

# **ENVIRONMENTAL MANAGEMENT ACT**

**Text of the Environmental Management Act  
dated 1 May 2004**

Ministry of Housing, Spatial Planning and the Environment  
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## Basic text

This text is based on the text of the Environmental Management Act as published in the Bulletin of Acts and Decrees 2002, no. 239, and later amended by:

<b>Bulletin of Acts and Decrees</b>	<b>Name of Act</b>	<b>Sections amended</b>
2002, 102	Amendment of Pollution of Surface Waters Act	12.4
2002, 399	VAT Compensation Fund Act	15.33
2002, 542	Mining Act	8.2, 13.1, 20.1, 21.6, 22.1, annexe
2002, 347	Public Administration (Probity in Decision-making Act)	8.10, 8.20, 8.25
2002, 374	Aviation Act	annexe
2003, 189	Amendment Act	1.1, 10.2, 10.37, 10.41, 10.45, 10.46, 10.52, 10.54, 10.55, 10.63, 10.64, 15.26, [18.2b, 18.2c, 18.10: changes made at same time as 2002/239], 21.6
1997, 170	the environmental report	8.12, 8.13
2003, 189	Amendment Act	10.55

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## CHAPTER 1. GENERAL

### § 1.1 General

#### Section 1.1

1. In this Act and in the provisions based thereon the following definitions shall apply:
  - Our Minister*: Our Minister of Housing, Spatial Planning and the Environment;
  - Environmental Impact Assessment Committee*: the Environmental Impact Assessment Committee referred to in section 2.17;
  - Committee on Genetic Modification*: the Committee on Genetic Modification referred to in section 2.26;
  - Provincial Environmental Committee*: the Provincial Environmental Committee referred to in section 2.41;
  - competent authority*: an administrative authority authorised to give decisions;
  - inspector*: the competent local inspector of the State Inspectorate of Health, appointed by Our Minister;
  - advisers*: administrative authorities which pursuant to statutory provisions must be given the opportunity to make recommendations with respect to the taking of decisions;
  - administrative authorities concerned*: advisers and other administrative authorities which in accordance with Part 3.5 of the General Administrative Law Act are involved in the taking of decisions as referred to in section 13.1, subsection 1;
  - establishment*: any enterprise undertaken by man commercially, or of a size commensurate with a commercial enterprise, which is conducted within certain bounds;
  - national environmental policy plan*: the national environmental policy plan referred to in section 4.3;
  - provincial environmental policy plan*: the provincial environmental policy plan referred to in section 4.9;
  - municipal environmental policy plan*: the municipal environmental policy plan referred to in section 4.16;
  - provincial environmental ordinance*: the ordinance referred to in section 1.2;
  - waste substances*: all substances, preparations or other products belonging to the categories referred to in annex I to Council Directive no. 75/442/EEC of 15 July 1975 on waste, which the holder thereof discards, intends to discard or must discard;
  - efficient waste management*: management of waste substances that takes account of the relevant waste management plan, or the provisions applicable to the adoption of the plan, or the order of preference indicated in section 10.4, and the criteria referred to in section 10.5, subsection 1;
  - substances*: substances within the meaning of the Environmentally Hazardous Substances Act;
  - preparations*: preparations within the meaning of the Environmentally Hazardous Substances Act;

*household waste*: waste substances from private households, except in so far as transferred or collected components of these waste substances are concerned which have been designated as hazardous waste;

*industrial waste*: waste substances that are not household waste or hazardous waste;

*hazardous waste*: waste substances designated as such by ministerial order, in accordance with relevant treaties and decisions of international organisations which are binding upon the Netherlands;

*waste management plan*: the waste management plan referred to in section 10.3;

*waste ordinance*: the ordinance referred to in section 10.23;

*waste management*: collection, transport, recovery or disposal of waste substances;

*recovery*: the actions referred to in annex II B to Council Directive no. 75/442/EEC of 15 July 1975 on waste;

*disposal*: the actions referred to in annex II A to Council Directive no. 75/442/EEC of 15 July 1975 on waste;

*landfill*: placing waste substances on or under the ground with a view to leaving them there;

*the EEC regulation on shipments of waste*: Council Regulation (EEC) no. 259/93 of 1 February 1993 on the supervision and control of shipments of waste within, into and out of the European Community (OJ L30);

*wastewater*: all water which the holder discards, intends to discard or must discard;

*domestic wastewater*: wastewater from private households;

*industrial wastewater*: wastewater which is not domestic wastewater;

*biochemical oxygen demand*: the mass concentration of dissolved oxygen consumed in five days by the biochemical oxidation of organic constituents, with the exception of ammonium oxidation, under conditions specified in a standard drawn up by the Netherlands Standards Institute (NNI) and designated by Our Minister;

*population equivalent*: a biochemical oxygen demand of 54 grams per day;

*the EC framework directive on air quality*: Council Directive (EC) no. 96/62 of 27 September 1996 on ambient air quality assessment and management (OJ L 296) according to the text laid down by this directive;

*the EEC eco-management and audit scheme regulation*: Regulation no. 761/2001 of the European Parliament and of the Council of the European Union of 19 March 2001 allowing voluntary participation by organisations in a Community eco-management and audit scheme (OJ L 114);

*water quality manager*: the administrative authority authorised to grant licences under the Pollution of Surface Waters Act.



2. In this Act and in the provisions based thereon:
  - a. 'effects on the environment' shall include effects relating to efficient waste management or efficient wastewater management, effects relating to the consumption of energy and raw materials, and effects relating to the transport of persons or goods to and from the establishment;
  - b. 'protecting the environment' shall include the improvement of the environment, ensuring efficient waste management and efficient wastewater management, ensuring economical use of energy and raw materials, and ensuring the limitation of the adverse effects on the environment of the transport of persons or goods to and from the establishment.
3. Categories of establishments which may adversely affect the environment shall be designated by order in council.
4. For the purposes of this Act and the provisions based thereon, 'establishment' shall mean an establishment included in a category designated as such pursuant to subsection 3. Under this definition, installations belonging to the same enterprise or institution which have a technical, organisational or functional relationship with each other and are situated in each other's immediate vicinity shall be deemed to be one establishment. Our Minister may lay down further rules relating to the definition of an establishment used in this Act and the provisions based thereon.
5. In this Act and in the provisions based thereon, 'discarding waste substances' shall include:
  - a. the recovery or disposal of waste substances within the establishment where they originate;
  - b. moving waste substances, for recovery or disposal purposes, from an establishment to one situated elsewhere belonging to the same natural or legal person;
  - c. transferring waste substances temporarily for recovery purposes.
6. It shall be indicated by ministerial order which substances, preparations or other products will in any event be deemed to be waste substances, if the holder thereof discards, intends to discard or must discard them.
7. In the interests of promoting recovery, it may be laid down by order in council that there is no question of discarding waste substances if the substances, preparations or other products designated by the order in council:
  - a. are transferred by the holder directly to a person who uses these substances, preparations or other products entirely in a manner indicated by the order in council;
  - b. satisfy requirements laid down by that order in council.Our Minister may lay down further rules concerning the designation of substances, preparations or other products, methods of use, and the requirements referred to in this subsection.
8. A waste substance shall in any event be deemed to be household waste or industrial waste if it has been designated as such by order in council.
9. If Our Minister considers that an immediate measure is required in the interests of efficient waste management, he may draw up an order with the purport referred to in

subsection 7 or 8. Such an order shall lapse one year after it has come into force or, if an order in council replacing the said order has taken effect within that period, on the date when the said order in council comes into force. Our Minister may extend the period once by a maximum of one year by ministerial order.

10. Our Minister may lay down further rules concerning the designation of hazardous waste as referred to in subsection 1. Our Minister or an agency to be designated by him may also determine that a waste substance, as presented for assessment by the holder:
  - a. does not possess properties on the basis of which it should be designated as hazardous waste pursuant to annex III to Council Directive no. 91/689/EEC of 12 December 1991 on hazardous waste;
  - b. although it has not been designated as hazardous waste, nevertheless possesses properties on the basis of which it should be designated as hazardous waste pursuant to the annex referred to in point a.
11. For the purposes of the definitions in subsection 1 of 'waste substances', 'waste management', 'recovery' and 'disposal', an amendment of the annexes to Council Directive no. 75/442/EEC of 15 July 1975 on waste shall apply with effect from the date on which the relevant amendment must be implemented, unless another date has been set by ministerial order, which has been published in the Government Gazette.
12. For the purposes of subsection 10, an amendment of annex III to Council Directive no. 91/689/EEC of 12 December 1991 on hazardous waste shall apply with effect from the date on which the relevant amendment must be implemented, unless another date has been set by ministerial order, which has been published in the Government Gazette.

### **Section 1.1a**

1. Every person shall treat the environment with due care.
2. The care referred to in subsection 1 shall in any event mean that any person who knows or may reasonably suspect that his acts or omissions may have damaging effects on the environment shall be obliged to refrain from such acts in so far as this can reasonably be demanded of him, or to take every possible measure which may reasonably be demanded of him to prevent these effects or, in so far as these effects cannot be prevented, to minimise or rectify them.
3. The provisions of subsections 1 and 2 shall not affect liability under civil law and the right of legal persons to take legal action on that account, as referred to in article 1, Book 2 of the Civil Code.

## **§ 1.2 The provincial environmental ordinance**

### **Section 1.2**

1. The provincial council shall adopt an ordinance for the protection of the environment.
2. The ordinance shall comprise at least:
  - a. rules to protect the quality of the groundwater with a view to water abstraction in the areas designated by the ordinance;
  - b. rules to prevent or limit noise pollution in the areas designated by the ordinance;
  - c. rules on the composition and procedures of the provincial environmental committee.
3. Further rules to protect the environment shall be laid down for the territory of the province or parts thereof by the ordinance in so far as, in the opinion of the provincial council, this is of more than municipal concern.
4. The ordinance may provide that rules laid down thereby shall apply only to one or more parts of the territory of the province to be designated therein.
5. The ordinance shall not contain any rules pertaining to the composition or properties of products. The ordinance shall not contain any rules relating to agricultural enterprises in areas designated by Our Minister in agreement with our Minister of Agriculture, Nature Management and Fisheries.
6. In so far as it is particularly appropriate in the interests of efficient regulation, the ordinance may only contain rules which directly relate to categories of establishments designated by those rules, in so far as:
  - a. the prohibition laid down in section 8.1, subsection 1 does not apply to those establishments, and the rules are necessary to protect the quality of the groundwater for the purpose of water abstraction in areas designated by the ordinance; or
  - b. the rules prohibit the construction or operation of such establishments in areas as referred to in point a, or the modification of such establishments in those areas or the operation thereof in a manner to be indicated by the ordinance.
7. In so far as the cases concerned are those referred to in subsection 6, the ordinance may provide that the body authorised to grant a licence pursuant to Chapter 8 may depart from the rules laid down in the ordinance when issuing or amending the licence with regard to the matters indicated therein in the restrictions or conditions to which the licence is subject. The ordinance may also lay down that this power shall apply only in categories of cases indicated therein.
8. In drawing up the ordinance the provincial council shall take into account the current provincial environmental policy plan.

### **Section 1.2a**

The provincial environmental ordinance shall not lay down any rules restricting or prohibiting the transport of waste to or from the province.

### **Section 1.3**

1. The provincial environmental ordinance may lay down that administrative authorities designated therein may grant an exemption, in categories of cases indicated therein, from rules designated by the said ordinance, if this does not conflict with the interests of environmental protection.
2. The power referred to in subsection 1 shall not apply to establishments for which a licence is required pursuant to section 8.1.
3. When giving a decision on applications for exemptions, the body concerned shall in any event take account of the environmental policy plan applicable to it.
4. Part 3.5 of the General Administrative Law Act shall apply to the giving of the decision concerning an application for an exemption, or amending or withdrawing an exemption. If no reservations can reasonably be expected from the standpoint of environmental protection, the provincial environmental ordinance may provide otherwise.

#### **Section 1.4**

1. In preparing the draft of a provincial environmental ordinance, the provincial executive shall consult any non-provincial administrative authorities which may be concerned.
2. The provincial executive shall give the provincial environmental committee the opportunity to make recommendations on the draft ordinance.
3. The provincial executive shall give notice of a decision to adopt or amend the ordinance by sending a copy thereof to Our Minister.

## **CHAPTER 2. ADVISORY BODIES**

### **§ 2.1 repealed**

### **§ 2.2 The Environmental Impact Assessment Committee**

#### **Section 2.17**

1. There shall be a Environmental Impact Assessment Committee.
2. The duties of the Committee shall be:
  - a. to make recommendations to Our Minister and Our Minister of Agriculture, Nature Management and Fisheries in accordance with section 7.5, subsection 6, with respect to applications for exemption from the obligation to draw up an environmental impact statement;
  - b. to make recommendations to the competent authority in accordance with section 7.14, subsection 1 and section 7.26 with respect to environmental impact statements.

#### **Section 2.18**

The Committee shall submit an annual report on its activities to Our Minister and Our Minister of Agriculture, Nature Management and Fisheries. Our Ministers shall publish the report.

#### **Section 2.19**

1. The Committee shall consist of experts on such matters as the description, protection, pollution and impairment of the environment and on activities designated in accordance with sections 7.2 and 7.6.
2. The chair, one or more deputy chairs and other members of the Committee shall be appointed and discharged by Us, on the joint recommendation of Our Minister and Our Minister of Agriculture, Nature Management and Fisheries. The chair shall be nominated in accordance with the wishes of the Cabinet.
3. With the exception of the chair and the deputy chairs, the members shall be appointed for a period of five years. They shall be eligible for immediate reappointment.
4. The chair and deputy chairs shall be discharged from this office with effect from the calendar year following the year in which they reach the age of seventy.
5. The members may resign at any time by giving notice in writing to Our Minister and Our Minister of Agriculture, Nature Management and Fisheries.

#### **Section 2.20**

The legal position of the chair, the deputy chairs and the other members shall, as far as necessary, be further regulated by order in council.

#### **Section 2.21**

1. As soon as the Committee is given the opportunity to make recommendations with respect to an application for exemption or an environmental impact statement, the chair shall, after consulting the deputy chairs, form a working party from among the members of the Committee, which shall make recommendations to the competent authority. The chair or the deputy chair of the Committee appointed by him shall be the chair of the working party.
2. Only those members of the Committee who are not or have not been directly involved in the activity or the alternatives thereto, as referred to in section 7.10, subsection 1 (b), or in a decision in the preparation of which an environmental impact statement is being or must be drawn up may be appointed as members of a working party.
3. If a member of a working party no longer meets the requirement laid down in subsection 2, the chair of the working group shall, after consulting the chair of the Committee, relieve him of his membership of the working party.
4. The working party may call upon experts who are not members of the Committee. Subsections 2 and 3 shall apply *mutatis mutandis*.
5. The chair of the Committee shall inform the competent authority and the person who is drawing up or has to draw up the environmental impact statement which members of the Committee make up the working party and what experts it will call upon.

#### **Section 2.22**

1. The recommendations shall be made in accordance with the views of the majority of the members of the working party.
2. At the request of the members of the working party who have advocated a position which deviates from the views of the majority, the position shall be stated in the recommendations. These members may add a separate memorandum concerning such a position on the recommendations.

#### **Section 2.23**

The Committee shall have a secretary, who shall be appointed and discharged by Us on the joint recommendation of Our Minister and Our Minister of Agriculture, Nature Management and Fisheries, having heard the Committee. The Committee shall have an office which shall be managed by the secretary.

#### **Section 2.24**

The Committee shall draw up further rules concerning its procedures and shall send them to Our Minister.

### **§ 2.3 The Committee on Genetic Modification**

#### **Section 2.25**

For the purposes of this Division, genetically modified organisms shall be understood to mean organisms whose genetic material has been altered in a manner not possible by

natural means such as reproduction or recombination and which are able to replicate or transmit that genetic material.

#### **Section 2.26**

There shall be a Committee on Genetic Modification.

#### **Section 2.27**

1. The task of the Committee shall be:
  - a. to advise Our Minister on notifications and applications for a licence relating to the production of or activities involving genetically modified organisms and on safety measures to be taken in that connection to protect man and the environment;
  - b. to advise the administrative authority authorised to grant licences pursuant to section 8.1 on applications for a licence relating to establishments designated by order in council in so far as the applications relate to the production of or activities involving genetically modified organisms;
  - c. to advise the administrative authority authorised to monitor the production of or activities involving genetically modified organisms on matters related to its monitoring tasks.
2. At the request of Our Minister or Our Minister whom it may concern, or on its own initiative, the Committee shall inform Our Minister concerned if the production of or activities involving genetically modified organisms have ethical or social implications which the committee considers to be important.

#### **Section 2.28**

Our Minister and Our other Ministers whom it may concern shall ensure that the Committee is kept informed of policy on the production of or activities involving genetically modified organisms.

#### **Section 2.29**

Within a period of four years, the Committee shall issue a report to Our Minister in which at least its tasks, composition, organisation and procedures are reviewed and any necessary changes may be proposed. Our Minister shall send this report, together with his opinion, to both houses of the States General.

**Section 2.30**

1. The Committee shall consist of a chair and between fifteen and twenty other members.
2. The chair and the other members of the Committee shall be appointed on the basis of their expertise in the field of the production of or activities involving genetically modified organisms and the potential consequences thereof for man and the environment, including the ecological consequences and the necessary safety measures.

**Section 2.31**

1. The chair of the Committee shall be appointed by Our Minister. Our Minister shall hear the Committee before appointing the chair.
2. Our Minister shall appoint between fourteen and nineteen other members of the Committee.
3. The chair and the members shall be appointed for a period of four years. They may be reappointed immediately.
4. The chair and the members may resign at any time by giving written notice to Our Minister.
5. In special cases, Our Minister may suspend and discharge the chair and the other members.

**Section 2.32**

1. The Committee shall appoint a deputy chair from among its own members.
2. The deputy chair may resign at any time by giving written notice to the chair.
3. In special cases, the committee may suspend and discharge the deputy chair.

**Section 2.33**

1. The Committee shall be assisted by a secretary. A deputy secretary may be appointed.
2. The secretary and deputy secretary shall be appointed, suspended and discharged by Our Minister, having heard the Committee.
3. The secretary shall not be a member of the Committee.
4. The secretary shall be accountable solely to the Committee for the performance of his duties.
5. Our Minister may provide an office for the Committee, which shall be run by the secretary.

**Section 2.34**

1. The Committee may set up subcommittees for certain issues.
2. The chair of a subcommittee shall be appointed by the Committee from among its own members.



### **Section 2.35**

1. The Committee and its subcommittees may be assisted in their work by persons who are not members of the committee.
2. Our Minister and Our Ministers of Social Affairs & Employment, of Health, Welfare & Sport, and of Agriculture, Nature Management & Fisheries may designate officials from their own ministry who are authorised to attend the meetings held by the Committee and its subcommittees, provided that no more than one official from each ministry is present at the meetings of the Committee.

### **Section 2.36**

1. The meetings of the Committee shall be public. In the decision referred to in section 2.40 the Committee shall lay down rules on public access to the meetings of the subcommittees.
2. A meeting or part thereof shall not be public in cases as referred to in section 10, subsection 1 of the Government Information (Public Access) Act and in cases where the importance of public access does not outweigh the interests referred to in section 10, subsection 2 of that Act.

### **Section 2.37**

1. The recommendations of the Committee shall be made in accordance with the views of the majority of the meeting.
2. Minority positions put forward at the meeting shall be stated in or attached to the recommendations.

### **Section 2.38**

The Committee shall ensure that the preparatory documents relating to the recommendations issued by it remain at the disposal of Our Minister and the administrative authorities referred to in section 2.27, subsection 1 (b and c).

### **Section 2.39**

1. The chair of the Committee shall hold consultations with Our Minister at least once a year on the activities planned by the Committee for the next twelve months. The Committee shall then finalise its programme of activities and send it to Our Minister.
2. In preparation for the consultations referred to in subsection 1, the Committee shall draw up an overview of its planned activities and submit it to Our Minister in good time. The Committee shall enclose with the overview an estimate of the costs associated with the implementation of the activities.
3. The Committee shall perform its activities within the framework of the funds placed at its disposal each year under the Budget Act.

### **Section 2.40**

The Committee shall draw up further rules concerning its own procedures and those of its subcommittees and shall send them to Our Minister.

## **§ 2.4 The Provincial Environmental Committee**

### **Section 2.41**

1. The provincial council shall establish a Provincial Environmental Committee which shall be consulted in advance by the provincial authority about measures and plans relevant to environmental management in the province.
2. The inspector shall be an *ex officio* member of the Committee.

## **CHAPTER 3. INTERNATIONAL AFFAIRS**

## **CHAPTER 4. PLANS**

### **§ 4.1 General**

#### **Section 4.1**

In this Chapter 'Our Ministers' shall mean: Our Minister, together with Our Minister of Transport, Public Works and Water Management, Our Minister of Agriculture, Nature Management and Fisheries, and Our Minister of Economic Affairs in so far as those parts of environmental policy are concerned which fall under their responsibility.

#### **Section 4.2**

1. The National Institute of Public Health and the Environment, hereafter referred to as the RIVM, shall, once every four years, deliver a scientific report to Our Minister describing developments in environmental quality over a period, of no less than the next ten years, to be indicated by Our Minister. The description shall in any event be based on the most likely trends in the relevant conditions over the period in question. The report shall also contain projections, each of which shall be based on different developments in the said conditions which it is reasonable to assume could take place over the period in question. The report shall be delivered no less than 6 months and no more than 12 months after Our Ministers adopt the next national environmental policy plan. In cases where the validity of a national environmental policy plan is extended in accordance with section 4.6, subsection 2, the time limit of four years referred to in the first sentence of this subsection may be departed from.
2. The RIVM shall deliver a scientific report to Our Minister every year, describing developments in environmental quality caused by the implementation of policy measures affecting the said quality which were in force in the year covered by the report. The report shall in any event indicate the extent to which the said measures helped to achieve the results envisaged for the year in question in the current national environmental policy plan. The report shall also indicate how the developments in environmental quality described therein relate to the developments described in the corresponding earlier reports. If an unexpected factor arises that might have significant consequences for the development of environmental quality in the longer term, the RIVM shall, at the request of Our Minister, include a description of developments that may result therefrom.
3. Our Minister, in cooperation with Our Minister of Transport, Public Works and Water Management, Our Minister of Economic Affairs and Our Minister of Agriculture, Nature Management and Fisheries – in so far as each of them is concerned – shall designate

government agencies which shall in any event be consulted by the RIVM in drawing up the reports. A government agency shall be eligible for designation only if it is able, in terms of organisation, personnel and facilities, to perform the work necessary for the drawing up of the reports at an appropriate level of expertise.

