11.19****(charges and taxes)**

Water board, and similar charges and any tax which the expropriated property is encumbered or paid thereon, transfer to the expropriator as of the date on which the expropriation deed is entered in the public registers.

**Article 11.20****(handover after registration of expropriation deed)**

- (1) At the request of the expropriator, the interim injunction judge may, by means of a writ issued in an enforceable form, give the necessary orders to place the expropriated property in the possession of the expropriator.

(2) Upon request, the expropriator shall submit a copy of the expropriation deed and a certificate of registration thereof.

(3) No appeal may be lodged against an injunction as referred to in the first paragraph.

## Section 11.5

### Article 11.21

## Failure to fulfil expropriation interest

### (legal consequences of not realising an expropriation interest)

(1) The expropriator shall offer the expropriated person the opportunity to have the expropriated property returned to him or her as a result of causes that the expropriated person could have prevented if:

- a. the realisation of the intended form of development, use or management of the physical environment for which the expropriation has not commenced within three years after the expropriation has been entered in the public registers,
- b. activities have been suspended for more than three years, or
- c. it can be demonstrated by other means that the intended form of development, use or management of the physical environment for which the expropriation was made apparently will not be achieved.

(2) The expropriated property shall be returned in the condition in which it finds itself then. The expropriated person is obliged to return the compensation in proportion to the value received.

(3) If the expropriated person indicates that he or she does not wish to make use of the offer of surrender referred to in paragraph one, he or she may claim compensation in excess of the compensation already received, to be determined on an equitable basis by the district court in whose jurisdiction the real-estate property to be expropriated is wholly or substantially located.

(4) If the expropriator has not made an offer of return within three months of the expiry of the period of three years referred to in the first paragraph, the expropriated party may choose either to:

- a. recover the expropriated property from the court in the condition in which it is taken, with the obligation to return the compensation in proportion to the value recovered, or
- b. claim compensation, to be determined by the court on an equitable basis, in excess of the compensation already received.

(5) Non-invasive adjustments or adaptations of small size of the intended form of development, use and management of the physical environment or modifications of that shape which fit within the framework for the implementation for which expropriation has proceeded are also considered to constitute achievement of the intended form of development, use and management of the physical environment which was expropriated.

# Chapter 12 Special instruments for the development of areas

## Section 12.1 General provisions

### Section 12.1.1 Definitions and scope of application

#### Article 12.1

##### (definitions)

For the purposes of this Chapter and the provisions based thereon: rightholder:

1. owner and the person to whom a limited right belongs to which a real-estate property is subject,
2. the tenant of a real-estate property, or
3. the creditor of an obligation involving a real-estate property as referred to in Article 252 of Book 6 of the Dutch Civil Code.

#### Article 12.2

##### (position of commercially entitled persons)

This Chapter and the provisions relating to owners based thereon shall apply mutatis mutandis to persons entitled to a building lease, hereditary long-term leaseholder, 'clamped' farmers [beklemde meiers] with full right of disposal, usufructuaries, holders of a right of use or occupation of a real-estate property and apartment owners.

### Section 12.1.2

#### General provisions for land use

#### Article 12.3

##### (land use)

- (1) Land use aims to improve the layout of the rural area in accordance with the functions that are assigned to the locations concerned.
- (2) In the case of land use, the following measures and provisions may be taken:
  - a. modifying the system of roads or waterways,
  - b. the creation, development, conservation, management or restoration of areas of interest with a view to nature conservation or landscape conservation of elements of scenic, recreational, geological or scientific value or cultural heritage, and
  - c. other measures or facilities of public utility.
- (3) In the case of land development, provision can be made for the allocation of ownership, management and maintenance of public utilities.
- (4) Land re-parcelling may form part of land development, whereby a discount as referred to in Article 12.29 may be applied if it is necessary to acquire the ownership of real-estate property.

#### Article 12.4

##### (right to land development)

- (1) Powers over land development may be exercised by the Provincial Executive of the province where the area wholly or substantially lies.
- (2) Article 3, paragraph one, section r, of the Land Registry Act shall apply.

#### Article 12.5

##### (locations that also fulfil a military function)

Without the consent of Our Minister of Defence, there will be no change in the condition and operation of locations that perform a function for the national defence.

#### Article 12.6

##### (estimate of costs of re-parcelling and share for joint owners)

If re-parcelling is part of the land development, an estimate is made as accurately as possible of the costs involved and of the proportion of those costs that will be charged to the joint owners in the block to be re-parcelled.

## Section 12.2 Land use decision

### Section 12.2.1 Land use decision

#### Article 12.7

##### **(adoption of the land use decision)**

A land use decision shall be adopted at the same time as the land use programme, if for the land development:

- a. the ownership, management or maintenance of facilities will be assigned public utility,
- b. the land re-parcelling or discount will be applied.

#### Article 12.8

##### **(content of land use decision)**

(1) A land use decision, insofar as it is appropriate, provides for:

- a. the allocation of ownership of roads or water control works,
- b. the allocation of the management and maintenance of public roads,
- c. the allocation of ownership, management and maintenance of areas of interest with a view to protecting nature or landscape conservation or of elements of scenic, recreational, geological or scientific value, or cultural heritage, and
- d. the allocation of ownership, management and maintenance of other public utilities.

(2) If re-parcelling forms part of the land development, the land use decision shall contain a representation in which the boundary of the land consolidation block is depicted as accurately as possible.

(3) If it is necessary to acquire the ownership of a real-estate property in order to carry out measures and facilities of public utility, the land use decision shall contain an indication of those measures and facilities and stipulate that a discount may be applied for them.

#### Article 12.9

##### **(content of land use decision: public nature of roads)**

(1) Notwithstanding Articles 8 and 9 of the Roads Act, a land use decision may stipulate that a road be withdrawn from the public traffic.

(2) Notwithstanding Articles 4 and 5 of the Roads Act, a land use decision may stipulate that a road be opened up for the public traffic.

(3) The withdrawal from and opening up for public traffic shall start at a time to be determined in the land use decision.

#### Article 12.10

##### **(existing rights and condition of use)**

(1) In case of land development, no change will be made to the rights and condition of use of:

- a. cemeteries, crematoria and repositories as provided for in Articles 23, 49 and 62, item c, of the Burial and Cremation Act,
- b. closed cemeteries and graves and crypts under Article 85 of the Burial and Cremation Act, within the period referred to in Article 46, paragraphs two and three of that Act and other than in the manner prescribed in Article 46, paragraph three of that Act.

(2) Without the permission of the owner, no change will be effected to his or her rights with respect to buildings.

### Section 12.2.2

#### **Assignment of ownership, management and maintenance of facilities of public utility**

#### Article 12.11

##### **(assignment of ownership, management and maintenance of roads and ownership of water control works)**

(1) The assignment of ownership of roads and water control works, as referred to in Article 12.8, paragraph one, item a, shall be carried out by the relevant public bodies or other legal entities.

(2) The assignment of the management and maintenance of public roads, as referred to in Article 12.8, item b, shall take place by the relevant public bodies.

(3) Notwithstanding paragraph two, the maintenance of the public roads may be assigned to legal entities other than public bodies.

#### **Article 12.12**

##### **(rules for assigning ownership, road management and maintenance and ownership of water control works)**

(1) The assignment of ownership of public roads, water control works or the management and maintenance of public roads to a legal entity other than a public body, will take place only if agreement is reached with the legal entity concerned, unless the ownership, management or maintenance prior to the land developments resided with the legal entity.

(2) The assignment of ownership of public roads, water control works and the management and maintenance of public roads to public bodies shall take place without financial settlement, unless this would lead to unreasonable consequences for the public body concerned.

(3) Permission from Our Minister whom it concerns is required for:

- a. the withdrawal of ownership of public roads or water control works from the State,
- b. the withdrawal of the management and maintenance of public roads from the State,
- c. the assignment of the ownership, management or maintenance of public roads to the State, unless the ownership, management or maintenance prior to the land development resided with the State.

#### **Article 12.13**

##### **(assignment of ownership, management and maintenance areas and other facilities of public utility)**

The ownership, management and maintenance of the areas and facilities of public utility, under Article 12.8, paragraph c and d, shall be allocated to:

- a. the province, or
- b. another public body or legal entity other than the province, if this body or legal entity so agrees.

#### **Article 12.14**

##### **(time of the transfer of the management and maintenance of roads)**

(1) Insofar as the management or maintenance of public roads, prior to the land development, was not the responsibility of the public body or legal entity concerned, the management and maintenance will be carried out at the time of publication of the land use decision.

(2) The management or maintenance will be transferred at a later date, to be determined by the Provincial Executive, at a time other than that referred to in paragraph one if:

- a. improvement works are carried out on existing roads,
- b. this concerns new roads.

#### **Article 12.15**

##### **(derogation of the rule on transferring the management and maintenance of roads)**

(1) From the moment that instructions have been issued on the basis of Article 12.18 to the execution of work to improve existing roads until the time referred to in Article 12.14, paragraph two, the management or maintenance of the roads in question shall be the responsibility of the Provincial Executive in the province where these roads are wholly or largely are located.

(2) The management and maintenance of new public roads up to the time referred to in Article 12.14, paragraph two, shall reside with the Provincial Executive of the province where the roads are wholly or largely located.

## Section 12.3 Implementation of land development

### Section 12.3.1

#### *General provisions*

#### Article 12.16

##### **(exercising competent authority)**

The Provincial Executive shall implement the land use programme and, where applicable, the land use decision.

#### Article 12.17

##### **(implementation of phasing)**

- (1) The land use programme or the land use decision may be executed in parts.
- (2) The Provincial Executive may determine to implement certain measures or provisions as referred to in Article 12.3 (2) only if they have reached agreement with a public body other than the State on the financial contribution of the public entity to the costs of the measures or provisions and about the conditions under which the contribution shall be paid.

### Section 12.3.2

#### *Performing work activities*

#### Article 12.18

##### **(instructions on performing work activities)**

- (1) The Provincial Executive of the province in which the activities mentioned in the land use programme are mainly carried out, may issue instructions to administrative bodies or public bodies other than the State, whereby the management or maintenance of roads, water control works and areas of interest with a view to protecting nature or landscape conservation or of elements of a scenic, recreational, geological or scientific value, or cultural heritage, or other facilities of public utility, is vested or presumably acquiesced. These instructions may specify that these administrative bodies perform work with regard to these roads, water control works, areas, elements, or other facilities of public interest.
- (2) For the instructions, a period may be set within which the instructions must be implemented.
- (3) Our Minister whom it concerns shall decide on the execution of work with regard to roads, water control works, areas and facilities of public interest, as referred to in Article 12.8, paragraph one, the management or maintenance of which is presumably the responsibility of the State.

#### Article 12.19

##### **(performing activities following descriptions)**

Activities as referred to in Article 10.10f, paragraph one, shall not commence until after the Provincial Executive has created a description of the real-estate property concerned.

## Section 12.4 Re-parcelling

### Section 12.4.1

#### *General provisions*

#### Article 12.20

##### **(competent authority)**

For the purposes of this Section, the Provincial Executive of the province where the land consolidation block is wholly or partially situated shall be the competent authority.

#### Article 12.21

##### **(parcels taken temporarily into use)**

- (1) Parcels or portions of parcels that belong to a land consolidation block can be temporarily taken into use.
- (2) The legal provisions applicable to the lease do not apply to the temporary use of parcels.
- (3) Parcels that are allocated to public bodies and legal entities after application of Article 12.29, introduction and item c or d, may also be temporarily used by them.



**Section 12.4.2****The land exchange decision****Article 12.22****(establishment of the land exchange decision)**

- (1) A land exchange decision shall be determined for each land consolidation block.
- (2) The land exchange decision shall contain:
  - a. a list of rightholders, and
  - b. provisions on the parcels and rights.

**Article 12.23****(list of rightholders)**

- (1) The list of rightholders shall indicate, as regards the parcels within the land consolidation block, as fully as possible for all rightholders, the nature and scope of the right that they have contributed.
- (2) The list of rightholders will be compiled on the basis of public registers and the cadastral registry as referred to in Article 48 of the Land Registry Act [Kadasterwet].
- (3) Once the land exchange decision becomes irrevocable, only those included in the list of rightholders or their successors in title will be recognised as rightholders.
- (4) The successor in title is:
  - a. the person who acquires real-estate property or a limited right and whose acquisition is evidenced by documents entered in the public registers,
  - b. the person who becomes a creditor of an obligation which, with regard to real-estate property, entails an obligation as referred to in Article 252 of Book 6 of the Dutch Civil Code and of which this is evidenced by documents entered in the public registers,
  - c. the person who obtains a right of rental under a general title that is stated on the list of rightholders.

**Article 12.24****(provisions on parcels and rights)**

- (1) The provisions on parcels and rights in the land exchange decision shall contain:
  - a. the parcel layout,
  - b. the allocation of rights to parcels to owners,
  - c. the demarcation of the ownership of the public roads or water control works, areas, elements and the other public utility facilities referred to in Article 12.8, paragraph one,
  - d. the lease relationships to be maintained, cancelled and established, specifying the provisions referred to in article 12.28, paragraph three, regarding the duration and extendibility of the lease agreement,
  - e. the regulations referred to in Article 12.35, the abolition or establishment of the limited rights, the right to rent and the charges existing for the real-estate property, and
  - f. the provisions relating to the commissioning of the parcels.
- (2) The assignment relates only to the parcels within the land consolidation block.
- (3) Contrary to paragraph two, the land exchange decision may, with the consent of those entitled to real estate not included in the land consolidation block, include regulations on border changes, neighbouring rights and easements.
- (4) Rules are laid down by order in council about the provisions on parcels and rights referred to in paragraph one.

**Article 12.25****(parcel outlet)**

In the parcel layout, each parcel is formed so that it has egress to a public road, and is adjacent thereto if possible.

**Article 12.26****(entitlement owner: nature, quality and usability)**

- (1) When allocating rights to parcels, each owner is entitled to acquire a right of the same nature that he or she had to the real-estate property located within a land consolidation block.
- (2) Insofar as the interests of the land development do not dictate otherwise, a right shall be assigned to each owner in respect of real-estate property in the same capacity and with the same uses as the real-estate property contributed by him or her.
- (3) By order of Our Minister of Agriculture, Nature and Food Quality, further rules shall be laid down on equal status and equal uses mentioned in paragraph two.

**Article 12.27****(leaseholder's claim with allocation)**

- (1) When allocating rights to parcels, each tenant is entitled to acquire a right of the same nature that he or she had to the real-estate property located in a land consolidation block.
- (2) Articles 12.26, paragraphs two and three, 12.30, 12.31 and 12.33 shall apply *mutatis mutandis*.
- (3) The entitlement exists only if the lease under Article 16.125, paragraph one, is sent to the competent authority for registration.

**Article 12.28****(new and existing tenancy relationships)**

- (1) In the land exchange decision, existing lease relationships will be maintained as much as possible.
- (2) If the importance of the land re-parcelling is an urgent requirement, an existing lease relationship can be cancelled and a new lease relationship can be established by the land exchange decision whereby a lessor is assigned a tenant from the tenants referred to in Article 12.27, paragraph one.
- (3) For a case as referred to in paragraph two, the land exchange decision provides that the tenant and the lessor retain the same claims, to the extent possible, that they could derive from the cancelled lease relationship. The land exchange decision determines the time to which the lease agreement resulting from a newly established lease relationship will apply and whether this agreement, if it will be valid for a shorter period than the legal term, can be extended.

**Article 12.29****(discount)**

Where re-parcelling forms part of the land development, the total area of all parcels involved in the re-parcelling shall be reduced by the area of all parcels included in the land consolidation block up to a maximum of five per cent:

- a. which, in the interest of re-parcelling, is necessary for the creation or improvement of public roads and waterworks,
- b. necessary for the construction of facilities associated with the public roads and water control works, referred to under a,
- c. necessary to realise measures and provisions for areas of interest with a view to protecting nature and landscape conservation, and elements of scenic, recreational, geological or scientific value, or cultural heritage,
- d. intended for other measures and facilities of public utility.

**Article 12.30****(owner entitlement: surface area)**

- (1) When allocating rights to parcels, each owner is entitled to an area in parcels that is equal to the area of the parcel he or she has contributed. This surface is reduced by the percentage of the total area of all parcels included in the re-parcelling block has been reduced on the basis of Article 12.29.
- (2) The total area referred to in the second sentence of paragraph one shall be the area of all parcels of land included in the land consolidation block, less the area of the real-estate property designated for expropriation in an expropriation decision.

(3) The competent authority may deviate from paragraph one should the application of that paragraph preclude the establishment of a proper consolidation. If no agreement has been reached with the owner and the person who has a right of mortgage or land interest on the real-estate property, this deviation may amount to a maximum of five per cent of the area to which the owner is entitled pursuant to paragraph one. The application of this derogation in connection with the application of Article 12.29 shall not result in an allocation of an area that is more than five per cent smaller than the surface area of the parcels brought in by the owner.

#### **Article 12.31**

##### **(total cash compensation after a discount for unprofitable parcels)**

The land exchange decision may provide that an owner, notwithstanding Article 12.30, paragraph one, receive an overall payment in cash if the surface area of his or her real-estate property located in a land consolidation block is so small that the application of Article 12.30 would result in the formation of a parcel that cannot be exploited properly, and he or she has no reasonable interest in acquiring such a parcel.

#### **Article 12.32**

##### **(payment in relation to allocating parcels for public utility services)**

Allocation of land for facilities of public utility, to the extent provided by applicable discount under Article 12:29, introduction and sub c or d, takes place on payment of an interim executive and other public bodies or other legal agreement amount that is not less than the actual value of the property.

#### **Article 12.33**

##### **(Total cash compensation for land allocation for services of public interest)**

In derogation of paragraph one of Article 12.30, the owner of real estate properties included in the allocation referred to in Article 12.8, paragraph one, items c or d, shall receive, upon request, full monetary compensation for that property insofar as it is included in the allocation referred to in Article 12.8, paragraph one, item c or d.

- a. that allocation shall transpire with the application of Article 12.29, introduction, and items c or d, and
- b. compensation money contributes to the realisation of the land use programme.

#### **Article 12.34**

##### **(valuation of parcels for public utility services)**

If the allocation referred to in Article 12.32 concerns a parcel for which the owner or leaseholder has invoked Article 12.33, the allocation to the public body or other legal entity shall take place in deviation from Article 12.33 against the payment of an amount that is equal to the compensation referred to in Article 12.33, or at the actual value of the parcel, if that value is higher.

#### **Article 12.35**

##### **(restricted rights and prejudgement and executory attachment)**

(1) Insofar as real-estate property is included in the provisions on rights and parcels, the limited rights not included in Article 12.26, the right to rent and the charges that exist for such real-estate property shall be regulated or cancelled in the provisions on rights and parcels, subject to regulation of the financial consequences thereof in the decision on financial arrangements. Land re-parcelling, redevelopment, reconstruction and land development interests shall be redeemed in accordance with the applicable legal provisions.

(2) In the interest of consolidation, it can be determined that limited rights are established in terms of parcels and rights.

(3) Mortgages shall be transferred with retention of their rank to the parcels or parts of parcels allocated in place of the real-estate property on which they rest. In cases referred to in Articles 12.31 and 12.33 in which overall compensation is awarded in cash, the mortgage holder and the party with a right of interest shall exercise their rights in the manner described in Article 15.30.

(4) Custodial and foreclosure attachments shall be transferred to the parcels or parts of parcels allocated in place of the real-estate property on which they have been placed and to the sums of money allocated in place of parcels or for subdivision.

### Section 12.4.3

### *The decision on financial arrangements*

#### Article 12.36

#### **(establishing the decision on financial arrangements)**

A decision on financial arrangements shall be established for the re-parcelling block.

#### Article 12.37

#### **(content of decision on financial arrangements)**

- (1) The decision includes the following financial arrangements:
- a. the result of the estimate referred to in Article 12.38, paragraph one, introduction and item a, and the most accurate possible statement of the costs incurred by the owners pursuant to Article 13.9, paragraph two,
  - b. the result of the estimate referred to in Article 12.38, paragraph one, introduction and item b, and the most accurate possible statement of the related pecuniary settlements,
  - c. a statement of the monetary settlement for the owners as a result of:
    1. application of Articles 12.31, 12.33 and 12.39,
    2. application of Article 12.35,
    3. damages to be awarded, other than those referred to in Section 15.2, because of an obligation to consent as referred to in Articles 10.10c to 10.10g, and
    4. the other matters, and
  - d. a statement of the pecuniary settlements for the leaseholders as a result of the application of Article 12.27 in conjunction with Articles 12.31 and 12.33.
- (2) In connection with the settlement, referred to in paragraph one, item c, point 1°, the Provincial Executive determines the agricultural market value of the parcels.
- (3) Rules shall be established by order in council on the application of paragraph one and about the establishment of the agricultural market value specified in paragraph two.

#### Article 12.38

#### **(estimation and preparation decision financial arrangements)**

- (1) Provincial Executive estimates:
- a. the change in the value of the real-estate property as a result of the land development for each owner,
  - b. the monetary settlements between the old and the new owner in the event of a transfer of real-estate property, of:
    1. the change in value resulting from a land development activity,
    2. the value of buildings, works and plantations,
    3. the non-agricultural value,
    4. the other matters.
- (2) The estimation is carried out according to the rules laid down in Articles 12.24, paragraph four, and 12.37, paragraph three.
- (3) The draft decision on the financial arrangements shall be drawn up in accordance with the irrevocable land exchange decision, unless the Provincial Executive decides that the draft land exchange decision and the draft decision on the financial regulations will be made available for inspection at the same time.

#### Article 12.39

#### **(settlement)**

The difference in area, capacity or possibilities of use between the contributed and the plots allocated after application of Articles 12.29 to 12.31, inclusive and 12.33 shall be settled with the owners in cash.

**Article 12.40****(offsetting increase in value)**

If a land development activity leads to an increase in the value of a real-estate property, that increase in value shall be reimbursed only if a custom rule has been laid down for that land development activity.

**Article 12.41****(title for claims)**

Once the appeal period for a financial arrangements decision has expired or, if appealed, ruling on the appeal, the decision holds the title for the claims specified therein.

**Section 12.5****Other provisions****Article 12.42****(Financial consequences for reduction indebtedness)**

When the Supreme Court under Article 16.82c leads to a reduction of the indebtedness of one or more parties, the financial consequences are borne by the province.

**Article 12.43****(legal consequences of registration statement)**

By entering the judgement on appeal referred to in Article 16.33l in the public registers, the property described in that judgement shall be acquired by the public bodies or other legal entities referred to in that judgement.

**Section 12.6****Land exchange****article 12.44****(land exchange agreement)**

- (1) A land consolidation agreement is an agreement whereby three or more owners undertake to merge certain real estate properties belonging to them, to parcel the mass thus indicated in a certain way, and to distribute it among themselves by virtue of a notarial parcel exchange deed that is entered into writing and is recorded in the public registers. Title 7 of Book 3 of the Dutch Civil Code does not apply to the intended mass.
- (2) Parties who stipulate a sum of money for real-estate properties or who stipulate a sum of money for the contribution of real-estate properties may also participate in a land exchange agreement. Agreements in which three parties participate shall only be regarded as a parcel exchange if all parties contribute real-estate property and, at most, one of them only stipulates a sum of money against it.
- (3) If a land exchange agreement includes real-estate property on which mortgages, conservatory attachments or enforceable attachments rest, the agreement is legally valid only if it has also been countersigned by the mortgage holders or attachments.
- (4) A parcel exchange deed shall be signed by those who are authorised to do so by the parcel exchange agreement, and it shall be recorded in the public registers.

**Article 12.45****(registration of the parcel exchange agreement)**

- (1) A land exchange agreement also binds those who succeed the participating parties in their rights to the real-estate property concerned after the time of registration under special title.
- (2) If, after registration, it is established that one or more of the parties to the land exchange agreement were not the owner, but were registered as such in the cadastral registry, the agreement will be deemed to have been legally concluded and the actual owner shall enter the rights and obligations that the party acting in his or her place has acquired and has taken on by him or herself.
- (3) Contrary to Article 50 of Book 7 of the Dutch Civil Code, Article 3 of that Book shall not apply mutatis mutandis to the registered land exchange agreement.

**Article 12.46****(applicability of other provisions)**

- (1) Articles 12.35, paragraphs two, three, and four, 16.136, paragraphs two and three, and 16.137, paragraphs three and four, may be declared correspondingly applicable in a land exchange agreement.
- (2) The parcel exchange deed shall indicate which of the provisions referred to in paragraph one has been declared correspondingly applicable.

**Article 12.47****(parcel exchange of rural area)**

- (1) A parcel exchange of a rural area is a parcel exchange agreement aimed at improving an area in accordance with the functions conferred upon the sites.
- (2) The parcel exchange agreement for the parcel exchange of a rural area does not relate to:
- a. parcels that form part of a spatially contiguous or functionally connected assembly of parcels:
    1. that is used for residential purposes, including residential recreation, non-agricultural activities and socio-cultural facilities, urban green space and infrastructure,
    2. where, on the basis of the functions allocated to the locations in question, a use as referred to under 1° is possible,
    3. for which, according to a draft decree establishing a physical environment plan or a project decision, a use as referred to under 1° will be made possible,
  - b. parcels where the land is being developed, unless they are made suitable for agricultural purposes, small-scale recreation or the development of nature in accordance with the requirements of the environmental permit for the land development activity after the land has been developed. or
  - c. the limited rights in respect of the parcels referred to in points a and b.
- (3) A relocation, in which the land of the business left behind is used to consolidate real-estate property and to parcel out the given mass in a certain way, can be included in a land exchange agreement for a parcel exchange.

## Chapter 13 Financial provisions

### Section 13.1 Registry

#### Article 13.1

##### (levying duties)

(1) In order to cover the costs of his or her consideration of and application for a decision, for investigations or operations that are carried out at the request of persons concerned and for the issue of a document, rings, marks or brands in respect of animals under this Act, Our Minister whom it concerns may levy duties on the applicant or the person for whose benefit that application is made.

(2) Our Minister whom it concerns may, in order to cover the costs of conducting checks or verifications on the basis of European CITES regulations, European FLEGT regulations or European timber regulations, levy duties on the owner, transporter, trader, importer or his/her authorised representative.

(3) Tariffs for the fees shall be set in such a way that the estimated benefits of the fees do not exceed the estimated costs.

(4) The authority referred to in paragraph one, first sentence, resides with the police commissioner for environmental permits for hunting activities involving a rifle.

(5) Our Minister of Agriculture, Nature and Food Quality may by regulation stipulate that the power to levy duties for the issue of rings, marks or brands, referred to in the first paragraph, rests with organisations designated pursuant to Article 4.36, paragraph three.

(6) By ministerial decree:

- a. the decisions, documents, rings, tags or marks for animals and investigations or transactions for which duties are levied are designated,
- b. sets the rates for the duties to be levied,
- c. rules laid down on how those duties are levied.

#### Article 13.1a

##### (levying duties municipality and province)

A municipality or province may levy duties as referred to in Section 229, paragraph one of the Municipalities Act or Section 223, paragraph one, of the Provinces Act on the applicant or on the person for whose benefit that application is submitted for consideration of an environmental permit, an amendment to the requirements of an environmental permit or the withdrawal of a single permit.

#### Article 13.2

##### (calculation and amounts of duties and target taxes)

By order in council, rules may be laid down concerning the calculation and the amounts of the duties and taxes to be levied in respect of the exercise of duties and powers under this Act pursuant to:

- a. Articles 228a and 229, paragraph one, item b. of the Municipalities Act,
- b. Article 115, paragraph one, items b and c, of the Water Boards Act,
- c. Article 223, paragraph one, item b, of the Provinces Act, or
- d. Articles 13.1 and 13.1a.

## Section 13.2 Compensation and recovery of costs

### Article 13.3

#### **(compensation by administrative bodies for additional costs)**

(1) If, in the exercise of a task or power under this Act, an administrative body has incurred additional costs as a result of a request for a decision or order in council as referred to in Article 15.1, paragraph one, an instruction or instruction rule relating to a site indicated in that instruction or instruction rule or a decision on the approval of another administrative body, and no agreement has been reached on the allocation of those costs, it may request that that administrative body reimburse the costs incurred by it in whole or in part to the extent that those costs were incurred in connection with the representation of an interest of that other administrative body.

(2) The allowance may be granted to the extent:

- a. the costs should not reasonably be borne by the legal entity to which the administrative body belongs,
- b. the compensation is not sufficiently insured in any other way, and
- c. compensation is not excluded on the basis of a statutory provision.

Lapsed

Lapsed

### Article 13.3a

#### **(recovery of costs in the event of pollution in the physical environment)**

(1) The State or a province, municipality or water board may, in cases designated by order in council, recover the costs to be borne by that legal person resulting from pollution, deterioration, disruption or damage to designated parts of the physical environment from the person by whose wrongful act the pollution, deterioration, disruption or damage is caused or from the person who would otherwise be liable under civil law for the consequences thereof outside the scope of the agreement. The order rules may be laid over the recoverable cost categories.

(2) In cases of unjust enrichment, an entity referred to in the first paragraph can recover costs redounding to that entity.

(3) In cases where the party responsible for the contamination, damage, disruption or damage is not liable on the basis of an illegal act, the costs referred to in paragraph one can, nevertheless, be recovered if the party responsible:

- a. at the time he or she caused the pollution, deterioration, disturbance or damage, knew or ought to have known of the serious hazards of the activity, and
- b. has not, because of these serious hazards, neglected activities that have caused the serious pollution, deterioration, disturbance or damage.

(4) If the activity has been carried out in the exercise of a profession or business, the serious culpability must be taken into account in particular:

- a. the normal conduct of the business relating to that activity at the time of the contamination/pollution, deterioration, disturbance or damage, and
- b. alternatives existing at the time of contamination/pollution, deterioration, disruption or damage and reasonably applicable to the party responsible.

### Article 13.3b

#### **(recovery of the costs relating to water control works and water treatment plants)**

(1) The costs related to damage caused to a water control work or a water treatment plant that is operated by the State or by a province, municipality or water board, which an owner or operator of a vessel is liable, estimated by the administrator.

(2) If the estimated amount is not paid or no financial guarantee is provided to the administrator for payment thereof within a reasonable period, he or she is entitled, if necessary with the help of the police, to continue the journey, to undertake the return journey or to begin a new journey to prevent, even if the vessel has since moved out of his or her jurisdiction.



(3) If it appears that the actual costs are less than the amount paid, the surplus, plus the statutory interest, will be paid to the person who has paid. The statutory interest is calculated from the date of payment.

#### Article 13.3c

##### **(compensation agreement)**

(1) The legal entity to which the administrative body belongs that awards compensation for damage pursuant to Section 4:126, paragraph one, of the General Administrative Law Act in conjunction with Section 15.1, paragraph one, may agree with the person who performs the activity that the compensation to be awarded by the administrative body and the associated costs shall be borne wholly or partly by the person who performs the activity.

(2) The person carrying out the activity and with whom an agreement referred to was concluded in paragraph one, is concerned by the decision to grant compensation.

#### Article 13.3d

##### **(recovery of damages by decision)**

If an administrative body has paid compensation as a result of a decision as referred to in Article 15.1 that has been taken on demand or a rule as referred to in Article 15.1, paragraph one, items d to h, whereby an activity is permitted, the administrative body competent to decide on the application for compensation in cases to be designated by order in council, may by decision charge all or part of the compensation to the applicant for that decision or the person who carries out the permitted activity, unless the administrative body has decided otherwise:

- a. the compensation should reasonably remain at the expense of the administrative body, or
- b. the compensation is sufficiently insured in another way.

#### Article 13.3e

##### **(usage fee by the initiator)**

(1) The rightholder shall receive a reasonable user fee from the initiator insofar as this compensation is not included in the compensation for the damage referred to in Article 15.14, paragraph one:

- a. an obligation to consent under Article 10.14, unless the initiative-taker is an operator as defined in Article 1, paragraph one, item k, of the Electricity Act 1998 or Article 1, paragraph one, item e, of the Gas Act or Article 1, paragraph one, of the Heating Act, or
- b. an obligation to consent under Article 10.21, unless the initiative-taker is an administrative body.

(2) Rules are set by ministerial decree concerning the application of paragraph one, including the maximum user fee.

(3) The civil court within whose jurisdiction the real-estate property is wholly or mainly located shall have jurisdiction in respect of a claim for user compensation.

(4) Article 10.1 shall apply mutatis mutandis.

## Section 13.2a

## Charges

#### Article 13.4

##### **(groundwater protection charge)**

(1) By provincial ordinance, a levy may be imposed as a tax to cover the costs incurred for the compensation of damage as referred to in Section 4:126, paragraph one, of the General Administrative Law Act in conjunction with Section 15.1, paragraph one, due to rules in an environmental regulation on the protection of groundwater quality in groundwater protection areas for the preparation of water intended for human consumption, insofar as the damage was caused by:

- a. a rule in an environmental regulation as referred to in Article 4.1, paragraph one,

- b. an environmental permit as referred to in Article 5.1, paragraph one, introduction and item a,
  - c. an environmental permit as referred to in article 5.1, paragraph two, introduction and item b, if Article 5.43 has been applied,
  - d. amending requirements of an environmental permit in execution of a request as referred to in Article 5.41,
  - e. the amendment of requirements of an environmental permit pursuant to Article 5.39, introduction and point a, in conjunction with Article 5.42, paragraph two.
- (2) The tax is levied by the holder of an environmental permit for water extraction activity, when it comes to the extraction of groundwater by a dedicated device, as defined in Article 5.1, paragraph two, item d.
- (3) The basis of the charge is the amount of groundwater extracted.
- (4) A levy shall be imposed within one year after a decision granting the compensation referred to in the first paragraph has taken effect.
- (5) The charge shall be levied annually for a maximum period of ten years. The provincial regulation may provide that, at the request of the person liable to pay the levy, the levy may be paid in a single instalment in accordance with rules to be laid down in the ordinance for years in which the levy has not yet commenced at the time of submission of the application.

#### **Article 13.4a**

##### **(excavation levy)**

- (1) A provincial regulation may impose a tax as a levy to combat the costs incurred for:
- a. the damages provided for in Article 4:126, paragraph one, of the General Administrative Law Act in conjunction with Article 15.1, paragraph one, which is caused by an environmental permit for an excavation activity as referred to in Article 5.1, paragraph one, introduction and item c,
  - b. investigation into the link between an excavation activity for which an environmental permit has been granted and damage to real-estate property,
  - c. determining the scope of the damage as referred to in item b.
- (2) The charge shall be levied on the holder of an environmental permit for an environmental planning activity as referred to in Article 5.1, paragraph one, introduction and item c.
- (3)
- (4) The basis of the charge is the quantity of solids to be extracted, measured in the profile of the excavation, permitted under the environmental permit. A charge may be levied only one time.
- If the environmental permit is nullified, the permit is revoked or the rules relating thereto are amended so as to reduce the permitted quantity of solids to be extracted, a refund of the fee shall be made at the request of the person liable to pay the fee.
- (5) An order in council may be issued to provide rules concerning:
- a. the quantity of solids to be extracted for which no duty is payable,
  - b. the amount not reimbursed,
  - c. the method of taxation.

