



Ministerie van Infrastructuur en Milieu



(Unofficial) Translation of the Environment and Planning Act

LEGISLATIVE BILL

Introduction and disclaimer

On 17 June 2014 the Netherlands Ministry for Infrastructure and Environment submitted the bill for the Environmental Planning Act to the Dutch parliament. After adoption by Parliament the final Act was published on 23 March 2016. It is expected that the Act will enter into force in 2019.

The Act seeks to modernise, harmonise and simplify current rules on land use planning, environmental protection, nature conservation, construction of buildings, protection of cultural heritage, water management, urban and rural redevelopment, development of major public and private works and mining and earth removal and integrate these rules into one legal framework.

The present translation was made on behalf of the Ministry for Infrastructure and Environment. It covers the main parts of the Act. The translation of the relevant parts of the explanatory memorandum accompanying the Bill as it was submitted to parliament can be found in a separate document. On page 74 the chapters of the Act are listed which have not been included in this translation. Articles or paragraphs have sometimes been paraphrased, in which case the text is shown in italics. It is emphasised that the translation was produced by a third party not affiliated with the ministry, that the translation is not officially approved and that no rights can be derived from it.

This translation aims to inform non Dutch speakers about the current reform in the Netherlands regarding the legislation on the protection and utilisation of the physical environment. It was published within the framework of the Make it Work project. Make it Work builds a task force of Member States committed to improve the effectiveness and efficiency of EU environmental legislation through sharing Member State practices on legislative reform and exploring opportunities for regulatory simplification of EU environmental legislation.

Information on Make it Work can be found here: <http://www.ieep.eu/work-areas/environmental-governance/better-regulation/make-it-work>

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LEGISLATIVE BILL

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)

The Annex to this Act contains the terms and definitions that apply to this Act and the provisions based on these.

Section 1.2 Areas of application and objectives

Article 1.2 (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. natural environment,
 - i. cultural heritage.
 - j. world heritage
3. Considered as effects for the physical living environment are in any event effects that can stem from:
 - a. making changes to components of the physical environment or parts 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, in so far 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 country and the protection and improvement of the living 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, and

b. to effectively manage, use and develop the physical environment in order to perform 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 governed exhaustively 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 to c inclusive.
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. Article 5.1, paragraph one, introduction and item e shall also apply to vehicles and aircraft 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 effects)

Every person who is aware or who may reasonably suspect that his/her activity may have adverse effects upon the physical environment, shall be obliged:

- a. to take all measures that may reasonably be expected of him/her in order to prevent those effects,
- b. in so far as those effects cannot be prevented: to limit or remedy those effects as much as possible,
- c. if those effects cannot be sufficiently limited: to refrain from that activity in so far as that may reasonably be expected of him/her.

Article 1.8 (relationship to specific rules)

The obligations referred to in Articles 1.6 and 1.7 shall be fulfilled in any event in so far as specific rules are laid down by a statutory regulation or decree for the purpose of achieving the objectives of the Act, and those rules are complied with.

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 for the purpose of 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 on or restricted in relation to the rules laid down by virtue of this Act. This elaboration or restriction may in any event concern the following:

- a. ensuring safety,
 - b. safeguarding health,
 - c. protecting the environment,
 - d. sustainable protection of public drinking water supply,
 - e. protecting rural or urban development parameters,
 - f. the preservation of cultural heritage,
 - g. preservation of the exceptional universal value of world heritage
 - h. protection of the natural world,
 - i. tackling climate change,
 - j. the quality of buildings,
 - k. the balanced assignment of functions to sites,
 - l. preserving the condition and functioning of infrastructure against adverse effects 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. ensuring people's access to public outdoor space
4. With the balanced allocation of functions to locations, the importance of safeguarding health is always taken into account.

Article 2.2 (coordination and collaboration)

1. 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.
2. Administrative bodies may perform their duties and exercise their powers jointly. This does not provide for the option to delegate duties or powers.
3. When performing its duties and exercising its powers, an administrative body shall only assume the duties and powers of another administrative body insofar as necessary for the performance of its own duties and exercising of its powers

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

1. The performance of duties and exercising of powers under this law is left to the administrative bodies of a municipality, unless other rules of have been laid down.
2. An administrative body of a province shall perform a duty or exercise a power as it is provided for in the regulations, only if that is necessary:
 - a. with a view to a provincial interest and that interest cannot be taken care efficiently and effectively by the municipal authorities, or
 - b. for an efficient and effective performance of duties and exercising of powers under this law or the performance of an obligation under international law.
3. An administrative body of the Government shall perform a duty or exercise a power as it is provided for in the regulations, only if that is necessary:
 - a. with a view to a national interest and said interest cannot be taken care efficiently and effectively by the provincial authorities or municipal authorities, or
 - b. for an efficient and effective performance of duties and exercising of powers under this law or the performance of an obligation under international law.

4. Administrative bodies of the Government shall also perform duties and exercise powers for the area(s) not classified as provincial and/or municipal

Section 2.2 physical environment plan, water board regulation and environmental regulation

Article 2.4 (physical environment plan)

The municipal council shall adopt a single environmental plan in which rules on the physical living environment will be included.

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 (exclusion of mandatory inclusion)

Cases in which rules relating to the physical environment are not included in the physical environment plan, the water board regulation or the environmental regulation may be indicated by means of an order in council.

Article 2.8 (delegation)

The municipal council, the governing board of a water board or the Provincial Council may delegate the powers to lay down parts of the physical environment plan, the water board regulation or the environmental regulation to the mayor and aldermen, the executive 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 for the purpose of 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 otherwise in objective terms.

Article 2.10 (nature, period and sites of environmental values and substantiation)

1. The following shall be determined when setting an environmental value:
 - a. whether this parameter entails a obligatory outcome, an obligation to act or a different obligation to be specified in that case,
 - b. the date on which or the period within which the obligation must be fulfilled,
 - c. the sites at which the environmental value applies.

2. When setting an environmental value, reasons shall be provided as to which duties and responsibilities are carried out in any event by virtue of this or any other Act in order to achieve the environmental value.

Section 2.3.2 Environmental conditions, municipality

Article 2.11 (environmental conditions, municipality)

1. Environmental values can be fixed in the environmental plan.
2. In the environmental plan, no environmental conditions can be adopted in supplement to or in derogation of environmental conditions laid down in environmental regulations or by order in council, unless otherwise provided for in environmental regulations or the order.

Section 2.3.3 Environmental conditions, province

Article 2.12 (environmental conditions, province)

1. Subject to the limits of Article 2.3, second paragraph, environmental conditions can be established in the environmental regulations.
2. In environmental regulations, no environmental conditions can be laid down in supplement to or in derogation of environmental conditions laid down by order in council, unless otherwise provided for in the order.

Article 2.13 (mandatory environmental values for water systems, province)

1. With a view to guaranteeing safety and preventing or limiting flooding in any case, environmental conditions have been established for:
 - a. the security of other than primary water-control structures indicated in the regulations insofar as they are not controlled by the Central Government,
 - b. the average probability of flooding per year of the areas indicated in the regulations with a view to the storage and discharge capacity according to which regional waters must be engineered.
2. Under or pursuant to the regulations, for application of the first paragraph under a, for sites to be indicated, additional rules are laid down regarding establishing the water-retaining capacity of the water-control structures referred to therein.

Section 2.3.4 Environmental values, Government

Article 2.14 (environmental values set 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 environmental values set by the State)

1. Environmental parameters shall in any case be set for the following by an order in council for the purpose of ensuring safety, safeguarding health, protecting the environment and managing natural resources:
 - a. the quality of outdoor air, including the deposition and concentrations of pollutants in the open air, also in connection with human exposure to those substances, in implementation of the Air Quality Directive and the Directive relating to arsenic, cadmium, mercury, nickel and polycyclic aromatic hydrocarbons in ambient air,
 - b. the chemical and ecological quality of bodies of surface water and chemical quality and quantitative condition of bodies of ground water, in implementation of the Water Framework Directive, the Groundwater Directive, and the Priority Substances Directive,
 - c. the quality of bathing water, in implementation of the Bathing Water Directive,

d. the safety of primary water-retaining structures designated by the order in council, for every dyke course designated under the order, and

e. the safety of water-retaining structures other than primary ones, in so far as they are managed by the State.

2. For the application of paragraph one, items d and e, a ministerial decree shall lay down additional rules regarding the establishment of water-retaining capacity for the sites to be indicated therein.

3. The specific rules, as referred to in paragraph two, shall be revised in relation to primary water-retaining structures no less frequently than every twelve years.

Section 2.4 Assignment of duties and designation of sites

Section 2.4.1 Allocation of specific duties to municipalities, water boards, provinces and Central Government

Article 2.16 (municipal duties for physical living environment)

1. In addition to duties for the physical living environment allocated to that council elsewhere in this act or under other acts/laws, the following duties are vested in the municipal government:

a. in the realm of managing water systems and water chains:

1°. the efficient collection of rainwater run-off, insofar as the container cannot reasonably bring the rainwater running off onto or into the soil or a surface water body and the transport and processing thereof,

2°. use/take measures in the public municipal realm to prevent or limit as much as possible structurally adverse effects on the ground water level for functions attributed to the physical living environment under this act, insofar as taking these measures is efficient and does not belong to the duties of a water board, province or the Central Government under Articles 2.17, 2.18 or 2.19,

3°. the collection and transport of urban wastewater,

4°. the management of water systems, insofar as conferred by environmental regulation as referred to in Article 2.18, second paragraph or by ministerial regulation as referred to in Article 2.20, third paragraph,

5°. the purification of urban wastewater in cases in which application is given to Article 2.17, third paragraph,

b. the safeguarding of the condition and operation of public roads from adverse effects of activities on or around the roads, insofar as not in management by a water board, a province or the Central Government

2. On the basis of the first paragraph, under a, under 3°, urban wastewater is collected and transported to a treatment plant if it released:

a. on parcels located within a built-up area from which urban wastewater with a pollution load of at least two thousand inhabitant equivalents as referred to in the Urban Wastewater Directive is discharged by means of a public wastewater sewer,

b. on other parcels, insofar as this can be done efficiently by means of a public wastewater sewer.

3. Instead of a public wastewater sewer and a treatment plant, other suitable systems under management of a municipality, water board or legal entity that is has been put in charge of the management by a municipality or water board, if the same level of protection of the environment is achieved therewith.

Article 2.17 (water board duties for the physical living environment)

1. In addition to duties for the physical living environment assigned to the board elsewhere in this act and under other acts/laws, the water authority board is vested with the following duties:
 - a. in the area of management of water systems and water chain management:
 - 1°. the management of water systems, insofar as assigned to the water board by provincial regulation as referred to in Article 2.18, second paragraph or by ministerial regulation as referred to in Article 2.20, third paragraph,
 - 2°. the purification of urban wastewater brought in a public wastewater sewer in a treatment plant,
 - b. safeguarding the condition and operation of public roads from adverse effects of activities on or around the roads, insofar as the management of the roads is assigned to the water board by provincial regulation.
2. The water authority board give the responsibility of operating a treatment to another legal entity.
3. in derogation of the first paragraph, the water authority board and the municipal council can decide, by joint decision, that the purification duty referred to in the first paragraph, under a, belongs to the duty of the municipality, if that is more efficient for the purification of urban wastewater.

Article 2.18 (provincial duties for the physical living environment)

1. In addition to duties assigned to that government in this act and under other acts/laws, the provincial government is vested with the following duties:
 - a. with due observance of the limits of Article 2.3, second paragraph: the area-based coordination of performing duties and exercising powers by communities and water boards:
 - b. the prevention or limitation of noise pollution in wildlife sanctuaries/noise abatement zones,
 - c. protection of the quality of groundwater in groundwater protection areas, with a view to extracting it for preparing water intended for human consumption,
 - d. in the area of management of water systems and bathing water management:
 - 1°. the management of water systems insofar as that is assigned to the province by environmental regulation as referred to in the second paragraph or by ministerial regulation as referred to in Article 2.20, third paragraph ,
 - 2°. Monitoring the management of water systems insofar that is assigned to water boards, with the exception of the management of primary water retaining structures,
 - 3°. taking management measures as referred to in Article 2, seventh paragraph of the bathing water directive,
 - e. safeguarding the condition and operation of the following infrastructure from adverse effects on or around the infrastructure:
 - 1°. civil airports of regional importance,
 - 2°. local railway infrastructure =,
 - 3°. roads managed by the province.
2. With due observance of Article 2, second paragraph of the Water Authorities Act, the management of regional waters is assigned to water boards by provincial regulation or to other public bodies by environmental regulation.
3. Under or pursuant to environmental regulation, land within regional waters can be designated as dry alluvial areas.

Article 2.19 (Central Government duties for the physical living environment)

1. in addition to the duties for the physical living environment assigned to the Central Government elsewhere in this act and under other acts/laws, the duties listed in the second and third paragraph shall be vested in Our Minister or Our Minister concerned.

2. The following duties for the water systems are vested in Our Minister:
 - a. management of the national waters that are indicated under Article 2.20, second paragraph, under a,
 - b. prevention or combating inland shifting of the coastline, insofar as this is necessary according to our Minister in order to comply with an environmental regulation for the security of primary water-retaining structures as referred to in Article 2.15, first paragraph, under d,
 - c. monitoring of the management of primary water-retaining structures by a water board or other public body,
 - d. creating and providing technical guidelines for the design and management of primary water-retaining structures.
3. The following duties for infrastructure and other facilities are vested in Our aforementioned Minister:
 - a. with Our Minister: safeguarding of the condition and operation of the following infrastructure from adverse effects of activities on or around the infrastructure:
 - 1°. Schiphol airport and other civil airports of national importance,
 - 2°. Main railway infrastructure and special railway infrastructure
 - 3°. Roads managed by the Central Government.
 - 4°. Communication, navigation and radar equipment, outside of airports, as referred to less than 1°,
 - b. with Our Minister of Defence: safeguarding the condition and operation of the following infrastructure and other facilities for national defence and national security from adverse effects on or around the infrastructure or other facilities:
 - 1°. military airports,
 - 2°. low flight paths for fighter and transport airplanes,
 - 3°. military sites,
 - 4°. munitions storage depots,
 - 5°. radar stations and transmitting and receiving installations outside of military airports.

Section 2.4.2 Designation of sites

Article 2.20 (designation of sites)

1. By order in council, sites can be designated for application of this act, with due observance of the limits of Article 2.3.
2. On the basis of the first paragraph, designated in any case are:
 - a. national waters,
 - b. restricted zone regarding:
 - 1°. roads managed by the Central Government,
 - 2°. water control structures managed by the Central Government,
 - 3°. main railway infrastructure and special railway infrastructure,
 - 4°. installations in a water control structure.
3. By ministerial regulation, national waters can be designated the management of which, in derogation of the second paragraph, under a, is vested entirely or partially in the public bodies designated thereby that do not belong to the Central Government.

Article 2.21 (additional basis for designation and restriction of sites)

1. By regulation of Our Minister or concerning Our Minister:
 - a. sites can be designated for fulfilling commitments under international law,
 - b. the geometric restriction of sites can be established as referred to in Article 2.20, first paragraph.
2. On the basis of the first paragraph, under a, the following sites are designated in any case:

- a. the Dutch sections of river basin districts, including the allocation of groundwater bodies to the river basin districts referred to in the Water Framework Directive,
 - b. the areas within the national waters from which water for the preparation of water intended for human consumption is extracted, referred to in the Water Framework Directive,
 - c. the zones and urban areas referred to in the Environmental Noise Directive, the air quality directive and the directive on dangerous substances in the air.
3. On the basis of the first paragraph, under b, in any case the geometric restriction is established for:
- a. surface water bodies or parts thereof that belong to the national waters and the dryer alluvial areas constituting part thereof,
 - b. restricted zones pertaining to water control structures managed by the Central Government.
4. A restricted zone pertaining to a water control structure managed by the Central Government converges with the water control structure unless that by the regulation, that area is restricted to a part of the water control structure or is extended with an area around that water control area

Section 2.5 Instruction rules and instructions

Section 2.5.1 Implementation of policy by means of instruction rules

Article 2.22 (basis for general instruction rules issued by the province)

1. Rules are laid down by means of an environmental regulation, with due observance of 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 in order to achieve other objectives relating to the physical environment.
2. Notwithstanding the provisions of paragraph one, the rules may be laid down in a decision by the Provincial Executive if they concern:
 - a. the geometric restriction of sites or further specifying the performance of a duty or exercising of a power to which the rule relates, or
 - b. regulations concerning implementation, administration and measurements or calculations.

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 content, explanation or justification of the following:
 - 1°. a programme of the Provincial Executive as referred to in Articles 3.4 and 3.8, or a programme as referred to in Articles 3.6, 3.7 or section 3.2.4 that is not established by an administrative body of the State,
 - 2°. an environment plan or water board regulation,
 - 3°. a project decision of the Provincial Executive as referred to in Article 5.44 or a project decision of the executive board of the water board as referred to in Article 5.44 or 5.46, paragraph two,
 - 4°. a land registry, including a technical management register, or decision relating to the water level as referred to in Article 2.39 or 2.41 that is not established by an administrative body of the State,
 - b. the performance of a duty as referred to in Articles 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 concerning an environment plan or water board regulation may only be laid down with regard to:
 - a. the performance of duties as referred to in section 2.4.1, including rules concerning environmental values to be adopted or that have been adopted and environmental permits as referred to in Article 5.3,
 - b. environmental values other than those referred to in item a that have been adopted in a physical environment plan,
 - c. laying down rules in the physical environment plan as referred to in Article 4.2, paragraph one, or associated rules as referred to in Article 5.19, paragraph one,
 - d. laying down situation-specific rules as referred to in Article 4.6.
4. A period shall be set in relation to these rules within which the rules must be implemented.
5. The rules shall specify in which cases and under what conditions the rules may be departed from if the application of the rules is insufficient for or stands in the way of achieving the objectives of the law/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 in an order in council or in order to achieve other objectives relating to the physical environment.
2. Notwithstanding the provisions of paragraph one, the 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 the geometric definition or further specifying the performance of a duty or exercising of a power to which the rule relates, or
 - b. regulations concerning implementation, administration and measurements or calculations.

Article 2.25 (content of instruction rules issued by the State)

1. Rules pursuant to Article 2.24 may only be laid down with regard to:
 - a. the content, explanation or justification of the following:
 - 1°. a programme as referred to in section 3.2.2. or 3.2.4,
 - 2°. a physical environment plan, water board regulation or environmental regulation,
 - 3°. a situation-specific regulation as referred to in Article 4.5,
 - 4°. a project decision as referred to in Articles 5.44 or 5.46,
 - 5°. a land registry, including a technical management register, or decision relating to the water level as referred to in Article 2.39 or 2.41,
 - 6°. an emergencies plan as referred to in Article 19.14,
 - b. the performance of a duty as referred to in section 2.4.1 or the exercising of a power as referred to in Article 2.38.
2. The rules may serve to implement a programme of Our Minister or Our Minister whom it concerns as referred to in section 3.2.4.
3. Rules concerning a physical environment plan, water board regulation or physical environment plan may only be laid down with regard to:
 - a. the performance of duties as referred to in section 2.4.1, including rules concerning environmental values to be adopted or that have been adopted and environmental permits as referred to in Article 5.3 or 5.4,
 - b. environmental values other than those referred to in item a that have been adopted in a physical environment plan or environmental regulation,
 - c. laying down rules in the environmental regulation as referred to in Articles 2.22 or 5.19, paragraph two,
 - d. laying down rules in the physical environment plan as referred to in Article 4.2, paragraph one, or associated rules as referred to in Article 5.19, paragraph one,

- e. setting situation-specific rules as referred to in Article 4.6.
- 4. A period shall be set in relation to these rules within which the rules must be implemented.
- 5. The rules shall specify in which cases and under what conditions the rules may be departed from if the application of the rules is insufficient for or stands in the way of achieving the objectives of the law/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. more specific 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 safety, 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 living environment.
- 3. The rules shall in any case serve to implement the following:
 - a. Groundwater Directive,
 - b. Habitats Directive,
 - c. Marine Strategy Framework Directive,
 - d. Water Framework Directive,
 - e. Air Quality Directive,
 - f. Environmental Noise Directive,
 - g. Floods Directive,
 - h. Birds Directive,
 - i. Bathing Water 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. the preservation of cultural heritage,
 - b. the preservation of the exceptional universal value of world heritage. In any case in implementation of the World Heritage Convention
 - c. safeguarding health and protecting the environment, in relation to preventing or limiting noise pollution in noise control zones,
 - d. safeguarding health and the environment and managing natural resources and sustainable safeguarding of the public drinking water supply with respect to protecting the quality of regional waters from which water for the preparation of water intended for human consumption is extracted, in any case in implementation of the Water Framework Directive ,
 - e. preserving the condition and functioning of:
 - 1°. local railway infrastructure, in so far as Article 4, paragraph three of the Local Railways Act [Wet lokaal spoor] does not apply,
 - 2°. roads managed by a province,from the adverse effects of activities on or around that rail infrastructure or those roads.