4. Our Minister may, in cooperation with Our Minister of Transport, Public Works and Water Management, Our Minister of Economic Affairs and Our Minister of Agriculture, Nature Management and Fisheries – in so far as each of them is concerned – lay down rules governing the way in which government institutions designated pursuant to subsection 3 shall be consulted in drawing up reports.

#### **Section 4.2a**

1. Our Minister may indicate probable developments which should in any event serve as a basis for the descriptions referred to in section 4.2, subsection 1. He may also indicate subjects which should in any event be discussed in a report as referred to in that subsection.
2. Without prejudice to the provisions of section 4.2, subsection 2, fourth sentence and section 4.2a, subsection 1, such of Our Ministers as are involved shall not issue instructions to the RIVM and the agencies designated pursuant to section 4.2, subsection 3 with regard to the content of the reports.
3. Our Minister shall send the reports to the States General. A report as referred to in section 4.2, subsection 1 shall be sent prior to or simultaneously with the subsequent national environmental policy plan. A report as referred to in section 4.2, subsection 2 shall be sent prior to or simultaneously with the subsequent national environmental programme. The RIVM shall ensure that the reports are made generally available.

#### **Section 4.2b**

For the purpose of drawing up environmental policy plans and environmental programmes the various government agencies shall provide one another on request with all the information and data in their possession that may reasonably be required for this purpose.

### **§ 4.2 The national environmental policy plan**

#### **Section 4.3**

1. Our Ministers shall draw up a national environmental policy plan at least once every four years which, with a view to protecting the environment, will provide a guide for the decisions to be taken by the government during the following four years and, it is expected, will guide decisions taken in the four years thereafter.
2. The plan shall contain the main elements of the government's environmental policy, which is principally concerned with development which will meet the requirements of the present generation, without endangering the opportunities of future generations to meet their own needs, and with attaining the greatest possible level of environmental protection. Possible developments in society and the quality of the environment desired

in the longer term, as well as relevant international developments, shall be taken into consideration in the plan.

3. These main elements shall include at least the following:
  - a. the intended results in the relevant eight-year period – and, to the extent that this is capable of being indicated, the first four years – with regard to the quality of the various parts of the environment;
  - b. the intended results in the relevant eight-year period – and, to the extent that this can reasonably be indicated, the first four years – with regard to the prevention, limitation or remedying of the effects of human activities which pollute, impair or deplete the environment;
  - c. the areas where the quality of the environment or one or more parts thereof requires special protection;
  - d. the manner in which it shall be attempted to achieve and safeguard the intended results referred to in points a, b and c and the period within which this is to be done, and the level of priority attached to achieving those results;
  - e. the financial, economic and spatial consequences which may reasonably be expected to ensue from the environmental policy to be pursued.
4. Our Ministers shall also indicate in the plan to what extent the proposed policy is consistent with, or entails revision of, the national water management policy and to what extent and within what period they intend to revise the Policy Document on Water Management referred to in section 3, subsection 1 of the Water Management Act.

#### **Section 4.4**

Our Ministers shall involve in the preparation of the national environmental policy plan those administrative authorities, institutions and organisations which in their opinion are most concerned with the subjects to be addressed. This shall in any event include provincial executives.

#### **Section 4.5**

1. As soon as the national environmental policy plan has been finalised, Our Ministers shall give notice thereof by submitting it to the States General and sending a copy to the provincial executives.
2. Our Minister shall announce the finalisation of the plan in the Government Gazette, and shall indicate how cognisance may be taken of the content of the plan.

#### **Section 4.6**

1. The national environmental policy plan shall enter into force on a date to be decided by Our Ministers. A decision as referred to in the first sentence shall not be taken until eight weeks after the plan drawn up pursuant to section 4.5, subsection 1 has been submitted to the States General. If, within eight weeks of the submission of the plan, it is announced by or on behalf of either of the houses of the States General that it wishes to debate the plan in public, a decision as referred to in the first sentence shall not be

taken until six months after the submission of the plan or, if the deliberations have concluded at an earlier date, upon completion of the deliberations. Our Ministers shall inform the States General in writing of any consequences that they believe the deliberations may have for national environmental policy and the implementation of the plan. Our Minister shall publish a decision as referred to in the first sentence in the Government Gazette, stating the consequences reported to the States General.

2. Unless a new plan is finalised earlier, the plan shall apply for a period of four years. Our Ministers may extend the validity of the plan once by a maximum of two years. Our Minister shall give notice of a decision as referred to in the second sentence by submitting it to the States General and publishing it in the Government Gazette.
3. The current national environmental policy plan shall in any event be taken into account by administrative authorities when taking decisions designated under this Act or in taking decisions pursuant to Acts referred to in the appendix to this Act, in so far as in so doing the protection of the environment may or must be taken into consideration.
4. Subsection 3 shall not apply to decisions:
  - a. relating to a policy document on water management as referred to in section 3, subsection 1 of the Water Management Act;
  - b. taken by an administrative authority instead of an agency of another public body, if that body fails to fulfil an obligation.
5. For the purposes of subsection 3, the consequences reported to the States General in accordance with subsection 1 shall be deemed to be a part of the plan.

### **§ 4.3 The national environmental programme**

#### **Section 4.7**

1. Our Ministers shall draw up a national environmental programme annually.
2. The programme shall contain at least:
  - a. a programme of activities for the protection of the environment to be carried out by the government in the next four years;
  - b. a programme for the determination or review of environmental quality requirements pursuant to section 5.1, subsection 1, giving an indication of the results the programme seeks to achieve;
  - c. a review of the items included in the various chapters of the budget relating to environmental management, and an indication of the financial consequences for the State in the following years of the activities referred to in point a;
  - d. a report on the progress made in implementing the current national environmental policy plan.
3. In drawing up the programme, Our Ministers shall take into account the current national environmental policy plan.

#### **Section 4.8**

1. Our Minister shall give notice of the national environmental programme by submitting it to the States General with the national budget.
2. Our Minister shall give notice of the programme by sending it to the provincial executives.

#### **§ 4.4 The provincial environmental policy plan**

##### **Section 4.9**

1. At least once every four years the provincial council shall draw up a provincial environmental policy plan to guide the decisions to be taken by the Council and by administrative authorities to which provincial powers have been delegated, in the exercise of which the plan must be taken into account during the following four years and, it is expected, in the four years thereafter, with a view to protecting the environment.
2. The plan shall contain the main elements of the provincial council's environmental policy.
3. These main elements shall include at least the following:
  - a. the intended results in the relevant eight-year period – and, to the extent that these can reasonably be provided, the first four years – concerning the quality of the various parts of the environment, having regard to the limit values and the guideline values laid down pursuant to or in accordance with section 5.1, subsection 1;
  - b. the intended results in the relevant eight-year period – and, to the extent that these can reasonably be provided, the first four years – concerning the prevention, limitation or remedying of the consequences of human activities which pollute, impair or deplete the environment;
  - c. the areas where the quality of the environment or one or more parts thereof requires special protection;
  - d. the manner in which the administrative authorities referred to in subsection 1 shall seek to achieve and safeguard the intended results referred to in points a, b and c and the period within which this is to be done, and the level of priority attached to achieving those results;
  - e. the financial and economic consequences which may reasonably be expected to ensue from the environmental policy to be pursued.
4. The areas referred to in subsection 3 (c), shall at least include:
  - a. those areas which have been designated a protected nature reserve or a state nature reserve pursuant to the Nature Conservancy Act, and
  - b. those areas which have been designated under the Convention on Wetlands of International Importance especially as Waterfowl Habitat (Ramsar Convention, Treaty Series 1975, 84),unless provided otherwise at the time of designation.
5. The provincial council shall also indicate in the plan to what extent the proposed policy is consistent with, or entails revision of, provincial water management policy, provincial

land-use policy or provincial transport policy and to what extent and within what period it intends to revise the current provincial plan for water management as referred to in section 7, subsection 1 of the Water Management Act, one or more current regional schemes as referred to in section 4a of the Spatial Planning Act or the current provincial transport plan as referred to in section 5 of the Transport Planning Act.

#### **Section 4.10**

1. The provincial environmental policy plan shall be prepared by the provincial executive.
2. The provincial executives shall involve in the preparation of the plan those government bodies which in their view are most concerned with the issues to be addressed. These government bodies shall include at least the following:
  - a. the provincial executives of adjacent provinces,
  - b. the administrative authorities to which provincial powers have been delegated, in the exercise of which the plan must be taken into account, and
  - c. the inspector.
3. The provincial executives shall also involve in the preparation of the plan people living in the province and natural and legal persons with interests in the province, in the manner provided for in the ordinance drawn up pursuant to section 147 of the Provinces Act.

#### **Section 4.11**

1. As soon as the provincial environmental policy plan has been finalised, the provincial executive shall give notice thereof by sending it to Our Minister and to the administrative authorities to which provincial powers have been delegated, in the exercise of which the plan must be taken into account.
2. The provincial executives shall announce the finalisation of the plan in the Government Gazette, and shall indicate how cognisance may be taken of the content of the plan.



#### **Section 4.12**

1. Unless a new plan is drawn up earlier, the provincial environmental policy plan shall apply for a period of four years following the announcement of its finalisation in accordance with section 4.11, subsection 2.
2. The provincial council may extend the duration of the plan once by a maximum of two years. The provincial executive shall send notification of a decision as referred to in the first sentence to Our Minister and the administrative authorities to which provincial powers have been delegated, in the exercise of which the plan must be taken into account, and shall publish it in the Government Gazette.
3. The current provincial environmental policy plan shall in any event be taken into account by the provincial authority when taking decisions designated under this Act or in taking decisions pursuant to Acts referred to in the appendix to this Act, in so far as in so doing the protection of the environment may or must be taken into consideration.
4. Subsection 3 shall not apply to decisions:
  - a. relating to a provincial policy plan for water management as referred to in section 7, subsection 1 of the Water Management Act;
  - b. taken by the provincial authority instead of an agency of another public body, if that body fails to fulfil an obligation.
5. Subsection 3 shall apply *mutatis mutandis* to decisions:
  - a. taken by an agency of another administrative authority instead of the provincial authority, if that authority fails to fulfil an obligation;
  - b. taken pursuant to provincial powers which have been delegated to an agency of another public body.

#### **Section 4.13**

1. Having heard the provincial executive, Our Ministers may, in the general interest, instruct the provincial council regarding the content of the provincial environmental policy plan. Such an instruction shall state the period within which the plan must be brought into line with the instruction.
2. In issuing an instruction Our Minister shall take into account the current national environmental policy plan and the current waste management plan.
3. Our Minister shall give notice of the decision containing the instruction by submitting it to the States General and publishing it in the Government Gazette.

### **§ 4.5 The provincial environmental programme**

#### **Section 4.14**

1. The provincial executive shall draw up an annual environmental programme.
2. The programme shall at least include:
  - a. a programme of activities for the protection of the environment to be carried out by the provincial authority in the next four years, including:

- 1° a list of cases investigated and instances of serious pollution as referred to in section 1 of the Soil Protection Act and, with regard to those cases, a list of the activities to be carried out by or on behalf of the provincial authority or known by the provincial authority to be carried out by others over the next four years, and an indication of when the investigation or cleanup of those cases of pollution shall or should commence;
  - 2° a list of measures needed to combat noise annoyance over the next four years;
  - b. a summary of the financial consequences of the activities referred to in point a, under 2°, including the grants to be requested from the State;
  - c. a report of the progress made with the implementation of the current provincial environmental policy plan.
3. In drawing up the programme, the provincial executive shall take account of the current provincial environmental policy plan.

#### **Section 4.15**

1. The provincial executive shall involve in the preparation of the provincial environmental programme the administrative authorities to which provincial powers have been delegated, in the exercise of which the provincial environmental policy plan must be taken into account, or which are concerned with the activities referred to in section 4.14, subsection 2 (a) (1°).
2. Section 4.10, subsection 3 shall apply *mutatis mutandis* to the preparation of the programme, in so far as it relates to cases as referred to in section 4.14, subsection 2 (a) (1°).
3. The provincial executive shall give notice of the programme by submitting it to the provincial council with the draft budget and by sending it to Our Minister at the same time.

#### **§ 4.5a The regional environmental policy plan**

##### **Section 4.15a**

1. The general executive of a regional public body as referred to in the Government in Transition Framework Act shall draw up a regional environmental policy plan which, with a view to protecting the environment, shall provide guidelines for decisions which an organ of that body is authorised to make by or pursuant to the Act.
2. Section 4.13, section 4.16, subsection 2, section 4.17, section 4.18 and section 4.19 shall apply *mutatis mutandis*, with the proviso that in addition to the administrative authorities referred to in section 4.17, subsection 2, the municipal executives in the municipalities situated in the same area as the regional public body shall be involved in the preparation of the plan.

#### **§ 4.5b The regional environmental programme**

#### **Section 4.15b**

1. The executive committee of a regional public body as referred to in the Government in Transition Framework Act shall draw up an annual environmental programme.
2. Section 4.20, subsections 2 and 3, and section 4.21 shall apply *mutatis mutandis*, with the proviso that, in addition to the items referred to in section 4.20, subsection 2, the programme shall also contain a report of the progress made in the implementation of the applicable regional environmental policy plan.

#### **§ 4.6 The municipal environmental policy plan**

##### **Section 4.16**

1. The municipal council may draw up a municipal environmental policy plan to guide the decisions to be taken by the municipal authority, with a view to protecting the environment.
2. The plan shall contain the main elements of the municipal authority's environmental policy.

##### **Section 4.17**

1. The municipal environmental policy plan shall be prepared by the municipal executive.
2. The municipal executive shall involve in the preparation of the plan those administrative authorities which in its view are most concerned with the issues to be addressed. These administrative authorities shall include at least the following:
  - a. the provincial executives;
  - b. the municipal executives of adjacent municipalities; and
  - c. the inspector.
3. The municipal executive shall also involve in the preparation of the plan people living in the municipality and natural and legal persons with interests in the municipality, in the manner provided for in the ordinance issued pursuant to section 150 of the Municipalities Act.

##### **Section 4.18**

1. As soon as the municipal environmental policy plan has been finalised, the municipal executive shall give notice thereof by sending a copy to the provincial executive and the inspector.
2. The municipal executive shall announce the finalisation of the plan in one or more daily papers or other newspapers distributed in the municipality, and shall indicate how cognisance may be taken of the content of the plan.

##### **Section 4.19**

1. When drawing up the municipal environmental policy plan, the municipal council shall decide the period for which the plan shall be in force.
2. The municipal council may extend the duration of the plan once by a maximum of two years. Section 4.18, subsection 2 shall apply *mutatis mutandis*.
3. If a municipal environmental policy plan is in force in the municipality, the municipal authority shall in any event take the plan into account when taking a decision designated under this Act or a decision under an Act referred to in the appendix to this Act, in so far as the interests of environmental protection may or must be considered.
4. Subsection 3 shall not apply to decisions taken pursuant to a power of another public body which has been delegated to the municipal authority.
5. Subsection 3 shall apply *mutatis mutandis* to decisions taken by an agency of another public body instead of the municipal authority, if that authority fails to fulfil an obligation.

#### **§ 4.7 The municipal environmental programme**

##### **Section 4.20**

1. The municipal council shall draw up a municipal environmental programme annually for a period to be specified in the programme.
2. The programme shall contain at least:
  - a. a programme of activities for the period concerned to be carried out by the municipal authority to implement the tasks assigned to the authority by statute with a view to the protecting the environment;
  - b. a review of the financial consequences of the activities referred to in point a.
3. If a municipal environmental policy plan is in force in the municipality, the municipal council shall take the plan into account when drawing up a municipal environmental programme.

##### **Section 4.21**

1. The municipal environmental programme shall be prepared by the municipal executive, which shall submit the draft of the programme together with the draft budget to the municipal council.
2. As soon as the municipal environmental programme has been finalised, the municipal executive shall give notice thereof by sending it to the provincial executive and the inspector.
3. The municipal executive shall announce the finalisation of the programme in one or more daily papers or other newspapers distributed in the municipality, and shall indicate how cognisance may be taken of the content of the programme.

#### **§ 4.8 The municipal sewerage plan**

##### **Section 4.22**

1. The municipal council shall draw up a municipal sewerage plan for a period to be specified therein.
2. A plan shall contain at least the following:
  - a. an overview of the facilities in the municipality for the collection and transport of wastewater and an indication of the time at which such facilities are estimated to be due for replacement;
  - b. an overview of the facilities as referred to in point a to be constructed or replaced during the duration of the plan;
  - c. an overview of the way in which the facilities referred to in points a and b are or will be operated;
  - d. the effects on the environment of existing facilities as referred to in point a and of the activities announced in the plan;
  - e. a review of the financial consequences of the activities announced in the plan.
3. If a municipal environmental policy plan is in force in the municipality, the municipal council shall take the plan into account when drawing up a municipal sewerage plan.

#### **Section 4.23**

1. The municipal sewerage plan shall be prepared by the municipal executive. They shall in any event involve the following in the preparation of the plan:
  - a. the provincial executive;
  - b. the operators of the treatment plants to which the wastewater collected is transported;
  - c. the managers of the surface waters into which the water collected is to be discharged; and
  - d. the inspector.
2. As soon as the plan has been finalised, the municipal executive shall give notice hereof by sending a copy to the bodies referred to in subsection 1 (a to d).
3. The municipal executive shall announce the finalisation of the plan in one or more daily papers or other newspapers distributed in the municipality, and shall indicate how cognisance may be taken of the content of the plan.

#### **Section 4.24**

1. After the municipal executive has been given the opportunity of making its views known, the provincial executive may issue the municipal council with instructions regarding the content of the municipal sewerage plan. The instructions may include a deadline by which the plan must be brought into line with the instructions.
2. When issuing instructions, the provincial executive shall take account of the current provincial environmental policy plan and the current provincial water management plan.

## CHAPTER 5. ENVIRONMENTAL QUALITY REQUIREMENTS

### Section 5.1

1. In the interests of environmental protection, and in so far as this is of more than provincial concern, requirements may be laid down by order in council regarding the quality of parts of the environment from a date to be stated therein. Alert thresholds may be set by an order as referred to in the first sentence for the implementation of a directive of the Council of the European Union, in accordance with article 4 of the EC framework directive on air quality.
2. At least the following shall be considered in a decision to draw up an order in council as referred to in subsection 1:
  - a. the available scientific and technical data,
  - b. the available information relating to the current state of the environment,
  - c. developments which can reasonably be expected to take place which are of importance with a view to protecting the environment,
  - d. the options for restricting as far as is reasonably possible the risks to the environment caused by environmentally damaging factors occurring as a result of the requirements,
  - e. any financial and economic consequences which may reasonably be expected to arise from the implementation of the requirements to be laid down,in so far as these factors are of importance to the establishment of environmental quality requirements. In an explanatory note to an order in council as referred to in subsection 1, an indication shall be given of the way in which these aspects were involved in the preparation of the order.
3. An order in council as referred to in subsection 1 shall lay down whether the environmental quality requirements referred to will be deemed to be limit values or guideline values. A limit value gives the quality which must at least have been achieved at a time specified in the order and which, once achieved, must at least be maintained. A guideline value gives the quality which may have been achieved as far as possible at a time specified in the order and which, once achieved, should as far as possible be maintained.
4. It may be laid down by order in council as referred to in subsection 1 that an environmental quality requirement specified therein shall apply only to one or more areas designated by or pursuant to the order, or to areas included in a category designated in the order. The date referred to in subsection 1 may differ for the different areas or categories of areas designated by or pursuant to the order.
5. In an order in council as referred to in subsection 1, a period shall be laid down for each of the environmental quality requirements specified therein, within which Our Minister and, in so far as those parts of environmental policy which fall under their responsibility

are concerned, Our Minister of Transport, Public Works and Water Management and Our Minister of Agriculture, Nature Management and Fisheries must indicate the extent to which in their view the relevant environmental quality requirement needs to be revised. If an environmental quality requirement fails to lay down a value such that it may reasonably be assumed that if it is met the risks to the environment arising from the environmentally damaging factors taken into consideration would be negligible, the period referred to in the previous sentence shall be eight years at most.

## **Section 5.2**

1. An order in council as referred to in section 5.1, subsection 1 shall designate the powers in the exercise of which the limit values laid down by the order must be taken into account or the guideline values laid down by the order must be taken into account. Rules may also be laid down in the said order in council with respect to the manner in which the obligations included therein must be met.
2. Subsection 1 shall apply only in so far as it is not at variance with the statutory provisions from which the powers referred to in that subsection are derived.
3. If the quality of a particular part of the environment in an area to which a quality requirement applies is better than that specified in the requirement, then for the purpose of exercising the powers designated pursuant to subsection 1, the existing quality shall apply instead of that specified in the requirement. It may be laid down by an order in council as referred to in section 5.1, subsection 1, that the first sentence shall not apply to the environmental quality requirements laid down therein.
4. If, in exercising powers with respect to which, pursuant to subsection 1, a guideline value must be taken into account, the said guideline value is departed from, the statement of the grounds on which the decision is based shall in any event state the compelling reasons for doing so.

## **Section 5.2a**

1. If limit values have been set by an order as referred to in section 5.1, subsection 1 for the implementation of a directive of the Council of the European Union, adopted in accordance with article 4 of the EC framework directive on air quality, that order shall include rules concerning:
  - a. the drawing up and implementation of a plan or programme as referred to in article 8, paragraph 3 and annex IV of the EC framework directive on air quality;
  - b. the drawing up of progress reports on the implementation of a plan or programme as referred to in point a, and
  - c. the drawing up of action plans that state what measures must be taken in the short term if there is a threat of the limit values being exceeded, as referred to in article 7, paragraph 3 of the EC framework directive on air quality.
2. When the rules referred to in subsection 1 are laid down, article 8, paragraph 4 and article 11, paragraph 1 (a) (iv) of the EC framework directive on air quality shall be taken into account.