#### **Article 13.4b**

##### **(groundwater extraction charge)**

- (1) By provincial regulation, a levy can be imposed as a tax on the extraction of groundwater in order to combat costs incurred by the province for:
- a. measures which are directly related to the prevention and mitigation of the adverse consequences of the extraction of groundwater and the placing of water in the soil, in addition to the groundwater,
  - b. investigations necessary for the groundwater policies and to determine damages as referred to in Article 15.13, paragraph one, in conjunction with Article 10.3, paragraph three,

- c. maintaining a register containing information on the extraction of groundwater and the transmission of water into the soil, in addition to the groundwater,
  - d. the damages provided for in Article 4:126, paragraph one, of the General Administrative Law Act, resulting from the extraction of groundwater or the application of land application of water to supplement groundwater Article 15.1, paragraph one, item f, for which the Provincial Executive is the competent authority.
- (2) The charge is levied on those who have been designated by the regulation. These include:
- a. the holder of an environmental permit for a water extraction activity as referred to in Article 5.1, paragraph two, introduction, item d, if it concerns the extraction of groundwater by a facility designated for that purpose, or of an environmental permit for an activity as referred to in Article 5.3 or 5.4, if it concerns the extraction of groundwater by a facility designated for that purpose,
  - b. the person who has made the notification required under this Act for the extraction of groundwater,
  - c. in cases other than those referred to under a or b: the person for whom the extraction of groundwater takes place.
- (3) The basis of the charge is the amount of water extracted. If, under the permit requirements, water is introduced into the soil, the amount of water introduced into the soil shall be deducted from the quantity extracted in accordance with the rules to be laid down in the Regulation to establish the basis.
- (4) A general order in council may provide that the extraction of groundwater to be indicated by the order is to be exempted from the levy. The order may lay down rules on the cost of necessary investigations.

## Section 13.3

### Article 13.5

## Financial provisions due to environmental permits

### (financial guarantee)

- (1) An order in council shall designate cases in which an environmental permit relating to an activity that may have significant adverse consequences on the physical environment shall be required or may be required to be accompanied by a financial guarantee from the person carrying out the activity:
- a. to fulfil obligations that apply under the environmental permit for the person, or
  - b. to cover liability for damage to the physical environment arising from that activity.
- (2) If the person carrying out the activity is a public entity, no requirement for financial guarantee shall be attached to an environmental permit, unless otherwise provided by order in council.
- (3) An order in council may be issued to provide rules concerning the application of paragraph one. In any case, rules will be made about:
- a. the form in which financial guarantee is provided,
  - b. the amount for which the financial guarantee is provided,
  - c. how long the financial guarantee will be maintained.
- (4) If a requirement as referred to in the first paragraph is attached to an environmental permit and the obligation is not complied with or damage is caused, the competent authority may recover all or part of the costs incurred to enforce compliance or to repair the damage from the financial guarantee provided. The competent authority may recover the amount by an enforcement order.
- (5) A decision as referred to in paragraph one may be attached to a decision to wholly or partially revoke an environmental permit as referred to in paragraph one. With that decision, it may be determined that a regulation as referred to in paragraph one shall continue to apply for a period to be determined in the decision.

**Article 13.6****(financial provisions for excavation activities)**

Without prejudice to Article 13.5, an environmental permit for an excavation activity may be subject to the requirement that:

- a. instead of the obligation referred to in Article 5.36, paragraph two, to remedy or realise a condition, a certain amount shall be paid in one sum or in instalments,
- b. the costs of the management of real-estate property that has been excavated will be paid in full or in part, or
- c. the costs of the adaptation of the layout of the surroundings of the excavated real-estate property and of the management of the adapted surroundings, insofar as they are the result of the excavated property, will be paid in full or in part.

**Section 13.4****Remuneration for recommendations issued by the Netherlands Commission for Environmental Assessment****Article 13.7****(remuneration for recommendations issued by the Netherlands Commission for Environmental Assessment)**

(1) The costs of the Netherlands Commission for Environmental Assessment and the commission's office shall be covered by rates to be set and charged by the Commission for the recommendations to be issued.

(2) The rates shall be directly related to the recommendations and shall amount to no more than is necessary to cover the costs incurred for the recommendations and will require the approval of Our Minister of Infrastructure and Water Management.

(3) Articles 10:28 to 10:31; of the General Administrative Law Act shall apply mutatis mutandis to the approval.

**Section 13.5****Financial provisions for land development****Article 13.7a****(position of commercially entitled persons)**

Article 12.2 shall apply mutatis mutandis.

**Article 13.8****(costs of land development)**

The costs of land development as referred to in Article 12.3 shall borne by the province, insofar as they are not borne by other public bodies or owners on the grounds of Articles 13.9 and 13.10.

**Article 13.9****(other public bodies and owners)**

(1) The public bodies other than the province shall be responsible for the costs to which they have committed themselves by virtue of Article 12.17, paragraph two, or by agreement otherwise.

(2) The owners of the real-estate properties involved in a land consolidation block shall jointly bear the costs of re-parcelling incurred for the land consolidation block.

(3) The following costs shall be deducted from the costs to be borne by the owners:

- a. the costs of the land re-parcelling that are covered by a subsidy or other governmental contributions,
- b. the costs of land re-parcelling whose payment is assured by agreement,
- c. amounts paid by a public body or other legal entities pursuant to Article 12.32 for the allocation of parcels for public utility facilities, with the exception of amounts paid as general cash compensation as referred to in Article 12.33.

(4) The costs to be jointly borne by the owners shall be apportioned among the owners as stipulated in the decision on financial arrangements. Each owner shall be liable for the costs allocated to him or her.

(5) After the period of appeal for the decision on the financial arrangements has expired or, if an appeal has been lodged, a judgement has been issued on the appeal, then the costs that shall be apportioned to the owners will be corrected by a correction factor that is determined by the Provincial Executive. This factor shall be the ratio of the final costs and the costs that were originally included in the decision on financial arrangements.

#### Article 13.10

##### **(assessment and collection of land-development costs)**

(1) Articles 227, 227a, 228, 228b, 228c, 232, 232aa, 232b, 232c, 232d, 232e, 232f and 232h of the Provinces Act shall apply mutatis mutandis to the levying and collection of the costs apportioned to the owners.

(2) The apportioned costs shall be levied by way of an assessment.

(3) If the apportioned costs transferred to an owner are less than an amount to be determined by provincial regulation, these costs will not be charged.

(4) If two or more owners are liable to pay costs for the same real-estate property and paragraph three does not apply to any of them, the tax assessment may be made in the name of one of them. In such case:

- a. the recipient recovers the assessment on the entire real-estate property from the person in whose name the tax assessment has been issued, without taking into account the rights of the other parties liable to pay the costs,
- b. the person liable for payment who has paid the tax assessment may recover what he or she has paid out, above what corresponds to his or her obligation to pay, from the other party liable for payment, in proportion to everyone's obligation to pay, unless a different arrangement has been made by an agreement.

(5) Objections and appeals as referred to in Chapter 5, Section 1 or Section 2 of the State Taxes Act [Algemene wet inzake rijksbelastingen], cannot affect the amount of the apportioned costs.

(6) Article 17, paragraph two, second sentence, of the Tax Collection Act [Invorderingswet] of 1990 shall not apply.

## Section 13.6

### Recovery of costs relating to construction activities and activities due to changes in use

#### Section 13.6.1

##### **Obligation to recover costs and prohibition**

#### Article 13.11

##### **(recovery of costs)**

(1) From the person who carries out building activities or activities to be designated by an order in council with a view to their use on the basis of a newly assigned function, the administrative body shall recover the costs incurred by the cost categories designated by that order, provided that:

- a. the cost categories are attributable to the cost recovery area, and
- b. the costs are proportional to the benefits of the cost recovery area of the cost categories.

(2) The cases which the administrative body may decide not to recover the costs from shall be decided by an order in council.

#### Article 13.12

##### **(prohibition of activity to be performed)**

It is prohibited under Section 13.11, paragraph one, to perform a designated activity before the costs due pursuant to this section have been paid.

**Section 13.6.2****Recovery of costs through private law****Article 13.13****(recovery of costs through agreement)**

- (1) The legal entity of which the administrative body is a part may enter into an agreement on the recovery of costs with the party owing the costs.
- (2) The agreement may stipulate that payment be made, in whole or in part, after the commencement of the activity, provided that the agreement is subject to conditions on the provision of additional securities for the payment, in which case the prohibition referred to in Article 13.12 shall not apply.
- (3) Paragraph 13.6.3 shall not apply insofar as the recovery of costs referred to in Article 13.11, paragraph one, is assured due to an agreement as provided for in paragraph one.

**Section 13.6.3****Recovery of costs through public law****Article 13.14****(recovery of costs with a period in a physical environment plan, environmental permit or project decision)**

- (1) In the physical environment plan:
- a. cost recovery areas shall be designated for which the costs referred to in Article 13.11, paragraph one, are incurred,
  - b. for each cost recovery area, the cost categories from which the area partly benefits shall be allocated to that cost recovery area in proportion;
  - c. an estimate of the costs shall be included for each cost recovery area,
  - d. an estimate of the income from all land located in each cost recovery area shall be included; and
  - e. rules shall be laid down per cost recovery area:
    1. the apportionment of the costs across the activities, and
    2. the final settlement of the costs.
- (2) If the costs to be recovered, minus the contributions and subsidies received or to be received by the administrative body from third parties, are higher than the proceeds from the land within the cost recovery area, the administrative body may recover those costs only up to a maximum of the amount of those proceeds.
- (3) Paragraphs one and two shall apply mutatis mutandis to:
- a. an environmental permit for an environmental planning activity that is out of plan, insofar as there is an activity that conflicts with a function assigned to a location in the physical environment plan,
  - b. a project decision.

**Article 13.15****(recovery of costs without a timeframe in a physical environment plan)**

- (1) If a timeframe for the execution of the works, work activities, measures and activities has not been established for a cost recovery area in a physical environment plan, Article 13.14, paragraph one, shall apply mutatis mutandis, provided that:
- a. the estimate referred to in Article 13.14, paragraph one, item c, may entail that only the maximum of the globally recoverable costs is included as a whole per cost recovery area, and
  - b. Article 13.14, item d, shall not apply.
- (2) When applying paragraph one:
- a. the distribution referred to in Article 13.14, paragraph one, item e, point 1°, also means that the maximum of the costs to be recovered is included per activity, and
  - b. Article 13.14, paragraph two, is not applicable and what applies instead is that the costs will be recovered up to a maximum of the amount of the increase in value of the location where the activity is performed, and that occurs or will occur as a result of the activity.

(3) When designating cost categories by virtue of Article 13.11, paragraph one, first sentence, a distinction can be made between the cost recovery areas for which: there is a period included and for which there is no period included for the execution of the works, work activities, measures and activities.

#### **Article 13.16**

##### **(apportionment of costs)**

The amount due will be calculated by dividing the cost of the activities in proportion to the proceeds of the land.

#### **Article 13.17**

##### **(proceeds, increase in value and investment value of land)**

(1) The proceeds referred to in Section 13.14, paragraph two, the increase in value, as referred to in Article 13.15, paragraph two, and the investment value of the land, as referred to in Article 13.18, paragraph two, item a, shall be estimated on the basis of objectively determinable criteria.

(2) Further rules shall be laid down by order in council with regard to the estimates referred to in paragraph one.

#### **Article 13.18**

##### **(method of recovery of costs)**

(1) If no agreement has been entered into, the amount of money due will be determined by the Municipal Executive, Provincial Executive or Our Minister whom it concerns by decision in accordance with what has been determined in or on the basis of this Act and in the physical environment plan, the environmental permit, as referred to in Article 13.14, paragraph three, item a, or the project decision.

(2) If Article 13.14 is applied, the following shall be deducted:

- a. the investment value of the land to which the application relates, and
- b. the costs incurred by the applicant, to the extent that such costs are equal to or lower than the estimated costs in the physical environment plan, the environmental permit, as referred to in Article 13.14, paragraph three, item a, or the project decision.

(3) If Article 13.15 is applied, the decision shall contain an estimate of the costs and the increase in value on which the amount due is based.

#### **Article 13.19**

##### **(payment after commencement of activity)**

(1) The decision may stipulate that payment be made, in whole or in part, after the commencement of the activity, provided that the decision is subject to conditions on the provision of additional securities for the payment of the sum of money owed, in which case the prohibition referred to in Article 13.12 shall not apply.

(2) In the absence of payment, the administrative body may collect the sum of money due by a writ of execution.

#### **Article 13.20**

##### **(conditions of final settlement)**

(1) The rules for the final settlement, referred to in Article 13.14, paragraph one, item e, under 2°, shall not result in an additional sum of money being owed.

(2) If a recalculated sum of money is more than five per cent lower than the sum paid on the basis of the decision, the administrative body shall repay the difference, insofar as it is greater than five per cent, proportionally with interest within four weeks of the final settlement.

(3) If Article 13.15 is applied and the recalculated sum of money is based on costs other than those on which the sum of money due by decision pursuant to Article 13.18, paragraph three, is based, no reimbursement will be made if:

- a. the costs are incurred due to the cost categories referred to in Section 13.11, paragraph one, and
- b. the maximum provided for in Article 13.15, paragraph one, item a, has not been exceeded.

(4) At the request of a stakeholder, a final settlement of a location shall take place if that request is made at least five years after payment of the sum of money owed.

(4) The final settlements, as referred to in paragraph three, may take place each year at the same time.

(5) Further rules shall be laid down by order in council on a final settlement, as referred to in paragraph three.

#### Article 13.21

##### **(the amount and limitations of cost categories)**

Rules shall be laid down about the amount and the limits of one or more of the cost categories by a regulation of Our Minister of the Interior and Kingdom Relations. A distinction may be made between the type of location and the nature and scope of the activity.

## Section 13.7

## Financial contributions for area developments

#### article 13.22

##### **(financial contributions for area developments)**

(1) The Municipal Executive, the Provincial Executive or the Minister of the Interior and Kingdom Relations, in an agreement with activities designated by an order in council include provisions on financial contributions to developments of an area based on an environmental strategy or programme.

(2) Article 16.138 shall apply mutatis mutandis to the agreement.

#### Article 13.23

##### **(recovery of financial contributions in a physical environment plan)**

article (1) By order in council, categories of developments to improve the quality of the physical environment can be designated for which it can be determined in a physical environment plan that a financial contribution is to be recovered from the person who carries out an activity as referred to in Article 13.11, provided that:

- a. there is a functional relationship between the activity and the planned developments, and
- b. the financing of the developments is not otherwise insured.

(2) The physical environment plan stipulates that financial contributions be spent only on developments for which those contributions have been recovered and provides for periodic reporting to the public on the use of the recovered financial contributions.

(3) The maximum amount that can be recovered from financial contributions is in any case not higher than:

- a. the proceeds, referred to in Article 13.14, paragraph two, from the grounds on which the activities are performed, less the contribution value referred to in Article 13.18, paragraph two, item a, in the case of activities for which a cost recovery area with a timeframe has been designated, or
- b. the increase in value, as referred to in Article 13.15, paragraph two, item b, if it concerns activities for which a cost recovery area without a timeframe has been designated.

(4) An order in council may be issued to lay down rules concerning:

- a. the maximum financial contribution, and
- b. the final settlement of the financial contributions.

(5) In an environmental strategy or programme, a substantiation of the functional coherence, as referred to in paragraph one, item a, can be laid down for the location where the activity is to be carried out.



**Article 13.24**

**(recovery of financial contributions in a physical environment plan)**

A financial contribution as referred to in Article 13.23 is determined by the decision referred to in Article 13.18, paragraph one, according to what has been determined in the physical environment plan, insofar as:

- a. no agreement on the recovery of costs as referred to in Article 13.13, paragraph one, has been concluded with the person carrying out the activity,
- b. the activity referred to under item a is permitted other than on the basis of a project decision or an environmental permit for an out-of-plan environmental planning activity of provincial or national interest,
- c. the financial contribution is not otherwise insured, and
- d. it does not entail costs that are subject to Section 13.6.

# Chapter 14

[Reserved]

# Chapter 15 Damage

## Section 15.1 Compensation for loss

### Article 15.1

#### (scope of application)

(1) If an administrative body in the lawful exercise of its public law authority or duty under this Act causes damage, Title 4.5 of the General Administrative Law Act shall only apply to the award of compensation for damage as referred to in Section 4:126, paragraph one, of that Act that is caused by the determination, granting, setting, affecting or, insofar as applicable, amending or revoking of:

- a. a water level decision as referred to in Article 2.41,
- b. a decision under Article 2:45, paragraph one or three,
- c. a description of the activity incorporated in a programme that leads to the authorisation of the activity,
- d. a rule in the physical environment plan, if it is a rule under Article 4.1, paragraph one,
- e. a rule in a water board regulation, if it is a rule pursuant to Article 4.1, paragraph one,
- f. a rule in an environmental regulation, if it is a rule pursuant to Article 4.1, paragraph one,
- g. a rule in an order in council, if it is a rule pursuant to Article 4.3, paragraphs one or three,
- h. a rule in a ministerial decree, if it is a rule pursuant to Article 4.1, paragraph two, or 4.3, paragraph four,
- i. a custom requirement,
- j. permission to take an equivalent measure,
- k. an environmental permit or the refusal thereof,
- l. a project decision,
- m. a decision to take measures as referred to in Article 19.4,
- n. a decision to take measures as referred to in Article 19.5,
- o. a measure as referred to in Article 19.15.

(2) If an activity requires an environmental permit under a rule referred to in the paragraph one, items d to f, or pursuant to Article 5.1, then only the decision to grant, modify, revoke or refuse the environmental permit for that activity as an injurious act shall apply.

(3) If a physical environment plan is amended on the basis of Article 5.52, paragraph one, only the project decision is considered to be an injurious decision.

### Article 15.2

#### (damage not eligible for compensation)

For the purposes of this Section, the compensation for damage as referred to in Article 4:126, paragraph one, of the General Administrative Law Act does not relate to immaterial damage.

### Article 15.3

(damage valuation if an environmental permit is required)

- (1) If an environmental permit is required for an activity, the damage consisting of a decrease in value of a real-estate property shall be determined on the basis of a comparison of the value of the real-estate property immediately before and after the competent authority has notified the decision to grant or amend the environmental permit.
- (2) This Article applies only to damage caused by a rule permitting an activity outside the location of the real-estate property or by a measure taken outside that location.

### Article 15.4

#### (claim for damages when an environmental permit is not required)

(1) If no environmental permit is required for an activity that is permitted on the basis of a rule as referred to in Article 15.1, paragraph one, items d to h, an application for compensation may be submitted as follows:

- a. the person who is going to carry out the activity has provided information about that activity to the competent authority and has reported that information to the competent authority in accordance with the rules that apply to it, or
  - b. the activity has already begun.
- (2) The damage consisting of a decrease in value of a real-estate property is determined on the basis of a comparison of the value of the real-estate property:
- a. immediately before and after the time at which the notification referred to in paragraph one, item a, was made, or
  - b. if the information referred to in paragraph one, item a, has not been provided: immediately before and after the start of the activity.
- (3) If a notification as referred to in paragraph one, item a, is done for the purposes of Article 4.131, paragraph one, of the General Administrative Law Act, the day on which the notice is given, equivalent to the day after which the injured party had knowledge of the damage and the loss event for the responsible administrative body.
- (4) This article applies only to damage caused by a rule under which an activity is allowed outside the site where the real-estate property is situated, or by a measure taken outside that location.

#### Article 15.5

##### **(active risk acceptance)**

In any case, the applicant has not accepted the risk of the occurrence of damage as defined in Article 4.126, paragraph two, item a, of the General Administrative Law Act, if:

- a. the applicant, in accordance with Article 2, paragraph one, of Book 7 of the Dutch Civil Code, has proceeded to purchase a real-estate property intended for use as a dwelling after the adoption or amendment of the physical environment plan,
- b. the application for compensation, Article 15.1, paragraph two, or Article 15.4, paragraph one applies, and
- c. the damage consists of a decrease in value of the real-estate property.

#### Article 15.6

##### **(passive risk acceptance)**

In the event of damage caused by amending one or more rules in a physical environment plan or in an environmental regulation with a view to the balanced assignment of functions to sites, which means that the performance of certain activities is no longer permitted, the applicant bears the risk of the occurrence of damage as referred to in Article 4.126, paragraph two, item a, of the General administrative law Act:

- a. the competent authority has notified its intention to do so at least one year prior to the amendment of that rule, in accordance with Section 3.12 of the General Administrative Law Act;
- b. no activity in accordance with the applicable rules in the environmental plan or regulation was carried out for three years immediately prior to such notification; and
- c. from the time of that notification until the time of the amendment of that rule, no activity has been carried out that is in conformity with the rules in the physical environment plan or the environmental regulation that were applicable or the preparations necessary for an activity on that site have not been made.

#### Article 15.7

##### **(normal social risk)**

- (1) In the event of an application for compensation for damage consisting of a decrease in the value of a real-estate property caused by a decision on the basis of which one or more activities is or are permitted outside the location where the real-estate property is located or by a measure taken outside that location, a part amounting to four per cent of the value of the real-estate property immediately before the damage occurs shall be regarded as forming part of the normal social risk as referred to in Section 4.126, paragraph one, of the General Administrative Law Act.
- (2) If the application for compensation relates to several decisions that are interrelated, the competent authority shall apply the first paragraph to the damage arising from those decisions jointly.

- (3) When dealing with an application for compensation, the competent authority may disregard the first paragraph if that paragraph was applicable when deciding on a previously submitted application for compensation for damage consisting of a decrease in the value of the real-estate property.
- (4) Cases may be indicated by order in council in which the damage is deemed not to exceed normal societal risks.

**Article 15.8****(competent authority)**

- (1) If the application for compensation relates to a decision of the Municipal Council, the daily management of a water board or Provincial Council or to an order in council or ministerial decree, the administrative body granting the compensation as referred to in Section 4.126, paragraph one, of the General Administrative Law Act shall be the Municipal Executive, the governing board of a water board, the governing board of the Provincial Council or Our Minister respectively, unless the second paragraph applies to that application.
- (2) If the claim for compensation relates to a decision implementing a project decision, the administrative body that adopted the project decision shall be the administrative body awarding the compensation.
- (3) An administrative authority may transfer the authority to decide on an application for compensation to another administrative authority, if that administrative authority agrees thereto.
- (4) An order in council may be issued to provide rules concerning the application of the third paragraph.

**Article 15.9****(basis for the delegation of rules on the application for compensation)**

- (1) By order in council, administrative bodies or authorities designated which, in cases designated therein, be given the opportunity to advise the competent authority on an application for compensation.
- (2) Rules may be laid down by order in council in relation to:
- a. the method of assessing an application for compensation,
  - b. the establishment of a decision on the application.

**Article 15.10****(basis for delegation of information requirement)**

Rules may be laid down by order in council for an obligation to provide information and to be notified in a physical environment plan, water board regulation or environmental regulation with a view to submitting an application for compensation as referred to in Article 15.4.

**Section 15.2****Damages and obligations to consent****Article 15.11****(definitions)**

Article 10.1 shall apply mutatis mutandis.

**Article 15.12****(compensation by the initiator)**

Damage arising from an obligation to consent as provided for in Sections 10.2 and 10.3 shall be compensated by the initiator of the activity or work of public interest to which the obligation to consent applies.

**Article 15.13****(amount of compensation relating to obligations to consent pursuant to Section 10.2, with the exception of Article 10.3, paragraph three)**

(1) Damage that is a direct and necessary consequence of an obligation to consent as referred to in Section 10.2 will be compensated to the rightholder who suffers the damage:

- a. if that damage exceeds the normal social risk, and
- b. to the extent that the rightholder is disproportionately affected in comparison with others.

(2) Notwithstanding paragraph one, damage arising from an obligation to consent, as provided for in Article 10.3, paragraph four, will only be compensated insofar as this is the result of the relocation of a water defence or of other measures aimed at increasing the drainage or storage capacity of water systems.

(3) Articles 4.126, paragraphs two and three and 4.129, introduction and items a and b of the General Administrative Law Act and Articles 15.2 and 15.5, introduction and item c, shall apply mutatis mutandis.

(4) This Article is not applicable to damage arising from an obligation to consent as referred to in Article 10.3, paragraph three.

**Article 15.14****(amount of compensation relating to obligations to consent pursuant to Section 10.3 with the exception of Article 10.3, paragraph three)**

(1) Damage that is a direct and inevitable consequence of an obligation to consent, as referred to in Section 10.3 or Article 10.3, paragraph three, shall be fully reimbursed to the rightholder who suffered the damage.

(2) Paragraph one shall not apply to damage arising from an obligation to consent as referred to in Article 10.17, paragraphs one and two, item a and Article 10.20.

**Article 15.15****(competent court)**

The civil court has jurisdiction over a claim for compensation as referred to in this Section within whose jurisdiction the real-estate property is wholly or mainly situated.

**Article 15.16****(investigation and compensation of damages due to groundwater extraction and water infiltration)**

(1) The person who can make a claim for compensation for damage may first request the Provincial Executive of the province in which all or most of the real-estate property is situated to open an investigation if the damage is the result of:

- a. the extraction of groundwater, as referred to in Article 10.3, paragraph three, item a, or
- b. the transmission of water into the soil as referred to in Article 10.3, paragraph three, item b.

(2) If a real-estate property is situated in an area in which the groundwater level is affected by more than one acts of extraction and the investigation does not show, or does not show within a reasonable time, which act of extraction caused the damage to that real-estate property, the Provincial Executive shall award damages to the person entitled upon his or her request. In that case, the rightholder will transfer the rights that he or she has against third parties due to the damage he or she has suffered, to the province.

## Section 15.3 Compensation with regard to expropriation

### Section 15.3.1 *Right to and determination of compensation relating to expropriation*

#### Article 15.17

##### **(right to compensation)**

The owner of a property that has been designated for expropriation in an expropriation decision is entitled to compensation.

#### Article 15.18

##### **(amount of compensation)**

Damage that an owner suffers directly and necessarily due to an expropriation pursuant to this Act will be fully reimbursed.

#### Article 15.19

##### **(compensation for hire-sellers)**

In the event of the expropriation of a property sold pursuant to a hire-purchase, compensation will be paid to the hire-seller from the amount of the actual value of the property due to the claims from the lease-purchase agreement that he or she has lost.

#### Article 15.20

##### **(reference date)**

The determination of the compensation shall be based on the date on which the expropriation deed is recorded in the public registers.

#### Article 15.21

##### **(changes that increase the damage)**

(1) When determining the compensation, changes that were apparently brought about to increase the compensation shall not be taken into account.

(2) Changes made after the draft expropriation decision has been made available for inspection shall not be taken into account for the purposes of determining the compensation, unless they are normal or necessary changes appropriate to the nature and use of the real-estate property at the time of making the decision available for inspection.

#### Article 15.22

##### **(actual value)**

(1) The actual value of the expropriated property will be reimbursed.

(2) The actual value shall be determined on the basis of the price that would have been established in the event of a presumed free purchase in the economic exchange between the expropriated seller, acting reasonably, and the expropriated buyer, acting reasonably.

(3) In exceptional cases, the actual value shall be determined on the basis of another standard.

#### Article 15.23

##### **(influence of work and plans for works)**

When determining the compensation, no account shall be taken of the advantages or disadvantages arising from:

- a. the realisation of the expropriation interest for which the property has been expropriated, insofar as it involves a public work,
- b. government works related to the realisation of the expropriation interest for which the property has been expropriated,
- c. the plans for the works referred to in items a and b.

#### Article 15.24

##### **(determining the value of a complex)**

When determining the value of the expropriated real-estate property, the following shall be taken into account:

- a. local regulations and customs regarding the income and expenses expected to arise from the operation of the property or from a complex of properties brought into or to be brought into operation as a whole or a portion thereof, and regarding the assessment of those incomes and expenses, insofar as a reasonably acting seller and buyer usually take this into consideration, and

- b. all of the functions that are assigned within the physical environment plan to the locations of properties forming part of the complex, whereby each function influences the valuation of all of the properties within the complex.

**Article 15.25****(influence of functions performed)**

(1) In determining the actual value of the expropriated property, the price of the expropriated property shall be reduced or increased by advantages or disadvantages as a result of functions performed for the first time or again, or continued to be performed, by the realisation of the expropriation interest for which the expropriated property is being expropriated, to the extent that these advantages or disadvantages should not reasonably, or should not entirely, remain for the benefit or at the expense of the expropriated property, even after application of Article 15.24.

(2) An increase in the price pursuant to paragraph one shall be reduced by the compensation awarded in connection therewith, pursuant to Article 15.1, paragraph one, items d, f, k and l.

**Article 15.26****(statutory interest)**

The compensation shall include statutory interest. The statutory interest shall be calculated from the date on which the district court has determined the compensation.

**Article 15.27****(mutatis mutandis clause for rights)**

(1) The following are also entitled to compensation:

- a. hereditary long-term leaseholders,
- b. persons entitled to the building lease,
- c. owners of a dominant estate,
- d. rightholders of rights of use and occupation,
- e. rightholders to rights under Article 150, paragraph five, of the Transition Act establishing the New Dutch Civil Code,
- f. owner-possessors,
- g. hire-purchasers,
- h. tenants, including sub-tenants who are authorised to sublet,
- i. leaseholders, including sub-leaseholders who are authorised to sublease, and
- j. creditors who can claim the fulfilment of an obligation as referred to in Article 252 of Book 6 of the Dutch Civil Code.

(2) Articles 15.17 to 15.26, are applicable mutatis mutandis to the determination of the compensation for these rightholders, except otherwise provided for in Articles 15.28 to 15.35, inclusive.

**Article 15.28****(compensation for tenants)**

(1) When determining the compensation for the tenant, account shall be taken of the chance that the rental relationship would have continued without the expropriation.

(2) If the rental agreement is entered into after public inspection of the draft expropriation decision, the tenant shall not be entitled to compensation. The tenant then shall have a claim for damages against the landlord, unless otherwise agreed.

**Article 15.29****(compensation for leaseholders)**

(1) Article 377, paragraphs 4 to 7, of Book 7 of the Dutch Civil Code shall apply mutatis mutandis to determining the compensation for the leaseholder. For the purposes of paragraph seven of this Article, the public inspection of the draft expropriation decision shall serve as the reference date.

(2) If the lease agreement is concluded after public inspection of the draft expropriation decision, the leaseholder shall not be entitled to compensation. The leaseholder then shall have a claim for damages against the lessor, unless otherwise agreed.



**Article 15.30****(position of mortgage holder and registered attachment layer - compensation)**

- (1) The mortgage holder and the registered creditor are not entitled to separate compensation. Only after filing a statement of defence in the procedure for determining the compensation can they, with respect to the expropriator, invoke their rights under Article 229 of Book 3 of the Civil Code and Article 507a of the Dutch Code of Civil Procedure. They exercise those rights on the amount of the actual value and the decrease in value of the remainder, as that amount is due to the mortgage lender, the attachment and the limited rightholder, whose rights cannot be invoked against them.
- (2) If all parties have reached an agreement on the allocation as mentioned in paragraph one, the judge will determine what needs to be paid to each. When no agreement is reached, the amounts in their entirety be allocated to the mortgage holder, highest-ranking, who has submitted a defence or, if no mortgage holder has submitted a defence, to the purpose by the first registered attaching party designated notary or process server, and distribution takes place with application of the rules for the distribution of the proceeds referred to in the Book 2, Title 2, Section 3, respectively, in Book 2, Title 3, Section five of the Dutch Civil Code.
- (3) For the application of paragraph two, the entity levying the attachment does not have to submit a statement of defence if he or she notifies the expropriator by writ of his or her rights under Article 507a of the Code of Civil Procedure to determine the part of the amounts referred to in the first paragraph that is intended for the attachment.

**Article 15.31****(position of mortgage holder and registered seizer - provisional compensation)**

- (1) Article 15.30 shall apply mutatis mutandis to the provisional compensation referred to in Article 15.43 and to the increases thereof.
- (2) Upon mutual settlement among the parties themselves, the mortgage holder and the attaching parties exercise their rights to the provisional compensation and increases thereof insofar as this can be considered as an advance on the amount referred to in Article 15:30, paragraph one, sentence three.
- (3) At the request of each of the interested parties, the examining magistrate may determine in a ranking scheme that it will not be concluded until the decision establishing the compensation becomes final.
- (4) If the set-off referred to in Article 15.45 has the effect of condemning an interested party to repay to the expropriator the excess amount received, each of the interested parties in the ranking system may, within one year after the order in which the court has determined the compensation has acquired the force of res judicata, request the reopening of a closed ranking system and the supervisory judge may order those who have received too much to repay it by order.

**Article 15.32****(expiry of easement and qualitative requirement)**

- (1) In determining the compensation for the expiry of an easement or a right as provided for in Article 252 of Book 6 of the Dutch Civil Code, whatever can be expected on the amendment or expiry pursuant to Articles 78 and 79 of Volume 5, or Articles 258 and 259 of Volume 6 of that Code, and the associated terms and conditions, shall be taken into account.
- (2) The possibility of the easement or right referred to in Article 252 of Book 6 of the Dutch Civil Code, to be replaced by another easement or other right, shall also be taken into account.
- (3) Article 15.23 does not apply.