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

Rules pursuant to Article 2.24 shall be laid down in any event in relation to physical environment plans and project decisions, for the following purposes:

- a. the preservation of cultural heritage, including known or anticipated archaeological heritage sites; in any case in implementation of the Granada convention and the Valletta convention,
- b. preservation of the exceptional universal value of world heritage, in any case in implementation of the World Heritage Convention
- c. ensuring safety, safeguarding health and the environment, with respect to external safety risks associated with storage, production, usage and transport of hazardous substances, in any case in implementation of the Seveso directive
- d safeguarding health, in relation to noise pollution originating from roads, railways and industrial sites,
- d. preserving the condition and functioning of the infrastructure referred to in Article 2.19, paragraph three, under a, under 4° and under b, under points 2° through 5°, against adverse effects of activities carried out on or around that infrastructure or facilities.

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 event in relation to physical environment plans and project decisions for the purpose of ensuring safety, safeguarding health around airports, preserving the condition and functioning of airports and the balanced assignment of functions to sites in the immediate vicinity thereof. The rules shall in any event be drawn up in implementation of the Chicago Convention.

2. The rules shall in any event concern the following:

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

1°. Schiphol airport,

2°. civil airports of national and regional importance that is subject to an Airport decree,

3°. the military airports that are subject to an Airport decree,

b. the function and rules relating to the use of the land within the airport area, as referred to in item a, in so far as those rules are necessary for the purpose of using the area as an airport,

c. 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,

d. the restrictions upon the function, use and condition of land, structures and other premises within the restricted area, as referred to in item c, in so far as those restrictions are necessary for the purpose of flight security or in connection with the external security risk and noise pollution due to airport aviation traffic.

3. Contrary to Article 2.25, paragraphs one and three, the rules on civil airports of regional importance 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 2.30 (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 in implementation of the Bathing Water Directive, the list of sites drawn up by the Provincial Executive where what it regards as a large number of people go swimming,

- b. the performance of the duties relating to bathing water and 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 determining of the bathing season by the Provincial Executive as referred to in Article 3 of the Bathing Water Directive.

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

- 1. Rules pursuant to Article 2.24 shall be laid down in any event with regard to the design, construction and maintenance of public waste water sewerage, with a view to safeguarding health and managing water systems.
- 2. The rules shall in any event be drawn up in implementation of the Urban Wastewater Treatment 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 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 or Our Minister whom it concerns may grant exemption from that rule at the request of an administrative body of a municipality, water board or province.
- 3. If it has been stipulated in relation to a rule pursuant to Article 2.25, paragraph six, that it is possible to deviate from a rule or that more specific rules are or may be set in an environment by-law, it may also be stipulated in that regard that provincial executives may grant exemption from that rule or more specific rules at the request of an administrative body of a municipality or water board.
- 4. An exemption shall only be granted if 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.
- 5. 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 by means of 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 exercising of powers to the municipal council or the water board 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 in relation to laying down rules in the physical environment plan as referred to in Article 4.2, paragraph one, or associated rules as referred to in Article 5.19, paragraph one, if that is necessary in order to achieve a balanced assignment of functions to sites,
 - b. the water board if that is necessary in order to achieve coherent and effective regional water management,
 - c. the executive board of the water board in relation to a project decision as referred to in Article 5.44 or 5.46, paragraph two, if that is necessary in order to achieve a balanced assignment of functions to sites.
- 3. Article 2.23, paragraphs two and four shall apply as appropriate to the issue of an instruction.
- 4. An instruction cannot not be issued if the following may 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 or Our Minister whom it concerns in consultation with Our Minister, may, with due regard for the limitations of Article 2.3, paragraph three, issue an instruction to the provincial authorities, the municipal authorities or the water board in relation to the performance of a duty or exercising of powers.
2. An instruction may only be issued to the following:
 - a. The provincial authorities or the water board in relation to the performance of a duty or exercising of powers with regard to managing water systems or water cycle management, if that is necessary in order to achieve coherent and effective water management,
 - b. the Provincial Council in relation to laying down rules in the environmental regulation as referred to in Article 2.22, 4.2, paragraph two or 5.19, paragraph two, if that is necessary in order to achieve a balanced assignment of functions to sites,
 - c. the Provincial Executive in relation to a project decision as referred to in Article 5.44, if that is necessary in order to achieve a balanced assignment of functions to sites,
 - d. the municipal council in relation to laying down rules in the physical environment plan as referred to in Article 4.2, paragraph one, or associated rules as referred to in Article 5.19, paragraph one, if that is necessary in order to achieve a balanced assignment of functions to sites,
 - e. the executive board of the water board in relation to a project decision as referred to in Article 5.44 or 5.46, paragraph two, if that is necessary in order to achieve a balanced assignment of functions to sites.
3. In addition to the provisions of paragraph two, Our Minister of Education, Culture and Science may, in agreement with Our Minister, issue an instruction to the municipal council to assign the role of a state-protected village or urban conservation area to a site in the physical environment plan and to stipulate in this regard that this shall be protected if that is necessary in order to preserve cultural heritage.
4. Article 2.25, paragraphs two and four shall apply as appropriate to the issue of an instruction.
5. An instruction cannot not be issued if the following may be applied:
 - a. Articles 124a, 124b or 268 of the Municipalities Act,
 - b. Articles 121 or 261 of the Provinces Act [Provinciewet], or
 - c. the Compliance with European Regulations (Public Entities) Act [Wet Naleving Europese regelgeving publieke entiteiten].

Article 2.35 (application of instruction)

1. An instruction cannot be issued if it is intended for repeated execution by multiple administrative bodies.
2. An instruction for the purpose of serving an interest as referred to in Article 2.3, paragraph two, item a, or paragraph three, item a, may only be issued if the interest has been indicated in a document published 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 (power of substitution)

1. If the water board authority does not implement an instruction within the period stipulated under Article 2.33, on behalf of that board and to be borne by that water board, the Provincial Executive can provide for what is requested.
2. If the water board authority does not implement an instruction within the period stipulated

under Article 2.34, on behalf of that board and to be borne by that water board, Our Minister can provide for what is requested. Articles 121, second and fourth paragraph and 121a through 121e of the Provinces Act shall apply mutatis mutandis.

Article 2.37 (nullification of water board decisions by the Government)

1. An order or unwritten decision on any legal effect of the water board authority, taken contrary to a rule pursuant to Article 2.24 or an order pursuant to Article 2.3.4, can be nullified by Royal Decree.
2. On the nullification of an unwritten decision on any legal effect, Articles 266 through 274a of the Provinces Act and the sections 10.2.2 and 10.2.3 of the General Administrative Law Act shall apply mutatis mutandis.

Section 2.6 Special management competences

Article 2.38 (ban on swimming and advice against swimming)

The Provincial Executive has the power to advise against swimming with regard to bathing waters or bathing sites or to introduce a ban on swimming with a view to ensuring safety or safeguarding health.

Article 2.39 (register)

1. The manager of water control structures establishes a register in which is described what the water control structures must comply with in terms of location, shape, dimension and structure.
2. The first paragraph does not apply to water control structures that under Article 2.18, second paragraph or Article 2.20, third paragraph, are managed by a public body other than a water board or the Central Government.
3. As appendix to the register, for primary water control structures or water control structures for which environmental values are established as referred to in Article 2.13, first paragraph, under a, or 2.15, first paragraph, under e, a technical management register is included, in which the characteristic data for maintenance of the water control capacity of the structure and actual condition are further described.
4. Under or pursuant to environmental regulation or for water control structures managed by the Central Government, general order in council, exemption can be granted from the obligations referred to in the first paragraph for water control structures which by their nature or function are not suitable for the specification of those elements or that have minimal dimensions.

Article 2.40 (access ban for water control structures and roads)

1. Our Minister can restrict or forbid access to a water control structure or a road managed by the Central Government by giving notice on site or in another suitable manner.
2. The first paragraph shall not apply to use by public transport, unless the ban or restriction of access pertains to an installation in the exclusive economic zone that is established in accordance with Article 60 of the UN Convention of the Law of the Sea or an installation in the territorial sea.

Article 2.41 (water-level decision)

1. The water authority board or the competent administrative body of another public body by which under Article 2.18, second paragraph water systems are managed shall adopt one or more water-level decisions for the surface water bodies, groundwater bodies or parties thereof that constitute part of the water systems indicated under the environmental

regulation.

2. Our Minister shall adopt one or more water-level decisions for the surface water bodies, groundwater bodies or parties thereof that constitute part of the national waters indicated by order in council.

3. A water-level decision provides for the establishment of water levels or ranges within which water levels can vary that during the indicated periods or circumstances can be maintained as much as possible.

Article 2.42 (order of priority in the event of water scarcity)

1. By general order in council, the order of priority of social and environmental needs that is determining for the distribution of available surface water in the event of water scarcity or imminent water scarcity.

2. By or pursuant to the order and if that is provided for by the order additional rules on the order of priority can be laid down by environmental regulation. Under the rules, order of priority can be declared to apply mutatis mutandis on the available groundwater.

CHAPTER 3 ENVIRONMENTAL STRATEGIES AND PROGRAMMES

Section 3.1 Environmental strategies

Article 3.1 (determining an environmental strategy)

1. The municipal council shall determine a municipal environmental strategy.

2. The Provincial Council shall determine a provincial environmental strategy.

3. Our Minister shall determine a national environmental strategy in agreement with Our Ministers whom it concerns.

Article 3.2 (content of an environmental strategy)

An environmental strategy contains the following, partly for the purpose of performing duties and exercising the powers as referred to in Article 2.1, paragraph one:

- a. a description of the main features of the quality of the physical living environment,
- b. the broad outlines of the proposed development, the use, management, protection and preservation of the territory.
- c. the principal aspects of the entire policy to be pursued in relation to the physical environment.

Article 3.3 (impact of principles)

Taken into account in an environmental vision is the precautionary principle, the principle of preventative action, the principle that as a priority environmental damage/degradation must be combated at the source and the principle that the polluter/contaminator pays.

Section 3.2 Programmes

Section 3.2.1 General provisions

Article 3.4 (establishing a programme)

The mayor and aldermen, the executive body of the water board, the Provincial Executive and Our Minister or Our Minister whom it concerns may adopt programmes.

Article 3.5 (content of a programme)

A programme contains the following, partly for the purpose of performing duties and exercising the powers as referred to in Article 2.1, paragraph one, in relation to one or more elements 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 in order to fulfil one or more environmental values or to achieve one or more other objectives relating to the physical environment.

Section 3.2.2 Mandatory programmes

Article 3.6 (mandatory programmes established by the municipality)

1. The mayor and aldermen 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, shall establish an action plan within the meaning of Article 8 of that Directive in relation to the following noise sources:

- a. all roads,
- b. all railways,
- c. major airports within the meaning of Article 3, item p of that Directive,
- 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 noise sources pursuant to Article 20.17.

Article 3.7 (mandatory programmes established by the water board)

The executive body of the water board establishes 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, in so far as it concerns the elements that implement the Directives, referred to in Article 3.8, paragraph two.

Article 3.8 (mandatory programmes established by the province)

1. In implementation of the Environmental Noise Directive, the Provincial Executive shall establish an action plan in accordance with Article 3.6 in relation to the following noise sources:

- a. major roads within the meaning of Article 3, item n of that Directive and that are managed by the province,
- 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,
- c. major airports of regional importance within the meaning of Article 3, item p of that Directive.

2. In implementation of the Groundwater Directive, the Water Framework Directive, the Flood Directive, the Bathing Water Directive and other directives relating to water, the Provincial Executive shall establish regional water programmes that contain the provincial water policy.

3. The Provincial Executive of the province in which a Natura-2000 area is located or, if that area lies across more than one province, the Provincial Executive of the province in which most of that area lies, shall establish a management plan for that area.

Article 3.9 (mandatory programmes established by the State)

1. In implementation of the Environmental Noise Directive, Our Minister shall establish an action plan in accordance with Article 3.6 in relation to the following noise sources:

- a. roads managed by the State,
- b. main-line railways,

- c. Schiphol airport and other major airports of national importance within the meaning of Article 3, item p of that Directive.
2. Our Minister shall establish the following programmes in agreement with Our Ministers whom it concerns:
 - a. the river basin management plans, as referred to in Article 13 of the Water Framework Directive, for the river basin districts of the Rhine, Maas, Schelde and Eems, in so far as they relate or also relate to Dutch territory,
 - 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. the action plan as referred to in Article 5 of the Marine Strategy Framework Directive,
 - d. a national water programme that incorporates the national water policy.
3. Contrary to Article 3.8, paragraph three, the management plan for a Natura 2000 area 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:
 - a. Our Minister, if that area or that part forms part of national waters,
 - b. Our Minister of Defence, if that area or that part is a military site,
 - c. Our Minister of Economic Affairs, in cases other than those referred to in items a or b.

Article 3.10 (mandatory programme in the event of (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 mayor and aldermen 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 executive board of the water board or Our Minister, in agreement with Our Minister whom it concerns, 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, a different administrative body may be designated by an order in council or environmental regulation, which establishes the programme.

Article 3.11 (change for the purpose of achieving a target)

1. The administrative body that has established a programme as referred to in this section shall make changes to that programme if it emerges from monitoring activities, as referred to in Article 20.1, that it will not be possible to meet the environmental value by means of that programme.
2. The programme shall be changed in such a way 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 that form part of the programmes must be incorporated 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 implementation of the duty referred to in Article 2.16, paragraph one, item a, points 1° to 3° inclusive, the mayor and aldermen may establish a municipal sewerage programme.

Section 3.2.4 Programme-based approach

Article 3.15 (scope of a programme-based approach)

1. This section shall apply to programmes referred to in paragraph two.
2. Programmes as referred to in Article 3.16 may be designated by a physical environment plan, an environmental regulation or an order in council, in relation to environmental values of the municipality, province or State as referred to in sections 2.3.2, 2.3.3 or 2.3.4 or a different target for the physical environment for which a rule as referred to in Articles 2,22, paragraph one, 2.24, paragraph one, 5.18, 5.19 or 5.30 has been laid down.
3. A physical environment plan, environmental regulation or order in council shall stipulate which administrative body may establish a programme.

Article 3.16 (content and functioning of a programme-based approach)

1. A programme shall state the capacity available for activities in an area and period stated therein, taking into consideration the environmental value or the other target.
2. A physical environment plan, environmental regulation or order in council shall stipulate how the environmental value or the other target is involved in the performance of duties and the exercising of powers and, if applicable, which related provisions by virtue of Articles 2.22, paragraph one, 2.24, paragraph one, 5.17, 5.18 or 5.29 do not apply in full or at all.

Article 3.17 (requirements set with regard to the programme in a programme-based approach)

The programme shall in any case contain a description of the following:

- a. the area to which the programme applies,
 - b. the period to which the programme relates or the extent to which the target has been achieved, at which point the programme will end,
 - c. the environmental value or the other target 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 the other target,
 - 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 target, 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 target,
 - g. the effects of the developments referred to in item e, and the activities referred in item f, in relation to that element of the physical environment,
 - h. the measures that contribute towards fulfilling the environmental value or achieving the other target, the expected effects of this upon that element of the physical environment and the period within which these measures are taken.
2. Insofar as the measures referred to in the first paragraph, under h, include the amendment of the provisions of an integrated environmental permit or the withdrawal of an integrated environmental permit, the programme can also include a description of when and under what conditions which implementation can or must occur.

Article 3.18 (duty of implementation in relation to the programme-based approach)

1. The administrative bodies that have been designated for this purpose in the programme shall ensure the implementation of the measures contained therein within the stated period.
2. The duty of implementation shall only apply:
 - a. in so far as the programme shows that those administrative bodies have agreed to adopt the measures, or
 - b. if this arises from rules and instructions as 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 as appropriate to a programme referred to in Article 3.8, paragraph three and Article 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. officially change or replace measures, activities or developments that form part of that programme or allow them to lapse, and
 - b. add measures, activities or developments to the programme,if a reasonable case can be made to show that those changes are, on balance, in keeping with, or certainly not in conflict with, the programme.
2. The administrative bodies, as referred to in Article 3.18, may request a change to the programme. With regard to that request, a reasonable case is 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 3.16, 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 relating to 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. When laying down rules in the environmental regulation, the limitations of Article 2.3, paragraph two are observed.

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 for the purpose of ensuring this.
2. The environmental regulation solely consists 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 government regulations)

1. Rules shall be laid down by means of an order in council regarding the following activities that (may) have an impact on the physical environment:

- a. construction activities, demolition and the use of and maintenance of buildings,
- b. environmentally harmful activities,
- c. discharging activities at the site of a body of surface water or a water treatment plant,
- d. water extraction activities,
- e. mining activities,
- f. restricted area activities relating to:
 - 1°. a road,
 - 2°. a water management structure,
 - 3°. an installation in a water management structure,
- g. providing the opportunity to swim or bathe,
- h. activities that concern cultural heritage.
- i. activities that relate to world heritage

2. With a view to achieving the objectives of the Act, an order in council may lay down rules regarding the following activities that (may) have an impact on the physical environment:

- a. earth removal activities,
- b. dumping activities at sea,
- c. restricted area activities relating to:
 - 1°. an airport,
 - 2°. a primary railway, local railway or special railway.

3. The rules may be laid down by ministerial decree if these contain regulations concerning implementation, administration and measurement or calculation.

4. When laying down the rules, the limitations of Article 2.3, paragraph three are observed.

Section 4.1.2 Contents

Article 4.4 (specifying the contents)

1. Rules as referred to in section 4.1.1 may prohibit an activity from being carried out without prior notification to the competent authority.

2. The rules in the water board regulation or the environmental regulation may prohibit an activity from being carried out without an environmental permit.

Article 4.5 (situation-specific regulations)

1. The rules referred to in section 4.1.1 may designate subjects for which the competent authority may lay down situation-specific regulations. Section 4.3.2 shall apply as appropriate to the drawing up of situation-specific regulations pursuant to the rules as referred to in Article 4.3.

2. The situation-specific regulations may deviate from rules referred to in section 4.1.1 if that is stipulated within those rules. The extent to which the regulations may deviate and for how long may also be stipulated in those rules.

3. In so far as an activity is not only subject to rules as referred to in Article 4.3, but also requires an environmental permit, those rules may stipulate that the situation-specific regulations depend on the possession of the environmental permit.

Article 4.6 (situation-specific rules)

1. The rules referred to in Article 4.1 that are contained in the environmental regulation may stipulate that situation-specific rules may be laid down in the physical environment plan or the water board regulation in relation to subjects designated in these rules.
2. The rules referred to in Article 4.3 may stipulate that situation-specific rules may be laid down in the physical environment plan, the environmental regulation or the water board regulation in relation to subjects designated in these rules. Section 4.3.2 shall apply as appropriate to the laying down of situation-specific rules.
3. The situation-specific regulations may deviate from the rules laid down in the environmental regulation or rules referred to in Article 4.3, if that is stipulated within those rules. The extent to which the regulations 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 must be taken, permission to take an equivalent measure in its place may be granted upon request. 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, more specific 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 rules)

For the environmental plan, it is the Municipal Executive, for the water board regulation it is the Executive Committee of the water board and for the environmental regulation, it is the Provincial Executive that is:

- a. the competent authority that must be notified,
- b. the competent authority that can prescribe customised regulations,
- c. the competent authority that decides on a request for permission to take an equivalent measure.

