

Municipalities Act

(Text as at 12 November 2013)

Act of 14 February 1992 containing new provisions governing municipalities

We, Beatrix, by the grace of God Queen of the Netherlands, Princess of Orange-Nassau, etc., etc., etc.

To all who see or hear these presents, greetings! Be it known:

Whereas we consider it desirable that new provisions be laid down concerning the structure of municipalities and the composition and powers of their authorities;

We, therefore, having heard the Council of State and in consultation with the States General, have approved and decreed as We hereby approve and decree:

Title I. Definitions

Section 1

1. In this Act the number of residents of a municipality means the number of residents according to the population figures on 1 January, as published by Statistics Netherlands.

2. The reference date for determining the number of residents, as referred to in section 8, is 1 January of the year preceding the year of a council election. At the written request of the council, Statistics Netherlands may determine the number of residents on the first day of the fourth month prior to the month of the nomination of candidates if it is likely that a number of residents specified in that section has been exceeded by the specified date. In such a case that date serves as the reference date.

Section 2

In this Act residents are persons who have their actual place of residence in the municipality.

Section 3

Persons who have been registered as a resident of a municipality, with an address in its municipal personal records database, are deemed for the purposes of this Act to have their actual place of residence in that municipality, subject to proof to the contrary.

Section 4

In this Act the term public servant is deemed to include a person employed on an employment contract under civil law.

Section 5

In this Act:

- a) municipal authority means every competent organ of the municipality;
- b) Our Minister means Our Minister of the Interior and Kingdom Relations;
- c) executive means the municipal executive.

Title II. Structure and composition of the municipal authority

Chapter I. General provision

Section 6

Each municipality has a council, an executive and a mayor.

Chapter II. The council

Section 7

The council represents the entire population of the municipality.

Section 8

1. The council consists of:

9 members in a municipality with fewer than 3,001 residents;

11 members in a municipality with 3,001-6,000 residents;

13 members in a municipality with 6,001-10,000 residents;

15 members in a municipality with 10,001-15,000 residents;

17 members in a municipality with 15,001-20,000 residents;

19 members in a municipality with 20,001-25,000 residents;

21 members in a municipality with 25,001-30,000 residents;

23 members in a municipality with 30,001-35,000 residents;

25 members in a municipality with 35,001- 40,000 residents;

27 members in a municipality with 40,001-45,000 residents;

29 members in a municipality with 45,001-50,000 residents;

31 members in a municipality with 50,001-60,000 residents;

33 members in a municipality with 60,001-70,000 residents;

35 members in a municipality with 70,001-80,000 residents;

37 members in a municipality with 80,001-100,000 residents;

39 members in a municipality with 100,001-200,000 residents;

45 members in a municipality with over 200,000 residents.

2. An increase or decrease in the number of council members resulting from a change in the number of residents in the municipality does not take effect until the next periodic council election.

Section 9

The mayor chairs the council.

Section 10

1. To be eligible to be a council member a person must be a resident of the municipality, have attained the age of eighteen and not be disqualified from voting and standing for election.
2. Persons who are not nationals of a member state of the European Union must also fulfil the following requirements:
 - (a) they must be legally resident in the Netherlands pursuant to section 8 (a), (b), (d), (e) or (l) of the Aliens Act 2000 or pursuant to a headquarters agreement between an international organisation and the State of the Netherlands, and
 - (b) they must have been resident in the Netherlands for an uninterrupted period of at least five years immediately prior to the day on which the municipal council decides on their admission as a council member, and must have residence rights as referred to at (a) above or be legally resident in the Netherlands pursuant to section 8 (c) of the Aliens Act 2000.
3. Non-Dutch nationals and persons employed in the Netherlands as members of diplomatic or consular missions posted to the Netherlands by other States, and their non-Dutch spouses or partners, registered or otherwise, and children, in so far as they have a joint household, are not eligible to be council members.

Section 11

No person whose membership of the council has been terminated since the last periodic election of council members on account of acts in breach of section 15 is eligible for appointment to fill a casual vacancy.

Section 12

1. The council members must disclose what positions they hold other than their council membership.

2. Disclosure is effected by depositing a list of the positions referred to in subsection 1 for public inspection at the offices of the municipality.

Section 13

1. A council member may not also be:

- (a) a minister;
- (b) a state secretary;
- (c) a member of the Council of State;
- (d) a member of the Court of Audit;
- (e) National Ombudsman;
- (f) a deputy ombudsman as referred to in section 9, subsection 1 of the National Ombudsman Act;
- (g) a King's Commissioner;
- (h) a member of a provincial executive;
- (i) secretary to a province;
- (j) clerk of a province;
- (k) a mayor;
- (l) a member of a municipal executive;
- (m) a member of the audit office;
- (n) an ombudsman or member of an ombuds committee referred to in section 81p, subsection 1;
- (o) a member of a district council;

(p) a member of a district executive;

(q) a public servant appointed by or on behalf of the municipal authority or subordinate to it.

2. Notwithstanding subsection 1, opening words and (l), a council member may also be a member of the executive of the municipality of which he is a council member during the period which:

(a) starts on polling day for the election of council members and ends on the date on which the members of the executive cease to hold office pursuant to section 42, subsection 1 or

(b) starts on the date of his appointment as a member of the executive and ends on the date on which the credentials of his successor as council member have been finally approved or on which the central electoral committee decides that no successor can be appointed. He is deemed to have resigned from the council from the date on which he accepts his appointment as a member of the executive. Section X 6 of the Elections Act applies *mutatis mutandis*.

3. Notwithstanding subsection 1, opening words and (r) a council member may also be:

(a) a registrar of births, deaths, marriages and registered partnerships;

(b) a volunteer or other person who performs emergency services on account of a statutory duty other than in a professional capacity;

(c) a public servant working for a public-authority school.

Section 14

1. Before taking office, the council members must make the following oath or affirmation before the chair at a meeting:

I do swear (declare) that in order to be appointed as a council member I have not promised or given, directly or indirectly, any gift or favour to any person under any name or on any pretext whatever.

I do swear (declare and affirm) that I have not accepted and will not accept, directly or indirectly, any promise or gift in order to do or refrain from doing anything whatever in this office.

I do swear (affirm) allegiance to the Constitution and that I will obey the law and faithfully discharge my duties as a council member to the best of my ability.

So help me God!

(This I declare and affirm!')

2. [*Translator's note: subsection 2 contains the same oath and affirmation in the Frisian language*]

Section 15

1. A council member may not:

- (a) serve as counsel or adviser to the municipality or the municipal authority in disputes or to the counterparty in a dispute with the municipality or the municipal authority;
- (b) serve as authorised representative of the counterparty in a dispute with the municipality or the municipal authority;
- (c) serve as representative of or adviser to third parties who are entering into:
 - (1) contracts as referred to at (d) with the municipality;
 - (2) contracts to transfer immovable property to the municipality;
- (d) enter, directly or indirectly, into a contract for:

- (1) the performance of works for the municipality;
 - (2) the performance of activities for the municipality for hire and reward other than as an employee;
 - (3) the transfer of movables to the municipality other than for no consideration;
 - (4) the hiring of movables to the municipality;
 - (5) the acquisition of disputed claims against the municipality;
 - (6) the acquisition from the municipality by private instrument of immovable property or limited rights to which such property is subject;
 - (7) taking a lease or agricultural lease by private instrument from the municipality.
2. The provincial executive may grant exemption from the provisions of subsection 1, opening words and (d).
 3. The council adopts a code of conduct for its members.

Section 16

The council adopts rules of procedure for its meetings and other activities.

Section 17

1. The council meets as often as it has decided to do.
2. The council also meets whenever the mayor considers this necessary or at least one fifth of the number of members of which the council consists so request in writing, stating reasons.

Section 18

After the periodic election of its members the council meets for the first time in its new composition on the day on which the members of the council in its old composition cease to hold office.

Section 19

1. The mayor gives the council members written notice of a meeting.
2. When giving notice of a meeting, the mayor at the same time publicly announces the date, time and place of the meeting. The agenda and related resolutions, with the exception of the documents referred to in section 25, subsection 2, are deposited for public inspection at the same time as the notice is given and in the manner described in the public announcement.

Section 20

1. The council meeting may not be opened until the attendance list shows that over half of the members in office are present.
2. If the meeting cannot be opened pursuant to subsection 1, the mayor will reconvene the meeting, by virtue of this section, no less than twenty-four hours after delivery of the notice.
3. Subsection 1 does not apply to a meeting as referred to in subsection 2. However, the council may not deliberate or decide on matters other than those for which the meeting not opened pursuant to subsection 1 was convened unless the attendance list shows that over half of the members in office are present.

Section 21

1. The mayor has the right to take part in the deliberations at the meeting.
2. Members of the municipal executive may attend council meetings and take part in the deliberations.
3. Members of the municipal executive may be invited by the council to attend its meetings.

Section 22

The members of the municipal authority and other persons who take part in the deliberations may not be prosecuted or sued, held liable or compelled to give evidence as referred to in article 165, paragraph 1 of the Code of Civil Procedure about anything they have said in a council meeting or have submitted in writing to the council.

Section 23

1. Meetings of the council are held in public.
2. The doors to a meeting must be closed if at least one fifth of the members who have signed the attendance list so request or the chair considers this necessary.
3. The council then decides whether the meeting will be held behind closed doors.
4. Separate minutes are kept of a meeting held behind closed doors, and are not published unless the council decides otherwise.
5. The council publishes the list of decisions made at its meetings in the manner customary in the municipality. The council does not publish the list where it relates to matters in respect of which a duty of secrecy has been imposed under section 25 or where publication would conflict with the public interest.

Section 24

A meeting held behind closed doors may not deliberate or decide on:

- (a) the admission of newly appointed council members;
- (b) the adoption or amendment of the budget and the adoption of the annual accounts;
- (c) the introduction, amendment or abolition of municipal taxes; and
- (d) the appointment or dismissal of members of the municipal executive.

Section 25

1. The council may, pursuant to an interest referred to in section 10 of the Government Information (Public Access) Act (Bulletin of Act and Decrees 1991, 703), impose a duty of secrecy concerning matters dealt with at a meeting behind closed doors and concerning the content of documents submitted to the council. A duty of secrecy concerning matters dealt with at a meeting behind closed doors must be imposed during the meeting in question. Those present at the meeting and all those who have knowledge of the proceedings or the documents must observe the duty of secrecy until such time as it is lifted by the council.

2. Pursuant to an interest referred to section 10 of the Government Information (Public Access) Act a duty of secrecy may also be imposed by the executive, the mayor or a committee in respect of such documents as each of them may submit to the council or its members. The documents must be marked accordingly.

3. The duty of secrecy imposed by virtue of subsection 2 in respect of documents submitted to the council ceases to apply if such imposition is not ratified by the council at the next meeting which is attended, according to the attendance list, by over half of the council members in office.

4. The duty of secrecy imposed by virtue of subsection 2 in respect of documents submitted to council members must be observed until it is lifted by the body which imposed it or by the council if the document in respect of which secrecy has been imposed was submitted to the council. The council may make this decision only at a meeting attended, according to the attendance list, by over half of the council members in office.

Section 26

1. The chair maintains order at the meeting and may, in cases where such order is disrupted in any way by members of the public, direct such persons and, if necessary, any other members of the public who are present to leave.

2. He may bar members of the public who repeatedly disrupt order from meetings for a maximum of three months.

3. He may move for the expulsion from the meeting of any council member whose conduct is prejudicial to the orderly dispatch of business. Such a motion is not to be debated. Upon adoption of the motion the council member must leave the meeting immediately. If

necessary, the chair may have him removed. Moreover, if the council member repeats this behaviour, he may also be barred from meetings for a maximum of three months.

Section 27

The council members are not bound by a mandate when voting.

Section 28

1. A council member may not take part in voting on:

- a matter which concerns him personally, either directly or indirectly, or in which he is involved as a representative;
- the adoption or approval of the accounts of an organ to which he is accountable or to whose executive he belongs.

2. In the event of a written ballot, casting a vote means handing in a properly completed ballot paper.

3. An appointment is deemed to concern a person personally if he is one of those to whom the choice of persons to be appointed is limited either by nomination or on a second ballot.

4. Subsection 1 does not apply to a decision regarding the admission of council members appointed after a periodic election.

Section 29

1. A vote is valid only if over half of the council members in office who are not required to abstain from voting have cast their vote.

2. Subsection 1 does not apply:

- (a) in the event of a second vote on a motion or on an appointment, nomination or recommendation of one or more persons in respect of whom a vote was invalid at a previous meeting by virtue of that subsection;

- (b) at a meeting as referred to in section 20, subsection 2 in so far as it concerns items that were put on the agenda of a previous meeting that was not opened pursuant to section 20, subsection 1.

Section 30

1. To make a decision by voting requires an absolute majority of those who have cast a vote.
2. In the event of a written ballot, casting a vote means handing in a properly completed ballot paper.

Section 31

1. Voting on the appointment, nomination or recommendation of persons is conducted by secret ballot.
2. In the event of a tied vote on the appointment of persons to whom a choice is limited either by nomination or on a second ballot, a second ballot will be held at the same meeting.
3. If there is once again a tied vote, the matter must immediately be decided by lot.

Section 32

1. Voting on other matters will be conducted by roll call if the chair or one of the council members so requests. In that case voting will be conducted orally.
2. In the event of a roll call vote, each council member present at the meeting who is not required to abstain is obliged to cast his vote for or against the motion.
3. If no vote is requested on a motion it is deemed to be carried.
4. In the event of a tied vote other than at a plenary meeting a decision will be deferred until a subsequent meeting, when deliberations can be resumed.
5. In the event of a tied vote at a plenary meeting or at a meeting subsequently reconvened pursuant to subsection 4, the motion is not carried.

6. A plenary meeting is a meeting at which all council members in office have cast their vote, provided they are not required to abstain.

Section 32a

Documents emanating from the council must be signed by the mayor and countersigned by the clerk. If the mayor is unable to act or the position of mayor is vacant, documents emanating from the council must be signed by the person who deputises for the mayor as chair of the council in accordance with section 77.

Section 33

1. The council and each council member have the right to assistance from public servants.
2. The groups represented in the council have the right to support.
3. The council adopts a bye-law governing the provision of assistance from public servants and the provision of support to the groups represented in the council. As regards support, the bye-law is to contain rules on resource allocation and accountability.

Chapter III. The municipal executive

Section 34

1. The mayor and the members of the municipal executive together constitute the municipal executive.
2. The mayor chairs the municipal executive.

Section 35

1. The council appoints the members of the municipal executive.
2. The mayor is kept informed about the results of the negotiations to form a municipal executive. He is then given the opportunity to express his views on proposals for the programme of the municipal executive.

Section 36

1. The number of members of the executive may not exceed twenty per cent of the number of council members, provided always that the executive may not have fewer than two members.
2. The council may decide that the position of member of the executive may be held on a part-time basis.
3. If subsection 2 applies, the number of members of the executive, notwithstanding subsection 1, may not exceed twenty-five per cent of the number of council members, provided always that the standard working time factor for the members of the executive together does not exceed by more than ten per cent what would have been their standard working time factor if subsection 2 had not been applicable.
4. When appointing members of the executive, the council determines the standard working time factor for each member.
5. When the maximum number of members of the executive referred to in subsections 1 and 3 is calculated, it is rounded to the nearest whole number.

Section 36a

1. The requirements for membership of the council referred to in section 10 also apply to membership of the municipal executive, provided always that in section 10, subsection 2 (b) the words 'the day on which the municipal council decides on their admission as council member' is read as meaning 'the day on which they are appointed as members of the municipal executive'.
2. The council may grant exemption from the residency requirement for a term of one year. In special cases the exemption may be extended for a maximum of one year at a time.
3. No one may be a member of the municipal executive in more than one municipality.

Section 36b

1. A member of the municipal executive may not also be:
 - (a) a minister;

- (b) a state secretary;
- (c) a member of the Council of State;
- (d) a member of the Court of Audit;
- (e) National Ombudsman;
- (f) a deputy ombudsman as referred to in section 9, subsection 1 of the National Ombudsman Act;
- (g) a King's Commissioner;
- (h) a member of the provincial executive;
- (i) secretary to a province;
- (j) clerk of a province;
- (k) a member of the audit office of the province in which the municipality of which he is a member of the municipal executive is situated;
- (l) a member of the council of a municipality;
- (m) a mayor;
- (n) a member of an audit office;
- (o) an ombudsman or member of an ombuds committee as referred to in section 81p, subsection 1;
- (p) a member of a district council;
- (q) a member of a district executive;
- (r) a public servant who has been appointed by or on behalf of the municipal authority or is subordinate to it;
- (s) a public servant appointed by or on behalf of central government or a province whose duties include carrying out activities involving supervision of the municipality;

(t) an official who advises the municipal authority by virtue of an Act of Parliament or order in council.

2. Notwithstanding subsection 1, opening words and (l), a member of the municipal executive may also be a member of the council of the municipality of whose municipal executive he is a member during the period which:

(a) starts on polling day for the election of council members and ends on the date on which the members of the executive cease to hold office pursuant to section 42, subsection 1, or

(b) starts on the date of his appointment as a member of the municipal executive and ends on the date on which the credentials of his successor as council member have been finally approved or on which the central electoral committee decides that no successor can be appointed. He is deemed to have resigned from the municipal council from the date on which he accepts his appointment as a member of the municipal executive. Section X 6 of the Elections Act applies *mutatis mutandis*.

3. Notwithstanding subsection 1, opening words and (r), a member of the municipal executive may also be:

(a) a registrar of births, deaths, marriages and registered partnerships;

(b) a volunteer or other person who performs emergency services on account of a statutory duty other than in a professional capacity;

(c) a public servant working for a public-authority school.

Section 37

The appointment of members of the municipal executive following the election of the council members takes place at a meeting of the council in its new composition.

Section 38

In the case of section 37, the appointment of a person who has accepted his appointment as a member of the municipal executive takes effect on the date when at least half of the

number of members of the municipal executive determined in accordance with section 36 have accepted his appointment or, if the acceptance of the appointment takes place at a later date, on that later date.

Section 39

An appointment to fill a casual vacancy is made as quickly as possible, unless the council decides to reduce the number of members of the municipal executive.

Section 40

A person appointed as a member of the municipal executive must inform the council by no later than the tenth day after being notified of his appointment whether he accepts the appointment. If this time limit passes without receipt of any message, the appointee is deemed not to have accepted the appointment.

Section 41

If the appointment is not accepted, a fresh appointment is made as quickly as possible.

Section 41a

1. Before taking office, the members of the municipal executive must make the following oath or affirmation before the chair at a meeting of the council:

'I do swear (declare) that in order to be appointed as a member of the municipal executive I have not promised or given, directly or indirectly, any gift or favour to any person under any name or on any pretext whatever.

I do swear (declare and affirm) that I have not accepted and will not accept, directly or indirectly, any promise or gift in order to do or refrain from doing anything whatever in this office.

I do swear (affirm) allegiance to the Constitution and that I will obey the law and faithfully discharge my duties as a member of the municipal executive to the best of my ability.

So help me God!

(This I declare and affirm!')

2. [*Translator's note: subsection 2 contains the same oath and affirmation in the Frisian language*]

Section 41b

1. A member of the municipal executive may not hold any second jobs or positions which might prejudice the proper discharge of the office of a member of the executive.
2. A member of the municipal executive must give the council notice of his intention to accept a second job or position.
3. A member of the municipal executive must publicly disclose his second jobs or positions. Such disclosure is effected by depositing the information at the offices of the municipality for public inspection.
4. A member of the municipal executive who does not hold office on a part-time basis must also publicly disclose any income from second jobs or positions. Such disclosure is effected by depositing the information at the offices of the municipality for public inspection no later than on 1 April of the year following the calendar year in which the income from second jobs or positions was received.
5. For this purpose income is deemed to mean salary within the meaning of section 9 of the Salaries Tax Act, less the final levy components referred to in section 31 of that Act.

Section 41c

1. Section 15, subsections 1 and 2 apply *mutatis mutandis* to members of a municipal executive.
2. The council adopts a code of conduct for the members of the municipal executive.

Section 42

1. Following the election of the council members, the members of the municipal executive cease to hold office at the moment when the council has appointed at least half of the number of members of the municipal executive determined in accordance with section 36 and these appointments have been accepted.

2. If so many members of the municipal executive resign or are dismissed that the number of members of the executive in office is no longer equal to at least half of the number determined in accordance with section 36, the mayor will assume the role of the municipal executive until this is the case.

Section 43

1. A member of the municipal executive may resign at any time. He must tender his resignation to the council in writing.

2. The resignation takes effect either one month after the date on which he tenders his resignation or on such earlier date as his successor accepts the appointment.

Section 44

1. Members of the municipal executive receive remuneration, regulated by or pursuant to order in council, from the municipality.

2. Rules may also be laid down concerning partial or full reimbursement of special expenses and other financial provision connected with the discharge of the duties of a member of a municipal executive.

3. With the exception of what has been granted to them by or pursuant to Act of Parliament, members of a municipal executive receive, in that capacity, no income in any form whatever from the municipality.

4. The members of a municipal executive receive no payments in any form whatever for activities performed in the course of second jobs or positions held by virtue of their position as members of a municipal executive, regardless of whether or not such payments are made by the municipality. If such payments are made they should be credited to the municipality's account.

5. Payments as referred to in subsection 4 include income, by whatever name it may be known, from second jobs or positions which the member of the municipal executive ceases to hold at the end of his term of office.

6. Income other than that referred to in subsection 4 is offset against the remuneration in accordance with section 3 of the Remuneration (Members of the House of Representatives) Act.