- Article 15.33** (position of usufructuary)  
The usufructuary can only invoke the acquisition of a usufruct against the expropriator on the basis of Article 213 of Book 3 of the Dutch Civil Code on the claim for compensation for the principal creditor if he or she has lodged a statement of defence in the proceedings to determine the compensation.
- Article 15.34** (position of encumbered heir)  
In expropriation cases that are concluded conditionally, the party to whom the benefit of the condition redounds shall have the indemnification recorded in one of the loan registries at the expense of the State.
- Article 15.35** (compensation of the hire-purchaser)  
In the event of the expropriation of a real-estate property sold under a hire-purchase, the hire-purchaser will be entitled to what remains after the amount of the actual value of the real-estate property has been awarded to the hire-seller due to the claims under the hire-purchase agreement that he or she loses.
- Section 15.3.2** *The legal proceedings for determining compensation*
- Article 15.36** (applicability of the Dutch Code of Civil Procedure)  
The Dutch Code of Civil Procedure shall apply to the request to determine the compensation and treatment of the request, unless the nature of the determination of compensation in expropriation cases precludes this.
- Article 15.37** (range in application)  
Without prejudice to the requirements of Article 30a, paragraph three, of the Dutch Civil Code, an application for a claims procedure shall state the compensation offered by the expropriator to each of the stakeholders.
- Article 15.38** (authorised agent, administrator or naming third party)  
(1) If an owner, ‘clamped’ farmer [beklemde meier], hire-seller or hereditary long-term leaseholder with a perpetual leasehold named in the petition resides outside the Kingdom, has no known domicile or has died, the trustee or administrator, if known within the Kingdom, is permitted to mount a defence. Should this person be unknown, a third party to be appointed for that purpose at the request and expense of the expropriator, who lives within the jurisdiction of the district court, will be allowed to mount a defence. The appointed person may charge the expropriator for the wages and the expenses incurred.  
(2) If an owner, ‘clamped’ farmer-leaseholder [beklemde meier], hire-seller or hereditary long-term leaseholder with a perpetual leasehold named in the petition resides outside of the Kingdom or has no known domicile, appears him or herself, he or she shall also take part in the proceedings.  
(3) Paragraph two shall apply, mutatis mutandis, to the heir of the deceased defendant, provided that the heir submits a certificate of inheritance. If there are multiple heirs, they must appear jointly or one of them must appear on behalf of them all.
- Article 15.39** (appointed experts)  
The district court shall appoint an odd number of experts to provide a written report on the compensation.
- Article 15.40** (requirements for on-site investigation by experts)  
(1) The on-site investigation will be conducted in the presence of a judge who is accompanied by the registrar.  
(2) The registrar shall immediately inform the stakeholders of the time and place of the on-site investigation and invite them to be present.

(3) The registrar will ensure that the time and place of the on-site investigation is indicated in one or more daily papers, newspapers or free local papers.

(4) The registrar shall compile an official report of the on-site investigation that is signed by the judge and by him or her.

#### **Article 15.41**

##### **(parties not summoned)**

(1) Interested parties who cannot be called be on site at the research also to estimate their losses.

(2) The court will order the expropriator to make an offer for compensation to the stakeholders who become known during the on-site investigation and who are not included in the petition within four weeks, provided that the rights of those stakeholders are not disputed.

#### **Article 15.42**

##### **(expert opinion)**

The experts shall prepare an expert report based on the on-site investigation and other available information. The expert report will contain a budget for compensation.

#### **Article 15.43**

##### **(available between provisional compensation)**

(1) The district court shall establish, as soon as possible, the provisional compensation for every stakeholder. This compensation shall be equal to the offer made with the application, unless the district court sees reason to set the provisional compensation at a different amount or to allocate it to another stakeholder.

(2) The district court may order the provisional compensation to be consigned in accordance with the Consignation of Monies Act.

#### **Article 15.44**

##### **(oral procedure after expert's opinion)**

(1) Immediately after the report by the experts has been submitted, the district court shall determine when the oral procedure is to take place.

(2) The district court shall order the summons of the expropriator and the stakeholders.

#### **Article 15.45**

##### **(final decision on compensation)**

(1) The final decision by which the district court determines the compensation shall also include an order setting off the compensation determined by the court against the provisional compensation received by the stakeholder.

(2) The district court may determine that the amount to be settled is consigned in accordance with the Consignation of Monies Act.

#### **Article 15.46**

##### **(costs of compensation procedure)**

(1) The costs of the compensation procedure shall be borne by the expropriator.

(2) If a stakeholder who has not accepted the offer made to him or her in the petition or the offer made to him or her as referred to in Article 15.41, paragraph two, is not awarded more than was offered to him, or if the Court sees reason to do so in the circumstances of the proceedings, the Court may order the stakeholder to pay the costs of the proceedings or a portion of those costs to be determined by it in all fairness.

(3) If the sum of the costs that stakeholder has been ordered to pay is higher than that of the compensation awarded to him or her, the district court may order the person concerned to pay the difference of those sums.

(4) The costs of the compensation proceedings shall also include the costs of legal and other expert assistance that, in the opinion of the district court, have been reasonably incurred by the stakeholders.

(5) The cost of the notification referred to in Article 15.40, paragraph three, shall be borne by the expropriator.

**Article 15.47****(costs of an amicable consultation, expropriation procedure and preparation procedure)**

Should the stakeholder not raise any objections, as referred to in Article 16.97, with the district court against the expropriation decision, the district court shall order the expropriator to pay the costs that the stakeholder has reasonably incurred for:

- a. legal assistance or other expert assistance provided by a third party for the consultation on the amicable acquisition, as referred to in Article 11.7, paragraph one, and
- b. legal assistance or other expert assistance provided by a third party in connection with expressing a view and its treatment in the preparation of the expropriation decision.

**Article 15.48****(appeal in cassation)**

Only an appeal in cassation may be lodged against the judgement of the district court.

**Section 15.3.3****Other provisions****Article 15.49****(consignment after refusal to receive compensation)**

If the person to whom the compensation has been awarded refuses to receive it and has therefore been given notice of default by bailiff's writ, the expropriator may proceed to consignment ten days after the notice of default in accordance with the Consignation of Monies Act [Wet op de consignatie van gelden].

**Article 15.50****(seizure of compensation or provisional compensation)**

If attachment or provisional compensation has been seized under the expropriator, he or she will have the amount that he or she would have had to pay to the distraining party consigned in accordance with the Consignation of Monies Act.

**Article 15.51****(compensation in the event of late registration expropriation deed)**

- (1) If the request for the preparation of the expropriation act is not made within the period specified in Article 11.15, the expropriating party owes damages and stakeholders have the choice to claim a fixed compensation or full compensation.
- (2) The damages established shall amount to ten per cent of the amounts established or indicated by order of the district court for each of the damages.
- (3) If full compensation is sought, the damage shall also include the reasonably incurred costs of legal and other expert assistance, and the statutory interest on the amount of the compensation from the date on which the district court determined the compensation.
- (4) The district court to which the request for compensation provided for in Article 11.14 has been submitted has the jurisdiction to hear the claim.

**Section 15.4****Compensation relating to pre-emption rights****Article 15.52****(compensation relating to a pre-emption right)**

- (1) The transferor may claim that the municipality, the province or the State compensate him or her for any damage he or she may have suffered as a result of the transfer of a real-estate property or of a limited right to the municipality, the province or the State pursuant to Section 9.2, insofar as, after the transfer, the function for which the pre-emption right has been established:
  - a. pursuant to Article 9.1, paragraph one, item a or b, has not been realised and a function has been allocated to an irrevocable physical environment plan that would exclude the establishment of the pre-emption right in that case,
  - b. pursuant to Article 9.1, paragraph one, item c, has not been allocated in a physical environment plan or in a municipal, provincial or national environmental strategy or programme no later than the last day of the validity period of that pre-emption right, or

- c. pursuant to Article 9.1, paragraph two, has not been included in a pre-emption right decision on the last day of the validity period of that pre-emption right pursuant to Article 9.1, paragraph one, item a, b or c.
- (2) With regard to a claim for compensation as referred to in paragraph one, competence redounds to the civil court within whose jurisdiction the real-estate property to which the pre-emption right relates wholly or largely lies.

## Section 15.5

## Damage caused by wild animals

### Article 15.53

#### **(compensation for damage caused by wild animals)**

- (1) The Provincial Executive shall, at the request of a stakeholder, grant compensation for damage suffered in their province caused by naturally occurring animals of species that are designated by order in council.
- (2) Compensation shall be granted only if an interested party suffers damage or suffering that he or she cannot be reasonably or completely expected to incur. Compensation will be determined on an equitable basis.
- (3) Under paragraph one, the species that will be protected against flora and fauna activities are designated under Article 5.1, paragraph two.

## Chapter 16 Procedures

### Section 16.1 Electronic traffic and use of data and methods

#### Section 16.1.1 *Electronic traffic*

##### Article 16.1 (electronic traffic)

(1) An application for a decision or notification under this Act may, notwithstanding Article 2:15 of the General Administrative Law Act, be filed or submitted electronically in cases designated by an order in council. In such cases, the application or notification shall be submitted or performed by the national facility as referred to in Article 20.21, unless the order provides otherwise.

(2) Compliance with an information requirement other than a notification or the sending of another message pursuant to this Act may, in cases designated by order in council, be effected electronically in the manner indicated by that order in council.

(3) Cases may be indicated by order in council for which the traffic referred to in paragraphs one and two may only transpire electronically.

##### Article 16.2 (realisation of the consolidation of a physical environment plan)

Pursuant to Article 19 of the Publication Act [Bekendmakingswet], an administrative body that, pursuant to Articles 4.16, 5.52 or 16.21, amends a physical environment plan is also obliged to incorporate said amendment into a newly consolidated version of the physical environment plan.

#### Section 16.1.2 *Application of data and methods*

##### Article 16.5 (shelf life of investigation data)

(1) In making a decision under the terms of this Act, reports with data, studies or surveys that are used in the draft of that decision may be used in any case or, in the absence thereof, data used at the application and with the adoption of the decision within the last two years.

(2) When making a decision under the terms of this Act, data from reports on the adoption of the decision more than two years old may also be used, with the substantiation that the data is up to date.

(3) Paragraph one does not apply to decisions relating to a Natura 2000 activity or a flora and fauna activity.

##### Article 16.6 (assessing impacts)

By ministerial decree, rules can be set on the measurement and calculation methods and assumptions by which the consequences of that decision can be assessed at that moment.

### Section 16.2 Coordination and involvement of other administrative bodies

#### Section 16.2.1 *Application of Section 3.5 of the General Administrative Law Act*

##### Article 16.7 (application of the General Administrative Law Act coordination scheme)

(1) Section 3.5 of the General Administrative Law Act applies to the preparation of:

- a. decisions on applications for an environmental permit or changes to the requirements of an environmental permit for:

1. one or more water activities designated pursuant to Article 5.7, paragraph two, and
  2. one or more other activities as referred to in Articles 5.1 and 5.4, submitted simultaneously,
- b. decisions on applications for an environmental permit or amendment of the requirements of an environmental permit for an environmentally harmful activity and for a water activity subject to the obligation to submit them simultaneously pursuant to Article 5.7 paragraph three, or decisions to amend those requirements ex officio,
- c. the decisions to implement a project decision for which this has been determined pursuant to Article 5.45, paragraph one or two.
- (2) The coordinating administrative body, as referred to in Article 3:21, paragraph one, of the General Administrative Law Act is designated by order in council for the cases referred to in paragraph one, items a and b.
- (3) Article 3:21, paragraph three, and Article 3:23, paragraphs one and three of the General Administrative Law Act shall not apply to the cases referred to in paragraph one, items a and b.

**Article 16.8****(dome concept)**

- (1) In a coordination decision referred to in Article 3:20, item b, of the General Administrative Law Act, with a view to the objectives of the Act and to optimise the usage of an area, it may be determined that Section 3.5 of the Act applies to the preparation of:
- a. a physical environment plan, water board regulation or an environmental regulation,
  - b. a programme, and
  - c. a project decision or an environmental decision.
- (2) Article 3:28 of the General Administrative Law Act does not apply to decisions against which no appeal can be made.

**Section 16.2.2*****Additional provisions for coordinating the authorisation of an environmentally harmful activity and a water activity in cases pursuant to Article 16.7, paragraph one, item b*****Article 16.9****(scope of application of Section 16.2.2)**

This section:

- a. is applicable to decisions on applications for an environmental permit referred to in Article 16.7, paragraph one, item b,
- b. shall apply mutatis mutandis to decisions on applications for changes to the requirements of an environmental permit or decisions to amend those requirements ex officio, as referred to in Article 16.7, paragraph one, item b.

**Article 16.10****(not processing application)**

- (1) If only one of the applications for an environmental permit referred to in Article 16.7, paragraph one, item b is submitted, then the competent authority will not process the application, first giving the applicant the opportunity to submit the missing application within a deadline set by the competent authority.
- (2) If one of the applications for an environmental permit referred to in Article 16.7, paragraph one, item b, one is not being processed, then the competent authority for the other application will also not process that application.

**Article 16.11****(recommendation)**

The administrative bodies with competent authority with respect to each of the applications referred to in Article 16.7, paragraph one, item b, provide a recommendation to each other with a view to the coherence between the decisions on both applications.

**Article 16.12****(time limit for validity of environmental permits)**

- (1) If a time limit is set for the validity of the environmental permit for the water activity under Article 5.36, paragraph one, this can be an equal term for the environmentally harmful activity in the environmental permit.
- (2) If, pursuant to Article 5.36, paragraph one, a time limit for the validity of the permit is set in the environmental permit for the environmentally harmful activity, the environmental permit for the water activity shall set the same time limit.

**Article 16.13****(instruction at the initiative of the competent authority)**

- (1) As the competent authority for the application for the environmental permit for the environmentally harmful activity, the Provincial Executive or Our Minister whom it concerns may, if the consistency between the decisions on the two applications for the protection of the environment so requires, provide the competent authority for the application for the environmental permit for the environmentally harmful activity, an instruction on the content of that decision. Articles 2.33 and 2.34 shall apply mutatis mutandis to the instruction, whereby it is possible to derogate from rules as provided for in Articles 2.22 and 2.23.
- (2) The instruction shall be given within eight weeks of the day on which the draft decision for the decision on the application for the environmental permit for the water activity in accordance with Article 3:11, paragraph one, of the General Administrative Law Act has been made available for inspection and notified.
- (3) The first and second paragraphs apply by mutatis mutandis if the Municipal Executive is the competent authority for the application for the environmental permit for the environmentally harmful activity, on the understanding that, at the request of the Municipal Executive, the Provincial Executive may issue an instruction to the competent authority for the application for the environmental permit for the water activity, with corresponding application of Article 2.33.

**Article 16.14****(instructions at the initiative of the competent water authority)**

- (1) If the Municipal Executive is the competent authority for the application for the environmental permit for the environmentally harmful activity, the Provincial Executive, at the request of the competent authority for the application for the environmental permit for the water activity, may issue an instruction on the content of that decision to the Municipal Executive, if this is necessary because of the correlation between the decisions on the two applications with a view to protecting the environment. Article 2.33 shall apply mutatis mutandis to the instruction, whereby it is possible to derogate from rules as provided for in Articles 2.22 and 2.23.
- (2) The instruction shall be issued within eight weeks of the day on which the draft decision on the application for the environmental permit for the environmentally harmful activity is notified and made available for inspection in accordance with Article 3:11, paragraph one, of the General Administrative Law Act.

**Section 16.2.2a*****Coordination of the physical environment plan and an environmental permit for an environmental planning activity*****Article 16.14a****(coordination of the physical environment plan and the environmental permit)**

If Section 3.5 of the General Administrative Law Act is applied to the preparation of a physical environment plan and the decision on an application for an environmental permit and the decision on that application is made simultaneously with or after the adoption of that physical environment plan, the decision shall be based on the rules in that physical environment plan.



**Section 16.2.3****Involvement of other administrative bodies****Article 16.15****(advice)**

(1) An order in council shall designate administrative bodies or other bodies that, in cases designated therein, are given the opportunity to give advice to the competent authority or another administrative body with regard to an application for a decision pursuant to this Act.

(2) A physical environment plan, water board regulation or environmental regulation may designate administrative bodies or other bodies that are given the opportunity to advise the competent authority on an application for an environmental permit for an environmental planning activity or an activity as referred to in Article 5.3 or 5.4.

(3) An administrative body or other authority shall be designated as an adviser if that is desirable for reasons of:

- a. the expertise of the administrative body or the authority, or
- b. the interests to be served by the administrative body, with a view to the tasks relating to the physical environment that were assigned to that administrative body.

**Article 16.15a****(compulsory designation of advisors)**

Pursuant to Article 16.15, paragraph one, the following shall be appointed as advisers in any case:

- a. an administrative authority that has transferred its authority under Article 5.16 to another administrative authority, insofar as the application relates to the activity or activities that have been decisive for the designation of that administrative authority as the competent authority,
- b. the Municipal Council when it comes to:
  1. an application for an environmental permit for cases designated by the Municipal Council involving an environmental planning activity that is out of plan,
  2. a request for a decision on consent for cases designated by the Municipal Council concerning an intended decision on an application as referred to under 1°, if that decision requires the consent of the Municipal Executive pursuant to Article 16.16.
- c. the Municipal Committee, under Article 17.9, when it comes to:
  1. an application for an environmental permit for an activity relating to a nationally listed monument,
  2. an application for an environmental permit for another activity, in cases designated by the Municipal Council or if the Municipal Executive sees fit,
- d. the Provincial Executive when it comes to an application for an environmental permit for an environmental planning activity that is out of plan, in cases designated by them to be an interest as referred to in Article 2.3, paragraph two, item a, which is indicated in a document made public by a provincial administrative body

**Article 16.15b****(implementation of recommendation from the Municipal Council on decisions concerning applications for an environmental permit or consent to such decisions)**

In a case as referred to in Article 16.15a, item b, the rules laid down by or pursuant to this Act on deciding on the application for the environmental permit or granting or withholding consent shall be applied with due observance of the recommendation of the Municipal Council.

**Article 16.16****(consent)**

(1) If an application for a decision pursuant to this Act concerns a case designated by order in council, the proposed decision on that application shall require the agreement of the administrative body that has been given the opportunity to give an advice pursuant to Article 16.15. The designation may stipulate that only an intended decision to grant the application is subject to consent.

- (2) The order in council shall identify cases in which the agreement of the designated administrative body is desirable because of:
- a. the special expertise of the administrative body,
  - b. substantial interests to be served by the administrative body, with a view to the tasks relating to the physical environment that were assigned to that administrative body, or
  - c. the provincial interests to be served by the provincial authorities.
- (3) The order in council may stipulate that the designated administrative body may designate cases in which such agreement is not required.
- (4) The designated administrative body may stipulate in the advice made by virtue of Article 16.15 that consent is not required.
- (5) Notwithstanding Article 10:3, paragraph two, introduction and item c of the General Administrative Law Act, the designated administrative body may provide the mandate to decide on the agreement.

**Article 16.17****(grounds for granting or withholding consent)**

- (1) By order in council, grounds are designated to grant or withhold consent.
- (2) Article 10.27 of the General Administrative Law Act is not applicable.

**Article 16.18****(term agreement, not fictitious agreement)**

- (1) Under Article 16.16, the decision on the request for consent shall be announced within four weeks after its submission by sending it to the competent authority.
- (2) Article 10:31, paragraphs two to four, of the General Administrative Law Act are not applicable.

**Article 16.19****(recommendation and assent in the case of an ex officio decision to amend or revoke a previous decision upon application)**

- (1) Articles 16.15 to 16.18, and the rules laid down pursuant to Articles 16.15 to 16.17, shall apply mutatis mutandis to an ex-officio decision to amend or revoke a decision made previously on application insofar as those articles and rules applied to the application for that earlier decision.
- (2) For the purposes of an ex-officio decision as referred to in the first paragraph, an intended ex-officio decision to amend or revoke the previous decision shall be treated in the same way as an application for that decision.

**Article 16.20****(Recommendation and consent by project decision)**

- (1) Articles 16.15 to 16.19, and the rules laid down pursuant to Articles 16.15 to 16.17, apply mutatis mutandis to making recommendations on the draft project decision and the granting of consent to a proposed project decision insofar as they stipulate that it is to be considered an environmental permit as referred to in Article 5.52, paragraph two, item a, in which no consent is required if:
- a. a project decision is adopted by Our Minister whom it concerns and that project decision is deemed to be a decision to which another administrative authority should originally have consented pursuant to Section 16.16, or
  - b. a project decision is adopted by the Provincial Executive and the project decision is deemed to be a decision to which another administrative body, with the exception of an administrative body of the national government, would initially have to agree pursuant to Article 16.16.
- (2) Cases may be designated by order in council in which Articles 16.15 and 16.19 and the rules laid down on the basis of Article 16.15 do not apply mutatis mutandis to the issuing of advice on the draft of a project decision that is adopted by Our Minister whom it concerns it and another administrative body of the State should originally be given the opportunity to give advice pursuant to Article 16.15 or 16.19.

(3) Articles 16.15 to 16.19, shall apply mutatis mutandis to the issuing of a advice the draft project decision and the granting of consent to a proposed project decision, insofar as it provides that it is to be treated as a decision as referred to in Article 5.52, paragraph two, item b. Cases may be indicated by order in council for which consent is not required.

#### Article 16.21

##### **(reactive intervention)**

- (1) The Provincial Executive may decide that part of a decision to adopt or amend an environmental plan is not part of it if:
- a. they have expressed an opinion on the component and that opinion has not been fully incorporated into the physical environment plan, or
  - b. modifications have been made to the part from the design, other than as prompted by an opinion expressed by the Provincial Executive.
- (2) The Provincial Executive may only use this power insofar as:
- a. this is necessary to ensure a balanced assignment of functions to sites, and
  - b. there is conflict with an interest as referred to in Article 2.3, paragraph two, item a, indicated in a document published by an administrative body of the province.
- (3) In the justification of the decision, the Provincial Executive shall state the underlying facts, circumstances and considerations which prevent the Provincial Executive from protecting the interest in question by exercising other powers vested in it.
- (4) The decision will be announced within four weeks after the decision to adopt or change the physical environment plan has been announced.

## Section 16.3

## Drafting procedures

### Section 16.3.1

### *Application of Section 3.4 of the General Administrative Law Act*

#### Article 16.22

##### **(application of Section 16.3.1)**

This section applies if it is provided that, under or pursuant to this Act, Section 3.4 of the General Administrative Law Act applies.

#### Article 16.23

##### **(circle of parties entitled to participate)**

- (1) Views may be put forward by anyone.
- (2) Notwithstanding paragraph one, views about the obligation to consent may be expressed by stakeholders and by the boards of the municipalities, water boards and provinces where the real-estate property is situated or adjacent municipalities, water boards and provinces.
- (3) Notwithstanding paragraph one, interested parties may express views on an expropriation decision.

#### Article 16.24

##### **(revocation or amendment)**

- (1) Unless it concerns a case or a decision designated by order in council, paragraphs 16.3.2 to 16.3.9, and Articles 16.40, paragraph one, 16.50, paragraph one, 16.70 and 16.71 apply mutatis mutandis to an amendment or revocation of the decisions or other legal forms or documents mentioned therein.
- (2) An administrative body may disregard Section 3.4 of the General Administrative Law Act if it concerns an amendment that only concerns the correction of an obvious error.

**Section 16.3.1a****Noise production ceilings****Article 16.24a****(application of Section 3.4 of the General Administrative Law Act)**

Section 3.4 of the General Administrative Law Act is applicable to the preparation of the decision on environmental values establishing noise limits as referred to in Article 2.12a, paragraph one, 2.13a, paragraph one, and 2.15, paragraph two, in cases designated by order in council.

**Section 16.3.2****Swimming locations****Article 16.25****(application of Section 3.4 of the General Administrative Law Act)**

Section 3.4 of the General Administrative Law Act is applicable to the preparation of the designation of swimming locations.

**Section 16.3.2a****Natura 2000 sites****Article 16.25a****(application of Section 3.4 of the General Administrative Law Act)**

16.25a(1) Section 3.4 of the General Administrative Law Act is applicable to preparing the designation of a Natura 2000 site or a special national conservation area.

16.25a(2) An administrative body may refrain from applying Section 3.4 of the General Administrative Law Act, insofar as it does not conflict with any obligations under international law, in the preparation of a designation as referred to in paragraph one, if it concerns a minor amendment that does not give rise to even more significant adverse consequences for the environment.

**Section 16.3.3****Environmental strategy****Article 16.26****(application of Section 3.4 of the General Administrative Law Act)**

Section 3.4 of the General Administrative Law Act is applicable to the preparation of an environmental strategy.

**Section 16.3.4****Programmes****Article 16.27****(application of Section 3.4 of the General Administrative Law Act)**

(1) Section 3.4 of the General Administrative Law Act is applicable to the preparation of a programme as referred to in Sections 3.2.2 to 3.2.4, and the documents to be drafted separately for the preparation of a programme.

(2) An administrative body may refrain from applying Section 3.4 of the General Administrative Law Act, insofar as it does not conflict with any obligations under international law, in the preparation of a programme or document as referred to in paragraph one, if it concerns a minor amendment that does not give rise to even more significant adverse consequences for the environment and that amendment does not relate to a description of an activity included in that programme as a result of which the activity is permitted.

**Article 16.28****(preparation of river basin management plans and flood risk management plans)**

(1) Our Minister of Infrastructure and Water Management shall submit f or inspection:

- a. a timetable and programme for the drafting of a river basin management plan, at least three years before the beginning of the period covered by the plan,
- b. an interim overview of significant water management issues identified in the river basin districts Rhine, Meuse, Scheldt and Ems, at least two years before the start of the period pertaining to the river basin management pan,

- c. the draft of a river basin management plan at least one year before the beginning of the period covered by the plan,
  - d. the draft of a flood risk management plan at least one year before the beginning of the period covered by the plan.
- (2) For documents referred to in paragraph one, items a and b, and the draft referred to in paragraph one, items c and d, there is a six-month period for expressing views.

### Section 16.3.5

### **Physical environment plan, water board regulation and environmental regulation**

#### Article 16.29

#### **(notification of intention)**

The intention to establish a physical environment plan shall be announced. Article 3.12 of the General Administrative Law Act shall apply mutatis mutandis.

#### Article 16.30

#### **(application of the General Administrative Law Act)**

- (1) Section 3.4 of the General Administrative Law Act is applicable to the preparation of a physical environment plan.
- (2) By way of derogation from Article 3.1, paragraph one, introduction and item b, of the General Administrative Law Act, Articles 3.43 to 3.45, inclusive and Section 3.7 of that Act apply to a physical environment plan.

#### Article 16.31

#### **(views)**

Views may not relate to the part of the draft of a physical environment plan that is based on an environmental permit for an environmental planning activity that is outside of plan.

#### Article 16.32

#### **(application of Section 3.4 of the General Administrative Law Act)**

Section 3.4 of the General Administrative Law Act is applicable to the preparation of a water board regulation and an environmental regulation.

### Section 16.3.5a

### **Decision on the water level**

#### Article 16.32a

#### **(application of Section 3.4 of the General Administrative Law Act)**

Section 3.4 of the General Administrative Law Act is applicable to the preparation of a water-level decision.

### Section 16.3.6

### **Pre-emption right decision**

#### Article 16.32b

#### **(notification of a pre-emption right decision)**

The administrative body of the pre-emption right decision, according to the manner prescribed in Article 12 of the Publication Act, provide notice of public inspection of the documents relating to the decision. The location to be designated for public inspection, as referred to in Article 13, paragraph one, of the Publication Act, shall be located within the municipality or municipalities where the real-estate property is situated.

#### Article 16.32c

#### **(objection)**

- 16.32c(1) If an objection is pending against a pre-emption right decision of the Municipal Executive and that decision expires because a pre-emption right decision of the Municipal Council has entered into force for the real-estate property, the objection is deemed to be directed against the pre-emption right decision of the Municipal Council.
- 16.32c(2) Paragraph one shall apply mutatis mutandis if the objection is directed against a pre-emption right decision of the Provincial Executive and that decision expires because a decision on the pre-emption right of the Provincial Council has entered into force for the real-estate property.

**Section 16.3.7****Decision on the obligation to consent****Article 16.33****(application of Section 3.4 of the General Administrative Law Act and notification)**

- (1) Section 3.4 of the General Administrative Law Act is applicable to the preparation of a decision on the obligation to consent.
- (2) The obligation to consent does not enter into force earlier than four days after the day on which it has been published.
- (3) Paragraph one does not apply to the preparation of a decision on the obligation to consent in accordance with Article 10.16 and Article 10.17, paragraphs one and two, item a and Article 10.20.
- (4) The first and second paragraphs do not apply to the preparation of a decision on the obligation to consent as referred to in Articles 10.19 and 10.19a or Article 10.21a due to urgent circumstances.

**Article 16.33a****(no coordination with other decisions)**

Article 3:20, introduction and item b, of the General Administrative Law Act and Section 16.87 do not apply to a decision on the obligation to consent.

**Section 16.3.8****Expropriation decision****Article 16.33b****(preparation of expropriation decision)**

Section 3.4 of the General Administrative Law Act applies to the preparation of an expropriation decision.

**Article 16.33c****(dispatch of a draft expropriation decision)**

Should an interested party be deceased, reside outside of the Kingdom or have no known residence, the draft expropriation decision will also be sent to the heir, trustee or administrator of the person concerned, unless no reasonable heir, trustee or administrator is known to the administrative body.

**Article 16.33d****(notification and publication of the expropriation decision)**

- (1) The administrative body of the expropriation decision shall make a notification about and provide notice of public inspection of the documents relating to the decision according to the manner prescribed in Article 12 of the Publication Act. The location to be designated for public inspection, as referred to in Article 13, paragraph one, of the Publication Act, shall be located within the municipality or municipalities where the real-estate property is situated. The costs for the announcement, notification and public inspection shall be borne by the expropriator.
- 16.33d(2) For the publication and notification of the expropriation decision, the administrative body shall indicate the following:
- a. which district court it shall request to ratify the expropriation decision,
  - b. that stakeholders, within six weeks of the date that the announcement was made about the decision being replaced, may submit their reservations in writing to the district court.
  - c. that the decision shall enter into force on the date following that on which the judgement by which it was ratified was published in the prescribed manner.
- (3) Should a stakeholder be deceased, resident outside of the Kingdom or have no known residence, the expropriation decision shall also be sent to the heir, trustee or administrator of the stakeholder, unless no heir, trustee or administrator may reasonably be known to the administrative body.

**Article 16.33e****(entry into force of an expropriation decision)**

An expropriation decision shall enter into force on the date following that on which the judgement whereby it has been ratified is announced.

**Section 16.3.9****Land development****Article 16.33f****(application of Section 3.4 of the General Administrative Law Act to the land use decision)**

- (1) Section 3.4 of the General Administrative Law Act is applicable to the preparation of a land use decision.
- (2) The land use decision shall indicate how the public bodies and legal entities referred to in Article 12.11, insofar as they were owned, managed or maintained prior to the land development, are involved in the preparation of the draft land use decision and the results thereof.

**Article 16.33g****(Section 3.4 General Administrative Law Act is applicable to a temporary use decision)**

- (1) Section 3.4 of the General Administrative Law Act is applicable to the preparation of a decision to temporarily commission giving a re-parcelling block associated parcels under Article 12.21, paragraph one.
- (2) Along with the notification referred to in Section 3.12, paragraph one, of the General Administrative Law Act, the Provincial Executive shall inform the perusal and the substance of the draft decision to the known interested parties known, in any case to:
  - a. those who, in respect of the parcels referred to in Article 12.21, paragraph one, appear on the list of rightholders referred to in Article 12.22, which is part of the land exchange decision being prepared or adopted for the relevant land consolidation block,
  - b. those who, in accordance with Article 16.125, paragraph one or two, have submitted a lease agreement relating to the parcels referred to in Article 12.21, paragraph one, for registration, and
  - c. the other party as referred to in article 16.125, paragraph four.

**Article 16.33h****(application of Section 3.4 of the General Administrative Law Act to a land exchange decision)**

- (1) Section 3.4 of the General Administrative Law Act is applicable to the preparation of a land exchange decision.
- (2) The land exchange decision states how the owners and users are involved in the preparation of the draft land exchange decision and what the results are.
- (3) Along with the notification referred to in Article 3.12, paragraph one of the General Administrative Law Act, the Provincial Executive shall inform the perusal and the substance of the draft decision to the parties known to them, including at least:
  - a. those who appear on the list of rightholders, under Article 12.22, that belongs to the draft decision,
  - b. those who submitted a lease for registration under Article 16.125, paragraphs one or two,
  - c. the other party, as referred to in Article 16.125, paragraph four.

**Article 16.33i****(Section 3.4 of the General Administrative Law Act is applicable to a financial arrangements decision)**

- (1) Section 3.4 of the General Administrative Law Act is applicable to the preparation of a decision on financial arrangements.
- (2) Along with the notification referred to in Section 3.12 paragraph of the General Administrative Law Act, the Provincial Executive shall inform the perusal and the substance of the draft decision to the parties known to them.

- Article 16.33j** (adoption of the financial arrangements decision after simultaneous perusal of exchange act)  
If views have been expressed at the same time as the draft of the land exchange decision and the draft of the decision on financial arrangements based on Article 12.38, paragraph three, the Provincial Executive shall adopt the decision on financial arrangements after the land exchange decision has become irrevocable.
- Article 16.33k** (amended decision on financial arrangements)  
(1) If, after application of Article 16.33j, the irrevocable land exchange decision is different from the draft made available for inspection, the Provincial Executive will prepare an amended draft of the decision on financial arrangements, in which the financial consequences of the changes are included in the land exchange decision.  
(2) Article 16.33i shall apply mutatis mutandis.
- Article 16.33l** (appeal against the land use decision to set up an establishment in the case of allocation outside the land consolidation block)  
To the extent that the appeal against the land use decision related to the allocation of real-estate property as referred to in Article 12.8, paragraph one, items a, c and d, and the allocation related to real-estate property outside of the land consolidation block, the Provincial Executive shall announce the decision on appeal by sending it for registration in the public registers, to the Land Registry Office and the public registers:
- a. if the property is allocated to another by the decision than is stated in the writ in Article 16.124, paragraph one,
  - b. if the land consolidation deed referred to in Article 16.136 is recorded in the public registers and the judgement allocates ownership to another person than is indicated in the land consolidation deed.

## Section 16.4 Environmental impact assessment

### Section 16.4.1 Environmental impact assessment for plans and programmes

- Article 16.34** (Scope, competent authority of the environmental impact assessment plan)  
(1) This section discusses the environmental impact assessment for plans and programmes referred to in Article 2, item a, of the SEA Directive, the adoption of which is regulated by law or regulation and where, for the adoption of those plans and programmes competent administration and procedure for the production thereof is recorded.  
(2) In this section, a plan or programme in any case is understood to mean an environmental strategy, a programme, a physical environment plan and a preference decision.
- Article 16.35** (excluding the plan subject to an environmental impact assessment)  
This section shall not apply to plans or programmes that:
- a. are intended only for national defence or are necessary due to an emergency situation as referred to in the Exceptional Situations Coordination Act, or
  - b. relate to the budget or finances of a municipality, a water board, a province or the State.
- Article 16.36** (plans or programmes subject to an environmental impact assessment)  
(1) The competent authority for a plan or programme, prepares an environmental impact assessment for such if the plan or programme sets the framework for decision-making for projects under Article 16.43, paragraph one.  
(2) The competent authority for a plan or programme shall prepare an environmental impact assessment if an appropriate assessment under Article 16.53c must be carried out during its preparation.