3. The order may stipulate that a plan, programme or report as referred to in subsection 1, or parts thereof, shall be included in the national environmental policy plan, the national environmental programme, the provincial environmental policy plan, the provincial environmental programme, the regional environmental policy plan, the regional environmental programme or the municipal environmental programme, referred to in sections 4.3, 4.7, 4.9, 4.14, 4.15a, 4.15b and 4.20.

### **Section 5.3**

1. Rules may be laid down by order in council with regard to environmental quality requirements relating to:
  - a. the way in which and frequency with which the quality of those parts of the environment concerned shall be measured or assessed;
  - b. who shall be responsible for the measurement or assessment referred to in point a, and the manner in which this shall be reported, and
  - c. the way in which the measurements or assessments referred to in point a shall be funded.
2. The order referred to in subsection 1 may stipulate that the method of measurement or assessment and the frequency thereof shall be laid down by ministerial order.
3. If an order as referred to in section 5.1, subsection 1 lays down limit values for the implementation of a directive of the Council of the European Union, adopted in accordance with article 4 of the EC framework directive on air quality, that order shall also include rules concerning:
  - a. the drawing up of lists as referred to in article 8, paragraphs 1 and 2, or article 9 of the EC framework directive on air quality, and
  - b. the drawing up of reports containing the information referred to in article 11, paragraph 1 (a) (i and ii) of the EC framework directive on air quality.
4. If limit values have been set by an order as referred to in section 5.1, subsection 1 for the implementation of a directive of the Council of the European Union, adopted in accordance with article 4 of the EC framework directive on air quality, that order may stipulate that a report as referred to in subsection 3 (b), or parts thereof, shall be included in the national environmental policy plan, the national environmental programme, the provincial environmental policy plan, the provincial environmental programme, the regional environmental policy plan, the regional environmental programme or the municipal environmental programme, referred to in sections 4.3, 4.7, 4.9, 4.14, 4.15a, 4.15b and 4.20.

### **Section 5.4**

If a ministerial order as referred to in section 21.6, subsection 6 is drawn up to implement this Chapter, section 5.1, subsections 3, 4 and 5, section 5.2 and section 5.3 shall apply *mutatis mutandis*.



## **Section 5.5**

1. The provincial council may lay down environmental quality requirements as referred to in section 5.1, subsection 1, in the provincial environmental ordinance. Section 5.1, subsections 3, 4 and 5, section 5.2 and section 5.3 shall apply *mutatis mutandis* to the establishment of environmental quality requirements as referred to in the first sentence, with the proviso that, with regard to section 5.2, subsection 1, the powers of central government bodies shall not be designated therein.
2. The powers referred to in subsection 1 may be restricted by an order in council as referred to in section 5.1, subsection 1, or a ministerial order as referred to in section 21.6, subsection 6, in so far as this is required in the general interest, with respect to a matter concerning which an environmental quality requirement has been laid down in that order in council or ministerial order.

## **CHAPTER 6. ENVIRONMENTAL ZONING**

## **CHAPTER 7. ENVIRONMENTAL IMPACT ASSESSMENT**

### **§ 7.1. General**

#### **Section 7.1**

1. In this chapter and the provisions based thereon the following definitions shall apply: *Our Ministers*: Our Minister and Our Minister of Agriculture, Nature Management and Fisheries;  
*the Committee*: the Environmental Impact Assessment Committee.
2. In this Chapter and the provisions based thereon the following shall be considered advisers in so far as they should not already be regarded as such on the basis of other statutory provisions:
  - a. if the competent authority is a central government body: an administrative authority designated by Our Minister and an administrative authority designated by Our Minister of Agriculture, Nature Management and Fisheries;
  - b. if the competent authority is another administrative authority: the inspector and an administrative authority designated by Our Minister of Agriculture, Nature Management and Fisheries.
3. It may be laid down by order in council, with respect to an activity or decision designated therein, who or what body shall for the purposes of this Chapter be considered as the person undertaking the activity or as the competent authority. Different persons or bodies may be designated for different sections or parts thereof.

### **§ 7.2. Activities and decisions for which an environmental impact statement is required**

#### **Section 7.2**

1. Activities which may have serious adverse effects on the environment shall be designated by order in council. One or more decisions made by administrative authorities concerning the said activities shall be designated therein, in the preparation of which an environmental impact statement must be drawn up.
2. The activities referred to in subsection 1 may include activities which, in connection with other activities, may have serious adverse effects on the environment.
3. It may be laid down in the order in council that the designation of an activity or a decision shall apply only in cases designated therein.

4. The date from which the obligation referred to in subsection 1 shall take effect with respect to a designated decision shall be laid down by or pursuant to the order in council.
5. The order in council shall be revised once every five years after it has been issued.

### **Section 7.3**

1. If one of Our Ministers intends to undertake an activity which is not included in an order in council pursuant to section 7.2 and which may have serious adverse effects on the environment, he shall inform Our Minister of that intent forthwith.
2. Our Ministers shall each submit an annual report for his own ministry on the application of subsection 1, in the explanatory notes to the relevant chapter of the national budget.

### **Section 7.4**

1. The activities in respect of which the competent authority must decide pursuant to sections 7.8b and 7.8d whether an environmental impact statement must be drawn up because of the special circumstances in which they are to be undertaken, shall be designated by order in council. One or more decisions from administrative authorities with regard to those activities shall be required, in preparation for which the environmental impact statement referred to in the first sentence must be drawn up, should the competent authority so decide.
2. Section 7.2, subsections 2 to 5 shall apply *mutatis mutandis*.

### **Section 7.5**

1. Our Ministers may jointly grant exemption from the obligation to draw up an environmental impact statement when preparing one or more decisions designated pursuant to section 7.2, subsection 1, in cases where:
  - a. the person who is to undertake the activity to which the said decisions relates will be repeating or continuing an activity for which an environmental impact statement has already been drawn up previously and a second environmental impact statement is not reasonably likely to contain any new information concerning possible serious adverse effects of the activity on the environment, and the activity cannot have any serious adverse effects on the environment in another country;
  - b. an environmental impact statement has previously been drawn up for the same activity in accordance with or pursuant to the provisions of sections 7.9 to 7.26 and a second environmental impact statement is not reasonably likely to contain any new information concerning possible serious adverse effects of the activity on the environment, and the activity cannot have any serious adverse effects on the environment in another country;
  - c. the general interest requires that the activity to which the decisions relate be undertaken forthwith.
2. Our Ministers may also grant exemption from the obligation to draw up an environmental impact statement when preparing a decision designated pursuant to section 7.2,

- subsection 1, if on the date on which the designation is to take effect the preparation of the activity or the decision is so far advanced that in the view of Our Ministers it is no longer reasonable to require that an environmental impact statement be drawn up.
3. An exemption pursuant to subsection 1 or 2 may be granted at the written request of the person undertaking the activity or of the competent authority.
  4. In cases as referred to in subsection 2, the application shall be submitted within four weeks of the date on which the obligation to draw up an environmental impact statement for the decision concerned takes effect.
  5. Our Ministers shall note the date of receipt of the application on the letter of application and send the applicant a confirmation of receipt, stating the said date.
  6. Except in cases as referred to in subsection 1 (c), Our Ministers shall, before reaching a decision about an application, give the competent authority, if the application does not originate from the said authority, the opportunity to make recommendations concerning the application. In cases as referred to in subsection 1 (a or b), they shall at the same time give the Committee the opportunity to do likewise. If this opportunity is taken, the recommendations shall be sent to Our Ministers within five weeks of the date on which they were requested.
  7. The decision regarding the application shall be given no more than nine weeks after the date of receipt. At the same time as the decision is announced, it shall be communicated to the Committee and the competent authority.
  8. Rules may be laid down by order in council concerning:
    - a. the manner in which the application for exemption shall be made and the information that may be required from the applicant;
    - b. depositing the application and the information submitted with it for inspection, and giving notice of such deposition;
    - c. the manner in which and the period within which any person may lodge a reservation with Our Ministers to exemption being granted.

## **Section 7.6**

1. With a view to protecting the environment in areas within the province which are of special significance or in which the environment has already been seriously polluted or impaired, the provincial council may designate in the provincial environmental ordinance activities not included in an order in council pursuant to section 7.2 and which may have serious adverse effects on the environment in those areas. At the same time the provincial council shall designate the decisions of administrative authorities concerning the said activities in the preparation of which an environmental impact statement must be drawn up, if the said activities are to be carried out within its province. Section 7.2, subsections 2 and 3 shall apply *mutatis mutandis*.
2. When preparing a decision containing a designation pursuant to subsection 1, the provincial executive shall apply the procedure laid down in Part 3.4 of the General Administrative Law Act; any person may make his views known within eight weeks of the date on which the draft is deposited for inspection. The provincial executive shall consult

the municipal authorities and water-boards in its province regarding the draft. The provincial executive shall give the authorities referred to in section 7.1, subsection 2 (b) the opportunity to make recommendations concerning the said draft.

3. The provincial executive shall present to the provincial council, together with the draft decision, a report on the consultations conducted, the recommendations made and the comments submitted, in which it shall indicate to what extent these have been taken into account, stating the reasons therefor.
4. The provincial executive shall send a copy of a decision as referred to in subsection 1 to each of Our Ministers and to the Committee.

### **Section 7.7**

Rules may be laid down by order in council regarding the content of decisions containing the designation of activities as referred to in section 7.6, subsection 1.

### **Section 7.8**

1. The provincial executive may grant exemption from an obligation to draw up an environmental impact statement pursuant to a designation of activities as referred to in section 7.6 in cases as referred to in section 7.5, subsections 1 and 2. Section 7.5, subsections 3, 4 and 5 shall apply *mutatis mutandis*.
2. Except in cases as referred to in section 7.5, subsection 1 (c), the provincial executive, before granting exemption, shall give the competent authority, if the application does not originate from the said authority, and the authorities referred to in section 7.1, subsection 2, the opportunity to make recommendations. Section 7.5, subsection 7, shall apply *mutatis mutandis*.
3. Rules may be laid down by a decision designating activities as referred to in section 7.6, subsection 1 on the matters referred to in section 7.5, subsection 8.

### **§ 7.3 Procedure to be followed when undertaking activities designated pursuant to section 7.4**

#### **Section 7.8a**

1. If a person undertaking an activity designated pursuant to section 7.4 intends to submit a request that a decision required pursuant to that section be taken, he shall notify the competent authority in writing of his intention.
2. A notification as referred to in subsection 1 shall in any event specify the special circumstances referred to in section 7.8b, subsection 1, under which the activity is to be undertaken.
3. The person undertaking an activity designated pursuant to section 7.4 may state in the notification referred to in subsection 1 that he is to draw up an environmental impact statement in preparation for the decision required pursuant to section 7.4.

### **Section 7.8b**

1. Unless section 7.8a, subsection 3 has been applied, the competent authority shall conclude, within six weeks of the date of receipt, whether, in view of the special circumstances under which the activity in question is to be undertaken, an environmental impact statement must be drawn up in preparation for the relevant decision.
2. If desirable, consultations shall be held with the person who has submitted the notification before the competent authority takes its decision.
3. If, pursuant to section 7.4, more than one decision is required, the competent administrative bodies shall reach the decision referred to in subsection 1 jointly.
4. Special circumstances as referred to in subsection 1 shall be taken to mean the serious adverse effects which the activity may have on the environment, in view of:
  - a. the nature of the activity;
  - b. the site where the activity is carried out;
  - c. other activities at the site;
  - d. the nature of those effects.
5. The competent authority shall make its decision known by:
  - a. giving notice in one or more daily papers or other newspapers or free local papers and, if it has been decided that no environmental impact statement is required, in the Government Gazette;
  - b. depositing it for inspection;
  - c. giving notice in a publication in another country if the activity is likely to have serious adverse effects on the environment in that other country.
6. In notifications as referred to in subsection 5 the competent authority shall state at least:
  - a. the date on which a copy of the decision is to be deposited for inspection, and the hours during which and place at which it will be available for inspection;
  - b. the import of the decision.

### **Section 7.8c**

1. The person who undertakes an activity designated pursuant to section 7.4 shall be obliged to draw up an environmental impact statement if:
  - a. the competent authority has decided that an environmental impact statement must be drawn up in preparation for the decision;
  - b. he has submitted a statement as referred to in section 7.8a, subsection 3.
2. In cases as referred to in subsection 1 (a and b), sections 14.5 to 14.16 and 7.9 to 7.43 shall apply *mutatis mutandis*.

### **Section 7.8d**

1. If the competent authority intends to undertake an activity designated pursuant to section 7.4, it shall at the earliest possible stage take a decision on whether, because of the special circumstances in which the activity is to be undertaken, an environmental impact statement must be drawn up in preparation for the decision required pursuant to that section. Section 7.8b, subsections 3 and 4 shall apply *mutatis mutandis*.

2. The earliest possible stage shall be taken to mean:
  - a. the stage preceding the deposition for inspection of the initial draft if it is a decision whose initial draft must, pursuant to statutory regulations, be deposited for inspection, or
  - b. the stage preceding the deposition for inspection of the draft decision, if this obligation does not apply.
3. The competent authority shall take its decision after consultation with the bodies which, by or pursuant to an Act of Parliament, must be involved in the preparation of the decision required pursuant to section 7.4.
4. The competent authority shall make its decision known by:
  - a. depositing it for inspection;
  - b. giving notice in a publication in another country if the activity is likely to have serious adverse effects on the environment in that other country;
  - c. giving notice in the Government Gazette if it has been decided that no environmental impact statement is required.
5. In the notification and publication of its decision, the competent authority shall state at least:
  - a. the date on which a copy of the decision is to be deposited for inspection, and the hours during which and place at which it will be available for inspection;
  - b. the import of the decision.
6. If the competent authority has determined that an environmental impact statement is to be drawn up in preparation for the decision, sections 14.5 to 14.16 and 7.9 to 7.43 shall apply *mutatis mutandis*.

### **Section 7.8e**

Sections 7.8a to 7.8d shall not apply to activities designated by order in council pursuant to section 7.4 in so far as the activity has been designated by a provincial ordinance pursuant to section 7.6, subsection 1, in accordance with the description in the order in council and the decision relating to the activity is required under the ordinance in accordance with the order.

### **§ 7.4. The environmental impact statement**

#### **Section 7.9**

1. In cases where a decision, in the preparation of which an environmental impact statement must be drawn up, is taken at the request of the person undertaking the activity concerned – irrespective of whether such a request is made pursuant to a statutory provision or not – the said person shall draw up the environmental impact statement.
2. In cases other than those referred to in subsection 1 the competent authority shall draw up the environmental impact statement.

## Section 7.10

1. An environmental impact statement shall contain at least:
  - a. a description of the purpose of the proposed activity;
  - b. a description of the proposed activity and the manner in which it will be carried out, and of the alternatives which should reasonably be taken into consideration, and the reasons for choosing the alternatives to be taken into consideration;
  - c. an indication of the decisions in the preparation of which the environmental impact statement is to be drawn up, and a review of the decisions previously taken by administrative authorities relating to the proposed activity and the alternatives described;
  - d. a description of the current state of the environment in so far as the proposed activity or the described alternatives may affect it, and the expected developments in the said environment in the event that neither the activity nor the alternatives are undertaken;
  - e. a description of the effects which the proposed activity or the described alternatives may have on the environment, and an explanation of the manner in which the effects have been determined and described;
  - f. a comparison of the expected developments in the environment, as described in point d, with the described effects of the proposed activity on the environment and with the described effects on the environment of each of the alternatives considered;
  - g. an overview of the omissions in the descriptions referred to in points d and e, due to lack of the necessary information;
  - h. a summary providing sufficient information for the general public to be able to assess the environmental impact statement and the environmental effects of the proposed activity and of the alternatives described therein.
2. The environmental impact statement shall be drawn up in Dutch, unless the competent authority, when issuing the guidelines referred to in section 7.15, gives the person undertaking the activity permission to draw up the report in another, specified language. The summary referred to in subsection 1 (h) shall always be written in Dutch. If an activity, in preparation for which an environmental impact statement must be drawn up, may have serious adverse effects on the environment in another country, the person undertaking the activity shall send the competent authority of that country, at its request and within a period to be stipulated in that request, a summary of the statement in the national language of that country.
3. The alternatives to be described pursuant to subsection 1 (b) shall in any event include an alternative which prevents the adverse effects on the environment or, in so far as this is not possible, reduces them as far as possible using the best available means of protecting the environment.
4. The competent authority may stipulate that, if it is not possible to limit all adverse effects on the environment, the description of the alternatives pursuant to subsection 1 (b) must include a description of the possible arrangements which may be made or measures which may be taken elsewhere to compensate for the remaining adverse effects.



5. Rules may be laid down by order in council with respect to the manner in which the information referred to in subsection 1 shall be determined and described.

### **Section 7.11**

1. Information which, in the interests of proper decision-making, an environmental impact statement should contain in addition to that referred to in section 7.10 may be designated by order in council. Rules may also be laid down as to how the information shall be determined and described.
2. It may be laid down by order in council pursuant to subsection 1 that a piece of information shall be required or a rule shall apply only in the categories of cases stipulated.
3. Our Ministers may jointly lay down rules with respect to the form of an environmental impact statement.

### **§ 7.5. The preparation of an environmental impact statement**

#### **Section 7.12**

1. If a person who undertakes an activity designated pursuant to section 7.2 or section 7.6, subsection 1, intends to submit an application requiring a decision to be taken, in the preparation of which an environmental impact statement must be drawn up, the said person shall notify the competent authority of such intent in writing.
2. The competent authority shall note the date of receipt of the notification on the letter of notification and send confirmation of receipt to the sender forthwith, stating the said date.
3. It shall at the same time send a copy of the notification to the Committee and to the advisers, stating the date of receipt.
4. It shall also at the same time publish the receipt of the notification by:
  - a. giving notice in one or more daily papers or other newspapers or free local papers;
  - b. giving notice in the Government Gazette, in cases where We, one or more of Our Ministers or the provincial executive are the competent authority;
  - c. giving notice in a publication in another country if the activity is likely to have serious adverse effects on the environment in that other country.
5. If in accordance with section 14.6, subsection 1, a request is made that section 14.5 be applied, subsections 3 and 4 shall not apply until after a decision has been taken regarding the said request.
6. Our Ministers shall lay down rules regarding the content of a notification as referred to in subsection 1 and of the notice referred to in subsection 4.
7. If an activity, in preparation for which an environmental impact statement must be drawn up, may have serious adverse effects on the environment in another country, the person undertaking the activity shall send the competent authority of that country, at its request and within a period to be stipulated in that request, a notification in the national language of that country.

### **Section 7.13**

1. If the competent authority intends to take a decision in the preparation of which it must draw up an environmental impact statement, it shall notify the Committee and the advisers of its intention in writing.
2. It shall at the same time publish its intention, whereby section 7.12, subsection 4 shall apply *mutatis mutandis*.
3. Section 7.12, subsection 5 shall apply *mutatis mutandis*.

### **Section 7.14**

1. The competent authority shall give the Committee and the advisers the opportunity to make recommendations on the issuing of guidelines regarding the content of an environmental impact statement.
2. The Committee shall make its recommendations within nine weeks of publication of the notification referred to in section 7.12, subsection 1, or of the intention referred to in section 7.13, subsection 1. If there is a possibility of serious transboundary effects on the environment, the Committee shall discuss them in its recommendations.
3. If the competent authority does not draw up the environmental impact statement itself, it shall also discuss the issuing of guidelines regarding the content of the said statement with the person who is to undertake the activity.
4. The competent authority shall give any person who so wishes the opportunity to make comments about the issuing of guidelines regarding the content of the environmental impact statement.

### **Section 7.15**

1. The competent authority shall issue guidelines regarding the content of an environmental impact statement no more than thirteen weeks from the date of publication of a notification as referred to in section 7.12, subsection 1, or of an intention as referred to in section 7.13, subsection 1. In cases as referred to in section 7.13, subsection 1, the competent authority may extend the period referred to in the first sentence once by a maximum of eight weeks.
2. The guidelines referred to in subsection 1 may:
  - a. relate to the manner in which the provisions laid down by or pursuant to section 7.10 or 7.11 shall be complied with;
  - b. designate information as referred to in section 7.10 or 7.11 which the environmental impact statement must in any event contain, if necessary after research has been carried out.
3. Where the guidelines relate to an environmental impact statement which must be drawn up in the preparation of a decision to which Part 3.5 of the General Administrative Law Act applies, no research as referred to in subsection 2 (b) may be requested to obtain information as referred to in section 7.10, subsection 1 (d).

4. The guidelines shall be sent to the person undertaking the activity, the Committee, the advisers and anyone who has submitted comments to the competent authority in accordance with section 7.14, subsection 4. Section 3:44, subsection 3 of the General Administrative Law Act shall apply *mutatis mutandis*.

#### **Section 7.16**

Sections 7.12 to 7.15 shall not apply if the person who would have to draw up the environmental impact statement can already produce an environmental impact statement, drawn up in accordance with the provisions laid down by or pursuant to this Chapter, in which the activity to which the decision relates, in the preparation of which the environmental impact statement has to be drawn up, is described as an alternative.

### **§ 7.6. Assessment of the environmental impact statement**

#### **Section 7.17**

1. An environmental impact statement that has not been drawn up by the competent authority shall be submitted to the competent authority.
2. The competent authority shall note the date of receipt of the statement on the said statement. It shall send the person who submitted it confirmation of receipt, stating the said date.

### **Section 7.18**

1. If the competent authority is of the opinion that, having regard to the guidelines issued in accordance with section 7.15, an environmental impact statement submitted to it fails to comply with the rules laid down by or pursuant to sections 7.10 and 7.11, or that it contains inaccuracies, the authority shall notify the person who drew up the statement thereof, stating the reasons, no more than six weeks from the date referred to in section 7.17, subsection 2.
2. If the competent authority is of the opinion that the environmental impact statement is inadequate on minor counts only, notification as referred to in subsection 1 need not be given.
3. An environmental impact statement to which subsection 1 has been applied shall not be subject to the provisions of the remaining sections of this Division.