7. Without prejudice to subsection 4, income as referred to in subsection 6 will not be offset in the case of members of the municipal executive who perform their duties on a part-time basis.

8. Rules governing the manner in which members of the municipal executive furnish information about income as referred to in subsection 6 and the consequences of any failure to furnish such information are laid down by order in council.

Section 45

1. The municipal executive will grant leave to a member of the municipal executive at her request on account of pregnancy and childbirth. The leave starts on the day referred to in the request, which must be at most six and at least four weeks before the expected date of delivery, as shown in a certificate issued by a physician or midwife and submitted with the request.

2. The municipal executive will grant a member of the executive leave on account of illness if it appears from a doctor's medical certificate attached to the request that he will probably not be able to resume his duties within eight weeks.

3. If a member of the municipal executive is himself unable to make the request on account of his illness, the mayor may make the request on his behalf if the continuity of the management of the municipality's affairs urgently requires that provision is made for the member to be replaced.

4. The leave will end on the day on which sixteen weeks have expired since the day on which it started.

5. A member of the municipal executive will be granted leave not more than three times during the council's term of office.

Section 45a

1. The municipal executive will decide as quickly as possible on a request for leave, and in any event no later than on the fourteenth day after submission of the request.

2. The decision will be made in accordance with the medical certificate issued by a doctor or midwife and will contain the date on which the leave is to take effect.

Section 45b

1. The council may appoint a replacement for a member of the municipal executive who has taken leave. Section 36, subsections 1 and 3 do not apply.

2. The replacement will cease to be a member by operation of law with effect from the day on which sixteen weeks have passed since the date on which the leave started.

3. If the replacement resigns or is dismissed by the council before the end of the leave, the council may appoint a replacement for the remainder of the leave.

Section 46

1. If a person whose appointment as a member of the municipal executive has commenced holds an office as referred to in section 36b, subsection 1 in circumstances where subsections 2 and 3 of that section do not apply, he must arrange to resign that office without delay.

2. The council will dismiss him if he fails to do so.

3. The dismissal will take effect immediately after the announcement of the dismissal decision.

4. Section 4:8 of the General Administrative Law Act does not apply in the case referred to in subsection 2.

Section 47

1. If a member of the municipal executive no longer meet the requirements for membership of the municipal executive, as referred to in section 36a, subsections 1 and 2 or is about to hold an office as referred to in section 36b, subsection 1 in circumstances where subsections 2 or 3 of that section do not apply, he must immediately tender his resignation. He must give written notice of this to the council.

2. Section 46, subsections 2, 3 and 4 apply *mutatis mutandis*.

Section 48 [Repealed on 7 March 2002]

Section 49

If the council rules that it no longer has confidence in a member of the municipal executive and this does not result in the immediate resignation of the member concerned, the council may resolve to dismiss him. Section 4:8 of the General Administrative Law Act does not apply to the dismissal decision.

Section 50

The courts will not review the grounds on which the council decided to dismiss a member of the municipal executive.

Section 51 [Repealed on 7 March 2002]

Section 52

The municipal executive adopts rules of procedure for its meetings and other activities and sends them to the council.

Section 53

1. The mayor determines, having regard to provisions adopted by the municipal executive, the date, time and place of the meetings of the municipal executive.

2. The mayor announces the date, time and place of public meetings.

Section 53a

1. The mayor promotes the unity of municipal executive policy.
2. The mayor may add items to the agenda of a meeting of the municipal executive.
3. The mayor may present the municipal executive with a motion of his own with respect to items on the agenda.

Section 54

1. The meetings of the municipal executive are held behind closed doors in so far as the municipal executive has not decided otherwise.
2. The rules of procedure for the meetings of the municipal executive may include rules on public access to those meetings.

Section 55

1. The municipal executive may, pursuant to an interest referred to in section 10 of the Government Information (Public Access) Act, impose a duty of secrecy concerning matters dealt with at a meeting behind closed doors and concerning the content of documents submitted to the municipal executive. A duty of secrecy concerning matters dealt with at a meeting behind closed doors must be imposed during the meeting in question. Those present at the meeting and all those who have knowledge of the proceedings or the documents must observe the duty of secrecy until such time as it is lifted by the municipal executive.
2. Pursuant to an interest referred to in section 10 of the Government Information (Public Access) Act a duty of secrecy may also be imposed by the mayor or a committee in respect of documents submitted to the municipal executive by them. The documents will be marked accordingly. The duty of secrecy must be observed until it is lifted by the organ which imposed it or by the council.
3. If the municipal executive has raised matters subject to a duty of secrecy with the council, the duty of secrecy must be observed until lifted by the council.

Section 56

1. A meeting of the municipal executive may not conduct deliberations or make decisions unless at least half of the members in office are present.
2. If the required number of members are not present the mayor will reconvene the meeting, citing the present section.
3. Subsection 1 does not apply to a meeting as referred to in subsection 2. However, the municipal executive may not deliberate or decide on matters other than those for which the first meeting was convened unless at least half of the members in office are present.

Section 57

The members of the municipal executive and other persons who take part in the deliberations cannot be prosecuted or held liable in law for anything they have said at meetings of the municipal executive or have submitted in writing to the municipal executive.

Section 58

Section 28, subsections 1 to 3 and sections 29 and 30 apply *mutatis mutandis* to meetings of the municipal executive.

Section 59

1. In the event of a tied vote on matters other than the appointment, nomination or recommendation of persons, a fresh vote must be held.
2. If there is once again a tied vote on the same motion, the chair has the casting vote.

Section 59a

1. Documents emanating from the municipal executive are signed by the mayor and countersigned by the municipal secretary.
2. The municipal executive may permit the mayor to instruct another member of the executive, the municipal secretary or one or more other public servants to sign documents in his stead.

3. The countersignature of the municipal secretary is not required if he or one or more other public servants have been authorised to sign documents pursuant to subsection 2.

Section 60

1. The council may decide which of the municipal executive's decisions are to be notified to the council members. Moreover, the council may determine in what cases it is sufficient for documents to be deposited for public inspection.

2. The municipal executive does not notify the council of documents or deposit them for public inspection where this would conflict with the public interest.

3. The municipal executive publishes the list of decisions made at its meetings in the manner customary in the municipality. The municipal executive does not publish the list where it concerns matters in respect of which a duty of secrecy has been imposed under section 55 or where publication would conflict with the public interest.

Chapter IV. The mayor

Section 61

1. The mayor is appointed for a term of six years by royal decree on the recommendation of Our Minister.

2. The King's Commissioner consults with the council about the job requirements to be met by the person to be appointed as mayor.

3. After consulting with the King's Commissioner the council appoints from among its members a confidential committee responsible for assessing the candidates. The council may decide that one or more members of the municipal executive should be added to the confidential committee as advisers. The King's Commissioner provides the confidential committee with a list of applicants for the office of mayor, together with his view on which candidates he considers, in principle, suitable for appointment. If the confidential committee decides to include in its assessment not only these candidates but also others who have applied, it must give immediate notice of this to the King's Commissioner. The latter must then communicate his opinion about the latter candidates to the confidential committee.

4. The confidential committee obtains the information it considers necessary about the candidates through the intermediary of the King's Commissioner. Administrative authorities are obliged to furnish the requested information. The confidential committee reports its findings to the council and to the King's Commissioner.
5. The council sends Our Minister a recommendation for an appointment within four months of the date on which applications were invited for the position. This recommendation contains the names of two persons.
6. In a special case, where the council gives reasons, a recommendation need list only one name. Our Minister may disregard a recommendation listing only one name if he does not consider it to be a special case.
7. Our Minister must, in principle, accept the council's recommendation in making his recommendation, including the order in which the names are listed, unless he considers that there are serious reasons to depart from it. Reasons must be given for any departure.

Section 61a

1. The mayor may be reappointed for a term of six years by royal decree on the recommendation of Our Minister.
2. The council sends a recommendation to Our Minister concerning the reappointment of the mayor through the intermediary of the King's Commissioner at least four months before the first day of the month in which the reappointment is to take effect.
3. Before the council makes a recommendation it consults with the King's Commissioner about the mayor's performance.
4. The King's Commissioner advises Our Minister on the council's recommendation.
5. In making his recommendation Our Minister may depart from the council's recommendation only on grounds derived from the King's Commissioner's advice or on other serious grounds.

Section 61b

1. The mayor's appointment may be terminated at any time by royal decree on the recommendation of Our Minister.
2. In the event of a dysfunctional relationship between the mayor and the council, the council, through the intermediary of the King's Commissioner, may send a recommendation for dismissal to Our Minister.
3. Before the council declares that a dysfunctional relationship exists between the mayor and itself, it will consult with the King's Commissioner about the background to the declaration.
4. A recommendation for dismissal does not constitute a subject for deliberation and is not adopted unless the council has declared no less than two weeks and no more than three months beforehand that a dysfunctional relationship exists between the mayor and the council.
5. The notice convening the meeting at which the recommendation for dismissal is to be debated or decided upon is delivered to the members of the council at least forty-eight hours before the start of the meeting or at such earlier time as the council decides. The notice contains the resolution for the recommendation.
6. The King's Commissioner advises Our Minister on the recommendation for dismissal.
7. When making his recommendation Our Minister will depart from the council's recommendation only on grounds derived from the King's Commissioner's advice or on other serious grounds.

Section 61c

1. The deliberations referred to in section 61 (3) and (4), section 61a (3) and section 61b (3) must be held behind closed doors. Separate minutes that will not be published are drawn up of these deliberations.
2. A duty of secrecy applies to the deliberations and to the documents sent to the council or sent by the council to Our Minister.

3. The council's recommendations as referred to in sections 61 (5) and (6), 61a (2) and 61b (2) are public, provided always that only the first name on the recommendation for an appointment referred to in section 61, subsection 5 is made public.

Section 61d

1. The King's Commissioner performs the activities referred to in sections 61, 61a and 61b in accordance with a set of instructions issued by the government.

2. Further rules may be laid down by order in council regarding the procedure to be followed in connection with the appointment, reappointment and dismissal of mayors.

Section 61e [Repealed on 19 December 2008]

Section 62

1. The mayor may be suspended by royal decree.

2. Our Minister may direct, pending a decision on suspension, that the mayor is not to perform the duties of his office.

3. A decision as referred to in subsection 2 lapses if a decision on suspension has not been made within a month.

Section 63

Dutch nationality is a requirement of eligibility for appointment as mayor.

Section 64

A person may be appointed mayor of more than one municipality provided that at the time of his appointment the total number of residents of the municipalities does not exceed 10,000.

Section 65

1. Before accepting his office, the mayor must make the following oath or affirmation before the King's Commissioner:

'I do swear (declare) that in order to be appointed as mayor I have not promised or given, directly or indirectly, any gift or favour to any person under any name or on any pretext whatever.

I do swear (declare and affirm) that I have not accepted and will not accept, directly or indirectly, any promise or gift in order to do or refrain from doing anything whatever in this office.

I do swear (affirm) allegiance to the Constitution and that I will obey the law and faithfully discharge my duties as mayor to the best of my ability.

So help me God!

(This I declare and affirm!')

2. [*Translator's note: subsection 2 contains the same oath and affirmation in the Frisian language*]

Section 66

1. The mayor receives remuneration, regulated by or pursuant to order in council, from the municipality.

2. Rules may also be laid down in this connection concerning the partial or full reimbursement of special expenses and other financial allowances connected with the discharge of the office of mayor.

3. With the exception of what has been granted to him by or pursuant to Act of Parliament, the mayor receives, in that capacity, no income in any form whatever from the municipality.

4. The mayor receives no payments of any kind whatever for activities performed in the course of second jobs or positions held by virtue of his office as mayor, regardless of whether or not such payments are made by the municipality. If such payments are made they should be credited to the municipality's account.

5. Payments as referred to in subsection 4 include income, by whatever name it may be known, from second jobs or positions which the mayor ceases to hold at the end of his term of office.

6. Income other than that referred to in subsection 4 is offset against the remuneration in accordance with section 3 of the Remuneration (Members of the House of Representatives) Act.

7. Rules governing the manner in which the mayor furnishes information about the income referred to in subsection 6 and about the consequences of any failure to furnish such information are laid down by order in council.

Section 67

1. The mayor may not hold any second jobs or positions that might prejudice the proper discharge of his office or compromise his ability to maintain his impartiality and independence or confidence therein.

2. The mayor must give the council notice of his intention to accept a second job or position other than one arising from the office of mayor.

3. The mayor must publicly disclose his second jobs or positions, other than those arising from the office of mayor, and the income from them. Such disclosure is effected by depositing the information at the offices of the municipality for public inspection no later than on 1 April of the year following the calendar year in which the income from second jobs or positions was received.

4. For this purpose income is deemed to mean salary within the meaning of section 9 of the Salaries Tax Act, less the final levy components referred to in section 31 of that Act.

Section 68

1. A mayor may not also be:

(a) a minister;

(b) a state secretary;

- (c) a member of the Council of State;
- (d) a member of the Court of Audit;
- (e) National Ombudsman;
- (f) a deputy ombudsman as referred to in section 9, subsection 1 of the National Ombudsman Act;
- (g) a King's Commissioner;
- (h) a member of a provincial executive;
- (i) secretary to a province;
- (j) clerk of a province;
- (k) a member of the audit office of the province in which the municipality of which he is mayor is situated;
- (l) a council member;
- (m) a member of a municipal executive;
- (n) a member of the audit office;
- (o) an ombudsman or member of an ombuds committee as referred to in section 81p, subsection 1;
- (p) a member of a district council;
- (q) a member of a district executive;
- (r) a public servant appointed by or on behalf of the municipal authority or subordinate to it;
- (s) a public servant appointed by or on behalf of central government or a province whose duties include carrying out activities involving supervision of the municipality;

(t) an official who advises the municipal authority by virtue of an Act of Parliament or order in council.

2. Notwithstanding subsection 1, opening words and (r) a mayor may also be a registrar of births, deaths, marriages and registered partnerships.

Section 69

1. Section 15 (1) and (2) apply *mutatis mutandis* to a mayor, provided always that the exemption referred to in subsection 2 of that section is granted by the King's Commissioner.

2. The council adopts a code of conduct for the mayor.

Section 70

The holder of the office of mayor is discharged from all obligations imposed by or pursuant to Act of Parliament to perform personal services.

Section 71

1. The mayor must have his actual place of residence in the municipality or, if he is mayor of more than one municipality, in one of those municipalities.

2. The council may exempt the mayor for a maximum of one year from the obligation to have his actual place of residence in the municipality.

Section 72

1. If the mayor wishes to reside outside the municipality for longer than six weeks, he requires the permission of the King's Commissioner. Permission may be given only if it does not conflict with the interests of the municipality.

2. The General Extension of Time Limits Act (Bulletin of Acts and Decrees 1964, 314) does not apply to the time limit referred to in subsection 1.

Section 73

1. Where no statutory provisions exist, rules in respect of mayors are to be laid down by or pursuant to order in council concerning:

- (a) their appointment, suspension, temporary non-performance of their duties, resignation and dismissal;
- (b) the investigation of their suitability and competence;
- (c) their entitlement in the event of illness;
- (d) employment protection;
- (e) collective bargaining on matters concerning their legal status;
- (f) other matters concerning their legal status that require regulation.

2. Financial allowances payable by the municipality may be paid in connection with the rules concerning the matters referred to in subsection 1.

Section 74

1. All documents addressed to the council or to the municipal executive are opened by or on behalf of the mayor.

2. Where documents addressed to the council are not immediately discussed at a meeting of the council, the mayor must give notice of their receipt at the next council meeting.

Section 75 [Repealed on 2 November 2005]

Section 76

The civic insignia of the mayor and the occasions on which he is to wear them are decided by royal decree.

Section 77

1. If the mayor is unable to act or the office of mayor is vacant, a member of the municipal executive designated by the executive deputises for the mayor. In such a case the council

will be chaired by the longest serving council member. If two or more council members have equal seniority in terms of length of service, the oldest of them in age chairs the meeting. The council may designate another council member to chair the meeting.

2. If all members of the municipal executive are unable to act or all positions on the municipal executive are vacant, the longest serving council member deputises for the mayor. If two or more council members have equal seniority in terms of length of service, the oldest of them in age deputises for the mayor. The council may designate another council member to deputise for the mayor.

Section 78

1. Notwithstanding section 77, the King's Commissioner will designate a deputy if he deems this necessary in the interests of the municipality. Before doing so, he will hear the council, unless there are serious grounds for not doing so.

2. A person designated by the King's Commissioner to deputise for the mayor must make an oath or affirmation before the King's Commissioner in accordance with section 65.

Section 79

The payment of a fee by the municipality to the person designated to deputise for the mayor is regulated by or pursuant to order in council.

Section 80

Sections 68 and 69 apply *mutatis mutandis* to a person designated to deputise for the mayor.

Section 81

1. The council may decide which of the mayor's decisions must be notified to the council members. Moreover, the council may determine in what cases it is sufficient for documents to be deposited for public inspection.

2. The mayor does not notify the council of a decision or deposit it for public inspection where this would conflict with the public interest.

Chapter IVa. The audit office

Division 1. The municipal audit office

Section 81a

1. The council may establish an audit office.
2. The following sections of this chapter and chapter XIa apply if the council establishes an audit office.
3. Chapter IVb applies if the council does not establish an audit office.

Section 81b

The council determines the number of members of the audit office.

Section 81c

1. The council appoints members of the audit office for a term of six years.
2. If an audit office consists of two or more members, the council appoints a chair from among the members.
3. The council may appoint deputy members. If an audit office consists of one member, the council will in any event appoint one deputy member. The provisions of this division apply *mutatis mutandis* to deputy members.
4. The council may reappoint a member.
5. The council must consult with the audit office before making the appointments referred to in subsections 1 to 4.
6. The council terminates the appointment of a member of the audit office:
 - (a) if he resigns;
 - (b) if he accepts a position that is incompatible with membership;

- (c) if he has been convicted of an indictable offence by judgment which has become final and unappealable or has been deprived of his liberty by a custodial measure imposed in such a judgment;
- (d) if he has been made the subject of a guardianship order, has been declared bankrupt, has obtained a moratorium on the payment of debts or has been committed to prison for failure to pay debts by judgment which has become final and unappealable;
- (e) if, in the opinion of the council, he has seriously abused the trust placed in him.

7. The council may terminate the appointment of a member of the audit office:

- (a) if he is permanently unfit to perform his duties owing to illness or infirmity;
- (b) if he contravenes section 81h.

Section 81d

1. The council suspends a member of the audit office if:

- (a) he is in pre-trial detention;
- (b) he has been convicted of an indictable offence by judgment which has not yet become final and unappealable or has been deprived of his liberty by a custodial measure imposed in such a judgment;
- (c) he has been made the subject of a guardianship order, has been declared bankrupt, has obtained a moratorium on the payment of debts or has been committed to prison for failure to pay debts by judgment which has not yet become final and unappealable.

2. The council may suspend a member of the audit office if he is the subject of a judicial investigation into an indictable offence or if there other serious grounds to suspect facts and circumstances that would warrant dismissal other than on the grounds referred to in section 81c (6) (a) and (7) (a).

3. The council must terminate the suspension as soon as the ground for the measure ceases to exist, provided always that the suspension will in any event end after six months in a case

as referred to in subsection 2. In that case the council may extend the measure for a maximum of three months at a time.

Section 81e

Section 12 applies *mutatis mutandis* to the members of an audit office.

Section 81f

1. A member of an audit office may not also be:

- (a) a minister;
- (b) a state secretary;
- (c) a member of the Council of State;
- (d) a member of the Court of Audit;
- (e) National Ombudsman;
- (f) a deputy ombudsman as referred to in section 9, subsection 1 of the National Ombudsman Act;
- (g) King's Commissioner of the province in which the municipality where he is a member of the audit office is situated;
- (h) a member of the provincial executive of the province in which the municipality where he is a member of the audit office is situated;
- (i) secretary to the province in which the municipality where he is a member of the audit office is situated;
- (j) clerk of the province in which the municipality where he is a member of the audit office is situated;
- (k) a member of the council;
- (l) mayor of the municipality concerned;

- (m) a member of the municipal executive of the municipality concerned;
- (n) an ombudsman or member of an ombuds committee as referred to in section 81p, subsection 1;
- (o) a member of a district council in the municipality concerned;
- (p) a member of the executive of a district of the municipality concerned;
- (q) a member of a committee of the municipality concerned;
- (r) a public servant appointed by or on behalf of the municipal authority or subordinate to it;
- (s) a public servant appointed by or on behalf of central government or a province whose duties include carrying out activities involving supervision of the municipality;
- (t) an official who advises the municipal authority by virtue of an Act of Parliament or order in council.

2. Notwithstanding subsection 1, opening words and (r) a member of an audit office may also be:

- (a) a registrar of births, deaths, marriages and registered partnerships;
- (b) a volunteer or other person who performs emergency services on account of a statutory duty other than in a professional capacity;
- (c) a public servant working for a public-authority school.

Section 81g

1. Before taking office, members of an audit office must make the following oath or affirmation before the chair at a meeting of the council:

‘I do swear (declare) that in order to be appointed as a member of the audit office I have not promised or given, directly or indirectly, any gift or favour to any person under any name or on any pretext whatever.

I do swear (declare and affirm) that I have not accepted and will not accept, directly or indirectly, any promise or gift in order to do or refrain from doing anything whatever in this office.

I do swear (affirm) allegiance to the Constitution and that I will obey the law and faithfully discharge my duties as a member of the audit office to the best of my ability.

So help me God!

(This I declare and affirm!')

2. [*Translator's note: subsection 2 contains the same oath and affirmation in the Frisian language*]

Section 81h

Section 15, subsections 1 and 2 apply *mutatis mutandis* to the members of the audit office.