(3) The competent authority shall provide an environmental impact assessment for a plan or programme referred to in paragraphs one and two that determines the use of small areas at local level or minor modifications to a plan or programme referred to in paragraph one or two if the plan or programme or any amendments thereto are likely to have significant environmental effects.

(4) For a plan or programme that sets the framework for projects other than those specified in paragraph one, the competent authority makes an environmental impact assessment if the plan or programme may have significant environmental effects.

(5) The competent authority shall assess whether there are significant environmental effects as referred to in paragraphs three and four, unless it produces an environmental impact assessment without a prior assessment. The competent authority shall take into account the criteria set out in Annex II to the SEA Directive when deciding on the assessment of the environmental effects. To this end, the competent authority shall consult:

- a. the administrative bodies and authorities that advise on the decisions referred to in Article 16.43, paragraph one, for which the plan or programme forms the framework, and
- b. Our Minister of Infrastructure and Water Management, Our Minister of Agriculture, Nature and Food Quality, Our Minister of Education, Culture and Science or an administrative body appointed by him instead of the Minister concerned.

(6) An order in council may be issued to provide rules concerning the application of the third paragraph.

#### **Article 16.37**

##### **(use of other environmental impact assessment plans)**

To avoid the duplication of environmental impact assessments:

- a. the competent authority will coordinate the environmental impact assessment, including the level of detail:
  1. the level of detail of the plan or programme,
  2. the current phase of the decision-making process of the plan or programme,
  3. if the plan or programme is part of a ranking of plans or programmes, in particular, the place which the plan or programme occupies in that ranking,
- b. the competent authority may make use of:
  1. other environmental impact assessments if they meet the requirements set by or pursuant to this section,
  2. relevant information about the environmental effects of the plan or programme on the basis of regulations, directives and decisions obtained under Article 288 of the Treaty on the Functioning of the European Union.

#### **Article 16.38**

##### **(consultation on scope and level of detail)**

(1) On the scope and level of detail of the information in the environmental impact assessment the competent authority of the administrative bodies and authorities referred to in Article 16.36, paragraph five, items a and b.

(2) Rules may be laid down on the consultation procedure by order in council.

#### **Article 16.39**

##### **(recommendation of the Netherlands Commission for Environmental Assessment)**

(1) The competent authority shall notify the Netherlands Commission for Environmental Assessment about the opportunity to advise on the environmental impact assessment.

(2) Rules may be laid down on the advisory procedure by order in council.

#### **Article 16.40**

##### **(preparation procedure plan or programme)**

(1) Section 3.4 of the General Administrative Law Act is applicable to the preparation of a plan or programme under Article 16.36 for which an environmental impact assessment is required.

- (2) An environmental impact assessment, which is included in a plan or programme, is displayed in the plan or programme recognisable as such.
- (3) If the environmental impact assessment is not included in the draft plan or programme:
- a. the environmental impact assessment shall also be made available for inspection at the time of the inspection, as referred to in article 3.11 of the General Administrative Law Act,
  - b. the environmental impact assessment shall also be notified at the time of the notification referred to in Section 3.12 of the General Administrative Law Act, and
  - c. an opinion as referred to in Section 3.15 of the General Administrative Law Act may also relate to the environmental impact assessment.
- (4) The competent authority shall not adopt the plan or programme until two weeks after the period referred to in Article 3.16, paragraph one, of the General Administrative Law Act.

**Article 16.41****(basis of plan or programme in the environmental impact assessment plan)**

The competent authority shall not adopt a plan or programme if the environmental impact assessment cannot reasonably be made the basis of the plan or programme.

**Article 16.24****(content of the environmental impact assessment plan)**

An order in council may be issued to provide rules concerning the content of the environmental impact assessment.

**Article 16.42a****(monitoring of the environmental impact assessment plan)**

Rules shall be laid down by order in council on:

- a. the monitoring of the potentially significant environmental effects of implementing the plan or programme, and
- b. taking appropriate remedial measures.

**Article 16.42b****(transboundary environmental impacts of the environmental impact assessment plan)**

Rules shall be laid down by order in council for a plan or programme for which an environmental impact assessment is required and that may have significant transboundary environmental effects, including the situation in which the Netherlands experiences these transboundary environmental effects.

**Section 16.4.2*****Environmental impact assessment for projects*****Article 16.43****(designation of projects and decisions subject to EIA evaluation)**

- (1) The projects and the necessary decisions shall be designated by order in council:
- a. which are likely to have significant effects for the environment and for which an environmental impact assessment must be carried out at the time of the preparation of the decision, and
  - b. for which it is necessary to assess whether they are likely to have significant effects for the environment and, if so, for which an environmental impact assessment should be carried out when preparing the decision.
- (2) The competent authority will assess whether there are significant environmental effects as referred to in paragraph one, item b, unless the developer provides an environmental impact assessment when preparing the decision.
- (3) In the assessment, the competent authority shall take into account:
- a. the relevant criteria in Annex III to the EIA Directive,

- b. where relevant: the results of previous audits or other reviews of environmental effects on the basis of regulations, directives and decisions that have been obtained under Article 288 of the Treaty on the Functioning of the European Union.
- (4) The order may stipulate that:
  - a. the designation of a project or decision only applies in designated cases,
  - b. an environmental strategy, programme or part of a physical environment plan is regarded as a decision to be taken for a project.
- (5) The developer shall prepare the environmental impact assessment.

**Article 16.44****(EIA exemption or EIA evaluation)**

- (1) The competent authority may, on request or ex officio, grant exemption from the obligations under this paragraph for a project or part thereof that is intended solely for defence or for a project that is only necessary because of an emergency situation as referred to in the Exceptional Situations (Coordination) Act if application of the obligations has adverse consequences for defence or for combating the emergency.
- (2) Our Minister of Infrastructure and Water Management may, at the request of the developer, grant exemption from the obligations pursuant to this paragraph if its application adversely affects the objective of the project and the objectives of the EIA Directive, unless the project can have significant transboundary effects.
- (3) If application is made to paragraph two, the Minister of Infrastructure and Water Management shall evaluate whether any other form of environmental assessment is appropriate. Should a different assessment of the environmental impacts need to be carried out, Article 16.49 paragraphs one and three shall apply mutatis mutandis.
- (4) Rules may be laid down by order in council regarding the provision of data and documents in the case of a request for exemption.

**Article 16.45****(communications of intentions)**

- (1) The developer shall announce that intention as soon as possible to the competent authority.
- (2) Paragraph one does not apply if the developer has conducted an environmental impact assessment when preparing the decision.
- (3) An order in council may be issued to provide rules concerning the contents of communications.

**Article 16.46****(consultation on scope and level of detail)**

- (1) At the request of the developer, the competent authority shall issue an opinion on the scope and level of detail of the information for the environmental impact assessment.
- (2) The competent authority shall consult the opinion of the administrative bodies and authorities referred to in Article 16.36, paragraph five, items a and b.
- (3) An order in council lays down rules on the procedure for recommendations and consultation.

**Article 16.47****(recommendation of the Netherlands Commission for Environmental Assessment)**

- (1) The competent authority may propose to advise the Netherlands Commission for Environmental Assessment on the environmental impact assessment.
- (2) Rules may be laid down on the advisory procedure by order in council.

**Article 16.48****(a single environmental impact assessment)**

The party who must make the environmental impact assessment, may use a different environmental impact assessment if it meets the requirements prescribed under this section and the project is described in the environmental impact assessment.

**Article 16.49****(deferment, decision not to process or the refusal of an application)**

- (1) An environmental impact assessment shall be attached to the request for a decision as provided for in Article 16.43, paragraph one, which requires an environmental impact assessment.
- (2) The communication of the intention referred to in Article 16.45 shall be appended to the application for a decision to which Article 16.43, paragraph two applies.
- (3) If paragraph one or two is not fulfilled, the application will not be processed after the first applicant is given the opportunity within a period specified by the competent authority to complete the application. A decision not to process the application will be notified to the applicant within four weeks after the application has been completed or after the specified period of time has elapsed unused.
- (4) If, in accordance with Article 16.43, paragraph two, the competent authority decides after the application whether an environmental impact assessment is to be carried out, it shall defer the decision on the application as long as that decision has not been taken, unless it concerns an application for an environmental permit for a case designated pursuant to Article 5.26, paragraph four. If the competent authority decides that an environmental impact assessment is required, the application shall be rejected.
- (5) If the environmental impact assessment does not meet the rules prescribed under Article 16.52, the competent authority shall reject the application unless the applicant is given the opportunity within the period prescribed by the authority to supplement the environmental impact assessment.

**Article 16.50****(preparation procedure for a decision subject to an environmental impact assessment)**

- (1) Section 3.4 of the General Administrative Law Act is applicable to the preparation of a decision under Article 16.43, paragraph one, that requires an environmental impact assessment.
- (2) Article 16.40, paragraphs two, three and four, shall apply mutatis mutandis.

**Article 16.51****(basis for project in the environmental impact assessment)**

- (1) The authority does not adopt a decision if the environmental impact assessment cannot reasonably be made the basis of the project.
- (2) Article 16.5 is not applicable to paragraph one.

**Article 16.52****(content of the environmental impact assessment project)**

- (1) An order in council may be issued to provide rules concerning the content of the environmental impact assessment.
- (2) With regard to the order to be included in the environmental impact assessment, the order will in any case lay down rules on:
- a. the description of the project, and
  - b. the description of the reasonable alternatives to the project.
- (3) If a location, including a route, is designated for the project in a plan or programme under Article 16.36, paragraph one or two, and an environmental impact assessment is made for the plan or programme, then the rules set on the basis of paragraph two, introduction and item b, do not apply to the extent that this concerns alternatives to that location or that route.

**Article 16.53****(environmental consequences of the decision)**

- (1) When making a decision as referred to in Article 16.43, paragraph one, the competent authority shall take into account all consequences which the project to which the decision relates may have for the environment.
- (2) The competent authority may:
- a. attach to a decision, irrespective of the limitations imposed by the legal act on which the decision is based, the rules necessary for protecting the environment, including rules on monitoring,

b. decide that the project shall not be implemented if executing the project may lead to unacceptable effects on the environment.

(3) A decision taken on the basis of another statutory provision shall be deemed to be taken on the basis of that provision if paragraph two is applied.

#### Article 16.53a

#### **(monitoring of the environmental impact assessment project)**

An order in council may be issued to provide rules concerning:

- a. the monitoring of the possible significant environmental effects of the project implementation, and
- b. taking appropriate remedial measures.

#### Article 16.53b

#### **(transboundary environmental effects of the environmental impact assessment project)**

Rules shall be laid down by order in council on a project for which an environmental impact assessment is required and that may have significant transboundary environmental effects, including the situation in which the Netherlands experiences these transboundary environmental effects.

## Section 16.4a

## Appropriate assessment of natura 2000

#### Article 16.53c

#### **(appropriate assessment)**

(1) For a plan or project under Article 6, paragraph three of the Habitats Directive, the administrative body that establishes the plan, the applicant for the environmental permit in question, or the competent authority shall provide an appropriate assessment for the project decision under Article 6, paragraph three, of that Directive of the impact on the Natura 2000 site.

(2) Notwithstanding paragraph one, no appropriate assessment has to be made if:

- a. the plan or project is a continuation or recurrence of a plan or project, or
- b. the plan is part of another plan, provided that other plan or project undergoes an appropriate assessment and a new appropriate assessment cannot reasonably provide new data and insights on the significant effects of the plan or project.

## Section 16.5

## The environmental permit

### Section 16.5.1

### *General information*

#### Article 16.54

#### **(submitting request; confirmation of receipt)**

(1) The application for an environmental permit is submitted to the Municipal Executive of the municipality where the activity or activities will wholly or primarily be performed. If the application relates to one or more water activities, the application can also be submitted to the daily management of the water board where the activity or activities will be wholly or primarily performed. If an administrative authority other than the Municipal Executive or the daily management is the competent authority, the application may be submitted to that administrative body.

(2) If the application has been submitted to the Municipal Executive or the governing board of the Water Board referred to in the first paragraph, while another administrative body is the competent authority, the date of receipt shall, for the purposes of this Section, be deemed to be the date of receipt by the Municipal Executive or the daily management.

(3) The administrative body to which the application is submitted shall forward confirmation of receipt to the applicant without delay, stating the date on which the application was received. In deviation from the introduction to and item b of Article 14, paragraph one of the Services Act [Dienstenwet], that administrative body shall, on the basis of the confirmation of receipt, be required to implement the obligation, stated in

that section of the Article, to send messages via the central desk, referred to in that Act. Article 29 of the Services Act shall not apply.

(4) The administrative body that is the competent authority shall notify the applicant of receipt of the application as soon as possible. The notification shall also state:

- a. the procedure for preparing the decision,
- b. the applicable decision-making period,
- c. the remedies available against the decision.

(5) This Article shall apply mutatis mutandis to an application to amend the requirements of an environmental permit or to revoke an environmental permit.

#### **Article 16.55**

##### **(application requirements)**

(1) Further rules may be laid down by order in council with regard to the method of submitting the application for an environmental permit.

(2) Ministerial decree will establish rules on the information and documents supplied by the applicant.

(3) For the application for an environmental permit for an activity as referred to in Article 5.3 or 5.4, the water board regulation or the environmental regulation may also set out rules on the data and documents to be provided by the applicant.

(4) For an application for an environmental permit for an environmental planning activity, the physical environment plan may also lay down rules about the data and documents to be provided by the applicant.

(5) The information and documents referred to in paragraphs two and four need not be provided to the extent that the competent authority already has such information or documents.

(6) Under paragraph two, rules shall in any case be set about providing data on participation and consultation with third parties.

(7) The Municipal Council can designate cases of activities in which the participation of and consultation with third parties is mandatory before an application for an environmental permit for an environmental planning activity that is out of plan, for which the Municipal Executive is the competent authority, can be submitted.

#### **Article 16.56**

##### **(submit information and documents related to updating an environmental permit)**

(1) The permit holder shall, at the request of the competent authority, provide it with any information and documents necessary for:

- a. reviewing, pursuant to Article 5.38, whether the requirements of the permit are still sufficient given developments in the technical possibilities for protecting the environment and developments relating to the quality of the environment,
- b. amending the requirements of an environmental permit as referred to in paragraph two of Article 5.42 as a result of the application of Article 5.38.

(2) Article 16.55, paragraph five, shall apply mutatis mutandis.

#### **Article 16.57**

##### **(announcement application)**

When applying section 4.1 or 3.4 of the General Administrative Act the competent authority shall also notify the application for an environmental permit in the manner described in Article 12 of the Publication Act. In so doing, the date of receipt will be mentioned.

#### **Article 16.58**

##### **(decision regarding a nationally listed building fulfilling a religious purpose)**

(1) To the extent that the application for a single environmental permit concerns a listed activity and protected national monument or national monument or protected religious monument as referred to in Article 1.1 of the Heritage Act, the competent authority shall make a decision only after consulting with the owner.

(2) Insofar as it concerns a decision in which the essential interests of professing the

religion or belief in that monument are at stake, the competent authority shall decide only in agreement with the owner.

**Article 16.61**

**(start of decision-making period)**

If a decision on the application for a single environmental permit is suspended, the date on which the suspension ends shall be taken as the starting point for the application of Article 16.64, paragraph one, of this Act or Article 3.18, paragraph one, of the General Administrative Law Act instead of the date of receipt of the application.

**Section 16.5.2**

**Standard preparation procedure**

**Article 16.62**

**(scope of application of standard preparation procedure)**

- (1) This section applies to the preparation of the decision on an application for an environmental permit, unless paragraph 16.5.3 applies to it.
- (2) This section shall apply mutatis mutandis to the preparation of the decision on an application to change the requirements of an environmental permit or to revoke an environmental permit, unless Section 16.5.3 is applicable.
- (3) The competent authority cannot declare Section 3.4 of the General Administrative Law Act applicable to the preparation of a decision on an application for an environmental permit or on an amendment or revocation thereof by decision, unless it concerns a decision as referred to in Article 16.65, paragraph four.

**Article 16.64**

**(decision-making period and communication)**

- (1) The competent authority shall decide on the application for an environmental permit within eight weeks or, if the intended decision on the application requires approval as referred to in Article 16.16, within twelve weeks of receipt of the application.
- (2) The competent authority can extend the decision-making periods referred to in paragraph one once for up to six weeks. This decision shall be published within the decision-making period.
- (3) Concurrently with, or as soon as possible after, the publication of the decision on the application for an environmental permit, the competent authority shall communicate that decision in the manner prescribed in Article 12 of the Publication Act.
- (4) Pursuant to Article 28, paragraph one, the last sentence of the Services Act, Section 4.1.3.3 of the General Administrative Law Act is not applicable to the preparation of the decision on the application.

**Article 16.64a**

**(announcement)**

- (1) Following on an application for an environmental permit, if the competent authority deems that an environmental permit is not required, this shall be mentioned in the notice referred to in Article 16.64, paragraph three.
- (2) When it comes to a decision to grant an environmental permit for an environmental planning activity that is outside of plan, this shall be indicated in the notice referred to in Article 16.64, paragraph three.

**Section 16.5.3**

**Application of Section 3.4 of the General Administrative Law Act**

**Article 16.65**

**(application of Section 3.4 of the General Administrative Law Act)**

- (1) Section 3.4 of the General Administrative Law Act is applicable to the preparation of the decision made on an environmental permit:
  - a. if the application in whole or in part covers cases or activities designated by an order in council, or
  - b. at the request or with the consent of the applicant.
- (2) This Section shall apply mutatis mutandis to the preparation of the decision:
  - a. to an application to amend the requirements of an environmental permit or to withdraw an environmental permit,

- b. to amend the requirements of a single permit or to revoke an environmental permit *ex officio*.
- c. (3) An order in council as referred to in paragraph one, introduction and item a, shall in any case designate cases of activities to implement the Århus Convention.
- (4) The competent authority may by decision declare Section 3.4 of the General Administrative Law Act applicable to the preparation of the decision on an application for an environmental permit for an environmental planning activity that is out of plan:
  - a. if it concerns an activity that has or may have significant consequences for the physical environment, and
  - b. against which various stakeholders are expected to have reservations.
- (5) If the fourth paragraph is applied, the competent authority, prior to making the decision, shall give the applicant the opportunity to state his or her views on this.

#### Article 16.66

##### (additional provisions)

- (1) In the application of Section 3.4 of the General Administrative Law Act in the preparation of the decision on the application for an environmental permit, the following paragraphs and Article 16.67 are to be taken in consideration.
- (2) If another administrative body under Article 16.54, paragraph one, second sentence, is the competent authority, then the draft decision shall also be made available for inspection in the municipality where the activity or activities is completely or predominantly will be performed, along with the relevant documents reasonably necessary to assess the draft decision.
- (3) The extension period provided for in Article 3:18, paragraph two, of the General Administrative Law Act shall not exceed six weeks. The period within which decisions on the application are taken can be extended, at most, one time. In compliance with Article 3:18, paragraph two, of the General Administrative Law Act which provides for eight weeks, the extension and the duration thereof are to be motivated communicated to the applicant. Article 31, paragraph four of the Services Act is not applicable.
- (4) If, following the application for an environmental permit, the competent authority is of the opinion that no environmental permit is required, this shall be stated in the notification referred to in Article 3:12 of the General Administrative Law Act and in the notification.
- (5) If it concerns a draft decision or a decision to grant an environmental permit for an environmental planning activity that is out of plan, this shall be stated in the notification referred to in Article 3:12 of the General Administrative Law Act or in the communication referred to in Article 3:44 of the General Administrative Law Act, and that notification and notice will be placed in the Netherlands Government Gazette.

#### Article 16.67

##### (public information)

- (1) At the request of the applicant, and prior to the competent authority making documents available for viewing that were not submitted by the applicant, the competent authority shall provide the applicant the opportunity to view those documents, for purposes of application of Articles 19.3 to 19.5, of the Environmental Management Act.
- (2) These documents do not include the reports referred to in Article 3:17 of the General Administrative Law Act, and copies of the views that are expressed by other than administrative bodies in accordance with Article 3:15 of that Act.
- (3) Article 10 of the Government Information (Public Access) Act [Wet openbaarheid van bestuur] is not applicable.

#### Article 16.68

##### (exceptions)

The competent authority may, on an application for an environmental permit for an activity designated pursuant to Article 16.65, disapply Section 3.4 of the General Administrative Law Act and Article 3:44 of that Act as being inapplicable:

- a. the application relates to an activity the performance of which is required in the short term due to a special circumstance,



- b. national security interests so require; or
- c. the performance of an obligation under international law.

## Section 16.6 Project procedure

### Section 16.6.1 Preference decision

#### Article 16.70

#### **(application of Section 3.4 of the General Administrative Law Act)**

Section 3.4 of the General Administrative Law Act applies to the preparation of a preferential decision for:

- a. a project decision,
- b. the inclusion of rules in the physical environment plan as referred to in Article 5.55.

### Section 16.6.2 Project decision

#### Article 16.71

#### **(application of the General Administrative Law Act)**

(1) Section 3.4 of the General Administrative Law Act shall apply to the preparation of:

- a. a project decision,
- b. a decision not to apply rules as referred to in Article 5.53, paragraph three or four.

(2) Notwithstanding Article 3:1, paragraph one, introduction and item b of the General Administrative Law Act, Sections 3.6 and 3.7 of that Act are applicable to a decision as referred to in paragraph one, items a or b.

(3) When publishing a project decision or a decision implementing a project decision, the special regulation on the grounds of the appeal referred to in Article 16.86 shall be stated.

#### Article 16.72

#### **(approval of project decision water board)**

(1) A project decision taken by the governing board of the water board requires the approval of the Provincial Executive of the province where that decision is to be implemented. If the project is located in more than one province, the Provincial Executive of the province where the project is to be carried out mainly will decide upon its approval.

(2) The approval of the project decision, Article 10:31, paragraphs two to four, of the General Administrative Law Act shall not apply.

#### Article 16.73

#### **(refusal of application for project decision)**

Article 16.71 does not apply to the refusal of an application to adopt a project decision.

## Section 16.6a Decision on the recovery of costs

#### Article 16.75

#### **(deferment scheme and decision on the recovery of costs)**

(1) The decision on an application for a decision, as referred to in Article 13.18, paragraph one, shall be deferred if the activity to be carried out as referred to in the application for the physical environment plan or the environmental permit for an environmental planning activity that is out of plan, insofar as there is an activity that conflicts with a function assigned to a site in the physical environment plan or if the project decision is not yet irrevocable.

(2) The deferment shall last until the decision in question is final.

(3) Notwithstanding paragraph one, the competent authority may adopt the decision if:

- a. an appeal against the decisions referred to in paragraph one cannot affect the assessment of the activity subject to cost recovery or of the requirements to be attached to the environmental permit for an environmental planning activity for said activity; or
- b. these consequences do not, in the opinion of the administrative body, outweigh the interest served by making the decision.

**Article 16.76****(viewpoints on the decision on the recovery of cost)**

Before the administrative body issues the decisions referred to in Article 13.8, paragraph one, the applicant shall be given the opportunity to present its views.

**Section 16.7****Decision-making period, publication, notification, entry into force and appeal****Section 16.7.1****Decision-making period****Article 16.77****(suspension of decision-making period)**

If a decision on an application for a decision under this Act or a decision to amend it cannot be made until after an obligation under international law has been fulfilled, the time limit for making that decision shall be suspended until the procedure applicable to that obligation has been completed.

## Article 16.77aa

If Article 13.20, paragraph 3a, is applied, a request for a final statement will be decided at the latest at a time specified in the physical environment plan, the environmental permit referred to in Article 13.14, paragraph three, item a, or the project decision.

**Article 16.77a****(suspension of the decision-making period for a Natura 2000 activity with compensatory measures)**

If a decision on an application for an environmental permit for a Natura 2000 activity cannot be taken until the applicant's application has added data needed to assess compliance with Article 6, paragraph of the Habitats Directive, then the deadline for adoption of that decision shall be suspended until the day on which the application is completed or the specified period has expired unused.

**Section 16.7.2****Publication, notification and entry into force****Article 16.77b****(notification of the physical environment plan, announcement of the environmental strategy and programme)**

(1) In accordance with Article 3:44, paragraph one, of the General Administrative Law Act, a physical environment plan shall not be published until after two weeks have elapsed since the date on which the physical environment plan was adopted, unless:

- a. the Provincial Executive did not submit any views on the draft of the physical environment plan,
- b. no amendments have been made to the draft of the physical environment plan, or
- c. the Provincial Executive has determined that the physical environment plan may be made available for inspection earlier.

16.77b(2) Article 3.42 of the General Administrative Law Act shall apply mutatis mutandis to an environmental strategy and a programme as referred to in Sections 3.2.2 to 3.2.4; inclusive.

**Article 16.78****(entry into force of the physical environment plan and the project decision)**

(1) A physical environment plan shall enter into force with effect from the date upon which four weeks have elapsed since the date on which the decision was announced, unless a later date is specified in the physical environment plan.

(2) A decision as referred to in Article 16.21 shall enter into force at the same time as the physical environmental plan to which it relates.

(3) A project decision shall enter into force with effect from the day upon which four weeks have elapsed since the day on which the decision has been placed for inspection, in accordance with Article 3.44, paragraph one, item a, of the General Administrative Law. In the event that, in the opinion of the competent authority, the entry into force of a project decision at an earlier time is necessary as a result of emergency conditions, the competent authority shall be entitled to determine that the decision shall enter into force at an earlier time.

(4) Contrary to paragraph three, a project decision by the daily management of the water board shall take effect from the day on which four weeks have elapsed since the day on which the decision on approval was announced.

(5) A decision establishing noise production ceilings as environmental values as referred to in Article 2.12a, paragraph one, 2.13a, paragraph one, and 2.15, paragraph two, shall enter into force on the date on which four weeks have elapsed since the date that the decision was published. In the event that, in the opinion of the competent authority, the entry into force of a project decision at an earlier time is necessary as a result of emergency conditions, the competent authority shall be entitled to determine that the decision shall enter into force at an earlier time.

#### **Article 16.79**

##### **(entry into force of an environmental permit)**

(1) An environmental permit shall enter into force on the day following the day on which:

- a. the decision has been published, or
- b. if the decision has been prepared in accordance with Section 3.4 of the General Administrative Law Act: the decision has been filed for inspection in accordance with Section 3.44, paragraph one, of that Act.

(2) Contrary to the paragraph one, the competent authority shall stipulate in the environmental permit that it shall enter into force upon the date on which four weeks have elapsed since the day of publication or notification if, in its opinion:

- a. the performance of the activity enabling the environmental permit within those four weeks can lead to an amendment of an existing situation that cannot be restored, and
- b. the rules on the granting of the environmental permit ensure to protect the existing state.

(3) Instances of activities can be designated by means of order in council in which the competent authority applies the second paragraph in any case.

(4) If a request for interim relief has been made to the competent court within the period referred to in paragraph two, the environmental permit shall not enter into force before a decision has been taken on the request. Stakeholders who are directly affected by the suspension may request that the court in preliminary relief proceedings cancel or change the suspension.

(5) If, in the opinion of the competent authority, it is necessary for an environmental permit to enter into force earlier due to urgent circumstances, it may, in deviation from paragraph two, stipulate that the decision shall enter into force earlier and that paragraph four shall not apply.

(6) This Article shall apply mutatis mutandis to a decision to amend the requirements of an environmental permit or to revoke an environmental permit.

#### **Article 16.80**

##### **(additional entry into force due to the Nuclear Energy Act)**

Without prejudice to Article 16.79, an environmental permit for a construction activity or for an environmental planning activity consisting of a construction activity or the maintenance of a structure, if that activity can also be regarded as the establishment or modification of a establishment for which a permit is required as referred to in Article 15, introduction and item b of the Nuclear Energy Act, shall enter into force no earlier than after the latter permit.

- Article 16.82** **(additional entry into force provision for effective implementation and enforcement)**  
If necessary in the interest of efficient implementation and enforcement, cases can be designated by order in council in which an environmental permit for a construction activity or an environmental planning activity consisting of a construction activity or the maintenance of a structure, without prejudice to Article 16.79, does not enter into force until after an environmental permit for another activity has entered into force.
- Article 16.82a** **(registration and entry into force of a pre-emption right)**  
(1) Once a pre-emption right decision has been published, the decision may be recorded in the public registers within four days.  
(2) The pre-emption right shall enter into force from the date on which the decision has been recorded.
- Article 16.82b** **(publication of the land use decision)**  
(1) The publication of a land use decision shall take place pursuant to Article 3.42, paragraph two of the General Administrative Law Act.  
(2) If the land use decision provides for the allocation of property referred to in Article 12.8, paragraph one, item a, c or d, or the allocation of management and maintenance, referred to in Article 12.8, paragraph one, item b, c or d, the land use decision shall also be forwarded or distributed to the parties to whom it is addressed.
- Article 16.82c** **(entry into force of decisions on land use)**  
(1) A decision to grant temporary use as referred to in Article 12.21, paragraph one, and a land exchange decision shall take effect on the date on which:  
a. the period for lodging an appeal has expired,  
b. if an appeal has been lodged: the appeal has been decided and, insofar as the appeal concerns a land exchange decision, the time limit for lodging an appeal in cassation has expired, or  
c. if an appeal in cassation has been lodged: the appeal in cassation has been decided and, if the Dutch Supreme Court has referred the appeal, the court to which the appeal was referred has ruled.  
d. 16.82c(2) A decision on financial arrangements shall enter into force on the date that the period for appeal has expired or, if an appeal has been lodged, the date on which the decision on the appeal is made.
- Section 16.7.3** **Appeal**
- Article 16.83** **(minor amendments to the contested decision)**  
In the event that an appeal is pending against a decision prepared subject to the application of Section 3.4 of the General Administrative Law Act, the application of that section may be omitted with regard to the preparation of a decision to amend that decision, if not in contravention of any obligations under international law, and if the amendment is minor in nature.
- Article 16.84** **(scope of appeal on application of Article 16.7, paragraph one, introduction and item b)**  
(1) In the event that after the introduction and paragraph one, item b of Article 16.7 have been applied, an appeal is submitted solely in relation to the decision regarding the application for one of the environmental permits, the appeal shall also relate to the decision regarding the other environmental permit, insofar as the appeal relates to the coherence between the two environmental permits.

(2) The first paragraph shall apply mutatis mutandis to appeals against decisions on an application to amend the requirements of an environmental permit and against decisions to amend those requirements ex officio as referred to in Article 16.7, paragraph one, item b.

#### **Article 16.85**

##### **(bundling of appeal)**

(1) For the possibility of appeal, a decision to grant an exemption under Article 2.32 is deemed to form part of the decision over which the rule for which exemption was requested has been made.

(2) With regard to the possibility of appeal:

- a. an instruction issued in accordance with Article 2.33 or 2.34, and
- b. a decision regarding the granting of consent in accordance with Article 16.15, shall be deemed to form part of the decision to which that decision relates.

#### **Article 16.86**

##### **(grounds for an appeal of a project decision or an execution decision)**

(1) Appeals against a project decision and against decisions to execute a project decision cannot be based on grounds after the expiry of period for lodging an appeal.

(2) In the event of a complaint against a decision to execute a project decision, it shall not be possible to submit any grounds that relate to the project decision on which that decision is based.

(3) Notwithstanding Article 6.6 of the General Administrative Law Act, the appeal against a project decision or against a decision executing a project decision will be declared inadmissible if Article 6.5, paragraph one, item d of that Act is not complied with, unless Article 16.71, paragraph three, has not been complied with when the decision was announced, and it cannot reasonably be judged that the person lodging the appeal was in default.

#### **Article 16.87**

##### **(judicial decision period for project procedure)**

(1) The Administrative Jurisdiction Division of the Council of State decides on appeals against a project decision or against a decision on approval as referred to in Article 16.72 within six months of receipt of the defence.

(2) In special circumstances, the Division shall be entitled to extend the deadline stated in paragraph one by no more than three months.

(3) Appeals against a decision executing a project decision to which Section 3.5 of the General Administrative Law Act applies by virtue of Article 16.7 of the General Administrative Law Act shall be decided by the Division within six months of receipt of the statements of defence.

#### **Article 16.87a**

##### **(administrative appeal of an environmental permit for a hunting activity involving a rifle)**

(1) An administrative appeal may be lodged with Our Minister of Justice and Security against a decision that only relates to the refusal of an environmental permit for a hunting activity involving a rifle or the revocation of a permit on the grounds referred to in paragraph two.

(2) The grounds referred to in paragraph one are:

- a. the permit holder has abused weapons or ammunition or the authority to possess weapons or ammunition, or
- b. there are other indications that the permit holder cannot or can no longer be entrusted with the possession of weapons or ammunition.

**Article 16.88****(appeal against a temporary use decision, a land exchange decision and a decision on financial arrangements)**

(1) Stakeholders may lodge an appeal against a temporary use decision, under Article 12.21, paragraph one, a land exchange decision and a decision on financial arrangements by submitting a request under Article 261 of the Dutch Code of Civil Procedure with the district court within whose jurisdiction the Provincial Executive has its main office. Articles 6:2, 6:7 to 6:20, and 6:22 of the General Administrative Law Act shall apply *mutatis mutandis*.

(2) The petition is signed by the stakeholder or his or her representative.

(3) Once the petition is filed, the Registrar shall send a copy thereof to the Provincial Executive. In the event of an appeal against a land exchange decision or a decision on financial arrangements, the Provincial Executive shall immediately send the Registrar:

- a. a list of stakeholders for whom the land exchange decision or the decision on financial arrangements shall be amended if the appeal is well founded,
- b. a copy of the documents on which the land exchange decision or the decision on financial arrangements for the person lodging the appeal is based,
- c. a copy of the views expressed on the land exchange decision or the decision on the financial arrangements, insofar as it is related to the appeal, and
- d. copies of the other documents relating to the exchange decision or the decision on financial arrangements that are of importance for judging the appeal.

**Article 16.89****(amendment of land exchange decision and a decision on financial arrangements upon invitation).**

(1) The district court shall decide on the way in which the land exchange decision or the decision on financial arrangements will be amended after summoning the applicant, the Provincial Executive and the stakeholders for whom the land exchange decision or the decision on financial arrangements will be amended if the appeal is well founded. Stakeholders and the Provincial Executive may appear by proxy.

(2) Appeals against the decision on financial arrangements and the land exchange decision will be considered jointly.