### **Section 7.19**

The competent authority may designate a body to take its place for the purposes of sections 7.20 to 7.24, section 7.25, subsection 2, and section 7.26, subsection 4.

### **Section 7.20**

1. The competent authority shall send a copy of the environmental impact statement to the Committee and to the advisers forthwith, stating the date referred to in section 7.17, subsection 2.
2. It shall publish the environmental impact statement. An environmental impact statement that has not been drawn up by the competent authority shall be published no more than eight weeks from the date referred to in section 7.17, subsection 2.
3. Publication as referred to in subsection 2 shall take place at least by:
  - a. giving notice in one or more daily papers or other newspapers or free local newspapers;
  - b. depositing the statement for inspection in accordance with section 7.22;
  - c. giving notice in the Government Gazette in cases where We, one or more of Our Ministers or the provincial executive are the competent authority;
  - d. giving notice in a publication in another country if the activity is likely to have serious adverse effects on the environment in that other country.

### **Section 7.21**

1. In notices as referred to in section 7.20, subsection 3, the competent authority shall at least state:
  - a. the activity to which the environmental impact statement relates;
  - b. the date on which a copy of the environmental impact statement will be deposited for inspection, with the times at which and the place where it will be available for inspection;

- c. the body to which and the period within which any person may submit written comments regarding the environmental impact statement;
  - d. that in accordance with section 7.23, subsection 5, any person who submits comments may request that his personal particulars are not made public.
2. The competent authority shall communicate the information referred to in subsection 1 (b to d) to the person who submitted the environmental impact statement, to the Committee and to the advisers.

### **Section 7.22**

1. The competent authority shall deposit for inspection, together with the environmental impact statement, a copy of the guidelines issued in accordance with section 7.15 concerning the content of the said statement and of the recommendations and comments which have been submitted in respect thereof in accordance with the provisions laid down by or pursuant to section 7.14.
2. The said authority shall always as soon as possible add to the documents deposited for inspection all other documents which are required to be deposited for inspection under the provisions of this Chapter.
3. From the date on which the environmental impact statement is deposited for inspection, any person may inspect the deposited documents free of charge until such time as the decision, for the preparation of which the environmental impact statement has been drawn up, becomes irrevocable. The competent authority shall determine the times at which and the place where the documents may be inspected, provided that for four weeks from the date on which the documents are deposited for inspection, they may in any event be inspected during office hours and, if requested, for at least three consecutive hours per week outside office hours. The competent authority shall wherever possible provide anyone, against payment of costs, with a copy of the documents on request.

### **Section 7.23**

1. During a period to be laid down by the competent authority, of at least four weeks from the date on which an environmental impact statement is deposited for inspection, any person may submit comments in writing concerning the environmental impact statement.
2. Having regard to the guidelines issued in accordance with section 7.15 concerning the content of the environmental impact statement, the comments may only relate to the failure of the statement to comply with the rules laid down by or pursuant to sections 7.10 and 7.11 or to inaccuracies contained in the statement.
3. The comments shall be submitted to the competent authority. The date of receipt shall be noted on the document whereby the said comments have been submitted. If the comments have been submitted to a body other than the competent authority, the said authority shall send the document forthwith to the competent authority.

4. The competent authority shall send a copy of any such document as soon as possible to the person who submitted the environmental impact statement, to the Committee and to the advisers. The said authority shall deposit a copy for inspection.
5. The person who submitted the comments may request that his personal particulars are not made public. The request shall be submitted to the competent authority in writing, together with the comments, stating the particulars referred to in the first sentence.

#### **Section 7.24**

1. Any person may make comments on an environmental impact statement during a public hearing, which shall be held at a time and place fixed by the competent authority for that purpose. The competent authority shall publish the time and place of the public hearing at least two weeks beforehand; section 7.20, subsection 3 (a and c) shall apply *mutatis mutandis*. The said authority shall communicate the information referred to in the preceding sentence to the person who submitted the environmental impact statement, to the Committee and to the advisers. Section 7.23, subsection 2 shall apply *mutatis mutandis*.
2. The competent authority shall ensure that a report on what happened at the hearing is drawn up as soon as possible.
3. The competent authority shall send a copy of the report as soon as possible to the person who submitted the environmental impact statement, to the Committee, to the advisers and to those persons who were present and who gave their names and addresses at the hearing. The said authority shall at the same time deposit a copy of the report for inspection.

#### **Section 7.25**

1. An adviser who makes use of the opportunity given by the competent authority to make recommendations on the environmental impact statement shall send his report to the competent authority before the end of the period referred to in section 7.23, subsection 1. Section 7.23, subsection 2 shall apply *mutatis mutandis*.
2. The competent authority shall send a copy of each report as soon as possible to the person who submitted the environmental impact statement and to the Committee, and shall deposit a copy for inspection.

#### **Section 7.26**

1. The Committee shall be given the opportunity to make recommendations within five weeks at most from the end of the period referred to in section 7.23, subsection 1, or if a public hearing as referred to in section 7.24 takes place after this period has elapsed, within five weeks at most from the date on which the public hearing is held. Section 7.23, subsection 2 shall apply *mutatis mutandis*.
2. The Committee shall take the comments and recommendations submitted in accordance with sections 7.23, 7.24 and 7.25 into consideration in its report.

3. If there is a possibility of serious transboundary effects on the environment, the Committee shall discuss this in its recommendations.
4. Section 7.25, subsection 2 shall apply *mutatis mutandis*.

## **§ 7.7. The decision**

### **Section 7.27**

1. The competent authority shall not take a decision, in the preparation of which an environmental impact statement must be drawn up, until after sections 7.12 to 7.26 have been applied.
2. Nor shall the competent authority take such a decision if the information included in the environmental impact statement can no longer reasonably be used as a basis for the decision due to a significant change in the circumstances on which the environmental impact statement was based.
3. The competent authority shall take a decision on an activity designated in an order in council pursuant to section 7.4, to which no provincial ordinance pursuant to section 7.6, subsection 1 applies, only after sections 7.8a to 7.8d have been applied.

### **Section 7.28**

1. The competent authority shall not consider an application for a decision as referred to in section 7.27 if:
  - a. no environmental impact statement was submitted with the application;
  - b. section 7.18, subsection 1 applies with respect to the environmental impact statement submitted;
  - c. in cases where, pursuant to section 14.5, one environmental impact statement has been drawn up for more than one decision, the applications which should have been submitted by the applicant with regard to the other decisions involved were not submitted at the same time.
2. The competent authority shall not give a decision on the application if a decision as referred to in section 7.8a is taken on request pursuant to statutory regulations and
  - a. no copy of the decision pursuant to section 7.8b, subsection 1 stating that no environmental impact statement has to be drawn up is enclosed with the application;
  - b. no environmental impact statement was submitted with the application.

### **Section 7.29**

If an application as referred to in section 7.28, subsection 1, is published, the environmental impact statement – if necessary notwithstanding section 7.20, subsection 2, second sentence – shall in any event be published simultaneously with the application.

### **Section 7.30**

1. If pursuant to a statutory provision the provisional draft or draft of a decision as referred to in section 7.27, subsection 1 is published, the environmental impact statement shall, except in cases as referred to in section 7.29, be published simultaneously with the provisional draft or draft. If pursuant to a statutory provision both a provisional draft and a draft decision are published, the environmental impact statement shall be published simultaneously with the provisional draft.
2. If an application for a provisional draft of a decision has been published, the draft decision shall not be published until after sections 7.17 to 7.26 have been applied.

### **Section 7.31**

If an application as referred to in section 7.28 or, pursuant to a statutory provision, the provisional draft or draft of a decision as referred to in section 7.27, subsection 1, is deposited for inspection, the environmental impact statement shall in any event be deposited for inspection together with the said documents.

### **Section 7.32**

1. If comments or reservations may be submitted with respect to an application as referred to in section 7.28, or the provisional draft or draft of a decision as referred to in section 7.27, subsection 1, then comments on the environmental impact statement may in any event be submitted at the same time as comments or reservations regarding the document with which the said statement has been simultaneously published.
2. If comments and reservations with respect to such an application or such a provisional draft or draft pursuant to a statutory provision may be submitted or lodged during a period of four weeks or more, the competent authority may not fix a longer period pursuant to section 7.23, subsection 1.

### **Section 7.33**

1. If in the preparation of a decision as referred to in section 7.27, subsection 1, a public hearing is held, the hearing shall also serve to implement section 7.24, except in cases as referred to in section 3:25 of the General Administrative Law Act.
2. If in the preparation of a decision as referred to in section 7.27, subsection 1, the opportunity must be provided to state reservations orally, this opportunity shall in any event be provided during the hearing to implement section 7.24.



### **Section 7.34**

1. If with respect to the matters referred to in section 7.28, subsection 1, and sections 7.29 to 7.33 the relevant periods pursuant to the present Act and other statutory provisions are not of equal length, the longest of the said periods shall apply with respect to the taking of a decision.
2. If pursuant to a statutory provision a decision as referred to in section 7.27, subsection 1, must be taken within a given period, the said period shall be extended by five weeks and if, pursuant to subsection 1, longer periods replace the periods that would otherwise apply to the taking of the decision, it shall be extended by the total of the differences between the latter period and the periods that apply pursuant to subsection 1.

### **Section 7.35**

1. When taking a decision as referred to in section 7.27, the competent authority shall take into account all the effects which the activity to which the decision relates may have on the environment.
2. Except in so far as provisions laid down by or pursuant to subsections 3 to 6 provide otherwise, subsection 1 shall apply only if this does not conflict with the statutory provisions on which the decision is based.
3. If, pursuant to section 7.2, 7.4 or 7.6, only one decision relating to an activity has been designated to which Part 3.5 of the General Administrative Law Act applies, irrespective of the restrictions applicable under the statutory provisions on which the decision is based, the competent authority may:
  - a. include in the decision any conditions, regulations and restrictions necessary to the protection of the environment, in addition to the conditions, regulations and restrictions which it is entitled under statutory provisions to include;
  - b. make a decision to the effect that the activity will not be undertaken if it would lead to inadmissible adverse effects on the environment.
4. If Part 3.5 of the General Administrative Law Act is applicable to the drawing up of more than one of the decisions designated pursuant to section 7.2, 7.4 or 7.6 with respect to the same activity, one of the decisions shall be designated as the decision to which subsection 3 applies. Such designation may be made applicable to specified cases only. Such cases shall be designated by order in council.
5. Subsection 3 shall apply to a decision designated pursuant to subsection 4, provided that only conditions, regulations and restrictions are applied concerning matters regarding which no conditions, regulations and restrictions may be laid down in the other decisions referred to in subsection 4.
6. Rules may be laid down by order in council concerning the application of subsection 3.

### **Section 7.36**

A decision to be taken pursuant to another statutory provision shall be deemed to have been taken pursuant to that provision, even in cases where section 7.35 is applied.

### **Section 7.37**

1. The statement of the grounds on which the decision is based, as referred to in section 7.27, subsection 1, shall in any event indicate:
  - a. how account has been taken of the environmental effects of the activity to which the decision refers, as described in the environmental impact statement;
  - b. what consideration has been given to the alternatives described in the environmental impact statement;
  - c. what consideration has been given to the comments and recommendations submitted concerning the environmental impact statement, in accordance with sections 7.23 to 7.26.
2. The competent authority shall stipulate in the decision the relevant period or periods, and the way in which it shall carry out the investigation referred to in section 7.39.

### **Section 7.38**

1. The competent authority shall as soon as possible send a copy of the decision referred to in section 7.27, subsection 1, to those persons who submitted comments pursuant to section 7.23 or 7.24, to the Committee and to the advisers. Section 3:44, subsections 3 and 5 of the General Administrative Law Act shall apply *mutatis mutandis*.
2. The said authority shall also publish its decision as soon as possible; section 7.20, subsection 3 (a and c) shall apply *mutatis mutandis*. It shall attach a copy of the decision to the documents deposited for inspection in accordance with section 7.22.

## **§ 7.8 Activities with potential transboundary environmental effects**

### **Section 7.38a**

1. If an activity, in preparation for which an environmental impact statement must be drawn up, may have serious adverse effects on the environment in another country, the information gathered in the framework of this Chapter, together with the application referred to in section 7.28, or the draft of the decision in the preparation of which the environmental impact statement must be drawn up and the decision referred to in section 7.27 shall be supplied to the government or to an authority to be designated by that government in that country at the same time as they are made public in the Netherlands. The information and documents shall also be sent to the bodies designated for that purpose by the competent authority of that country on the basis of their specific responsibility for the environment. Section 7.14, subsection 1 and section 7.25, subsection 1 shall apply to those bodies *mutatis mutandis*.

2. The documents to be supplied pursuant to subsection 1 shall serve as the basis for negotiations with the administrative authorities in that country concerning any serious adverse effects the activity may have on the environment in that country, and the measures being considered to prevent or limit those effects.
3. Our Minister shall be responsible for the duties arising from the application of subsections 1 and 2, in so far as they concern the provision of information to and negotiations with the government of the other country. The competent authority shall also be responsible for these duties.
4. Further rules concerning the provisions of subsections 1 and 2 may be laid down by ministerial order.

#### **Section 7.38b**

Without prejudice to the provisions of section 7.38a, subsection 1, Our Minister or the competent authority shall, as soon as possible after it has become clear from the information gathered in the framework of this Chapter that there may be serious adverse effects on the environment of another country, inform the government of that country or an authority to be designated by that government. Section 7.38a, subsection 2 shall apply *mutatis mutandis*.

#### **Section 7.38c**

1. In the event of possible serious adverse effects on the environment in another country, the competent authority shall send to Our Minister:
  - a. a copy of the notification referred to in section 7.12;
  - b. a copy of the guidelines referred to in section 7.15;
  - c. a copy of the environmental impact statement referred to in section 7.20;
  - d. a copy of the application referred to in section 7.28 or of the draft of the decision in the preparation of which the environmental impact statement must be drawn up;
  - e. a copy of the decision referred to in section 7.27.
2. When sending these documents, the competent authority shall request Our Minister to apply section 7.38a, subsection 1.

#### **Section 7.38d**

If another country suspects that it may suffer serious adverse environmental effects as the result of an activity in the Netherlands, in preparation for which an environmental impact statement must be drawn up, Our Minister or the competent authority shall apply section 7.38a, subsections 1 and 2, at the request of that country.

### **Section 7.38e**

If another country may suffer serious adverse environmental effects as the result of an activity in the Netherlands, in preparation for which an environmental impact statement must be drawn up, Our Minister may stipulate that the competent authority must take the decision, in preparation for which the environmental impact statement must be drawn up, only after Our Minister has had the opportunity, for thirteen weeks after the end of the period referred to in section 7.26, of sending to the competent authority the outcome of the negotiations referred to in section 7.38a, subsection 2.

### **Section 7.38f**

The statement of the grounds on which the decision is based, as referred to in section 7.27, subsection 1, shall in any event indicate:

- a. what consideration has been given to any possible serious adverse transboundary environmental effects mentioned in the environmental impact statement or recommendations referred to in section 7.26;
- b. what consideration has been given to the results of the negotiations referred to in section 7.38a, subsection 2.

### **Section 7.38g**

1. If a planned activity in another country may have serious adverse effects on the environment in the Netherlands, Our Minister shall be responsible for maintaining contacts with that country.
2. Our Minister may ask the Committee for its advice in the implementation of subsection 1.

## **§ 7.9. Evaluation**

### **Section 7.39**

The competent authority that has taken a decision, in the preparation of which an environmental impact statement was drawn up, shall investigate the effects of the activity concerned on the environment, either during or after its completion.

### **Section 7.40**

The person who undertakes the activity shall be obliged to give the competent authority on request any assistance or information which the authority may reasonably require to carry out the investigation referred to in section 7.39.

**Section 7.41**

The competent authority shall compile a report on the investigation and send a copy thereof as soon as possible to the person undertaking the activity, to the Committee and to the advisers. The authority shall at the same time publish the report; section 7.20, subsection 3 (a and c) shall apply *mutatis mutandis*.

**Section 7.42**

1. If it appears from the investigation referred to in section 7.39 that the effects of the activity are considerably more damaging to the environment than was anticipated when the decision was taken, the competent authority shall take such measures at its disposal as it sees fit in order to limit the effects as much as possible or to remedy them.
2. Sections 7.35 and 7.36 shall apply *mutatis mutandis* with respect to amendment or withdrawal of the decision.

**Section 7.43**

Rules may be laid down by or pursuant to order in council concerning the investigation referred to in section 7.39, the report to be compiled in respect thereof and publication of the report and of the measures referred to in section 7.42.

## **CHAPTER 8. LICENCES AND GENERAL RULES FOR ESTABLISHMENTS**

### **Title 8.1 Licences**

#### **Part 8.1.1 General**

##### **Section 8.1**

1. Without a licence granted for that purpose, it shall be prohibited to:
  - a. set up an establishment;
  - b. modify an establishment or the operation thereof;
  - c. operate an establishment.
2. This prohibition shall not apply to establishments included in a category designated by order in council pursuant to section 8.40, subsection 1, except in cases where, pursuant to the second sentence of that subsection, the rules laid down by the order do not apply to an establishment of that type.
3. The prohibition referred to in subsection 1 (b) shall not apply to modifications to an establishment or its operation which are consistent with the licence issued for the establishment and the restrictions and conditions attached thereto.

##### **Section 8.2**

1. The municipal executive of the municipality in which the establishment is or shall be wholly or mainly situated shall be authorised to approve or reject a licence application, except in cases as referred to in subsections 2, 3 and 4.
2. It may be laid down by order in council that the provincial executive of the province in which the establishment is or shall be wholly or mainly situated, or Our Minister shall be authorised to approve or reject licence applications with respect to categories of establishments designated in the order. Such an order in council shall only be issued in cases where it is deemed necessary in view of the nature and extent of the effects which the establishments designated therein may have on the environment, or with a view to the efficient protection of the environment or where it is deemed to be in the general interest.
3. Notwithstanding subsections 1 and 2, our Minister of Economic Affairs shall be authorised to give a decision on an application for a licence for an establishment which has been designated as a mine pursuant to section 1 of the Mining Act, in so far as it is not an underground establishment for the storage of waste substances originating outside the mine or of hazardous substances.
4. Notwithstanding subsections 1 and 2, Our Minister may – if it is necessary in the interests of national security – lay down in agreement with Our Minister concerned that he is authorised to approve or reject a licence application from an establishment designated by his decision.

### **Section 8.2a**

1. Notwithstanding section 8.2, subsections 1 and 2, the executive committee of a regional public body as referred to in the Government in Transition Framework Act shall be authorised to give decisions:
  - a. on an application for a licence for an establishment situated entirely or mainly within its territory, with respect to which the municipal executive would be competent to give decisions pursuant to those provisions, and
  - b. on an application for a licence for an establishment situated entirely or mainly within its territory, with respect to which the provincial executive would be competent to give decisions pursuant to those provisions and which belongs to a category designated for that purpose by order in council.
2. In the case of an order in council as referred to in subsection 1 (b), a distinction may, if necessary, be drawn between regional public bodies.

### **Section 8.2b**

1. The executive committee of the regional public body which, on the basis of section 8.2a, subsection 1, is authorised to give a decision on an application for a licence as referred to in that section, may delegate this power entirely or for certain categories of establishments to be indicated in its decision to the municipal executives in municipalities situated in the same area as the regional public body, if they agree thereto.
2. Sections 139 to 141 of the Municipalities Act shall apply *mutatis mutandis* to the publication of a decision as referred to in subsection 1.
3. The regulations concerning the power referred to in section 8.2a, subsection 1 of the executive committee of the regional public body, the exercise thereof and supervision thereof shall apply *mutatis mutandis* to the power delegated pursuant to subsection 1.

### **Section 8.3**

1. If, by means of or pursuant to a statutory provision, or as a result of a modification to the establishment or its operation, the power to give decisions on applications for a licence for an establishment is delegated to another body, licences already issued for that establishment shall be considered equivalent to licences issued by that other body.
2. Rules may be laid down by order in council regarding matters requiring further regulation in connection with a delegation of power as referred to in subsection 1.

### **Section 8.4**

1. If a licence is applied for, as referred to in section 8.1, subsection 1 (b) to modify an establishment or the operation thereof and one or more licences pursuant to this Act have already been granted to the said establishment, the competent authority may, at its own discretion or on request, decide that a licence must be applied for for the said

modification and for the operation after such modification has taken place, of the entire establishment or parts thereof with which the modifications are concerned.

2. If the competent authority has stipulated that such a licence must be applied for, it shall decide not to consider applications for a licence for the modification in question to the establishment or its operation which do not relate to such a licence.
3. The competent authority may not alter the rights derived from licences previously granted to the licence holder other than would be possible subject to Part 8.1.2.
4. A licence granted subject to this section shall replace any licences previously granted for the establishment or the parts thereof referred to in subsection 1, with effect from the date on which it takes effect. The other licences shall expire on the date on which the licence granted subject to this section becomes irrevocable.

### **Section 8.5**

1. Rules shall be laid down by order in council concerning the way in which an application should be made and the information which the applicant should supply to facilitate the decision on the application.
2. The order in council shall in any event lay down that, in cases where the licence pertains to the construction or modification of an establishment such that this may also be deemed to be building construction within the meaning of the Housing Act:
  - a. if the application for a building permit for such construction work is submitted simultaneously with an application for a licence pursuant to this Act, the applicant shall submit a copy of the application for a building permit with his application for a licence;
  - b. if the application for a building permit for such construction work is not submitted simultaneously with an application for a licence pursuant to this Act, the applicant shall submit a copy of the application to the competent authority for a building permit simultaneously with his application for a licence.
3. Our Minister may lay down further rules for the implementation of the provisions of subsections 1 and 2.

### **Section 8.6**

The issuing of a decision on an application for a licence shall be subject to Divisions 3.5.2 to 3.5.5 of the General Administrative Law Act.

### **Section 8.7**

1. The competent authority shall give:
  - a. the inspector,
  - b. the municipal executive of the municipality in which the establishment concerned shall be or is situated, in cases where it is not the competent authority,
  - c. other government bodies designated by order in council, in cases designated therein, the opportunity to make recommendations on the draft decision on a licence application.