Section 81i

1. The audit office adopts rules of procedure for its activities and, if the audit office consists of two or more persons, also for its meetings.
2. The audit office sends the rules of procedure to the council for its information and publishes them in the manner referred to in section 139, subsection 2.

Section 81j

1. After consulting with the audit office, the council makes available to the audit office the resources it needs for the proper performance of its duties.
2. On the recommendation of the chair or the sole member of the audit office, the municipal executive appoints as many officers of the audit office as are necessary for the proper performance of its duties.
3. The public servants who perform duties for the audit office do not perform duties for any other organ of the municipality as well.

4. The public servants who perform duties for the audit office are accountable only to the audit office in respect of their duties.

Section 81k

The members of the audit office receive remuneration for their activities and an allowance for expenses as determined in a council bye-law.

Division 2. The joint audit office

Section 81l

Notwithstanding section 81a, a council, acting together with the council or councils of one or more other municipalities in accordance with sections 1 and 8 (2) of the Joint Arrangements Act or with the provincial council or councils of one or more provinces, together with the council or councils of one or more other municipalities or otherwise, in accordance with sections 51 and 52 (1) in conjunction with section 8 (2) of the Joint Arrangements Act, may establish a joint audit office. Sections 10 (2) and (3), 10a, 11, 15, 16, 17, 20 (3), 21, 22, 23, 30 and 54 of that Act do not apply.

Section 81m

1. Sections 81b to 81f, 81h, 81i and 81j (1), (3) and (4) apply *mutatis mutandis* to a joint audit office, provided always that in sections 81b to 81d, 81i (2) and 81j (1) the term 'the council' should in each case be read as meaning 'the councils of the participating municipalities together' or, if the audit office has been established in part by provinces, as 'the provincial council or councils and the councils of the participating provinces and municipalities together'.

2. Section 81g applies to a joint audit office, provided always that the term 'the council' should in each case be read as meaning 'the council of the municipality which has been designated for this purpose in the arrangement establishing the joint audit office' or, if the audit office has been established in part by provinces, as 'the provincial council of the province or the council of the municipality which has been designated for this purpose in the joint arrangement establishing the joint audit office'.

Section 81n

Without prejudice to section 81m (1) in conjunction with section 81f, if the council or councils of one or more municipalities establish a joint audit office with the provincial council or councils of one or more provinces, a member of the audit office may not also be:

- (a) a member of the provincial council of a participating province;
- (b) a public servant appointed by or on behalf of the provincial authority of a participating province or subordinate to it;
- (c) a public servant appointed by or on behalf of central government whose duties include carrying out activities involving supervision of the province;
- (d) an official who advises the provincial authority by virtue of an Act of Parliament or order in council.

Section 81o

The arrangement establishing the joint audit office must at least contain rules on:

- (a) the appointment, on the recommendation of the chair or any member of the audit office, of the public servants needed for the proper performance of the duties of the audit office;
- (b) the remuneration which the members of the audit office receive for their activities and the allowance for expenses.

Chapter IVb. Audit office function

Section 81oa

1. If no audit office has been established as referred to in chapter IVa, the council must adopt rules in a bye-law for the exercise of the audit office function.
2. Sections 182, 184a and 185 apply *mutatis mutandis* to the exercise of the audit office function.
3. Section 81f (with the exception of subsection 1 (k) and (q)) applies *mutatis mutandis* to persons exercising the audit office function.

Chapter IVc. The ombudsman

Division 1. General provisions

Section 81p

1. Subject to the provisions of this chapter, the council may instruct a municipal ombudsman or ombuds committee or a joint ombudsman or ombuds committee to hear petitions as referred to in section 9:18, subsection 1 of the General Administrative Law Act.
2. An ombudsman or ombuds committee as referred to in subsection 1 may be established only on 1 January of any year. If the council so decides, it will send its establishment decision to the National Ombudsman before 1 July of the year preceding that in which the establishment is to take effect.
3. The establishment of an ombudsman or ombuds committee as referred to in subsection 1 may be terminated only on 1 January of any year. If the council so decides, it will send its termination decision to the National Ombudsman before 1 July of the year preceding that in which the termination is to take effect.

Division 2. The municipal ombudsman

Section 81q

1. If the council instructs a municipal ombudsman to hear petitions it will appoint him for a term of six years.
2. The council appoints a deputy ombudsman. This division applies *mutatis mutandis* to the deputy ombudsman.
3. The council terminates the appointment of an ombudsman:
 - (a) if he resigns;
 - (b) if he is permanently unfit to perform his duties owing to illness or infirmity;
 - (c) if he accepts a position as referred to in section 81r, subsection 1;

- (d) if he has been convicted of an indictable offence by judgment which has become final and unappealable or has been deprived of his liberty by a custodial measure imposed in such a judgment;
- (e) if he has been made the subject of a guardianship order, has been declared bankrupt, has been declared subject to a debt repayment arrangement for natural persons, has obtained a moratorium on the payment of debts or has been committed to prison for failure to pay debts by judgment which has become final and unappealable;
- (f) if, in the opinion of the council, he has seriously abused the trust placed in him.

4. The council will suspend the ombudsman if:

- (a) he is in pre-trial detention;
- (b) he has been convicted of an indictable offence by judgment which has not yet become final and unappealable or has been deprived of his liberty by a custodial measure imposed in such a judgment;
- (c) he has been made the subject of a guardianship order, has been declared bankrupt, has been declared subject to a debt repayment arrangement for natural persons, has obtained a moratorium on the payment of debts or has been committed to prison for failure to pay debts by judgment which has not yet become final and unappealable.

Section 81r

1. The ombudsman may not hold any positions which might prejudice the proper discharge of his office or compromise the maintenance of his impartiality and independence or confidence therein.

2. Section 12 applies *mutatis mutandis* to the ombudsman.

Section 81s

1. Before taking office, the ombudsman must make the following oath or affirmation before the chair at a meeting of the council:

I do swear (declare) that in order to be appointed as ombudsman I have not promised or given, directly or indirectly, any gift or favour to any person under any name or on any pretext whatever.

I do swear (declare and affirm) that I have not accepted and will not accept, directly or indirectly, any promise or gift in order to do or refrain from doing anything whatever in this office.

I do swear (affirm) allegiance to the Constitution and that I will obey the law and faithfully discharge my duties as ombudsman to the best of my ability.

So help me God!

(This I declare and affirm!')

2. [*Translator's note: subsection 2 contains the same oath and affirmation in the Frisian language*]

Section 81t

1. On the recommendation of the ombudsman, the municipal executive will appoint such staff as are necessary for the proper performance of his duties.
2. The ombudsman receives no instructions regarding the performance of his duties, either in general or in relation to a specific case.
3. The staff of the ombudsman perform no duties for any administrative authority into whose actions the ombudsman may institute an investigation.
4. The staff of the ombudsman are accountable only to the ombudsman in respect of the duties performed for him.

Section 81u

The ombudsman sends an annual report of his activities to the council.

Section 81v

The ombudsman receives remuneration and an allowance for expenses as determined in a council bye-law.

Division 3. The municipal ombuds committee

Section 81w

1. If the council instructs a municipal ombuds committee to hear petitions it will determine the number of members of the committee.
2. The council appoints the members of the ombuds committee for a term of six years.
3. The council appoints the chair and deputy chair of the ombuds committee from among its members.

Section 81x

1. The ombuds committee sends an annual report of its activities to the council.
2. Sections 81q (3) and (4), 81r, 81s, 81t and 81v apply *mutatis mutandis* to the ombuds committee and to each individual member.

Division 4. The joint ombudsman and the joint ombuds committee

Section 81y

1. For the hearing of petitions the council may establish a joint ombudsman or a joint ombuds committee with the council or councils of one or more other municipalities, with the provincial council or councils of one or more provinces, with the general board of one or more water boards or with the general board of one or more public bodies or joint organs established by joint arrangement.
2. The ombudsman or ombuds committee sends an annual report of its activities to the representative assemblies of the participating legal persons.
3. Sections 81q to 81t, 81v and 81w apply *mutatis mutandis* to the ombudsman and to each individual member of the ombuds committee.

Section 81z

If the council establishes an ombudsman or ombuds committee in accordance with the Joint Arrangements Act, the provisions of that Act concerning joint organs apply only in so far as they are not inconsistent with the nature of the duties entrusted to the ombudsman or the ombuds committee.

Chapter V. The committees

Division 1. Committees

Section 82

1. The council may establish council committees to prepare decisions of the council and consult with the municipal executive or the mayor. In doing so, it will regulate the duties, powers, composition and procedures of the committees, including the manner in which the council members can inspect documents in respect of which a council committee has imposed a duty of secrecy. Such inspection may be refused only in so far as it conflicts with the public interest.
2. Neither the mayor nor the members of the municipal executive may be members of a council committee.
3. When assembling a council committee, the council must arrange, where council members are to be appointed, for a proportionate representation of the groups represented in the council.
4. A council committee is chaired by a council member.
5. Sections 19 and 21 to 23 apply *mutatis mutandis* to the meeting of a council committee, provided always that the term 'mayor' in section 19 is read as meaning 'chair of the council committee' and that in section 23 (5) 'section 5' is read as meaning 'section 86'.

Section 83

1. The council, the municipal executive or the mayor may establish executive committees to exercise the powers assigned to them by the council, the municipal executive or the mayor,

as the case may be. In so doing, they will regulate the duties, powers, composition and procedures of the committee, including the manner in which they can inspect documents in respect of which an executive committee has imposed a duty of secrecy. Such inspection may be refused only in so far as it conflicts with the public interest.

2. Neither the mayor nor the members of the municipal executive may be members of an executive committee established by the council. Council members may not be members of an executive committee established by the municipal executive or the mayor.

3. Sections 139 (2), 140 and 141 apply *mutatis mutandis* to a decision to establish an executive committee.

4. Sections 19 (2), 22 and 23 (1) to (4) apply *mutatis mutandis* to a meeting of an executive committee established by the council, provided always that the term 'the mayor' in section 19, subsection 2 is read as meaning 'the chair of an executive committee'.

5. In so far as necessary in connection with the nature and scope of the powers assigned to an executive committee, the municipal executive or the mayor regulates the public nature of the meetings of an executive committee established by them.

Section 84

1. The council, the municipal executive or the mayor may establish committees other than those referred to in section 82, subsection 1 and section 83, subsection 1.

2. Section 83, subsection 2 applies *mutatis mutandis* to such another committee, with the exception of a committee established to advise on decisions on notices of objection and a committee charged with handling and advising on complaints.

3. The council, the municipal executive or the mayor, as the case may be, regulates the public nature of the meetings of such another committee established by them.

4. Sections 139 (2), 140 and 141 apply *mutatis mutandis* to a decision to establish such another committee.

Section 85

1. The council, municipal executive or mayor arranges for an executive committee established by any of them to account to the council, municipal executive or mayor, as the case may be.
2. The council, municipal executive or mayor may annul both written and non-written decisions by an executive committee established by any of them and intended to have any legal consequence. The council may assign its power of suspension to the municipal executive. Parts 10.2.2 and 10.2.3 of the General Administrative Law Act apply *mutatis mutandis* to the annulment of non-written decisions intended to have any legal consequence.
3. In so far as necessary in connection with the nature and scope of the powers assigned to an executive committee, the council, the municipal executive or the mayor will arrange for the further supervision of the exercise of such powers by an executive committee established by any of them. Such further supervision may include approving the decisions of an executive committee. Approval may be withheld only if a decision would conflict with the law or with the public interest. Part 10.2.1 of the General Administrative Law Act applies *mutatis mutandis* to the approval of decisions other than written decisions.

Section 86

1. A committee may, pursuant to an interest referred to in section 10 of the Government Information (Public Access) Act (Bulletin of Act and Decrees 1991, 703), impose a duty of secrecy concerning matters dealt with at a meeting behind closed doors and concerning the content of documents submitted to the committee. A duty of secrecy concerning matters dealt with at a meeting behind closed doors must be imposed during the meeting in question. Those present at the meeting and all those who have knowledge of the proceedings or the documents must observe the duty of secrecy until such time as it is lifted by the committee.
2. Pursuant to an interest referred to section 10 of the Government Information (Public Access) Act a duty of secrecy may also be imposed by the chair of a committee, the municipal executive or the mayor in respect of such documents as each of them may submit to a committee.. The documents must be marked accordingly. The duty of secrecy must be observed until it is lifted either by the organ which imposed it or by the council.
3. If a committee has raised matters subject to a duty of secrecy with the council, the duty of secrecy must be observed until it is lifted by the council.

Division 2. Districts

Section 87

1. The council, municipal executive and mayor may together establish one or more districts.
2. For a district the council, municipal executive and mayor may jointly establish by means of bye-law a district authority, consisting of a district council and a district executive, to which responsibility for representing a major part of the interests of this district is entrusted, in which case the council wholly or partly assigns to the district council the power to adopt generally binding regulations in respect of that district.
3. In the bye-law the powers of the council in respect of the district may be assigned only to the district council and the powers of the municipal executive in respect of the district may be assigned only to the district executive. Powers of the mayor in respect of a district may be assigned in the bye-law only to the chair of the district executive. The bye-law may provide that the district council may assign the powers granted to it to the district executive.
4. The bye-law may provide that the district executive is competent to assign the exercise of one or more powers assigned to it to one or more members of the district executive to be exercised on behalf and under the responsibility of the district executive, unless this would be inconsistent with the arrangement on which the powers are based.
5. The members of the district council are elected directly by the residents of the district concerned who are entitled to vote in the election of council members.
6. The bye-law regulates the election of the members of the district council as far as possible in accordance with the provisions of the Elections Act for the election of the members of municipal councils. Sections Z 1 to Z 11 of the Elections Act apply *mutatis mutandis* to the election.
7. Sections 139, subsection 2, 140 and 141 apply *mutatis mutandis* to the bye-law.

Section 87a

1. The council, municipal executive or mayor may annul written and non-written decisions intended to have any legal consequence of a district council, district executive or chair of the

district executive. The council may assign its power of suspension to the municipal executive. Parts 10.2.2 and 10.2.3 of the General Administrative Law Act apply *mutatis mutandis* to the annulment of non-written decisions of a district council or district executive intended to have any legal consequence.

2. The bye-law referred to in section 87, subsection 2 contains provisions on the further supervision of the exercise of the powers by a district council or district executive. Such further supervision may include the approval by the municipal council or municipal executive of decisions of a district council or district executive, as the case may be. Approval may be withheld only if a decision would conflict with the law or with the public interest. Part 10.2.1 of the General Administrative Law Act applies *mutatis mutandis* to the approval of decisions other than written decisions.

Section 88

To be eligible for membership of a district council a person must be a resident of the part of the municipality concerned and must also meet the requirements for council membership.

Section 89

1. A district council member may not also be:

- (a) a minister;
- (b) a state secretary;
- (c) a member of the Council of State;
- (d) a member of the Court of Audit;
- (e) National Ombudsman;
- (f) a deputy ombudsman as referred to in section 9, subsection 1 of the National Ombudsman Act;
- (g) a King's Commissioner;
- (h) a member of a provincial executive;

- (i) secretary to a province;
- (j) clerk of a province;
- (k) a member of the audit office of the province in which the municipality where he is a member of the district council is situated;
- (l) a member of the municipal council;
- (m) a mayor;
- (n) a member of the municipal executive;
- (o) a member of the audit office;
- (p) an ombudsman or member of an ombuds committee as referred to in section 81p, subsection 1;
- (q) a member of a district executive;
- (r) a public servant appointed by or on behalf of the municipal authority or subordinate to it.

2. Notwithstanding subsection 1, opening words and (r) a district council member may also be:

- (a) a public servant appointed by or subordinate to the district authority of another district;
- (b) a registrar of births, deaths, marriages and registered partnerships;
- (c) a volunteer or other person who performs emergency services on account of a statutory duty other than in a professional capacity;
- (d) a public servant working for a public-authority school.

3. The bye-law referred to in section 87, subsection 2 may provide that notwithstanding subsection 1, opening words and (q), a district council member may also be a member of the executive of the district concerned during the period which:

- (a) starts on polling day for the election of district council members and ends on the date on which the members of the executive of the district cease to hold office, or
- (b) starts on the date of his appointment as a district executive member and ends on the date on which his successor as district council member makes the oath or affirmation or on which it is established that no successor can be appointed. In that case the bye-law will also provide that he will be deemed to have resigned from the district council from the date on which he accepts his appointment as a member of the district executive and that section X 6 of the Elections Act applies *mutatis mutandis*.

Section 89a

The district council appoints the members of the district executive.

Section 90

1. A member of a district executive may not also be:

- (a) a minister;
- (b) a state secretary;
- (c) a member of the Council of State;
- (d) a member of the Court of Audit;
- (e) National Ombudsman;
- (f) a deputy ombudsman as referred to in section 9, subsection 1 of the National Ombudsman Act;
- (g) a King's Commissioner;
- (h) a member of a provincial executive;
- (i) secretary to a province;

- (j) clerk of a province;
- (k) a member of the audit office of the province in which the municipality where he is a member of a district executive is situated;
- (l) a member of the municipal council;
- (m) a mayor;
- (n) a member of the municipal executive;
- (o) a member of the audit office;
- (p) an ombudsman or member of an ombuds committee as referred to in section 81p, subsection 1;
- (q) a member of a district council;
- (r) a public servant appointed by or on behalf of the municipal authority or subordinate to it.

2. Notwithstanding subsection 1, opening words and (r) a member of a district executive may also be:

- (a) a public servant appointed by or subordinate to the district authority of another district;
- (b) a registrar of births, deaths, marriages and registered partnerships;
- (c) a volunteer or other person who performs emergency services on account of a statutory duty other than in a professional capacity;
- (d) a public servant working for a public-authority school.

3. The bye-law referred to in section 87, subsection 2 may provide that notwithstanding subsection 1, opening words and (q), a member of a district executive may also be a member of the district council of the district concerned during the period which:

- (a) starts on polling day for the election of district council members and ends on the date on which the members of the district executive cease to hold office, or
- (b) starts on the date of his appointment as a district executive member and ends on the date on which his successor as district council member makes the oath or affirmation or on which it is established that no successor can be appointed. In that case the bye-law will also provide that he will be deemed to have resigned from the district council from the date on which he accepts his appointment as a member of the district executive and that section X 6 of the Elections Act applies *mutatis mutandis*.

4. Section 36a applies *mutatis mutandis* to the members of the executive of a district.

Section 91

Sections 12, 14, 15, 41a to 52 and 53a to 60 apply *mutatis mutandis* to a district authority, provided always that in section 15, subsection 1 the term 'municipality' is read as meaning both the municipality and the district and the term 'municipal authority' as meaning both the municipal authority and the district authority.

Section 92

1. A district council publicly announces the date, time and place of its meetings. The agenda and related motions, with the exception of the documents referred to in section 86, subsection 2, are deposited for public inspection at the same time as notice is given and in the manner described in the public announcement.

2. Sections 22, 23, 24 and 86 apply *mutatis mutandis* to a district council.

Section 93 [Repealed on 7 March 2002]

Section 94 [Repealed on 7 March 2002]

Chapter VI. Financial allowances for council and committee members

Section 95

1. Council members and district council members, as well as council members and district council members granted temporary termination of membership in connection with pregnancy and childbirth or illness pursuant to section X 10 of the Elections Act, receive remuneration for their activities and an allowance for expenses as determined in a council bye-law.

2. The council may make a bye-law containing rules concerning the partial or full reimbursement of special expenses and other financial allowances connected with the discharge of the duties of a council member or district council member.

3. Subsections 1 and 2 do not apply to a council member or district council member who is also a member of a municipal executive pursuant to section 13, subsection 2 or district executive under section 89, subsection 3 respectively.

4. The bye-laws referred to in subsections 1 and 2 are made in accordance with rules laid down by or pursuant to order in council.

Section 96

1. The members of a committee established by the council, municipal executive or mayor receive, if they are not members of the council or municipal executive, the following remuneration fixed by council bye-law:

(a) an allowance for attending committee meetings, and

(b) reimbursement of travelling and accommodation expenses for journeys within the municipality.

2. In special cases the council may determine by bye-law that the members of the executive of an executive committee or other committee as referred to in section 84 are to receive fixed remuneration for their activities and an allowance for expenses.

3. Further rules concerning the allowance referred to in subsection 1 (a) will be laid down by or pursuant to order in council. , Further rules may also be laid down by or pursuant to order in council concerning the other remuneration referred to in this section.

Section 97

Council members and the persons referred to in section 96, subsection 1 receive reimbursement of travelling and accommodation expenses incurred in connection with travel outside the boundaries of the municipality to implement a decision of the municipal authority only in accordance with rules adopted by the council in a bye-law.

Section 98

The bye-laws referred to in sections 95 to 97 are sent to the provincial executive.

Section 99

1. The members of the council, of a committee established by the council, municipal executive or mayor, of a district council and of a district executive, receive, in such capacity, no remuneration or allowances from the municipality other than those granted to them by or pursuant to Act of Parliament.

2. They receive benefits payable by the municipality other than in the form of remuneration or allowances only in so far as the council has made provision for this in a bye-law. A bye-law requires the approval of the provincial executive.

Chapter VII. The municipal secretary and municipal clerk

Division 1. General provisions

Section 100

1. Each municipality has a municipal secretary and municipal clerk.

2. A municipal secretary may not also be the municipal clerk.

Section 101

Section 15, subsections 1 and 2 apply *mutatis mutandis* to the municipal secretary and municipal clerk.

Division 2. The municipal secretary

Section 102

The municipal executive appoints the municipal secretary. It may also suspend and dismiss him.