**Article 16.90****(final decision, appeal and cassation)**

(1) No appeal or appeal in cassation may be lodged against a judgement of the district court on a temporary use decision, as referred to in Article 12.21, paragraph one.

(2) No appeal may be lodged against a judgement of the district court on the land exchange decision or the decision on financial arrangements. For the stakeholder who has appeared before the district court and for the Provincial Executive, an appeal in cassation is possible on the basis of Articles 426 to 429, of the Dutch Code of Civil Procedure.

(3) The clerk of the court or, in the event of cassation, the clerk of the Supreme Court sends a copy of the judgement to the stakeholders who have been summoned in connection with the appeal against the land exchange decision or the decision on financial arrangements, and also to the Provincial Executive.

(4) Once the copy of the judgement of the district court has been received by the Provincial Executive, and that judgement becomes irrevocable, the Provincial Council will, if necessary, amend the land exchange decision or the decision on financial arrangements based on that judgement.

## Section 16.8 Appeal of a pre-emption right

### Article 16.92

#### (appeal)

- (1) If an appeal is pending against the pre-emption right decision of the Municipal Executive and that decision expires because the pre-emption right decision of the Municipal Council has entered into force for the real-estate property, the appeal is deemed to be directed against the pre-emption right decision of the Municipal Council.
- (2) Paragraph one shall apply mutatis mutandis if the appeal is directed against a pre-emption right decision of the Provincial Executive and that decision expires because a pre-emption right decision of the Provincial Executive has entered into force for the real-estate property.

## Section 16.9 Ratification procedure for an expropriation decision

### Section 16.9.1

#### Request for ratification

### Article 16.93

#### (request and documents)

- (1) The administrative body that has taken an expropriation decision will request that the administrative court ratify it.
- (2) The request shall be signed and contain, at a minimum:
- a. the name and address of the administrative body,
  - b. the date,
  - c. a description of the expropriation decision to which the request relates.
- (3) The following must be submitted with the request:
- a. a copy of the expropriation order,
  - b. the documents relating to the expropriation decision which are reasonably necessary for the processing of the request.

### Article 16.94

#### (competent court)

- (1) The request will be submitted to the district court within the jurisdiction where the real-estate property designated for expropriation is located. If the real-estate property is situated in the jurisdiction of more than one district court, the court within whose jurisdiction the administrative body has its main office shall have jurisdiction.
- (2) Articles 6.14, paragraph one, and 6.15, paragraphs one and three of the General Administrative Law Act shall apply mutatis mutandis.

### Article 16.95

#### (recovery of omission)

The request can be declared inadmissible if Article 16.93, paragraphs two and three, have not been met, provided that the applicant has had the opportunity to rectify the omission within a period set for this purpose.

### Article 16.96

#### (request period)

- (1) The period for submitting a request is six weeks.
- (2) The period starts from the date after the expropriation decision has been filed for inspection, pursuant to Article 3.44, paragraph one, introduction, of the General Administrative Law Act, and this has been announced.
- (3) Articles 6.9 to 6.11, of the General Administrative Law Act shall apply mutatis mutandis.

**Section 16.9.2****Preliminary investigation****Article 16.97****(reservations)**

(1) Stakeholders may introduce their reservations about the expropriation decision in writing to the district court. The following, in any case, are considered as stakeholders:

- a. owners,
- b. hereditary long-term leaseholders,
- c. persons entitled to the building lease,
- d. owners of a dominant estate,
- e. rightholders of rights of use and occupation,
- f. rightholders to rights under Article 150, paragraph five, of the Transition Act establishing the New Dutch Civil Code,
- g. owner-possessors,
- h. hire-purchasers,
- i. tenants, including sub-tenants who are authorised to sublet,
- j. leaseholders, including sub-leaseholders who are authorised to sublease, and
- k. creditors who can claim the fulfilment of an obligation as referred to in Article 252 of Book 6 of the Dutch Civil Code.

(2) Articles 6.5, paragraphs one and three, and 6.6 of the General Administrative Law Act shall apply mutatis mutandis.

**Article 16.98****(period for reservations)**

(1) The period for introducing reservations is six weeks.

(2) The period starts from the date after the expropriation decision has been filed for inspection, pursuant to Article 3.44, paragraph one, introduction, of the General Administrative Law Act, and this has been announced.

(3) Article 6.9 of the General Administrative Law Act shall apply mutatis mutandis.

(4) After expiry of this period, the district court shall not disregard any objections raised if the stakeholder cannot reasonably be judged to have been in default.

**Article 16.99****(response to the reservations for the applicant)**

(1) Within four weeks after the district court has sent the reservations to the administrative body, this body must submit a response to the district court.

(2) The district court may extend this period.

**Article 16.100****(reply and rejoinder, written explanation)**

(1) The court may provide stakeholders who have reservations about the expropriation decision the opportunity to rebut in writing. In that case, the administrative body will be given the opportunity to respond in writing. The district court shall establish the deadlines for reply and rejoinder.

(2) The district court shall give other parties the opportunity to provide a written explanation of the case at least one time. The district court shall determine a period for this.

**Section 16.9.3****Expedited processing****Article 16.101****(commencement and content of expedited processing)**

(1) The district court may, if the case is urgent, determine that it be processed expeditiously.

(2) In such case, the district court may:

- a. shorten the period referred to in Article 16.99,
- b. not apply Article 16.100, paragraph two, wholly or partially,



- c. not apply Article 8:47, paragraph three of the General Administrative Law Act wholly or partially,
- d. by way of derogation from Article 16.113, shorten the period referred to in Article 8.47, paragraph five, of the General Administrative Law Act,
- e. by way of derogation from Article 16.113, shorten the period referred to in Article 8:58, paragraph one, of the General Administrative Law Act.

16.101(3) If the district court determines that the case should be processed expeditiously, it will also determine as soon as possible the time at which the hearing will take place and inform the parties thereof without delay. By way of derogation from Article 16.113, Article 8.56 of the General Administrative Law Act shall not apply *mutatis mutandis*.

#### **Article 16.102**

#### **(termination of expedited processing)**

If it appears to the district court, during the proceedings, that the case is not sufficiently urgent to justify an expedited processing or that the case demands ordinary treatment, it will determine that the case henceforth shall be dealt with in the normal way.

### **Section 16.9.4**

#### ***Simplified processing***

#### **Article 16.103**

#### **(Judgement after simplified processing)**

(1) Until parties are invited to appear at a court hearing, the district court may close the investigation if continuation of the investigation is not necessary because:

- a. the request is manifestly inadmissible,
- b. the request must be rejected because the expropriation decision evidently cannot be confirmed.

16.103(2) In the judgement after application of the first paragraph, the parties are referred to Article 16.104.

#### **Article 16.104**

#### **(objection)**

(1) The administrative body can object to the judgement of the district court.

(2) Articles 6:4, paragraph three, 6:5 to 6:9; 6:11, 6:14, 6:15, 6:17, 6:21 and 8:55, paragraphs four through ten, of the General Administrative Law Act shall apply *mutatis mutandis*.

### **Section 16.9.5**

#### ***Judgement***

#### **Article 16.105**

#### **(duration of the proceedings)**

(1) If no reservations are raised against the expropriation decision, the district court shall rule on the request for ratification within six months after the period referred to in Section 16.98, paragraph one.

(2) If reservations are raised against the expropriation decision, the district court shall issue a ruling on the request for ratification within six months of receipt of the response to the reservations referred to in Article 16.99, paragraph one.

(3) If Article 16.113, Article 8.51a or Article 8.51d of the General Administrative Law Act is applied, the district court shall, notwithstanding paragraph one and two:

- a. issue an interim ruling within six months of receiving the response to the reservations, and
- b. issue a final decision within six months of the interim decision having been sent.

#### **Article 16.106**

#### **(basis for judgement, supplement legal grounds and facts)**

(1) The district court shall issue a judgement on the basis of the request, the basic test referred to in Article 16.107, the reservations raised against the expropriation decision, the documents submitted, the proceedings during the preliminary investigation and the investigation during the hearing.

- (2) The district court shall supplement ex officio the legal grounds for the reservations.
- (3) The district court may supplement ex officio the facts of the reservations.

**Article 16.107****(ex officio basic test)**

Regardless of whether reservations have been raised against the expropriation decision, the district court shall, in any case, reject the request if:

- a. the expropriation decision was not prepared in accordance with the legal formalities,
- b. the expropriation interest referred to in Article 11.5, item a, is missing,
- c. the need, in the senses of Article 11.5, item b, is evidently lacking, or
- d. the urgency referred to in Article 11.5c is evidently lacking.

**Article 16.108****(judgement on decisions)**

(1) The judgement deals with:

- a. disqualification of the court,
- b. inadmissibility of the request,
- c. rejection of the request, or
- d. granting of the request.

(2) If the district court grants the request in whole or in part, it shall ratify the expropriation decision in whole or in part.

**Article 16.109****(contents of the judgement)**

(1) The written judgement indicates:

- a. the names of the parties and their representatives or agents,
- b. the grounds for the judgement,
- c. the judgement,
- d. the name of the judge or the names of the judges,
- e. the date that the judgement was delivered, and
- f. by whom, within which period and at which administrative court a given legal remedy can be applied.

(2) The judgement will be signed by the chair and the registrar. If the chairperson or the clerk of the court is prevented from attending, this will be stated in the judgement.

**Article 16.110****(court fees request)**

(1) The judgement also entails that a court fee be levied on the administrative body.

(2) The court fee is the rate referred to in Article 8.41, paragraph two, item c, of the General Administrative Law Act, plus the rate referred to in Article 8.41, paragraph two, item b, of that Act for any written objection submitted by a stakeholder to the district court against the expropriation decision.

**Article 16.111****(legal costs of stakeholders)**

The judgement shall also stipulate that the administrative body be ordered to pay the costs that a stakeholder who raised a reservation to the expropriation decision must reasonably have incurred in connection with the handling of the request in terms of its nature and scope.

**Article 16.112****(costs of an amicable consultation and preparation procedure of expropriation procedure)**

The judgement shall stipulate that the administrative body be ordered to pay the costs that a stakeholder who raised a reservation to the expropriation decision must reasonably have incurred in connection with the handling of the request in terms of its nature and scope for:

- a. legal assistance or other expert assistance provided by a third party for the consultation on the amicable acquisition, as referred to in Article 11.7, paragraph one, and
- b. legal assistance or other expert assistance provided by a third party in connection with expressing a view and its treatment in the preparation of the expropriation decision.

## Section 16.9.6

### *Other provisions of the ratification procedure*

#### Article 16.113

##### **(mutatis mutandis clause)**

- (1) Articles 6:9, 6:14, 6:17, 6:22, 8:10 to 8:12, 8:15 to 8:28, 8:29 to 8:40a, 8:41a, 8:44 to 8:51d, 8:56 to 8:68, 8:76, 8:78, 8:79, 8:80a and 8:80b of the General Administrative Law Act shall apply, mutatis mutandis, to a request for ratification of the expropriation decision and the handling thereof.
- (2) Article 6:19 of the General Administrative Law Act is applicable only if Articles 8:51a to 8:51d, of that Act have been applied.

#### Article 16.114

##### **(filing of judgement)**

- (1) The administrative body files the judgement of the district court on a request pursuant to Article 16.93 for inspection.
- (2) The period of filing is at least sixteen weeks.

#### Article 16.115

##### **(notification of judgement)**

Before filing for inspection the administrative body notifies the judgement by:

- a. sending the judgement to the stakeholders to whom the expropriation decision has been announced pursuant to Section 3:41 of the General Administrative Law Act;
- b. notification in the manner described in Article 12 of the Publication Act.

#### Article 16.116

##### **(court fee for review)**

- (1) A court fee will be levied on the person submitting a request to review a decision on the request to ratify an expropriation decision.
- (2) The court fee is:
  - a. the rate referred to in Article 8.41, paragraph one, item b, of the General Administrative Law Act, if the request is made by a natural person,
  - b. the rate referred to in Article 8.41, paragraph one, item c of the General Administrative Law Act, if the request is submitted otherwise than by a natural person.

## Section 16.10

### Appeal of expropriation decision

#### Article 16.117

##### **(appeal)**

- (1) A stakeholder and the administrative body may appeal against the judgement of a district court on a request as referred to in Article 16.93.
- (2) Unless otherwise specified in this section, the following shall apply, mutatis mutandis, to the appeal:
  - a. Section 6.2 of the General Administrative Law Act, with the exception of Articles 6:12, 6:13, 6:20 and 6:24,
  - b. Titles 8.1 to 8.3 of the General Administrative Law Act, with the exception of Articles 8:1 to 8:10, 8:41, paragraph two, 8:74 and 8:75, and c. Articles 8:104, paragraph two, introduction and items a, b and c, and paragraph three, 8:105, 8:107 and 8:109 to 8:118 of the General Administrative Law Act.

#### Article 16.118

##### **(appeal by a stakeholder following reservations)**

No appeal may be lodged by a stakeholder who can reasonably be accused of not having raised reservations to the expropriation decision.

- Article 16.119** (court fee)  
 Contrary to Article 8.114, paragraph one, of the General Administrative Law Act, the judgement also means that the administrative body will reimburse the stakeholder, who has submitted an appeal, the court fee paid by him or her if the appeal is declared unfounded.
- Article 16.120** (legal costs)  
 The judgement also implies that the administrative body will be ordered to pay the costs that a stakeholder reasonably had to incur in relation to the handling of the appeal, in nature and scope.
- Article 16.121** (duration of the proceedings)  
 The appeals court shall issue a judgement within six months after the expiry of the period within which parties other than the person lodging the appeal could have provided a written explanation of the appeal.

## Section 16.11 Judicial determination of the price in the event of pre-emption right

- Article 16.122** (judicial determination of the prices referred to in Article 9.16 and Article 9.18)  
 (1) The district court shall appoint one or more experts who will advise the court as quickly as possible on the price referred to in Articles 9.16, paragraph one, and 9.18, paragraph one.  
 (2) The district court will rule on the price with corresponding application of Articles 15.21 to 15.25; .
- Article 16.123** (decision on price as referred to in Article 9.16 and 9.18)  
 (1) The district court shall, within six months of receiving the request referred to in Article 9.16, paragraph one, issue a judgement on the request.  
 (2) Within six months of receiving the request, as referred to in Article 9.18, paragraph one, the district court will issue a judgement on the request and, if it is awarded, also on the price. The district court shall assess whether it is reasonable to omit the transfer of ownership to the municipality, the province or the State due to the special personal circumstances of the transferor.  
 (3) Appeal in cassation is possible only against decisions as referred to in paragraphs one and two.  
 (4) The costs of the legal proceedings, the expert advice and the costs reasonably incurred by the transferor for legal and other expert assistance shall be at the expense of the applicant. If the district court sees reason for that in the circumstances of the case, it may decide that the costs shall be partially or completely reimbursed.  
 (5) Upon termination of the legal proceedings referred to in Article 9.17, the district court shall issue a judgement on the allocation of the costs referred to in paragraph four.

## Section 16.12 Special procedures for land development

### Section 16.12.1

#### *Property not included in a land consolidation block*

##### Article 16.124

##### **(deed of allocation)**

- (1) Insofar as the allocation of ownership in a land use decision, as referred to in Article 12.8, paragraph one, items a, c and d, relates to real-estate property that is not located within a land consolidation block, a notary to be designated by the Provincial Executive shall draft the deed of allocation.
- (2) The deed will be drawn up at a time to be determined by the Provincial Executive that occurs after the publication of the land use decision.
- (3) The deed is to be signed by the chair of the Provincial Executive and the secretary, under Article 97 of the Provinces Act.
- (4) By recording the deed in the public registers, the property described therein shall be transferred according to the allocation set out in the deed.
- (5) If, pursuant to Article 8.81 of the General Administrative Law Act, an interim relief is established, paragraph one shall not apply as long as the effect of the land use decision is suspended by the judgement of the court in preliminary relief proceedings.

### Section 16.12.2

#### *Ownership and tenancy relations within the land consolidation block*

##### Article 16.125

##### **(time within which to register the lease agreement)**

- (1) The Provincial Executive determines until which time existing lease agreements may be submitted to them for registration.
- (2) The Provincial Executive determines until which time lease agreements may be submitted to for registration that have been concluded after the date referred to in paragraph one.
- (3) The Provincial Executive shall issue proof of registration.
- (4) The Provincial Executive will confirm receipt of the lease agreement to the other party of the person who has sent a lease agreement for registration.

##### Article 16.126

##### **(reservations)**

The other party may introduce reservations about the registration of the lease agreement in writing to the Provincial Executive within two weeks of the date of the receipt referred to in Article 16.125, paragraph four.

##### Article 16.127

##### **(proceedings of chamber for leasing disputes or a land control)**

- (1) If reservations are to be announced, the Provincial Executive will inform the parties of this by registered letter.
- (2) The Provincial Executive shall indicate that within two weeks of the date of that letter, the following will be sent to the Provincial Executive:
  - a. a deed certified by both parties that shows that agreement has been reached, or
  - b. a copy of the petition certified by the registrar of the court in which either party has requested the decision of the chamber for leasing disputes of the court within the jurisdiction of which the real-estate property wholly or largely lies.
- (3) If the Provincial Executive is of the opinion that Article 318, paragraph one of Book 7 of the Civil Code was wrongly ignored in the lease agreement submitted for registration, it shall, if necessary, invite the parties by registered letter to invoke the judgement of the chamber for land control, and, within four weeks of the date of that letter, submit a copy of the petition certified by the secretary of the chamber of land control.
- (4) If the Provincial Executive believes that Article 317, paragraph one, of Book 7 of the Civil Code has not been taken into account in the lease agreement submitted for registration, it shall, if necessary, invite the parties by registered letter to invoke the judgement of the chamber for leasing disputes, and, within four weeks of the date of that letter, to submit a copy of the petition certified by the clerk court of the district court.

(5) The chamber for leasing disputes and land control of the district court and, on appeal, the Central Land Tribunal and the chamber of leasing disputes of the Arnhem-Leeuwarden Court of Appeal handle the requests and claims referred to in paragraphs two to four, before all other cases.

**Article 16.128**

**(incompletion of proceedings of a chamber for leasing disputes or land control)**

If Article 16.127 has not been complied with, the existence of the lease agreement need not be taken into account in the land exchange decision.

**Article 16.129**

**(notification of cadastral registry)**

As soon as the land exchange decision is irrevocable, the Provincial Executive shall communicate this by sending the decision to the Division of the land registry and the public registers.

**Article 16.130**

**(notification of lease relationships)**

- c. The Provincial Executive shall inform the land control chamber as soon as possible after the land exchange decision has become irrevocable, which lease relationships have been maintained, cancelled or are newly established, stating:
- a. the names and addresses of the parties to the lease relationship,
  - b. the real-estate property relating to the order, and
  - c. whatever in the land exchange decision shall be determined over the lease agreements resulting from the well-established leases relationships.

**Article 16.131**

**(draft lease agreement)**

- (1) The land control chamber drafts the lease agreements that arise from the newly established lease relationships and incorporates the provisions referred to in Article 12.28 regarding the term of validity of those lease agreements.
- (2) If an agreement that is valid for a period shorter than the statutory duration pursuant to Article 12.28 is subject to renewal, the land control chamber will note this on the draft lease agreement.
- (3) The land control chamber sends the draft lease agreement to those who will be party to it, providing them the opportunity to send the signed agreement back to the land control chamber within four weeks of it being sent. Those involved may include the lease price and special provisions agreed by them in the agreement.
- (4) Title 5 of Book 7 of the Dutch Civil Code applies to the lease agreements referred to in paragraph three, whereby the land control chamber shall not enter into the assessment of the provisions of the agreement resulting from the lease relationship established by the land exchange decision

**Article 16.132**

**(drafting and signature of deed by the land control chamber)**

- (1) If the parties fail to submit the signed lease agreement to the land control chamber within the period specified in Article 16.131, paragraph three, the land control draws up a deed in triplicate, similar to the draft lease agreement sent to the parties, and determines the lease price therein.
- (2) The land control chamber signs the deed and then sends a copy to each party.
- (3) The deed has the same force as a lease agreement concluded between the parties, approved by the land control chamber or offered for registration.

**Article 16.133**

**(appeal against judgement of the land control chamber)**

- (1) The preparation and signing of the deed by the land control chamber is a decision.
- (2) The parties may lodge an appeal against the judgement with the Central Land Tribunal [Centrale Grondkamer].

(3) The period for submitting an appeal amounts to four weeks. The period starts on the date after the date on which the copies of the deed referred to in Article 16.132, paragraph two were sent.

(4) When deciding on an appeal, the Central Land Tribunal may amend the deed, with the exception of provisions arising from the lease relationship as determined by the land exchange decision.

#### **Article 16.134**

##### **(amendment of an existing lease agreement due to land re-parcelling)**

(1) If an existing lease agreement must be amended or replaced in a maintained lease relationship as a result of the land re-parcelling, the land control room will request that the parties send, within four weeks, a new agreement to it for approval or registration. The land control chamber will make this request as soon as possible after the notification of the Provincial Executive, as referred to in Article 16.130.

(2) The new agreement will end at the same time that the agreement for which it replaces would have ended. If the last-mentioned agreement was applicable for the legal duration, the land control chamber will, insofar as is applicable to the new agreement, indicate that it can be renewed.

(3) If an agreement for approval or registration has not been offered within the period referred to in paragraph one, the land control chamber will prepare a deed in triplicate, including an amended or new lease agreement in which the consequences of the land re-parcelling for the maintained lease relationship are incorporated. Articles 16.132, second paragraph, and 16.133, shall apply *mutatis mutandis*.

#### **Article 16.135**

##### **(entry into force of lease agreements)**

(1) Lease agreements concluded on the basis of this section shall enter into force at the time that the land consolidation deed referred to in Article 16.136 is recorded in the public registers. At the same time, the lease agreements will end for the first-mentioned lease agreements that take effect.

(2) Paragraph one shall apply *mutatis mutandis* to the legal relationships regulated by a deed as provided for in Article 16.132 or Article 16.134, paragraph three.

#### **Article 16.136**

##### **(content of land consolidation deed)**

(1) Once the land exchange decision is irrevocable, the notary appointed by the Provincial Executive shall draw up the land consolidation deed.

(2) The following shall be included in the land consolidation deed:

- a. a representation of the land consolidation block designating the parcels, and, insofar as they are situated within the land consolidation block: the roads, water control works, areas and elements for which the ownership, management or maintenance pursuant to Article 12.8, paragraph one, has been allocated,
- b. the allocation of ownership referred to in Article 12.8, insofar as it relates to real-estate property situated within the re-parcelling block,
- c. the mortgages and attachments that expire upon the registration of the land consolidation deed.

(3) The parcels, roads, water control works and areas that are displayed, as referred to in paragraph two, and that are furnished with a number, shall be indicated within the land consolidation deed by the corresponding number with which they appear in that representation. Article 20, paragraph one, of the Land Registry Act does not apply insofar as it concerns the designation of the nature and the local designation, if any, of real estate properties.

(4) Article 18, paragraphs one and five, and Article 24, paragraph two, item b and paragraph four, second sentence, of the Land Registry Act shall apply *mutatis mutandis* to the land consolidation deed.

**Article 16.137****(registration of the land consolidation deed)**

- (1) The land consolidation deed shall be signed by the chairperson of the Provincial Executive and the secretary, as provided for in Article 97 of the Provinces Act.
- (2) The land consolidation deed shall constitute a title for the rights specified therein. Upon being recorded in the public registers, the ownership of the real-estate property described therein shall transfer and the limited rights shall be acquired.
- (3) Pursuant to the land re-parcelling deed, it is noted in the public registers with every mortgage registration or with each registration of a seizure that the mortgage or the seizure will reside in the future on the parcels or portions thereof designated in the re-parcelling deed, or on the rights to which those parcels or portions thereof are subjected.
- (4) The registrar of the land register and the public registers shall record ex officio the registrations of mortgages referred to in Article 16.136, paragraph two, item c, that no longer exist upon the registration of the land consolidation deed in the cadastral registry.
- (5) The registrar of the land register and the public registers shall send a notification as soon as possible to each owner and any person with limited rights of ownership of the real-estate property of the result of maintaining the cadastral registry that takes place on the basis of the registration of the re-parcelling deed. He or she shall state the date of dispatch, the information on the rights entered into the cadastral registry, the rightholders referred to in the Land Registry Act, and the size and cadastral designation of the real-estate property to which the notification relates. Article 56b of the Land Registry Act does not apply to the registry maintenance, referred to in the first sentence.

**Section 16.13****Notice of agreement on recovery of costs****Article 16.138****(notice of agreement on recovery of costs)**

Within two weeks of an agreement being entered into as referred to in Article 13.14, paragraph one, the competent authority shall notify the public about the inspection of the agreement, in the manner prescribed in Article 12 of the Publication Act.

**Section 16.14****General delegation principles governing procedural and formal requirements****Article 16.139****(delegation principle governing procedural and formal requirements)**

- (1) Insofar as not provided for in this Act the General Administrative Law Act, or by or pursuant to the Publication Act by order in council, rules may be laid down on the creation, form, structure or application of, or the subjects to be included in:
- a. decisions in accordance with this Act,
  - b. environmental strategies, programmes as referred to in Sections 3.2.2 to 3.2.4, the documents that are separately drafted for preparing programmes and plans or programmes in the sense of Section 16.4.1,
  - c. information requirements as referred to in Article 4.3,
  - d. notifications in the sense of Article 4.4, paragraph one,
  - e. intentions in the sense of Article 5.47,
  - f. invitations to negotiate in the sense of Article 9.12,
  - g. information requirements and messages as referred to in Article 16.1, paragraph two,
  - h. decisions in the sense of Article 16.43, paragraph one,
  - i. environmental impact assessments and evaluations of environmental impacts, in the sense of Article 16.34, paragraph five, or Article 16.41, paragraph two.
  - j. maps in the sense of Article 20.17,
  - k. monitoring programmes in the sense of Article 20.2, paragraph four.



(2) Pursuant to the first paragraph, rules may in any case be laid down on the following subjects:

- a. the manner in which an application, notification or other communication is submitted or made, and how an information requirement other than a notification must be met,
- b. the publication and the issuing of communications to third parties,
- c. the notification, the filing for inspection and making information available,
- d. the participation and consultation of third parties, including the consultation of the competent authorities in other Member States,
- e. the coordination and cooperation with the competent authorities of other Member States,
- f. implementation and feasibility,
- g. evaluation and updating,
- h. reporting,
- i. the topics to be included, at a minimum,
- j. the manner in which the rightholders to a building agree to take measures, as referred to in Article 2.43, paragraph one.

(3) Insofar as this is not provided for in or pursuant to the Publication Act, rules may be laid down by ministerial decree concerning:

- a. the provision of information and documents in connection with an application, notification, other obligatory information or other message as referred to in paragraph one,
- b. the transmission of information and documents to third parties,
- c. the electronic design of decisions and other legal forms under this Act or of documents and the manner in which they are made available.
- d. the model that is used for adopting decisions based on this Act in cases designated therein.

(4) Pursuant to paragraph three, rules are in any case laid down regarding the information and documents to be supplied with the application for a decision on the obligation to consent.

## Article 16.140

### (implementation of international law obligations)

On the basis of Article 16.139 rules shall be laid down in any case to implement:

- a. the Groundwater Directive,
- b. the Habitats Directive,
- c. the Water Framework Directive,
- d. the Marine Strategy Framework Directive,
- e. the Maritime Spatial Planning Framework,
- f. the Environmental Impact Assessment Directive,
- g. the National Emission Ceiling Directive,
- h. the Industrial Emissions Directive,
- i. the Air Quality Directive,
- j. the Environmental Noise Directive,
- k. the Flood Risk Directive,
- l. the Priority Substances Directive,
- m. the SEA Protocol,
- n. the Seveso Directive,
- o. the Strategic Environmental Assessment Directive,
- p. the Mining Waste Directive,
- q. the Espoo Convention,
- r. the Treaty of Granada,
- s. the Valletta Convention,
- t. the Bathing Water directive.

## Chapter 17 Advisory bodies and advisors

### Section 17.1 Government-level advisory bodies

#### Section 17.1.1 General provisions

##### Article 17.1 (application)

This section is applicable to the advisory bodies established herein.

##### Article 17.2 (composition, membership appointment, working method, and support for advisory bodies)

(1) Our Minister of Infrastructure and Water Management or Our Minister whom it concerns shall appoint and dismiss the chairperson and the members of an advisory body. The chairperson and members may resign by providing written notice to that effect to the minister concerned.

(2) Articles 11, paragraph two, 12, 15, 16, 19 to 21, and 29 of the Advisory Bodies Framework Act shall apply, *mutatis mutandis*, to advisory bodies.

##### Article 17.3 (further rules)

Further rules may be laid down by order in council about the composition, organisation and working method of an advisory body.

##### Article 17.4 (rules of procedure)

If Article 21 of the Advisory Bodies Framework Act has been applied, the advisory body will send the regulations to Our Minister of Infrastructure and Water Management or Our Minister whom it concerns.

#### Section 17.1.2 Advisory bodies

##### Article 17.5 (establishment of the Netherlands Commission for Environmental Assessment)

(1) An Netherlands Commission for Environmental Assessment shall be tasked with issuing a recommendation as referred to in Articles 16.39 and 16.47.

(2) The task referred to in the first paragraph shall be performed only by persons who are not, shall be or have been directly involved with:

- a. a plan or programme under Article 16.34, the preparation of which the environmental impact assessment is or should be made,
- b. a decision for a project under Article 16.43, the preparation of which the environmental impact assessment is or should be made, or
- c. a proposed activity and the reasonable alternatives to consider in the preparation of which the environmental impact assessment is or should be.

(3) Further rules regarding the Netherlands Commission for Environmental Assessment shall be laid down by order in council.

(4) Notwithstanding Article 17.2, paragraph two, Article 15, paragraph five, and Article 20, the Advisory Bodies Framework Act is not applicable to the Netherlands Commission for Environmental Assessment.

##### Article 17.5a (establishment of the CITES Scientific Authority)

The CITES Scientific Authority shall act as a scientific authority as provided for in Article 13, paragraph two, of the basic CITES Regulation.

**Article 17.6****(basis for the establishment of other advisory bodies)**

Advisory bodies may be established by order in council with an advisory task in the terrain of the physical environment described in the order, other than the task referred to in Article 17.5.

**Section 17.2****Advisory bodies at the municipal level****Section 17.2.1****General provisions****Article 17.7****(members of an advisory body)**

- (1) The Municipal Council shall determine the number of members and the term of appointment of a municipal advisory body established under this section.
- (2) The Municipal Council shall appoint and dismiss the members of a municipal advisory body.

**Article 17.8****(requirements of members)**

The members of the municipal administration are not members of a municipal advisory body.

**Section 17.2.2****Mandatory municipal advisory bodies****Article 17.9****(municipal advisory committee)**

- (1) The Municipal Council shall set up a committee whose task in any case is to advise on applications for an environmental permit for an activity relating to a nationally listed monument with regard to a monument.
- (2) Besides the cases in which the committee under Article 16.15, paragraph one, is appointed as an advisor, the Municipal Executive can request that the Committee issue recommendations on policy development regarding the quality of the physical environment.
- (3) The committee shall base its recommendation, if applicable, on the environmental strategy, the environmental plan and the policy rules referred to in Article 4.19. With regard to providing recommendations on an activity related to nationally listed monuments, the Committee shall observe the principles referred to in Article 5.22.
- (4) The Committee's recommendations shall be properly substantiated and made public in writing.
- (5) The meetings held by the Committee will be public. A meeting or part thereof shall not be public in cases as referred to in Article 10, paragraph one, of the Government Information (Public Access) Act and in cases in which the interest of transparency does not outweigh the interests referred to in Article 10, paragraph two, of this Act.
- (6) The committee shall send the Municipal Council an annual report on the work that it has carried out.

## Section 17.3

### Advisors

#### Article 17.10

#### **(recommendations on appeals from Stichting Advisering Bestuursrechtspraak voor Milieu en Ruimtelijke Ordening or StaB)**

- (1) There is a foundational Advisory Consultancy for Administrative Environment and Spatial Planning (Dutch abbreviation: StaB)
- (2) StaB is tasked, based upon the administrative court's request, with issuing an impartial and independent expert report on:
  - a. appeals against decisions under this Act,
  - b. appeals against decisions under other acts, insofar as it concerns an issue that is related to the physical environment or activities that impact the physical environment.
- (3) The people who make up the bodies of the StaB foundation and its staff do not fulfil functions and relationships whose exercise is undesirable in connection with maintaining the impartiality and independence of the foundation of the confidence in it.

# Chapter 18 Enforcement and implementation

## Section 18.1 Administrative enforcement

### Section 18.1.1 *Administrative enforcement task and enforcement powers*

#### Article 18.1 (content of enforcement task)

The administrative enforcement task comprises:

- a. supervising compliance with the provisions under or pursuant to this Act, including the collection and recording of data that are important for this,
- b. handling complaints about compliance with the provisions under or pursuant to this Act, and
- c. the imposition and implementation of an administrative penalty for any act or omission contrary to the provisions of or pursuant to this Act.

#### Article 18.2 (allocation of the enforcement task)

(1) If there is an activity for which general rules have been laid down on the basis of Section 4.1.1, the administrative enforcement task lies with the competent authority charged with that activity on the basis of Section 4.1.3.

(2) If there is an activity that requires an environmental permit, the administrative enforcement task will reside with the competent authority responsible for that environmental permit on the basis of Section 5.1.2.

(3) Insofar as a project decision applies as an environmental permit for activities to implement the project decision as referred to in Article 5.52, paragraph two, item a, the administrative enforcement task shall reside with the administrative body that adopted the project decision.

(4) For an obligation to consent as referred to in Chapter 10, the administrative enforcement task shall reside solely with an administrative body insofar as that task has been assigned to that administrative body by an order in council.

(5) In other cases, the administrative enforcement task shall reside with the Municipal Executive.

(6) By order in council, subject to the terms of Article 2.3, the administrative law enforcement task may be entrusted to another administrative body.

#### Article 18.3 (allocation of co-enforcement task)

(1) In cases designated by order in council, the administrative enforcement task also resides with the administrative body that has decided on the basis of Article 16.16, paragraph one, about consent to the intended decision on the application for an environmental permit for an activity, or that on the basis of Article 16.16, paragraph three or four, has determined that consent is not required, insofar as it concerns compliance with the requirements of the environmental license for that activity.

(2) By order in council, the administrative enforcement task, with a view to its effective implementation, may also be assigned in other cases to an administrative body that performs that task in addition to the administrative body designated by or pursuant to Article 18.2. Assigning the administrative enforcement task can be limited to a distinct activity or part of an activity to which the rule or decision is enforced relates.