2. The advisers may make recommendations to the competent authority at their own discretion at any time about the decision on an application.
3. Government bodies may be designated by order in council which in accordance with section 3:15 of the General Administrative Law Act may also be involved – other than as advisers – in the issue of the decision on an application.

### **Section 8.8**

1. In giving a decision on an application, the competent authority shall in any event take into consideration:
  - a. the current state of the environment in so far as the establishment may have an effect on it;
  - b. the effects which the establishment may have on the environment;
  - c. any developments which may reasonably be expected with regard to the establishment and the area where the establishment is or will be situated, which are significant with a view to protecting the environment;
  - d. the recommendations and reservations received in accordance with sections 3:23, 3:24 and 3:25 of the General Administrative Law Act before the end of the period referred to in section 3:24 of that Act and the recommendations made in accordance with section 8.31;
  - e. the options for protecting the environment by preventing any adverse effects which the establishment may have on the environment or, where they cannot be prevented, by minimising them.
2. In giving a decision on an application, the competent authority shall in any event take into account:
  - a. the relevant environmental policy plan;
  - b. the provisions of section 10.14;
  - c. the guideline values applicable to the environmental compartments which the establishment may affect, in so far as the obligation to take account thereof has been laid down pursuant to or in accordance with section 5.2.
3. In giving a decision on an application, the competent authority shall in any event observe:
  - a. the relevant limit values for those environmental compartments which the establishment may affect, in so far as the obligation to observe these values has been laid down pursuant to or in accordance with section 5.2, or derives from sections 41, 46 to 50, 53, 65 to 68 or section 72, subsection 2 of the Noise Abatement Act;
  - b. the relevant rules laid down pursuant to section 8.45;
  - c. the relevant rules laid down pursuant to section 8.46, except in so far as an instruction from Our Minister pursuant to section 8.27 makes it necessary to depart therefrom;
  - d. instructions issued by Our Minister pursuant to section 8.27 with respect to the decision on the application.

4. The competent authority shall state in the reasons for the decision on the application how it took account of the aspects referred to in subsection 1 in preparing the decision.

### **Section 8.9**

The competent authority shall ensure that the decision given on the application does not conflict with any rules in respect of the establishment laid down by or pursuant to this Act, or by or pursuant to the Acts listed in section 13.1, subsection 2.

### **Section 8.10**

1. A licence may be refused only in the interests of environmental protection.
2. A licence shall in any event be refused if the granting thereof would be at variance with the provisions which the competent authority must take into account in accordance with section 8.8, subsection 3, or if the granting thereof would conflict with rules as referred to in section 8.9.
3. Notwithstanding subsection 1, the licence may also be refused in the circumstances and under the conditions referred to in section 3 of the Public Administration (Probity in Decision-making) Act.
4. Before subsection 3 is applied, the Public Administration Probity Screening Agency referred to in section 8 of the Public Administration (Probity in Decision-making) Act may be asked for a recommendation as referred to in section 9.

### **Section 8.11**

1. A licence shall clearly indicate to what it applies. An application for a licence shall be deemed to be a part of a licence in so far as the licence indicates that this is the case.
2. A licence may be granted subject to certain restrictions in the interests of environmental protection.
3. A licence shall be subject to conditions necessary to protect the environment. In so far as attaching conditions to the licence cannot prevent the adverse effects that the establishment may have on the environment, the licence shall be made subject to conditions that offer the greatest possible protection to the environment from those effects, unless this cannot reasonably be required.
4. In so far as rules in respect of the establishment have been laid down by or pursuant to this Act or by or pursuant to the Acts referred to in section 13.1, subsection 2, the restrictions and conditions therein may be departed from only in so far as those rules permit.

### **Section 8.12**

1. The conditions to be attached to a licence shall specify the objectives which the licence holder must achieve in a manner to be determined by him, in the interests of environmental protection.
2. In so far as the competent authority considers it necessary, the conditions may state that the means indicated therein must be used to protect the environment.

3. If a licence is made subject to conditions as referred to in subsection 1, conditions shall in any event also be attached stipulating that observance of the first conditions referred to must be monitored according to a method specified in the additional conditions and that the competent authority must be furnished with the information thus obtained.
4. Notwithstanding subsection 3, no conditions shall be attached to the licence regarding the provision of information as referred to in subsection 3, if:
  - a. pursuant to section 12.4, subsection 2, that information must be included in an environmental report to be drawn up for an administrative authority; or
  - b. this would conflict with rules laid down pursuant to section 12.4, subsection 4 or section 12.5.

### **Section 8.13**

1. A licence may be made subject to other conditions in the interests of environmental protection. Such conditions may in any event stipulate:
  - a. that measurements, calculations or surveys indicated therein must be carried out to determine the extent of any adverse effects which the establishment has on the environment;
  - b. that research must be carried out, to the extent designated in the conditions, into the scope for greater protection of the environment than is provided for in other conditions attached to the licence;
  - c. that the results of the measurements, calculations, surveys or research indicated therein must be recorded and kept or must be reported or made available to administrative authorities designated in the conditions;
  - d. that requirements indicated therein concerning professional qualifications of persons working in the establishment must be met;
  - e. that written instructions shall be given to the persons working in the establishment to prevent any activities that conflict with the licence, the conditions attached thereto or rules laid down pursuant to section 8.44, and that compliance with the instructions shall be monitored;
  - f. that with respect to the matters indicated and dealt with in the conditions, further requirements laid down by an administrative authority designated in the conditions must be met;
  - g. that the competent authority or a body designated by it must be informed in writing within a period to be determined in the conditions of modifications as referred to in section 8.1, subsection 3.
2. Notwithstanding subsection 1 (c), no conditions shall be attached to the licence regarding the reporting or making available of results as referred to in that point, if:
  - a. pursuant to section 12.4, subsection 2, those results must be included as information in an environmental report to be drawn up for an administrative authority; or
  - b. this would conflict with rules laid down pursuant to section 12.4, subsection 5 or section 12.5.

3. Conditions regarding further requirements as referred to in subsection 1 (f) may stipulate how notice of these requirements must be given by the designated administrative authority.

#### **Section 8.13a**

No conditions shall be attached to a licence limiting or prohibiting the transport of waste to or from the province.

#### **Section 8.14**

1. If the licence relates to an establishment where waste substances are recovered or disposed of, the licence shall at least contain the obligations:
  - a. to record:
    - 1° waste substances designated therein that are recovered or disposed of in the establishment: by quantity, nature and origin;
    - 2° substances used or consumed in the recovery or disposal of the waste substances: by nature and quantity;
    - 3° substances, preparations and other products, including waste substances, generated during recovery or disposal: by nature and quantity;
    - 4° the manner in which the waste substances referred to in point 3° are recovered or disposed of;
    - 5° substances, preparations and other products that leave the establishment, in so far as they are generated during recovery or disposal: by nature and quantity;and
  - b. to keep the recorded data for at least five years.
2. Our Minister may lay down rules regarding the recording method.

### **Section 8.15**

1. It shall be laid down by order in council that in categories of cases designated therein, in which establishments may have serious adverse effects on the environment, a licence may also be made subject to conditions obliging the operator of the establishment to provide:
  - a. financial security for the fulfilment of obligations binding upon him pursuant to the licence;
  - b. financial security to cover his liability for damage as a result of adverse effects on the environment caused by the establishment.
2. Further rules may be laid down by order in council as referred to in subsection 1 with respect to the conditions to be imposed. They shall in any event indicate the maximum amount and the maximum period for which surety must be provided and the conditions which must be met for the obligation to lapse.
3. The order in council may lay down rules for cases where the obligation is met by taking out and maintaining insurance cover, taking into account what may reasonably be covered by insurance.
4. If in accordance with subsection 1 a licence is made subject to a condition as referred to in point a of that subsection, and the licence holder fails to meet an obligation binding upon him pursuant to the licence, for which financial security has been provided, the competent authority may determine the amount which it shall recover from the surety provided. Section 5:26 of the General Administrative Law Act shall apply *mutatis mutandis* with regard to the collection of the amount to be recovered.

### **Section 8.16**

It may be laid down in a licence that:

- a. the conditions designated therein shall only take effect from a date stipulated therein, or when a circumstance stipulated therein occurs;
- b. the conditions designated therein shall only apply until a date or circumstance stipulated therein;
- c. the conditions designated therein shall remain in force after the licence expires for a period stipulated therein.

### **Section 8.17**

1. It may be laid down in a licence that it shall be valid only for a period to be stipulated therein up to a maximum of five years, if:
  - a. the establishment to which the licence applies is of a temporary nature;
  - b. it is clear from the application that the licence shall only be required for a period stipulated therein;
  - c. this is necessary in the interests of developing procedures in the establishment which have less detrimental effects on the environment;

- d. this is necessary in connection with acquiring a better understanding of the effects the establishment has on the environment.
2. Categories of establishments in which waste substances are recovered or disposed of may be designated by order in council, in respect of which the licence, in so far as it concerns these actions, applies only for a period of up to ten years, to be set in the licence. The order may stipulate that the designation relates only to categories of cases designated therein.
3. It shall be laid down in a licence that it shall be valid only for a period indicated therein, in so far as this has been laid down by order in council, to implement a treaty which is binding upon the Netherlands or by a decision which is binding upon the Netherlands made by an international organisation. The period specified by the order may deviate if necessary from the periods referred to in subsections 1 and 2.

### **Section 8.18**

1. The licence for an establishment shall cease to be valid:
  - a. if the establishment is not completed and commissioned within three years of the licence becoming irrevocable;
  - b. if the establishment is a landfill site as referred to in section 8.47: if the landfill site has been declared closed pursuant to subsection 3 of that section.
2. If it may be expected that the establishment cannot be completed and started up within the period referred to in subsection 1 (a), the licence may specify another period instead.

### **Section 8.19**

1. A licence issued for an establishment shall also apply to a part of an establishment to which, if it were an independent establishment, the prohibition contained in section 8.1, subsection 1 would not apply pursuant to an order in council pursuant to section 8.40, if that has been laid down by that order in council. In that case, the conditions pursuant to the order in council shall apply exclusively to the part concerned.
2. A licence issued for an establishment shall also apply to modifications to the establishment and its operation which are not consistent with the licence issued or with the restrictions or conditions attached thereto, but which do not result in other or greater adverse effects on the environment than the establishment is permitted to cause pursuant to the licence and the restrictions and conditions attached thereto, on condition that:
  - a. these modifications do not result in an establishment different from that for which the licence was issued;
  - b. the licence holder notifies the competent authority in writing in accordance with the rules laid down pursuant to subsection 7 (a) of its intention to carry out the modification; and
  - c. the competent authority has declared in writing that the intended modification complies with the opening words and point a and that the modification does not in its opinion give cause for the application of section 8.22, 8.23 or 8.25.

3. Subsection 2 shall not apply to modifications in respect of which, if they were such as to require a licence, the establishment would have to draw up an environmental impact statement as part of the preparations for the decisions in this matter.
4. A decision with regard to a declaration as referred to in subsection 2 (c) shall be made known as quickly as possible but in any event within six weeks of receipt of the notification.
5. The competent authority shall make the declaration public as quickly as possible but in any event within two weeks of the declaration being made known.
6. The competent authority shall on request allow any person to inspect the notification and associated documents free of charge and shall on request provide a copy in return for payment of costs.
7. Rules may be laid down by or pursuant to an order in council with regard to:
  - a. the information which must be provided with the notification;
  - b. the making public of the declaration.

### **Section 8.20**

1. A licence granted for an establishment shall apply to any person operating the establishment. This person shall ensure that the conditions attached to the licence are observed.
2. If a licence is to apply to a person other than the licence holder, the licence holder shall notify the competent authority hereof at least a month in advance, stating the information specified by order in council.
3. An order in council may be issued indicating categories of cases in which a licence is to apply only to a person to whom it is granted. It can also be determined that in designated categories of cases:
  - a. the licence shall remain applicable for a stipulated period for the successors in title of the person to whom it was originally issued;
  - b. the licence shall also apply to a legal person to whom it is transferred by another legal person if the competent authority or – in cases such as those designated pursuant to section 8.35 – Our Minister has granted permission therefor.

### **Section 8.21**

1. If the prohibitions contained in section 8.1, subsection 1, which did not originally apply to an establishment, apply at a later date, the establishment may, notwithstanding the said provision, continue to operate without a licence for up to twelve weeks after the said date and, if an application for the licence required pursuant to the said provision is submitted within this period, for another eight weeks after the date on which the decision on the application takes effect.
2. If such prohibitions take effect due to a modification to the establishment or its operation, subsection 1 shall not apply to the modification.
3. If the prohibitions concerning the establishment contained in section 8.1, subsection 1 did not apply pursuant to subsection 2 of that section, the conditions that applied to the

establishment pursuant to an order in council pursuant to section 8.40 or pursuant to the provincial environmental ordinance pursuant to section 1.2, subsection 6 (a) immediately before the prohibitions take effect, shall continue to apply to the establishment during the period in which the establishment may, pursuant to subsection 1, be kept in operation without a licence, except in so far as this involves modifications as referred to in subsection 2.

## **Part 8.1.2 Amendment or withdrawal of licences**

### **Section 8.22**

1. The competent authority shall examine regularly whether the restrictions and conditions to which a licence is subject are still adequate in the light of developments in technologies for protecting the environment and in the quality of the environment.
2. The competent authority shall amend the restrictions and conditions to which the licence is subject, supplement them or withdraw them, introduce new restrictions or subject the licence to further conditions, in so far as it is evident that the adverse effects on the environment caused by the establishment may be further restricted in view of the development of technologies for the protection of the environment, or must be further restricted in view of developments in the quality of the environment.
3. In the interests of environmental protection, rules may be laid down by order in council concerning the way in which subsection 1 shall be applied with respect to categories of establishments designated therein. The order in council may stipulate that rules laid down therein shall apply only in categories of cases designated therein.
4. Sections 8.7 to 8.17 shall apply *mutatis mutandis* with respect to the decision on this matter and the content of the restrictions and conditions.
5. Division 3.5.6 of the General Administrative Law Act shall apply with respect to the issue of the decision.

### **Section 8.23**

1. The competent authority may amend, supplement or withdraw the restrictions and conditions to which a licence is subject or attach restrictions or conditions to the licence in the interests of environmental protection.
2. Any person, with the exception of the licence holder, may request the competent authority to amend a licence subject to the provisions of subsection 1 in the interests of environmental protection.
3. Sections 8.7 and 8.17 shall apply *mutatis mutandis* with respect to the decision regarding and the content of the restrictions and conditions.
4. Division 3.5.6 of the General Administrative Law Act shall apply with respect to the issue of the decision.

### **Section 8.24**



1. At the request of the licence holder, the competent authority may amend, supplement or withdraw the restrictions and conditions to which a licence is subject, or attach restrictions or conditions to the licence.
2. Sections 8.7 to 8.17 shall apply *mutatis mutandis* with respect to the decision regarding and the content of the restrictions and conditions.
3. Divisions 3.5.2 to 3.5.5 of the General Administrative Law Act shall apply with respect to the issue of the decision.

### **Section 8.25**

1. The competent authority may – without prejudice to sections 8.34, 8.38, 8.39 and 18.12 – wholly or partly withdraw a licence for an establishment:
  - a. if the establishment has unacceptably adverse effects on the environment and the situation cannot reasonably be rectified by applying section 8.23;
  - b. if this is necessary in the interests of efficient waste management;
  - c. if no activities covered by the licence have been undertaken for three years;
  - d. if the establishment has been wholly or partly destroyed;
  - e. if, in cases designated pursuant to section 8.20, subsection 3: the licence holder is no longer the operator of the establishment;
  - f. in the circumstances and under the conditions referred to in section 3 of the Public Administration (Probity in Decision-making) Act.
2. The competent authority shall withdraw a licence in so far as rules laid down by order in council to implement a treaty which is binding upon the Netherlands or of a decision by an international organisation which is binding upon the Netherlands, oblige it to do so.
3. Any person, with the exception of the licence holder, may request the competent authority to withdraw a licence subject to subsection 1.
4. Sections 8.7, 8.8 and 8.9 shall apply *mutatis mutandis* with respect to a decision as referred to in subsection 1.
5. In a case as designated pursuant to section 8.15 provisions in accordance with the relevant order in council may be attached to the withdrawal decision. Section 8.15, subsection 4 shall apply *mutatis mutandis*.
6. The withdrawal decision may lay down that provisions as referred to in subsection 5, or conditions attached to the licence and specified therein, shall remain in force for a period to be specified therein.
7. Division 3.5.6 of the General Administrative Law Act shall apply with respect to the issue of a decision pursuant to subsection 1 (a or b). With regard to the issue of a decision pursuant to subsection 1 (f), section 8.10, subsection 4 shall apply *mutatis mutandis*.
8. The competent authority shall not withdraw a licence on the basis of subsection 1 (c, d, e or f) or subsection 2 without giving the licence holder the opportunity to lodge a written or oral reservation against the withdrawal within a period of at least two weeks. The decision shall be duly substantiated. Notice shall be given of the decision by sending it to the advisers.

## **Section 8.26**

1. The competent authority may wholly or partly withdraw a licence at the request of the licence holder, if this does not conflict with the interests of environmental protection.
2. Sections 8.7, 8.8 and 8.9 shall apply *mutatis mutandis* to a decision in this regard.
3. Section 8.25, subsections 5 and 6 shall apply *mutatis mutandis*.
4. Division 3.5.6 of the General Administrative Law Act shall apply with respect to the issue of the Order.

## **Part 8.1.3 Special cases**

### **§ 8.1.3.1 General**

#### **Section 8.27**

1. In cases where the competent authority is an administrative authority other than one of Our Ministers, and if it is considered to be in the general interest, Our Minister may issue a binding instruction to the competent authority concerning the decision to be taken on a licence application or a licence previously granted. In so doing he shall take into account the current environmental policy plan.
2. Our Minister shall discuss his intention to issue an instruction with the competent authority concerned. He shall inform the States General of this intention, stating the reasons therefor.
3. The instruction shall be referred to in the decision of the competent authority in respect of which it was issued. A copy thereof shall be attached to each copy of the decision.

### **§ 8.1.3.2 Cases where a licence pursuant to the Pollution of Surface Waters Act is also required**

#### **Section 8.28**

In cases where an application is submitted for a licence pursuant to this Act relates to an establishment from which substances as referred to section 1 of the Pollution of Surface Waters Act are discharged into the surface water, the provisions of this Division shall be taken into account in the application of this Chapter, of Chapter 13 and Part 3.5 of the General Administrative Law Act, if a licence is required by law.

#### **Section 8.29**

If a provision as referred to in section 8.17 is included in a licence pursuant to the Pollution of Surface Waters Act concerning the period for which the licence shall be valid, a similar provision may be included in a licence pursuant to this Act.

#### **Section 8.30**

1. An application for a licence or the amendment of a licence in accordance with section 8.24 shall be submitted at the same time as an application to issue or amend a licence

pursuant to the Pollution of Surface Waters Act. The application shall also be sent by the applicant to the administrative authority authorised to issue the licence pursuant to the said Act.

2. If an application for a licence or the amendment of a licence pursuant to the Pollution of Surface Waters Act has not been submitted within six weeks of the date on which an application for a licence or the amendment of a licence pursuant to this Act is submitted, the application shall not be considered.
3. If an application for a licence or the amendment of a licence pursuant to the Pollution of Surface Waters Act is declared inadmissible, subsection 2 shall apply *mutatis mutandis*.

### **Section 8.31**

1. The administrative authority that is authorised to grant a licence pursuant to the Pollution of Surface Waters Act shall make a recommendation with a view to coordinating the decisions on the separate applications. The recommendation shall be made within eight weeks of receipt of the application for a licence or for the amendment of a licence pursuant to this Act.
2. The body that is authorised to grant a licence pursuant to the Pollution of Surface Waters Act shall also be given the opportunity to make recommendations on the draft decision on the application for a licence or the amendment of a licence.

3. In cases as referred to in section 3:29 of the General Administrative Law Act, the competent authority may extend the period referred to in subsection 1 by a reasonable period to be stated in its decision.

#### **Section 8.31a**

1. In cases as referred to in section 8.28, where the municipal executive is authorised to take a decision on an application for a licence pursuant to this Act, the provincial executive may, if desirable from the point of view of consistency between decisions on separate applications in the interests of environmental protection, and, if necessary, notwithstanding rules laid down pursuant to section 8.46, issue binding instructions to the municipal executive regarding the content of its decision, at the request of the body authorised to issue the licence pursuant to the Pollution of Surface Waters Act.
2. Instructions shall be issued within eight weeks of the day on which the draft decision on the application has been deposited for inspection in accordance with section 3:19, subsection 2 of the General Administrative Law Act. They shall be issued only after consultation with the competent authority.
3. The instructions shall be mentioned in the decision of the competent authority in respect of which they have been issued. A copy of the instructions shall be included with every copy of the decision.

#### **Section 8.32**

The statement of the grounds on which the decision is based shall in any event indicate what influence the connection between the decisions on the individual applications has had on the content of the licence or the decision amending the licence pursuant to this Act.

#### **Section 8.33**

Sections 8.28 and 8.29, section 8.31, subsections 1 and 2, and sections 8.31a and 8.32 shall apply *mutatis mutandis* with regard to the amendment of a licence in accordance with section 8.22, subsection 2 and section 8.23, with the proviso that with respect to the periods referred to in section 8.31, subsection 1, second sentence, and section 8.31a, subsection 2, first sentence, the period referred to in accordance with section 3:30, subsection 2 of the General Administrative Law Act shall be substituted.

#### **Section 8.34**

1. The competent authority may wholly or partly withdraw a licence if the licence granted pursuant to the Pollution of Surface Waters Act is wholly or partly withdrawn.
2. Section 8.25, subsection 8 shall apply *mutatis mutandis* with respect to the issue of the decision.

### **§ 8.1.3.3 Cases where waste substances are recovered or disposed of**

#### **Section 8.35**

1. If a licence relates to an establishment belonging to a category to be designated by order in council in which waste substances are recovered or disposed of, the provisions of this Division shall be taken into account in the application of this Chapter, Chapter 13 and Part 3.5 of the General Administrative Law Act.
2. The order may stipulate that a designation as referred to in subsection 1 shall relate only to categories of cases indicated therein.