Article 4.9 (municipal authority competent for government regulations)

Unless otherwise provided for under Articles 4.10 through 4.13, under Article 4.3, the Municipal Authority is designated as:

- a. the competent authority that must be notified,
- b. the competent authority that can prescribe a customised regulation,
- c. the competent authority that decides on a request for permission to take an equivalent measure.

Article 4.10 (competent authority for government regulations on water activities)

Under Article 4.3, in the interest of efficient water management for water activities designated in which the Executive Committee of the water board, the Provincial Executive or Our Minister are the competent authority.

Article 4.11 (provincial competent authority for government regulations)

1. Under Article 4.3, the following activities are designated in which the Provincial Executive is the competent authority:

- a. provide the opportunity for swimming and bathing,
 - b. introduce substances in groundwater
2. For designating cases, the restrictions of Article 2.3, second paragraph shall be taken into account.

Article 4.12 (Governmental competent authority for government regulations)

1. Under Article 4.3, the following activities are designated in which one of Our thereto appointed Ministers is the competent authority:
- a. environmentally harmful activities:
 - 1°. relating to mining work,
 - 2°. that involve national security interests,
 - b. earth removal activities in national waters,
 - c. mining work activities,
 - d. restricted zone activities pertaining to:
 - 1°. roads managed by the Central Government,
 - 2°. airports other than regionally important civil airports,
 - 3°. main railway lines and special railway lines,
 - 4°. mining installations in a water control structure,
 - e. activities that entirely or mainly take place in:
 - 1°. the territorial see insofar as located outside of a municipality or province
 - 2°. the exclusive economic zone.
2. the limits of Article 2.3, third paragraph, are taken into count with the indication of cases.

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

1. Under Article 4.3, cases can be indicated in which the administrative authority that is competent to decide on the application for an integrated environmental permit is the competent authority. This concerns cases in which activities are performed for which an integrated environmental permit is required in combination with activities for which rules apply as referred to in Article 4.3.
2. In each case, environmentally harmful activities are indicated:
- a. regarding an installation as referred to in Appendix 2 under the industrial admissions directive ,
 - b. to which the Seveso directive is applicable.

Section 4.2 Preliminary protection

Article 4.14 (preliminary planning decision relating to a physical environment plan)

1. The Municipal Council may make a preliminary planning decision in relation to a site for the purpose of the preparation, establishment and entry into force of a physical environment plan.
2. In order to avoid a situation in which the site designated in the preliminary planning decision becomes less suitable for achieving the objective for which the physical environment plan is being established, it may be stipulated in that decision that the following are prohibited in cases designated therein:
- a. undertaking works, not being construction works, or activities,
 - b. demolishing buildings,
 - c. changing the use of buildings or sites.
3. Cases may be designated in the preliminary planning decision in which an application for an environmental permit for a construction activity may be deferred.

4. The preliminary planning decision shall lapse after one and a half years, or, in so far as the decision on the establishment of the physical environment plan has been published within that period, on the date on which the physical environment plan enters into force or has been nullified.

5. The Municipal Council may delegate the powers referred to in paragraph one to the mayor and aldermen.

Article 4.15 (preliminary planning decision relating to an environmental regulation)

1. The Provincial Council may make a preliminary planning decision in relation to a site for the purpose of the preparation, establishment and entry into force of an environmental regulation.

2. Article 4.14 paragraphs two and four, shall apply as appropriate.

3. The Provincial Council may delegate the powers referred to in paragraph one to the Provincial Executive.

Article 4.16 (preliminary planning decision in connection with a project decision or instructions)

1. The Provincial Council may make a preliminary planning decision in relation to a site for the purpose of 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, focusing on the establishment and entry into force of the physical environment plan.

2. Our Minister or Our Minister whom it concerns, in agreement with Our Minister, may make a preliminary planning decision in relation to a site for the purpose of preparing a project decision, an instruction rule as referred to in Article 2.24, paragraph one, or an instruction as referred to in Article 2.34, paragraph one, focusing on the establishment and entry into force of the physical environment plan.

3. Article 4.14 paragraph two and Article 4.15, paragraph three, shall apply as appropriate.

4. Cases may be designated in the preliminary project decision in which an application for an environmental permit for a construction activity is deferred.

5. The preliminary planning decision shall lapse:

a. if the project decision, the instruction rule or the instruction has not entered into force within one and a half years of the entry into force of that decision,

b. on the date on which the physical environment plan amended by the project decision or in accordance with the instruction rule or the instruction enters into force.

Section 4.3 Special provisions relating to rules regarding activities

Section 4.3.1 Decentralised rules

Article 4.17 (updating in connection with non-standard activities)

The physical environment plan shall be brought into line with an environmental permit for an ongoing non-compliant activity to which no time scale has been attached as referred to in Article 5.36, paragraph one, by no later than five years after that permit has become irrevocable.

Article 4.18 (designating modernisation sites)

The physical environment plan may designate sites at which the buildings already present there need to be modernised or need to be replaced by similar constructions. As long as this modernisation or replacement has not been achieved, the use of those buildings shall be deemed to deviate from the assigned function.

Article 4.19 (rules relating to the appearance of buildings)

If the physical environment plan contains rules regarding the appearance of buildings and the application of those rules requires clarification, the Municipal Council shall lay down policy rules for the assessment of an application for an environmental permit for a construction activity. These policy rules are tailored as much as possible to the buildings to be distinguished.

Section 4.3.2 Government regulations

Article 4.20 (Government regulations relating to implementation of obligations under international law)

In accordance with Article 4.3, rules may in all cases be laid down regarding the following:

- a. The Groundwater Directive,
- b. The Waste Framework Directive,
- c. The Water Framework Directive,
- d. The End,-of-Life Vehicles Directive
- e. The Petrol Vapour Recovery Directive,
- f. The Energy Performance of Buildings Directive,
- g. The Directive on the Geological Storage of CO₂,
- h. The Directive on Port Facilities for Ship-generated Waste and Cargo Residues,
- i. The Renewable Energy Directive,
- j. The Industrial Emissions Directive,
- k. the Urban Waste Water Treatment Directive,
- l. The Management of Waste from Extractive Industries Directive,
- m. The Seveso Directive,
- n. The Granada Convention,
- o. The Valletta Convention.

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 for the purpose of:
 - a. ensuring safety,
 - b. safeguarding health,
 - c. sustainability.
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 complies 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 of buildings to be constructed and the immediate surroundings thereof for people with a functional disability is guaranteed.

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 for the purpose of:
 - a. ensuring safety,
 - b. safeguarding health,
 - c. protecting the environment, including safeguarding the quality of 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 preventative measures are taken against pollution,
- b. all appropriate preventative measures for safeguarding health are taken,
- c. all the best available techniques are used,
- d. no significant pollution is caused,
- e. the creation of waste substances is prevented as much as possible and the created waste substances are managed efficiently,
- f. energy is used efficiently,
- g. measures are taken to prevent accidents and to limit the effects of these,
- h. measures are taken when activities are finally completed in order to prevent significant adverse effects on the environment.

Article 4.23 (government regulations concerning water-related activities)

1. The rules referred to in Article 4.3 relating to discharging activities at the site of a body of surface water or a water treatment plant, water extraction activities and restricted area activities concerning a water management structure 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. performing the social roles assigned to water systems by virtue of this Act,
 - d. safeguarding the efficient functioning 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 the best available techniques are used,
 - c. no significant pollution is caused.

Article 4.24 (government regulations relating to mining activities)

1. The rules referred to in Article 4.3 in relation to mining activities shall be laid down for the purpose of:
 - a. ensuring safety,
 - b. the balanced assignment of functions to sites.
2. The rules shall serve to ensure in any event that:
 - a. the interest of safety in relation to shipping is safeguarded,
 - b. the interest of being able to undertake activities relating to national defence is safeguarded.

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 effects 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 an installation in a water management structure)

1. The rules referred to in Article 4.3 in relation to restricted area activities concerning an installation in a water management structure shall be laid down with a view to ensuring safety.
2. The rules shall serve in any event to prevent adverse effects upon the safe and efficient use of installations in a water management structure.

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 effects upon 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 shall in any event serve to prevent damage to or vandalism of cultural heritage.

Article 4.29 (government regulations on world heritage)

1. The rules referred to in Article 4.3 on activities regarding world heritage are laid down with a view to preserving the unique universal value of world heritage.
2. In any case, the rules ensure that damaging or destroying world heritage is prevented.

CHAPTER 5 THE ENVIRONMENTAL PERMIT AND THE PROJECT DECISION

Section 5.1 Environmental permit

Section 5.1.1 Prohibitory provisions

Article 5.1 (activities subject to an obligation to obtain an environmental permit pursuant to this Act)

1. The undertaking of the following activities without an environmental permit is prohibited:
 - a. a construction activity,
 - b. a deviating activity,
 - c. an activity concerning a nationally listed building,
 - d. an earth removal activity,
 - e. a deposition activity at sea,unless it concerns a case designated by an order in council.
2. The undertaking of the following activities without an environmental permit is prohibited:
 - a. use that is subject to fire safety regulations,
 - b. an environmentally harmful activity,
 - c. a discharging activity at the site of a body of surface water or a water treatment plant,
 - d. an activity involving the extraction of water,
 - e. a mining activity,
 - f. a restricted area activity relating to:
 - 1°. a road,
 - 2°. a water management structure,
 - 3°. an airport,
 - 4°. a main-line railway or local railway,
 - 5°. an installation in a water management structure,in so far as it concerns a case designated by an order in council.
3. The undertaking of the following activities without an environmental permit is prohibited:
 - a. an activity impacting a Natura 2000 area,
 - b. an activity impacting flora and fauna,in so far as those activities are also subject to one or more of the prohibitions in paragraphs

one or two or in Articles 5.3 or 5.4.

Article 5.2 (scope of the obligation to obtain a permit in Article 5.1)

1. In designating cases pursuant to Article 5.1, paragraphs one and two, the limitations of Article 2.3, paragraph three shall be observed. This means that, with regard to:

- a. an earth removal activity,
- b. use that is subject to fire-safety regulations,
- c. an environmentally harmful activity,
- d. a discharging activity at the site of a body of water or a water treatment plant,
- e. a water extraction activity,
- f. a restricted area activity relating to a local railway,

cases may be designated in which it is possible within the limitations stated for that designation to deviate from the designation in the physical environment plan, the water board regulation or the environmental regulation.

2. In accordance with Article 5.1, paragraphs one and two, cases may be designated in any event for the implementation of:

- a. The Waste Framework Directive,
- b. The Water Framework Directive,
- c. The London Protocol,
- d. The Environmental Impact Assessment Directive,
- e. The OSPAR Convention,
- f. The Industrial Emissions Directive,
- g. The Offshore Safety Directive,
- h. The Seveso Directive,
- i. The Urban Wastewater Treatment Directive,
- j. The Management of Waste from Extractive Industries Directive,
- k. The Aarhus Convention,
- l. The Valetta Convention.

Article 5.3 (obligation to obtain an environmental permit by virtue of a water board regulation)

The undertaking of an activity without an environmental permit where that has been stipulated in the water board regulation shall be prohibited.

Article 5.4 (obligation to obtain an environmental permit by virtue of an environmental regulation)

The undertaking of an activity without an environmental permit where that has been stipulated in the environmental regulation shall be prohibited.

Article 5.5 (prohibition of acting in breach of regulations laid down by virtue of an environmental permit)

Acting in breach of a regulation of an environmental permit shall be prohibited.

Article 5.6 (prohibition of allowing a building constructed without a permit to continue to exist)

1. Allowing a building or part thereof that has been constructed without an environmental permit to continue to exist shall be prohibited.

2. Paragraph one shall not apply if an environmental permit has not been or was not required for the construction activity. If that construction activity concerns a building whose existence has been permitted for a limited period, paragraph one shall not apply during that period.

Section 5.1.2 Scope of an application for an environmental permit and designation of the competent authority

Article 5.7 (application separately or simultaneously)

1. An application for an environmental permit may relate to one or more activities, to be determined by the applicant.
2. In the interest of effective water management, an environmental permit for water-related activities shall, in cases designated in an order in council, be applied for separately from the environmental permit for other activities as referred to in Articles 5.1 and 5.4.
3. An environmental permit for an environmentally harmful activity and an environmental permit for a discharging activity at the site of a body of surface water or a water treatment plant shall be applied for simultaneously if:
 - a. those activities concern the same installation as referred to in Annex I to the Industrial Emissions Directive, or
 - b. if those activities are subject to the Seveso Directive.
4. This Article shall apply as appropriate in the case of applications for an amendment to the regulations governing an environmental permit.

Article 5.8 (municipality as the competent authority in the case of an application for a single activity)

The mayor and aldermen shall decide on the application for an environmental permit that relates to a single activity, unless a different administrative body has been designated pursuant to Articles 5.9, 5.10 or 5.11.

Article 5.9 (competent authority in the case for an application for a single water-related activity)

An order in council shall, in the interest of effective water management, designate cases of water-related activities in which the executive board of the water board, the Provincial Executive or Our Minister will decide on the application.

Article 5.10 (the province as the competent authority for an application for an activity other than that in Article 5.9)

1. An order in council shall designate cases of the following activities in which the Provincial Executive will decide on the application:
 - a. deviating activities of provincial interest,
 - b. earth-removing activities:
 - 1^o. in the major bed of a river that forms part of the national waters,
 - 2^o. outside of national waters,
 - c. environmentally harmful activities:
 - 1^o. relating to an installation referred to in Annex I to the Industrial Emissions Directive,
 - 2^o. that are subject to the Seveso Directive,
 - 3^o. relating to the introduction of substances into groundwater,
 - d. restricted area activities relating to civil airports of regional importance and local railways,
 - e. activities impacting a Natura 2000 area and activity impacting flora and fauna,
 - f. activities as referred to in Article 5.4,
 - g. activities that are not covered by items a to f inclusive and that take place at a site where management of a closed landfill site as referred to in Article 8.49 of the Environmental Management Act takes place.
2. The limitations of Article 2.3, paragraph three shall be observed when cases are designated.

Article 5.11 (the State as the competent authority for an application for an activity other than that in Article 5.9)

1. An order in council shall designate cases of the following activities in which one of Our Ministers designated in this regard will decide on the application:
 - a. deviating activities of national interest,
 - b. earth-removing activities in national waters, with the exception of cases referred to in Article 5.10, paragraph one, item a, point 1^o,
 - c. environmentally harmful activities:
 - 1^o. relating to mine workings,
 - 2^o. that concern national security interests,
 - d. mining activities,
 - e. restricted area activities relating to:
 - 1^o. roads managed by the State,
 - 2^o. airports other than civil airports of regional importance,
 - 3^o. main-line railways,
 - 4^o. mining installations in a water-control structure,
 - f. activities impacting a Natura 2000 area and activities of national interest impacting flora and fauna,
 - g. activities that are not covered by items a to f inclusive and that take place entirely or mainly within:
 - 1^o. the territorial sea in so far as this lies outside the area designated as being under provincial and municipal jurisdiction,
 - 2^o. the exclusive economic zone.
2. The limitations of Article 2.3, paragraph three shall be observed when cases are designated.
3. Notwithstanding Articles 5.8 and 5.10 and paragraph one, Our Minister may decide on an application for an environmental permit if this is necessary in the interests of national security, in cases other than those referred to in paragraph one, item c, point 2^o.

Article 5.12 (competent authority for an application for multiple activities)

1. With regard to the application for an environmental permit that relates to more than one activity, a decision shall be made 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, 5.10 or 5.11. The following paragraphs shall be duly observed in this regard.
2. If the mayor and aldermen is an administrative body within the meaning of paragraph one, the mayor and aldermen shall decide on the application, unless another of the administrative bodies concerned is designated by an order in council. The limitations of Article 2.3 shall be observed in making that designation.
3. In cases other than those stated in paragraph two, the relevant administrative body that is designated by an order in council shall decide on the application.
4. Notwithstanding paragraphs one to three inclusive, Our Minister may decide on the application if that is necessary in the interests of national security.

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

1. In derogation of Articles 5.10, 5.11, first paragraph and 5.12, first through third paragraphs, by order in council, Provincial Executive or one of Our Ministers can be designated as competent authority to decide on each application for an integrated environmental permit relating to a location for which a previously granted integrated environmental permit is valid.
2. The first paragraph shall not apply if the application for an integrated environmental permit concerns an activity as referred to in Article 5.9.

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 or activities that take(s) place on the territory of more than one municipality, water board or province, the decision on that application shall be made by the administrative body designated pursuant to Article 5.8, 5.9, 5.10 or 5.12 of the municipality, the region managed by the water board or the province in which the all or most of the activity or activities will take place.

Article 5.15 (competent authority for application of 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 governing the application of paragraph one may be laid down by or pursuant to an order in council.

Section 5.1.3 The assessment of the application

Article 5.17 (partial conversion of an application)

An application for an environmental permit for a construction activity is also deemed to be an application for an environmental permit for a deviating activity, in so far as that construction activity does not comply with the rule laid down in the physical environment plan regarding construction activities or the use of buildings and an environmental permit has not been applied for or granted because of this fact.

Article 5.18 (assessment rules relating to an application for activities in Article 5.1 that are laid down by an order in council)

1. Rules shall be laid down by an order in council in relation to the granting or refusal of an environmental permit for an activity as referred to in Article 5.1.
2. Rules may be laid down in this regard on the justification for the decision to grant or refuse a permit.
3. Article 2.32, paragraphs two to five inclusive, shall apply as appropriate to those rules.

Article 5.19 (assessment rules relating to an application for activities in Article 5.1 in the physical environment plan and the environmental regulation)

1. The physical environment plan may contain rules to the effect that the environmental permit for a deviating activity will be granted in any event if those rules are satisfied.
2. Rules may be laid down in the environmental regulation with regard to the granting or refusal of an environmental permit for a deviating activity that relates to rules in the physical environment plan as referred to in Article 4.2, paragraph one, or for an environmentally harmful activity.
3. When laying down the rules referred to in paragraph two, the limitations of Article 2.3, paragraph two shall be observed. Article 2.32, paragraphs one, four and five shall apply as appropriate to those rules, in which case a request as referred to in Article 2.32, paragraph one may also be made by one of Our Ministers.

Article 5.20 (assessment rules in Article 5.18 relating to an application for a construction activity)

1. The rules as referred to in Article 5.18 shall be laid down in relation to a construction activity with a view to achieving the objectives of the Act.
2. These rules shall in any event serve to ensure that the permit for the construction activity:
 - a. is refused if the rules pursuant to Article 4.21 concerning construction activities have not been complied with,
 - b. is refused if it is contrary to the rule in the physical environment plan concerning construction activities or the use of buildings, unless an environmental permit for a deviating activity has already been granted because of this fact, or has been granted at the same time as the environmental permit for the construction activity,
 - c. may be refused if the land development costs for that activity as referred to in Article 12.1 are being recovered and the intent to develop that is associated with the development regulations involves a development shortfall that has not been covered.

Article 5.21 (Assessment rules in Article 5.18 relating to an application for a deviating activity)

1. With regard to a deviating activity that relates to rules in the physical environment plan as referred to in Article 4.2, paragraph one, or a preliminary project decision, the rules referred to in Article 5.18 shall be laid down with a view to ensuring a balanced assignment of functions to sites.
2. The rules shall in any event serve to ensure that the rules laid down pursuant to Article 2.24 regarding physical environment plans apply as appropriate to the granting of an environmental permit for a deviating activity, on the understanding that the following exceptions may be made to those rules:
 - a. cases in which a period as referred to in Article 5.36, paragraph one is attached to the permit,
 - b. cases in which the deviating activity has limited scope.
3. With regard to a deviating activity that relates to rules in the physical environment plan other than the rules referred to in paragraph one, the rules referred to in Article 5.18 shall serve to ensure that the permit may only be refused for the same purpose as the purpose for which the rules in question were laid down in the physical environment plan.