Section 103

1. The municipal secretary assists the municipal executive, the mayor and the committees established by them in the performance of their duties.
2. The municipal executive adopts further rules on the duties and powers of the municipal secretary in a set of instructions.

Section 104

The municipal secretary attends the meetings of the municipal executive.

Section 105 [Repealed on 2 November 2005]

Section 106

1. The municipal executive arranges for deputisation for the municipal secretary.
2. Section 100, subsection 2 to section 105 apply *mutatis mutandis* to the person who deputises for the municipal secretary.

Division 3. The municipal clerk

Section 107

The council appoints the municipal clerk. It may also suspend and dismiss him.

Section 107a

1. The municipal clerk assists the council and the committees established by it in the performance of their duties.
2. The council adopts further rules on the duties and powers of the municipal clerk in a set of instructions.

Section 107b

The municipal clerk attends the meetings of the council.

Section 107c [Repealed on 2 November 2005]

Section 107d

1. The council arranges for deputisation for the municipal clerk.
2. Sections 100 (2), 101 and 107 to 107c apply *mutatis mutandis* to the person who deputises for the municipal clerk.

Section 107e

1. The council may adopt rules governing the organisation of the municipal clerk's office.
2. The council may appoint, suspend and dismiss public servants employed in the municipal clerk's office.

Title III. Powers of the municipal authority

Chapter VIII. General provisions

§ 1. Introductory provisions

Section 108

1. The power to regulate and administer the internal affairs of the municipality is vested in the municipal authority.
2. A municipal authority may be required to regulate and administer these internal affairs by or pursuant to an Act of Parliament other than the present Act in order to ensure its implementation, provided always that directions may be issued to the municipal authority and decisions may be imposed on the municipal authority or adopted in its stead only if the power to do so has been granted by Act of Parliament or by provincial ordinance pursuant to an Act of Parliament.

3. Without prejudice to the provisions of sections 110 (5), 119 (4) and 120 (2), central government will reimburse such of the costs incurred in implementing subsection 2 as are borne by the municipality.

Section 109

If necessary, a distinction may be made between municipalities by or pursuant to Act of Parliament.

Section 110

1. In this section:

- (a) plan means a decision containing a coherent set of mutually coordinated options regarding orders or decisions to be made by the municipal authority or other acts to be performed in order to achieve one or more objectives;
- (b) policy report means a written report on the policies pursued by the municipal authority in one or more policy areas or parts thereof and the connections within or between them.

2. A municipal authority may be required by central government to adopt a plan or policy report and, for the purposes of its preparation, to follow a given procedure only in the cases prescribed by Act of Parliament.

3. An obligation as referred to in subsection 2 applies for a maximum term of four years, unless provided otherwise by Act of Parliament.

4. A municipal authority may be required by central government to adopt a plan or policy report and, for the purposes of its preparation, to follow a given procedure in cases other than those prescribed by Act of Parliament for a maximum term of four years as part of the regulation of a temporary specific-purpose grant as referred to in section 17 of the Grants to Local Government Act.

5. A municipal authority may not be required or requested to adopt a plan or policy report or, for the purposes of its preparation, to follow a given procedure until it has been shown how compensation will be made for the financial consequences for the municipality.

6. This section does not apply to the budget referred to in section 190 or to the annual accounts and annual report referred to in section 197.

Section 111

1. A municipal authority may be required to adopt a plan or policy report as referred to in section 110 and, for the purposes of its preparation, to follow a given procedure only if:

- (a) this is necessary in order to coordinate municipal policy with the policy of the relevant province or of central government;
- (b) the development of policy in a new policy area makes this necessary.

2. A municipal authority will not be required to adopt a plan or policy report as referred to in section 110 or, for the purposes of its preparation, to follow a given procedure if:

- (a) this would impose intolerable constraints on the municipal authority's discretion to pursue its substantive or financial policy;
- (b) the administrative costs are not in reasonable proportion to the expected benefits or make substantial inroads on the resources available for the policy area concerned;
- (c) integration with an existing plan or policy report or with the budget referred to in section 190, or the annual accounts and the annual report referred to in section 197, would be possible;
- (d) it would as a result become impossible to promote a coherent approach to municipal policy through the coordination of its various parts;
- (e) the sole intention is to obtain information.

3. If the provisions laid down by or pursuant to section 110 and this section are derogated from in a bill introducing or amending provisions requiring the adoption of a plan or a policy report as referred to in section 110 and, for the purposes of its preparation, the following of a given procedure, the reasons for such derogation must be stated in the explanatory memorandum to the bill.

§ 2. Relationship with the province and central government

Section 112

Our Minister concerned and the provincial authority inform the council, on request, of their positions and intentions regarding matters of importance to the municipality, unless this would not be in the public interest.

Section 113

Our Minister concerned and the provincial authority give the council the opportunity, on request, to consult on matters of importance to the municipality, unless this would not be in the public interest.

Section 114

1. Our Minister concerned or the provincial authority, as the case may be, gives the municipal executives concerned – or a body which can be deemed representative of them – the opportunity, if necessary within a specified time limit, to give their views on bills, draft orders in council, draft ministerial orders or draft provincial ordinances if they:

- (a) require regulation or administration on the part of the municipal authorities, or
- (b) change the functions and powers of the municipal authorities to a significant extent.

2. Bills as referred to in subsection 1 must include in their explanatory memorandum an account of how they will affect the organisation and operation of the municipalities and an account of the views given as referred to in subsection 1 by the municipal executives concerned or by a representative body.

3. Our Minister concerned or the provincial authority, as the case may be, is not obliged to invite the views referred to in subsection 1 in advance if this is not possible for reasons of urgency. In such a case the views will be invited and made public as quickly as possible.

Section 115

1. Legislation that requires regulation or administration on the part of municipal authorities or changes the functions and powers of the municipal authorities to a significant extent may not derogate from the provisions of this Act unless this must be considered a particularly appropriate way of serving the relevant public interest..
2. The grounds for the proposed derogation must be stated in the explanatory memorandum accompanying the draft legislation referred to in subsection 1.

Section 116

1. Our Minister is charged with coordinating central government policy affecting municipalities. He also promotes the policymaking discretion of the municipal authorities.
2. Our Ministers under whose responsibility measures and intentions of relevance to central government policy on municipalities are implemented must consult with Our Minister about such measures and intentions at an early stage.
3. Our Minister must raise any reservations he may have about a measure or intention in so far as he considers such measure or intention to be incompatible with the decentralisation policy pursued by the government.

Section 117

1. Our Minister promotes decentralisation for the benefit of the municipalities.
2. Proposals for measures that treat certain matters as part of central government or provincial policy may be made only if the matter in question cannot be dealt with efficiently and effectively by the municipal authorities.

Section 118

On request, the municipal executive must provide Our Ministers and the provincial authority with information and advice about everything concerning the municipality, unless the mayor is expressly requested to do so.

Section 119

1. The cases in which the municipal executive is required systematically to furnish information to Our Ministers concerned are regulated by Act of Parliament or by order in council made pursuant to an Act of Parliament. Provision may be made in this connection for further regulations applying the Act of Parliament or order in council to be laid down by ministerial order.

2. Following consultation with Our Minister, provision may be made in an order in council on the recommendation of Our Minister of Economic Affairs for data described in the order concerned to be furnished to Statistics Netherlands for statistical purposes.

3. Further general rules will be laid down by order in council concerning the furnishing and gathering of information as referred to in subsections 1 and 2.

4. How compensation will be provided to offset the financial consequences of the obligation to furnish and gather the information referred to in subsections 1 and 2 and the duty to furnish and gather incidental information will be regulated by order in council, in so far as this is not done by Act of Parliament.

5. The proposals for the orders in council referred to in subsections 3 and 4 will be made by Our Minister.

Section 120

1. The cases in which the municipal executive is obliged systematically to furnish information to the provincial authority are regulated by Act of Parliament or by order in council or provincial ordinance pursuant to an Act of Parliament. Provision may be made in this connection for further regulations concerning the application of the Act, the order in council or the provincial ordinance to be laid down by ministerial order or by order of the provincial executive.

2. The legislation referred to in the first sentence of subsection 1 must also indicate how compensation will be provided for the financial consequences for the municipality of furnishing the information.

3. The provincial authority notifies Our Minister of the systematic gathering of information pursuant to a provincial ordinance.

Section 121

The power to make municipal bye-laws continues to exist in respect of subjects covered by Acts of Parliament, orders in council or provincial ordinances in so far as the bye-laws will not conflict with such Acts of Parliament, orders in council or provincial ordinances.

Section 122

The provisions of municipal bye-laws on subjects covered by an Act of Parliament, order in council or provincial ordinance cease to have effect by operation of law.

§ 3. Special provisions

Section 123

1. Where powers of the council have been assigned to an executive committee or a district council and such committee or district council fails to make a decision required of it by or pursuant to another Act of Parliament or fails to do so properly, the council will do so in its stead.
2. Where powers of the municipal executive have been assigned to an executive committee or a district executive and such committee or executive fails to make a decision required of it by or pursuant to another Act of Parliament or fails to do so properly, the municipal executive will do so in its stead.
3. Where powers of the mayor have been assigned to an executive committee or the chair of a district executive and such committee or chair fails to make a decision required of it or him by or pursuant to another Act of Parliament or fails to do so properly, the mayor will do so in its or his stead.

Section 124

1. Where the council, municipal executive or mayor fails to make a decision required by or pursuant to another Act of Parliament or fails to do so properly, fails to perform or properly perform an act required by pursuant to another Act of Parliament, fails to achieve a result required by or pursuant to another Act of Parliament or fails to achieve it properly or in time, the provincial executive or, in the case of the mayor, the King's Commissioner must take a decision to intervene and take whatever action is required in the name of the council, municipal executive or mayor at the expense of the municipality.

2. Other than where speed is of the essence, the provincial executive or the King's Commissioner will not implement the decision to intervene until after a time limit specified in the decision has expired, within which the council, municipal executive or mayor will have a further opportunity to do what is required by the decision. If the situation is so urgent that the provincial executive or the King's Commissioner is unable to record in advance in writing the decision to intervene, it will arrange as quickly as possible thereafter for the decision to be put in writing and made public.

3. If the decision to intervene concerns a result which is required by or pursuant to another Act of Parliament and will not be achieved in time, the provincial executive or the King's Commissioner will state in the decision what decisions, acts or results must be implemented within the time limit referred to in subsection 2. The provincial executive or the King's Commissioner may set different time limits for different decisions, acts or results. If the council, municipal executive or mayor, as the case may be, fails to do what is required by the intervention decision within this period, the provincial executive or the King's Commissioner will intervene and take whatever action is needed to achieve the desired result.

4. Notice of a decision to intervene and of an intention to make such a decision must be given in a newspaper or free sheet or in some other suitable way. A copy of the decision and of the intention is sent to the council.

Section 124a

1. In agreement with Our Minister, Our Minister concerned may, if he considers that section 124, subsection 1 should be applied on account of a compelling public interest, request the provincial executive or the King's Commissioner, as the case may be, to apply section 124, subsection 1. A copy of the request is sent to the council and the provincial council. If the provincial executive or the King's Commissioner, as the case may be, has not applied section 124, subsection 1 within a time limit specified by Our Minister concerned, the power conferred by section 124, subsection 1 passes to Our Minister concerned.

2. Sections 124 (2) to (4), 124c, 124d and 124f apply *mutatis mutandis* in the event of application of section 124, subsection 1 by Our Minister concerned.

Section 124b

1. In the case of the Acts of Parliament listed in the schedule to this Act, the powers granted to the provincial executive or the King's Commissioner, as the case may be, in sections 124, 124c, 124d and 124f will be exercised by Our Minister concerned in derogation from the provisions of such sections.

2. Before deciding to intervene, Our Minister concerned will inform the provincial executive.

Section 124c

1. When implementing a decision to intervene, the provincial executive or the King's Commissioner, as the case may be, has the powers possessed by the council, municipal executive or mayor by or pursuant to this Act or the other Act of Parliament referred to in section 124, subsection 1. Notwithstanding section 171, subsection 1 the King's Commissioner, if necessary, represents the municipality both at law and otherwise.

2. In so far as the municipal authority could have charged the costs of exercising the powers referred to in subsection 1 to third parties if it had exercised them itself, it may recover from such third parties costs charged to it by the provincial executive or the King's Commissioner, as the case may be. The municipal authority may collect the amount by service of a distress warrant.

Section 124d

The provincial executive or the King's Commissioner, as the case may be, may revoke a decision to intervene if the council, municipal executive or mayor shows satisfactorily that they will do what is required of them in the decision without reservation.

Section 124e

The provincial executive, the King's Commissioner or Our Minister concerned, as referred to in section 124b, subsection 1 may designate public servants to supervise the performance of duties entrusted to the municipal authority by or pursuant to an Act of Parliament other than the present Act. These public servants possess the powers conferred by sections 5:15 to 5:17 of the General Administrative Law Act. Sections 5:12, 5:13 and 5:20 of the General Administrative Law Act apply *mutatis mutandis*.

Section 124f

1. If the provincial executive or the King's Commissioner, as the case may be, makes a decision or an order on behalf of the council, municipal executive or mayor when implementing a decision to intervene, an objection may be lodged with the provincial executive or the King's Commissioner, as the case may be, for the purposes of section 7:1 of the General Administrative Law Act. The decision on the objection is made by the provincial executive or the King's Commissioner, as the case may be.

2. The provincial executive or the King's Commissioner, as the case may be, is the defendant in the event of an application for judicial review of a decision as referred to in subsection 1 made on behalf of the council, municipal executive or mayor.

3. The municipal authority may not apply for judicial review of a decision as referred to in subsection 1.

Section 124g

1. The municipal authority cooperates in the implementation of a decision to intervene. The provincial executive, the King's Commissioner or, as the case may be, Our Minister concerned may issue directions concerning the implementation of such a decision. As soon as requested by the provincial executive or the King's Commissioner, as the case may be, the municipal authority will make available the public servants needed for implementation of the decision and furnish all information necessary to implement the decision to intervene.

2. The provincial executive, the King's Commissioner or, as the case may be, Our Minister concerned may designate public servants who, for the purposes of implementing a decision to intervene, have the powers conferred by sections 5:15 to 5:17 of the General Administrative Law Act. Sections 5:12, 5:13 and 5:20 of the General Administrative Law Act apply *mutatis mutandis*. On request, the municipal authority must provide the designated public servants with the facilities they need.

Section 124h

Rules may be laid down by order in council, on the recommendation of Our Minister, concerning the systematic provision of information to the provincial authority or, where section 124b, subsection 1 is applicable, Our Minister concerned, regarding the implementation by the municipal authority of the other Act of Parliament referred to in section

124, subsection 1. Further rules concerning the applicability may be laid down by ministerial order or provincial ordinance.

Section 124i [Repealed on 1 January 2013]

§ 4. Administrative enforcement action

Section 125

1. The municipal authority may impose an order enforceable by remedial action.
2. The power to impose an order enforceable by remedial action is exercised by the municipal executive if the order serves to enforce rules administered by the municipal authority.
3. The power to impose an order enforceable by remedial action is exercised by the mayor if the order serves to enforce rules administered by him.
4. An executive committee, district council, district executive or chair of a district executive to which or to whom the powers of the council, municipal executive or mayor have been assigned may impose an order enforceable by remedial action and grant leave for entry into a dwelling only if this power too has been expressly assigned.

Section 126 [Repealed on 1 January 1998]

Section 127 [Repealed on 1 January 1998]

Section 128 [Repealed on 1 January 1998]

Section 129 [Repealed on 1 January 1998]

Section 130 [Repealed on 1 January 1998]

Section 131 [Repealed on 1 January 1998]

Section 132 [Repealed on 1 January 1998]

Section 133 [Repealed on 1 January 1998]

Section 134 [Repealed on 1 January 1998]

Section 135 [Repealed on 1 October 2012]

Section 136 [Repealed on 1 January 1998]

Section 137 [Repealed on 1 January 1998]

Section 138 [Repealed on 1 December 1998]

§ 5. Publication and entry into force of orders containing generally binding regulations

Section 139

1. Orders of the municipal authority containing generally binding regulations are not binding until they have been published.
2. Publication takes place:
 - (a) either in a municipal gazette published in such a way as to be generally accessible;
 - (b) or, in the absence of a municipal gazette, by deposit for public inspection for a period of twelve weeks at the offices of the municipality or at such other place as may be determined by the municipal executive and by the announcement of such deposit in a local newspaper or free sheet.
3. The municipal gazette may be published on line. After publication the municipal gazette must remain generally accessible on line. If on-line publication is wholly or partly impossible, the municipal authority must arrange for publication in some other form. Further rules are to be laid down concerning the provisions of the first and second sentences by or pursuant to order in council.
4. No costs may be charged for inspecting a decision published in the manner referred to in subsection 2.
5. When an order that requires approval is published, either the date of the decision granting approval is also stated or notice is given of the fact that under section 10:31, subsection 4 of

the General Administrative Law Act a decision granting approval is deemed to have been made.

Section 140

1. The texts of orders of the municipal authority containing generally binding regulations are made available to all in consolidated form by means of a generally accessible on-line medium designated by order in council.
2. The consolidated text of an order which has been made available pursuant to subsection 1 must remain available if the order is subsequently amended or revoked.
3. Our Minister may lay down rules governing the manner in which the texts referred to in subsection 1 are made available.
4. Categories of orders to which subsection 1 is not applicable may be designated by or pursuant to order in council.

Section 141

Any person may, on request, obtain a printed copy of orders of the municipal authority containing generally binding regulations. The copy must be provided at no more than cost price.

Section 142

Published orders enter into force on the eighth day after that of publication, unless another date has been specified in such orders.

Section 143

Where infringement of an order as referred to in section 139 carries a penalty, notice of the order will be given, after publication, to the public prosecutor's office of the court district in which the municipality is situated.

Section 144

The provisions of sections 139, 142 and 143 apply *mutatis mutandis* to the revocation of orders containing generally binding regulations, provided always that notice to the public prosecutor's office is given within one week.

§ 6. Time limits

Section 145

Sections 1 to 4 of the General Extension of Time Limits Act apply *mutatis mutandis* to time limits set in a municipal bye-law, unless provided otherwise in the bye-law.

Section 146 [Repealed on 1 January 1994]

Chapter IX. Powers of the council

Section 147

1. Municipal bye-laws are adopted by the council in so far as the power of adoption has not been granted to the municipal executive or the mayor by Act of Parliament or by the council pursuant to Act of Parliament.
2. The other powers referred to in section 108, subsection 1 are vested in the council.
3. The other powers referred to in section 108, subsection 2 are vested in the municipal executive, in so far as they have not been granted to the council or the mayor by or pursuant to Act of Parliament.

Section 147a

1. A council member may submit a motion for a bye-law or some other motion to be considered in the council.
2. The council regulates how a motion for a bye-law should be submitted and dealt with.
3. The council regulates how and on what conditions other motions are submitted and dealt with.

Section 147b

1. A council member may submit a motion to amend a draft bye-law or draft decision that has been put on the agenda of a council meeting.

2. Section 147a, subsection 2 applies *mutatis mutandis*.

Section 148 [Repealed on 7 March 2002]

Section 149

The council makes the bye-laws that it considers necessary in the interests of the municipality.

Section 149a

The council may grant the power in a bye-law to enter a dwelling without the occupant's permission if the supervision of compliance with, or the detection of a breach of, a regulation of a bye-law relating to the maintenance of public order or safety or to the protection of people's lives or health requires that the persons charged with supervision of compliance or detection to be so authorised.

Section 150

1. The council adopts a bye-law containing rules covering the manner in which residents and interested parties are involved in the preparation of municipal policy.

2. The public participation referred to in subsection 1 is granted by application of part 3.4 of the General Administrative Law Act, in so far as not provided otherwise in the bye-law.

Section 151 [Repealed on 7 March 2002]

Section 151a

1. The council may adopt a bye-law containing regulations governing the provision on a commercial basis of the opportunity to perform sexual acts with or for a third party in exchange for payment.

2. To facilitate monitoring of compliance with the regulations referred to in subsection 1, the obligation referred to in section 2 of the Compulsory Identification Act also applies to

persons who are not yet fourteen years old. This is the obligation to produce proof of identity as referred to in section 1 (1°) to (3°) of that Act.

3. Subsection 2 applies *mutatis mutandis* to the monitoring of compliance with municipal regulations governing acts, attitude, speech, gestures or other conduct designed to induce, entice or solicit passers-by to engage with prostitutes.

Section 151b

1. In a bye-law the council may grant the mayor the power to designate an area, including buildings open to the public (and their grounds) situated therein, as a security risk area in the event of a public order disturbance caused by the presence of weapons, or if there is a serious fear of such a disturbance occurring. In a security risk area a public prosecutor may exercise the powers referred to in sections 50 (3), 51 (3) and 52 (3) of the Firearms, Ammunition and Offensive Weapons Act.

2. The mayor may not designate a security risk area without first consulting with the public prosecutor in the consultations referred to in section 13, subsection 1 of the Police Act 2012.

3. The designation of a security risk area is of limited duration that is no longer and covers a geographical area that is no greater than strictly necessary for the maintenance of public order.

4. The decision to designate a security risk area must be recorded in writing and contain both a description of the area to which it applies and its period of validity. If the situation is so urgent that the mayor is unable to record the decision in writing in advance, he must record the decision in writing and make it public as quickly as possible.

5. The mayor must notify the council and the public prosecutor referred to in subsection 2 of the designation of a security risk area as quickly as possible.

6. The mayor must revoke the designation of the security risk area as soon as the public order disturbance caused by the presence of weapons or the serious fear of such a disturbance occurring as referred to in subsection 1 has abated. Subsection 5 applies *mutatis mutandis*.