#### **Section 8.36**

1. If Our Minister considers that an immediate measure is required in the interests of efficient waste management, he may draw up an order with the purport referred to in section 8.35.
2. Such an order shall lapse one year after it has come into force or, if an order in council replacing the said order has taken effect within that period, on the date when the order in council comes into force. Our Minister may extend the period once by a maximum of one year by ministerial order.

#### **Section 8.36a**

1. In so far as a licence relates to an establishment belonging to a category or a category of cases designated pursuant to section 8.35, it shall not be granted until Our Minister has declared that he has no reservations against it. Section 10:32 of the General Administrative Law Act shall not apply to the declaration.
2. The declaration may be refused only on the basis of criteria referred to in section 10.5, subsection 2.

#### **Section 8.36b**

1. In the declaration referred to in section 8.36a, Our Minister may stipulate that the licence shall be granted subject to restrictions or that conditions shall be attached thereto.
2. If subsection 1 is applied, the licence shall be issued subject to the restrictions or conditions specified.

#### **Section 8.36c**

1. Sections 8.11 to 8.17 shall apply *mutatis mutandis* if section 8.36b, subsection 1 is applied, with the proviso that the restrictions and conditions shall be based solely on the criteria referred to in section 10.5, subsection 2.
2. The conditions referred to in section 8.36b may also entail:
  - a. that in categories of cases specified therein waste substances may not be recovered or disposed of in the establishment without separate permission from the competent authority, or from Our Minister; it may be stipulated therein that the permission should

- only be given by the competent authority after an administrative authority designated in the conditions has declared that no other recovery or disposal method is possible;
- b. the obligation to accept waste substances designated therein in accordance with the provisions on this matter in the licence.

#### **Section 8.36d**

In cases in which a declaration is required, the competent authority shall not apply section 8.8 or section 10.14 in conjunction with section 10.4, when giving a decision on a licence application, in so far as these provisions relate to the criteria referred to in section 10.5, subsection 2.

#### **Section 8.36e**

1. The declaration shall be mentioned in the decision in respect of which it has been issued.
2. A copy thereof shall be appended to each copy of the decision.

#### **Section 8.36f**

1. Establishments in which waste substances from other persons are landfilled, shall charge a fee when taking delivery of waste, which in any event will take into account:
  - a. the costs of building, maintaining and operating the establishment;
  - b. the costs of the facilities ensuring that the establishment, after it has been decommissioned, does not cause any adverse effects on the environment, including the costs of the levy owed pursuant to section 15.44, subsection 1; and
  - c. the costs of financial security in categories of cases for which financial security is required pursuant to section 8.15.
2. In the interests of efficient waste management, Our Minister may set minimum or maximum rates to be charged by establishments designated pursuant to section 8.35 for taking delivery of waste substances.
3. Our Minister may lay down further rules regarding subsections 1 and 2.

#### **Section 8.37**

1. The competent authority shall send a copy of the application and the accompanying documents to Our Minister forthwith.
2. If the information to be provided pursuant to section 8.5, in so far as it relates to waste management, has not been supplied or has not been supplied in full by the applicant, the competent authority shall, at the request of Our Minister, and without prejudice to section 3:18, subsection 1 of the General Administrative Law Act, refuse to consider the application.
3. At the request of Our Minister, the competent authority shall consider the application despite the incompleteness of the information referred to in subsection 2. At Our Minister's request, it shall give the applicant the opportunity to provide supplementary

information in accordance with section 4:5, subsection 1 of the General Administrative Law Act within a period to be indicated in the request.

4. Our Minister shall send a copy of the draft declaration to the competent authority in good time so that it may be sent to the licence applicant and the administrative authorities concerned with a copy of the draft decision in accordance with section 3:19, subsection 1, second sentence, of the General Administrative Law Act.
5. Recommendations and reservations submitted in accordance with sections 3:23, 3:24 and 3:25 of the General Administrative Law Act and in accordance with section 8.31 may also relate to the draft declaration. In so far as that is the case, the competent authority shall send them to Our Minister forthwith. Our Minister shall inform the competent authority of his opinion on the recommendations and reservations.
6. The competent authority may make recommendations to Our Minister at any time with a view to coordinating the decision regarding the declaration and that regarding the application. It shall in any event make recommendations on the draft declaration with a view to such coordination.
7. Our Minister shall send a copy of the declaration to the competent authority in good time so that the decision may be taken within the period referred to in section 3.28 of the General Administrative Law Act, or, if section 3:29, subsection 1 of the General Administrative Law Act is applied, within the period extended by that section.

### **Section 8.38**

1. Sections 8.36a to 8.37 shall apply *mutatis mutandis* with regard to amending or withdrawing a licence in accordance with sections 8.22 to 8.26 and section 8.34.
2. Our Minister shall send a copy of the declaration to the competent authority in good time so that it can take the decision within the period referred to in section 3:33, subsection 1 of the General Administrative Law Act.

### **Section 8.39**

1. Our Minister may request the competent authority:
  - a. to amend, supplement or withdraw restrictions and conditions to which a licence is subject or to attach restrictions or conditions to the licence,
  - b. to withdraw the licence in whole or in part,in so far as this is necessary in the interests of the efficient management of the waste substances concerned. When making the request, Our Minister may specify a period within which his request shall be observed.
2. In accordance with the request, the competent authority shall either amend or withdraw the licence.
3. Division 3.5.6 of the General Administrative Law Act shall apply with respect to the taking of a decision pursuant to subsection 2, with the proviso that the competent authority shall also send recommendations and copies of reservations received to Our Minister and that the latter shall inform the competent authority of his opinion thereon. Section 8.7 shall apply *mutatis mutandis*.

## **Title 8.2 General rules**

### **§ 8.2.1 Rules for establishments not requiring a licence**

#### **Section 8.40**

1. Rules needed to protect the environment may be laid down by order in council with respect to categories of establishments designated therein. The order in council may stipulate that the rules laid down therein shall apply only in categories of cases specified therein.
2. A decision establishing an order in council as referred to in subsection 1 shall in any event take account of the following:
  - a. the existing state of the environment, in so far as establishments belonging to the categories concerned may have an effect thereon;
  - b. the effects on the environment which establishments belonging to the categories concerned may have;
  - c. developments which may reasonably be expected with regard to establishments belonging to the categories concerned, and with regard to the location or possible location of such establishments, which are of importance with a view to protecting the environment;
  - d. the scope for protecting the environment, by preventing the adverse effects on the environment which establishments belonging to the categories concerned may cause, or minimising them if they cannot be prevented;
  - e. current environmental quality requirements laid down pursuant to or in accordance with section 5.1 for environmental compartments which the categories of establishment concerned may affect;
  - f. any financial and economic consequences which may reasonably be expected to arise from the order.

An explanatory note to the order in council shall indicate how these aspects are to be taken into account in the preparation of the order.

3. Section 8.11, subsection 3, sections 8.12 to 8.16 and section 8.22, subsections 1 and 2 shall apply *mutatis mutandis* with respect to the conditions to be laid down by the rules, with the proviso that the provision of financial security may only be required in the form of taking out liability insurance against damage arising from any adverse effects that the establishment may have on the environment.

#### **Section 8.41**

1. It shall be made obligatory by order in council pursuant to section 8.40 to give notice of the setting up or modification of an establishment to which the order in council relates, or of any modification to its operation.
2. The order in council shall state:
  - a. the administrative authority to which notice must be given;



- b. the latest date, in advance of setting up or modifying an establishment, by which notice must have been given;
- c. the information which must be supplied with the notice.
3. Our Minister may lay down further rules with respect to the information referred to in subsection 2 (c), and the way in which such information must be supplied.
4. The notice shall be published in one or more daily papers or other newspapers or free local newspapers. If, on the basis of an order in council pursuant to section 8.40, other information must also be supplied, rules about the publication thereof may be laid down in the order in council. Administrative authorities may be designated by order in council to which a copy of the notice or other information supplied must be sent.

#### **Section 8.42**

1. It may be made obligatory by an order in council pursuant to section 8.40 to meet further requirements relating to matters designated therein. The order in council shall designate the administrative authority which may lay down the said requirements. The order in council shall designate categories of cases in which notice of the decision laying down the further requirement must be given by means of an announcement in one or more daily papers or other newspapers or free local newspapers.
2. An order in council pursuant to section 8.40 shall include transitional arrangements for establishments set up prior to the date on which the order in council takes effect.

#### **§ 8.2.2 Rules for establishments requiring a licence**

#### **Section 8.44**

1. If it is particularly appropriate in the interests of efficient regulation, rules needed to protect the environment may be laid down by order in council with respect to categories of establishments designated therein, to which the prohibition contained in section 8.1 applies. The order in council may stipulate that the rules laid down therein shall apply only in categories of cases specified therein. Section 8.40, subsection 2 shall apply *mutatis mutandis*.
2. With regard to conditions to be laid down in the rules, section 8.11, subsection 3, sections 8.12 to 8.16, section 8.22, subsections 1 and 2, and section 8.36c, subsection 2 shall apply *mutatis mutandis*.
3. If, on the basis of an order in council pursuant to subsection 1, information must be supplied by the operator of the establishment, rules may be laid down in the order concerning the publication thereof. The order may designate administrative authorities to which the information must be sent.
4. It may be laid down by order in council pursuant to subsection 1 that when granting or amending a licence with respect to matters specified therein, the competent authority may depart from the rules laid down in the order in council with respect to the restrictions and conditions attached to the licence. In that case, the order in council shall specify the extent to which the competent authority may depart from the rules. The order in council

may also stipulate that the competent authority shall be authorised to depart from the rules only in categories of cases specified therein.

5. An order in council pursuant to subsection 1 may stipulate, with respect to matters specified therein, that further requirements which may be laid down by the competent authority must be met. It may be stipulated that the power to lay down further requirements shall apply only in categories of cases indicated therein. A further requirement may be laid down as a restriction or condition attached to the licence. The order in council shall stipulate categories of cases in which – in so far as the further requirement is not laid down as such a restriction or condition – notice of the decision laying down the further requirement shall be given by means of an announcement in one or more daily papers or other newspapers or free local newspapers.
6. An order in council pursuant to subsection 1 shall include transitional arrangements for establishments set up prior to the date on which the order in council takes effect.

#### **Section 8.45**

1. Rules may be laid down by order in council obliging the competent authority to attach restrictions or conditions, which are needed to protect the environment and whose content has been specified in the said order, to licences for establishments included in a category designated by the order in council. It may be laid down by the order in council that the rules contained therein shall apply only in categories of cases designated therein. Section 8.40, subsection 2 shall apply *mutatis mutandis*.
2. Section 8.11, subsection 3, sections 8.12 to 8.16 and section 8.22, subsections 1 and 2 shall apply *mutatis mutandis* with respect to the restrictions and conditions to be designated pursuant to subsection 1.
3. An order in council pursuant to subsection 1 shall stipulate the extent to which the competent authority, with respect to matters designated therein, may depart from the rules laid down in the order in council or impose further requirements. It may also be laid down that the competent authority shall be authorised to depart from the rules or to impose further requirements only in categories of cases designated therein.
4. The date by which the obligations imposed by the order in council must be met with respect to licences previously granted shall be stipulated therein.

#### **Section 8.46**

1. Rules may be laid down by provincial environmental ordinance obliging the competent authority to attach restrictions or conditions, which are needed to protect the environment and whose content has been specified in the said ordinance, to licences for establishments included in a category designated by the ordinance. It may be laid down by the ordinance that the rules contained therein shall apply only in categories of cases designated therein.
2. Rules as referred to in subsection 1 may not relate to decisions concerning licences with regard to which the competent authority is Our Minister or Our Minister of Economic Affairs.

3. Section 8.45, subsections 2 to 4 shall apply *mutatis mutandis*.

### **Title 8.3 Rules pertaining to closed landfill sites**

#### **Section 8.47**

1. In this Title and the provisions based thereon the following definitions shall apply:
  - a. landfill site: an establishment where waste is landfilled, or part of an establishment where waste is landfilled, if the establishment is not used exclusively for the landfilling of waste;
  - b. closed landfill site: a landfill site for which a declaration as referred to in subsection 3 has been issued;
  - c. company landfill site: a landfill site that is used exclusively for the landfilling of waste generated within the establishment to which the landfill site belongs.
2. A landfill site shall also be taken to mean a closed landfill site. Any part of the landfill site where waste is no longer deposited shall be regarded as part of the landfill site.
3. The competent authority shall declare a landfill site closed if:
  - a. the landfilling of waste has been terminated;
  - b. a sealed cover has been installed, in so far as a provision to this effect is applicable to the establishment; and
  - c. a final inspection has been carried out by the competent authority and has revealed that all the conditions attached to the licence for the landfill site have been complied with and that no other measures need to be taken pursuant to the Soil Protection Act by those running the landfill site, in the event of pollution of or damage to the soil under the landfill site.

#### **Section 8.48**

This Title shall apply only to landfill sites for which a licence is required pursuant to section 8.1, where waste is landfilled on or after 1 September 1996, and

- a. to which an order in council as referred to in section 8.45 applies, or
- b. where only dredging spoil is landfilled.

#### **Section 8.49**

1. With regard to closed landfill sites, measures shall be taken to guarantee that the site does not cause any adverse environmental effects or, in so far as this cannot reasonably be required, the greatest possible protection is offered against such effects.
2. The measures referred to in subsection 1 shall at least include:
  - a. measures to preserve, maintain, restore, improve or replace facilities designed to protect the soil;
  - b. regular inspection of facilities designed to protect the soil; and
  - c. regular testing of the soil under the landfill site.
3. The person running a landfill site shall draw up an after-care plan for the implementation of the measures referred to in subsections 1 and 2. The after-care plan shall require the

approval of the provincial executive of the province in which the landfill site is entirely or mainly situated. The provincial executive shall reach its decision on the after-care plan within thirteen weeks of its submission. Approval shall be regarded in law as having been given if the provincial executive fails to reach a decision within the specified period of thirteen weeks.

4. The provincial executive may order the person running the landfill site to amend an after-care plan which it has approved in view of developments in technology for the protection of the environment and developments concerning the quality of the environment, or in connection with changes at the landfill site since the date of the approval of the after-care plan.
5. Further rules may be laid down by order in council pertaining to the measures referred to in subsections 1 and 2 and to the after-care plan referred to in subsection 3.

### **Section 8.50**

1. The provincial executive of the province in which the closed landfill site is entirely or mainly situated shall be responsible for the measures referred to in section 8.49.
2. The provincial executive may transfer responsibility for the implementation of activities connected with the measures referred to in section 8.49 to a legal person or body designated by them for the purpose.
3. Notwithstanding subsection 2, responsibility for the implementation of activities connected with the measures referred to in section 8.49 in respect of closed landfill sites where dredging spoil is landfilled and which are run solely or partly by Our Minister of Transport, Public Works and Water Management, shall rest with that Minister.
4. At the request of the last person to run a company landfill site, the possibility of transferring this responsibility to that person shall be taken into account in the decision as to whether to apply subsection 2.

### **Section 8.51**

The owner of the site where the care of a closed landfill site referred to in section 8.49 is carried out shall be obliged to permit the carrying out of activities for the purposes of that care, without prejudice to his right to compensation.

## **CHAPTER 9. SUBSTANCES AND PRODUCTS**

### **Title 9.1 General provisions**

#### **Section 9.1**

- a. The provisions of this Chapter and other provisions based thereon which relate to the interest of protecting the environment shall apply *mutatis mutandis* to the interest of protecting man, in so far as substances, preparations and genetically modified organisms are concerned.
- b. The provisions of this Chapter and other provisions based thereon which relate to the effects on the environment shall apply *mutatis mutandis* to the effects on man, in so far as substances, preparations and genetically modified organisms are concerned.

#### **Section 9.2**

- a. Any person who performs or intends to perform operations involving a substance, preparation or other product, and who knows or could reasonably have suspected that these would or could adversely affect the environment shall discontinue such operations or shall take all measures which may reasonably be required of him to prevent, limit or remedy such effects.
- b. Any person who in the pursuit of his profession or business makes available a substance, preparation or other product to another person who receives that product in the pursuit of his profession or business shall, to the extent that this may reasonably be required, furnish the data reasonably needed to assess the effects that the product may have on the environment.

### **Title 9.2 New substances**

#### **Part 9.2.1 General**

#### **Section 9.3**

In this Title and in the provisions based thereon 'the manufacture of a new substance' shall mean the manufacture of a new substance with a view to making it available, whether processed or transformed into a product or not, to another person.

#### **Section 9.4**

1. This Title shall not apply to new substances:
  - a. which are manufactured in or imported into the Netherlands for the purpose of preparing a new substance notification;
  - b. which are imported into the Netherlands under a customs procedure and are intended for transit, customs warehousing or temporary admission as referred to in article 4, point 16, of Council Regulation (EEC) no. 2913/92 of 12 October 1992 establishing

- the Community Customs Code (OJ L 302), unless they are processed or transformed into a product in the Netherlands;
- c. which are transformed, without intermediate storage, into other substances in the installation in which they are produced, or
  - d. where the person who intends to manufacture that substance in the Netherlands or to import it into the Netherlands has given a notification to the body designated for that purpose in another state which is a contracting party to the Agreement on the European Economic Area of 2 May 1992 (Treaty Series 1992, 132) pursuant to article 7 or 8 of the EC Substances Directive.
2. An order in council may designate other categories of cases to which one or more of the provisions pursuant to this Title do not apply:
    - a. to implement a treaty which is binding upon the Netherlands or a decision which is binding upon the Netherlands made by an international organisation, or
    - b. if this does not conflict with the interests of environmental protection.
  3. With regard to the substances to which pursuant to subsection 1 or 2 the rules laid down pursuant to this Title do not apply or apply only partially, other rules may be laid down by order in council with regard to the matters regulated in the said rules.

### **Section 9.5**

If as a result of a notification in another state which is a contracting party to the Agreement on the European Economic Area of 2 May 1992 (Treaty Series 1992, 132) Our Minister has received from the Commission of the European Communities data designated pursuant to sections 9.12, 9.17 and 9.19 relating to a substance, sections 9.14 and 9.15 and section 9.17, subsection 7, shall apply *mutatis mutandis* to those data. The first sentence shall not apply where this has been determined by Our Minister having regard to the rules on the protection of trade secrets in the state concerned.

### **Section 9.6**

1. Our Minister shall as soon as possible send a copy of the data furnished to him pursuant to this Title or, in cases indicated by or pursuant to order in council, a summary of these data to such of Our Ministers as are concerned.
2. Our Minister may also furnish data or summaries as referred to in subsection 1 to other administrative authorities and to other bodies or agencies designated by ministerial order when needed in the exercise of their tasks and powers.

## **Part 9.2.2 New substance notification**

### **Section 9.7**

The manufacture of a new substance shall be prohibited unless a new substance notification has been given of this intention in accordance with the provisions laid down by or pursuant to sections 9.10 and 9.12 and the term to be determined by order in council relating to this notification has expired.

### **Section 9.8**

The importation into the Netherlands of a new substance either on its own or as a constituent of a preparation shall be prohibited unless:

- a. a new substance notification has been given of this intention in accordance with the provisions laid down by or pursuant to sections 9.10 and 9.12 and the term to be determined by order in council relating to this notification has expired, or
- b. the person who imports the said substance or preparation into the Netherlands is identified as the importer of the substance in a notification pertaining to the importation of the substance into the European Economic Area given to the body designated for that purpose in a country within the European Economic Area other than the Netherlands by the representative based in that country, and the term to be determined by order in council with regard to this notification has expired.

### **Section 9.9**

It shall be prohibited for a person who manufactures a new substance to make that substance available to another person, either on its own or as a constituent of a preparation, unless a new substance notification has been given of this intention in accordance with the provisions laid down by or pursuant to sections 9.10 and 9.12 and the term to be determined by order in council relating to this notification has expired.

### **Section 9.10**

1. Any person who:
  - a. intends to manufacture a new substance,
  - b. intends to import a new substance into the Netherlands either on its own or as a constituent of a preparation, or
  - c. manufactures a new substance and intends to make it available to another person for the first time either on its own or as a constituent of a preparation,shall give a new substance notification to Our Minister of this intention.
2. The obligation referred to in subsection 1 shall not apply to a person identified in a new substance notification by the representative as the importer of the substance for which the notification was given, in so far as the latter intends to import that substance into the Netherlands either on its own or as a constituent of a preparation.
3. A new substance notification may only be given by a person based in the European Economic Area.

### **Section 9.11**

1. A representative who submits a new substance notification in the Netherlands with regard to plans to import into the European Economic Area a substance manufactured outside the European Economic Area, either on its own or as a constituent of a preparation, shall be based in the Netherlands.

2. A notification as referred to in subsection 1 shall be made to our Minister and shall relate to the total volume of the substance, either on its own or as a constituent of a preparation, imported into the European Economic Area by the importers specified in the notification.

### **Section 9.12**

1. The person who submits a new substance notification:
  - a. shall furnish with the notification the data designated by or pursuant to order in council, which shall in any event include data on the effects which the substance may have on the environment, and
  - b. shall conduct the research needed to obtain the data referred to in point a.
2. Subsection 1 (b) shall not apply if the person concerned can obtain the said data by another means.
3. If the data designated pursuant to subsection 1 (a) were furnished at least ten years before the notification to a body designated for that purpose in another country within the European Economic Area or another person has furnished these data to such a body and a written declaration has been received from the said other person that he has no reservation against these data being referred to, then a reference to these data shall suffice, notwithstanding subsection 1.
4. By or pursuant to an order in council pursuant to subsection 1:
  - a. rules may be laid down with regard to the manner in which the notifications are given;
  - b. rules may be laid down with regard to the research to be conducted pursuant to subsection 1 (b), and with regard to the persons who conduct the research;
  - c. it may be determined that the rules laid down therein shall apply only to categories of cases specified therein.
5. Rules pursuant to an order in council pursuant to subsection 1 (a) or 4 (a) shall be laid down in agreement with Our Minister of Social Affairs and Employment where these rules deal with labour-related matters.