Article 5.22 (Assessment rules in Article 5.18 relating to an application for an activity relating to a nationally listed building)

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

Article 5.23 (assessment rules in Article 5.18 relating to an application for an earth removal activity)

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

Article 5.24 (Assessment rules in Article 5.18 relating to an 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. safeguarding and improving the chemical and ecological quality of water systems,
 - c. performing the social functions assigned to water systems by virtue of this Act,
 - d. in so far as the rules concern a discharging activity at the site of a body of surface water or a water treatment plant: protecting the efficient functioning of a water treatment plant.
2. When laying down rules relating to a discharging activity at the site of a body of surface water or a water treatment plant, Article 4.23, paragraph two shall apply as appropriate.
3. With regard to dumping activities at sea, the rules shall also be laid down in implementation of the London Protocol and the OSPAR Convention.
4. Notwithstanding the provisions of paragraph one, the rules concerning a restricted area activity relating to a water management structure shall be laid down with a view to achieving the objectives of the Act, in so far as that activity takes place outside an area designated as being under provincial and municipal jurisdiction.

Article 5.25 (Assessment rules in Article 5.18 relating to an application for use that is subject to fire safety regulations)

The rules as referred to in Article 5.18 shall be laid down in relation to use that is subject to fire safety regulations with a view to ensuring safety.

Article 5.26 (Assessment rules in Article 5.18 relating to an application for an environmentally harmful activity)

1. The rules as referred to in Article 5.18 shall be laid down in relation to an environmentally harmful activity with a view to ensuring safety, safeguarding health and protecting the environment.
2. Article 4.22, paragraph two shall apply as appropriate to the laying down of these rules.

Article 5.27 (assessment rules in Article 5.18 relating to an application for a mining activity)

The rules as referred to in Article 5.18 shall be laid down in relation to a mining activity with a view to:

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

Article 5.28 (assessment rules in Article 5.18 relating to a restricted area activity other than a water-related activity)

With regard to a restricted area activity concerning:

- a. a road,
- b. an airport,
- c. a railway,
- d. a mining installation in a water management structure,

the rules as referred to in Article 5.18 shall be laid down with a view to preserving the condition and functioning of these against the adverse effects of activities, which may include the interest of expanding or altering the works and premises stated in items a to d inclusive.

Article 5.29 (assessment rules in Article 5.18 relating to an application for an activity impacting a Natura 2000 area and an activity impacting flora and fauna)

1. With regard to an activity impacting a Natura 2000 area and an activity impacting flora and fauna, the rules as referred to in Article 5.18 shall be laid down for the purpose of nature conservation.

2. In any case, these rules ensure the implementation of Article 6, second, third and fourth paragraphs and Article 16 of the Habitats Directive and Article 9 of the Birds Directive..

Article 5.30 (assessment rules relating to activities in Articles 5.3 and 5.4)

In so far as the application relates to an activity referred to in Articles 5.3 or 5.4, the environmental permit may only be granted or refused on the grounds provided for in the water board regulation and the environmental regulation respectively.

Article 5.31 (refusal of a permit on account of the Public Administration (Probity Screening) Act [Wet bevordering integriteitsbeoordelingen door het openbaar bestuur])

1. The competent authority may refuse the environmental permit for a construction activity or an environmentally harmful activity designated by an order in council in the event of and under the conditions referred to in Article 3 of the Dutch Public Administration (Probity Screening) Act. In this regard, the party concerned as referred to in that Article shall also be understood to be that which can be reasonably regarded as equivalent to the applicant of the environmental permit on the basis of the facts and circumstances.

2. Before paragraph one is applied, the competent authority may ask the agency referred to in Article 8 of the Dutch Public Administration (Probity Screening) Act for a recommendation as referred to in Article 9 of that Act.

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

The competent authority can refuse an integrated environmental permit if in its opinion, there are exceptional circumstances in which granting the permit could lead to serious injurious or potentially serious injurious consequences for health.

Article 5.33 (refusing a permit on account of withholding agreement)

In so far as the application relates to an activity for which the agreement of a different administrative body is required by virtue of Article 16.16 in order to grant the environmental permit, the environmental permit for that activity shall be refused if such agreement is withheld.

Section 5.1.4 Content and effect

Article 5.34 (regulations governing an environmental permit)

1. The regulations that are necessary for the purpose of enforcing the rules referred to in Articles 5.18, 5.19, 5.30 and 5.31 shall be attached to an environmental permit.

2. Without prejudice to Article 12.1, paragraph four, Article 12.8, paragraph one, Article 13.5, paragraphs one to three inclusive and Article 13.6, rules on the application of paragraph one shall be laid down by or pursuant to an order in council for activities designated therein. These shall, in any event, include rules governing:

- a. regulations that serve to apply techniques other than those for which details or documents have been supplied with the application,
- b. regulations that cannot be attached to the environmental permit, even though they relate to rules as referred to in paragraph one.

3. With regard to an activity as referred to in Article 5.3 or 5.4, rules may also be laid down in the water board regulation or environmental regulation respectively with regard to attaching regulations to the environmental permit for that activity.

4. With regard to a construction activity or a deviating activity, rules may also be laid down in the physical environment plan in relation to attaching regulations to an environmental permit for that activity.

Article 5.35 (relationship of regulations to an environmental permit and government regulations)

1. In so far as rules referred to in Article 4.3 apply to an activity, the regulations of an environmental permit for that activity may only deviate from those rules in so far as:
 - a. that is permitted by virtue of rules referred to in Article 4.5, paragraph three, or
 - b. those regulations serve to provide a higher level of protection than the rules referred to in Articles 4.22 or 4.23.
2. Paragraph one, item a, shall only apply to an environmental permit for an environmentally harmful activity or a discharging activity at the site of a body of surface water or a water treatment plant that relates to an installation as referred to in Annex I to the Industrial Emissions Directive or that is subject to the Seveso Directive.

Article 5.36 (setting a period in an environmental permit)

1. An environmental permit for an ongoing activity may stipulate that that permit shall be valid for a period stated therein.
2. An environmental permit for an activity that is due to be completed may stipulate that, once the period stated in the permit has elapsed, the permit holder has restored the situation that existed before the permit was granted, or has created a different situation as specified in the environmental permit. The first sentence shall not apply to an environmental permit for a mining activity that relates to placing a mining installation.
3. An environmental permit relating to a season-dependent building:
 - a. may stipulate that the building may be built, used and demolished in successive calendar years on the basis of that permit, and
 - b. shall stipulate within which successive time periods of a calendar year the building, use and demolition of the building will take place.
4. An environmental permit may stipulate that the regulations designated therein shall remain in force for period of time set therein once the permit has ceased to be valid.
5. Cases in which a period as referred to in paragraphs one or two is laid down shall be designated by an order in council. The order in council may govern:
 - a. the maximum duration of that period,
 - b. the cases in which an extension of that period is possible.

Article 5.37 (party to whom the standards associated with an environmental permit apply)

1. An environmental permit shall apply to any party that carries out the activity or activities to which it relates. The permit holder shall ensure that the permit regulations are complied with.
2. If an environmental permit that has been applied for or granted is to apply to a party other than the applicant or the permit holder, the applicant or the permit holder shall notify the competent authority of this at least one month in advance. Rules governing the details that are supplied with that notification shall be laid down by an order in council.
3. Cases may be designated by an order in council in which, contrary to paragraph one, sentence one, the environmental permit only applies to the party to whom it is granted. It may be stipulated therein that:
 - a. the permit will continue to be valid for a period stated therein for legal successors to the party to whom it was granted,
 - b. the permit shall also apply to a legal person to whom it was transferred by another legal person, if the competent authority has granted permission for this.

Section 5.1.5 Updating, amending, withdrawing and revising a permit

Article 5.38 (updating an environmental permit)

1. In so far as an environmental permit relates to:
 - a. a dumping activity at sea,
 - b. an environmentally harmful activity,
 - c. a discharging activity at the site of a body of surface water or a water treatment plant,the competent authority shall examine regularly whether the regulations of the permit are still adequate in view of the developments in the technical means of protecting the environment and the developments relating to the quality of the environment.
2. Developments in technical means of protecting the environment are also understood to include drawing new or revised conclusions regarding the best available techniques, as referred to in Article 13, paragraphs five and seven, of the Industrial Emissions Directive.
3. Rules governing the way in which paragraph one is applied to activities designated therein shall be laid down by an order in council with a view to protecting the environment. The order may stipulate that rules laid down therein will only apply to cases designated therein.

Article 5.39 (obligation to amend regulations relating to an environmental permit and withdrawal of an environmental permit)

- The competent authority shall amend the regulations associated with an environmental permit or withdraw an environmental permit:
- a. in cases or for reasons provided for by an order in council,
 - b. in relation to an activity referred to in Articles 5.3 or 5.4: in cases or for reasons provided for in the water board regulation or the environmental regulation respectively.

Article 5.40 (authorisation to amend regulations relating to an environmental permit and withdrawal of an environmental permit)

1. The competent authority may amend the regulations associated with an environmental permit:
 - a. in cases or for reasons provided for by an order in council,
 - b. in relation to an activity referred to in Articles 5.3 or 5.4: in cases or for reasons provided for in the water board regulation or the environmental regulation respectively.
2. The competent authority may withdraw an environmental permit:
 - a. in cases or for reasons provided for by an order in council,
 - b. if no activities have been carried out using the permit for one year or a longer period determined in the permit,
 - c. at the request of the permit holder,
 - d. for an activity as referred to in Article 5.31, first paragraph: in the events and under the conditions referred to in Article 3 of the Public Administration Probity Screening Act, whereby Article 5.31 applies mutatis mutandis,
 - e. with regard to an environmentally harmful activity or a discharging activity at the site of a body of surface water or a water treatment plant for which environmental permits applied for in a coordinated way were granted with the application of Article 16.7, paragraph one, introduction and item b: if the environmental permit for the associated discharging activity or the environmentally harmful activity respectively has been withdrawn,
 - f. with regard to an activity as referred to in Articles 5.3 or 5.4: in cases or for reasons that are provided for 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 the administrative body whose approval is required)

The competent authority shall amend the regulations of an environmental permit or withdraw the environmental permit with the application of Article 5.39 or 5.40, if the administrative

body, whose agreement with the proposed decision on an application for such a permit was required by virtue of Article 16.16, has requested this.

Article 5.42 (implementation of an order in council in relation to Articles 5.39 and 5.40)

1. If Article 5.39, item a or Article 5.40, paragraph one, item a, or paragraph two, item a, apply to an activity as referred to in Article 5.1, cases or reasons shall be determined by an order in council for the same purpose as that for which the rules for that activity were laid down pursuant to Article 5.18.
2. The case in which it emerges from the application of Article 5.39, item a, that the adverse effects caused to the environment by the activity in question:
 - a. could be limited further in view of the developments in the technical means of protecting the environment, or
 - b. given the developments regarding the quality of the environment, there must be further restrictions.
3. As event as referred to in Article 5.40, first paragraph, under a or second paragraph, under a, indicated in any case is the event in which the provisions of the integrated environmental permit can be revoked, with a view to taking appropriate measures to protect health, referred to in Article 4.22, second paragraph, under b.

Article 5.43 (revision of a permit)

1. If different environmental permits are in force for one or more activities, the competent authority may, in the interest of efficient implementation and enforcement, officially grant an environmental permit that replaces the environmental permits that were previously granted. In this regard, the competent authority may not alter the rights that the permit holder derived from those environmental permits, other than would be possible with the application of Articles 5.39 or 5.40.
2. If the environmental permits were not granted by the same competent authority, paragraph one may be applied by any of the administrative bodies concerned, if the other administrative bodies concerned have applied Article 5.16.
3. Paragraph one may also be applied at the same time as deciding on an application for a new environmental permit. This shall also be the case if, notwithstanding paragraph one, only one environmental permit is in force.
4. An environmental permit granted with the application of this Article shall suspend the operation of the environmental permits that it replaces, with effect from the date on which it enters into force and afterwards during the period in which this permit is not yet irrevocable, for as long as it remains in force. These environmental permits shall cease to apply on the day on which the environmental permit granted with the application of this Article becomes irrevocable.

Section 5.2 Project procedure

Section 5.2.1 General provisions relating to the project decision

Article 5.44 (competent authority in relation to the project decision)

1. For the purpose of executing a project, operating it or maintaining it, a project decision may be adopted. A project decision shall be adopted by the executive board of the water board, the Provincial Executive, Our Minister or Our Minister whom it concerns, in agreement with Our Minister.

2. The limitations of Article 2.3 shall be observed when a project decision is adopted by the Provincial Executive, Our Minister or Our Minister whom it concerns.
3. The executive board of the water board may only adopt a project decision for the purpose of performing the duties referred to in Article 2.17, paragraph one, introduction and item a.
4. The Provincial Executive of the province in which the project is mainly being carried out shall be authorised to adopt the project decision.
5. If Our Minister or Our Minister whom it concerns, in agreement with Our Minister, and the Provincial Executive of one or more provinces jointly intend to carry out a project, Our Minister or Our Minister whom it concerns in agreement with Our Minister, shall be authorised to adopt the project decision.
6. Our Minister whom it concerns may, in agreement with Our Minister, and notwithstanding paragraphs one or five, stipulate that Our Minister whom it concerns is authorised to adopt the project decision.

Article 5.45 (coordination of implementation decisions)

1. The competent authority for the project decision may stipulate that Article 16.7 applies to the coordination of decisions to implement the project decision.
2. Article 16.7 shall apply to the coordination of decisions to implement project decisions as referred to in Article 5.46.
3. The competent authority for the project decision shall act as the coordinating administrative body.
4. Notwithstanding paragraph three, the following shall act as the coordinating administrative body:
 - a. the Provincial Executive: if the executive body of the water board is authorised to adopt the project decision,
 - b. Our Minister whom it concerns: if he is authorised to adopt the project decision by virtue of 5.44, paragraphs one, five or six.

Article 5.46 (project decision relating to primary infrastructure and primary water-retaining structures)

1. Our Minister shall adopt a project decision in any event for the following projects in relation to works with a national interest:
 - a. the construction of a motor traffic road or motorway, railway or waterway,
 - b. an alteration to a motor traffic road or motorway, consisting of:
 - 1°. the conversion of a road into a motorway, or
 - 2°. the widening of a road by one or more lanes, if the section of road to be widened connects two interchanges or junctions with one another,
 - c. an alteration to a railway, consisting of:
 - 1°. the widening of that railway by one or more tracks, if the section of railway to be widened connects two junctions with one another,
 - 2°. the laying of railway construction structures,
 - 3°. the construction of a connecting curve, or
 - 4°. a set of interrelated measures for that railway,
 - d. recommissioning a previously constructed railway of five kilometres or more,
 - e. an alteration to a waterway consisting of an expansion or deepening, as a result of which the surface area of the waterway increases by at least twenty percent or the waterway is permanently deepened, by which more than five million cubic metres of earth is shifted,
 - f. the construction, re-routing or reinforcement of primary waterways managed by the State.
2. The executive board of the water board shall in any event adopt a project decision for the construction, re-routing or reinforcement of primary water-retaining structures that are not covered by paragraph one, introduction and item f.

Section 5.2.2 Intention, exploratory study and preference decision.

Article 5.47 (intention)

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 preference decision, or
 - b. adopt a project decision and make a preference decision in preparation for this.
2. An order in council or a decision by the competent authority shall determine when a preference decision is taken in any event.
3. With regard to the intention, the competent authority shall provide any party with the opportunity to contribute possible solutions for the task within a period to be set by the competent authority, for the purpose of the exploratory study. The competent authority thereby indicates the criteria for reasonably taking the solutions into consideration
4. By the start of the exploration at the latest, without prejudice to the third paragraph, the competent authority shall give notice of the manner in which citizens, companies, social organisations and administrative bodies shall be involved.
5. Under or pursuant to order in council, additional rules shall be laid down regarding the provisions in the fourth paragraph

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 one who presented a possible solution as referred to in Article 5.47, third paragraph, can thereby request that the competent authority asks for advice about that from an independent expert. The competent authority can also officially ask an independent expert to give advice.
3. The competent authority decides whether the possible solutions presented must reasonably be taken into consideration.

Article 5.49 (preference decision)

The preference 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 (working on or amending a project decision without the application of section 5.2.2)

This section does not apply to working on a project decision as referred to in Article 5.54 or an amendment of a project decision.

Section 5.2.3 Project decision

Article 5.51 (content of a project decision)

The project decision states how citizens, businesses, social organisations and administrative bodies are involved in the preparation and what the results are of the exploratory study that

was conducted, whereby in any case, there is a detailed examination of the possible solutions presented by third parties and of the advice submitted by experts.

Article 5.52 (the decision as a whole)

1. The rules of the project decision shall amend the rules of the physical environment plan in so far as those rules contradict one another.
2. In so far as that has been expressly provided for in the project decision, the project decision shall be regarded as:
 - a. an environmental permit for activities in implementation of the project decision,
 - b. a decision designated by an order in council in accordance with the rules stated in that order.

Article 5.53 (assessment rules)

1. Articles 4.1 and 4.2, paragraph one and the sections 4.1.2 and 4.3.1 shall apply as appropriate with regard to the application of Article 5.52, paragraph one.
2. For application of Article 5.52, paragraph two under a, the sections 5.1.3, 5.1.4 and 5.1.5 and for application of 5.52, second paragraph, under b, under the order/measure pursuant to Article 5.52, second paragraph, under b, the rules indicated shall apply mutatis mutandis.
3. If the implementation of a project decision, laid down by the Provincial Executive, is disproportionately hindered by rules that have been laid down by or pursuant to a regulation of a municipality or water board, those rules may be excluded in relation to the project decision or a decision of the Provincial Executive.
4. If the implementation of a project decision, laid down by Our Minister, Our Minister whom it concerns in agreement with Our Minister, or Our Minister whom it concerns, is disproportionately hindered by rules that were laid down by or pursuant to a regulation of a province, municipality or water board, those rules may be excluded in relation to the project decision or a decision of Our Minister.

Article 5.54 (elaboration within a decision)

1. It may be stipulated in relation to a project decision that the decision may be elaborated on by the competent authority, while duly observing the pre-conditions set in that regard.
2. This elaboration shall form part of the project decision and may be replaced by a new elaboration for as long as the elaboration has not yet been implemented.

Section 5.2.4 Municipal projects of public interest

Article 5.55 (municipal project of public interest)

If, by appropriate application of Articles 5.45, paragraphs one and three, 5.47, 5.48, 5.49 and 5.51, the municipal council prepares for the adoption of rules in the physical environment plan that are intended to carry out a project of public interest, Article 16.87 shall apply as appropriate.

CHAPTER 12 LAND DEVELOPMENT

Article 12.1 (recovery of costs involved with land development)

1. The competent authority shall recover the costs involved with development of locations where:
 - a. a structure designated by order in council can be built and
 - b. there is a matter of costs that go with the land development costs under the order.

2. The legal entity in which the competent authority is vested can conclude an agreement on land development in which recovery of the costs involved with the land development is assured.
3. If recovery of the costs involved with the land development on the lands/grounds included in the location is not otherwise assured, the competent authority shall lay down development rules or development provisions for recovering the costs.
4. The competent authority can lay down development rules or development provisions for locations where a structure as referred to in the first paragraph can be built for setting requirements on:
 - a. the layout of the development area, or
 - b. the housing categories designated by order in council
5. In derogation of the third paragraph, the competent authority can, in cases designated by order in council, decide to not lay down any development rules or development provisions.

Article 12.2 (development area and supra-district provisions in integrated environmental plan)

1. In an integrated environmental plan, for a location as referred to in Article 12.2, first paragraph, one or more areas are designated within which the costs involved with the land development are recovered under development rules or development provisions.
2. Per development area, specified in the integrated environmental plan is:
 - a. whether development rules or development provisions are laid down for recovery of the costs involved with the land development.
 - b. which provisions that the development area partially benefits from are proportionally allocated to the development area.

Article 12.3 (laying down development rules or development provisions)

1. If the competent authority intends to recover the costs involved with the land development on the basis of development rules, those rules are included in the integrated environmental plan if that plan enables a structure as referred to in Article 12.1, first paragraph.
2. If the competent authority intends to recover the costs involved with the land development on the basis of development rules, the provisions are attached to the following decisions if they enable a structure as referred to in Article 12.1, first paragraph:
 - a. an environmental permit for a building activity,
 - b. an environmental permit for a derogating activity,
 - c. a development decision.