#### Article 18.4 (administrative order authority of the Minister)

Our Minister whom it concerns is authorised to impose an administrative order to enforce the provisions under or pursuant to this Act insofar as he or she is entrusted with the administrative enforcement task thereof.

**Article 18.4a****(remediation sanction and legal successor)**

The administrative body that makes a decision to impose an order subject to administrative enforcement or an order subject to a penalty to comply with a rule laid down by or pursuant to this Act may determine that the decision also applies to the legal successors of the person to whom the order is imposed. In that case, the administrative body may implement the decision against the legal successors and collect the costs of that enforcement or a forfeited penalty sum from those legal successors.

**Article 18.5****(non-transfer of authorisation to enforce)**

If a decision imposing an administrative sanction has been made and another administrative body subsequently becomes competent to do so, the administrative body that issued the decision shall remain competent until such time that:

- a. the decision has become irrevocable and has been implemented,
- b. the decision has been revoked; or
- c. if the decision concerns the imposition of an order subject to a periodic penalty payment:
  1. the penalty has been recovered, or
  2. the penalty imposed under the decision has been abolished.

**Article 18.5a****(enforcement task and administrative body authorised under the Mining Act)**

To the extent that tasks or powers relating to mining are vested in Our Minister of Economic Affairs and Climate on the basis of this section, these are exercised by the administrative body that is authorised to do so on the basis of Chapter 8 of the Mining Act.

**Section 18.1.2*****Appointment and authority of supervisory officials*****Article 18.6****(appointment of supervisory officials)**

- (1) Supervision of the compliance with the provisions laid down by or pursuant to this Act are entrusted to the persons who, by decision of the Municipal Executive, the daily management of a water board, the Provincial Executive, Our Minister whom it concerns or other administrative bodies is charged with the implementation of this Act.
- (2) Notification shall be made of any decision to designate supervisory officials by placing said notification in a municipal newspaper, a water board newspaper, the provincial newspaper or the Netherlands Government Gazette [Staatscourant].

**Article 18.6a****(scope of the authority of the supervisory official)**

art.(1) Our Minister whom it concerns and the Provincial Executive may determine that, for the cases they have designated, the supervisory officials working for an environmental service are also competent outside the operating area of that environmental service.

Article (2) Our Minister whom it concerns may determine that supervisory officials designated by his or her decision are charged with supervising compliance to the exclusion of other supervisory officials.

Article (3) A supervisory official appointed by Our Minister of Infrastructure and Water Management shall supervise compliance with the provisions of Section 20, paragraph three, of the Passenger Transport Act of 2000, either on its own initiative or at the request of the Provincial Executive or the daily management of a public body as referred to in Section 20, paragraph three, of the Passenger Transport Act of 2000:

- a. rules laid down by order in council on a restricted area activity relating to a local railway as referred to in Article 4.3, paragraph three, introduction and item c, point 2°,
- b. the prohibition referred to in Article 5.1, paragraph two, introduction and item f, to perform a restricted area activity relating to a local railway without an environmental permit,

c. the prohibition, as referred to in Article 5.5, paragraph one, introduction and under f, to act contrary to a requirement of an environmental permit as referred to under b. Article (4) Article 42, paragraphs seven, eight and nine of the Local Rail Act shall apply, mutatis mutandis, to the supervision as referred to in the third paragraph.

#### **Article 18.7**

##### **(power to enter a residential dwelling)**

(1) A supervisory official appointed in accordance with Article 18.6 shall be empowered to enter a residential dwelling and to take along any equipment that may be required, without the consent of the occupant, insofar as he or she has been granted these powers in the decision to appoint him or her.

(2) The powers referred to in paragraph one shall be granted solely in a decision to appoint insofar as this forms a requirement to be able to supervise compliance with a regulation under or pursuant to this Act, with a view to the interests the that regulation sets out to protect.

#### **Article 18.8**

##### **(powers of the Netherlands Tax and Customs Administration)**

Officials of the Netherlands Tax and Customs Administration holding powers regarding customs shall not give permission to a vehicle or aircraft to leave the Netherlands if they have serious reasons to suspect that actions will be taken in contravention of Article 5.1, paragraph one, introduction and item d, or Article 5.5, paragraph one, introduction and item c.

#### Article 18.9

(compliance with the United Nations Convention on the Law of the Sea)

In applying Article 18.4 and when carrying out supervisory activities regarding compliance with the stipulations under or pursuant to this Act, respectively, Our Minister whom it concerns and the supervisory officials shall observe Section 7 of Part XII of the United Nations Convention on the Law of the Sea.

#### **Section 18.1.3**

##### ***Revocation of a favourable decision***

#### **Article 18.10**

##### **(power to revoke a favourable decision)**

(1) The competent authority may revoke a decision, in whole or in part, where the decision has been or is being contravened or where the rules applicable to the activity in respect of which the decision has been taken have been or are being contravened.

(2) A decision relating to the management of hazardous waste or of other waste originating from elsewhere may also be revoked insofar as that decision relates to the management of waste substances if it is contrary to, or in breach of, the regulations applicable to that management pursuant to Chapter 10 of the Environmental Management Act.

(3) Before the competent authority proceeds to apply paragraph one or two, it shall afford the contravening party an opportunity, within a stated deadline, to amend its activities in manner compliant to the decision or the rules concerned.

(4) The competent authority may also revoke a decision in whole or in part:

- a. in the event that the decision issued was based upon incorrect or incomplete information,
- b. in cases such as the ones referred to in Article 5.35, paragraph three: in the event that the activity is being carried out by a party other than the one to which the environmental permit has been granted.

**Section 18.1.4****Administrative penalty****Article 18.11****(administrative penalty for violating the environmental regulations of the Seveso Directive)**

(1) The competent authority may impose an administrative penalty for violations of the rules laid down pursuant to Article 4.3, paragraph one, introduction and item b, and paragraph four, in conjunction with paragraph one, introduction and item b, for the implementation of Articles 5 and 7 to 12; of the Seveso Directive.

(2) The administrative penalty shall not exceed the amount determined for the sixth category, as referred to in Section 23, paragraph four, of the Dutch Criminal Code, or ten per cent of the turnover of the company in the financial year preceding the financial year in which the administrative penalty is imposed, whichever is the greater.

**Article 18.12****(administrative penalty for violating rules about the construction, demolition, usage and maintenance of buildings)**

Article (1) The competent authority may impose an administrative penalty in the event of a violation of the following:

- a. rules laid down in a physical environment plan pursuant to Article 4.1, paragraph one on the use or condition of open grounds or sites or the use of buildings, or on the prevention of nuisance,
- b. prohibitions and rules or regulations on construction activities, demolition activities and the use and maintenance of construction works pursuant to Article 4.3, paragraph one, introduction and item a and paragraph four.

Article (2) An administrative penalty may only be imposed if the same violation, committed by the same perpetrator, has been identified within a period of two years prior to the day of the initial violation.

Article (3) The administrative penalty shall not exceed the amount determined for the third category, as provided for in Article 23, paragraph four of the Dutch Criminal Code.

Article (4) If the violation threatens the viability or is a risk to health or safety, the competent authority may raise the penalty up to the amount determined for the fourth category as referred to in Article 23, paragraph of the Dutch Criminal Code.

Article (5) Further rules may be set by order in council regarding the amount of the administrative penalties that may be imposed for a violation.

**Article 18.13****(administrative penalty in case of violation of heritage regulations)**

Article (1) The competent authority may impose an administrative penalty in the event of a violation of the following:

- a. on the grounds of Article 4.1, paragraph one, with a view to preserving cultural heritage or the exceptional universal value of world heritage,
- b. rules laid down pursuant to Article 4.3, paragraph one, introduction and items h and i,
- c. the prohibition referred to in Article 5.1, paragraph one, introduction and item a, insofar as the physical environment plan for the preservation of cultural heritage or of the exceptional universal value of world heritage includes a prohibition to perform an activity without an environmental permit, and under item b,
- d. Article 5.4, insofar as the environmental regulation prohibits an activity without an environmental permit with a view to preserving cultural heritage or the exceptional universal value of world heritage,
- e. the prohibition referred to in Article 5.5, paragraph one, introduction and item a, point 4°, and item b, and paragraph five, introduction and item a, point 4°,
- f. obligations imposed pursuant to Article 19.9 in conjunction with Article 19.3, paragraph two, or 19.4, paragraphs one and two.

Article (2) The administrative penalty shall not exceed the amount determined for the fifth category, as provided for in Article 23, paragraph four of the Dutch Criminal Code.



**Article 18.14****(administrative penalty for violating the restricted area of an airport)**

(1) The competent authority may impose an administrative penalty in the event of a violation of this provision:

- a. by virtue of Article 4.3, paragraph three, introduction and item c, point 1°,
- b. by virtue of Article 4.3, paragraph four, in conjunction with paragraph three, introduction and item c, point 1°,
- c. the prohibition referred to in Article 5.1, paragraph two, introduction and item f, under 3°,
- d. the prohibition referred to in Article 5.5, paragraph one, introduction and item f with regard to an airport.

(2) The administrative penalty shall not exceed the amount determined for the fifth category, as provided for in Article 23, paragraph four of the Dutch Criminal Code.

**Article 18.15****(administrative penalty for violating the rules concerning the restricted area of a railway)**

(1) Our Minister of Infrastructure and Water Management can impose an administrative penalty in the event of a breach of these regulations:

- a. rules laid down pursuant to Article 4.3, paragraph three, introduction and item c, point 2°,
- b. rules laid down pursuant to Article 4.3, paragraph four, in conjunction with paragraph three, introduction and item c, point 2°,
- c. the prohibition referred to in Article 5.1, paragraph two, introduction and item f, point 4°,
- d. the prohibition referred to in Article 5.5, paragraph one, introduction and item f, regarding a primary railway, local railway or special railway.

(2) If the violation relates to a primary railway or a special railway, Article 80 of the Railways Act shall apply *mutatis mutandis*.

(3) If the violation relates to a local railway, Article 44 of the Local Railways Act shall apply *mutatis mutandis*.

**Article 18.15a****(administrative penalty for violating the rules of trade concerning animals, plants, wood or products thereof)**

(1) Our Minister of Agriculture, Nature and Food Quality may impose an administrative penalty for violations of rules designated by order in council pursuant to Article 4.3, paragraph two, items a or b.

(2) The administrative penalty shall not exceed the amount determined for the first category, as referred to in Article 23, paragraph four of the Dutch Criminal Code, per violation committed by a natural person, and not exceeding the amount determined for the second category as referred to in Article 23, paragraph four of the Dutch Criminal Code for each violation, or for each violation committed by a legal entity or a company.

(3) By order in council, further rules shall be laid down on the maximum amount of the administrative penalty that can be imposed for a violation or for categories of violations.

(4) For violations as referred to in paragraph one, no administrative penalty decision can be imposed on the basis of Article 257ba of the Dutch Code of Criminal Procedure.

**Article 18.16****(harmonisation of administrative penalties and enforcement under criminal law)**

If the seriousness of the violation or the circumstances under which it was committed so dictate, the competent authority shall submit the conduct of the Public Prosecution Service of the Netherlands.

**Section 18.1.5****Administrative measures concerning animals, plants, eggs, timber and products thereof.****Article 18.16a****(administrative measures concerning animals, plants, eggs, timber and products thereof)**

(1) Without prejudice to Article 18.1 and Article 117 of the Dutch Code of Criminal Procedure, Our Minister of Agriculture, Nature and Food Quality may, for animals, eggs, plants, timber or products thereof that have been brought into the territory of the Netherlands in violation of the provisions of or pursuant to this Act, immediately take measures at the expense of the owner, transporter, trader, importer or his or her authorised representative.

(2) These measures include:

- a. a decision to return to the country of export or origin or to impose a duty to do so,
- b. a decision to bring animals, eggs, plants or products thereof to any place beyond the Netherlands before that, in the opinion of the Minister of Agriculture, Nature and Food Quality is appropriate and consistent with the objectives of CITES, or to the imposition of a requirement to do so,
- c. a decision to impose a prohibition on transporting, processing or trading,
- d. a decision on the custody or imposing an obligation to,
- e. a decision to impose an obligation to inform permit holders or suspected permit holders of this situation promptly and effectively,
- f. a decision to impose a duty to collect or centrally store the animals, plants, eggs, or products thereof or the timber or products thereof involved that have been traded,
- g. a decision to impose a duty to identify and register the animals, eggs, plants or products thereof, or the timber or products thereof.

18.16a(3) Our Minister of Agriculture, Nature and Food Quality can decide that live animals belonging to a wild species that occurs naturally in the Netherlands, that can be assumed to be able to survive in nature, shall be set free in their natural environment at the expense of the owner or the person accompanying these animals.

**Article 18.16b****(further rules concerning administrative measures)**

(1) Provisions may be attached to a decision as referred to in Article 18.16a.

(2) It is prohibited to act in contravention of a decision under Article 18.16a or a regulation referred to in paragraph one.

(3) If the decision is made not to return or release the live animal into the natural living environment, the costs of care, accommodation or storage within the Netherlands can be charged in whole or in part to the owner, transporter, trader, importer or his or her authorised representative. Further rules may be laid down by ministerial decree on the charging of costs.

(4) The costs referred to in Article 18.16a, paragraphs one and three, may also include the costs of storage in connection with transport to the place of destination.

(5) In the absence of full payment within the period set by him, Our Minister of Agriculture, Nature and Food Quality may collect what is owed pursuant to Article 18.16a or this article by writ of execution.

**Section 18.2****Enforcement under criminal law****Article 18.17****(applicability of the Dutch criminal code)**

(1) Notwithstanding the right of other Member States, in accordance with the United Nations Convention on the Law of the Sea, to initiate prosecution, the Dutch Criminal Code shall apply in the case of any individual, who, either in or above the exclusive economic zone, acts in contravention of a regulation under or pursuant to this Act.

(2) Section 7 of Part XII of the United Nations Convention on the Law of the Sea shall be observed during the detection and prosecution of punishable acts in the sense of paragraph one.

## Section 18.3 Promotion of quality, agreement of implementation and enforcement

### Section 18.3.1 Scope of Section 18.3

#### Article 18.18

#### **(scope of Section 18.3)**

(1) This section applies to the execution of activities for the exercise of powers by the competent authority in the context of the implementation task referred to in paragraph two and the enforcement task referred to in Article 18.1.

(2) The physical environment shall, in any event, include:

- a. the provision of custom requirements and attaching conditions to an environmental permit referred to in Article 4.5,
- b. assessing and deciding on an application for an environmental permit as referred to in Sections 5.1.2 and 5.1.3,
- c. the application of Section 5.1.5,
- d. issuing recommendations under Articles 16:15 to 16:19, inclusive.

### Section 18.3.2

#### **Strategic and programmatic implementation and enforcement**

#### Article 18.19

#### **(strategic and programmatic implementation and enforcement)**

(1) In the interest of the efficient exercise of the implementation and enforcement tasks, rules shall be laid down by order in council about the following:

- a. the strategic and programmatic implementation of these tasks by the administrative bodies concerned,
- b. the coordination of the execution of these tasks and the activities connected therewith by:
  1. the administrative bodies concerned,
  2. the supervisors working under their authority,
  3. the authorities charged with the criminal enforcement of the provisions under or pursuant to this law.

(2) The rules are in any event established for the implementation of the Industrial Emissions Directive and the Seveso Directive.

### Section 18.3.3

#### **Quality implementation and enforcement; environmental services**

#### Article 18.20

#### **(ensuring high-level implementation and enforcement)**

(1) The relevant administrative bodies shall ensure a high-quality performance of the implementation and enforcement tasks.

(2) The Provincial Council may regulate the exercise of these functions by the Provincial Executive.

(3) The Municipal Council may elaborate rules on the exercise of these tasks by the Municipal Executive.

#### Article 18.21

#### **(establishing environmental services)**

(1) The Provincial Executive and the Municipal Executive of the municipalities belonging to one or more regions in accordance with Article 8 of the Safety Regions Act [Wet veiligheidsregio's] or a group of municipalities designated by regulation of the Minister of Infrastructure and Water Management and the Minister of Justice and Security shall establish an environmental service for the efficient and effective performance of the implementation and enforcement tasks for the region, regions or a group.

(2) An environmental service shall be established as a public body as defined in Article 8, paragraph one, in conjunction with Article 52 or 74 of the Common Regulations Act or CRA.

(3) The operating area of an environmental service will correspond to the operating area of one or more regions in accordance with Article 8 of the Dutch Safety Regions Act or the territory of a group of designated municipalities.

#### **Article 18.22**

##### **(environment services with a range of basic tasks or specific duties)**

(1) The activities that are part of the implementation task and the enforcement task or associated activities and that shall in any case be assigned to an environmental service shall be determined by order in council.

(2) The order in council designates environmental services to which the implementation and enforcement task is assigned for activities to the exclusion of other environmental services:

- a. in relation to installations covered by category 4 of Annex I to the Industrial Emissions Directive, and
- b. to which the Seveso Directive applies.

#### **Article 18.23**

##### **(quality of the basic responsibilities of the environmental service)**

(1) For a high-level performance of the implementation and enforcement tasks to safeguard the environmental service:

- a. the Municipal Council shall lay down rules on the exercise of these duties or the related activities referred to in Article 18.22, paragraph one, which are carried out by order of the Municipal Executive,
- b. the Provincial Council shall lay down rules concerning the exercise of these duties or activities related thereto, as referred to in paragraph one of Article 18.22, which are carried out by order of the Provincial Executive.

(2) Uniform rules will be established for each environmental service and for the environmental services designated on the basis of Article 18.22, paragraph two.

#### **Article 18.24**

##### **(biannual investigation for effective implementation and enforcement)**

(1) On behalf of Our Ministers whom it concerns, the effectiveness of the following will be investigated every two years:

- a. how the obligation referred to in Article 18.20, paragraph one, is complied with, and
- b. the rules referred to in Articles 18.20, paragraphs two and three, and 18.23,
- c. paragraph one.

(2) If, in the opinion of Our Ministers whom it concerns, the investigation reveals that the manner of compliance with that obligation or those rules is not sufficiently effective, rules may be laid down by order in council that replace or supplement those rules.

### **Section 18.3.4**

#### **Information provision and coordination**

#### **Article 18.25**

##### **(information provision, implementation and enforcement)**

(1) The administrative bodies involved in the implementation and the enforcement tasks shall provide each other with the information that they possess in connection with the activities referred to in Article 18.22, paragraph one, and to the extent that this information is necessary for the criminal enforcement of the provisions under or pursuant to this Act, to the authorities in charge of criminal enforcement.

(2) By order in council, other administrative bodies and authorities may be appointed which, upon request, provide information available to them in connection with the activities referred to in Article 18.22, paragraph one, to the authorities referred to in paragraph one:

- a. administrative bodies to the extent that such information is necessary for the exercise of the executive task and the enforcement task,

- b. authorities, to the extent that such information is necessary for the criminal enforcement of the provisions under or pursuant to this Act.
  - (3) An order in council may be issued to provide rules concerning:
    - a. how data can be provided in accordance with paragraph one,
    - b. the processing of personal data referred to in Article 4, point 2° of the General Data Protection Regulation, provided that such information is necessary for the criminal enforcement of the provisions under or pursuant to this Act, by:
      - 1. the administrative bodies involved,
      - 2. the supervisory official working under their authority, and
      - 3. the administrative bodies and authorities designated on the basis of paragraph two,
    - c. the distribution of the costs associated with the implementation of the provisions under or pursuant to this article.
- Article 18.26 (coordination of implementation and enforcement)**
- (1) Within the province, the Provincial Executive shall ensure the coordination of the mutual exercise of the implementation and enforcement tasks.
  - (2) Our Minister whom it concerns and Our Minister of the Interior and Kingdom Relations are responsible for coordinating the implementation and enforcement task, insofar as such coordination is of supra-provincial significance.

#### **Article 18.27**

#### **(provincial enforcement consultation)**

Within the province, the Provincial Executive shall establish one or more consultative bodies that regularly meet about the quality, effectiveness and efficiency of the performance of the implementation and enforcement tasks.

## Chapter 19 Powers in extraordinary circumstances

### Section 19.0 Extraordinary circumstances

#### Article 19.0

#### **(exceptional circumstances in the physical environment)**

- (1) Rules as referred to in Section 4.1.1 may be used to designate subjects for which the administrative body designated for this purpose may specify by decision that an exceptional circumstance in the physical environment is occurring.
- (2) The decision will determine which rules are applicable in connection with the exceptional circumstance at a specific location or for a specific period. The decision may deviate from the rules as referred to in Section 4.1.1.

### Section 19.1 Unusual incident

#### Article 19.1

#### **(definitions and scope of application of Section 19.1)**

- (1) For the purposes of this Section, the prevention of the adverse consequences of an unusual incident shall also be understood as:
- a. limiting or reversing those adverse consequences as much as possible,
  - b. preventing the incident from worsening, continuing or recurring,
  - c. eliminating the cause of the incident.
- (2) For the purposes of this Section, the 'party responsible' shall mean the natural person or legal entity:
- a. who caused, performed or carried out the activity causing the unusual incident,
  - b. who holds an environmental permit or other form of public permission to carry out said activity,
  - c. who reported the activity according to Article 4.4, paragraph one,
  - d. to whom, at the time of the incident, decisive economic control had been transferred over that activity.
- (3) This Section shall not apply to unusual incidents that are subject to the Nuclear Energy Act.

#### Article 19.2

#### **(appointment and coordination of competent authority)**

- (1) In this Section, the competent authority shall be taken to mean:
- a. the administrative body charged, under Article 18.2, with the administrative enforcement task or who, under Article 18.3 or 18.4 is authorised to impose an administrative order, or
  - b. insofar as the unusual incident relates to air pollution: the Provincial Governor.
- (2) If multiple competent authorities are involved in an unusual incident, these administrative bodies shall coordinate the necessary measures to prevent the adverse consequences of an unusual incident. In urgent cases, coordination may be dispensed with, provided that coordination takes place as soon as possible after taking the first necessary measures.

#### Article 19.3

#### **(duty to forward reports and to inform the competent authority)**

- (1) The competent authority that is informed of an unusual incident shall without delay report that incident, the information supplied about it and the measures taken or intended to be taken, to:
- a. the mayor of the municipality in which that incident has occurred, or, if the adverse consequences of that incident transcend municipalities, to the chairperson of the safety region within which that incident has occurred,

- b. the manager of a body of surface water or a water treatment plant, if the incident causes pollution in a body of surface water or impedes the efficient operation of a water treatment plant,
  - c. the Environment and Transport Inspectorate, and
  - d. other administrative bodies or government agencies that have an interest in immediate notification.
- (2) The competent authority can oblige the party responsible to provide additional information about the incident, the measures taken and the consequences of those measures.

**Article 19.4****(obliging the party responsible to take measures)**

- (1) The competent authority shall oblige the party responsible to take the measures that can reasonably be expected of him or her to prevent the adverse consequences of the unusual incident.
- (2) The competent authority can issue instructions about the performance of the activity or the taking of measures, including instructions to immediately halt the activity that caused the unusual incident.
- (3) Article 5.31 of the General Administrative Law Act shall apply mutatis mutandis.
- (4) If an unusual incident impedes or threatens to impede the efficient operation of a water treatment plant, the board responsible for the purification task, as referred to in Article 2.17, paragraph one, item a, point 2°, may ask the competent authority to inform the party responsible for the incident to take the necessary measures or give the party responsible the necessary instructions to limit or eliminate the adverse consequences for the operation of the water treatment plant.
- (5) The competent authority shall promptly comply with the request, to the extent that it is not contrary to the interests of protecting the environment.

**Article 19.5****(the power to take measures)**

- (1) If it is not possible to determine immediately or in timely manner who or what caused the unusual incident, the competent authority or, if it cannot be determined immediately or in a timely manner which administrative body is competent, the Municipal Executive of the municipality within which the incident occurred shall take preventive or remedial measures.
- (2) A decision to take measures is to be made in writing and shall be treated as an order. The decision, once known, shall be forwarded immediately to the party responsible.
- (3) If the Municipal Executive of the municipality where the incident occurs applies paragraph one, Articles 19.3, paragraph two, 19.4 and 19.6 shall apply as soon as the party responsible is known.

**Article 19.6****(recovery of costs for measures taken)**

- (1) If the competent authority takes measures or has third parties take them, it will recover the costs of those measures from the party responsible.
- (2) Articles 5.10, paragraph two, and 5.25 of the General Administrative Law Act shall apply mutatis mutandis.

**Article 19.7****(investigation into the cause and prevention of recurrence)**

- (1) The competent authority shall ensure that the necessary information is collected in order to analyse the unusual incident and to identify its cause.
- (2) In order to prevent a recurrence, the competent authority shall modify the requirements of the environmental permit if necessary, make custom requirements for the activity as referred to in Article 4.1 or 4.3, or issue recommendations aimed at this if it is not itself authorised to do so.

## Section 19.2 Chance archaeological discovery of public interest

### Article 19.8

#### **(appointment and coordination of competent authority)**

- (1) The competent authority for a chance archaeological discovery of public interest, resides with the Municipal Executive of the municipality in which the discovery occurred.
- (2) The competent authority for a chance archaeological discovery of public interest that occurs in an area not classified as a municipality resides with the Minister of Education, Culture and Science.
- (3) Notwithstanding paragraph one, the duties and powers referred to in Article 19.9 shall be exercised by the Minister of Education, Culture and Science as a chance archaeological discovery of public interest is of national significance.
- (4) The Municipal Executive of the municipality where an archaeological discovery of public interest occurs and Our Minister of Education, Culture and Science shall inform each other without delay in the event of a report, as referred to in Article 5.10 of the Heritage Act, of an archaeological discovery of public interest and the measures taken or intended to be taken during that discovery.

### Article 19.9

#### **(duties and powers relating to a chance archaeological discovery of public interest)**

Articles 19.3, paragraph two, 19.4 and 19.7, paragraph two, shall apply mutatis mutandis to a chance archaeological discovery of public interest.

## Section 19.2a Chance discovery of pollution on or in the soil

### Article 19.9a

#### **(scope of application of Section 19.2a)**

- (1) This section shall apply if, in the opinion of the competent authority:
  - a. there is at least a reasonable suspicion of a chance discovery of pollution on or in the soil, and
  - b. immediate temporary protection measures, including investigation into the nature and extent of the health risks, shall be necessary to prevent or limit the unacceptable health risks due to direct or indirect exposure to pollution on or in the soil.
- (2) Unacceptable health risks are considered to be those arising in any case from direct exposure to concentrations of substances that exceed the maximum permitted concentrations established under Article 2.24.
- (2a) Indirect exposure is in any case a significant threat to the quality of drinking water supplies when the detected pollution is able to reach the groundwater.
- (3) Temporary protection measures are not intended to eliminate the pollution detected.

### Article 19.9b

#### **(designation and coordination of competent authority; duty to forward reports and to inform the competent authority)**

- (1) The competent authority for a chance discovery of pollution on or in the soil is the Municipal Executive of the municipality where the discovery has occurred.
- (2) Article 19.2, paragraph two, shall apply mutatis mutandis.
- (3) Article 19.3 shall apply mutatis mutandis, whereby the term 'party responsible' shall be taken to mean 'owner' or 'hereditary long-term leaseholder'.



**Article 19.9c****(taking temporary protection measures)**

(1) The competent authority shall oblige the owner or hereditary long-term leaseholder to immediately take temporary protection measures at the site where the contamination is located, or where the direct effects of exposure to the contamination will occur, who may reasonably be asked to prevent or limit unacceptable health risks arising from the exposure.

(2) Article 19.4, paragraphs two to five; shall apply mutatis mutandis, whereby 'party responsible' shall be taken to mean 'owner' or 'hereditary long-term leaseholder'.

(3) If the owner or hereditary long-term leaseholder does not take the required temporary protection measures or fails to do so in a timely manner, the competent authority may take those measures.

(4) A decision to take temporary protection measures shall be made in writing and shall be treated as an order. The decision shall be forwarded immediately to the owner or hereditary long-term leaseholder.

**Article 19.9d****(recovery of costs for measures taken)**

(1) If the competent authority takes temporary protection measures or requests that third parties take them, it can recover the costs of those measures from the owner or hereditary long-term leaseholder without prejudice to Article 13.3a.

(2) Articles 5.10, paragraph two, and 5.25 of the General Administrative Law Act shall apply mutatis mutandis.

**Section 19.3****Notification thresholds****Article 19.10****(determining notification thresholds and the obligation to provide information)**

(1) Notification thresholds will be set by ministerial decree for:

- c. a. concentrations of pollutants in the ambient air,
- d. b. high water levels that represent a risk to the primary water defences.

(2) The Provincial Governor shall immediately inform or warn the public in the event of an exceedance or the imminent exceedance of a notification threshold for concentrations of pollutants in the ambient air.

(3) Our Minister of Infrastructure and Water Management will immediately inform or warn the managers of primary water defences and the Provincial Executive concerned if a notification threshold for high water levels is exceeded or threatens to be exceeded.

**Article 19.11****(information or warning if notification thresholds are exceeded)**

(1) Rules are laid down by ministerial decree on the issuing of information or warnings regarding an exceedance or imminent exceedance of a notification threshold value, and if the ambient air is contaminated, or liable to be contaminated, with substances for which no notification thresholds have been determined, to:

- a. the public,
- b. particularly sensitive populations,
- c. the managers of primary water defences,
- d. the Provincial Executive, and
- e. other administrative bodies or other bodies.

(2) Rules may be laid down by ministerial decree on:

- a. the content of the information to be provided and the warnings to be issued,
- b. how that information is provided and the warnings are given, and
- c. how to implement Article 24 of the Air Quality Directive.

**Article 19.12****(temporary rules on air pollution)**

- (1) If the notification thresholds for air quality are exceeded or if the ambient air is polluted by substances for which no notification thresholds have been set, the Provincial Governor may, with a view to protecting the public health or the health of particularly sensitive segments of the population, lay down rules concerning the use of installations or fuels and other polluting activities.
- (2) These rules in any case may include a prohibition on operating an installation or using a fuel.
- (3) A decision shall expire forty-eight hours after its entry into force. This term can be extended by the Provincial Executive for a maximum of forty-eight hours.
- (4) A decision as referred to in paragraph one and a decision on an extension as referred to in paragraph three shall be announced in a manner to be determined by order in council. The decisions shall enter into force immediately after the publication.

**Section 19.4****Risks for water control works****Article 19.13****(definitions and scope of application of Section 19.4)**

- (1) For the purposes of this section, the risk to water control works means: circumstance whereby the good condition of a water control work is immediately affected or threatens to be affected or causes this work to become seriously damaged or useless.
- (2) This section does not apply to hazards that are the result of an accident as referred to in the Maritime Accident Prevention Act.

**Article 19.14****(emergency plan for management of water control works)**

- (1) The supervisor is responsible for conducting exercises in order to be able to act effectively in the event of danger to the water control works. He or she shall establish an emergency plan for water control works, which meets rules established by order in council.
- (2) The emergency plan shall be tailored to the crisis plans for the area in question, under Article 16 of the Dutch Safety Regions Act, and disaster management plans provided for in Article 17 of that Act.
- (3) The boards of the safety regions in which the water control works are located, shall be given the opportunity to express their views on the draft of the emergency plan.

**Article 19.15****(measures to manage risks to water control works)**

- (1) In the event of a risk to water control works, the supervisor is authorised, as long as the resulting situation requires it, to take the measures he or she deems necessary, in deviation from statutory regulations if necessary, with the exception of the Constitution or obligations under international law.
- (2) If the water board's management exercises this authority, it will immediately report this to the Provincial Executive or, if this authority has been used in connection with the danger to a primary water defence, to Our Minister of Infrastructure and Water Management.
- (3) The supervisor shall, as soon as the actual circumstances permit, restore the water control works as much as possible in accordance with the condition specified in the land registry.
- (4) The manager shall ensure an evaluation of the application of the first and third paragraphs and shall send a report of this evaluation for information to:
- a. the Provincial Executive or, if the evaluation relates to a primary water defence, Our Minister of Infrastructure and Water Management,
  - b. the boards of the safety regions within which the water control works are located.

**Article 19.16****(instructional decision with risk to water control works)**

- (1) The Provincial Executive may, if, in their opinion, the water board's management does not or does not sufficiently act in the event of a risk to water control works, issue instructions to that board as referred to in Article 2.33.
- (2) If necessitated by urgent circumstances, the Provincial Governor can issue that instruction as long as the threat persists and the Provincial Executive does not use that authority.
- (3) Article 2.36, paragraph one, introduction and item a, applies to an instruction as referred to in the first and second paragraph.
- (4) Our Minister of Infrastructure and Water Management may issue instructions to the water board's management as referred to in Article 2.34 if, in his opinion:
- a. the Provincial Executive or the Provincial Governor wrongly does not make use, or does not make sufficient use, of the authority referred to in the first or second paragraphs, and
  - b. the water board's management does not act, or does not sufficiently act, in the event of a danger to a primary water defence.
- (5) Article 2.36, paragraph two, introduction and item a, applies to an instruction as referred to in paragraph four.

**Section 19.5****Extraordinary circumstances****Article 19.17****(operative and inoperative regulation in the event of scarcity)**

- (1) Without prejudice to Sections 7, paragraph one, and 8, paragraph one, of the Exceptional Situations (Coordination) Act [Coördinatiewet uitzonderingstoestanden], if exceptional circumstances make this necessary, Section 19.18 or 19.19 may be put into effect by Royal Decree on the recommendation of Our Prime Minister.
- (2) When the decision referred to in the first paragraph has been taken, a legislative proposal will be sent without delay to the lower chamber of the Dutch Parliament on the continued operation of the rules put into force by that decision.
- (3) The rules that have been put into effect on the basis of paragraph one shall be immediately set aside by Royal Decree on the proposal of Our Prime Minister:
- a. if the Legislative Proposal is rejected by one of the chambers of the Dutch Parliament, or
  - b. as soon as circumstances permit.
- (4) A decision as referred to in paragraphs one and three shall be published in the manner to be determined therein and enter into force immediately upon the publication. The decision, at a minimum, shall be placed in the Netherlands Government Gazette.

**Article 19.18****(regulation prioritising project implementation in case of scarcity)**

- (1) Our Minister of the Interior and Kingdom Relations, in accordance with Our other Ministers whom it concerns, shall determine by ministerial decree which projects can be implemented in the event of scarcity of labour, financial resources or materials.
- (2) Rules may be laid down with regard to and, if necessary, in deviation from, the decree by or pursuant to Chapters 4 and 5.
- (3) The regulation may stipulate that it is forbidden to carry out a project without the consent of Our Minister of the Interior and Kingdom Relations and, insofar as applicable, of Our other Ministers whom it concerns are affected by it.