Section 151c

1. In a bye-law the council may grant the mayor the power to decide, where necessary for the maintenance of public order, to install fixed surveillance cameras for a given period in order to monitor a public place as referred to in section 1 of the Public Assemblies Act and other places designated by bye-law and accessible to the general public. The mayor decides for how long the cameras will be installed and designates the public place or places, subject to the relevant provisions of the bye-law.
2. After consulting with the public prosecutor in the consultations referred to in section 13, subsection 1 of the Police Act 2012, the mayor determines for how long the surveillance cameras will actually be used in the interests of maintaining public order and for how long the images obtained from the cameras will in any event be viewed live.
3. In implementing the decision referred to in subsection 1 the mayor will use the police under his authority.
4. The presence of surveillance cameras as referred to in subsection 1 must be made clearly apparent to any person entering the relevant public place.
5. The surveillance cameras may be used only to make images of a public place as referred to in section 1 of the Public Assemblies Act and other places designated by bye-law and accessible to the general public.
6. The images made using the surveillance cameras may be recorded in the interests of maintaining public order.
7. The processing of the data referred to in subsection 6 constitutes processing within the meaning of the Police Data Act, provided always that, notwithstanding the provisions of section 8 of that Act, the recorded images will be destroyed after not more than four weeks and that the data referred to in subsection 6 may be processed for the purposes of a criminal investigation if there are specific grounds for believing that the data are necessary for the investigation of the offence in question.
8. To ensure the proper performance of the monitoring referred to in subsection 1, rules may be laid down by or pursuant to order in council concerning:

- (a) the fixed surveillance cameras and other technical devices needed for the monitoring referred to in subsection 1 and the manner in which these devices are installed;
- (b) the persons charged with or otherwise directly involved in performing the monitoring; and
- (c) the places in which the viewing or processing of the images recorded by the monitoring system takes place.

Section 152 [Repealed on 7 March 2002]

Section 153 [Repealed on 7 March 2002]

Section 154

1. A council may set penalties for infringement of its bye-laws and the bye-laws of organs to which the power to make bye-laws has been delegated pursuant to section 156, provided that the penalties may not differ from or exceed detention for a term not exceeding three months or a second-category fine, whether or not combined with publication of the court judgment.

2. Sections 181 and 182 of the Road Traffic Act 1994 apply *mutatis mutandis* to an infringement of regulations relating to parking or leaving motor vehicles in parking areas or sections of road as referred to in section 225 which has been made punishable pursuant to subsection 1.

3. The offences referred to in subsection 1 are summary offences.

Section 154a

1. The council may grant the mayor the power by bye-law to have groups of persons designated by the mayor temporarily detained at a place specified by him. If necessary, this detention may include their transport to that place.

2. The mayor may exercise the power referred to in subsection 1 only:

- (a) in relation to persons who, as a group, do not comply with a specific regulation which has been adopted and designated by the council for this purpose by bye-law and is

intended to maintain public order or mitigate danger in circumstances as referred to in section 175, and

(b) if the detention is necessary in order to prevent a continuation or repetition of the non-compliance, and there is no other suitable way in which compliance can reasonably be guaranteed.

3. The decision to detain must be recorded in writing. Such a written decision is classified as an individual decision. If the situation is of such urgency that the mayor is unable to put the decision to detain in writing beforehand, he must arrange for it to be put in writing and published as quickly as possible thereafter.

4. The decision must state what regulation is being breached.

5. The mayor will not proceed to detention as referred to in subsection 1 until after the persons in the group referred to in subsection 1 have been given the opportunity to prevent enforcement of the decision to detain by complying after all with the regulation referred to in subsection 4.

6. The mayor must ensure that a report of findings concerning the enforcement of the detention is drawn up as quickly as possible.

7. The detention may not last longer than is necessary to prevent continuation or repetition of non-compliance, subject to a maximum of twelve hours.

8. The place of detention must be suitable for the reception of the persons to be detained. Further rules on this subject may be laid down by order in council.

9. The mayor must ensure as far as possible that the detained persons are given the opportunity, as proof of their detention, to have their personal data recorded by a public servant designated by him for this purpose.

10. If an application for interim relief as referred to in section 8:81 of the General Administrative Law Act is made against the decision to detain:

- (a) the applicant who has been detained must, notwithstanding section 8:83, subsection 1 of the General Administrative Law Act, be heard by the interim relief judge, if possible while still in detention;
- (b) the interim relief judge must, notwithstanding section 8:84, subsection 1 of the General Administrative Law Act, give judgment immediately after hearing the parties, and
- (c) no court fee will be charged, notwithstanding section 8:82, subsection 1 of the General Administrative Law Act.

11. When considering the application, the interim relief judge will also take into account whether enforcement of the decision to detain was lawful in relation to the applicant.

12. If the interim relief judge grants one or more applications on the ground that the decision to detain is, in his provisional view, unlawful, he may direct that all persons who have been detained on the basis of the decision concerned are to be released immediately.

13. Subsection 11 applies *mutatis mutandis* to assessment of an application for judicial review of the decision to detain, as referred to in section 8:1 of the General Administrative Law Act.

Section 154b

1. The council may direct in a bye-law that an administrative fine may be imposed for infringement of:

- (a) regulations from its bye-laws concerning acts which can cause nuisance in public places and have also been made punishable offences pursuant to section 154, with the exception of regulations determined by order in council, and
- (b) the regulations determined by order in council which have been adopted in a bye-law pursuant to section 10.23 of the Environmental Management Act and have been made punishable offences.

The recommendation for an order in council to be adopted pursuant to this subsection will not be made until four weeks after submission of the draft to both houses of the States General.

2. The bye-law referred to in subsection 1 applies to all infringements referred to in subsection 1.
3. A decision by the council to revoke the bye-law referred to in subsection 1 does not take effect until twelve months after publication of the decision.
4. The power to impose an administrative fine is exercised by the municipal executive. This power is exercised by the mayor if the application of the fine serves to enforce rules administered by him.
5. The resources and procedures used by the police and the employees referred to in section 154c, subsection 2 in tackling nuisance in public areas are coordinated in the consultations referred to in section 13, subsection 1 of the Police Act 2012.
6. The various categories and amounts of administrative fines are determined by order in council. In so far as the category and amount of the fine for a regulation have not been determined by order in council, the council will set them in the bye-law referred to in subsection 1. An administrative fine may not exceed the amount of the first category fine per occurrence for natural persons or EUR 2,250 per occurrence for legal persons.
7. An administrative fine may be imposed only on persons aged twelve years or over at the time of the infringement. The amount of the administrative fine is halved for persons who have not reached the age of sixteen at the time of the infringement.

Section 154c

1. The administrative authority or the employee referred to in subsection 2 must, if possible, draw up a report of the infringement immediately after discovering it and issue a copy of the report to the offender.
2. Only an employee of the administrative authority who is also a special enforcement officer may be authorised to draw up a report. Further requirements to be met by the employee may be laid down by order in council.
3. Without prejudice to section 5:48, subsection 2 of the General Administrative Law Act, the report specifies the administrative authority which is to impose the administrative fine.

Section 154d

Section 5:53 of the General Administrative Law Act does not apply to an administrative fine as referred to in section 154b, subsection 1.

Section 154e

The decision to impose an administrative fine is sent to the address given by the offender. If it proves impossible to deliver the decision to this address it will be sent to the last address noted in the personal records database, unless this is the same as the address given by the offender. If it proves impossible to deliver the decision at the address in the personal records database, the decision is deemed to be known to the offender.

Section 154f [Repealed on 23 February 2011]

Section 154g [Repealed on 1 July 2009]

Section 154h [Repealed on 1 July 2009]

Section 154i [Repealed on 1 July 2009]

Section 154j [Repealed on 1 July 2009]

Section 154k

1. An interested party may apply to the district court for judicial review of a decision to impose an administrative fine as referred to in section 154b, subsection 1. The application for review is heard and decided upon by the limited jurisdiction sector of the district court. Chapter 8 of the General Administrative Law Act does not apply.

2. Sections 6 (2), 10 and 12 to 20d of the Traffic Regulations (Administrative Enforcement) Act apply *mutatis mutandis*, provided always that the words 'public prosecutor' are read as meaning 'the mayor or the municipal executive'.

Section 154l

An administrative fine must be paid to the administrative authority within six weeks of the date on which it becomes final and unappealable.

Section 154m

1. Collection of administrative fines will take place by the application *mutatis mutandis* of the statutory provisions on the collection of municipal taxes.

2. Notwithstanding subsection 1:

(a) no remission on the grounds of inability to pay can take place; and

(b) the power to collect the sum will become barred by lapse of time two years after the administrative fine becomes final and unappealable.

Section 154n

1. An application for judicial review will be heard within six weeks of the date on which the applicant has provided security for the payment of the sanction, equal to the amount of the administrative fine imposed, or after the time limit for this has expired.

2. If the administrative authority has wholly or partly acceded to the wishes of the applicant the time limit referred to in subsection 1 may, if necessary, be extended for four weeks.

3. The security is provided by the applicant to the administrative authority that imposed the administrative fine, either by means of a giro collection form sent to the person concerned or by payment into the administrative authority's account. After receiving the application for judicial review, the registry of the district court informs the applicant of the obligation to provide security and that this should be provided within two weeks of the day of its notice. If security is not provided within this time limit, the application for judicial review will be declared inadmissible by the limited jurisdiction judge, unless there are no reasonable grounds for assuming that the applicant is in default.

4. The obligation to provide security lapses once a decision has been made on the administrative fine that is final and unappealable.

5. If the decision referred to in subsection 4 means that the administrative fine is wholly or partly upheld, the amount owed is deducted from the security.

Section 155

1. A council member or the mayor may put questions orally or in writing.
2. A council member may request the council for leave to put a question about a subject not mentioned on the agenda referred to in section 19, subsection 2, in order to obtain information about this subject from the municipal executive or the mayor. The council may adopt further rules about this.

Section 155a

1. The council may, at the suggestion of one or more of its members, institute an inquiry into the management of municipal affairs by the municipal executive or the mayor.
2. The decision to institute an inquiry will include a description of the subject of the inquiry and explanatory notes. This description may be altered by the council pending the inquiry.
3. The inquiry must be conducted out by a committee of inquiry established by the council. The committee must have at least three members and consist solely of council members.
4. Sections 22, 82 (3) and 86 (1) apply *mutatis mutandis* to a committee of inquiry.
5. The committee of inquiry may exercise the powers granted by this Act only if at least three of its members are present.
6. The powers and activities of a committee of inquiry are not suspended by the resignation of the council.
7. Sections 139 (2), 140 and 141 apply *mutatis mutandis* to the decision to institute an inquiry and establish a committee of inquiry as well as to the decision to alter the description of the subject of an inquiry.
8. Before the council decides to institute an inquiry, it must adopt by bye-law further rules concerning such inquiries. These will in any event include rules on the manner in which official assistance is provided to the committee.

Section 155b

1. Members and former members of the council, the mayor and former mayors, members and former members of the municipal executive, members and former members of the audit office established by the council or the district council, persons who perform the audit office function, members and former members of the district council, members and former members of the district executive, members and former members of a committee established by the council, municipal executive or mayor, public servants and former public servants appointed by or on behalf of the municipal authority or subordinate to it are obliged to comply with a demand from the committee of inquiry to allow all documents in their possession to be inspected, copied or otherwise examined where this is reasonably considered to be necessary by the committee of inquiry for the purposes of the inquiry referred to in section 155a.

2. If a demand as referred to in subsection 1 relates to documents originating from an institution of the European Union or the central government and examination of these documents by the committee of inquiry could harm the interests of the European Union or the State, the demand may be complied with only with the consent of Our Minister.

3. Municipal officers appointed by or on behalf of the municipal authority or subordinate to it are obliged to render an inquiry as referred to in section 155a all the assistance requested by the committee of inquiry.

Section 155c

1. The persons referred to in section 155b, subsection 1 are obliged to comply with a summons from the committee of inquiry to appear as a witness or an expert.

2. A witness or expert who is heard by the committee of inquiry may not also be a member of the committee of inquiry.

3. Witnesses are obliged to testify.

4. Experts are obliged to provide their services impartially and to the best of their knowledge in that capacity.

5. The committee of inquiry may decide that witnesses are to be heard only after they have made an oath or affirmation. In such cases they must swear or affirm at a session of the

committee of inquiry, in the presence of the chair, that they will tell the whole truth and nothing but the truth.

6. The witnesses and experts are heard in a public session of the committee of inquiry. The place and time of the public session must be publicly announced in good time by the chair.

7. The committee of inquiry may, where there is serious cause, decide to conduct a hearing or part of a hearing in private. The members and deputy members of the committee must observe secrecy about matters that come to their attention during a closed session.

8. A witness is entitled to representation during a hearing. Where there is serious cause, the committee may decide that the witness must be heard without representation.

9. Statements made before the committee of inquiry cannot serve as evidence in law, except in the case referred to in article 207, paragraph 1 of the Criminal Code.

Section 155d

1. Witnesses and experts are summoned in writing. The letter containing the summons is sent by registered post or recorded delivery.

2. The committee of inquiry may direct that witnesses and experts who have not appeared, despite having been summoned in accordance with subsection 1, are to be brought before it by the justice authorities in order to fulfil their obligation. The committee of inquiry must give the witness or expert notice of this in writing in the manner referred to in subsection 1. The decision specifies a time limit within which the party concerned can prevent enforcement by discharging his obligation after all.

Section 155e

1. No one can be compelled to disclose confidential information to a committee of inquiry where this would cause disproportionate harm to the practice of his profession or to his business or the business where he is or has been employed.

2. Persons who are bound by a duty of secrecy by virtue of their office, profession or employment may decline to give evidence, but only in relation to matters which have come to

their attention in that capacity. They may decline to allow inspection, copying or other forms of examination of documents or parts thereof which are covered by their duty of secrecy.

3. The mayor and former mayors, members and former members of the municipal executive, members and former members of the district executive, members and former members of a committee established by the municipal executive or the mayor, public servants and former public servants appointed by or on behalf of the municipal executive or subordinate to it are not obliged to comply with section 155b, subsections 1 and 3 and section 155c, subsection 3 if furnishing the information would conflict with the public interest.

4. The committee of inquiry may request that a claim of conflict with the public interest as referred to in subsection 3 be confirmed by the municipal executive or, where the information relates to the mayor's management of affairs, by the mayor.

Section 155f

The municipal executive includes in the draft budget the costs of an inquiry in a given year as estimated by the council.

Section 156

1. The council may assign powers to the municipal executive, an executive committee established by it or a district council, unless this would be inconsistent with the nature of the power concerned.

2. The council may in any event not assign the power:

- (a) to establish an audit office as referred to in section 81a, or to adopt rules by bye-law for the exercise of the audit office function as referred to in section 81oa;
- (b) to institute an inquiry as referred to in section 155a, subsection 1;
- (c) to adopt or amend the budget referred to in section 189;
- (d) to adopt the annual accounts referred to in section 198;
- (e) to set a penalty for an infringement of municipal bye-laws;

- (f) to adopt bye-laws as referred to in sections 212 (1), 213 (1) and 213a (1);
- (g) to designate one or more auditors as referred to in section 213, subsection 2;
- (h) to levy taxes other than the taxes referred to in section 225, encroachment licence fees, the sewerage charges referred to in section 228a, the duties referred to in section 229, duties levied under Acts of Parliament other than this Act and the levy referred to in section 15.33 of the Environmental Management Act.

3. The power to adopt bye-laws and enforce them by setting penalties or taking administrative enforcement action may be assigned by the council only in relation to the adoption of further rules relating to certain matters designated by it in its bye-laws.

4. Sections 139 (2), 140 and 141 apply, *mutatis mutandis*, to a decision made pursuant to subsection 1.

5. Subsection 2, opening words and (a), (e) and (f) and subsection 3 do not apply to the assignment of powers to a district council.

Section 157

1. The regulations relating to the powers of the council and to their exercise and supervision apply *mutatis mutandis* to the powers assigned pursuant to section 156.

2. The regulations concerning meetings are not included in those referred to in subsection 1.

Section 158

1. The council may change the name of the municipality.

2. The council's decision will be brought to the attention of Our Minister and the provincial authority.

3. The decision will state the date on which it is to take effect, which is to be no less than one year after the date of the decision.

Section 159 [Repealed on 7 March 2002]

Chapter X. Powers of the municipal executive

Section 160

1. The municipal executive is in any event competent:

- (a) to conduct the day-to-day management of the municipality, in so far as the council or the mayor has not been charged with this by or pursuant to Act of Parliament;
- (b) to prepare and implement decisions of the council, unless the mayor has been charged with this by or pursuant to Act of Parliament;
- (c) to adopt rules concerning the organisational public service structure of the municipality, with the exception of the organisation of the office of the municipal clerk;
- (d) to appoint, suspend and dismiss public servants, other than the municipal clerk and the public servants working in the office of the municipal clerk;
- (e) to decide on the performance of juristic acts by the municipality under private law;
- (f) to decide to conduct legal actions, objection procedures or administrative review procedures on behalf of the municipality, municipal executive or council or to perform acts in preparation for such litigation, unless the council decides otherwise in cases concerning it;
- (g) in respect of civil defence preparations;
- (h) to establish, abolish or change annual fairs or ordinary market days.

2. The municipal executive may decide to form and take part in foundations, partnerships, companies, associations, cooperative societies and mutual associations only if this must be considered a particularly appropriate way of serving the relevant public interest. No decision may be made until after the council has been sent a draft of the decision and has had the opportunity to bring its wishes and reservations to the attention of the municipal executive.

3. A decision as referred to in subsection 2 requires the approval of the provincial executive. Approval may be withheld only if the decision conflicts with the law or the public interest.

4. Even before it is decided to institute legal proceedings, the municipal executive must take all protective measures and do whatever is necessary to prevent prescription or loss of rights or title.

Section 161 [Repealed on 7 March 2002]

Section 162 [Repealed on 7 March 2002]

Section 163 [Repealed on 7 March 2002]

Section 164 [Repealed on 7 March 2002]

Section 165

1. The municipal executive may assign powers to an executive committee established by it and to a district executive, unless this would be inconsistent with the nature of the power concerned.

2. Sections 139 (2), 140 and 141 apply *mutatis mutandis* to a decision made pursuant to subsection 1.

3. No decision may be made by the municipal executive under subsection 1 until after the council has been sent a draft of the decision and has had the opportunity to bring its wishes and reservations to the attention of the municipal executive.

Section 166

The municipal executive may authorise a police officer serving in the municipality to make decisions or perform other acts in its name.

Section 167

1. The regulations relating to the powers of the municipal executive and to their exercise and supervision apply *mutatis mutandis* to the powers assigned pursuant to section 165.

2. The regulations concerning meetings are not included in those referred to in subsection 1.

Section 168

1. The municipal executive may authorise one or more of its members to exercise one or more of its powers, unless this would be inconsistent with the arrangement on which the power is based.

2. Powers exercised by virtue of an authorisation are exercised in the name and under the responsibility of the municipal executive.

3. The municipal executive may issue all directions which it considers necessary in this regard.

Section 169

1. The municipal executive and each of its members separately are accountable to the council for the management of municipal affairs by the executive.

2. They must furnish the council with all information it needs to perform its duties.

3. They must furnish the council orally or in writing with the information requested by one or more council members, unless this would conflict with the public interest.

4. They must furnish the council in advance with information about the exercise of the powers referred to in section 160, subsection 1 (e), (f), (g) and (h) if the council so requests or if such exercise may have far-reaching consequences for the municipality. In the latter case, no decision may be made by the municipal executive until after the council has been given the opportunity to bring its wishes and reservations to the attention of the municipal executive.

5. Notwithstanding subsection 4, if the exercise of the power referred to in section 160, subsection 1 (f) does not permit of any delay, they must furnish the council as quickly as possible with information about the exercise of this power and the decision made in this regard.

Chapter XI. Powers of the mayor

Section 170

1. The mayor oversees:

- (a) the timely preparation, adoption and implementation of municipal policy and of the resulting orders and decisions, and proper coordination between those involved in such preparation, adoption and implementation;
- (b) proper cooperation between the municipality and other municipalities and government authorities;
- (c) the quality of public participation procedures;
- (d) the careful handling of notices of objection;
- (e) the careful handling by the municipal authority of complaints.

2. The mayor publishes, together with the documents referred to in section 197, a Citizens Annual Report including in any event:

- (a) a report on the quality of municipal services;
- (b) his findings on subsection 1 (c).

3. The mayor also ensures that municipal interests are effectively represented.

Section 171

1. The mayor represents the municipality at law and otherwise.
2. The mayor may assign the function of representation referred to in subsection 1 to a person designated by him.

Section 172

1. The mayor is charged with maintaining public order.
2. The mayor may prevent or terminate infringements of statutory regulations relating to public order. For this purpose he makes use of the police under his authority.
3. In the event of a public order disruption or a serious fear of such a disruption, the mayor may issue such orders as are deemed necessary to maintain public order.

4. If a public order disruption of more than local significance or a serious fear of such a disruption makes this necessary, the King's Commissioner may issue directions to the mayors in the province concerned, wherever possible after consultation with them, concerning the policy to be pursued by them in maintaining public order. If at all possible, the directions are issued in writing.

Section 172a

1. Without prejudice to section 172, subsection 3 and any provisions of municipal bye-laws concerning the power of the mayor to issue orders for the maintenance of public order, where a person has repeatedly disrupted public order, either individually or as a member of a group, or has played a leading role in the disruption of public order by a group, and there is a serious fear of further such disruption, the mayor may issue him with an order:

- (a) not to be present in or near one or more specific properties within the municipality or in one or more specific parts of the municipality;
- (b) not to be present with more than three other persons as a group, in one or more specific parts of the municipality in a place accessible to the public and without a reasonable purpose; or
- (c) to report at set times and at set places, in a different municipality or otherwise.