Article 12.4 (agreement on land development)

1. In a land development agreement, provisions can be included about:
 - a. financial contributions to the land development,
 - b. settlement of damages/claim on the basis of Chapter 15 for compensation/indemnification that may qualify.
2. If development rules or development provisions are laid down, those rules or provisions are taken into account in the conclusion of an agreement on land development, The agreement can contain provisions for elaboration of the subjects included in the rules or provisions. The agreement may not contain any provisions on subjects that could have been part of the rules or provisions but that were not included therein.
3. With regard to the agreement, within two weeks after conclusion thereof, the Municipal Executive shall:
 - a. make it public in a daily newspaper, newspaper or free local paper,
 - b. make a description of the pertinent points available for inspection.

Article 12.5 (content of development rules or provisions)

1. The development rules and development provisions contain:
 - a. provisions on the recovery of costs involved with the land development, and
 - b. the development plan on which the rules and provisions are based.
2. Development provisions, attached to a decision as referred to in Article 12.2, second paragraph, under a or b, contain a delineation of the development area, if the location to which the decision pertains does not fall within a development area as referred to in Article 12.2, first paragraph. The delineation contains no land lying outside the location to which this decision relates.
3. By order in council, additional rules are laid down on the content of the development rules and development provisions. By the order, rules are laid down in any case on:
 - a. specifying a time period or stages of the land development,
 - b. setting requirements for the layout of the development area ,
 - c. setting requirements for submitting data/details,
 - d. the implementation and practicality of the development rules and development provisions, and
 - e. setting requirements for the housing category, referred to in Article 12.1, fourth paragraph, under b.

Article 12.6 (development plan)

1. The costs to be recovered are calculated on the basis of a development plan.
2. For calculating the costs and earnings in the development plan, it is assumed that the development area will be developed in its entirety.
3. Costs in connection with work, job activities and measures, of which the development area either partially benefits from or are attributable to the development rules or development provisions, shall be proportionally included in the development plan.
4. By order in council, rules are laid down on:
 - a. drawing up of and the calculation method of the development plan, and method,
 - b. the proceeds to be included in the development plan and the recoverable cost categories.
5. By ministerial regulation, rules are laid down on the amount and limitation of one or more of the recoverable cost/expense categories referred to in the fourth paragraph. Under the rules, a distinction can be made according to the type of location and nature and scope of the building activity.

Article 12.7 (revision of development rules)

1. Development rules are revised at least once every two years until the work, job activities and measures provided for in the environment plan are realised.
2. This period commences on the day after the date on which the environment plan in which the development rules are laid down becomes irrevocable.

Article 12.8 (recovery of costs)

1. The competent authority recovers the costs involved with the development of the locations in a development area by:
 - a. an environmental permit for a building activity on the basis of Article 12.1, first paragraph is issued or an environmental permit for a part thereof,
 - b. an environmental permit for a derogating activity, or
 - c. a development decision,

taking into consideration the development rules or development provisions, the provision to undertake that the permit holder owes a development contribution to the legal entity of which the competent authority is part of.

2. The first paragraph shall not apply if prior to submitting a request for an environmental permit for a building activity, a development contribution for the locations is otherwise ensured.

3. The competent authority sets a period for the environmental permit or development decision in which the development contribution is paid. If all or part of the payment is made after the start of the construction, additional security for payment can be required.

4. By order in council, rules are set for calculation of the development contribution.

Article 12.9 (settlement and revocation of development rules)

1. Within three months after performance of the work, job activities and measures provided for in the development rules, the competent authority shall set a payment of those rules and revoke the development rules starting from a time to be stipulated under that decision.

2. By general order in council, the rules are set for the settlement and recalculation of the paid development costs and on the full or partial reimbursement of the excess payment.

Article 12.10 (remuneration, competent authority)

1. If after issuing the environmental permit, the holder thereof has delivered a performance described in development rules or development provisions, the competent authority shall pay the holder upon his request remuneration in according with the development plan, if the performance has been delivered in accordance with the development rules or development provisions.

2. The remuneration is not a subsidy as referred to in Title 4.2 of the General Administrative Law Act.

Article 12.11 (penalties for exceeding payment deadline, development contributions)

1. Immediately after the payment deadline is exceeded for a partial or full payment of the development contribution referred to in Article 12.8, first paragraph, the competent authority can decide that a building activity cannot begin or must be halted until the payment obligations are fulfilled. The competent authority shall set a deadline, referred to in Article 5.24 of the General Administrative Law Act of four weeks at the most.

2. The competent authority can recover the amount owed by writ of execution.

3. If the amount is not received within three months after the decision referred to in the first paragraph, the competent authority can partially or entirely revoke the decision to which the development contribution is attached.

CHAPTER 16 PROCEDURES

Section 16.1 Electronic traffic and use of data and methods

Section 16.1.1 Electronic traffic

Article 16.1 (electronic application and notification)

1. An application for a decision or a notification by virtue of this Act may, notwithstanding Article 2:15 of the Dutch General Administrative Law Act [Algemene wet bestuursrecht], be sent or submitted electronically in so far as that has been provided for by an order in council.

2. In this regard, cases may be designated in which the application or notification may only be sent or submitted electronically.

Article 16.2 (environmental documentation and formal requirements)

1. Environmental strategies, programmes, physical environment plans, water board regulations, environmental regulations and project decisions, as well as the associated explanatory notes or substantiation, shall be regarded as environmental documentation.
2. Other decisions or other legal concepts may be designated as environmental documentation by an order in council.
3. Environmental documentation shall take the form of an electronic file in accordance with the rules to be laid down by ministerial decree.
4. Any party may obtain a paper copy of environmental documentation upon request and subject to a fee that does not exceed the costs of producing that copy.

Article 16.3 (procedural requirements for environmental documentation)

1. The mayor and aldermen, the executive board of a water board, the Provincial Executive, Our Minister or Our Minister whom it concerns, shall make environmental documentation available electronically to any party via the national facility, referred to in Article 20.12.
2. Rules governing the announcement and publication of environmental documentation shall be laid down by order in council.

Article 16.4 (national facility for electronic applications and notifications)

1. A national facility shall be available for submitting an application and sending a notification as referred to in Article 16.1. This will include the data and documents supplied with the application or notification.
2. The competent authority and the other administrative bodies that are involved in the decision on the application or the notification shall make use of the national facility. The competent authority shall bear responsibility for the management of the data and documents contained in the facility and for granting access to those data and documents to the other administrative bodies.
3. Rules may be laid down by ministerial decree with regard to the following:
 - a. the management and granting of access, referred to in paragraph two,
 - b. the set-up, maintenance, functioning and security of the national facility.

Section 16.1.2 Use of data and methods

Article 16.5 (retention of study data)

1. When making a decision on the basis of this Act, it shall be possible in any event to use reports containing data, studies or inventories that were used in the draft decision or, if this does not exist, in the application and that are not older than two years at the time at which the decision is adopted.
2. Paragraph one shall not apply to decisions that relate to an activity impacting a Natura 2000 area or an activity impacting flora and fauna.

Article 16.6 (assessment of effects)

Rules may be laid down by ministerial decree with regard to the measurement and calculation methods and basic assumptions that are used as the basis for assessing the effects of a decision at the time of making that decision.

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 coordination arrangement General Administrative Law Act)

1. Section 3.5 of the General Administrative Law Act is applicable on the preparation of:
 - a. the decisions to requests for an environmental permit or amendment of the provisions of an environmental permit for:
 - 1°. one or more designated water activities on the basis of Article 5.7, second paragraph, and
 - 2°. one or more other activities as referred to in Articles 5.1 and 5.4, that are submitted at the same time,
 - b. the decisions on requests for an environmental permit or amendment of the provisions of an environmental permit for an environmentally-harmful activity and for a discharging activity on a surface water body or a purification work for which under Article 5.7, third paragraph, the obligation applies to submit this at the same time or the decisions to ex officio amendment of the provision.
 - c. the decisions for implementation of a development decision which is provided for under Article 5.45, first or second paragraph.
2. For cases referred to in the first paragraph under a and b, the coordinating administrative body referred to in Article 3:21, first paragraph of the General Administrative Law Act is designated by order in council.
3. The following provisions of section 3.5 of the General Administrative Law Act do not apply in the following cases:
 - a. the Articles 3:21, second paragraph and 3:24, first and third paragraph: the cases referred to in the first paragraph under a and b,
 - b. Article 3:28: the cases referred to in the first paragraph, under b.

Article 16.8 (bubble concept)

1. In a coordination decision as referred to in Article 3:20, under b, of the General Administrative Law Act, with a view to the objectives of the law and for optimising used space in an area, it can be provided that part 3.5 of the law shall apply to the establishment, amendment or revocation of:
 - a. an environmental plan, water authority regulation or environmental regulation,
 - b. a programme, and
 - c. a development decision or an environmental permit.
2. Article 3:30 of the General Administrative Law Act is not applicable on decisions against which no appeal can be lodged.

Section 16.2.2 Additional provisions for coordination of granting the permit for an environmentally harmful activity and discharge activity in cases as referred to in Article 16.7, first paragraph, under b.

Article 16.9 (scope of application, section 16.2.2)

This section:

- a. is applicable on decisions on applications for an environmental permit, referred to in Article 16.7, first paragraph, under b,
- b. applies mutatis mutandis to requests for amendment of the provisions of an environmental permit or the decisions to ex officio amendment of the provisions, referred to in Article 16.7, first paragraph, under b.

Article 16.10 (unprocessed application)

1. If just one of the applications for an environmental permit, referred to in Article 16.7, first paragraph, under b, is submitted, the competent authority shall not process that application after the applicant is first given the opportunity to submit the missing application within a time limit set by the competent authority.
2. If of the two applications for an environmental permit, referred to in Article 16.7, first paragraph, under b, there is one that is not processed, the competent authority shall also not process that application.

Article 16.11 (recommendations)

The administrative bodies that are competent authorities with regard to each of the applications referred to in Article 16.7, first paragraph, under b, shall issue recommendations to each other with a view to the coherence between the decisions on both applications.

Article 16.12 (deadline applicability environmental permits)

1. If in the environmental permit for discharge activity with application of Article 5.36, first paragraph, a deadline for the applicability of the permit is set, a similar deadline can be set in the environmental permit for environmentally harmful activity.
2. If in the environmental permit for environmentally harmful activity with application of Article 5.36, first paragraph, a deadline for the applicability of the permit is set, a similar deadline can be set in the environmental permit for discharge activity.

Article 16.13 (order on initiative general competent authority)

1. If the Provincial Executive or Our Minister is the competent authority for the application for an environmental permit for the environmentally harmful activity, the Provincial Executive or Our Minister can, if that is prescribed due to the connection between the decisions on both applications with a view to protecting the environment, give an order to the competent authority for the application for the environmental permit for discharge activity on the content of the decision. Articles 2.33 and 2.34 apply mutatis mutandis to the order, whereby the rules can be departed from as referred to in Articles 2.22 and 2.23.
2. The order is given within eight weeks after the date on which the draft decision for the decision on the application for the environmental permit for the discharge activity pursuant to Article 3:11, first paragraph of the General Administrative Law Act is made available for inspection.
3. The first and second paragraphs apply mutatis mutandis if the Municipal Executive is competent authority for the application for the environmental permit for an environmentally harmful activity, with the proviso that upon the request of the Municipal Executive, the Provincial Executive with Article 2.23 applying mutatis mutandis, can give an order to the competent authority for the application for the environmental permit for the discharge activity.

Article 16.14 (order on initiative competent authority water)

1. If the Municipal Executive is the competent authority for the application for an environmental permit for the environmentally harmful activity, the Provincial Executive can, if that is called for due to the connection between the decisions on both applications, with a view to protecting the environment, give an order to the Municipal Executive on the content of the decision, at the request of the competent authority for the application for the environmental permit for the discharge activity, Article 2.33 applies mutatis mutandis to the order, whereby the rules can be departed from as referred to in Articles 2.22 and 2.23.

2. The order is given within eight weeks after the date on which the draft decision for the decision on the application for the environmental permit for the environmentally harmful activity pursuant to Article 3:11, first paragraph of the General Administrative Law Act is made available for inspection.

Section 16.2.3 Involvement of other administrative bodies

Article 16.15 (recommendation)

1. An order in council shall designate administrative bodies or other bodies that, in cases designated therein, are given the opportunity to make a recommendation to the competent authority with regard to:
 - a. an application for a decision pursuant to this Act, or
 - b. the draft of the decision on that application.
2. A physical environment plan, water board regulation or environmental regulation may designate administrative bodies or other bodies that are given the opportunity to make a recommendation to the competent authority with regard to:
 - a. an application for an environmental permit for a deviating activity or an activity as referred to in Articles 5.3 or 5.4, or
 - b. the draft of the decision on that application.
3. An administrative body or other body shall be designated as an adviser if that is desirable for reasons of:
 - a. the expertise of the administrative body or the other body, or
 - b. the interests to be served by the administrative body, in view of the tasks relating to the physical environment that were assigned to that administrative body.
4. In any event, the following shall be designated as an adviser:
 - a. an administrative body that has delegated its powers to a different administrative body in application of Article 5.15, and
 - b. the Provincial Executive if it concerns an application for an environmental permit for a deviating activity that relates to an activity that does not comply with the rules as referred to in Article 4.2, paragraph one, in cases involving an interest as referred to in Article 2.3, paragraph two, item a, which has been stated in a document published by an administrative body of the province, and which cases are to be designated by the Provincial Executive.

Article 16.16 (agreement)

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 make a recommendation pursuant to Article 16.15.
2. The order in council shall designate cases in which the agreement of the designated administrative is desirable for reasons of:
 - a. the special expertise of the administrative body,
 - b. substantial interests to be served by the administrative body, in view of the tasks relating to the physical environment that were assigned to that administrative body, or
 - c. 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 that agreement is not required in relation to the recommendation made by virtue of Article 16.15.

Article 16.17 (grounds for withholding agreement)

Notwithstanding Article 10:27 of the General Administrative Law Act, agreement as referred to in Article 16.16 can only be withheld due to an interest designated by order in council.

Article 16.18 (agreement period/deadline: no fictitious agreement)

1. The decision on agreement as referred to in Article 16.16 is announced by sending to the competent authority within four weeks after submission of the application for agreement.
2. Article 10:31, second through fourth paragraph of the General Administrative Law Act does not apply.

Article 16.19 (recommendations and agreement with ex officio decisions)

1. The Articles 16.15 through 16.18 apply mutatis mutandis to an ex officio decision to amend or revoke a decision or environmental permit.
2. Thereby an application for a decision or an environmental permit are considered equal: a proposed ex officio decision to amend or revoke that decision or the environmental permit.

Article 16.20 (recommendations and agreement with development decision)

Articles 16.15 through 16.19 apply mutatis mutandis on the issuing of recommendations on the draft of development decision, whereby no agreement is required if:

- a. a development decision is adopted by one of Our Ministers as referred to in Article 5.44 and that development decision counts as a decision that another administrative body originally should agree to pursuant to Article 16.16, or
- b. a development decision is adopted by the Provincial Executive and the development decision counts as a decision that another administrative body, with the exception of an administrative body of the Central Government, originally should to agree to pursuant to Article 16.16.

Article 16.21 (special involvement province with environmental plan)

1. The Provincial Executive can decide that a part of an environmental plan does not form part thereof if:
 - a. they presented a view on a part of the draft of the environmental plan and the view expressed was not fully adopted in the environmental plan, or
 - b. in a part of the environmental plan changes were made regarding the draft thereof other than based on a view of the Provincial Executive.
2. The Provincial Executive can only use the power to the extent that:
 - a. the power relates to the parts of an environmental plan that contain rules as referred to in Article 4.2, first paragraph, and
 - b. there is question of conflict with an interest as referred to in Article 2.3, second paragraph, under a, that is indicted in a document published by an administrative body.
3. In the grounds for the decision, the Provincial Executive states the underlying facts, circumstances and considerations that prevent the Provincial authorities from protecting the interest involved with use of other powers vested in them.
4. The decision is announced within four weeks after the environmental plan announcement is made.

Section 16.3 Formation procedures

Section 16.3.1 Application of section 3.4 of the General Administrative Law Act

Article 16.22 (application section 16.3.1)

This section is applicable if under or pursuant to this act is provided that part 3.4 of the General Administrative Law Act is applicable.

Article 16.23 (circle of authorised participants)

1. Everyone can express a view
2. Notwithstanding the first paragraph, a view on an obligation to tolerate order can only be expressed by parties concerned and by authorities of municipalities, water boards and provinces in which the property is located or adjoining municipalities, water boards and provinces.

Article 16.24 (revocation or amendment)

Unless it concerns a case or decision designated by order in council, the sections 16.3.2 through 16.3.6 and Articles 16.40, first paragraph, 16.50, first paragraph, 16.70 and 16.71 apply mutatis mutandis to an amendment or revocation of the decisions or other legal concepts or documents.

Section 16.3.2 Bathing sites

Article 16.25 (application part 3.4 General Administrative Law Act)

Part 3.4 of the General Administrative Law Act is applicable to the preparation of the designation of bathing sites.

Section 16.3.3 Environmental vision

Article 16.26 (application part 3.4 General Administrative Law Act)

Part 3.4 of the General Administrative Law Act is applicable to the preparation of an environmental vision.

Section 16.3.4 Programmes

Article 16.27 (application part 3.4 General Administrative Law Act)

Part 3.4 of the General Administrative Law Act is applicable to the preparation of a programme as referred to in sections 3.2.2 through 3.2.4 and the documents that are separately established for drawing up a programme.

Article 16.28 (preparation of a river basin management plan and flood risk plan)

1. The draft river basin management plan and a flood risk management plan in the meaning of Article 3.9, paragraph two, items a and b, shall be made available for inspection at least two years before the start of the period to which the programme relates.
2. In the case of the documents individually designated for the compilation of a river basin management plan, the deadline for the submission of opinions shall be six months.

Section 16.3.5 Environmental plan, water authority regulation and environmental regulation

Article 16.29 (notification of intention)

The municipal council informs of its intention to adopt an environmental plan. Article 3:12 of the General Administrative Law Act applies mutatis.

Article 16.30 (application part 3.4 General Administrative Law Act)

1. Part 3.4 of the General Administrative Law Act applies mutatis mutandis to the preparation

of an environmental plan.

2. Articles 3:1, first paragraph, opening lines and under b of the General Administrative Law Act and 139 of the Municipalities Act are not applicable to a decision to establish an environmental plan

Article 16.31 (opinions)

Opinions must not relate to the part of the draft of an environmental plan that has its basis in an environmental permit for a derogating activity.

Article 16.32 (application part 3.4 General Administrative Law Act)

Part 3.4 of the General Administrative Law Act applies to the preparation of a water board regulation and an environmental regulation.

Section 16.3.6 Obligation to tolerate order

Article 16.33 (application part 3.4 General Administrative Law Act and notification)

1. Part 3.4 of the General Administrative Law Act applies to the preparation of an obligation to tolerate order.

2. The obligation to tolerate does not take effect earlier than four days after the date on which the obligation to tolerate order is announced.

3. The first paragraph does not apply to the preparation of an obligation to tolerate order as referred to in Articles 10.16, 10.17, first and second paragraph, under a and 10.20.

4. The first and second paragraphs do not apply to the preparation of an obligation to tolerate order as referred to in Article 10.19 due to the urgent circumstances.

Section 16.4 Environmental impact assessment

Section 16.4.1 Environmental impact assessment of plans and programmes

Article 16.34 (scope, authority with responsibility for carrying out environmental impact assessment of plan)

1. This section and the stipulations based upon it relate to the environmental impact assessment of plans and programmes in the sense of Article 2, item a of the EIA Directive, the transposition of which is laid down in statutory provisions or provisions under administrative law and in which the competent authority for the establishment of the plans and programmes and for the procedure to be used in drawing up those plans and programmes are laid down.