**Article 19.19****(defence)**

Our Minister of Defence determines by regulation which of the activities required for the performance of defence tasks will be carried out, whereby, insofar as necessary, the rules laid down by or pursuant to this Act on the performance of those activities shall remain inapplicable.

## Chapter 20 Monitoring and information

### Section 20.1 Monitoring and collection of data

#### Article 20.1

##### **(obligation to carry out monitoring)**

- (1) For each environmental value or threshold value, the state or quality of the physical environment, the load caused by activities or by the concentration or deposition of substances in the physical environment shall be monitored and assessed. Whether that environmental value or threshold value was met will be subsequently assessed.
- (2) In the case of a programme drawn up in accordance with Section 3.2.4, the progress, implementation and degree of success of the programme shall form the subject of monitoring. In so doing, specific attention shall be devoted to the requirements imposed upon the programme in Article 3.16.
- (3) In the case of a physical environment plan and, subject to the limits of Article 2.3, in an environmental regulation or order in council, other parameters than environmental values for the condition or quality of the physical environment, the stress caused by activities or the concentration or deposition of substances in the physical environment may be designated by monitoring and serve as a reference point for the assessment thereof.
- (4) Elements of nature can be designated by order in council, for which the conservation state is safeguarded by monitoring.

#### Article 20.2

##### **(designation of method and administrative body)**

- (1) The physical environment plan, environmental regulation or order in council establishing an environmental value, designation of a programme, as referred to in Article 3.15, paragraph two, three or four, or the designation of another parameter or part of nature shall include the method of monitoring and the administrative body or other body responsible for carrying out the monitoring.
- (2) The method employed to monitor the threshold values shall be designated by ministerial decree.
- (3) Our Minister of Infrastructure and Water Management shall be responsible for monitoring the threshold values.
- (4) It can be determined by order in council that one or more designated administrative bodies establish a monitoring programme. It may be stipulated that the monitoring programme contains the method of monitoring and the method of providing data relevant for monitoring.
- (5) The frequency of the monitoring shall also be determined in the physical environment plan, the environmental regulation or the order in council for the designation of a programme as referred to in Article 3.15, paragraphs two, three or four.
- (6) Notwithstanding paragraph one for noise production ceilings, the method of monitoring and the administrative body or other body charged with carrying out the monitoring shall be designated by order in council as environmental values.
- (7) The physical environment plan, the environmental regulation, the order in council or ministerial decree may lay down rules on the collection and provision of data relevant for monitoring by designated administrative bodies to:
  - a. the under paragraphs five and six designated governing bodies or other bodies responsible for implementation,
  - b. Our Minister of Infrastructure and Water Management,
  - c. the competent authorities of other Member States,
  - d. the European Commission.

**Article 20.3****(rules governing implementation)**

(1) Rules may be laid down by ministerial decree on the implementation of monitoring for environmental values as referred to in Articles 2.11a, 2.12a, paragraph one, 2.13, paragraph one, and 2.13a, paragraph one and Section 2.3.4, threshold values or, pursuant to Article 20.1, paragraph three or four, or other parameters or components of nature designated by order in council pursuant to Article 20.1, paragraph three, or 20.1, paragraph four, taking into account the limits of Article 2.3, paragraph three, environmental values as referred to in Articles 2.11 and 2.12.

(2) In addition, rules may be laid down in any case with regard to:

- a. the measurement or calculation, including the frequency thereof; the ratio between the measurement and calculation of monitoring points,
- b. the verification and assessment of the equivalence of methods to be used,
- c. the assessment of the results and the methods to be used for that purpose,
- d. the determination of developments or trends,
- e. the establishment and management of national or regional measurement networks,
- f. the quality assurance and coordination thereof,
- g. the data storage method.

(3) the regulations for primary water defences are always revised after a maximum period of twelve years.

**Article 20.4****(implementation of obligations under international law.**

Pursuant to Articles 20.1 to 20.3; rules are in any case laid down for the implementation of:

- a. the Groundwater Directive,
- b. the Habitats Directive,
- c. the Water Framework Directive,
- d. the National Emission Ceiling (NEC) Directive,
- e. the Directive on Dangerous Substances in the Atmosphere,
- f. the Air Quality Directive,
- g. the Priority Substances Directive,
- h. the Urban Wastewater Treatment Directive, i. the Regulation on the Governance of the Energy Union,
- i. the Birds Directive,
- j. the Bathing Water Directive.

**Article 20.5****(testing and correction methods utilised by the minister)**

(1) With regard to the application of this Act in relation to environmental values in the sense of Article 2.13 and Section 2.3.4, Our Minister whom it concerns shall be authorised to carry out testing of:

- a. the precision of a method of measurement or a different method with which, in accordance with Article 20.2 or 20.3, the state or quality of the physical environment or the effect of activities, measures or other items referred to in Article 3.17 are measured or calculated,
- b. the precision of the application of a different method in the sense of item a.

(2) The Minister may determine that results obtained in the assessment of the condition or quality of the physical environment for the purposes of this Act shall replace previous or otherwise obtained results of monitoring. In that case, the Minister shall notify the relevant administrative body accordingly.

**Article 20.6****(collection of data, by methods other than monitoring)**

- (1) By means of an environmental regulation or order in council respectively and taking account the limits laid down in Article 2.3, rules may be laid down with regard to:
- a. the following activities undertaken by designated administrative bodies, legal entities or natural persons involved in the exercising of a profession or business:
    1. the updating, collection or calculation of data designated in that process,
    2. the provision of those data to administrative bodies or other authorities, to competent authorities of other Members States or to the European Commission,
  - b. the testing of the quality of the data referred to in item a.
- (2) The regulation or order in council may stipulate that an administrative body designated by it may, upon request, decide that the information specified therein — the confidentiality of which is justified on the basis of Article 10 of the Government Information (Public Access) Act — shall not be furnished.
- (3) Further rules may be laid down by environmental regulation or ministerial decree on:
- a. the implementation of the first paragraph and the funding thereof,
  - b. the calculation method to be applied.
- (4) Paragraphs one to three, shall not apply insofar as the items stipulated therein are provided for under or pursuant to Articles 20.1 to 20.5, inclusive.

**Article 20.7****(implementation of obligations under international law.**

In accordance with Article 20.6, rules may in all cases be laid down regarding the implementation of the following:

- a. the Habitats Directive,
- b. the Pollutant Release and Transfer Register (PRTR) Regulation,
- c. the Environmental Noise Directive,
- d. the Flood Risk Directive,
- e. the Birds Directive,
- f. the World Heritage Convention.

**Section 20.2****Data access and management****Article 20.8****(provision of information to the public)**

- (1) An order in council may be issued to lay down rules concerning:
- a. making the results of the monitoring available to the public, as referred to in Article 20.1, or of data as referred to in Article 20.6,
  - b. the active method of information provision if the monitoring shows that it is likely that an environmental value or other parameter has not been met or will not be met.
- (2) The rules also aim to make the results and data referred to in paragraph one, item a, available as much as possible electronically, in an open and machine-readable format, together with the meta-data. The format and the meta-data shall comply as much as possible with formal open standards, in accordance with Article 5, paragraph one, of the Directive on the re-use of public sector information.
- (3) Further rules may be laid down by ministerial decree that contain implementation or administrative regulations.

**Article 20.9****(implementation of obligations under international law.**

- (1) Article 20.8 lays down rules on the provision of environmental information to the public for the implementation of the Aarhus Convention and the Access to Environmental Information Directive.

(2) On the basis of Article 20.8, rules are in any case laid down for the implementation of the:

- a. Dangerous Emissions Directive,
- b. Air Quality Directive,
- c. Bathing Water directive.

#### Article 20.10

##### **(basis for registers)**

(1) By order in council, with due observance of the limits of Article 2.3, paragraph three, rules may be laid down by one or more of the designated administrative bodies or other authorities:

- a. recording the results of the monitoring as referred to in Article 20.1 or of data as referred to in Article 20.6 in a register established by the order in council,
- b. providing information entered into the register.

(2) The order in council may stipulate that an administrative body designated by it may, upon request, decide that information specified therein — the confidentiality of which is justified on the basis of Article 10 of the Government Information (Public Access) Act — shall not be made available or furnished to third parties.

(3) Further rules may be laid down by ministerial decree concerning the implementation of paragraph one. The rules in any case may provide for the following:

- a. the information to be entered into the register,
- b. the form, establishment, management, accessibility and security of the register,
- c. the representation of information and furnishing of data to third parties,
- d. the correction of errors detected in the register.

#### Article 20.11

##### **(compulsory registers)**

On the basis of Article 20.10, paragraph one, at least the following registers shall be established:

- a. a national register containing data on the emission and transfer of pollutants (Pollutants Release and Transfer Register, PRTR),
- b. a national register containing data regarding the external security risks to installations or a cluster of these designated by order in council, as well as transportation routes, pipelines or other systems,
- c. one or more registers of protected areas as referred to in Article 6 of the Water Framework Directive.

#### Article 20.13

##### **(on-site provision of information to the public)**

(1) Rules may be laid down by order in council concerning the on-site provision of information to the public about a location designated by virtue of this Act.

(2) In doing so, rules shall be laid down in any case concerning the on-site provision of information about the subjects mentioned in Article 12, paragraph one, of the Bathing Water Directive.

## Section 20.3

## Reports and maps

#### Article 20.14

##### **(reporting)**

(1) The administrative body or other authority responsible under Article 20.2, paragraph one, for implementing the monitoring shall ensure:

- a. the reporting of the results of the monitoring for environment values referred to in Article 20.1, paragraph one, the assessment of those results and the assessment of whether these environmental values have been met,
- b. the reporting of the results of the monitoring of the progress, performance and achievement of the objectives of a programme established under Section 3.2.4, as referred to in Article 20.1, paragraph two.

- (2) The frequency of the monitoring shall also be determined in the physical environment plan, the environmental regulation or the order in council for the designation of a programme as referred to in Article 3.15, paragraphs two, three or four (nota bene; in the text of the article, reference was made to Article 3.14).
- (3) It may be laid down by order in council that an administrative body designated for this purpose shall be responsible for the reporting and evaluation of:
- c. the results of the monitoring for alert values or other parameters for the condition or quality of the physical environment, as referred to in Article 20.1, paragraphs one and three,
  - d. the data referred to in Article 20.6, paragraph one.
- (4) Rules concerning the publication of reports will be laid down by order in council.
- (5) By order in council, rules may be laid down on: sending a report to Our Minister whom it concerns or another administrative body, reporting to both chambers of the Dutch Parliament or the European Commission,
- e. the publication of a report or communications with third parties.
- (6) Rules may be laid down by ministerial decree on:
- a. the data to be included in a report,
  - b. the form of a report,
  - c. the evaluation of the data and the methods to be employed.

**Article 20.15****(safety report on primary water defences)**

If the assessment of the results of the monitoring demonstrates that the environmental values for the security of primary water defences as referred to in Article 2.15, paragraph one, item d, are not being met or will not be met, the report referred to in Article 20.14 shall also be a description of the measures that are deemed necessary within a specified period.

**Article 20.16****(maps)**

- (1) Rules may be laid down by order in council, taking into account the limits of Article 2.3, paragraph three, on the representation of the results of the monitoring referred to in Article 20.1, or of the data on maps referred to in Article 20.6.
- (2) Article 20.14, paragraphs four and five, shall apply mutatis mutandis.
- (3) Rules may be laid down by ministerial decree on:
- d. the information to be displayed on the map,
  - e. the form of a map.

**Article 20.17****(mandatory maps)**

- (1) Pursuant to Article 20.16, paragraph one, rules shall be laid down in any case regarding the determination of the following maps by the administrative bodies mentioned therein:
- a. noise mapping as referred to in Article 7 of Environmental Noise Directive for:
    - 1. roads, railways, airports and an activity or a combination of activities as referred to in Article 3.5: the Municipal Executive of the municipality as referred to in that Article,
    - 2. roads, railways and airports as referred to in Article 3.8, paragraph one: the Provincial Executive,
    - 3. roads, railways and airports as referred to in Article 3.9, paragraph one: Our Minister of Infrastructure and Water Management,
  - b. maps of the coastline whose landward movement is prevented or minimised by Our Minister on the basis of Article 2.19, paragraph two, item b: Our Minister of Infrastructure and Water Management,
  - c. flood hazard and flood risk maps as referred to in Article 6 of the Flood Risks Directive: the Provincial Executive.
- (2) Pursuant to Article 20.16, paragraph three, rules shall in any case be laid down regarding noise nuisance maps as referred to in paragraph one, item a.



## Section 20.4 Evaluation

### Article 20.18

#### (scientific research on the physical environment)

- (1) At least once every four years, the Planning Office for the Living Environment [Planbureau voor de Leefomgeving, PBL] publishes a scientific report describing the development of the quality of elements or aspects of the physical environment that have been designated by ministerial decree.
- (2) At least once every four years, Our Minister of Education, Culture and Science publishes a scientific report describing the development of cultural and world heritage.
- (3) Our Minister of Agriculture, Nature and Food Quality promotes the research and scientific activities referred to in Article 10, paragraph one of the Birds Directive and Article 18, paragraph one of the Habitats Directive.

### Article 20.19

#### (the effect of environmental values on the security of primary water defences)

- (1) Every twelve years, Our Minister of Infrastructure and Water Management shall send both chambers of the Dutch Parliament a report on the effectiveness and impact of the environmental values for the security of the primary water defences, under Article 2.15, paragraph one, item d, and other parameters affecting the security of the primary water defences.
- (2) The next report will be submitted before 01 January 2037.

## Section 20.5 Environment and planning act digital system

### Section 20.5.1

#### General information

### Article 20.20

#### (purpose of the digital system)

There is a digital system for the Environment and Planning Act, which is designed to:

- a. make information available about the physical environment,
- b. facilitate electronic traffic as referred to in Article 16.1,
- c. promote an efficient and effective performance of duties and powers under this Act.

### Section 20.5.2

#### National facility

### Article 20.21

#### (national facility)

- (1) A national facility provides in any case for:
  - a. electronic disclosure of the information referred to in Article 20.26, paragraph one,
  - b. to be able to electronically submit an application for a decision, make a notification, provide information and documents in fulfilment of an information requirement other than a notification and to send another message, as referred to in Article 16.1.
- (2) Our Minister of the Interior and Kingdom Relations shall manage the national facility. An exclusive right may be granted by ministerial decree to a legal entity for the performance of work commissioned by that Minister in the context of the management of the national facility.
- (3) Administrative bodies or legal entities may be designated by order in council that ensure the establishment, maintenance, operation and security of the parts of the national facility designated by the order.
- (4) Further rules may be laid down by ministerial decree on the organisation, maintenance, operation and security of the national facility.

### Article 20.22

#### (other functionalities of the national facility)

- (1) By order in council, a functionality other than that referred to in Article 20.21, paragraph one, may be designated as provided for in the national provision, insofar as it contributes to the achievement of the objectives referred to in Article 20.20.

(2) Further rules on the designated functionality may be laid down by the order. These include in any case rules about the mandatory or non-mandatory use of that functionality.

#### **Article 20.23**

#### **(restricted access to information)**

Information that cannot be furnished pursuant to Article 10 of the Government Information (Public Access) Act shall not be furnished to anyone by the national facility.

### **Section 20.5.3**

### ***Personal information and data management***

#### **Article 20.24**

#### **(data management)**

(1) With due observance of Article 20.25, rules shall be established by order in council on the management of information in the national facility. In any event, it will be determined who is responsible for the management of the applications, reports, data and documents submitted via the provision in order to comply with information requirements other than reports and other messages as referred to in Article 16.1.

(2) Further rules may be laid down by ministerial decree that contain implementation or administrative regulations.

#### **Article 20.25**

#### **(personal information)**

(1) The following shall be determined by order in council:

- a. which personal information shall be processed in the national facility,
- b. which administrative body shall be the controller as referred to in Article 4 of the General Data Protection Regulation
- c. to whom this personal information shall be furnished,
- d. how long the personal information shall remain in the national facility.

(2) Further rules may be laid down by ministerial decree that contain implementation or administrative regulations. This may include rules on the method of furnishing personal information.

### **Section 20.5.4**

### ***Furnishing information for retrieval through the national facility***

#### **Article 20.26**

#### **(furnishing information for retrieval through the national facility)**

(1) By order in council, information can be designated that is to be made available for access via the national facility, as referred to in Article 20.21. In addition, the administrative bodies or legal persons by and to which that information shall be made available shall be determined.

(2) The information, in any case, includes information from decisions and other legal forms pursuant to this Act that, by ministerial decree, are designated as an environmental document.

20.26 par.3 The decree stipulates which administrative body or legal entity shall determine which parts of the information the restriction applies to, as referred to in Article 20.23.

20.26 par.4 The information satisfies the rules set by ministerial decree.

20.26 par.5 Rules may be laid down by ministerial decree with regard to the provision of information, including the manner of its provision.

#### **Article 20.27**

#### **(quality assurance)**

Rules may be laid down by order in council in the interest of safeguarding and assessing the quality of the information referred to in Article 20.26, paragraph one.

**Section 20.5.5****Electronic submission****Article 20.28****(use of the national facility and electronic forms)**

(1) The competent authority and the other administrative bodies involved in an application for a decision submitted via the national facility, a notification submitted, data and documents provided to comply with an information requirement other than a notification or another notification as referred to in Article 16.1, make use of the national facility.

(2) Rules may be laid down by order in council concerning the provision of an electronic form for electronic traffic, as referred to in Article 16.1. It can then be determined which administrative body establishes the form and which administrative body supplies the information required for this.

(3) Further rules may be laid down by ministerial decree concerning the establishment and delivery referred to in the second paragraph.

**Section 20.5.6****Other provisions****Article 20.29****(system description)**

A system description of the national facility as referred to in Article 20.21 shall be laid down by ministerial decree. The system description shall contain, at a minimum, a description of the way in which electronic information is exchanged, in accordance with this section, between the national facility and the administrative bodies and legal entities.

**Article 20.30****(other ministerial decrees)**

Rules may be laid down by ministerial decree that contain implementing technical or administrative regulations:

- a. on the handling of feedback of possible inaccuracies of information,
- b. on the manner in which information from decrees and other legal forms is made available under this Act that has not been designated pursuant to Article 20.26, paragraph one,
- c. for the purposes of this Section, insofar as Articles 20.21 to 20.29, do not provide for this.

# Chapter 21

[Reserved]

## Chapter 22 Transitional law

### Section 22.1 Transitional phase

#### *Section 22.1.1 From a physical environment plan with a temporary portion of an environmental plan*

##### **Article 22.1**

##### **(temporary portion of a physical environment plan)**

In this Section, the temporary portion of the physical environment plan is understood to mean the portion of the physical environment plan consisting of:

- a. the decisions referred to in Article 4.6, paragraph one, of the Act establishing the Environment and Planning Act,
- b. the maps referred to in Article 3.5, paragraph two, of the Soil Supplementation Act to the Environment and Planning Act, and the decisions referred to in Article 3.5, paragraph three, of that Act,
- c. rules which, under Article 22.2, paragraph one, state that they temporarily form part of the physical environment plan.

##### **Article 22.2**

##### **(environmental planning regulations by the State)**

(1) An order in council may stipulate that rules that have been laid down by or pursuant to this Act, prior to the entry into force of this Act, or equivalent rules may or may not temporarily form part of the physical environment plan.

(2) Those rules may be amended by a decision to establish or modify a physical environment plan.

##### **Article 22.3**

##### **(a physical environment plan as referred to in Article 2.4)**

A physical environment plan as referred to in Article 2.4 shall not be made available for inspection until the date on which this Act enters into force in accordance with Article 3.44, paragraph one, item a, of the General Administrative Law Act.

##### **Article 22.4**

##### **(rules on regulations in a physical environment plan)**

The obligation to establish a physical environment plan, as referred to in Article 2.4, shall be met at the latest by a date to be determined by Royal Decree. Until that time, Article 122 of the Municipal Act and Articles 28 and 34, paragraph one, second sentence of the Local Government Boundary Reform [General Regulations] Act [Wet algemene regels herindelung] do not apply. From that time forward, rules about the physical environment that have been determined by virtue of Article 2.7, paragraph one, will only be included in the physical environment plan.

##### **Article 22.5**

##### **(legal requirements of a physical environment plan)**

(1) Up until a date to be determined by Royal Decree, the temporary portion of the physical environment plan shall not be subject to the obligation, as referred to in Article 4.2, paragraph one, that the rules have been established with a view to the balanced assignment of functions to sites.

(2) Up until a date to be determined by Royal Decree, there is no obligation, as referred to in Article 4.17, to bring the physical environment plan into line with environmental permits for an environmental planning activity that is out of plan.

(3) The time period referred to in the first and second paragraph may be set differently for different cases.

(4) By order in council, in derogation from paragraph one or two if necessary, further rules may be laid down with a view to the proper implementation of the obligations referred to in those paragraphs.

(5) Regarding the temporary portion of the physical environment plan, as referred to in Article 22.1, item a, the obligation of Article 19 of the Publication Act to make it available in consolidated form does not apply.

#### **Article 22.6**

##### **(replacement of a temporary portion of a physical environment plan)**

(1) When establishing a physical environment plan, the rules applicable to a site that are included in a decision, as referred to in Article 4.6, paragraph one, item a, b, c, g, h, i, j, k, l or m from the Act establishing the Environment and Planning Act [Invoeringswet Omgevingswet], may only expire at the same time.

(2) Cases may be designated by or pursuant to an order in council in which, in derogation of the first paragraph, and until a date to be determined by Royal Decree, the rules for a location, as referred to in the first paragraph, may also partially lapse.

(3) No later than a date to be determined by Royal Decree, all of the rules of the physical environment plan are to be included in the non-temporary portion of that plan.

#### **Article 22.7**

##### **(appeal)**

The appeal against a physical environment plan cannot be based on grounds of appeal that relate to rules that implement an irrevocable decision designating:

- a. a monument or archaeological monument as a municipal monument or provincial monument,
- b. a municipally or provincially protected view of a town or village.

#### **Section 22.1.2**

##### ***Application of the rules contained within a regulation or a temporary portion of the physical environment plan***

#### **Article 22.8**

##### **(environmental permit and municipal regulations)**

To the extent that a provision in a municipal regulation requires a permit or exemption for a case where the rules about the physical environment, on the basis of Article 2.7, paragraph one, may only be included in the physical environment plan, such a provision shall apply as a prohibition on carrying out an activity without an environmental permit as intended in Article 5.1, paragraph one, introduction and item a.

#### **Article 22.9**

##### **(designation of portions to be realised in the near future)**

For a portion designated in the temporary portion of the physical environment plan, as referred to in Article 3.4 of the Spatial Planning Act, whose realisation is deemed necessary in the near future, the old act shall remain applicable no later than five years after the date on which that designation applies.

#### **Article 22.10**

##### **(authority (within the plan to deviate)**

The rules included in the temporary portion of the physical environment plan as defined in Article 3.6, paragraph one, item c, of the Spatial Planning Act shall apply as provided for in Article 5.21, paragraph two, item a.

#### **Article 22.11**

##### **(authority within the plan to impose further requirements)**

A power included in the temporary portion of the physical environment plan to impose further requirements as referred to in Article 3.6, paragraph one, item d, of the Spatial Planning Act on subjects or components described in that part of the plan shall be treated as a power to establish custom requirements in the physical environment plan on the subjects designated by virtue of Article 4.5, paragraph one.

#### **Article 22.12**

##### **(exclusion of the application of the power to deviate from the zoning plan)**

If the temporary portion of a physical environment plan excludes the possibility of deviating from that plan for a specific period with an environmental permit by virtue of Article 3.6a of the Spatial Planning Act, that provision shall count as a prohibition to perform an activity for a maximum of ten years.

**Article 22.13****(not an injurious decision)**

(1) An environmental permit that is granted on the basis of a rule in the temporary portion as referred to in Article 22.1, introduction and item a, of the physical environment plan does not count as an injurious decision as referred to in Article 15.1, paragraph two.

(2) An irrevocable decision to designate:

- a. a monument or archaeological monument as a municipal monument or provincial monument,
- b. a municipally or provincially protected urban or village conservation area.
- c. a State-protected urban or village conservation area, the content of which is included in a physical environment plan, is not counted as an injurious decision in the sense of Article 15.1, paragraph one, introduction and item d.

**Section 22.1.3****Other provisions****Article 22.14****(rules in a water board regulation by the State)**

(1) It may be provided by order in council that the rules laid down by or pursuant to another act prior to the entry into force of this Act, or equivalent rules, may or may not be temporarily included in the water board regulation.

(2) Those rules may be amended by a decision to adopt or to amend a water board regulation.

**Article 22.15****(provisions in water board regulations)**

The obligation to establish a water board regulation, pursuant to Article 2.5, shall be fulfilled no later than the date to be determined by Royal Decree. Until then, Article 59 of the Water Board Act shall not be applicable. Thereafter, rules relating to the physical environment that have been determined on the basis of Article 2.7, paragraph one, will only be included in the water board regulation.

**Article 22.16****(transitional phase of the project decision)**

(1) Up until a date to be determined by Royal Decree, a project decision does not have to comply with Article 5.52, paragraph one. Insofar as a project decision conflicts with the physical environment plan, it shall serve as an environmental permit for an environmental planning activity that is out of plan.

(2) Insofar as a project decision counts as an environmental permit for an environmental planning activity, the physical environment plan does not need to be brought into conformity with that permit earlier than at a time determined by Royal Decree.

(3) No rules shall be established in the physical environment plan that conflict with a project decision in the sense of paragraph one. Articles 4.19a, paragraphs three to five, and 5.53a, paragraphs two to four; shall apply mutatis mutandis.

**Article 22.17****(end of the transitional phase)**

This Section shall expire at a time to be determined by Royal Decree.

**Section 22.2****Remediation of noise produced by infrastructure****Article 22.18****(establishing a programme)**

(1) No later than 18 July 2038, the Municipal Executive shall establish a programme aimed at reducing the noise produced by roads managed by the municipality and by local railways, insofar as this has not already been designated under Article 2.13a, paragraph one, introduction and item b.

(2) No later than 18 July 2038, the governing board of a water board shall establish a programme aimed at reducing the noise produced by roads managed by the water board.

Article (3) No later than 28 July 2038, the Provincial Executive shall establish a programme aimed at reducing the noise produced by roads managed by the province and by the local railways, insofar as this has been designated on the basis of Article 2.13a, paragraph one, introduction and item b.

Article (4) Article 2.25, paragraph one, introduction and item a, point 1°, Article 16.27, Article 16.77b, paragraph two, and Article 16.139 shall apply, mutatis mutandis, on the understanding that, in Article 16.27, paragraph two, 'that amendment does not relate to a description in that programme of an activity as a result of which the activity is authorised' shall be taken to mean 'that amendment does not concern a choice of measures for a site included in that programme'.

## **Article 22.19**

### **(conclusion of remediation)**

This Section shall expire at a time to be determined by Royal Decree.



## Chapter 23 Miscellaneous and final provisions

### Section 23.1 Implementation of obligations under international law

#### Article 23.1

##### (implementation)

Insofar as this Act does not provide any further principle governing the imposition of rules, rules may be imposed by order in council in order to implement obligations under international law that relate to or are associated with topics to which this Act applies.

#### Article 23.2

##### (transposition of amendments to the European Union regulations, directives and decisions into Dutch law)

An amendment of a Regulation, Directive or Decision as referred to in the Article 288 of the Treaty on the Functioning of the European Union shall apply when enacting this Act, with effect from the day on which the amendment concerned must be implemented, unless a different date is specified by ministerial decree in the Netherlands Government Gazette.

### Section 23.2 Experimentation clause

#### Article 23.3

##### (experimentation)

(1) Taking obligations under international law into account, an order in council may be issued, derogating, by way of an experiment, from the stipulations under or pursuant to:

- a. this Act,
- b. the Electricity Act 1998, insofar as this will not affect the amount of energy taxes collected, in the sense of Article 1 of the Environmental Taxes Act [Wet belastingen op milieugrondslag],
- c. the Gas Act [Gaswet],
- d. the Housing Act [Huisvestingwet] of 2014,
- e. the Vacancy Law [Leegstandswet],
- f. the Heating Supply Act [Warmtewet],
- g. the Environmental Management Act [Wet milieubeheer].

(2) An experiment shall be designated only if it intends to contribute towards the achievement of the objectives referred to in Article 1.3, introduction and item a, including the improvement of the quality of the physical environment, the procedures to be followed or the decision-making in that regard.

(3) The order in council shall specify at a minimum:

- a. the purpose of the experiment,
- b. the intended effects on the physical environment,
- c. which administrative body is responsible for the implementation of the experiment,
- d. the duration of the experiment, whereby the experiment shall not take longer than is necessary with a view to the experiment,
- e. which rules may be deviated from,
- f. which derogations are permitted in relation to cases designated by the order in council,
- g. for which area or which decisions those derogations are permitted,
- h. the maximum period during which those derogations shall be permitted, if it concerns environmental values up to a maximum of ten years in the case of environmental values,
- i. which derogations shall continue to be permitted once the experiment has been completed,
- j. how the monitoring and evaluation of the experiment will be carried out, with a view

to the objectives as referred to in paragraph two, and the intended effects for the physical environment.

- (4) Deviations as referred to in paragraph three, item h, are permitted only if they are deviations that are part of the experiment and when aligning them with the regulations after the experiment is disproportionate in relation to the importance of the physical environment.
- (5) If the monitoring and evaluation referred to in paragraph three, item i show that the experiment does not contribute to the objectives referred to in paragraph two, the person conducting the experiment may take measures aimed at achieving those objectives.
- (6) The responsible administrative body, as referred to in paragraph three, item b, may provide instructions for taking measures. Article 19.4, paragraph three, shall apply mutatis mutandis.
- (7) If the measures to be taken are not sufficient, Our Minister of the Interior and Kingdom Relations may decide to end the experiment. Rules may be attached to that Decision.
- (8) In the event that the evaluation of an experiment provides a reason to amend regulations, Our Minister of the Interior and Kingdom Relations may, in derogation from the order in council in which the duration of the experiment is laid down, decide to extend that duration by a maximum of five years, with a view to amending the regulations concerned.

## Section 23.3

### Public participation, involvement of Dutch parliament, establishment of requirements implementing regulations and other provisions

#### Article 23.4

##### (public participation)

- (1) For a period of at least four weeks, all persons shall be given an opportunity by electronic means to submit comments regarding the draft order in council or ministerial decree arising from this Act.
- (2) Paragraph one shall not apply in the event that Article 8 of the Aarhus Convention has been fulfilled in some other manner.

#### Article 23.5

##### (preliminary scrutiny procedure)

- (1) The submission of an order in council by virtue of chapters 2, 3, 4 and 5, section 13.6, the chapters 16, 17, 18, 19 and 20 and Article 23.3 shall be effected no earlier than four weeks after the draft has been submitted to both chambers of the Dutch Parliament.
- (2) If the draft of an order in council contains environmental values, one of the chambers, within the period referred to in paragraph one, may indicate that those environmental values are determined by law. In that case, a proposal to that effect will be submitted as soon as possible.
- (3) Paragraph one and two shall not apply in the event that the draft incorporates minor amendments that will not give rise to other or even more significant adverse consequences for the physical environment, or in the event that the draft alone shall be sufficient to fulfil any obligations under international law. If that is the case, Our Minister whom it concerns shall notify both chambers of the Dutch Parliament.
- (4) Regarding the entry into force of an order in council and the publication of the recommendation of the Advisory Division of the Council of State and the further detailed report by an order in council applying to paragraph one, Our Minister whom it concerns shall notify both chambers of the Dutch Parliament.

#### Article 23.5a

##### (decisions on preliminary scrutiny procedures relating to the designation of Natura 2000 sites in the exclusive economic zone)

- (1) Our Minister of Agriculture, Nature and Food Quality shall not send a proposal for a

list of Natura 2000 sites located wholly or partially within the exclusive economic zone or a proposal to amend it as referred to in Article 4, paragraph one, of the Habitats Directive, to the European Commission earlier than four weeks after the draft of that proposal has been submitted to both chambers of the States Dutch Parliament.

(2) A decision on the designation of a Natura 2000 site located wholly or partially within the exclusive economic zone as referred to in Article 2.44, paragraph one, shall be effected no later than four weeks after the draft of that decision has been submitted to both chambers of the Dutch Parliament.

#### **Article 23.6**

##### **(implementation of principles)**

For an order in council subject to Article 23.5, the explanatory memorandum shall state the reasons for taking into account the precautionary principle and the principles that preventive action should be taken, that environmental damage should, as a priority, be rectified at source and that the polluter should pay.

#### **Article 23.6a**

##### **(emergency arrangements on soil)**

(1) If a provision is immediately offered, with a view to protecting the soil, in contravention of Article 4.3, rules may be laid down by ministerial decree on environmentally harmful activities.

(2) The arrangement shall expire twelve months after it has taken effect, or, if an order in council to replace the arrangement has entered into force within that period, on the latter date. The period may be extended once by ministerial decree by no more than six months.

#### **Article 23.7**

##### **(relationship between public and private law)**

The municipality is not entitled to undertake any legal acts under civil law regarding matters in respect of which rules have been laid down in the sense of Article 4.21 or regarding matters relating to construction that are subject to the provisions of Chapter 5. Article 23.8 (the State is the owner of solid deposits in the EEZ)

The State is the owner of solid deposits located on or beneath the seabed within the exclusive economic zone (EEZ), including minerals, in the sense of Article 1 of the Mining Act [Mijnbouwwet], insofar as the minerals are located at a depth that is less than one hundred metres below the seabed.

## **Section 23.4**

## **Evaluation and final provisions**

#### **Article 23.9**

##### **(evaluation)**

Our Minister of the Interior and Kingdom Relations, in accordance with our Ministers whom it concerns, will send both chambers of the Dutch Parliament a report on the efficiency and effects of this Act in practice within five years of this Act's entry into force, and then again after five years.

#### **Article 23.10**

##### **(entry into force)**

(1) The articles of this Act shall enter into force at a time to be determined by Royal Decree, which may be determined differently for the various articles or sections thereof.

(2) The nomination for a Royal Decree, as referred to in paragraph one, shall not be made until four weeks after the draft has been submitted to both chambers of the Dutch Parliament. Should a chamber of the Dutch Parliament decide not to approve the draft, no nomination will be made and a new draft may not be submitted to both chambers of the Dutch Parliament until six weeks after the decision of that Chamber of the Dutch Parliament.