2. An order to report in a different municipality may be given only with the agreement of the mayor of that municipality.

3. If the public prosecutor has issued a person as referred to in subsection 1 with an antisocial behaviour order as referred to in article 509hh, paragraph 2 (a) of the Code of Criminal Procedure, the mayor will not issue an order as referred to in subsection 1 (a) or (b) to this person for the same area.

4. The order applies for a period set by the mayor not exceeding three months. The order may be extended on not more than three occasions for a period to be set by the mayor but not exceeding three months at a time.

5. The mayor may amend the order to the disadvantage of the person concerned if this is warranted by new facts or circumstances.

6. On request, the mayor may grant temporary exemption from the restrictive or mandatory elements of the order or one or more parts thereof. Conditions may be attached to such an exemption.

7. The mayor will amend the order to the advantage of the person concerned if this is warranted by new facts or circumstances. The order is revoked as soon as it is no longer necessary to prevent further public order disruption.

Section 172b

1. Where a minor has repeatedly disrupted public order as a member of a group and has not yet reached the age of twelve years and there is a serious fear of further such disruption, the mayor may issue an order to a person with responsibility for the minor to ensure:

- (a) that the minor is not present in or near one or more specific properties within the municipality or in one or more specific parts of the municipality, unless accompanied by a person with responsibility for him or by another adult as referred to in subsection 3; or
- (b) that the minor is not present during specified periods between 8 p.m. and 6 a.m. in certain places accessible to the public unless accompanied by a person with responsibility for him or by another adult as referred to in subsection 3.

2. The order applies for a period set by the mayor not exceeding three months.

3. For the purposes of subsection 1 the mayor may designate no more than two other adults, in addition to the person or persons with responsibility for the minor, to accompany the minor.

4. Section 172a (5), (6) and (7) apply *mutatis mutandis*.

Section 173 [Repealed on 1 October 2010]

Section 174

1. The mayor is responsible for the supervision of public gatherings and entertainment as well as of buildings open to the public and the grounds of such buildings.

2. For the purposes of the supervision referred to in subsection 1, the mayor may issue orders necessary for the protection of health and safety.

3. The mayor is charged with implementing bye-laws in so far as they relate to the supervision referred to in subsection 1.

Section 174a

1. The mayor may decide to close a dwelling, premises not accessible to the public or grounds belonging to that dwelling or premises if public order around the dwelling, premises or grounds is disrupted by acts committed in the dwelling or premises or the grounds.

2. The mayor also has the power referred to in subsection 1 if there is a serious fear of public order disruption because the person with title to the dwelling, premises or grounds has previously used a dwelling, premises not accessible to the public or grounds belonging to such a dwelling or premises (or caused them to be used) in such a way that they had to be closed pursuant to subsection 1, and there are indications that the party concerned will also use (or cause to be used) in a similar manner the dwelling, premises or grounds to which he has title.

3. The mayor will determine the duration of the closure in the decision. If there is a serious fear of a repetition of the public order disruption he may decide to extend the duration of the closure until a date to be set by him.

4. Upon publication of the decision interested parties will be given the opportunity to take measures to end the public order disruption within a prescribed time limit. The first sentence does not apply if prior publication is not possible in cases of urgency.

5. Sections 5:25 to 5:28 of the General Administrative Law Act apply *mutatis mutandis*. The mayor may recover the costs owed under section 5:25 of the General Administrative Law Act from the offender by service of a distress warrant.

Section 175

1. In the event of riotous behaviour, other serious disturbance or disasters or of a serious fear of their occurrence, the mayor may give all orders which he considers necessary in

order to maintain public order or mitigate danger. In doing so he may depart from regulations other than those laid down in the Constitution.

2. The mayor may not sanction the use of force without first giving due warning.

Section 176

1. If a circumstance as referred to in section 175, subsection 1 occurs, the mayor may issue such generally binding regulations as are necessary to maintain public order or mitigate danger. In doing so he may depart from regulations other than those laid down in the Constitution. He announces these regulations in such manner as he may determine.

2. The mayor brings the regulations to the attention of the council, the King's Commissioner and the head of the public prosecutor's office at the district court as quickly as possible.

3. The regulations cease to have effect if they are not ratified by the council at the next meeting which is attended, according to the attendance list, by over half of the council members in office.

4. If the council does not ratify the regulations, the mayor may apply to the King's Commissioner within twenty-four hours for administrative review. The latter decides on the application for review within two days. The regulations remain in force during the time limit for the lodging and the hearing of the application for administrative review.

5. Chapter 6 and part 7.3 of the General Administrative Law Act do not apply to the application for administrative review referred to in subsection 4.

6. The King's Commissioner may suspend the operation of the regulations until they are ratified. Such suspension terminates the operation of the regulations forthwith.

7. The mayor must revoke the regulations as soon as a circumstance referred to in section 175, subsection 1 has ceased to apply. Subsection 2 applies *mutatis mutandis*.

Section 176a

1. The mayor may cause groups of persons designated by him to be temporarily detained at a place specified by him. If necessary, this detention may include their transport to that place.

2. The mayor may exercise the power referred to in subsection 1 only:

- (a) in relation to persons who, as a group, fail to comply with such parts of an order as referred to in section 175 or a generally binding regulation as referred to in section 176 as are designated by him for that purpose, and
- (b) if the detention is necessary in order to prevent a continuation or repetition of the non-compliance, and there is no other suitable way in which compliance can reasonably be guaranteed.

3. Section 154a , subsections 3 to 14 apply *mutatis mutandis*.

Section 177

1. The mayor may authorise a police officer serving in the municipality to make decisions or perform other acts in his name.

2. No authorisation may be given for decisions to be made pursuant to sections 151b, 154a, 172, 172a, 172b, 174 (2), 174a, 175, 176 and 176a.

Section 178

1. The mayor may assign powers to an executive committee established by him and to the chair of a district executive, unless this would be inconsistent with the nature of the power concerned.

2. Under no circumstances may the powers referred to in sections 151b, 154a and 172 to 176a be assigned.

3. Sections 139 (2), 140 and 141 apply *mutatis mutandis* to a decision made pursuant to subsection 1.

4. No decision may be made by the mayor under subsection 1 until after the council has been sent a draft of the decision and has had the opportunity to bring its wishes and reservations to the attention of the mayor.

Section 179

The regulations relating to the powers of the mayor and to their exercise and supervision apply *mutatis mutandis* to powers assigned pursuant to section 178.

Section 180

1. The mayor is accountable to the council for his management of municipal affairs.
2. He must furnish the council with all the information it needs to perform its duties.
3. He must furnish the council orally or in writing with the information requested by one or more of its members, unless this would conflict with the public interest.

Section 181 [Repealed on 7 March 2002]

Chapter XIa. Powers of the audit office

Section 182

1. The audit office audits the efficiency, effectiveness and regularity of the management conducted by the municipal authority. An audit by the audit office of the regularity of the municipal authority's management does not include an audit of the annual accounts as referred to in section 213, subsection 2.
2. The audit office may institute an audit at the request of the council.

Section 183

1. The audit office may examine all documents in the possession of the municipal authority in so far as it considers this necessary for the discharge of its functions.
2. The municipal authority must, on request, supply all information which the audit office considers necessary for the discharge of its functions.
3. If accounting duties have been outsourced to a third party, subsection 1 applies *mutatis mutandis* to the accounts of the third party concerned or of the person who keeps accounts on the instructions of that third party.

Section 184

1. The audit office has the powers described in the following subsections in relation to the following bodies and for the following periods:

- (a) public bodies and joint organs established pursuant to the Joint Arrangements Act in which the municipality participates: for the years during which the municipality participates in the arrangement;
- (b) public companies and private limited liability companies in which the municipality holds over fifty per cent of the issued share capital: for the years during which the municipality holds over fifty per cent of the issued share capital;
- (c) other legal persons under private law to which the municipality (or a third party acting for the municipality's account and risk) has, directly or indirectly, provided a grant, loan or guarantee for a sum amounting to at least fifty per cent of the revenue of the body concerned: for the years to which the grant, loan or guarantee relates.

2. The audit office may require the body concerned to furnish further information about its annual accounts and hand over reports about them drawn up by those who audited the annual accounts, as well as other documents relating to the body concerned which are in the possession of the municipal authority. If one or more documents are missing, the audit office may direct the body concerned to produce them.

3. The audit office may institute an audit at the body concerned, or at the third party that keeps accounts on behalf of that body, if the documents referred to in subsection 2 give reason to do so. The audit office must notify the council and the municipal executive of its intention to institute such an audit.

Section 184a

The audit office is responsible for supervising compliance with section 213, subsection 8.

Section 185

1. The audit office records its findings and opinion in reports, provided always that these do not include data and findings which are of a confidential nature.

2. The audit office must inform the council, the municipal executive and, if applicable, the body concerned of the comments and reservations which it considers relevant in the light of its findings. It may make proposals to the council or the municipal executive in this regard.
3. The audit office draws up a report of its activities in the preceding year before 1 April of each year.
4. The audit office sends a copy of its reports to the council and the municipal executive. If it has instituted an audit in accordance with section 184, the audit office also sends a copy of the report to the body concerned.
5. The audit office's reports are public.

Title IV. Municipal finances

Chapter XII. General provisions

Section 186

1. Budgets, budget amendments, multi-year estimates, annual accounts and annual reports are to be organised in accordance with rules laid down by or pursuant to order in council.
2. Rules may also be laid down by or pursuant to the order in council referred to in subsection 1 concerning:
 - (a) documents to be adopted by the municipal executive for the implementation of the budget and the annual accounts;
 - (b) information to be furnished by the municipal executive to third parties on the basis of the budget and the annual accounts and the auditing of this information.
3. Further rules may also be laid down by or pursuant to the order in council referred to in subsection 1 concerning the periodic provision of information for third parties. It may be provided, in agreement with Our Minister of Economic Affairs, that the information for third parties will be sent to Statistics Netherlands.

4. The information for third parties referred to in subsection 2 (b) must be sent to Our Minister within the time limits referred to in sections 191 (2) and 200. Section 17a, subsection 4 of the Grants to Local Government Act applies *mutatis mutandis*.

5. If Our Minister finds that the information referred to in subsection 2 (b) or the information referred to in subsection 3, in so far as it must be furnished to Our Minister, has not been furnished or has not been furnished in time, or is not of adequate quality, he will notify the municipal executive concerned.

6. The municipal executive may, until two weeks before the expiry of the time limits referred to in subsection 4, address a written and reasoned request to Our Minister for extension of the time limit for sending the information. Our Minister must decide on this request within two weeks.

7. If the information referred to in subsection 2 (b) or the information referred to in subsection 3, in so far as it must be furnished to Our Minister, has not been furnished or has not been furnished in time, or is not of adequate quality, Our Minister will direct the municipal executive to furnish information of adequate quality within one month.

8. If the municipal executive fails to comply with the direction referred to in subsection 7, Our Minister of the Interior and Kingdom Relations and Our Minister of Finance may decide to suspend, wholly or partly, payments under section 15, subsection 1 of the Grants to Local Government Act to the municipality concerned for a maximum of twenty-six weeks. Section 17b (4), (5) and (6) of the Grants to Local Government Act applies *mutatis mutandis*.

Section 187

Expenditure may be imposed on municipalities only by or pursuant to Act of Parliament.

Section 188 [Repealed on 7 March 2002]

Chapter XIII. Budget and annual accounts

§ 1. The budget

Section 189

1. The council shows on the budget each year the amounts which it makes available for all tasks and activities and the financial resources it expects to be able to use for this purpose.
2. The council must ensure that the budget is balanced in both structural and real terms. It is not bound by this requirement if it is reasonable to assume that a budget balanced in both structural and real terms is achievable within a few years.
3. Subject to the provisions of sections 208 and 209 expenditure and the corresponding balance sheet changes may be charged to the municipality only up to the amounts shown in the budget for this purpose.
4. The budget year coincides with the calendar year.

Section 190

1. Each year, well in advance of the date of adoption referred to in section 191, subsection 1, the municipal executive must present to the council a draft municipal budget, with notes, and a multi-year estimate, with notes, for at least the three years following the year to which the budget relates.
2. The draft budget and the other documents referred to in subsection 1 are deposited for public inspection and are generally available as soon as they have been presented to the council. Such deposit and availability must be publicly announced.
3. The council debates the draft budget no sooner than two weeks after the public announcement.

Section 191

1. The council adopts the budget in the year preceding the year to which it relates.
2. The municipal executive sends the budget adopted by the council, together with the documents referred to in section 190, subsection 1, to the provincial executive within two weeks of its adoption but in any event before 15 November of the year preceding that to which the budget relates.

Section 192

1. Decisions to amend the budget may be made until no later than the end of the relevant budget year.

2. Sections 190 (2) and 191 (2) and, except in cases of urgency, the provisions of section 190, subsection 3 apply *mutatis mutandis*.

Section 193

The following are mandatory items of municipal expenditure:

- (a) interest and repayments on loans entered into by the municipality and all other debts that are due and payable;
- (b) expenditure imposed on the municipality by or pursuant to Act of Parliament;
- (c) expenditure resulting from the cooperation required of the municipal authority in order to implement Acts of Parliament and orders in council, in so far as this expenditure has not been charged to others.

Section 194

1. If the council declines to include mandatory items of expenditure in the budget the provincial executive will do so.

2. If, moreover, the council declines to provide sufficient financial cover for the expenditure referred to in subsection 1, the provincial executive must for this purpose reduce either the amount set aside for contingencies or, if this sum is insufficient, the other optional expenditure.

Section 195

Where necessary, the provincial executive will instruct the competent public servant to pay from municipal funds expenditure that has been entered in the budget as mandatory.

Section 196 [Repealed on 1 August 1996]

Division 2. The annual accounts

Section 197

1. For each budget year the municipal executive renders account to the council for its management of affairs, by submitting its annual accounts and annual report.
2. The municipal executive also submits the reports referred to in section 213a, subsection 2.
3. Once the documents referred to in subsections 1 and 2 and in section 213, subsections 3 and 4 have been put on the agenda for debate in the manner referred to in section 19, subsection 2, the council deposits them for public inspection and makes them generally available. Such deposit and availability must be publicly announced. The council debates the annual accounts and the annual report no sooner than two weeks after the public announcement.

Section 198

1. The council adopts the annual accounts and the annual report in the year following the budget year. The annual accounts include all the municipality's revenue and expenditure.
2. If the council is of the opinion that items of revenue or expenditure or balance sheet changes that have not come about in a regular manner prevent the adoption of the annual accounts, it must immediately bring this to the attention of the municipal executive and state its reservations.
3. Within two months of receipt of the opinion referred to subsection 2, the municipal executive must send the council a draft indemnity resolution, together with a response to the reservations expressed by the council.
4. If the municipal executive has put forward a draft indemnity resolution, the council may not adopt the annual accounts until it has reached a decision on the draft.

Section 199

With the exception of irregularities that emerge later in legal proceedings, the adoption of the annual accounts discharges the members of the municipal executive from liability for their financial management as accounted for in the annual accounts.

Section 200

The municipal executive must send the adopted annual accounts and the annual report, together with the documents referred to in section 197, to the provincial executive within two weeks of their adoption but in any event before 15 July of the year following the budget year. If applicable, the municipal executive must also send the council's decision on a draft indemnity resolution, together with the response referred to in section 198, subsection 3.

Section 201

If the council fails to adopt the annual accounts or an indemnity resolution or fails to do so properly, the municipal executive must send the annual accounts, together with the other documents referred to in section 197 or, as the case may be, the indemnity resolution to the provincial executive for adoption.

Section 202 [Repealed on 7 March 2002]

§ 3. Approval of the budget

Section 203

1. The budget referred to in section 189 for the next budget year and the budget amendments relating to it require the approval of the provincial executive, if, in its opinion, the budget is balanced in neither structural nor real terms and there seems little prospect from the multi-year estimates referred to in section 190 that a budget balanced in structural or real terms will be achievable in the next few years. The provincial executive gives notice to the municipal authority accordingly before the start of the budget year.

2. The provincial executive may decide that the budget referred to in section 189 for the next budget year and the budget amendments relating to it require its approval if:

- (a) the budget referred to in section 189 was not submitted in time to the provincial executive in accordance with the provisions of section 191, or
- (b) the annual accounts referred to in section 197, subsection 1 for the last year but one prior to the budget year were not submitted in time to the provincial executive in accordance with the provisions of section 200, subsection 1.

3. The provincial executive must notify the municipal authority of a decision as referred to in subsection 2 before the start of the budget year.

4. The budget does not require approval if the provincial executive does not give notice as referred to in subsection 1 or notify a decision as referred to in subsection 2 within the time limits referred to in subsections 1 and 3 respectively.

5. The provincial executive may revoke the decision referred to in subsection 1 during the current budget year.

Section 204 [Repealed on 1 January 1994]

Section 205

1. The provincial executive must inform Our Minister in writing, with reasons, of the notices and decisions referred to in section 203, subsections 1 and 2, no later than one month after the start of the budget year.

2. At the start of the budget year concerned, the provincial executive will publish in the Government Gazette the names of the municipalities whose budgets and budget amendments require its approval.

Section 206

Approval may be withheld only on account of a conflict with the law or with the public financial interest.

Section 207

1. If the budget has not yet been approved on the day on which a decision to amend it is submitted to the provincial executive, the time limit referred to in section 10:31, subsection 1 of the General Administrative Law Act will start on the day on which the budget is approved.

2. The provincial executive may direct in its decision on approval of the budget that certain kinds of amendment specified by it do not require its approval.

Section 208

1. If the budget or a decision to amend it has not been approved, the municipal authority requires the consent of the provincial executive before incurring liabilities.
2. An application by the municipal authority for consent under subsection 1 may be refused by the provincial executive only on account of a conflict with the law or with the public financial interest.
3. The provincial executive must decide on the application referred to in subsection 2 within two months of its dispatch. Consent is deemed to have been granted if no decision has been sent to the municipal authority within this time limit.
4. The provincial executive may attach conditions to its consent.
5. The provincial executive may decide for what items and up to what amounts the municipal authority does not require the consent referred to in subsection 1.

Section 209

1. If the council so decides, a liability may be incurred before the relevant budget or budget amendment has been approved in cases of urgency. The decision is sent to the provincial executive forthwith. If the liability incurred has been estimated in a budget amendment which has not yet been submitted for approval, this budget amendment will be sent together with the decision.
2. The council votes by roll call on the subject of the decision referred to in subsection 1.

Section 210

1. If the council has applied section 209 and the provincial executive withholds its approval of the budget or budget amendment concerned, the provincial executive may, within a month of its decision becoming final and unappealable, hold each of the council members who voted for the decision referred to in section 209 personally and equally liable to the municipality for the expenditure incurred.
2. The decision to hold council members liable does not take effect until the time limit for applying for review has expired or, if an application has been lodged for review, until the application has been decided upon.

3. The King's Commissioner may, if necessary, institute a legal action on behalf and at the expense of the municipality in order to obtain payment of moneys owed by virtue of the decision to hold council members liable.

Section 211

If the budget of a municipality requires approval pursuant to section 203, subsection 1 or 2, the provincial executive may direct that designated decisions of the municipal authority which have or may have financial consequences for the municipality must be sent by the municipal executive to the provincial executive within two weeks.

Chapter XIV. Accounting and auditing

Section 212

1. The council must lay down in a bye-law the basic principles of financial policy, financial management and the structure of the financial organisation. This bye-law must guarantee that the requirements of regularity, accounting and control are fulfilled.

2. The bye-law must in any event contain:

- (a) rules for the valuation and depreciation of assets;
- (b) principles for calculating the prices and the rates for duties as referred to in section 229b to be charged by the municipal authority, as well as the levy referred to in section 15.33 of the Environmental Management Act (where it is levied);
- (c) rules concerning the general objectives and the applicable guidelines and limits of the financing function.

Section 213

1. The council adopts rules by bye-law for auditing its financial management and the structure of its financial organisation. This bye-law guarantees that the regularity of financial management and the structure of the financial organisation are verified.

2. The council designates one or more auditors as referred to in article 393, paragraph 1 of Book 2 of the Civil Code, who are charged with auditing the annual accounts referred to in section 197 and issuing an auditor's report and a report of findings.

3. The auditor's report must indicate on the basis of the audit whether:

- (a) the annual accounts give a true and fair view both of revenue and expenditure and of the amount and composition of the assets and liabilities;
- (b) both revenue and expenditure and the balance sheet changes have been effected in a regular manner;
- (c) the annual accounts have been compiled in accordance with rules to be laid down by or pursuant to order in council as referred to in section 186, and
- (d) the annual report is compatible with the annual accounts.

4. The report of findings must in any event contain findings on:

- (a) whether the structure of financial management and of the financial organisation allow true and regular accounting; and
- (b) irregularities in the annual accounts.

5. The auditor must send the auditor's report and the report of findings to the council and a copy to the municipal executive.

6. Further rules may be laid down by order in council concerning the scope of the audit referred to in subsection 2 and the related reporting.

7. Auditors as referred to in subsection 2 may be appointed to a position in the employ of the municipality and are in that case appointed, suspended and dismissed by the council.