2. In this section, a plan or programme shall for all purposes be understood to refer to an environmental strategy, a programme, a physical environmental plan and a preference decision.

Article 16.35 (exemption from obligation to carry out environment impact assessment of a plan)

This section does not apply to plans or programmes that:

a. are exclusively intended to relate to activities of national defence or an emergency situation in the meaning of the Exceptional Situations (Coordination) Act [Coördinatiewet uitzonderingstoestanden], or

b. relate to the budget or finances of a municipality, water board, province or the State.

Article 16.36 (plans or programmes subject to a compulsory environmental impact

assessment)

1. When preparing a plan or programme, the competent authority for the plan or programme shall draw up an environmental impact assessment, in the event that the plan or programme concerned forms the framework for decisions regarding projects in the sense of Article 16.43, paragraph one.
2. During the preparation stage, the competent authority for a plan or programme will draw up an environmental impact assessment of that plan or programme, in the event that Article 2.8 of the Nature Protection Act requires a suitable assessment to be drawn up during the preparation of the plan or programme concerned.
3. In the case of a plan or programme in the sense of paragraph one or two that stipulates the use of small, local areas or in the case of minor changes to a plan or programme in the sense of paragraph one or two, the competent authority shall only carry out an environmental impact assessment if the plan, programme or changes concerned may potentially have significant effects upon the environment.
4. In the case of a plan or programme that forms the framework for projects other than those referred to in paragraph one, the competent authority shall only carry out an environmental impact assessment in the event that the plan or programme may have significant effects upon the environment.
5. The competent authority shall assess whether significant effects upon the environment in the sense of paragraphs three and four will apply. When making a decision with regard to an assessment of the environmental effects, the competent authority shall take account of the criteria in Annex II of the EIA Directive. The competent authority shall consult the following for that purpose:
 - a. the administrative bodies and authorities, which, by virtue of statutory regulations, issue recommendations regarding the decisions, in the sense of Article 16.43, paragraph one, for which the plan or programme forms the framework, and
 - b. Our Minister, Our Minister of Economic Affairs, Our Minister of Education, Culture and Science or, in lieu of the relevant minister, an administrative body designated by the Minister.
6. Rules regarding the consultation procedure referred to in paragraph five shall be implemented by order in council.

Article 16.37 (use of environmental impact assessments relating to different plans)

In order to prevent any overlaps between the environmental impact assessments:

- a. The competent authority shall match the environmental impact assessment, including the level of detail contained therein, to:
 - 1°. the degree of detail contained in the plan or programme,
 - 2°. the stage in the decision-making process that the plan or programme has reached,
 - 3°. if the plan or programme forms part of a hierarchy of plans or programmes, especially with regard to the position occupied by the plan or programme within that hierarchy,
- b. The competent authority shall be entitled to make use of other environmental impact reports in the event that these fulfil the requirements under or pursuant to this section.

Article 16.38 (consultation regarding scope and level of detail)

1. The competent authority shall consult the administrative bodies and authorities referred to in 16.36, paragraph five, items a and b with regard to the scope and level of detail of the information to be included in the environmental impact assessment.
2. Rules regarding the consultation procedure shall be implemented by order in council.

Article 16.39 (Recommendation by the Environmental Impact Assessment Committee)

1. The competent authority shall enable the Environmental Impact Assessment Committee to

issue recommendations regarding the environment impact assessment.

2. Rules governing the issuing of recommendations shall be implemented by order in council.

Article 16.40 (preparatory procedure for plan or programme)

1. Section 3.4 of the General Administrative Law Act [Algemene wet bestuursrecht] shall apply to the preparation of a plan or programme in the sense of 16.36, for which an environmental impact assessment must be drawn up.

2. An environmental impact assessment that has been included in a plan or programme shall recognisably be reproduced as such.

3. In the event that the environmental impact assessment has not been incorporated into a plan or programme:

a. the environmental impact assessment shall be made available for perusal when the plan or programme is made available for inspection, in accordance with Article 3:11 of the General Administrative Law Act,

b. notification regarding the environmental impact assessment shall be made whenever notification is made regarding the plan or programme, in accordance with Article 3:12 of the General Administrative Law Act, and

c. an opinion in the sense of Article 3:15 of the General Administrative Law Act may also relate to the environmental impact assessment.

4. The competent authority shall not finalise a plan or programme any earlier than two weeks following the expiry of the deadline referred to in Article 3:16, paragraph one of the General Administrative Law Act.

Article 16.41 (relevance of environmental impact report to plan or programme)

The competent authority shall not finalise a plan or programme, in the event that an environmental impact assessment cannot reasonably be related to the plan or programme.

Article 16.42 (content of environmental impact report regarding a plan)

Rules governing the content of the environmental impact assessment shall be implemented by order in council.

Section 16.4.2 Environmental impact assessment for projects

Article 16.43 (designation of projects and decisions subject to an environmental impact (assessment) report)

1. Projects and the decisions required for those shall be designated by order in council in the event that:

a. the projects or decision may potentially have significant environmental effects, such that an environmental impact assessment must be drawn up during the preparatory stage, and

b. it is necessary to assess whether these will have significant environmental effects and, if that is the case, in order to determine the aspects in relation to which an environmental impact assessment must be drawn up.

2. The competent authority shall assess whether there are considerable environmental effects as referred to in the first paragraph, under b, unless it:

a. relates to a decision on application and the party that intends to undertake the project in the announcement, referred to in Article 16.45, declares that he shall conduct an environmental impact assessment for the preparation of the decision, or

b. relates to an ex officio decision to be taken and the competent authority makes an environmental impact assessment without a prior assessment.

3. With the assessment, the competent authority takes into account the relevant criteria of Appendix III for the EIA directive. If no environmental impact assessment has to be made, that is justified by the decision.
4. Under the measure it can be provided that:
 - a. the designation of a project or decision shall only apply in relevant designated cases,
 - b. an environmental strategy, programme or part of an environment plan is designated as a decision to be taken for a project.
5. The party that intends to undertake the project shall perform the environment impact assessment.

Article 16.44 (exemption from the requirement to carry out an environmental impact assessment)

1. The competent authority shall be entitled to grant exemptions from the obligation to carry out an environmental impact assessment, in the event that the immediate implementation of the project is necessary in the public interest.
2. In cases, in which paragraph one is applied, the competent authority shall assess whether a different means of assessing the environmental impact would be more suitable. In the event that the environmental effects must be assessed by some other method, Article 16.49, paragraphs one and three shall apply as appropriate.

Article 16.45 (notification of intended project)

Any person who intends to request a decision in the sense of Article 16.43, paragraph one, shall inform the competent authority of its intention as quickly as possible.

Article 16.46 (consultation regarding scope and level of detail)

1. Before the application for the decision and at the request of the person submitting the application, the competent authority shall provide recommendations regarding the scope and the level of detail of the information included in the environmental impact assessment.
2. When issuing its recommendations, the competent authority shall consult the administrative bodies and authorities referred to in 16.36, paragraph five, items a and b.
3. Rules governing consultation and the issuing of recommendations shall be implemented by order in council.

Article 16.47 (Recommendation by the Environmental Impact Assessment Committee)

1. The competent authority shall be entitled to provide the Environmental Impact Assessment Committee with an opportunity to issue recommendations with regard to the environmental impact assessment.
2. Rules governing the issuing of recommendations shall be implemented by order in council.

Article 16.48 (single environmental impact assessment)

The person who would be required to carry out the environmental impact assessment, shall be entitled to make use of a different environmental impact assessment, in that the event that this fulfils the requirements under or pursuant to this section and the project is actually described in the environmental impact assessment concerned.

Article 16.49 (deferment or refusal to process the application)

1. When submitting an application for a decision in the sense of Article 16.43, paragraph one, for which an environmental impact assessment must be drawn up:
 - a. an environmental impact assessment shall be attached, unless an exemption from the

obligation to carry out an environmental impact has been granted in accordance with Article 16.44, paragraph one, and

- b. the notification of intention, as referred to in Article 16.45, shall be also be submitted.
2. When submitting an application for a decision, for the purpose of which, after submitting an application by virtue of 16.43, paragraph two, it will be decided whether an environmental impact assessment needs to be carried out, the notification of the intention, as referred to in Article 16.45, shall be enclosed.
3. In the event that it is impossible to fulfil the requirements of paragraph one or two, the application will not be processed until such time as the applicant has been given an opportunity to complete the application, within a deadline specified by the competent authority. Within four weeks of the additional information being supplied or once the deadline imposed for that purpose has expired unused, the applicant shall be notified of a decision not to process the application.
4. In the event that after the application is submitted, the competent authority decides, in accordance with paragraph two, whether an environmental impact assessment must be drawn up, the decision regarding the application shall be postponed until such time as that decision is taken. In the event that the competent authority decides that an environmental impact report must be drawn up, the application will be rejected.

Article 16.50 (procedure for the preparation of a decision requiring an environmental impact assessment)

1. Section 3.4 of the General Administrative Law Act shall apply to the preparation of a decision in the sense of Article 16.43, paragraph one, for which an environmental impact assessment must be drawn up.
2. Article 16.40 paragraphs two, three and four, shall apply as appropriate.

Article 16.51 (relevance of environmental impact assessment to the project)

1. The competent authority shall not finalise a decision, in the event that an environmental impact assessment cannot reasonably be related to the project.
2. Article 16.5 shall not apply to paragraph one.

Article 16.52 (content of environmental impact report regarding a project)

1. Rules governing the content of the environmental impact assessment shall be implemented by order in council.
2. In the case of the measure referred to in paragraph one and in relation to the items to be included in the environmental impact assessment, rules shall be laid down with regard to:
 - a. the description of the intended project, and
 - b. the description of reasonable alternatives for the project.
3. In the event that with regard to the intended project, a location, including a route, has been designated in an environmental impact assessment for a plan programme in the sense of Article 16.36, the introduction and item b of paragraph two shall not apply insofar as it relates to alternatives to the location or route concerned.
4. In the event that notwithstanding paragraph three, the person wishing to carry out the project has examined alternatives, a description of these shall be included in the environmental impact assessment.

Article 16.53 (environmental effects of the decision)

1. In reaching a decision, the competent authority shall take account of all possible effects of the project to which the decision relates.
2. The competent authority shall be entitled:
 - a. irrespective of the restrictions laid down in the statutory regulation on which the decision is

based, to attach to the decision such conditions, regulations and restrictions that are necessary with a view to protecting the environment, and

b. to decide that the project shall not be carried out, in the event that it may lead to unacceptable consequences for the environment.

3. A decision based upon a different statutory regulation shall, if paragraph two is applied, be deemed to have been taken on the basis of that regulation.

Section 16.5 Environmental permit

Section 16.5.1 General

Article 16.54 (submission of application; confirmation of receipt)

1. The application for an environmental permit shall be submitted to the Mayor and Aldermen of the municipality in which all, or the majority of, the activity or activities are to be carried out. In the event that a different administrative body fulfils the role of the competent authority, the application may be submitted to that administrative body.

2. In the event that the application has been submitted to the Mayor and Aldermen of the municipality referred to in paragraph one, whilst a different administrative body is the competent authority, the date from which this section shall apply shall be the date on which it is received by the Mayor and Aldermen.

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 constitutes the competent authority shall inform the applicant of that fact as soon as possible following receipt of the application. That notification shall also state:

- a. the procedure to be followed when preparing to make the decision,
- b. the date by which a decision must have been made,
- c. the legal remedies that will be available once the decision has been reached.

5. This Article shall apply as appropriate in the case of an application for an amendment to the regulations governing an environmental permit or an application for the withdrawal of an environmental permit.

Article 16.55 (Application requirements)

1. More detailed regulations governing the manner in which an application for an environmental permit can be submitted may be implemented by means of an order in council.

2. Regulations governing the details and documents to be provided by the application shall be laid down by means of a ministerial decree.

3. In the case of an application for an environmental permit for an activity in the sense of Article 5.3 or 5.4, the water board regulation or the environmental regulation may also impose regulations regarding the details and documents to be submitted by the applicant.

4. In the case of an application for an environmental permit for a construction-related activity or deviating activity, the physical environment plan may also impose regulations regarding the details and documents to be submitted by the applicant.

5. The data and documents referred to in the second through fourth paragraphs do not have to be provided insofar as the competent authority already has the data or documents.

6. Under the second paragraph, rules are set in any case on the data regarding participation of and consultation with third parties provided with the application.

Article 16.56 (submission of details and documents in connection with updating environmental permit)

1. Upon request from the competent authority, the permit holder shall provide said competent authority with data and documents that are necessary for:
 - a. with application of Article 5.38 reviewing whether the provisions of the permit are still adequate given the developments of technical possibilities for protecting the environment and the developments relating to the quality of the environment,
 - b. as a result of application of Article 5.38, amendments of the provisions of an environmental permit, referred to in Article 5.42, second paragraph.
2. Article 16.55, fifth paragraph shall apply mutatis mutandis.

Article 16.57 (decision regarding a nationally listed church building)

1. Insofar as the application for an environmental permit relates to an activity relating to a nationally listed building and the nationally listed building or pre-listed building is a church building as referred to in the Monuments and Historic Buildings Act 1988, the competent authority shall only take a decision after consulting with the owner.
2. Insofar as a decision is involved, in which the essential interests relating to the ability to profess a religion or conviction within the monument are at stake, the competent authority alone shall decide in agreement with the owner.

Article 16.58 (postponement arrangements due to preliminary planning decision)

1. In the event that an application for an environmental permit involves a construction-related activity, the competent authority may, in deviation from Article 16.64, paragraph one, of this Act or Article 3:18 of the General Administrative Law Act, postpone the decision regarding the application, if:
 - a. there is no reason to refuse the permit,
 - b. the application relates to a case, which has been designated by a preliminary planning decision by virtue of Article 4.14, paragraph three, and
 - c. the preliminary planning decision referred to under item b entered into force before the date on which the application was received.
2. In deviation from Article 16.64, paragraph one of this Act or from Article 3:18 of the General Administrative Law Act, the competent authority shall postpone the decision regarding the application for an environmental permit involving a construction-related activity, if:
 - a. there is no reason to refuse the permit,
 - b. the application relates to a case, which is designated by a preliminary planning decision by virtue of Article 4.16, paragraph four, and
 - c. the preliminary planning decision referred to under item b entered into force before the date on which the application was received.
3. The postponement shall continue until such time as the preliminary planning decision has lapsed.
4. Contrary to the second paragraph, the competent authority may grant the environmental permit in the event that:
 - a. the activity does not contravene the physical environment plan, in the version that will apply once the project decision under preparation has entered into force
 - b. following the implementation of the instruction rule, referred to in Article 2.22, paragraph one, or Article 2.24, paragraph one, or the instruction, referred to in Article 2.33, paragraph one, or 2.34, paragraph one.

Article 16.59 (postponement arrangements by virtue of operating regulations)

1. In the event that the application for an environmental permit involves a construction-related activity and is subject to operational rules, the competent authority shall, in deviation from Article 16.64, paragraph one or this Act or from Article 3:18 of the General Administrative Law Act, postpone the decision regarding the application, if there is no reason to refuse the permit and in so far as the operating rules laid down for the location to which the application relates, are not yet irrevocable.
2. The postponement shall continue until the operating rules applicable to the construction activity have become irrevocable.
3. In deviation from the first paragraph, the competent authority shall grant the environmental permit in the event that any objection initiated against it cannot have any effects upon the assessment of the activity to which the application relates or upon the regulations associated with the environmental permit for that activity, or if that in the view of the competent authority, those effects do not outweigh the interest being served by the granting of the permit.

Article 16.60 (notification of postponement)

The competent authority shall notify the applicant of any postponement by virtue of Articles 16.58, paragraph two and 16.59, paragraph one.

Article 16.61 (start of decision-making period)

In the event that a decision regarding an application for an environmental permit is postponed, the application of Article 16.64, paragraph one of this Act or of Article 3:18, paragraph one, of the General Administrative Law Act shall be based upon the date on which the postponement comes to an end, not upon the date on which the application is received.

Section 16.5.2 Standard preparation procedure

Article 16.62 (scope of application of standard preparation procedure)

1. This section shall apply to the preparation of the decision regarding an application for an environmental permit, unless section 16.5.3 is applicable in that regard.
2. This section shall apply, as appropriate, to the preparation of the decision regarding an application for an amendment of the regulations governing an environmental permit or for the withdrawal of an environmental permit, unless section 16.5.3 is applicable in that regard.
3. Article 3:10, paragraph one of the General Administrative Law Act shall not apply.

Article 16.63 (notification of application)

In applying Section 4.1 of the General Administrative Law Act, the competent authority shall also give notification of the application for an environmental permit without delay to one or more daily newspapers, door-to-door newspapers or provide notification by some other means. The notification shall also state the date on which the application was received.

Article 16.64 (decision-making period)

1. The competent authority shall reach a decision regarding the application for an environmental permit within eight weeks, or, if the proposed decision regarding the application requires agreement in the sense of Article 16.16, within twelve weeks of the date on which the application was received.
2. The competent authority shall be entitled to extend the decision-making periods referred to in paragraph one, once only for a period of up to six weeks. That decision will be notified within the decision-making period. At the same time or as soon as possible after it is made

known, the competent authority shall notify that decision in the same way as the application was made known.

3. In application of the final sentence of Article 28, paragraph one of the Services Act, section 4.1.3.3 of the General Administrative Law Act shall not apply to the preparation of the decision regarding the application.

Section 16.5.3 Application of section 3.4 of the General Administrative Law Act

Article 16.65 (application section 3.4 General Administrative Law Act)

1. Section 3.4 of the General Administrative Law Act shall apply to the preparation of the decision on the application for an environmental permit, if the application entirely or partially concerns an activity designated by order in council.

2. This section shall apply mutatis mutandis to the preparation of the decision:

a. on a request to amend the provisions of an environmental permit or for revocation of an environmental permit,

b. on ex officio amendment of the provisions of an environmental permit or on ex officio revocation of an environmental permit.

3. By order in council as referred to in the first paragraph, activities are designated in any case for implementation of the Aarhus Convention.

Article 16.66 (additional provisions)

1. With application of Section 3.4 of the General Administrative Law Act to the preparation of the decision on the application for an environmental permit, the following paragraphs and Article 16.67 must be observed.

2. If a different administrative body than as referred to in Article 16.54, first paragraph, second sentence, is the competent authority, the draft decision, with the related documents that are reasonably necessary for an assessment of the draft decision and for inspection, lies in the municipality where the activity or activities will be entirely or mainly performed.

3. If the application is submitted to a Municipal Executive and another administrative body is the competent authority, notwithstanding Article 3:18, first paragraph, of the General Administrative Law Act, the decision period, referred to in that paragraph, shall commence on the date after the day on which the last-mentioned administrative body received the application.

4. The reasonable period referred to in Article 3:18, second paragraph of the General Administrative Law Act shall be six weeks at the most. The period in which the application is decided on can be extended only once. The extension and duration thereof, in compliance with the eight week period referred to in Article 3:18, second paragraph of the General Administrative Law Act shall be communicated to the applicant with reasons stated. Article 31, fourth paragraph of the Services Act is not applicable.

Article 16.67 (disclosure of information)

1. At the request of the applicant, before the documents that were not submitted by the applicant are available for inspection, the competent authority shall give him the opportunity to inspect the documents with a view to application of Articles 19.3 through 19.5 of the Environmental Management Act.

2. Not included in these documents are the reports, referred to in Article 3:17 of the General Administrative Law Act and the transcripts of opinions that were presented by others than the administrative bodies concerned in accordance with Article 3:15 of said Act.

3. Article 10 of the Government Information (Public Access) Act does not apply.

Article 16.68 (exceptions)

On an application for an environmental permit for an activity designated under Article 16.65, the competent authority can exclude application of sections 3.4 and 3.6 of the General Administrative Law Act if:

- a. the application relates to an activity that has to be performed in the short term due to a special circumstance,
- b. national security interests so require, or
- c. performance of an obligation under international law so requires.

Section 16.5.4 Development rules

Article 16.69 (opinion draft development provisions)

If Article 12.3, second paragraph is applied, prior to taking the decision to which the regular preparation procedure, referred to in paragraph 16.5.2, applies, the competent authority shall give the applicant the opportunity to express his opinion on the development provisions to be included in that decision.