### **Section 9.13**

1. If Our Minister is of the opinion that the new substance notification does not comply with the provisions pursuant to sections 9.10 to 9.12, he shall make his decision to this effect known within the period determined for this purpose by order in council.
2. A new substance notification to which the provisions pursuant to subsection 1 have been applied shall be deemed not to have been given.
3. In cases where a new substance notification has been given in relation to an intention as referred to in section 9.10, subsection 1 (a), a decision as referred to in subsection 1 shall only be made in agreement with Our Minister of Social Affairs and Employment.



## **Part 9.2.3 Publication and registration of the new substance notification**

### **Section 9.14**

1. Our Minister shall announce the receipt of a new substance notification relating to an intention as referred to in section 9.10, subsection 1 (b or c), within the period determined for this purpose by order in council. The order in council may stipulate that the period determined therein shall apply only to categories of cases indicated therein.
2. A new substance notification shall in any event be announced by:
  - a. making it available for inspection in accordance with the rules laid down by or pursuant to order in council, and
  - b. a notice in the Government Gazette.
3. The documents to be made available for inspection or the data which a notice as referred to in subsection 2 (b) should contain shall be designated by or pursuant to order in council.
4. Our Minister shall on request provide any person, against payment of costs, with a copy of the documents displayed for inspection.

### **Section 9.15**

1. Our Minister shall ensure that at the same time as the notification is announced pursuant to section 9.14 the data designated by or pursuant to order in council regarding the substance to which the notification relates shall be recorded in a register.
2. Rules shall be laid down by or pursuant to order in council for the organisation and structure of the register.
3. Any person may inspect the register free of charge. Our Minister shall determine by ministerial order the times and the place where the register can be inspected.
4. The person who maintains the register shall on request provide any person, against payment of costs, with a copy of the register or parts thereof.

### **Section 9.16**

The person who has given a new substance notification with regard to a substance shall retain the data that he possesses concerning the said substance for a period of not less than ten years from the date of cessation of manufacture of the said substance or of its importation into the European Economic Area.

## **Part 9.2.4. Provision of data when specified thresholds are exceeded**

### **Section 9.17**

1. The person who has given a new substance notification with regard to a substance and who has in any year manufactured in or imported into the European Economic Area a quantity of the said substance or has in total manufactured in or imported into the European Economic Area a quantity of the said substance which exceeds a quantity specified by order in council:

- a. shall report to Our Minister forthwith in a manner determined by ministerial order that the quantity concerned has been reached or exceeded;
  - b. shall furnish the data designated by Our Minister in agreement with Our Minister of Social Affairs and Employment within a period specified in the said designation, and
  - c. shall conduct the research needed to obtain the data referred to in point b.
2. Subsection 1 (c) shall not apply if the person concerned can obtain the said data by another means.
  3. The data referred to in subsection 1 (b) shall be exclusively those belonging to a category designated by order in council unless Our Minister considers it desirable, by virtue of the previously known properties of the substance, that other data should be furnished. The order in council shall provide that the categories of data designated therein shall apply only in categories of cases indicated therein.
  4. If the data designated pursuant to subsection 1 (b) were furnished at least ten years before receipt of the report to a body designated for that purpose in another country within the European Economic Area or another person has furnished these data to such a body and a written declaration is received from the said other person that he has no reservation against these data being referred to, then notwithstanding subsection 1 a reference to these data shall suffice.
  5. A decision as referred to in subsection 1 (b) shall be prepared in accordance with the procedure determined by order in council for such decisions.
  6. If a notification as referred to in section 9.11, subsection 1 has been given to Our Minister, the report referred to in subsection 1 shall relate to the total quantity of the substance, either on its own or as a constituent of a preparation, imported into the European Economic Area by the importers referred to in the notification.
  7. If more than one notification has been given in the European Economic Area for a substance manufactured outside the European Economic Area and these notifications relate to a substance manufactured by the same person, the quantities determined pursuant to subsection 1 shall relate to the total quantity of the substance imported into the European Economic Area by the importers referred to in the notifications from that manufacturer. In cases as referred to in the first sentence, the obligation to furnish data as referred to in subsection 1 (b) shall apply to the notifiers jointly.
  8. Our Minister shall announce the receipt of the data referred to in subsection 1 (b) within a period to be determined by order in council. Section 9.14, subsections 2 and 3 shall apply *mutatis mutandis* to the announcement.

## **Part 9.2.5 Reporting changes**

### **Section 9.18**

1. The person who has given a notification with regard to a substance shall report to Our Minister as quickly as possible any change in:
  - a. the data furnished by him pursuant to sections 9.10 to 9.12 and section 9.17 in so far as they were designated by or pursuant to order in council;

- b. his knowledge of the effects of the substance on the environment.
2. The importer referred to in the notification shall inform the notifier of changes in the data which have to be reported pursuant to subsection 1.
3. If a notification as referred to in section 9.11, subsection 1 is given to Our Minister, the report referred to in subsection 1 shall refer to the total quantity of the substance, either on its own or as a constituent of a preparation, imported into the European Economic Area by the importers referred to in the notification.
4. If more than one notification is given in the European Economic Area for a substance manufactured outside the European Economic Area and these notifications relate to a substance manufactured by the same person, the reporting requirement referred to in subsection 1 shall apply, in so far as it does not relate to data on quantities of the substance, to the notifiers jointly.
5. Further rules regarding the report may be laid down by or pursuant to order in council.

### **Part 9.2.6 Obligation to conduct research and inform the public**

#### **Section 9.19**

1. If he considers this necessary in order to assess the effects of the substance on the environment, Our Minister may, in agreement with Our Minister of Social Affairs and Employment and in relation to a substance for which a new substance notification has been given, require the person making the notification:
  - a. to furnish the data designated by Our Minister in agreement with Our Minister of Social Affairs and Employment within a period specified in the said designation, and
  - b. to conduct the research needed to obtain the data referred to in point a.
2. Subsection 1 (b) shall not apply if the person concerned can obtain the said data by another means.
3. A similar power shall vest in Our Minister of Social Affairs and Employment in agreement with Our Minister if the former considers this necessary in order to assess the effects on health and safety in the workplace of the substance for which a new substance notification has been given.
4. The person subject to a requirement as referred to in subsection 1 shall furnish the data designated pursuant to that subsection in a manner determined by ministerial order and shall conduct the research referred to therein within the period determined pursuant to point a of that subsection.
5. If the data designated pursuant to subsection 1 (a) were provided at least ten years before the notification to a body designated for that purpose in another country within the European Economic Area or another person has furnished these data to such a body and a written declaration is received from the said other person that he has no reservation against these data being referred to, then notwithstanding subsection 1 a reference to these data shall suffice.
6. A decision as referred to in subsection 1 shall be prepared in accordance with a procedure to be determined by order in council.

7. Our Minister shall announce the receipt of the data within a period to be determined by order in council. Section 9.14, subsections 2 and 3 shall apply *mutatis mutandis* to the announcement.

### **Title 9.3 New and existing substances**

#### **Section 9.20**

The manufacture of a substance or its import into the Netherlands, either on its own or as a constituent of a preparation, in the pursuit of a profession or business shall be prohibited unless the person who does so complies with the obligations which apply to him pursuant to sections 9.21 to 9.25.

#### **Section 9.21**

1. The person who, in the pursuit of his profession or business, manufactures or imports a substance into the Netherlands, either on its own or as a constituent of a preparation, shall hold data relating to that substance or preparation necessary to assess the effects which that substance or preparation may have on the environment.
2. These data shall in any event include the following:
  - a. data reasonably needed to permit compliance with the obligations laid down pursuant to sections 9.22 to 9.25;
  - b. a description of the measures which have been or will be taken to implement section 9.25, subsection 1 (b);
  - c. a description of the measures which are needed as a minimum to prevent or limit the adverse effects on the environment if operations are performed in a reasonably foreseeable manner involving that substance or preparation in the pursuit of a profession or business, or that substance or preparation is used in a reasonably foreseeable manner in a product.
3. By or pursuant to order in council:
  - a. data to be held by a person as referred to in subsection 1 may be designated;
  - b. rules may be laid down with regard to the registration of data;
  - c. further rules may be laid down with regard to the manner in which the obligations laid down pursuant to subsections 1 and 2 are put into effect.

#### **Section 9.22**

1. The person who in the pursuit of his profession or business manufactures or imports into the Netherlands a substance either on its own or as a constituent of a preparation shall classify that substance or preparation into one of the following categories of concern:
  - a. very serious concern;
  - b. serious concern;
  - c. concern;
  - d. low concern.

2. A further sub-classification of the categories referred to in subsection 1 may be determined by order in council.
3. A person as referred to in subsection 1 shall classify a substance or preparation into the category to which it belongs on the basis of criteria to be determined by order in council. These criteria shall include in any event the persistency, propensity to bioaccumulate, toxicity or ecotoxicity, harmfulness for human health, carcinogenicity, mutagenicity, teratogenicity and hormone-disrupting properties of the substance or preparation.
4. Further rules shall be laid down by or pursuant to order in council regarding the manner in which the obligations laid down pursuant to subsections 1 to 3 are put into effect. The rules referred to in the first sentence shall in any event include rules relating to the manner in which the criteria designated pursuant to subsection 3 are applied in classifying a substance or preparation into a category of concern.

### **Section 9.23**

1. The person who in the pursuit of his profession or business manufactures or imports into the Netherlands a substance, either on its own or as a constituent of a preparation, shall periodically verify whether the data referred to in section 9.22 which he holds relating to a substance or preparation are still accurate and complete, having regard to the data which he possesses or could reasonably possess regarding the effects of the said substance or preparation or its use on the environment, technical developments in environmental protection and developments in environmental quality. Where necessary he shall amend the data.
2. He shall modify the category of concern into which he classifies a substance or preparation as quickly as possible if:
  - a. he gains new knowledge of the effects of the substance or preparation or of its use on humans or the environment which shows that the said substance or preparation belongs according to the criteria determined pursuant to section 9.22, subsection 3, to a different category of concern, or
  - b. the application of section 9.22, subsection 2, or a change in the criteria determined pursuant to section 9.22, subsection 3, makes this necessary.

### **Section 9.24**

1. The person who, pursuant to section 9.22, has classified a substance or preparation into a category of concern or who, pursuant to section 9.23, has changed the category of concern into which he classifies a substance or preparation shall send, as quickly as possible, the data in this regard to be designated by or pursuant to order in council to an agency to be designated by Our Minister.
2. This agency shall register and manage the data and make them public.
3. Rules may be laid down by or pursuant to order in council with regard to the manner in which the obligations laid down in subsections 1 and 2 are put into effect.

### **Section 9.25**

1. The person who in the pursuit of his profession or business manufactures or imports into the Netherlands a substance, either on its own or as a constituent of a preparation:
  - a. shall assess the effects of that substance or preparation on the environment, and
  - b. shall take measures to prevent or limit the adverse effects of that substance or preparation on the environment.
2. Rules shall be laid down by or pursuant to order in council regarding the manner in which the obligations laid down in subsection 1 are put into effect.
3. The rules referred to in subsection 2 shall in any event include rules regarding the manner in which an assessment as referred to in subsection 1 is carried out and the results are presented.
4. Measures may be determined by or pursuant to order in council which must in any event be taken to prevent or limit the adverse effects on the environment of a designated substance, preparation or category of substances or preparations.

### **Section 9.26**

1. The person who in the pursuit of his profession or business manufactures or imports into the Netherlands a substance, either on its own or as a constituent of a preparation, and subsequently makes that substance or preparation available to a person who takes delivery of the said substance or preparation in the pursuit of his profession or business shall also in any event furnish:
  - a. the data relating to that substance or preparation which he sent to the agency designated pursuant to section 9.24, and
  - b. the description of the measures referred to in section 9.21, subsection 2 (c).
2. At the request of a person as referred to in subsection 1, he shall also furnish, in so far as this can reasonably be required, other data necessary to assess the effects of the substance or the preparation on the environment, if the operations indicated in that request involving that substance or preparation are being performed or that substance or preparation is being used in a manner indicated in the said request.

### **Section 9.27**

1. The person who in the pursuit of his profession or business takes delivery of a substance or preparation with an intention other than to make that substance or preparation available in the pursuit of his profession or business to a consumer shall assess the effects of that substance or preparation on the environment and shall take measures to prevent or limit adverse effects on the environment. In taking such measures he shall have regard to the description of the measures referred to in section 9.21, subsection 2 (c) involving that substance or preparation furnished to him.
2. If he is making the substance or preparation available to a person who takes delivery of the substance or preparation in the pursuit of his profession or business he shall also furnish the data and descriptions referred to in section 9.21 which he has received relating to the substance or preparation.

3. He shall hold:
  - a. the data reasonably needed to permit compliance with the obligations laid down pursuant to subsections 1 and 4;
  - b. the data referred to in subsection 2, and
  - c. a description of the measures which he will take or has taken to implement subsection 1.
4. By or pursuant to order in council:
  - a. rules shall be laid down with regard to the manner in which the obligations laid down in subsection 1 are put into effect, including in any event rules relating to the manner in which an assessment as referred to in subsection 1 will be made and the results presented;
  - b. measures may be specified which must in any event be taken to prevent or limit the adverse effects on the environment of a substance, preparation or category of substances or preparations designated by or pursuant to the order in council;
  - c. rules may be laid down with regard to the registration of the data.

### **Section 9.28**

Sections 9.20 to 9.27 shall not apply in categories of cases specified by order in council.

## **Title 9.4 Substances, preparations and other products**

### **Part 9.4.1 Information and research**

#### **Section 9.29**

1. If he considers this necessary in order to assess the effects on the environment of a substance which is not a new substance, or of a preparation of which such substance is a constituent, our Minister may require those persons who in the pursuit of their profession or business perform operations involving that substance or preparation:
  - a. to furnish the data designated by Our Minister within a period specified in the said designation, and
  - b. to conduct the research needed to obtain the data referred to in point a.
2. Subsection 1 (b) shall not apply if the person concerned can obtain the said data by another means.
3. The person required to take action as referred to in subsection 1 shall furnish the data designated pursuant to that subsection in a manner determined by ministerial order and shall conduct the research referred to therein within a period determined pursuant to point a of that subsection.
4. A decision as referred to in subsection 1 shall be prepared in accordance with the procedure to be determined by order in council.

### **Section 9.30**

1. Rules for the protection of the environment may be laid down by or pursuant to order in council which place an obligation on persons belonging to a category designated in the order in council with regard to substances, preparations or other products, or categories of substances, preparations or other products, designated by or pursuant to the order in council:
  - a. to furnish Our Minister or another agency designated in the order in council with the data designated by or pursuant to the order in council;
  - b. to conduct the research needed to obtain the data referred to in point a.
2. By or pursuant to the order in council:
  - a. rules may be laid down with regard to the manner in which the obligations laid down pursuant to subsection 1 are put into effect;
  - b. it may be determined that rules as referred to in subsection 1 shall apply only to categories of cases indicated by or pursuant to the order in council.

### **Part 9.4.2 Measures**

#### **Section 9.31**

1. Rules for the protection of the environment may be laid down by or pursuant to order in council relating to substances, preparations or other products, or categories of substances, preparations or other products, designated by the order in council as well as with regard to operations indicated by or pursuant to the order in council that involve these products or categories of products.
2. The rules referred to in subsection 1 may include rules prohibiting, in relation to such substances, preparations or other products:
  - a. the performance of one or more such operations;
  - b. the performance of such operations except in accordance with rules laid down by or pursuant to the order in council regarding these operations or products;
  - c. the performance of such operations without a licence from Our Minister or another administrative authority designated by the order in council;
  - d. the performance of such operations while not in possession of a valid certificate for those operations or products that has been issued in accordance with rules laid down by or pursuant to the order in council by an agency designated pursuant to the order in council;
  - e. the performance of such operations if the said products have not been approved by an agency designated pursuant to the order in council in accordance with rules laid down by or pursuant to the order in council, or are not of a type that has been approved by means of an inspection carried out by an agency designated pursuant to the order in council in accordance with rules laid down by or pursuant to the order in council;



- f. their use in products which are not of a type that has been approved by means of an inspection carried out by an agency designated pursuant to the order in council in accordance with rules laid down by or pursuant to the order in council.
3. The rules referred to in subsection 1 may include rules which require that:
  - a. inspections are carried out with regard to such operations involving such substances, preparations or other products and that the results of these inspections are provided to our Minister or other agencies designated by or pursuant to the order in council;
  - b. a register is maintained in a manner specified by the order in council containing data relating to such substances, preparations or other products;
  - c. the data designated in the order in council with regard to such operations involving such substances, preparations or other products are furnished to agencies designated therein;
  - d. such operations involving such substances, preparations or other products are reported in accordance with rules laid down by or pursuant to the order in council;
  - e. such substances, preparations or other products are returned after use to the person who made them available or are delivered to persons or bodies designated by or pursuant to the order in council;
  - f. such substances, preparations or other products are collected or taken in in accordance with rules laid down by or pursuant to the order in council;
  - g. such substances, preparations or other products are recovered or disposed of in a manner indicated by or pursuant to the order in council;
  - h. persons belonging to a category designated by the order in council take delivery of such substances, preparations or other products and apply them in a manner indicated by or pursuant to the order in council;
  - i. measurements are made in relation to such substances, preparations or other products in accordance with rules laid down by or pursuant to the order in council;
  - j. such substances, preparations or other products are subjected to an inspection carried out by an agency designated pursuant to the order in council in accordance with rules laid down by or pursuant to the order in council.
4. It may be provided by an order in council pursuant to subsection 1 that rules laid down therein shall apply only in categories of cases indicated therein.

### **Section 9.32**

It may be provided by or pursuant to an order in council pursuant to section 9.31 in which rules are laid down relating to products which may be used in establishments for which a licence is required pursuant to section 8.1 that the authority competent to grant or modify a licence may depart from the rules laid down by or pursuant to the order in council with regard to matters indicated therein in the restrictions or conditions attached to the licence. In that case the extent to which the competent authority may depart from the rules shall be indicated by or pursuant to the order in council. It may also be determined by or pursuant to the order in council that the power to depart from the rules shall apply only in categories of cases indicated by or pursuant to the order in council.

### **Section 9.33**

1. If section 9.31, subsections 1 and 2 (c) applies, sections 8.5 to 8.25 shall apply *mutatis mutandis* to the granting, refusal, amendment and withdrawal of a licence, with the proviso that:
  - a. in applying these provisions, the interest of protecting the environment shall be taken *mutatis mutandis* to include the interest of protecting man, in so far as substances, preparations or genetically modified organisms are concerned;
  - b. in applying these provisions, the effects on the environment shall be taken *mutatis mutandis* to include the effects on man, in so far as substances, preparations or genetically modified organisms are concerned;
  - c. a licence may also be withdrawn if the operations concerned are resulting or may result in adverse effects on the environment.
2. Notwithstanding subsection 1, it may be determined by an order in council pursuant to section 9.31, subsections 1 and 2 (c), that in categories of cases indicated therein Part 3.4 of the General Administrative Law Act shall not apply.

### **Section 9.34**

If an obligation is laid down by or pursuant to an order in council pursuant to section 9.31 for substances, preparations or other products to be returned, delivered, collected or taken in, the order in council may also determine that damage suffered or costs incurred in consequence of the obligation by the person who returns, delivers, collects or takes in these substances, preparations or other products shall be chargeable to the person who manufactured, imported into the Netherlands or made available to other persons these substances, preparations or other products, to the extent that this can reasonably be required of the person concerned. Rules may also be laid down by or pursuant to the order in council relating to the calculation of the damage or costs and the manner in which those to be held liable for the damage or costs are identified.

### **Section 9.35**

1. If in the opinion of Our Minister immediate steps need to be taken to protect the environment, he may issue an order with the same purport as referred to in section 9.31. Our Minister shall issue such an order in agreement with such of Our Ministers as are concerned unless in his opinion the required urgency does not so permit.
2. An order as referred to in subsection 1 shall lapse one year after the date on which it entered into force or if an order in council replacing these regulations enters into force at an earlier date, on the date on which this order enters into force. Our Minister may extend the period of validity of this ministerial order once by a maximum of one year.

### **Part 9.4.3. Packaging, labelling and logos**

#### **Section 9.36**

1. Rules may be laid down by or pursuant to order in council in the interests of environmental protection pertaining to the packaging or wrapping of substances, preparations or other products, or of categories of substances, preparations or other products, designated by the order in council.
2. The rules referred to in subsection 1 may in any event include rules which:
  - a. prohibit operations involving such substances, preparations or other products indicated by or pursuant to the order in council except with due regard to rules laid down by or pursuant to the order in council relating to their packaging or wrapping;
  - b. oblige those concerned to ensure that such substances, preparations or other products when delivered or held in stock for delivery have been packaged in accordance with rules laid down by or pursuant to the order in council.
3. It may be provided by or pursuant to an order in council pursuant to subsection 1 that the said rules shall apply only to categories of cases indicated therein.

#### **Section 9.37**

1. Rules may be laid down by or pursuant to order in council in the interests of environmental protection pertaining to the use of labelling, markings or logos relating to the substances, preparations or other products, or categories of substances, preparations or other products, designated by the order in council.
2. The rules referred to in subsection 1 may in any event include rules which:
  - a. prohibit the operations indicated by or pursuant to the order in council involving such substances, preparations or other products except with due regard to rules laid down by or pursuant to the order in council relating to the use of a label or logo on the products or their packaging;
  - b. prohibit the operations indicated by or pursuant to the order in council involving such substances, preparations or other products except with due regard to rules laid down by or pursuant to the order in council relating to the provision of information on the products or their packaging or accompanying these products;
  - c. prohibit the operations indicated by or pursuant to the order in council in which use is made of labels or logos indicated by Our Minister (or very similar labels or logos) where substances, preparations or other products are involved other than those for which such label or logo has been reserved by or pursuant to the order in council;
  - d. prohibit the recommendation or advertising of such substances, preparations or other products except with due regard to the rules laid down by or pursuant to the order in council;
  - e. oblige the person who performs the operations indicated by or pursuant to the order in council involving substances, preparations or other products, or categories of substances, preparations or other products, designated by the order in council to provide these with a label, marking or logo indicated by the Minister.