**Article 23.11**

**(reference title)**

This Act shall be known as the: Environment and Planning Act.

We direct and ordain that this Act shall be published in the Netherlands Government Gazette and that all ministries, authorities, bodies and officials whom it may concern shall diligently implement it.

Thus adopted by:

The Minister of Infrastructure and Water Environment,  
The State Secretary of Economic Affairs,  
The Minister of the Interior and Kingdom Relations,  
The Minister for Housing and National Service,  
The Minister of Security and Justice,  
The Minister of Education, Culture and Science,

## Annex to Article 1.1 of this Act

### Section A. Terms

For the purposes of this Act and the provisions based thereupon, unless otherwise specified, the following terms shall have the meanings specified below, unless specified otherwise:

*Waste substances:* waste substances that are subject to the Environmental Management Act [Wet milieubeheer];

*Wastewater:* all water that the permit holder discards, intends to discard or is required to discard;

*Deviating activity:*

*Threshold value:* a threshold value as referred to in Article 19.10;

*Any other environmentally harmful installation:* a stationary technical unit in which an environmentally harmful activity, other than an activity referred to in Annex I to the Industrial Emissions Directive, is carried out and any other activity on the same site which is directly related to that activity, technically connected and likely to have an effect on emissions and pollution;

*Archaeological monument:* a monument in the sense of Article 1.1 of the Heritage Act;

*Chance archaeological discovery of public interest:* an unexpected discovery in or on the soil, other than during excavations as referred to in Article 1.1 of the Heritage Act, insofar as they are evident or presumed to be of public interest from the point of view of archaeological preservation;

*Motorway:* a road designated as a motorway by virtue of the Road Traffic Act [Wegenverkeerswet] of 1994;

*Motor traffic road:* a road designated as a motor traffic road by virtue of the Road Traffic Act of 1994;

*Management of waste substances:* the management of waste substances, in the sense of Article 1.1 of the Environmental Management Act [Wet milieubeheer];

*Management of water systems:* the combination of tasks associated with water systems with a view to preventing and, where necessary, limiting floods, excess water and the scarcity of water, in conjunction with protecting, improving the chemical and ecological quality of those water systems and fulfilling the social functions assigned to the water systems by virtue of this Act;

*Restricted area:* an area designated by law, in which, due to the presence of works or an installation, specific rules apply with regard to activities that will, or may, have an effect upon the works or installation concerned;

*Restricted area activity:* activity in a restricted area: activity carried out within a restricted area;

*Storage area:* an area, to which, by virtue of this Act, a function has been assigned by virtue of this Act, not being a body of surface water or portion thereof, that serves the purpose of expanding the storage capacity of one or more water systems and which has been recorded as a storage area in the land registry;

*To protect the environment:* to preserve or improve the environment;

*Best available techniques:* ‘best available techniques’ refers to the most effective and advanced stage in the development of activities and their methods of operation that indicates the practical suitability of particular techniques for providing the basis for emission limits and other permit conditions designed to prevent and, where that is not practicable, to reduce emissions and their impact on the environment as a whole, whereby:

‘techniques’ refers to both the technology used and the way in which the installation is designed, built, maintained, operated and decommissioned;

k. ‘available’ means developed on such a scale that it allows for implementation within the relevant industrial sector under economically and technically viable conditions, taking into consideration the techniques, costs and advantages, whether or not the techniques are used or produced inside the Member State in question, so long as they are reasonably accessible to the operator; and

l. ‘best’ refers to being the most effective at achieving a high overall level of protection for the environment in its entirety;

*Decision on financial arrangements:* a decision as provided for in Article 12.36;

*Special railway:* a railway that is not designated as a main or a local railway;

*Special national nature conservation area:* a nature conservation area as referred to in Article 2.44, paragraph two;

*Bringing within or beyond the territory of the Netherlands:*

activity aimed at effecting the introduction within or beyond the territory of the Netherlands;

*Soil:* the solid component of the earth, including the liquid and gaseous components and organisms contained therein;

*Construction activity:* activity involving the construction of a structure;

*Building work:* the placement, the partial or complete erection, renovation, alteration or extension;

*Building:* a construction of a certain size, consisting of wood, stone, brick, metal or another material that is directly or indirectly attached to the ground at its final location, either directly or indirectly derives support within or on top of the ground, that is intended to function at the said location, including any installations that form part of the building itself, other than a ship used to accommodate people and that is intended and used for shipping;

*Use that is subject to fire-safety regulations:*

*External water:*

*Environmental planning activity that is out of plan:*

- a. an activity for which the physical environment plan stipulates that it is prohibited to perform it without an environmental permit and that is contrary to the physical environment plan, or
- b. another activity that is contrary to the physical environment plan;

*Civilian airport of regional significance:* an airport, other than the Schiphol Airport, any other civilian airport of national significance or a military airfield;

*Netherlands Commission for Environmental Assessment:* the advisory body referred to in Article 17.5;

*Cultural heritage:* monuments, archaeological monuments, urban and village conservation areas, cultural landscapes and, insofar as this is or may be the subject of a balanced assignment of functions to sites in the physical environment plan, other cultural heritage as referred to in Article 1.1 of the Heritage Act;

*Minerals:* minerals in the sense of Article 1, item a, of the Mining Act;

*Animals:* in any case, animals at every stage of their development, whether alive or dead, parts of animals, products derived from these animals or other items to the extent that an accompanying document, packaging, brand or label, or other circumstances indicate that it involves parts of animals or products derived therefrom, excepting eggs;

*Objectives of the Act:* the objectives referred to in Article 1.3;

*Sustainable development:* development that meets the needs of the current generation without compromising the ability of future generations to meet their own needs;

*Emissions:* the direct or indirect release from a point or diffuse sources of substances, vibrations, heat or noise into the air, the water or the soil;

*Energy infrastructure:* works, cables or pipes, including empty pipes, underground support works and protective works, intended for the generation or extraction, transport and storage of electricity or substances as an energy carrier;

*Fauna management unit:* a fauna management unit as referred to in Article 8;

*Fauna management plan:* a fauna management plan as referred to in Article 8.1;

*Flora and fauna activity:* activity with potential consequences for naturally occurring wild animals or plants;

*Decision to impose an obligation to consent:* a decision to impose an obligation to consent in the sense of Section 10.3;

*Equivalent measure:* an equivalent measure in the sense of Article 2.4;

*Municipal pre-emption right:* a pre-emption right in the name of a municipality;

*Secure waste disposal facility:* a secure waste disposal facility in the sense of Article 8.47, paragraph one, item b, of the Environmental Management Act;

*Hazardous waste substances:* hazardous waste as referred to in Article 1.1 of the Environmental Management Act;

*Groundwater*: water located beneath the surface in the saturated zone and that is in direct contact with the soil or sub-soil;

*Body of groundwater*: a distinct mass of groundwater located in one or more water-bearing layers;

*Habitat of a species*: an environment defined by specific abiotic and biotic factors in which the species lives during one of the phases of its biological cycle;

*Replanting*: realising a new timber stand by planting, sowing, natural rejuvenation or other methods;

*Re-parcelling*: the merging of real-estate property in an area, the division of the area into parcels and the allocation of those parcel to owners;

*Land consolidation block*: the entirety of real-estate properties included in land re-parcelling;

*Primary railway*: a railway in the sense of Article 2, paragraph two, of the Railways Act;

*Primary railway infrastructure*: a primary railway infrastructure in the sense of Article 1, paragraph 1 of the Railways Act;

*Timber stand*: an independent unit of trees, single-trunked trees, shrubs, coppice or withy-thickets;

*Infrastructure*: roads, railways, waterways, harbours, airports, energy infrastructure, pipelines, public rainwater and drainage systems and foul water sewers, infrastructure for water supply facilities in the sense of Article 1, paragraph one of the Drinking Water Act [Drinkwaterwet], and other essential infrastructure;

*Land use decision*: a decision in the sense of Article 12.7;

*Land use programme*: a programme as referred to in Article 3.14a;

*Conservation objectives*: conservation objectives as referred to in Article 2.4, paragraph one;

*Obligation under international law*: obligation by virtue of a convention binding upon the Netherlands or by virtue of a decision taken by an organisation under international law;

*IPPC installation*: an installation in the sense of Article 3, item 3, of the Industrial Emissions Directive, insofar as an activity is carried out as referred to in Annex I to that Directive;

*Hunting*: acquiring, deliberately killing or, for that purpose, tracking animal species, as referred to in Article 8.3, paragraph four, and attempting to do so on a hunting ground, in accordance with the rules on the pursuit of hunting, established under Article 4.3, paragraph one, item k;

*Hunting activity involving rifles*: the use of a rifle in order to kill animals in the wild;

*Hunting permit holder*: the person who is entitled under Article 8.3 to practice hunting on hunting grounds;

*Hunting grounds*: terrain intended or suitable for hunting;

*Parcel*: a contiguous area of land owned by an owner, surrounded by land owned by other owners or by public roads or railways, or by non-passable watercourses;



*Police commissioner:* a police commissioner as referred to in Article 27 of the 2012 Police Act;

*Land use activity:* an activity that has or may have consequences for the implementation of a land use programme;

*Landscapes:* areas in the form in which they are perceived by human beings, the character of which is determined by natural and human factors and the interaction between the two;

*Land registry:* a land registry in the sense of Article 2.39;

*Local railway:* a railway, designated as a local railway by virtue of Article 2, paragraph one of the Local Railways Act [Wet lokaal spoor];

*Local railway infrastructure:* the elements referred to in Article 2, paragraph five, of the Local Railways Act;

*Discharge activity into a body of surface water:* an activity, not being a deposition activity at sea, consisting of the transfer of substances, heat or water directly into a body of surface water, insofar as this relates to the effects of those substances or that heat or water upon the water system;

*Discharge activity at a water treatment plant:* an activity consisting of the transfer of substances, heat or water with the aid of an installation, not being a public wastewater sewerage, to a water treatment plant operated by a water board, from which those substances or that water will be transferred to a body of surface water, insofar as this relates to the effects of those substances or that heat or water upon the water system of the water treatment plant;

*Airport:* an airport as referred to in Article 1.1, paragraph one, of the Aviation Act;

*Airport Decree:* as referred to in Article 1.1, paragraph one of the Aviation Act [Wet luchtvaart

*Custom rules* custom rules in the sense of Article 4.6;

*Custom requirements:* custom requirements in the sense of Article 4.5;

*Mining installation:* a mining installation in the sense of Article 1, item o, of the Mining Act [Mijnbouwwet]

*Mining location activity:* activity consisting of the use of a site in a body of surface water for:

- a. a mining installation, including the restricted area located around the installation itself, or
- b. an exploratory study, with the exception of the use of explosive substances in such a study;

*Mining works:* mining works in the sense of Article 1, item n, of the Mining Act;

*Environmentally harmful activity:* an activity that may adversely impact the environment, not including a discharge activity into a body of surface water or a discharge activity at a water treatment plant, or any activity involving the extraction of water;

*Environmental impact assessment:* an environmental impact assessment as defined in Section 16.4;

*Military airfield*: a military airfield as referred to in Article 10.12, paragraph one, of the Aviation Act;

*Monument*: a monument in the sense of Article 1.1 of the Heritage Act;

*National park*: an area that holds important scientific or scenic qualities;

*National pre-emption right*: a pre-emption right in the name of the State;

*Natura 2000 activity*: activity consisting of carrying out a project or any other action likely to have a significant effect on the quality of natural habitats or the habitats of species on a Natura 2000 site, in relation to the conservation objectives of that site, or a significant effect on the species for which that site has been designated;

*Natura 2000 site*: an area that:

- a. has been designated as a special protection zone by the competent authority of the country in which the area is located for the implementation of Article 3, paragraph two, item a and Article 4, paragraphs one and two of the Birds Directive or Article 3, paragraph two and Article 4, paragraph four, of the Habitats Directive, or
- b. has been included in the list of areas of community significance referred to in Article 4, paragraph two, of the Habitats Directive;

*Natural habitat*: an entirely natural or semi-natural terrestrial or aquatic area distinguished by geographic, abiotic and biotic characteristics;

*Natural resources*: minerals, surface resources, water, biomass, heat, wind, solar, hydropower and energy from the sea, to the extent that they can be extracted from the physical environment by humans

*Physical environment plan*: a physical environment plan as referred to in Article 2.4;

*Environmental planning activity*: an activity, comprising:

- a. an activity for which the physical environment plan stipulates that it is prohibited to perform it without an environmental permit and that is not contrary to the environmental plan, or
- b. an activity for which the physical environment plan stipulates that it is prohibited to perform it without an environmental permit and that is contrary to the physical environment plan, or

*Environmental permit*: an environmental permit in the sense of Article 5.1;

*Environmental regulation*: an environmental regulation in the sense of Article 2.6;

*Environmental strategy*: an environmental strategy as referred to in Article 3.1;

*Environmental value*: an environmental value as referred to in Article 2.3;

*Unusual incident*: an event, irrespective of the cause that deviates from the normal course of an activity, such as a fault, accident or emergency, as a result of which significant negative effects upon the physical environment occur or may potentially occur, including:

- a. a case involving the infringement of permit condition in the sense of Article 8 of the Industrial Emissions Directive, or
- b. a serious accident as defined in Article 3, subsection 13, of the Seveso Directive an activity involving the removal of soil;

*Excavation activity*: an activity consisting of excavation;

*Public registers*: public registers as referred to in Section 2, Title 1 of Book 3 of the Dutch Civil Code;

*Public wastewater sewerage*: a facility for the collection and transportation of urban wastewater that is managed by a municipality or legal entity to which the management of the facility has been assigned by a municipality;

*Body of surface water*: a coherent body of water, naturally occurring on the earth's surface, containing the substances present therein, together with the associated soil and banks and any flora and fauna;

*Other civilian airports of national significance*: an airport in the sense of Article 8.1, paragraph two, item a and paragraphs three and four of the Aviation Act;

*Plants*: in any case plants at all stages of their development, whether alive or dead, parts of plants, products derived from these plants, or other items to the extent that an accompanying document, packaging, brand or label, or other circumstances indicate that it involves parts of plants or products derived therefrom;

*Primary water defence*: a water defence providing protection against flooding from a body of surface water whose water level is directly influenced by high storm surges, high surface water in one of the major rivers, high water from Lake IJssel or Lake Marke, or a combination thereof, and from Lake Volkerak-Zoommeer, Lake Grevelingen, the tidal portion of the Dutch IJssel (a branch of the Rhine delta) and the Veluwe Rand lakes;

*Programme*: a programme in the sense of Section 3.2;

*Project*:

- a. the implementation of construction work or the creation of installations or works,
- b. other activities within the physical environment, including activities for the extraction of minerals;

*Project decision*: a project decision in the sense of Section 5.2

*Provincial pre-emption right*: a pre-emption right in the name of a province;

*Regional waters*: water systems or parts thereof that are not managed by the State;

*National monument*: a national monument as referred to in Article 1.1 of the Heritage Act [Erfgoedwet];

*Activity relating to nationally listed monuments*: an activity involving the demolition, disturbance, relocation or adaptation of a national monument or a protected national monument, or the restoration or use of the same, resulting in it becoming disfigured or endangered;

*National waters*: water systems or portions thereof that are managed by the State;

*Land exchange decision*: a decision as referred to in Article 12.22;

*Demolition activity*: an activity involving the demolition of a building;

*To demolish*: to break down or take apart an object either partially or completely;

*Conservation status of a natural habitat:* sum of the influences that affect the natural habitat in question and the typical species occurring there and that can cause a change in the natural distribution, structure and functions of that habitat in the long term or that may have an impact on the long-term survival of the typical species concerned in the territory as referred to in Article 2 of the Habitats Directive;

*Conservation status of a species:* the effect of the sum of the influences that affect the species in question and that can cause a long-term change in the distribution and size of the populations of that species in the territory referred to in Article 2 of the Habitats Directive;

*Urban and village conservation areas:* groups of real-estate property of public interest due to their beauty, mutual spatial or structural coherence, scientific, cultural or historical value and in which groups of one or more listed buildings are included;

*Urban wastewater:* household wastewater or a mixture consisting of household wastewater and industrial wastewater, rainwater, groundwater or other wastewater;

*Deposition:* deposition as referred to in Article 1.1 of the Environmental Management Act;

*Deposition activities at sea:* an activity consisting of:

- a. the disposal of substances at sea by placing them in the sea, or burning them at sea, from a vessel, aircraft or any installation erected on the seabed, unless this involves:
  1. actions relating to or arising from the normal use of the vessel, aircraft or installation, on condition that it is not being used with a view to disposing of substances,
  2. the placement of solid masses or objects for a purpose other than simply to dispose of them,
  3. the leaving behind of solid masses or objects that were originally placed in the sea for a purpose other than to dispose of them.
- b. the disposal at sea of vessels, aircraft or installations set up on the seabed, or
- c. the taking of substances on board a vessel or aircraft with the intention of discarding them in a manner as referred to in item a or to transmit them into the sea for an activity as referred to item d, or the release or storage of substances with one of those objectives, or
- d. the transmission into the sea of substances from vessels, aircraft or works erected on the seabed for an activity that is intentionally intervened in the marine environment to influence natural processes and which is designated as such in Annex 4 to the London Protocol;

*Landfill:* a site where waste substances are deposited, or the portion of a site where waste is disposed of if waste is deposited not only into the ground, with the exception of an extractive waste facility;

*River basin district:* a basin district as defined in Article 2, item 15, of the Water Framework Directive

*Telecommunications infrastructure:* work, cables or pipes, including empty pipes, support works and protective works, which are part of an electronic communications network as referred to in Article 1.1 of the Telecommunications Act;

*Chance discovery of pollution on or in the soil:* chance discovery of pollution on or in the soil with unacceptable health risks due to exposure to the pollution;

*Activity involving falconry:* the use of a bird to capture or kill an animal;

*Felling:* uprooting or carrying out other acts that may result in the death of or serious damage to wood stands;

*Trade:* the purchase, offer to purchase, acquisition for commercial purposes, exhibiting for commercial purposes, use for profit, selling, possessing with a view to sale, offering for sale or transporting with a view to sale;

*Exploratory study:* an exploratory study in the sense of Article 1, item d, of the Mining Act;

*Contaminating substance:* a substance or group of substances which, by virtue of its properties and its introduction into the environment, may be harmful to the environment or to human health;

*Transferor:*

- a. the owner of a real-estate property on which a pre-emption right has been established, who wishes to transfer ownership of it,
- b. the holder of a building right, right of leasehold, disposal or usufruct on real-estate property that is subject to a pre-emption right, or
- c. the person who, in the event of the dissolution of a community, is entrusted with the liquidation and who wishes to transfer ownership of a real-estate property on which a pre-emption right has been established;

*A transfer of ownership:*

- a. transfer of ownership or distribution of real-estate property on which a pre-emption right has been established,
- b. transfer, allocation or establishment of a right to build, lease, suppress or usufruct real-estate property for which a pre-emption right has been established or to which it is subjected;

*Preparatory decision:* a decision in the sense of Section 4.2;

*Pre-protected nationally listed monument:*

a monument or archaeological monument for which the draft decree designating a nationally listed monument has been sent pursuant to Section 3.13, paragraph one of the General Administrative Law Act, from the day of that transmission to the moment of registration in the Register of Nationally Listed Monuments, intended in Article 1.1 of the Heritage Act, or the moment when it is established that the monument or archaeological monument is not registered in that register;

*Preferential decision:* a decision in the sense of Article 5.47;

*Water-related activity:* an activity in a restricted area associated with a water control work; an activity in a restricted area associated with an installation, not being a mining installation, in a water control work; activities involving the discharging of substances into a body of surface water or a water treatment plant; an activity involving deposition at sea, a water extraction activity or, insofar as it relates to a water board regulation or any other activity governed by that regulation;

*Water extraction activity:* an activity comprising:

- a. the extraction of water from a body of surface water,
- b. the extraction of groundwater by a facility designated for that purpose, or
- c. the transmission of water into the soil in order to supplement the groundwater, in conjunction with the extraction of ground water by a facility designated for that purpose;

*Water board regulation:* a water board regulation in the sense of Article 2.5;

*Water control work:* a body of surface water, a storage area, a water defence or a supporting artificial structure;

*Water system::* a coherent whole consisting of one or more bodies of surface water and bodies of ground water, together with the associated storage areas, water defences and supporting artificial structures;

*Road:* a road, including the artificial structures included therein, together with anything else, which, by virtue of its nature, forms part thereof;

*World Heritage:* the cultural and natural heritage located in the territory of the Netherlands that is included in the World Heritage List under the World Heritage Convention;

*Game management unit:* a game management unit as referred to in Article 8.2;

*Wind farm:* a set of facilities that uses wind to generate electricity;

*Extractive waste:* waste derived directly from the prospecting, extraction, treatment and storage of minerals and the exploitation of quarries, with the exception of waste originating from offshore prospecting, extraction and the treatment of minerals;

*Extractive waste facility:* a site where only extractive waste is deposited or collected, or the part of a site where extractive waste is deposited or collected;

*Sea:* marine waters, with the exception of the inland waterways of Member States, including the seabed and the ground located beneath;

*Swimming area:* an area for swimming in the sense of Article 2.30.

## Section B. Regulations, directives and decisions referred to in Article 288 of the Treaty on the Functioning of the European Union and international conventions

For the purposes of this Act and the provisions based thereupon, unless otherwise specified, the following terms have the meanings specified below:

*General Data Protection Regulation:* Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal information and on the free movement of such data, and repealing Directive 95/46/EC (OJEU 2016, L 119);

*Benelux Convention on the Hunting and Protection of Birds:* Benelux Convention concerning the hunting and protection of birds (Treaty Series 1970, 155);

*Benelux Convention on the Hunting and Protection of Birds:* the Benelux Convention concerning hunting and the protection of birds and the decisions of the Committee of Ministers of the Benelux Economic Union that are based on that agreement;

*Basic CITES Regulation:* Council Regulation (EC) No 338/97 of 9 December 1996 on the protection of species of wild fauna and flora by regulating trade therein (OJEU, L 61);

*CITES Convention:* convention signed in Washington DC (US) on 3 March 1973 concerning the international trade in endangered species and wild fauna and flora (Treaty Series 1975, 22);

*European Landscape Convention:* convention signed in Florence (Italy) on 20 October 2000 by the Council of Europe concerning the landscape (Treaty Series 2005, 23);

*European CITES legislation:*

- Basic CITES Regulation,
- a regulation that is based on the Basic CITES Regulation,
- any other regulation or directive relating to the marketing, possession or processing of animals, plants or products thereof taken from nature, based wholly or in part on Articles 114, 192, 207 or 352 of the Treaty on the Functioning of the European Union, or any other binding EU legal act that it based on one or more of those Articles; z

*European legislation on FLEGT:*

- Basic FLEGT Regulation,
- a regulation that is based on the Basic FLEGT Regulation,
- any other regulation or directive that relates to the trading, possession or processing of wood or timber products taken from nature, and which is wholly or partly based on Articles 114, 192, 207 or 352 of the Treaty on the Functioning of the European Union or any other binding EU legal act based on one or more of those articles;

*European legislation on timber:*

- Basic Timber Regulation,
- a regulation that is based on the Basic Timber Regulation,
- any other regulation or directive that relates to the trading, possession or processing of wood or timber products taken from nature, and which is wholly or partly based on Articles 114, 192, 207 or 352 of the Treaty on the Functioning of the European Union or any other binding EU legal act based on one or more of those articles;

*European legislation on invasive exotics:*

- Basic Invasive Exotics Regulation:
- a regulation that is based on the Basic Invasive Exotics Regulation,
- any other regulation or directive, based wholly or in part on Articles 114, 192, 207 or 352 of the Treaty on the Functioning of the European Union, or any other binding EU legal act based on one or more of those Articles;
- any other regulation or directive, based wholly or in part on Articles 114, 192, 207 or 352 of the Treaty on the Functioning of the European Union, or any other binding EU legal act based on one or more of those Articles;

*European legislation on seals:*

- Basic Seals Regulation:
- a regulation that is based on the Basic Seals Regulation,
- Council Directive 83/129/EEC of 28 March 1983 concerning the importation into Member States of skins of certain seal pups and products derived therefrom (OJEU 1983, L 91)
- any other regulation or directive relating to seals products, based wholly or in part on Article 95 of the Treaty on the Functioning of the European Union or another binding EU act that is based on that Article;

*Basic FLEGT Regulation:* Council Regulation (EC) No 2173/2005 of 20 December 2005 on the establishment of a FLEGT licensing scheme for imports of timber into the European Community (OJEU, L 2005, 347);

*Groundwater Directive,* and of the Council of 12 December 2006 on the protection of groundwater against pollution and deterioration (OJEU 2006, L 372);

*Habitats Directive,* Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJEU 1992, L 206);

*Basic Timber Regulation:* Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market (OJEU, L 2010, 295);

*Basic Invasive Exotics Regulation:* Regulation (EU) No 1143/2014 of the European Parliament and the Council of 22 October 2014 on the prevention and management of the introduction and spread of invasive alien species (OJEU, L 317);

*Waste Product Framework Directive:* Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain directives (OJEU 2008, L 312);

*Marine Strategy Framework Directive:* Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (OJEU 2008, L 164);

*Maritime Spatial Planning Framework Directive:* Directive 2014/89/EU of the European Parliament and of the Council of 23 July 2014 establishing a framework for maritime spatial planning (OJEU 2014, L 257);

*Water Framework Directive:* Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for community action in the field of water policy (OJEU 2000, L 327);

*London Protocol:* protocol adopted in London (England) on 7 November 1996 to the London Convention of 29 December 1972 regarding the prevention of marine pollution by the deposition of wastes and other matter (Treaty Series 1998, 134);



*Environmental Impact Assessment (EIA) Directive:* Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (OJEU 2012, L 26);

*National Emission Ceilings (NEC) Directive:* Directive (EU) 2016/2284 of the European Parliament and of the Council of 14 December 2016 on the reduction of national emissions of certain atmospheric pollutants, amending Directive 2003/35/EC and repealing Directive 2001/81/EC (OJEU, L 344)

*OSPAR Convention:* convention adopted in Paris (France) on 22 September 1992 for the protection of the marine environment of the north-east Atlantic Ocean (Treaty Series 1993, 16);

*Pollutant Release and Transfer Register Regulation:* Regulation (EC) No 166/2006 of the European Parliament and of the Council of 18 January 2006 concerning the establishment of a European Pollutant Release and Transfer Register and amending Council Directives 91/689/EEC and 96/61/EC (OJEU 2006, L 33);

*End-of-Life Vehicles Directive:* Directive 2000/53/EC of the European Parliament and of the Council of 18 September 2000 on end-of life vehicles (OJEU 2000, L 269);

*Directive on Petrol Vapour Recovery:* Directive 2009/126/EC of the European Parliament and of the Council of 21 October 2009 on Stage II petrol vapour recovery during refuelling of motor vehicles at service stations (OJEU 2009, L 285);

*Directive on the Energy Performance of Buildings:* Directive 2010/31/EU of the European Parliament and of the Council of 19 May 2010 on the energy performance of buildings (OJEU 2010, L 153);

*Directive on the Geological Storage of CO<sub>2</sub>:* Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide and amending Council Directive 85/337/EEC, European Parliament and Council Directives 2000/60/EC, 2001/80/EC, 2004/35/EC, 2006/12/EC, 2008/1/EC and Regulation (EC) No 1013/2006 (OJEU 2009, L 140);

*Dangerous Emissions Directive:* Directive 2004/107/EC of the European Parliament and of the Council of 15 December 2004 relating to arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air (OJEU 2005, L 23);

*Directive on Port Reception Facilities:* Directive 2000/59/EC of the European Parliament and of the Council of 27 November 2000 on port reception facilities for ship-generated waste and cargo residues (OJEU 2000, L 332);

*Directive on the Re-use of Public Sector Information:* Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003 on the re-use of public sector information (OJEU 2003, L 345);

*Renewable Energy Directive:* Directive 2009/28/EC of the European Parliament and of the Council of 23 April 2009 on the promotion of the use of energy from renewable sources and amending and subsequently repealing Directives 2001/77/EC and 2003/30/EC (OJEU 2009, L 140);

*Industrial Emissions Directive:* Directive 2010/75/EC of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (OJEU 2010, L 334);

*Air Quality Directive:* Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe (OJEU 2008, L 152);

*Directive on Environmental Law:* Directive 2008/99/EC of the European Parliament and of the Council of 19 November 2008 on the protection of the environment through criminal law (OJEU 2008, L 328);

*Offshore Safety Directive:* Directive 2013/30/EU of the European Parliament and of the Council of 12 June 2013 on the safety of offshore oil and gas operations and amending Directive 2004/35/EC (OJEU 2013, L 178);

*Environmental Noise Directive:* Directive 2002/49/EC of the European Parliament and of the Council of 25 June 2002 relating to the assessment and management of environmental noise (OJEU 2002, L 189);

*Flood Risk Directive:* Directive 2007/60/EC of the European Parliament and of the Council of 23 October 2007 on the assessment and management of flood risks (OJEU 2007, L 288);

*Priority Substances Directive:* Directive 2008/105/EC of the European Parliament and of the Council of 16 December 2008 on environmental quality standards in the field of water policy, amending and subsequently repealing Council Directives 82/176/EEC, 83/513/EEC, 84/156/EEC, 84/491/EEC, 86/280/EEC and amending Directive 2000/60/EC of the European Parliament and of the Council (OJEU 2008, L 348);

*Urban Wastewater Directive:* Council Directive 91/271/EEC of 21 May 1991 concerning urban wastewater treatment (OJEU 1991, L 135);

*Freedom of Access to Environmental Information Directive:* Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC (OJEU 2003, L 41);

*Mining Waste Directive:* Directive 2006/21/EC of the European Parliament and of the Council of 15 March 2006 on the management of waste from extractive industries and amending Directive 2004/35/EC (OJEU 2006, L 102);

*Protocol on Strategic Environmental Assessment (SEA):* protocol adopted in Kiev (Ukraine) on 21 May 2003 on strategic environmental assessment to the Espoo Convention on environmental impact assessment in a transboundary context (Treaty Series 2003, 154);

*Seveso Directive:* Directive 2012/18/EC of the European Parliament and of the Council of 04 July 2012 on the control of major-accident hazards involving dangerous substances, amending and subsequently repealing Directive 96/82/EEC of the Council (OJEU 2012, L 197);

*Strategic Environmental Assessment (SEA) Directive:* Directive 2001/42/EC of the European Parliament and of the Council of the European Union of 27 June 2001 concerning the assessment of the effects of certain plans and programmes on the environment (OJEU 2001, L 197);

*Aarhus Convention:* convention adopted in Aarhus (Denmark) on 25 June 1998 regarding access to information, public participation in decision-making and access to justice in environmental matters (Treaty Series 1998, 289);

*Bern Convention:* convention signed in Bern (Switzerland) on 19 September 1979 concerning the conservation of wild animals and plants and their natural habitats (Treaty Series 1980, 60);

*Bonn Convention*: convention signed in Bonn (Germany) on 23 June 1979 regarding the conservation of migratory species of wild animals (Treaty Series 1980, 145);

*Chicago Convention*: convention signed in Chicago (US) on 07 December 1944 concerning international civil aviation (Netherlands Government Gazette 1947, H 165);

*Espoo Convention*: adopted in Espoo (Finland) on 25 February 1991 concerning the environmental impact assessment in a transboundary context (Treaty Series 1991, 104);

*Granada Convention*: adopted in Granada (Spain) on 03 October 1985 concerning the preservation of the architectural heritage of Europe (Treaty Series 1985, 163);

*Valletta Convention*: revised European convention adopted in Valletta (Malta) on 16 January 1992 for the protection of the archaeological heritage (Treaty Series 1992, 32);

*Regulation on the governance of the energy union*: Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action, amending Regulations (EC) No 663/2009 and (EC) No 715/2009 of the European Parliament and of the Council, Directives 94/22/EC, 98/70/EC, 2009/31/EC, 2009/73/EC, 2010/31/EU, 2012/27/EU and 2013/30/EU of the European Parliament and of the Council, Council Directives 2009/119/EC and (EU) 2015/652 and repealing Regulation (EU) No 525/2013 of the European Parliament and of the Council (OJEU 2018, L 328);

*UN Convention of the Rights of People with Disabilities*: convention adopted in New York (US) on 13 December 2006 concerning the rights of disabled people (Treaty Series 2007, 169);

*United Nations Convention on the Law of the Sea*: convention adopted in Montego Bay (Jamaica) on 10 December 1982 concerning the law of the sea (Treaty Series 1983, 83);

*Birds Directive*: Directive 2000/147/EC of the European Parliament and of the Council of 30 November 2009 concerning the conservation of wild birds (OJEU 2000, L 20);

*International Convention for the Regulation of Whaling*: signed in Washington on 02 December 1949 concerning the regulation of whaling (Treaty Series 1951, 26);

*World Heritage Convention*: convention adopted in Paris (France) on 16 November 1972 concerning the protection of the world cultural and natural heritage (Treaty Series 1973, 155);

*Leghold Traps Regulation*: Council Regulation (EEC) No 3254/91 of 4 November 1991 prohibiting the use of leghold traps in the Community and the introduction into the Community of pelts and manufactured goods of certain wild animal species originating in countries which catch them by means of leghold traps or trapping methods which do not meet international humane trapping standards (OJ EU 1991, L 308);

*Basic Seals Regulation*: Regulation (EC) No 1007/2009 of the European Parliament and of the Council of 16 September 2009 regarding the trade in seal products (OJEU, L 286);

*Bathing Water Directive*: Directive 2006/7/EC by the European Parliament and the Council of 15 February 2006 regarding the quality of the swimming water and the repeal of Directive 76/160/EEC (OJEU 2006, L 64).

## Notice

This text is based up the following official publications in Dutch:

- Omgevingswet ([Stb. 2016, 156](#))
- Invoeringswet Omgevingswet ([Stb. 2020, 172](#))
- Aanvullingswet geluid Omgevingswet ([Stb. 2020, 83](#))
- Aanvullingswet bodem Omgevingswet ([Stb. 2020, 87](#))
- Aanvullingswet natuur Omgevingswet ([Stb. 2020, 310](#))
- Aanvullingswet grondeigendom ([Stb. 2020, 112](#))
- Spoedwet aanpak stikstof ([Stb. 2019, 517](#))
- Wetsvoorstel Wijziging van de Algemene wet bestuursrecht en enkele andere wetten in verband met het nieuwe omgevingsrecht en nadeelcompensatierecht ([Kst 35 256](#))
- Wet elektronische publicaties ([Stb. 2020, 262](#)).

This document is a courtesy translation and not an official legal document. The Dutch texts contain the applicable legislation.

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