Section 16.6 Project Procedure

Section 16.6.1 Preferred decision

Article 16.70 (application section 3.4 General Administrative Law Act)

Section 3.4 of the General Administrative Law Act shall apply to the preparation of a preferred decision for:

- a. a development decision,
- b. the inclusion of rules in the environmental plan as referred to in Article 5.55.

Section 16.6.2 Development decision

Article 16.71 (application section 3.4 General Administrative Law Act)

Section 3.4 of the General Administrative Law Act shall apply to the preparation of:

- a. a development decision,
- b. a decision on elaboration of a development decision as referred to in Article 5.54,
- c. a decision to exclude application of rules as referred to in Article 5.53, third or fourth paragraph.

Article 16.74 (no impediment to project decision)

1. The Municipal Council shall not adopt a physical environmental plan insofar as that plan impedes the implementation, the operating or maintenance of another project that finds its basis in a development decision of the Provincial Executive Our Minister or Our Minister concerned. A time frame for application of the first sentence can be set in the development decision.
2. The first paragraph shall apply mutatis mutandis to the adoption of a development decision by the executive board of a water authority.
3. The Provincial Executive shall not adopt a physical environmental plan insofar as that plan impedes the implementation, the operating or maintenance of another project that finds its basis in a development decision of Our Minister or Our Minister concerned. A time frame for application of the first sentence can be set in the development decision.

Article 16.75 (application Expropriation Act)

The summons referred to in Article 18, first paragraph, of the Expropriation Act can be served after the development decision has been adopted.

Article 16.76 (application Expropriation Act)

1. Notwithstanding Article 59, first paragraph of the Expropriation Act, the expropriation ruling of the court cannot be recorded in the public registers until the development decision

has become final and conclusive.

2. In addition to Articles 54n and 59 of the Expropriation Act, for the registration a pronouncement by the Section Administrative Jurisdiction of the Council of State or a declaration by the Secretary of the Council of State is required, showing that the development decision has become final and conclusive.

Section 16.7 Decision-making period, entry into force and appeal

Section 16.7.1 Decision-making period

Article 16.77 (suspension of decision-making period)

In the event that a decision regarding an application by virtue of this Act or a decision to effect an amendment to it cannot be taken, until an obligation under international law has been fulfilled, the deadline by which that decision must be taken shall be suspended until such time as the procedure that applies to that obligation has been completed.

Section 16.7.2 Entry into force

Article 16.78 (entry into force of physical environment plan and project decision)

1. A physical environment plan and a project decision shall enter into force with effect from the day on which four weeks have elapsed since the day on which the decision was notified.
2. A decision in the sense of Article 16.21 shall enter into force at the same time as the physical environment plan to which it relates.
3. 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 a situation of urgency, the competent authority shall be entitled, contrary to paragraph one, to determine that the decision shall enter into force at an earlier time.
4. This Article shall apply as appropriate in the case of a decision to amend or withdraw an environmental plan or project decision.
5. Notwithstanding the first paragraph, a development decision of the water board executive committee goes into force as from the date on which four weeks have past since the date the approval announcement was made.

Article 16.79 (entry into force of environmental permit)

1. An environment permit shall enter into force upon the date on which two weeks have elapsed since the date on which:
 - a. the decision was announced, or
 - b. if notification must be made once the decision has been announced: notification was made of the decision.
2. In the event that within the period referred to in paragraph one, a request for a provisional judgment has been submitted to the competent court, the environment permit shall not enter into force until such time as a ruling has been handed down in relation to the request. Interested parties whose interests are directly harmed as a result of that suspension may request the judge in interlocutory proceedings to set aside or amend the suspension.
3. In the event that in the opinion of the competent authority, the entry into force of an environment permit at an earlier time is necessary as a result of a situation of urgency, the competent authority shall be entitled, contrary to paragraphs one and two, to determine that the decision shall enter into force at an earlier time and that paragraph two shall not apply.
4. This Article shall apply as appropriate in the case of a decision to amend the regulations governing an environmental permit or a decision to withdraw an environmental permit.

Article 16.80 (additional coming into force provision for Nuclear Energy Act)

Notwithstanding Article 16.79, an environmental permit for building work, if that work is also to be designated as construction or modification of an installation for which a permit is required, as referred to in Article 15, preamble and under b of the Nuclear Energy Act, shall not go into force until the latter permit has entered into force.

Article 16.81 (additional coming into force provision for soil contamination)

1. Notwithstanding Article 16.79, with regard to an environmental permit for building work, if that work relates to building work designated by order in council and on the basis of a soil survey report issued with the permit application or for another reason, the competent authority has reasonable suspicion that a serious case of contamination occurred prior to 1 January 1987 as referred to in the Soil Protection Act, said environmental permit shall not come into force until:

a. under Article 29, first paragraph, in conjunction with Article 37, first paragraph of the Soil Protection Act, it is established that there is no question of serious contamination for which rapid clean-up/ decontamination is required and that order has taken effect.

b. under Article 39, second paragraph, of the Act with the clean-up plan, referred to in the first paragraph of that article, it is approved and that order has taken effect, or

c. notification of an intention to clean up as referred to in Article 39b, third paragraph of that Act has been made and the time-limit set under or pursuant to the fourth paragraph of that article has expired.

2. Notwithstanding the first paragraph, preamble and under b, the environmental permit comes into force if in the decision referred to in Article 29, first paragraph, in conjunction with Article 37 of the Soil Protection Act it is established that:

a. there is a case of serious contamination for which rapid clean-up is necessary,

b. there is no question of risk for humans, and

c. the building work does not hinder performing the clean-up, provided that the party that provided the additional report therefore requested reasonably when providing that report and the order referred to in the preamble came into effect.

3. In the environmental report, referred to in the first paragraph, the competent authority states whether it has a suspicion as referred to in that paragraph.

Article 16.82 (additional coming into force provision for implementation and enforcement)

If necessary in the interest of an efficient implementation and enforcement, cases are indicated by order in council in which an environmental permit for building work, without prejudice to Article 16.79 does not come into force until an environmental permit comes into force for other (building) work.

Section 16.7.3 Appeal

Article 16.83(sub-ordinate amendments in disputed 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, if not in contravention of any obligations under international law, be omitted with regard to the preparation of a decision to amend that decision, if the amendment is of a minor 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, in so far as the appeal relates to the coherence between the two environmental permits.

2. Paragraph one shall apply as appropriate in the case of an appeal decisions regarding an application requesting the amendment of regulations governing an environmental permit or an appeal against decisions to carry out an official amendment of those regulations in the sense of Article 16.7, paragraph one, item b.

Article 16.85 (bundling of appeal)

With regard to the possibility of appeal,

- a. a decision regarding an exemption by virtue of Article 2.32,
 - b. an instruction, issued in accordance with Article 2.33 or 2.34, and
 - c. a decision regarding the granting of consent in accordance with Article 16.16,
- shall be deemed to form part of the decision to which that decision relates.

Article 16.86 (grounds for appeal against a decision to implement a project decision)

In the case of a complaint against a decision to implement a project decision, it shall not be possible to submit any grounds that relate to the project decision on which that decision is based.

Article 16.87 (deadline for judicial decision in project proceedings)

1. The Administrative Jurisdiction Division of the Council of State shall reach a decision with regard to appeals against project decisions within six months of the date on which the statement of defence is received.

2. In special circumstances, the Division shall be entitled to extend the deadline stated in paragraph one by no more than three months.

3. In the case of appeals against decisions to implement a project decision that is subject to Article 16.7, section 3.5 of the General Administrative Law Act, the Division shall reach a decision within six months of the date on which the statements of defence are received.

Section 16.8 General delegation principles governing procedural and formal requirements

Article 16.88 (delegation principle governing procedural and formal requirements)

1. In so far as this Act or the General Administrative Law Act does not contain any provisions to that end, rules may be laid down by order in council regarding the creation, form, application or amendment of, or the items to be included in:

- a. decisions in accordance with this Act,
- b. environmental strategies, programmes in the sense of section 3.2.2 to 3.2.4 inclusive, and plans or programmes in the sense of section 16.4.1,
- c. notifications in the sense of Article 4.4, paragraph one,
- d. intentions in the sense of Article 5.47 and preference decisions,
- e. environmental impact assessments and reports, in the sense of Article 16.36, paragraph five, or Article 16.43, paragraph two.

2. By virtue of paragraph one, rules may in all cases be laid down regarding the following:

- a. The manner in which an application or notification is made,
- b. The notification and issuing of a notification to third parties,
- c. The announcement, making available and making available for inspection,

- d. The participation and consultation of third parties, including consultation of the competent authorities in other states,
 - e. Coordination and collaboration with the competent authorities in other states,
 - f. Implementation and feasibility,
 - g. Evaluation and updating,
 - h. Reporting,
 - i. Which items must be included as a minimum.
3. Rules may be laid down by ministerial decree with regard to the following:
- a. The details and documents that must be provided when submitting an application for a decision in accordance with this Act or when making a notification in the sense of Article 4.4, paragraph one,
 - b. The sending of details and documents to third parties.
4. In accordance with paragraph three, rules shall be laid down in all cases regarding the details and documents to be submitted with an application for a judgment imposing a duty of tolerance.

Article 16.89 (implementation of obligations under international law)

In accordance with Article 16.86, rules may in all cases be laid down regarding the following:

- a. The Groundwater Directive,
- b. The Habitat Directive,
- c. The Water Framework Directive,
- d. The Marine Strategy Framework Directive,
- e. The Environmental Impact Assessment Directive,
- f. The Industrial Emissions Directive,
- e. The Air Quality Directive,
- h. The Ambient Noise Directive,
- i. The Flood Risk Directive,
- j. The Priority Substances Directive,
- k. The Seveso Directive,
- l. The SEA Directive,
- m. The Management of Waste from Extractive Industries Directive,
- n. The Granada Convention,
- o. The Valletta Convention,
- p. The Bathing Water Quality Directive.

CHAPTER 18 ENFORCEMENT AND IMPLEMENTATION

Section 18.1 Enforcement under administrative law

Section 18.1.1 Duty and powers of enforcement under administrative law

Article 18.1 (content of powers of enforcement)

The duty of enforcement under administrative law consists of:

- a. Supervising compliance with the stipulations under or pursuant to this Act, including the collection and recording of details required for that purpose,
- b. The handling of complaints regarding compliance with the stipulations under or pursuant to this Act, and
- c. the imposition of an administrative penalty due to an activity that contravenes the stipulations under or pursuant to this Act.

Article 18.2 (allocation of powers of enforcement)

1. In the event that an activity is involved for which general rules have been laid down by virtue of section 4.1.1, the powers of enforcement under administrative law shall lie with the competent authority for that activity, as designated under or pursuant to section 4.1.3.
2. In the event that an activity is involved for which an environmental permit is required, the powers of enforcement under administrative law shall lie with the competent authority for that environment permit, as designated under or pursuant to section 5.1.2.
3. In the case of a project decision, the powers of enforcement under administrative law shall lie with the administrative body that determined that decision.
4. In all other cases, the powers of enforcement under administrative law shall lie with the Mayor and Aldermen of the municipality in which the activity is carried out in full or in part, unless the task has been assigned, by virtue of an order in council, to a different administrative body.

Article 18.3 (powers of administrative enforcement by administrative body giving approval)

In cases designated by order in council, the administrative body which, by virtue of Article 16.16, is entitled to give consent to the proposed decision regarding the application for an environmental permit for an activity shall have the power to impose an administrative penalty, in so far as that particular activity is concerned.

Article 18.4 (powers of administrative enforcement by the Minister)

Our Minister or Our Minister whom it concerns shall enjoy the power to impose an administrative penalty in order to enforce the stipulations under or pursuant to this Act, in so far as he has been assigned the task of administrative enforcement in that regard.

Article 18.5 (non-transfer of enforcement powers)

In the event that a decision to impose an administrative penalty has been issued and another administrative body is subsequently assigned powers in that regard, the powers shall continue to reside with the administrative body that issued the decision, until such time as:

- a. the decision has become irrevocable and has been executed,
- b. the decision has been withdrawn, or
- c. in the event that the decision requires the imposition of an order subject to a penalty:
 - 1°. the penalty has been collected, or
 - 2°. the order subject to a penalty that was imposed has been revoked.

Section 18.1.2 Designation and powers of supervising officials

Article 18.6 (designation of supervisory official)

1. Those individuals, who, by virtue of a decision of the Mayor and Aldermen, the management board of a water board, the Provincial Executive, Our Minister, Our Minister whom it concerns, or other administrative bodies to which the implementation of this Act has been assigned shall be required to supervise compliance with the stipulations under or pursuant to this Act.
2. Our Minister or Our Minister whom it concerns shall be entitled to determine the persons designated by virtue of his decision in the cases designated by him shall be tasked with supervising compliance, to the exclusion of other supervisory officials.
3. Notification shall be made of any decision to designate supervisory officials by the placing of the said notification in a municipal newspaper, a water board newspaper, the provisional newspaper or the Netherlands Government Gazette [Staatscourant].

Article 18.7 (powers to enter a residential dwelling)

1. A supervisory official designed 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, in so far as he/she has been granted these powers in the decision to appoint him/her.
2. The powers referred to in paragraph one shall solely be granted in a decision to appoint in so far as this forms a requirement in order to be able to supervise compliance with a regulation under or pursuant to this Act, in view of 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 in the area of customs shall not give permission to a vehicle or aircraft to leave the Netherlands, if they are aware of significant reasons to assume that actions will be taken in contravention of the introduction to paragraph one and in item e of Article 5.1, or in conjunction with Article 5.5.

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 or 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 Withdrawal of a favourable decision

Article 18.10 (Powers to withdraw a favourable decision)

1. The competent authority shall be entitled to withdraw a decision either in full or in part, in the event that acts are being committed in contravention of the decision or with the rules applicable to the activity for which the decision had been issued.
2. A decision relating to the management of hazardous waste in the sense of Article 1.1. of the Environmental Management Act [Wet milieubeheer], or of other waste substances originating from another place, may, in so far as that decision relates to the management of waste substances, also be withdrawn in the event that it contravenes or in the event that acts are being committed in contravention of the valid regulations governing such management, by virtue of Section 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 shall also be entitled to withdraw a decision in its entirety:
 - a. in the event that the decision was issued, based upon incorrect or incomplete information submitted,
 - 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

[Reserved]

Section 18.2 Enforcement under criminal law

Article 18.11 (Applicability of the Dutch Criminal Code)

1. Notwithstanding the right of other 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 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 Agreement and the promotion of quality

[Reserved]

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 alarm 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, in order to determine whether that environmental value or alarm value is being fulfilled.
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 3.17.
3. By means of a physical environment plan and, taking into account the limits of Article 2.3, in the case, by means an environmental regulation or in the form of an order in council, values other than environmental values can be designated as a means with which to determine the state or quality of the physical environment or the deposition of substances in the physical environment. These will be monitored and will form a point of reference for the assessment of the same.

Article 20.2 (Designation of method and administrative body)

1. The method of monitoring, together with the administrative body or other authority tasked with carrying out the monitoring activities shall be designated in the physical environment plan, an environmental regulation or order in council designating an environmental value or alarm value, the designation of a programme in the sense of Article 3.15, paragraph two, or the designation of a different value.
2. The physical environment plan, an environmental regulation or order in council designating a programme in the sense of Article 3.15, paragraph two, shall also determine the frequency of the monitoring to be carried out.
3. The physical environment plan, an environmental regulation or order in council referred to in the first paragraph may also designate rules governing the collection and provision, by designated administrative bodies, of data for monitoring purposes to:
 - a. administrative bodies or designated in accordance with paragraph one, or other authorities tasked with carrying out monitoring activities,
 - b. competent authorities of other states,
 - c. the European Commission.

Article 20.3 (Rules governing implementation)

1. Rules governing the monitoring of environmental values in the sense of Article 2.13 and section 2.3.4, of alarm values or of other values, designated by virtue of Article 20.1, paragraph three, by means of an order in council may be laid down by ministerial decree.
2. These may, as a minimum, include rules governing:
 - 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 the 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 and regional measurement networks,
 - f. quality assurance and the coordination thereof,
 - g. the data storage method.

Article 20.4 (Implementation of obligations under international law)

In accordance with Article 20.1 to 20.3 inclusive, rules may in all cases be laid down for the implementation of:

- the Groundwater Directive,
- the Water Framework Directive,
- c. the Hazardous Pollutants in Ambient Air Directive,
- d. the Air Quality Directive,
- j. the Priority Substances Directive,
- f. the Urban Waste Water Treatment Directive,
- g. the Bathing Water Quality Directive.

Article 20.5 (testing and correction methods used 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 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. Our Minister shall be entitled to determine that the results regarding the state or quality of the physical environment that were obtained during testing may be used in application of this Act, in lieu of monitoring results obtained in some other manner. 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 states or to the European Commission,
 - b. the testing of the quality of the data referred to in a.
2. More detailed rules may be laid down by means of an environmental regulation or ministerial decree with regard to the following:
 - a. the implementation of the first paragraph and the financing thereof,
 - b. the calculation method to be employed.
3. Paragraphs one and two shall not apply in so far 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 following:

- a. the National Emission Ceilings Directive,
- b. the Pollutant Release and Transfer Register Regulation (PRTR),
- c. the Ambient Noise Directive,
- d. the Flood Risks Directive,
- e. the World Heritage Convention.

Section 20.2 Data access and management

Article 20.8 (providing information to the public)

1. By order in council, rules can be set regarding:
 - a. making the results of the monitoring available to the public, referred to in Article 20.1, or data, as referred to in Article 20.6,
 - b. the manner of actively disclosing information if monitoring shows that is not complied with or is likely not to be complied with an environmental value or other parameter.
2. Also set the rules that the results and data, referred to in the first paragraph under a, are made available as much as possible by electronic means, in an open and machine-readable format, together with metadata. The format and metadata shall meet as far as possible the formal open standards, pursuant to Article 5, first paragraph of the Reuse of Public Sector Information Directive.
3. By ministerial regulation, additional rules can be laid down that contain implementation or administrative provisions.

Article 20.9 (implementation of obligations under international law)

1. Under Article 20.8, rules are laid down in any case for providing the public with environmental information on implementation of the Aarhus Convention and the directive on access to information on the environment.
2. Under Article 20.8, rules are laid down in any case for implementation of:
 - a. the directive on dangerous substances in the air,
 - b. the directive on air quality.

Article 20.10 (base registers)

1. Subject to the limits of Article 2.3, third paragraph, rules can be laid down by order in council pertaining to the following actions by one or more designated administrative bodies or other authorities:
 - a. record the results of monitoring, referred to in Article 20.1, or of data as referred to in Article 20.6 in a register established by the order,
 - b. disclose data recorded in the register.
2. By ministerial regulation, additional rules can be laid down on the implementation of the first paragraph. In any case, the rules can include:
 - a. the data to be recorded in the register,
 - b. the form, layout, administration, access and security of the register,
 - c. the presentation of data and the disclosure of data to third parties,
 - d. correction of errors in the register.

Article 20.11 (mandatory registers)

Under Article 20.10, first paragraph, in any case the following registers are created:

- a. a national register with data on the release and transfer of pollutants (Pollutants Release and Transfer Register, PRTR),
- b. a national register that contains data on external security of the installations designated by order in council or a combination thereof, transport routes, pipelines or other systems,
- c. one or more registers of protected areas as referred to in Article 6 of the Water Framework Directive,
- d. a provincial register for implementation of Article 12, second paragraph of the Bathing Water Directive.

Article 20.12 (national environmental document facility)

- 1. There is a national facility with which everyone can examine/inspect environmental documents by electronic means as referred to in Article 16.2.
- 2. The availability through the facility includes a geometric image of the rules or decrees with corresponding explanation.
- 3. By order in council, it can be provided for decisions that the availability only applies for thereby designated elements.
- 4. By ministerial regulation, rules can be laid down on the layout, maintenance, operation and security of the national facility.