8. If, pursuant to subsection 2, the council has designated auditors who have been appointed to a position in the employ of the municipality:

- (a) the provisions laid down by or pursuant to sections 25, 25a and 27 of the Audit Firms (Supervision) Act apply *mutatis mutandis* to these auditors;

(b) the provisions laid down by or pursuant to sections 14, 18, 19, 20 and 21 of the Audit Firms (Supervision) Act apply *mutatis mutandis* to the municipality; and

(c) the provisions laid down by or pursuant to sections 15 and 16 of the Audit Firms (Supervision) Act apply *mutatis mutandis* to the persons in charge of the department of the municipality in which the auditors referred to in the opening words are employed.

9. If a municipality is designated as a public interest entity as referred to in section 1, subsection 1 (l) of the Audit Firms (Supervision) Act, sections 22 to 24 of that Act apply *mutatis mutandis* to that municipality.

Section 213a

1. The municipal executive must carry out periodic audits of the efficiency and effectiveness of its management of affairs. The council lays down rules about this in a bye-law.

2. The municipal executive reports in writing to the council on the results of the audits.

3. The audit office or, if there is no audit office, the persons who perform the audit office function must be given timely notice by the municipal executive of the audits carried out by it and must be sent a copy of the report referred to in subsection 2.

Section 214

The municipal executive must send the provincial executive the bye-laws referred to in sections 212, 213 and 213a within two weeks of their adoption by the council.

Section 215

The provincial executive may institute an inquiry into the financial management and structure of the financial organisation referred to in section 212, subsection 1.

Chapter XV. Municipal taxes

§ 1. General provisions

Section 216

Decisions by the council to introduce, amend or abolish a municipal tax are made by adopting a tax bye-law.

Section 217

A tax bye-law specifies, where appropriate, the taxpayer, the subject of the tax, the taxable event, the taxable amount, the rate of tax, the dates of entry into force and termination of the levy, and any other matters relevant to the levy and its collection.

Section 218 [Repealed on 1 July 1996]

Section 218a [Repealed on 1 July 1996]

Section 218b [Repealed on 1 July 1996]

Section 219

1. Save for the municipal taxes levied pursuant to Acts of Parliament other than the present Act, no taxes other than those referred to in divisions 2 and 3 of this chapter may be levied.
2. Save for the provisions of Acts of Parliament other than the present Act and of divisions 2 and 3 of this chapter, municipal taxes may be levied on the basis of the taxable amounts specified in the tax bye-law, provided always that the amount of a municipal tax may not be made dependent on income, profit or wealth.

§ 2. Special provisions on property taxes

Section 220

The following property taxes may be levied on immovable property situated within the municipality:

- (a) a tax on those who at the start of a calendar year –by virtue of ownership, possession, limited right or personal right or otherwise – use immovable property that does not serve primarily as a dwelling;
- (b) a tax on those who at the start of a calendar year have the enjoyment of immovable property by virtue of ownership, possession or limited right.

Section 220a

1. Immovable property as referred to in chapter III of the Valuation of Immovable Property Act is treated as immovable property for the purposes of property taxes.

2. Immovable property is deemed to serve primarily as a dwelling if the value of that property as determined on the basis of chapter IV of the Valuation of Immovable Property Act can be principally attributed to parts of the property that serve as a dwelling or are entirely used for residential purposes.

Section 220b

1. For the purposes of section 220 (a):

(a) use by a person allowed to use part of a property is treated as use by the person who has allowed use of that part; the person who has allowed use of the part concerned is entitled to recover the tax as such from the person allowed the use of that part;

(b) the provision of a property for successive use is treated as use by the person who has made the property available; the person who has made available the property is entitled to recover the tax as such from the person to whom the property has been made available.

2. For the purposes of section 220 (b), the person who has the enjoyment of the property by virtue of ownership, possession or limited right is treated as the person who is listed as such in the land register database at the start of the calendar year, unless it transpires that he did not at that time have the enjoyment of the property by virtue of ownership, possession or limited right.

Section 220c

For the purpose of property taxes the taxable amount is the value of the property fixed for the calendar year as referred to in section 220 pursuant to chapter IV of the Valuation of Immovable Property Act.

Section 220d

1. Notwithstanding section 220c, the value of the following is disregarded when determining the taxable amount for property tax purposes, in so far as this was not done in determining the value referred to in that section:

- (a) the value of cultivated land commercially exploited for the purposes of agriculture or forestry, including open land and any land on which glasshouses have been constructed for the commercial cultivation of crops, without the soil under the glasshouses being used as a cultivation medium;
- (b) glasshouses used commercially for the cultivation of crops in so far as the land on which they are constructed consists of the land referred to at (a);
- (c) property used primarily for public worship or for other public gatherings involving philosophical reflection, with the exception of parts of such properties that serve as dwellings;
- (d) one or more properties that form part of an estate designated under the Estates (Conservation) Act 1928 which fulfils conditions set by or pursuant to order in council, with the exception of the developed properties constructed on them;
- (e) nature conservation areas, including dunes, heath land, sand drifts, marshes and ponds, which are managed by legal persons with full legal capacity and whose sole or almost sole object is to conserve the natural environment;
- (f) public roads and waterways and tracks for public rail transport, including engineering works;
- (g) water defences and water management works which are managed by agencies, institutions or services of public corporations, with the exception of parts of such works that serve as dwellings;
- (h) works intended for the treatment of sewage and other waste water which are managed by agencies, institutions or services of public corporations, with the exception of parts of such works that serve as dwellings;
- (i) a property or part of a property the value of which is disregarded pursuant to the municipal tax bye-law when determining the taxable amount;

(j) items of machinery which can be removed from a property without suffering significant damage and which cannot in themselves be treated as built property.

2. For the purposes of subsection 1 (a) and (b), the term agriculture is deemed to have the same meaning as in article 312 of Book 7 of the Civil Code.

3. For the purposes of subsection 1, the provisions laid down by or pursuant to sections 17, 18 and 20 (2) of the Valuation of Immovable Property Act apply *mutatis mutandis*.

4. If a property has not been valued pursuant to chapter IV of the Valuation of Immovable Property Act the taxable amount of that property is determined by application of subsections 1 and 2, and application *mutatis mutandis* of the provisions laid down by or pursuant to sections 17, 18 and 20 (2) of the Valuation of Immovable Property Act.

Section 220e

Notwithstanding section 220c, the value of parts of a property that serve as a dwelling or are principally used for residential purposes is disregarded when determining the taxable amount for the purposes of the property tax referred to in section 220 (a).

Section 220f

The tax is a percentage of the taxable amount. The percentage is determined equally for:

- (a) the tax referred to in section 220 (a);
- (b) the tax referred to in section 220 (b), in so far as it concerns property that serves primarily as a dwelling;
- (c) the tax referred to in section 220 (b), in so far as it concerns property that does not serve primarily as a dwelling.

Section 220g [Repealed on 29 December 2007]

Section 220h

1. The tax bye-law may provide that no tax is to be levied if the taxable amount remains below €12,000 or such lower amount as may be specified in the tax bye-law.

2. Tax liabilities not exceeding €10 for which no collection will take place may be specified in the tax bye-law. For the purposes of the previous sentence, the tax bye-law may provide that the aggregate of the amounts owed on a single tax return or notification is to be treated as a single tax liability.

Section 220i [Repealed on 1 January 2007]

§ 3. Special provisions on taxes other than property taxes

Section 221

1. The following taxes may be levied on residential and business premises situated within the municipality, which are permanently tied to one location and are intended for permanent occupation or permanent use but do not constitute immovable property, namely:

- (a) a tax on those who, at the start of the calendar year, use premises which do not serve primarily as a dwelling, by virtue of ownership, possession, limited right or personal right or otherwise;
- (b) a tax on those who at the start of the calendar year have the enjoyment of the premises by virtue of ownership, possession or limited right.

2. For the purposes of subsection 1, sections 220a (2), 220b, 220d to 220f and 220h and the provisions laid down by or pursuant to sections 17 and 18 of the Valuation of Immovable Property Act apply *mutatis mutandis*.

3. The rate of the taxes referred to in subsection 1 is the same as the rate applicable within the municipality for property taxes.

Section 222

1. Where immovable property situated in a particular part of the municipality benefits from facilities which are, or have been, created by or with the cooperation of the municipal authority, a betterment levy may be imposed on those who have the enjoyment of that immovable property by virtue of ownership, possession or limited right, for which purpose the expenses incurred in connection with the facilities are wholly or partly apportioned. Betterment levy is not to be levied in respect of an immovable property if the expenses

incurred in connection with the facilities for that immovable property have been, or are, paid under the terms of an agreement or have been or should be recovered pursuant to section 6.17, subsection 1 of the Spatial Planning Act.

2. Before starting to put such facilities in place, the council must first decide to what extent the expenses incurred in connection with such facilities are to be recovered by means of a betterment levy. A decision as referred to in the previous sentence should define the area within which the immovable property that benefits from the facilities is situated. The decision is published in accordance with section 139.

3. Whether immovable property benefits is assessed according to the situation on a date specified in the tax bye-law, which may not be more than one year after the facilities have been fully completed.

4. A decision to introduce the levy may not be made more than two years after the facilities have been fully completed.

5. The levy is levied as a lump sum, always provided that at the request of the taxpayer it may be levied in the form of an annual levy for a maximum of thirty years, in accordance with rules to be laid down in the bye-law.

Section 223

1. A temporary residence tax may be levied on natural persons who, while not having their principal place of residence in the municipality, spend more than ninety nights in that municipality in the course of the tax year, other than as a resident in an institution for the care of the sick, infirm, needy or elderly, or who keep in that municipality a furnished dwelling for the use of themselves or their families for more than ninety days in the tax year.

2. Anyone who stays outside the municipality of his principal residence for the purpose of temporarily holding public office or attending meetings of a representative assembly of which he is a member, or on the order or instructions of the State is on such grounds not liable to the tax.

3. Whether a person has his principal place of residence in the municipality is determined according to the circumstances of the case.

Section 224

1. A tourist tax may be levied in respect of time spent within the municipality by persons who are not registered as a resident in the municipal personal records database.
2. In so far as the tax is levied on persons who provide accommodation, they are entitled to recover the tax from those whose stay gives rise to the tax.

Section 225

1. The following taxes may be levied by way of parking regulation:
 - (a) a tax on the parking of a vehicle at such place and time and in such manner as may be determined in the tax bye-law or in the cases specified by the municipal executive pursuant to the tax bye-law;
 - (b) a tax in respect of a permit granted by the municipality for parking a vehicle at the place and in the manner specified in the permit.
2. For the purposes of subsection 1, parking means causing or allowing a vehicle to be stationary throughout a continuous period of time (other than the time needed and used to enable persons to enter or leave the vehicle immediately or to load or unload goods immediately) on open sites or sections of road where causing or allowing a vehicle to be stationary has not been prohibited pursuant to a statutory regulation.
3. The tax referred to in subsection 1 (a) is levied on the person who parked the vehicle.
4. The person who pays the tax or indicates or has indicated his willingness to pay it is also treated as the person who has parked the vehicle.
5. Until such time as the tax referred to in subsection 1 (a) has been paid the holder of the vehicle is treated as the person who parked it. Where a motor vehicle has been registered in the vehicle registration system referred to in the Road Traffic Act 1994, the person in whose name the registration number specified for the motor vehicle was registered at the time of parking is deemed to be the holder of the vehicle. The second sentence does not apply if:

- (a) it transpires that at the time of parking another person should have been registered in the vehicle registration system, in which case that other person is to be treated as the party who parked the vehicle;
- (b) a hire contract for a maximum term of three months is submitted and shows the identity of the hirer of the vehicle under the hire contract at the time of parking, in which case the hirer is to be treated as the person who parked the vehicle.

6. The tax is not levied on the person who is treated, pursuant to subsection 5, as the person who parked the vehicle if he demonstrates that another person was using the vehicle against his will at the time of parking and that he could not reasonably have been expected to prevent that use.

7. The tax referred to in subsection 1 (b) is levied on the person who has applied for the permit.

8. The rate of the taxes referred to in subsection 1 may be made dependent on the duration of parking, the time of parking, the surface area occupied and the location of the sites or sections of road.

Section 226

- 1. A person who keeps a dog is liable to pay a dog licence fee.
- 2. The fee is charged according to the number of dogs kept.
- 3. For the purposes of subsection 1, the keeping of a dog by a member of a household is treated as the keeping of a dog by the member of that household designated for this purpose by the public servant referred to in section 231, subsection 2 (b).

Section 227

An advertising tax may be levied on public notices visible from the public road.

Section 227a [Repealed on 1 January 1995]

Section 228

An encroachment licence fee may be levied on objects on, under or above municipal land intended for public services.

Section 228a

1. A tax known as a sewerage charge may be levied in order to defray the costs incurred by the municipality in connection with:

- (a) collecting and removing domestic and industrial waste water and treating domestic waste water; and
- (b) collecting surface run-off and treating the collected surface water, as well as taking measures to prevent or mitigate as far as possible any structurally adverse effects of the water table on the permitted use of the land.

2. Two separate taxes may be levied to defray the costs referred to in subsection 1 (a) and (b).

3. The costs referred to in subsection 1 include the turnover tax which, pursuant to the VAT Compensation Fund Act, confers entitlement to a contribution from the compensation fund.

Section 229

1. Duties may be levied in respect of:

- (a) the use, in accordance with the permitted use, of municipal possessions designated for public services or of works or establishments that are managed or maintained by the municipality and designated for public services;
- (b) the enjoyment of services provided by or on behalf of the municipal authority;
- (c) the staging of entertainment involving the use of facilities established or maintained by or with the cooperation of the municipal authority or involving a special facility provided by the municipal authority, for example in the form of supervision.

2. No duties may be levied on the use of facilities and the enjoyment of services whose costs can be defrayed by levying a tax as referred to in section 228a, with the exception of the

installation of or connection to a facility for the collection and transport of waste water as referred to in section 10.31 of the Environmental Management Act or a system as referred to in section 10.33, subsection 2 of that Act.

3. For the purposes of this division and divisions 1 and 4 of this chapter, the duties referred to in subsection 1 are classified as municipal taxes.

Section 229a

The duties referred to in section 229, subsection 1 (a) and (b) may be levied by the municipality which permits the use of the possessions, works or establishments or provides the services, regardless of whether the taxable event occurs inside or outside the boundaries of the municipality.

Section 229b

1. The rates set in bye-laws that provide for the levy of duties as referred to in section 229, subsection 1 (a) and (b) are set in such a way that the estimated revenue from the duties does not exceed the estimated expenditure.

2. The expenditure referred to in subsection 1 includes:

- (a) contributions to special-purpose reserves and provisions for the replacement as necessary of the assets concerned;
- (b) the turnover tax which, pursuant to the VAT Compensation Fund Act, confers entitlement to a contribution from the compensation fund.

Section 229c

Further rules may be laid down by or pursuant to order in council concerning the taxes referred to in divisions 2 and 3 of this chapter.

Section 229d [Repealed on 5 February 2005]

§ 4. Levying and collection

Section 230

In this division:

- (a) 'States Taxes Act' means the State Taxes Act;
- (b) 'levying in another way' means levying other than by imposition of a tax assessment or payment on submission of a tax return.

Section 231

1. Without prejudice to the other provisions of this division, municipal taxes are to be levied and collected in accordance with the State Taxes Act, the Collection of State Taxes Act 1990 and the Tax Collection (Costs) Act as if they were state taxes.

2. Without prejudice to the other provisions of this division, the powers and duties of the following officials referred to in the State Taxes Act, the Collection of State Taxes Act 1990 and the Tax Collection (Costs) Act are vested, in relation to municipal taxes, in the bodies or officials listed after the colon:

- (a) Our Minister of Finance, the governing board of the state tax authorities and the director:
the municipal executive;
- (b) the inspector: the public servant charged with levying municipal taxes;
- (c) the collector or a person competent to collect state taxes: the public servant charged with collecting municipal taxes;
- (d) the officials of the Tax and Customs Administration: the public servants charged with levying or collecting municipal taxes;
- (e) the tax bailiff: the public servant designated for this purpose;
- (f) the House of Representatives of the States General: the council.

3. Without prejudice to the other provisions of this division, the words 'order in council' and 'ministerial order' in the State Taxes Act and the Collection of State Taxes Act 1990 should be read in relation to municipal taxes as meaning 'order or decision of the municipal executive'.

4. The words 'the State' in section 24 of the Collection of State Taxes Act 1990 should be read in relation to municipal taxes as meaning 'the municipality'.

Section 232

1. The municipal executive may direct that a different public servant will act instead of the public servant referred to in section 231, subsection 2 (c) for the purpose of dispatching or issuing assessment notices pursuant to section 8, subsection 1 of the Collection of State Taxes Act 1990.

2. The municipal executives of two or more municipalities may direct in relation to one or more municipal taxes that public servants of one of these municipalities are to be designated as:

- (a) the public servant of those municipalities, as referred to in section 231, subsection 2 (b), designated as responsible for implementing any statutory provision concerning the levying of municipal taxes;
- (b) the public servant of those municipalities, as referred to in section 231, subsection 2 (c), designated as responsible for implementing any statutory provision concerning the collection of municipal taxes;
- (c) the public servants of those municipalities, as referred to in section 231, subsection 2 (d), designated as responsible for implementing any statutory provision concerning the levying or collection of municipal taxes;
- (d) the officer of those municipalities, as referred to in section 231, subsection 2 (e), designated as responsible for implementing any statutory provision concerning the collection of municipal taxes.

3. Subsection 1 applies *mutatis mutandis* to the municipal executive of a municipality whose public servant is designated as responsible for collecting municipal taxes pursuant to subsection 2 (b).

4. If a joint arrangement has been made for the levying or collection of municipal taxes and a public body has been established under that arrangement, provision may be made by or pursuant to that arrangement for a public servant of that public body to be designated as:

- (a) the public servant referred to in section 231, subsection 2 (b) responsible for implementing any statutory provision concerning the levying of municipal taxes;
- (b) the public servant referred to in section 231, subsection 2 (c) responsible for implementing any statutory provision concerning the collection of municipal taxes;
- (c) the public servants referred to in section 231, subsection 2 (d) responsible for implementing any statutory provision concerning the levying or collection of municipal taxes;
- (d) the public servant referred to in section 231, subsection 2 (e) responsible for implementing any statutory provision concerning the collection of municipal taxes.

5. Subsection 1 applies *mutatis mutandis* to the executive board of the public body whose public servant is designated pursuant to subsection 4 (b).

Section 233

Municipal taxes may be levied by assessment, self-assessment involving payment on submission of the tax return, or in another way, but not by means of remittance by a withholding agent on submission of the tax return.

Section 233a

1. If municipal taxes are levied in another way, the tax bye-law provides how they are to be levied and how the taxpayer is to be notified of his tax liability. The tax bye-law may also provide that the municipal executive is to lay down further rules on the implementation of these matters.

2. For the purposes of the State Taxes Act and the Collection of State Taxes Act 1990, taxes levied in another way are treated as taxes levied by assessment, provided always that:

- (a) assessment, provisional assessment and additional assessment should be read as meaning the amount claimed, the provisional amount claimed and the additional amount claimed respectively;
- (b) the assessment notice is taken to mean the notification of the amount referred to at (a);

- (c) the date of the assessment notice is taken to mean the date of the written notification of the amount referred to at (a) or, in the absence of a written notification, the date on which the amount is communicated to the taxpayer in another way.

Section 234

1. The tax referred to in section 225, subsection 1 (a) is levied by self-assessment involving payment on submission of the tax return, or in another way.
2. Only the following are treated as payment on submission of the tax return:
 - (a) starting the operation of a parking meter or parking ticket machine in the appropriate manner at the time of parking the vehicle and in accordance with the regulations laid down by the municipal executive;
 - (b) in cases where a wheel clamp has been fitted pursuant to section 235, subsection 1, payment on submission of the tax return in the manner determined by the municipal executive.
3. If an additional assessment is imposed, this is calculated on a parking time of one hour, unless it is likely that the vehicle was left parked without payment for longer than an hour.
4. Sections 67b, 67c and 67f of the State Taxes Act do not apply.
5. Costs are charged for imposing an additional assessment. These costs form part of the additional assessment and are specified separately in the assessment notice. Costs are not to be charged more than once a calendar day for a given vehicle for each continuous period.
6. Rules concerning the manner of calculation and the maximum amount of the costs referred to in subsection 5 are to be laid down by order in council. The amount of the costs to be charged is determined in the tax bye-law.
7. Notwithstanding section 8, subsection 1 of the Collection of State Taxes Act 1990, if the assessment notice cannot be issued to the tax debtor immediately, it may simply be attached to the vehicle. In such a case the assessment notice specifies the registration number of the vehicle and not the name of the tax debtor. In the absence of a registration number, the assessment notice specifies one or more particulars that identify the parked vehicle.

8. The amount of an additional assessment is recoverable immediately and as a lump sum.

Section 234a [Repealed on 1 January 1994]

Section 234b [Repealed on 1 January 1994]

Section 235

1. The tax bye-law referred to in section 225, subsection 1 (a) may provide that immediately after the assessment notice has been issued to the tax debtor or immediately after the assessment notice has been attached to the vehicle in accordance with section 234, subsection 7, the public servant referred to in section 231, subsection 2 (b) is empowered to have a mechanical device, referred to below as a wheel clamp, fitted to the vehicle in order to prevent it being driven away, thereby securing payment of the additional assessment referred to in section 234, subsection 3.

2. The sites or sections of road where wheel clamps may be used are designated either in the tax bye-law or by the municipal executive in cases designated pursuant to the tax bye-law.

3. Costs are charged for both fitting and removing a wheel clamp.

4. A wheel clamp may not be removed until both the additional assessment and the costs of fitting and removing the clamp have been paid. The wheel clamp must be removed as quickly as possible once payment has been made.