Article 20.13 (on –the-spot disclosure of information to the public)

- 1. By order in council, rules can be laid down on the on-the-spot disclosure of information to the public about a location designated under this act.
- 2. In any case, rules shall be laid down on the on-the-spot disclosure of information on subjects that are named in Article 12, first paragraph of the Bathing Water Directive.

Section 20.3 Reports and maps

Article 20.14 (reports)

- 1. The administrative body or the other authority that under Article 20.2, first paragraph is responsible for implementation of the monitoring shall provide reports of the results of the monitoring of:
 - a. environmental values, referred to in Article 20.1, first paragraph and the assessment thereof ,
 - b. the progress, implementation and degree of success of a programme drawn up under paragraph 3.3.4, referred to in Article 20.1, second paragraph.
- 2. Under the environmental plan, the environmental regulation or by order in council, the method and frequency of the reports are also provided to designate a programme as referred to in Article 3.15, second paragraph,
- 3. By order in council, it can be specified that a designated administrative body is responsible for the reports and assessment of:
 - a. the results of the monitoring of alarm values or other parameters for the condition or quality of the living environment referred to in Article 20.1, first and third paragraph,
 - b. the data referred to in Article 20.6, first paragraph.
- 4. By order in council, rules are set for publication of reports.
- 5. By order in council, rules can be set for:
 - a. sending a report to Our Minister, Our Minister concerned or another administrative body for reporting to both Chambers of the Dutch Parliament or the European Commission.
 - b. announcement of a report or notifying third parties.
- 6. By order in council, rules can be set for:
 - a. the information/data to be included in a report,

- b. the form of a report,
- c. assessment of the data/information and the methods to be used for this.

Article 20.15 (report, security of primary water control structures)

If it emerges from the assessment of the monitoring results that the environmental values for the security of primary water control structures, referred to in Article 2.15, first paragraph under d are not met or will not be met, a description of the measures that are deemed necessary at a time to be designated will also be included in the report referred to in Article 20.14.

Article 20.16 (maps)

1. Subject to the limits of Article 2.3, third paragraph, rules can be laid down by order in council on the representation of results of the monitoring on maps, referred to in Article 20.1, or of data as referred to in Article 20.6.
2. Article 20.14, fourth and fifth paragraph shall apply mutatis mutandis.
3. By ministerial regulation, rules can be laid down on:
 - a. the data to be represented on the map,
 - b. the form of a map.

Article 20.17 (mandatory maps)

1. Pursuant to Article 20.16, first paragraph, rules are laid down in any case on establishing the following maps by the designated administrative bodies:
 - a. noise maps as referred to in Article 7 of the Environmental Noise Directive for:
 - 1°. roads, railways, airports, an activity or set of activities as referred to in Article 3.6: the Municipal Executive of the municipality, referred to in that article
 - 2°. roads, railways and airports as referred to in Article 3.8, first paragraph: Provincial Executive,
 - 3°. roads, railways and airports as referred to in Article 3.9, first paragraph: Our Minister,
 - b. maps of the coastline, of which the landward movement is prevented or combated by Our Minister pursuant to Article 2.19, second paragraph, under b: Our Minister,
 - c. risk of flooding and flood risk maps as referred to in Article 6 of the Floods Directive: Provincial Executive.
2. Pursuant to Article 20.16, third paragraph, rules are laid down in any case on noise maps as referred to in the first paragraph, under a.

Section 20.4 Assessment

Article 20.18 (scientific research of physical living environment)

1. At least once every four years, the [Netherlands Environmental Assessment Agency](#) publishes a scientific report in which quality development is described of elements of the physical living environment designated by ministerial regulation,
2. At least once every four years, Our Minister of Education, Culture and Science publishes a report in which the development of the state of cultural heritage and world heritage is described.

Article 20.19 (effects environmental values security primary water control structures)

Every twelve years, Our Minister sends a report to both Chambers of the Dutch Parliament on the effectiveness and effects of the environmental values for security of primary water control structures, referred to in Article 2.15, first paragraph, under d.

Section 20.5 Digital Information Provision System

Article 20.20 (digital system)

1. There is a digital system for providing information on the physical living environment.
2. Environmental documents as referred to in Article 16.2 or other data or data collections designated by order in council are included in the digital system.
3. By order in council, rules are laid down on the independent quality assurance and provision of environmental documents, data and data collections.

CHAPTER 23 MISCELLANEOUS AND FINAL STIPULATIONS

Section 23.1 Implementation of obligations under international law

Article 23.1 (Implementation)

In so far 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 European Union Directives into Dutch law)

An amendment of a Directive or Regulation as referred to in the Annex, under B, to this Act, shall apply when enacting this Act, with effect from the day on which the amendment concerned must have been implemented, unless a different date is specified by ministerial decree in the Dutch Government Gazette.

Section 23.2 Experimentation clause

Article 23.3 (Experimentation)

1. Taking account of obligations under international law, 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, in so far as this will not affect the amount of energy taxes collected, in the sense of the Environmental Taxes Act [Wet belastingen op milieugrondslag],
 - c. the Heating Supply Act [Warmtewet],
 - d. the Environmental Management Act [Wet milieubeheer].
2. An experiment shall only be designated 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. In the case of a measure, the following shall be specified as a minimum:
 - a. the purpose of the experiment,
 - b. what the intended consequences are for the physical living environment
 - c. which administrative body is responsible for the implementation of the experiment,
 - d. the duration of the experiment, in which applies that the experiment shall not take longer than necessary for the objective of the experiment,
 - e. which rules may be deviated from,

- f. what derogations are permitted in relation to cases designated in relation to the measure,
 - g. for which area or which decisions those derogations are permitted,
 - h. the maximum period during which those derogations shall be permitted, 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 evaluation of the experiment will be carried out and how often it will be monitored in the interim period with a view to objectives referred to in the second paragraph and the intended effects for the physical living environment.
4. Derogations as referred to in the third paragraph, under i are only permitted when it pertains to derogations that are part of the experiment and when it is disproportionate in relation to the interest of the physical living environment to be protected to bring them into line with the regulations after the end of the experiment.
5. If from the monitoring and assessment referred to in the third paragraph, under j it is shown that the experiment does not contribute to the objectives referred to in the second paragraph, the party performing the experiment shall take measures aimed at achieving the objectives.
6. The responsible administrative body, referred to in the third paragraph, under c, can give instructions on the measures to be taken. Article 19.4, third paragraph applies *mutatis mutandis*.
7. If the measures to be taken are not sufficient, Our Minister can decide to end the experiment. That decision can be subject to provisions.
8. In the event that the evaluation of an experiment provides a reason to amend regulations, Our Minister may, in derogation from the measure 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 amend the regulations concerned.

Section 23.3 Public participation, involvement, parliament, formation requirements, implementation regulations and other provisions

Article 23.4 (Publication on the internet)

- 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, 5, 12, 16, 17, 18, 19, 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 by order in council contains environmental conditions, within the period referred to in the first paragraph, one of the chambers can express the wish that the environmental conditions be laid down by law. In that case, a bill to that effect shall be introduced as soon as possible.
- 3. Paragraphs one and two shall not apply in the event that the draft incorporates amendments of secondary significance that will not give rise to other or more significant adverse effects for the physical living environment, or in the event that the draft alone shall be sufficient to fulfil obligations under international law. If that is the case, Our Minister concerned shall inform both Chambers of the Dutch Parliament.

4. Our Minister concerned shall inform both chambers of the Dutch Parliament of the entry into force of the order in council and the publication of the recommendation of the Advisory Division of the Council of State, plus the additional report issued by an order in council whereby application is given to the first paragraph.

Article 23.6 (impact of principles)

By order in council, to which Article 23.5 applies, in, reasons are given the explanatory memorandum for the way in which the precautionary principle, the principle of preventive action, the principle that as a priority, environmental damage should be combated at the source and the principle that the polluter pays.

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 23.7 (The State is the owner of solid deposits EEZ)

The State is the owner of solid deposits located on or beneath the seabed within the exclusive economic zone, including minerals, in the sense of Article 1 of the Mining Act [Mijnbouwwet], in so far as the minerals are located at a depth that is less than one hundred metres below the seabed.

***Chapters 6 to 9 inclusive and Chapters 11, 14, 15 and 21** are reserved for future sections, such as those in the area of non area-specific environmental policy (substances, products, emission trading) and stipulations governing damage.*

***Chapter 10** sets out the obligations to tolerate, which solely involve bringing together the obligations to tolerate set out in a number of different items of legislation, in a manner that does not represent a particular policy as such.*

*This policy-neutral approach also applies in relation to the advisory bodies and advisers referred to in **Chapter 17**.*

***Chapter 13 (Financial stipulations)** contains a number of powers of a predominantly financial nature, which are used during the implementation of policy in the area of the physical environment. The legislative bill reproduces financial stipulations governing permits, administrative charges and financial arrangements between administrative bodies that have been taken from existing laws, integrating them, wherever possible. When integrating other laws is later items of legislation, stipulations governing fees, contributions, funds, deposits and return premiums will be included in this chapter.*

***Chapter 19** brings together the powers of (and obligations of) administrative bodies in exceptional circumstances, as laid down in various laws.*

***Chapter 22** is reserved for transitional law.*

ANNEX

Annex to Article 1.1 of this Act

A. Definition of terms

In application of this Act and the stipulations derived therefrom, the terms listed below shall be understood to have the meanings listed, unless specified otherwise:

Waste substances: waste substances in the sense of Article 1.1, paragraph one of the Environmental Management Act [Wet milieubeheer]

Waste water: waste water in the sense of Article 1.1, paragraph one of the Environmental Management Act [Wet milieubeheer]

Deviating activity: an activity that is not in accordance with the rules laid down in the physical environment plan or a preliminary planning decision

Alarm value: an alarm value in the sense of Article 19.10

Archaeological monument: an archaeological monument in the sense of Article 1, item c of the Monuments and Historic Buildings Act [Monumentenwet] 1988

Chance archaeological find of public importance: unexpected find in the soil or on top of the ground, other than when carrying out excavations in the sense of Article 1, item h of the Monuments and Historic Buildings Act 1988, in so far as this evidently or presumably of public importance from the point of view of the protection of archaeological heritage

Motorway: A road designated as a motorway by virtue of the Road Traffic Act [Wegenverkeerswet] 1994

Motor traffic road: A road designated as a motor traffic road by virtue of the Road Traffic Act 1994

Management of waste products: the management of waste products, 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 for the purpose of 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 a construction or an object, specific rules apply with regard to activities that will, or may, have an effect upon that construction or object

Activity in restricted area: an activity carried out within a restricted area that is not compatible with the function of the works or object located there

Storage area: area, not being a body of surface water or part thereof, to which, by virtue of this Act, an hydraulic function has been assigned, 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 water registry

To protect: to preserve or improve the state or the quality of part of the physical environment

Special railway: a railway that is not designated as a mainline railway or local railway

Soil: the solid component of the earth, including the liquid and gaseous components and organisms contained therein

Building activity: activity involving building of a building

To Build: to place, partially or completely erect, renovate, alter or extend

Building: 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

Activity subject to fire-safety regulations: activity involving the use or taking into use of a building, during the course of which fire-safety is of particular importance

Outside water: water that forms part of an outside body of water, the level of which is influenced directly by high storm floods, if water levels in one of the major rivers is high, if the water in the IJsselmeer or Markermeer is high, or in the case of a combination of the above

Civilian airport of regional significance: an airport, other than Amsterdam Airport Schiphol, any other civilian airport of national significance or any military airport

Environmental Impact Assessment Committee the advisory body referred to in Article 17.5

Cultural heritage: any item of heritage located within the physical environment, consisting of:

a. monuments, in so far as these constitute real estate property, including archaeological monuments

b. Village or urban conservation areas

c. cultural landscapes, in so far as these are in the public interest due to their beauty, created structures, scientific significance or historic importance

Objectives of the Act: objectives referred to in Article 1.3

Sustainable development: Development that meets the needs of the present generation, without compromising the ability of future generations to meet their own needs

Emissions: direct or indirect release from point or diffuse sources of substances, vibrations, heat or noise into the air, the water or the soil

Development area: an area designated in the physical environment plan in the sense of Article 12.2, paragraph one

Development rules: rules included in a physical environment plan that govern land development

Development regulations: land development regulations associated with an environmental permit or project decision

Activity impacting flora and fauna: an activity consisting of the carrying out of an action in the sense of one of the following stipulations from the Nature Protection act [Wet natuurbescherming]:

a. Article 3.1, unless it involves a case in the sense of paragraph five of that Article or in Article 3.3, paragraph two, six or seven, or Article 3.29, paragraph one, of the Nature Protection Act

b. Article 3.5, unless it involves a case in the sense of paragraph two, six or seven of Article 3.8, or paragraph one of Article 3.29 of the Nature Protection Act, or

c. Article 3.10, paragraph one, unless it involves a case in the sense of paragraph two of that Article, in conjunction with Article 3.8, paragraph two six or seven of the Nature Protection Act, or in Article 3.10, paragraph three, Article 3.11, paragraph one or Article 3.29, paragraph one of that Act

Decision regarding duty to tolerate: decision to impose a duty to tolerate in the sense of section 10.3

closed landfill: closed landfill site in the sense of Article 8.47, paragraph one, item b of the Environmental Management Act

Land development: development of sites in the sense of Article 12.1, paragraph one

Groundwater: water located below the surface of the ground in the saturation zone and in direct contact with the ground or subsoil

Body of groundwater: distinct volume of groundwater within an aquifer or aquifers

Mainline railway: a railway in the sense of Article 2, paragraph one of the Railways Act [Spoorwegwet]

Mainline rail infrastructure: mainline rail infrastructure in the sense of Article 1, paragraph one of the Railways Act

Infrastructure: roads and waterways, including route networks for hiking, biking and boating, as well as railways, ports, airports, energy infrastructure, pipelines, public rainwater and drainage systems and waste water sewers, infrastructure for water supply works as referred to in Article 1, first paragraph of the Drinking Water Act and other vital infrastructure;

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

Landscapes: area, as perceived by people, whose character is the result of the action and interaction of natural and/or human factors

Water registry: the 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 or a purification plant: an activity, not being a deposition activity at sea, consisting of the transfer of substances, heat or water:

a. directly into a body of surface water, with the exception of the drier bankside areas designated pursuant to Article 2.18, paragraph three, or Article 2.21, or

b. with the assistance of a construction, not being a public foul water sewer, into a purification plant operated by a water board, from which those substances or that water will be transferred to a body of surface water,

in so far as this relates to the effects of those substances or that heat or water upon the water system of the purification plant

Airport: an airport in the sense of Article 1.1, paragraph one of the Aviation Act [Wet luchtvaart]

Airport decree: the Airport Decree, as referred to in Article 1.1, paragraph one of the Aviation Act [Wet luchtvaart]

Situation-specific rules: situation-specific rules in the sense of Article 4.6

Situation-specific regulations: situation-specific regulations in the sense of Article 4.5

Mining installation: mining installation in the sense of Article 1, item o of the Mining Act [Mijnbouwwet]

Mining activity: an activity consisting of:

a. the placement of a mining installation, including of the restricted area located around the installation itself, as designated by virtue of Article 2.20, or

b. the carrying out of an exploratory investigation

Mine workings: mine workings in the sense of Article 1, item n, of the Mining Act

Environmentally harmful activity: activity that may give rise to negative effects for the environment, not including a discharge activity into a body of surface water or a purification plant, or a water extraction activity

Environmental impact assessment: environmental impact assessment in the sense of Section 16.2.6 or 16.5

Military airport: a military airport in the sense of Article 10.12, paragraph one of the Aviation Act

Monument: a monument in the sense of Article 1, item b of the Monuments and Historic Buildings Act 1988

Natura 2000: European ecological network consisting of special protection zones, referred to in Article 4, paragraphs one and two of the Conservation of Wild Birds Directive and Article 1, Section I of the Habitat Directive

Activity impacting a Natura 2000 area: activity involving the achievement of a project or the carrying out of another action referred to in Article 2.7, paragraph two of the Nature Protection Act, unless this involves a case referred to in Article 2.7, paragraph four, or Article 2.9, paragraphs one, two three or five of that Act

Natura 2000-area: 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 Conservation of Wild Birds Directive or Article 3, paragraph two and Article 4, paragraph four of the Habitat Directive, or
- b. has been included in the list of areas of community importance referred to in Article 4, paragraph two of the Habitat Directive

Physical environment plan: physical environment plan in the sense of Article 2.4;

Environmental permit: environmental permit in the sense of section 5.1

Environmental regulation: environmental regulation in the sense of Article 2.6

Environmental strategy: environmental strategy in the sense of Article 3.1

Environmental value: environmental value in the sense of Article 2.3

Unconventional occurrence: 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 regulations in the sense of Article 8 of the Industrial Emissions Directive, or
- b. a serious accident in the sense of Article 3, sub-section 13 of the Seveso Directive

Earth extraction activity: an activity involving the extraction of earth

Our Minister: Our Minister of Infrastructure and Environment

Public foul water sewer: facility for the collection and transportation of urban waste water, managed by a municipality or a legal entity to which the management of the facility has been assigned by a municipality

body of surface water: coherent body of water, freely occurring on the earth's surface, containing the substances present therein, together with the associated soil, banks and, in so far as expressly designated by virtue of this Act, drier bankside areas, including any flora and fauna

Other civilian airport 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

Programme: programme in the sense of Section 3.2

Project:

- a. the implementation of construction work or the creation of plants or works
- b. other activities within the physical environment, including activities for the extraction of minerals

Project decision: project decision in the sense of section 5.2.3;

Regional waters: water systems or parts thereof that are not managed by the State

Nationally listed building: protected listed building in the sense of Article 1, item d of the Monuments and Historic Buildings Act 1988

Activity relating to nationally listed buildings: activity involving the demolition, disturbance, relocation or adaptation of a nationally listed building or a listed national monument, or the restoration or use of the same, resulting in it becoming disfigured or endangered

National waters: water systems or parts thereof that are managed by the State

Demolition activity: activity involving the demolition of a building

To demolish: to tear down, either partly or completely

Village or urban 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 one or more listed buildings are included

Urban waste water: household waste water or a mixture consisting of household waste water and industrial waste water, rain water, groundwater or other waste water

dumping activity at sea: activity consisting of:

a. the disposal of substances at sea by placing them in the 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 for the purpose of 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 on board a vessel or aircraft of substances for the purpose of disposing of them in a manner referred to in item a, or to emit or store substances for that purpose

River basin district: an area in the sense of Article 2, item 15 of the Water Framework Directive

Exploratory investigation: exploratory investigation in the sense of Article 1, item d of the Mining Act

Contaminating substance: 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

Preliminary planning decision: a decision in the sense of section 4.2

Nationally listed building: a monument, in relation to which the notification referred to in Article 3, paragraph three of the Monuments and Historic Buildings Act 1988, has taken place, from the date of that notification to the time of inclusion in the register, in the sense of Article 6, paragraph one, or Article 7 of that Act, or up to the time at which it has been established that the monument is not going to be listed in any such register

Preference decision: a decision in the sense of Article 5.47

Water-related activity: activity in a restricted area associated with an hydraulic construction; activity in a restricted area associated with an installation, not being a mining installation, in an hydraulic construction; discharge activity into a body of surface water or a purification plant; dumping activity at sea, water extraction activity; or any other activity governed by a water board regulation

Water extraction activity: an activity consisting of:

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 placing into the soil of water in order to supplement the groundwater, in conjunction with the withdrawal of groundwater by a facility designated for that purpose

Water board regulation: water board regulation in the sense of Article 2.5

Hydraulic construction: body of surface water, storage area, flood barrier or supporting artificial structure

water system: coherent whole consisting of one or more bodies of surface water and bodies of groundwater, together with the associated storage areas, flood barriers and supporting artificial structures

Road: road, including the artificial structures included therein, together with anything else, which, by virtue of its nature, forms part thereof

Sea: marine waters, other than the internal waters of states, including the seabed and the soil located beneath

Purification plant: plant for the purification of urban waste water, operated by a water board or municipality, or by a legal entity to which the purification of urban waste water has been assigned by the Board of a water board, including the mechanism, associated with that plant, for the transportation of urban waste water

Swimming area: area for swimming in the sense of Article 2.30