5. After a period of time specified in the tax bye-law, which must be at least 24 hours after the wheel clamp has been fitted, has elapsed, the public servant referred to in section 231, subsection 2 (b) is empowered to have the vehicle removed to a car pound specified by him and stored there. An official report will be drawn up and costs charged for the removal and storage referred to in the first sentence.

6. The public servant referred to in section 231, subsection 2 (b) is responsible for ensuring that a note is made in a register kept for this purpose of the cases in which the power referred to in subsection 5 is exercised.

7. The public servant referred to in section 231, subsection 2 (b) is responsible for the storage of the vehicles placed in storage pursuant to subsection 5.

8. The public servant referred to in section 231, subsection 2 (b) returns the vehicle to the person entitled after the additional assessment, the costs of fitting and removing the wheel clamp and the costs of removing and storing the vehicle have been paid.

9. If the vehicle has not been collected within 48 hours of being put into storage, the public servant referred to in section 231, subsection 2 (b) will, if possible within seven days of the removal and storage, give notice of the removal and storage as follows:

- (a) if the vehicle is a motor vehicle that bears a registration number as referred to in section 36, subsection 1 of the Road Traffic Act 1994: notice to the person to whom the registration number has been issued;
- (b) if it is found that the vehicle has been reported missing: notice to the person who has made the report;
- (c) in cases to be determined by Our Minister, notice is to be given in the manner indicated there.

10. For the purposes of this section, the costs of tracing the person to whom notice is sent and of giving notice are added to the costs of removal and storage.

11. If the vehicle has not been collected within three months of being put into storage, the public servant referred to in section 231, subsection 2 (b) is empowered to sell the vehicle or, if in his opinion sale would not be possible, to transfer ownership of the vehicle without charge to a third party or to have the vehicle scrapped. The public servant referred to in section 231, subsection 2 (b) has the same power even within this period if, in his opinion, the aggregate costs of the additional assessment, fitting and removing the wheel clamp and removing and storing the vehicle, together with the estimated costs of sale, free transfer of ownership or scrapping, would become disproportionately high in relation to the value of the vehicle. Sale, free transfer of ownership or scrapping will not take place within two weeks of the notice referred to in subsection 9 being sent. For the purposes of the following subsections, the costs of sale, free transfer of ownership or scrapping are treated as forming part of the costs of removal and storage.

12. The person who was the owner of the vehicle at the time of its sale is entitled to claim the proceeds of the sale during a period of three years from the date of sale, provided always that the costs of fitting and removing the wheel clamp and removing and storing the vehicle and subsequently the additional assessment are first deducted from such proceeds. Once this period has elapsed any remaining proceeds of sale revert to the municipality.

13. Rules are laid down by order in council concerning the manner of calculating the costs of fitting and removing the wheel clamp and removing and storing the vehicle.. The tax bye-law lays down the maximum costs that may be charged.

14. The public servant referred to in section 231, subsection 2 (b) determines the amount of the costs to be charged by individual decision against which an objection may be lodged.

15. Rules are laid down by or pursuant to order in council concerning the removal, storage, sale, free transfer of ownership and scrapping of the vehicle, the establishment and maintenance of the register referred to in subsection 6 and whatever else may be necessary for the implementation of this section.

16. If it can be shown that damage has been caused to the vehicle as a result of the fitting or removal of the wheel clamp or during the removal and storage of the vehicle, the municipality is obliged to pay compensation for the damage.

Section 236

1. Sections 2 (4), 3, 37, 38, 39, 47a, 48, 52, 53, 54, 55, 62, 71, 76, 80 (2), (3) and (4), 82, 84, 86, 87 and 90 to 95 of the State Taxes Act do not apply to the levying of municipal taxes. In addition, sections 5, 6 to 9, 11 (2) and 12 of that Act do not apply to municipal taxes which are levied in another way.

2. Notwithstanding section 7:10, subsection 1 of the General Administrative Law Act and with the exception of notices of objection lodged in the last six weeks of a calendar year, the public servant referred to in section 231, subsection 2 (b) must decide on a notice of objection in the calendar year in which the notice of objection is received.

Section 237

1. The invitation to file a tax return as referred to in section 6 of the State Taxes Act is given by issuing a tax return form.
2. Filing a tax return as referred to in section 8 of the State Taxes Act is effected by submitting or sending the tax return form together with the requested documentation.
3. Notwithstanding the previous subsections, the public servant referred to in section 231, subsection 2 (b) may require that an obligation to file a tax return or submit an application for the issue of a tax return form is fulfilled by making a tax return orally. In this connection:
 - (a) the documents requested by the public servant referred to in section 231, subsection 2 (b) are to be lodged;
 - (b) the public servant referred to in section 231, subsection 2 (b) may require that a written record of a tax return made orally be signed by the declarant, failing which the tax return will be deemed not to have been filed.
4. If subsection 3 is applicable, the public servant referred to in section 231, subsection 2 (b) may substitute shorter periods of time for the periods referred to in section 9, subsection 1 and subsection 3, first sentence, section 10, subsection 2, and section 19, subsections 1, 3 and 4 of the State Taxes Act or for the shorter period referred to in section 238, subsections 1 or 2, and section 12 of the State Taxes Act does not apply.
5. The tax bye-law may derogate from subsections 1 and 2.

Section 238

1. In the case of municipal taxes levied by assessment, a shorter period may be substituted in the tax bye-law for the period of at least one month referred to in section 9, subsections 1 and 3 of the State Taxes Act.
2. In the case of municipal taxes levied by self-assessment involving payment upon submission of the tax return, a shorter period may be substituted in the tax bye-law for the period of one month referred to in section 10, subsection 2 and section 19, subsections 1, 3 and 4 of the State Taxes Act.

Section 239

1. The public servant referred to in section 231, subsection 2 (b) may combine in one tax assessment notice for the same taxpayer tax assessments of the same type that may relate to different taxes.

2. Subsection 1 applies *mutatis mutandis* if the taxes are levied in another way.

Section 240 [Repealed on 1 January 1998]

Section 241 [Repealed on 1 January 2005]

Section 242

1. A person who, pursuant to a tax bye-law, is eligible for full or partial exemption, reduction, relief or rebate may apply to the public servant referred to in section 231, subsection 2 (b) for an exemption, reduction, relief or rebate within six weeks of the occurrence of the circumstance giving rise to that eligibility or, if the tax concerned is levied by assessment and at that time no assessment notice has yet been issued or dispatched, within six weeks of the date of the assessment notice.

2. Subsection 1 applies *mutatis mutandis* if the tax is levied in another way.

3. The public servant referred to in section 231, subsection 2 (b) must decide on the application by individual decision against which an objection may be lodged.

Section 243

Exemption from municipal taxes is granted where required by international law or where, in the opinion of Our Minister and Our Minister of Finance, required by international custom. Our said Ministers may together lay down further rules on this subject.

Section 244

Besides a reduction, relief or rebate provided for in the tax bye-law, the public servant referred to in section 231, subsection 2 (b) may, *ex proprio motu*, grant an exemption provided for in the tax bye-law.

Section 245 [Repealed on 1 January 1998]

Section 246 [Repealed on 1 January 1998]

Section 246a

1. Rules concerning municipal taxes may be laid down by order in council:

- (a) declaring sections 48, 52, 53 (1) and (4), 54 or 55 of the States Taxes Act and sections 59 or 62 of the Collection of State Taxes Act 1990 wholly or partly applicable, or
- (b) corresponding to the rules in the sections referred to at (a).

2. The rules referred to in subsection 1 should in any event identify the person subject to the obligation and the tax to which the obligation applies. Moreover, depending on the nature of the obligation, the rules should describe the nature of the data and information to be furnished and the nature of the information that should appear from records or the purpose for which information carriers are to be made available for consultation.

Section 247 [Repealed on 1 July 1997]

Section 248 [Repealed on 1 September 1999]

Section 249

Sections 5, 20, 21 59, 62 and 69 of the Collection of State Taxes Act 1990 do not apply to the collection of municipal taxes. Moreover, section 8, subsection 1 of that Act does not apply to the collection of municipal taxes levied in another way.

Section 250

1. The tax bye-law may contain regulations that derogate from section 9 of the Collection of State Taxes Act 1990.
2. The tax bye-law may provide that payment of the amount owed must be made at the same time and in the same way as payment of another claim to the creditor of such claim.

Section 250a [Repealed on 1 January 1994]

Section 251

The rules laid down by Our Minister of Finance pursuant to section 19, subsection 10 of the Collection of State Taxes Act 1990 apply *mutatis mutandis* to the making of a claim as referred to in subsection 4 of that section.

Section 251a [Repealed on 1 January 1994]

Section 252

Amounts of municipal taxes payable to and receivable from a tax debtor under section 24 of the Collection of State Taxes Act 1990 may also be netted if the time limit specified in section 9 of the Collection of State Taxes Act 1990 or the time limit specified pursuant to section 250, subsection 1 has not yet expired.

Section 253

1. If two or more persons are liable to tax in respect of the same subject or the same taxable event, the assessment notice may be issued in the name of one of them.
2. If the tax liability referred to in subsection 1 results from the enjoyment of immovable property by virtue of ownership, possession or a limited right and the assessment notice has been issued in the name of one of the persons liable to tax, the public servant charged with the collection of municipal taxes may recover the tax shown in the tax assessment in respect of the entire immovable property from the person in whose name the assessment notice has been issued, without taking into account the rights of the other persons liable to tax.
3. A tax debtor who has paid the tax assessment may recover whatever amount he has paid in excess of his tax liability from the other persons liable to tax in proportion to each person's tax liability.
4. A taxpayer whose name is not stated on an assessment notice issued pursuant to subsection 1 may join in an application to the district court for judicial review of the assessment. Section 26a, subsection 3 of the States Taxes Act applies *mutatis mutandis*.
5. Derogation from subsection 3 is possible by agreement.

Section 254

For the purposes of section 66 of the Collection of State Taxes Act 1990, sections 76, 80 (2), (3) and (4), 82, 84, 86 and 87 of the States Taxes Act do not apply in relation to municipal taxes.

Section 255

1. The remission referred to in section 26 of the Collection of State Taxes Act 1990 is granted in the case of municipal taxes by the public servant referred to in section 231, subsection 2 (c).
2. The rules laid down by Our Minister of Finance by ministerial order pursuant to section 26 of the Collection of State Taxes Act 1990 apply to the granting of full or partial remission.
3. Notwithstanding the rules referred to in subsection 2, the council may decide that no remission whatever or only partial remission is to be granted.
4. Subject to the rules laid down by Our Minister, in agreement with Our Minister of Finance, the council may lay down different rules concerning the manner in which account is taken of living costs and financial position, thereby allowing a greater degree of remission.
5. The council may declare tax to be wholly or partly uncollectable. A decision to this effect relieves the public servant responsible for the collection of municipal taxes from the obligation to make further collection attempts.

Section 255a [Repealed on 5 February 2005]

Section 256

If a bailiff's notice or instrument of prosecution has to be served or a distress warrant enforced in connection with a municipal tax in one of the public bodies Bonaire, St Eustatius and Saba, or in a municipality other than the one to which the tax is owed, the tax bailiff acting for the municipality or public body where service or enforcement must take place is, like the tax bailiff acting for the creditor municipality, empowered and, on request, obliged to take such action.

Section 257

Further rules may be laid down by or pursuant to order in council concerning the levying and collection of the taxes referred to in section 220 and, in keeping with this division of the chapter, concerning all municipal taxes, to supplement the subjects regulated in this division.

Section 258 [Repealed on 1 July 1997]

Title V. Supplementary provisions on supervision of the municipal authority

Chapter XVI. Approval

Section 259

1. Decisions or orders of municipal authorities may be made subject to approval only in the cases specified by Act of Parliament or by provincial ordinance pursuant to an Act of Parliament.

2. Section 266 and part 10.2.1 of the General Administrative Law Act apply *mutatis mutandis* to decisions other than written decisions.

Section 260 [Repealed on 1 January 1998]

Section 261 [Repealed on 1 January 1998]

Section 262 [Repealed on 1 January 1998]

Section 263 [Repealed on 1 January 1998]

Section 264 [Repealed on 1 January 1998]

Section 265 [Repealed on 1 January 1998]

Section 266

1. A decision that is subject to approval by royal decree is sent to Our Minister concerned.
2. A recommendation to withhold approval is made by or jointly by Our Minister.
3. Approval is not to be withheld until after the Council of State has been heard. In such a case, section 10:30, subsection 1 of the General Administrative Law Act is applied before the

draft decision is presented to the Council of State for consideration. Section 27d of the Council of State Act applies *mutatis mutandis*.

Section 267 [Repealed on 1 January 1998]

Chapter XVII. Suspension and annulment

Section 268

1. A written decision or a non-written decision of the municipal authority which is intended to have any legal consequence may be annulled by royal decree.

2. Sections 273 to 281a and parts 10.2.2 and 10.2.3 of the General Administrative Law Act apply *mutatis mutandis* to the annulment of a non-written decision intended to have any legal consequence.

Section 269 [Repealed on 1 January 1998]

Section 270 [Repealed on 1 January 1998]

Section 271 [Repealed on 1 January 1998]

Section 272 [Repealed on 1 January 1998]

Section 273

1. If the mayor considers that a decision should be annulled, he must give notice of this, through the intermediary of the provincial executive, to Our Minister concerned within two days of the date on which it has come to his attention. He must give notice at the same time to the organ which took the decision and, if necessary, to the organ responsible for implementing the decision.

2. The provincial executive forwards the document, together with its opinion, to Our Minister concerned within one week of the date of the mayor's notice.

3. A decision in respect of which subsection 1 has been applied is not to be implemented or further implemented until notice has been received from Our Minister concerned that there is

no reason for its suspension or annulment. The decision must be implemented if it has not been suspended or annulled within four weeks of the date of the mayor's notice.

Section 273a

1. If the provincial executive considers that a decision of the council or the municipal executive should be annulled or the King's Commissioner considers that a decision of the mayor should be annulled, they must give notice of this to Our Minister concerned within ten days of the date on which it has come to their attention. They must give notice at the same time to the organ which took the decision and, if necessary, to the organ responsible for implementing the decision and to the person to whom the decision is addressed.

2. A decision in respect of which subsection 1 has been applied is not to be implemented or further implemented until notice has been received from Our Minister concerned that there is no reason for its suspension or annulment. The decision must be implemented if it has not been suspended or annulled within four weeks of the date of the notice from the provincial executive or the King's Commissioner.

3. If the power to make a decision has been granted to the council, municipal executive or mayor by an Act of Parliament other than the present Act and the decision is liable to be annulled for conflicting with the law, the provincial executive or the King's Commissioner, as the case may be, may give notice that they are considering applying subsection 1. Such notice must be given to the organ which made the decision, the organ responsible for implementing the decision and the person to whom the decision is addressed. After the provincial executive or the King's Commissioner, as the case may be, have given this notice, the decision will not be implemented or further implemented. If subsection 1 has not been applied within ten days or if the provincial executive or the King's Commissioner, as the case may be, gives notice that subsection 1 will not be applied, the decision must be implemented.

Section 274

1. A recommendation for suspension is made by Our Minister concerned.

2. Our Minister concerned must consult with Our Minister about the recommendation, unless suspension should occur without delay. Reasons for the absence of consultation should be given in the recommendation.

Section 275

A provision may be made in the royal decree for the duration of the suspension.

Section 276 [Repealed on 1 January 1998]

Section 277

If a published decision is not annulled within the period for which it has been suspended, this is publicly announced by the municipal authority.

Section 278

1. A recommendation for annulment is made by or jointly by Our Minister concerned.
2. Section 17, subsection 3 of the Council of State Act does not apply.

Section 278a

1. Provision may be made in the royal decree for the period between its entry into force and the date of entry into force of the decision made pursuant to section 281.
2. If, in view of the royal decree, the municipal authority does not have policymaking discretion when applying section 281, the royal decree may provide that it will take the place of the annulled decision.
3. The royal decree may provide that no new decision will be made to replace the annulled decision.
4. The royal decree may include a direction to the municipal authority about the implementation of the royal decree. Sections 124 to 124h apply *mutatis mutandis* in the event of non-compliance with the direction.
5. If the royal decree relates to the annulment of a generally binding regulation or other order of general scope, it may provide that the annulment also relates to decisions made pursuant to or in implementation of the generally binding regulation or other order of general scope.

Section 279

A royal decree to suspend or annul an order or decision or to terminate or extend a suspension must be published in the Bulletin of Acts and Decrees.

Section 280 [Repealed on 1 January 1998]

Section 281

1. The municipal authority must make a fresh decision on the subject of the annulled decision, taking into account the royal decree, unless section 278a, subsection 2 or 3 has been applied in the royal decree.

2. The royal decree may set a time limit within which subsection 1 must be applied. Sections 124 to 124h apply *mutatis mutandis* if subsection 1 has not been applied within that time limit.

Section 281a

Notwithstanding section 8:4, subsection 1 (d) of the General Administrative Law Act, an interested party may apply for judicial review of a royal decree as referred to in section 268, subsection 1 or of an annulment decision as referred to in section 85, subsection 2 and section 87a, subsection 1.

Title VI

Section 282 [Repealed on 21 February 2001]

Section 283 [Repealed on 21 February 2001]

Section 284 [Repealed on 21 February 2001]

Section 285 [Repealed on 21 February 2001]

Section 286 [Repealed on 21 February 2001]

Section 287 [Repealed on 21 February 2001]

Section 288 [Repealed on 21 February 2001]

Section 288a [Repealed on 1 January 1994]

- **Title VII. Transitional and concluding provisions**

Section 289 [Repealed on 15 April 2009]

Section 290

1. The repeal of the old Municipalities Act does not affect the validity of orders or decisions in effect on the day before the entry into force of the present Act.

2. Orders as referred to in subsection 1 which contain generally binding regulations whose substance conflicts with the present Act must either be brought into line with the present Act or revoked within two years of the date of the entry into force of the present Act. Orders or parts thereof which have not been brought into line with the present Act by the expiry of the time limit referred to in the previous sentence or have been revoked are deemed to have ceased to have effect by operation of law.

3. Orders or decisions of the provincial executive as referred to in section 100, subsection 1 of the old Municipalities Act cease to have effect by operation of law on the date on which the present Act enters into force.

4. Nonetheless, the provincial executive remains competent after the entry into force of the present Act to determine the annual salary of members of the municipal executive for the period prior to the entry into force of the present Act in accordance with section 100, subsection 1 of the old Municipalities Act.

5. Subsections 3 and 4 apply *mutatis mutandis* to the annual salary of municipal secretaries as referred to in section 111, subsection 1 of the old Municipalities Act.

Section 291

Section 44, subsections 5 to 8 and section 66, subsections 5 to 7 do not apply to members of a provincial executive and mayors respectively who are in office when these provisions take effect, for as long as they hold office without interruption in the same municipality.

Section 292 [Repealed on 15 April 2009]

Section 293 [Repealed on 15 April 2009]

Section 294 [Repealed on 15 April 2009]

Section 295 [Repealed on 15 April 2009]

Section 296 [Repealed on 15 April 2009]

Section 297 [Repealed on 15 April 2009]

Section 298 [Repealed on 15 April 2009]

Section 299 [Repealed on 15 April 2009]

Section 299a [Repealed on 15 April 2009]

Section 299b [Repealed on 1 April 1994]

Section 300 [Repealed on 15 April 2009]

Section 300a [Repealed on 1 April 1994]

Section 300b [Repealed on 1 April 1994]

Section 301 [Repealed on 15 April 2009]

Section 302 [Repealed on 15 April 2009]

Section 303 [Repealed on 15 April 2009]

Section 304 [Repealed on 15 April 2009]

Section 305 [Repealed on 15 April 2009]

Section 305a [Repealed on 1 January 2001]

Section 306 [Repealed on 15 April 2009]

Section 307 [Repealed on 15 April 2009]

Section 308 [Repealed on 15 April 2009]

Section 309 [Repealed on 15 April 2009]

Section 310

This Act may be cited as the Municipalities Act.

We order and command that this Act be published in the Bulletin of Acts and Decrees and that all ministries, authorities, bodies and officials whom it may concern diligently implement it.

Done at Lech, 14 February 1992

Beatrix

D.IJ.W. de Graaff-Nauta

State Secretary for the Interior

C.I. Dales

Minister of the Interior

Published on the twelfth of March 1992

E.M.H. Hirsch Ballin

Minister of Justice

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A. Ministry of the Interior and Kingdom Relations

- 1. Central and Local Government Personnel Act
- 2. Passport Act
- 3. Citizen Service Number (General Provisions) Act
- 4. Municipal Database (Personal Records) Act
- 5. Elections Act

B. Ministry of Social Affairs and Employment

- 1. Work and Social Assistance Act
- 2. Income Support (Older and Partially Incapacitated Unemployed Workers) Act
- 3. Income Support (Older and Partially Incapacitated Former Self-Employed Persons) Act
- 4. Artists' Work and Income Act
- 5. Sheltered Employment Act
- 6. Investment in Young People Act

- 7. Childcare and Quality Standards for Playgroups Act

C. Ministry of Infrastructure and the Environment

- 1. Carriage of Dangerous Substances Act
- 2. Port Security Act
- 3. Addresses and Buildings (Databases) Act
- 4. Title 5.2 of the Environmental Management Act

D. Ministry of Health, Welfare and Sport

- 1. Licensing and Catering Act
- 2. Public Health Act
- 3. Social Support Act

E. Ministry of Education, Culture and Science

- 1. Primary Education Act
- 2. Secondary Education Act
- 3. Expertise Centres Act
- 4. Adult and Vocational Education Act

F. Ministry of Finance

- 1. Valuation of Immovable Property Act

G. Ministry of Security and Justice

- 1. Safety Regions Act

- **Schedule [Repealed on 23 February 2011]**