3. If rules are laid down by or pursuant to an order in council pursuant to subsection 1 pertaining to the use of marks, rules shall also be laid down by or pursuant to the order in council pertaining to the testing of the substances, preparations or other products concerned.
4. It may be provided by or pursuant to an order in council pursuant to subsection 1 that rules as referred to in subsections 1 to 3 shall apply only in categories of cases indicated by or pursuant to the order in council.
5. Rules laid down pursuant to an order in council pursuant to subsection 1 shall be drawn up in agreement with Our Minister of Social Affairs and Employment and Our Minister of Health, Welfare and Sport.

### **Section 9.38**

1. Our Minister may designate one or more agencies which shall be permitted to issue a logo designated by him to show that a substance, preparation or other product or an operation involving a substance, preparation or other product, has been issued with a certificate by the agency concerned and complies with the requirements laid down pursuant to this Chapter for that product or operation.
2. Rules may be laid down by or pursuant to order in council with regard to:
  - a. the criteria which an agency must meet in order to qualify for designation;
  - b. the conditions to which such a designation may be made subject.
3. Our Minister may issue instructions to the agencies designated pursuant to subsection 1 relating to the conduct of their duties.
4. Our Minister may revoke a designation if the agency concerned fails to comply with the rules laid down pursuant to subsection 2 or fails to conform with an instruction issued pursuant to subsection 3.

### **Section 9.39**

1. The person to whom a certificate as referred to in section 9.38, subsection 1, is issued relating to a substance, preparation or other product, shall place the logo designated pursuant to that subsection on the product or, in so far as this can reasonably be done, on the packaging of the said substance, preparation or other product or on information accompanying that product.
2. The person to whom a certificate as referred to in section 9.38, subsection 1, is issued for an activity involving a substance, preparation or other product shall place the logo designated pursuant to that subsection in such a manner that it is clear and visible to all.

## **Title 9.5 Declaring an agreement universally binding**

### **Section 9.40**

1. Our Minister may in the interests of environmental protection, on receipt of a reasoned request, declare universally binding a written agreement between those who in the

- pursuit of their profession or business perform operations involving substances, preparations or other products.
2. A request may only be submitted by those persons or organisations representing persons who, in terms of their number and the total volumes of the substances, preparations or other products concerned, form in the opinion of Our Minister a significant majority of those performing operations with these products.
  3. Our Minister shall lay down rules concerning matters which in any event need to be dealt with in an agreement which the parties thereto seek to have declared universally binding and concerning the data to be submitted with a request as referred to in subsection 1.

#### **Section 9.41**

1. The preparation of a decision on a request to make an agreement universally binding shall be subject to Part 3.4 of the General Administrative Law Act with the proviso that notwithstanding section 3:15 of that Act, any person may submit their reservations against the request in writing only.
2. Should it prove impossible to take a decision until an obligation arising from a treaty which is binding upon the Netherlands or a decision of an international organisation which is binding upon the Netherlands has been met, the deadline for the decision shall be postponed until the procedure relating to that obligation has been completed. The applicant shall be informed of the postponement.
3. A decision making an agreement universally binding shall apply for a period indicated therein not exceeding five years.

#### **Section 9.42**

1. Our Minister may grant exemption from an agreement on substances, preparations or other products which has been declared universally binding in response to an application for such exemption if the applicant can ensure that operations involving the substances, preparations or other products are performed in a manner which in the opinion of Our Minister is at least as effective as that stipulated in the agreement which has been declared universally binding.
2. An exemption from an agreement which has been declared universally binding may be made subject to restrictions. Conditions may be attached to an exemption.
3. An exemption granted pursuant to subsection 1 may be altered or withdrawn in response to a request to that effect or without such a request. Section 9.43, subsection 1 shall apply *mutatis mutandis*, the interests referred to in point b of that subsection being replaced by: failure to continue to fulfil the requirement referred to in subsection 1 of this section.
4. Part 3.4 of the General Administrative Law Act shall apply to the preparation of a decision as referred to in subsection 1, with the proviso that, notwithstanding section 3:15 of that Act, any person may submit their reservations against the request in writing only.

### **Section 9.43**

1. A decision to declare an agreement universally binding may be revoked if:
  - a. the information provided in respect of the request is found to be so incorrect or incomplete that another decision would have been taken if the correct information had been known at the time the request was assessed;
  - b. on the basis of a change in circumstances or information gained after the decision was taken, it must be assumed that the interests of environmental protection would be unacceptably prejudiced should the decision remain in force;
  - c. a treaty or decision of an international organisation which is binding upon the Netherlands, or regulations for the implementation thereof, give cause for revocation, or
  - d. the persons who submitted the request so request.
2. Part 3.4 of the General Administrative Law Act shall apply with regard to the preparation of a decision as referred to in subsection 1, with the proviso that notwithstanding section 3:15 of that Act any person may submit their reservations against the request in writing only.

### **Section 9.44**

Each individual shall be bound to comply with an agreement which applies to him and which has been declared universally binding in respect of any other individual who has a reasonable interest in compliance.

### **Section 9.45**

1. If one or more of the persons for whom an agreement has been declared universally binding considers that there are reasonable grounds to suspect that one or more other persons are failing to comply with one or more of the universally binding provisions in the agreement, such a person or persons may request Our Minister to investigate the matter, with a view to instituting proceedings pursuant to section 9.44.
2. If a request as referred to in subsection 1 has been submitted, Our Minister shall institute an investigation. After the investigation has been carried out and Our Minister has been apprised of the findings, he shall inform the person or persons who requested the investigation of the results.

## **Title 9.6 Exemption**

### **Section 9.46**

1. Our Minister may, if this does not conflict with the interests of environmental protection, grant an exemption from the rules laid down pursuant to sections 9.31 and 9.35.
2. Sections 8.5 to 8.25 shall apply *mutatis mutandis* to the granting, refusal, amendment and withdrawal of an exemption as referred to in subsection 1, with the proviso that:

- a. in applying these provisions, the interests of environmental protection shall be taken *mutatis mutandis* to include the interests of protecting man, in so far as substances, preparations or genetically modified organisms are concerned;
  - b. in applying these provisions, the effects on the environment shall be taken *mutatis mutandis* to include the effects on man, in so far as substances, preparations or genetically modified organisms are concerned;
  - c. an exemption may also be revoked if the operations concerned are resulting or may result in adverse effects on the environment.
3. Notwithstanding subsection 1, it may be determined by order in council pursuant to section 9.31, subsection 1, that in categories of cases indicated therein Part 3.4 of the General Administrative Law Act shall not apply. If the first sentence is applied Our Minister shall announce the decision relating to the exemption in the Government Gazette. The manner in which interested parties may be informed of its contents shall also be stated.

## **CHAPTER 10. WASTE SUBSTANCES**

### **Title 10.1     General**

#### **Section 10.1**

1. Any person who commits acts or omissions in respect of waste substances and who knows or should reasonably have known that they would or might have adverse effects on the environment shall be obliged to take or refrain from taking all measures that he can reasonably be demanded to take or refrain from taking in order to prevent or limit these effects as far as possible.
2. It shall be prohibited for any person on whose premises waste substances are generated to commit acts or omissions in respect of those waste substances which he knows or should reasonably have known would adversely affect or might adversely affect the environment.
3. It shall be prohibited for any person, in the course of commercial activities or on an equivalent scale or in an equivalent manner, to commit acts in respect of waste substances if he knows or should reasonably have known that this would adversely affect or might adversely affect the environment.
4. Acts as referred to in subsection 3 shall in any event include collecting or otherwise receiving, storing, recovering, disposing of, transporting or trading in waste substances or acting as an intermediary in the management of waste substances.
5. The prohibitions referred to in subsections 2 and 3 shall not apply to acts where the person committing these acts is explicitly permitted to do so by or pursuant to this Act or an Act referred to in section 13.1, subsection 2, or the EEC regulation on shipments of waste.

#### **Section 10.2**

1. Discarding waste substances – packaged or otherwise – by landfilling them or otherwise placing them on or under the ground or incinerating them outside an establishment shall be prohibited.
2. Dispensation may be granted from the prohibition referred to in subsection 1 by or pursuant to order in council for categories of cases indicated therein if this does not conflict with the interests of environmental protection.

### **Title 10.2     Waste management plan**

#### **Section 10.3**

Our Minister shall adopt a waste management plan at least once every four years.



#### **Section 10.4**

In adopting the waste management plan, Our Minister shall take account of the fact that the protection of the environment requires, in descending order of preference, that:

- a. the generation of waste substances be prevented or limited wherever possible;
- b. when manufacturing substances, preparations or other products, use be made of substances and materials which, after use, cause no damage, or as little damage as possible, to the environment;
- c. substances, preparations or other products be used as such more than once;
- d. the substances and materials of which a product is made be reused after the product has been used;
- e. waste substances be used primarily as fuel or to generate energy in another way;
- f. waste substances be disposed of by incinerating them on land;
- g. waste substances be landfilled.

#### **Section 10.5**

1. In adopting the waste management plan, Our Minister shall take account of the fact that efficient waste management requires that:
  - a. waste substances be managed effectively and efficiently;
  - b. effective supervision of waste management be possible.
2. With regard to an establishment belonging to a category or a category of cases designated pursuant to section 8.35, and with regard to a decision on a licence as referred to in section 10.48, Our Minister shall take account of the fact that efficient waste management also requires that:
  - a. the continuity of waste management be ensured;
  - b. the capacity of the facilities for waste management be geared to the supply of waste substances.

#### **Section 10.6**

In adopting the waste management plan, Our Minister shall take account of the applicable national environmental policy plan.

#### **Section 10.7**

1. The waste management plan shall include the subjects that must be included in such a plan pursuant to decisions of European Union institutions that are binding upon the Netherlands.
2. The waste management plan shall also include in any event:
  - a. the main features of the policy implementing this Act with regard to preventing or limiting the generation of waste substances and managing waste substances over the four-year period concerned and, as far as possible, over the next six years thereafter;
  - b. details of these main features with regard to the categories of waste substances or methods of managing waste substances indicated therein;

- c. the capacity required for the recovery or disposal of waste substances in establishments belonging to a category or a category of cases designated pursuant to section 8.35 over the four-year period concerned and, as far as possible, over the next six years thereafter;
- d. a description of the policy implementing the EEC regulation on shipments of waste over the four-year period concerned.

#### **Section 10.8**

1. Our Minister shall draw up the part of the waste management plan referred to in section 10.7, subsection 2 (a), after consulting a body that may be considered representative of provincial authorities and a body that may be considered representative of municipal authorities.
2. Our Minister shall draw up the parts of the waste management plan referred to in section 10.7, subsection 2 (b and c), in joint consultation with a body that may be considered representative of provincial authorities and a body that may be considered representative of municipal authorities.
3. In preparing the waste management plan, Our Minister shall also involve other administrative authorities, institutions and organisations that he considers have the greatest interest in the subjects to be addressed.
4. Our Minister may lay down further rules relating to the way in which the provisions of subsections 1 to 3 are implemented.

#### **Section 10.9**

1. Part 3.4 of the General Administrative Law Act shall apply to the preparation of the waste management plan.
2. The draft of the waste management plan shall be submitted to both houses of the States General at the same time as it is made available for inspection.

#### **Section 10.10**

1. For the purpose of drawing up the waste management plan, administrative authorities shall provide Our Minister at his request with all the information and data available to them in so far as they are reasonably needed to draw it up.

#### **Section 10.11**

1. As soon as the waste management plan has been adopted, Our Minister shall give notice hereof by submitting it to both houses of the States General and by sending it to the provincial and municipal authorities.
2. Our Minister shall also send the waste management plan to the administrative authorities, institutions and organisations that were involved in its preparation in accordance with section 10.8, subsection 3.

3. Our Minister shall announce the adoption of the waste management plan in the Government Gazette. In so doing he shall indicate how persons may take cognisance of the content of the plan.

#### **Section 10.12**

1. The waste management plan shall take effect four weeks after the date of the Government Gazette in which its adoption is announced. Our Minister may provide that the plan, or parts thereof, shall only take effect at a later date.
2. The waste management plan shall be effective for four years, unless a new plan is adopted in the meantime. Our Minister may extend the period of validity of the plan once by a maximum of two years.

#### **Section 10.13**

1. The waste management plan may be amended.
2. Sections 10.4 to 10.11 and section 10.12, subsection 1 shall apply *mutatis mutandis* to amendments of the waste management plan.

#### **Section 10.14**

1. Every administrative authority shall take the applicable waste management plan into account in exercising a power pursuant to this Act, in so far as this power is exercised in relation to waste substances.
2. In so far as the waste management plan does not address the subject in relation to which the power is exercised, the administrative authority shall take into account the order of preference indicated in section 10.4 and the criteria referred to in section 10.5, subsection 1.
3. Subsection 1 shall apply *mutatis mutandis* to the exercise of powers pursuant to the EEC regulation on shipments of waste.

### **Title 10.3      Prevention and recovery**

#### **Section 10.15**

1. In the interests of preventing or limiting the generation of waste substances, rules may be laid down by order in council in respect of the manufacture, import, use, possession, supply or receipt of categories of substances, preparations or other products designated therein.

2. These rules shall in any event include rules which:
  - a. prohibit one or more of the acts referred to in subsection 1 with respect to such substances, preparations or other products;
  - b. prohibit such actions from being carried out with respect to such substances, preparations or other products:
    - 1° in a manner indicated in the order in council;
    - 2° under circumstances indicated therein;
    - 3° or for purposes indicated therein;
  - c. prohibit such actions if the requirements laid down in the order in council are not satisfied in respect of such substances, preparations or other products;
  - d. prohibit the manufacture or supply of such substances, preparations or other products if the requirements laid down in the order in council are not, or have not been, satisfied in their manufacture.
3. Rules as referred to in subsection 1 shall be laid down for establishments only if this is especially appropriate in the interests of efficient regulation.
4. An order in council pursuant to subsection 1 shall stipulate a time limit after which the rules laid down therein shall come into force in respect of substances, preparations or other products which had already been manufactured and were present in the Netherlands at the time the order in council took effect.
5. Our Minister may lay down further rules concerning matters dealt with in an order in council pursuant to subsection 1.

#### **Section 10.16**

1. In the interests of efficient waste management, rules may be laid down by order in council obliging persons who market categories of substances, preparations or other products designated therein to give these substances, preparations or other products or their packaging a designation specified by Our Minister. The order in council may provide that these rules shall apply only to categories of cases designated therein.
2. A designation as referred to in subsection 1 may comprise a recommendation relating to the management of the substances, preparations or other products, the packaging or the waste substances released during use.
3. Our Minister may lay down further rules concerning the products to be included in the categories of substances, preparations or other products designated pursuant to subsection 1.

#### **Section 10.17**

1. In the interests of promoting recovery or protecting the environment in some other way, rules may be laid down by order in council relating to the taking in, recovery or disposal of categories of substances, preparations or other products designated therein.
2. These rules may in any event include rules obliging persons who market substances, preparations or other products:

- a. to take in these products after use;
- b. to ensure that measures are taken aimed at recovering or disposing of these products in a manner indicated in the order in council after they have been taken in;
- c. to ensure that these products are transferred, after having been taken in, to a person belonging to a category designated in the order in council.

### **Section 10.18**

In the interests of promoting recovery or protecting the environment in some other way, an order in council may be issued obliging persons belonging to a category designated therein to receive categories of waste substances or other products designated therein, and subsequently to use them in a manner indicated in the order in council.

### **Section 10.19**

1. It may be provided by order in council that municipalities must ensure that sufficient opportunity is provided at at least one designated place within the municipality or within the municipalities with which the municipality is cooperating to leave substances, preparations or other products designated in the order in council which have been taken in pursuant to section 10.17.
2. Rules may be laid down by the order with regard to how the municipalities fulfil the obligation referred to in subsection 1.

### **Section 10.20**

1. If in the opinion of Our Minister immediate measures need to be taken in the interests of efficient waste management, he may draw up an order with the support referred to in sections 10.15 to 10.19.
2. Such an order shall lapse one year after it has come into force, or, if an order in council replacing the said order has taken effect within that period, at the time the order in council comes into force. Our Minister may extend the period once by a maximum of one year by ministerial order.

## **Title 10.4     The management of household and other waste**

### **Section 10.21**

1. Every municipality shall ensure, in cooperation with other municipalities or otherwise, that household waste – excluding bulky household waste – is collected at least once a week from all the premises situated within its territory where such waste substances may regularly be generated.

2. Vegetable, fruit and garden waste shall in any event be collected separately.
3. The municipal council may decide to collect other components of household waste separately.

#### **Section 10.22**

1. Every municipality shall ensure that:
  - a. bulky household waste is collected from all the premises situated within its territory where such waste is generated, and
  - b. sufficient opportunity is provided to leave such waste at at least one designated place within the municipality or within the municipalities with which the municipality is cooperating.
2. In the interests of the efficient management of bulky household waste, it may be provided by order in council that subsection 1 or a part thereof shall not apply to the categories of bulky household waste designated in the order, in so far as the quantity, volume or weight of the waste generated exceeds a level indicated therein, or otherwise.

#### **Section 10.23**

1. In the interests of protecting the environment, the municipal council shall issue a waste ordinance.
2. Without prejudice to section 10.14, account shall be taken in issuing or amending the ordinance of:
  - a. the municipal environmental policy plan;
  - b. the municipal environmental programme, if there is no environmental policy plan applicable to the municipality.
3. The waste ordinance shall include no rules as referred to in section 10.48.

#### **Section 10.24**

1. The waste ordinance shall at a minimum include rules on:
  - a. transferring household waste or offering it for collection to a collection service designated by or pursuant to the ordinance;
  - b. transferring waste substances of this kind to another person;
  - c. leaving waste substances of this kind at a designated place.
2. The waste ordinance may also lay down rules on the collection of household waste.

#### **Section 10.25**

The waste ordinance may in any event lay down rules on:

- a. preventing waste substances ending up in the environment as litter or ensuring that this occurs as little as possible;
- b. clearing up waste substances that have ended up in the environment as litter;
- c. having waste substances in a place that is visible to the public.

### **Section 10.26**

1. Notwithstanding section 10.21, the municipal council, in the interests of the efficient management of household waste, may provide in the waste ordinance that:
  - a. household waste shall be collected near each premises;
  - b. household waste shall be collected with a frequency indicated in the ordinance;
  - c. no household waste shall be collected in part of the territory of the municipality.
2. The municipal council shall involve residents and interested natural and legal persons in the municipality in the preparation of a decision of this kind, in the manner provided for in the ordinance drawn up pursuant to section 150 of the Municipalities Act.
3. The municipal executive shall notify the inspector of its intention to take a decision of this kind.
4. Our Minister shall lay down rules containing the conditions under which, pursuant to subsection 1, it may be provided that household waste shall be collected near each premises, including in any event rules on the distance on foot from the premises to the collection point and the availability of the collection point.

### **Section 10.27**

In cases as referred to in section 10.26, subsection 1 (b and c), the municipality shall ensure that sufficient opportunity is provided to leave household waste at at least one designated place within the municipality or within the municipalities with which the municipality is cooperating.

### **Section 10.28**

1. Rules may be laid down by order in council relating to the inclusion in the ordinance of an obligation to bring components of household waste to a designated place.
2. The order may indicate how municipalities shall ensure that places referred to in subsection 1 are sufficiently available within a municipality.
3. It may be provided by order in council that section 10.21, subsection 1 and section 10.24, subsection 1(a) shall not apply to the collection of the components of household waste designated pursuant to subsection 1.

### **Section 10.29**

1. In respect of cases in which the efficient management of household waste is of more than municipal importance, rules may be laid down by order in council on the collection of these waste substances.
2. These may in any event include rules requiring municipalities to take measures or create or maintain facilities for the purpose of collecting such waste substances.

## **Title 10.5 The discarding, collection and transport of wastewater**

### **Section 10.30**

It shall be prohibited to discard wastewater or other waste substances, except from an establishment, by putting them in a facility for the collection and transport of wastewater.

1. This prohibition shall not apply to:
  - a. rainwater runoff;
  - b. household wastewater in the framework of normal household use;
  - c. industrial wastewater which is similar in nature to household wastewater, in the framework of a type of use comparable with normal household use, by means of a road gully or manhole.
2. In the interests of efficient wastewater management, dispensation from the prohibition referred to in subsection 1 may be granted by order in council for categories of cases indicated therein.

### **Section 10.31**

Sections 10.21 to 10.29 and Title 10.6 shall not apply to putting wastewater or other waste substances in a facility for the collection and transport of wastewater, collecting and transporting wastewater in such a facility, and transferring wastewater from such a facility to a person who manages a treatment plant.

### **Section 10.32**

In the interests of efficient wastewater management, rules may be laid down by order in council on putting wastewater and other waste substances in a facility for the collection and transport of wastewater, other than from an establishment.

### **Section 10.33**

1. Every municipality shall ensure the efficient collection and transport of wastewater discharged from the premises situated within its territory.
2. In the interests of efficient wastewater management the provincial executive may, at the request of the municipal executive, grant exemption from the obligation contained in subsection 1, for a period referred to in the exemption, for:
  - a. part of the territory of the municipality situated outside the built-up area;
  - b. a built-up area from which wastewater with a pollution value of less than 2,000 population equivalents is discharged.



### **Section 10.34**

Our Minister shall lay down rules for the design, construction, modification and maintenance of facilities for the collection and transport of wastewater in order to implement treaties or decisions of international organisations which are binding on the Netherlands.

### **Section 10.35**

1. Every two years Our Minister shall draw up a report describing the state of affairs concerning the collection and transport of wastewater and the disposal of sludge which comes mainly or entirely from the sewage treatment plants managed by a province, municipality or water board.
2. Notice of the completion of the report shall be given in the Government Gazette.
3. Rules on the application of subsection 1 may be laid down by or pursuant to an order in council. These rules may require municipalities to annually provide information, in a manner indicated therein, which is needed to draw up the report.

## **Title 10.6 The management of industrial waste and hazardous waste**

### **§ 10.6.1 Transferring and receiving industrial and hazardous waste**

#### **Section 10.36**

For the purpose of this Title, collected or transferred household waste shall be considered equivalent to industrial waste.

#### **Section 10.37**

1. Discarding industrial or hazardous waste by transferring it to another person shall be prohibited.
2. This prohibition shall not apply if industrial or hazardous waste is transferred to a person who:
  - a. is authorised to collect the waste substances in question pursuant to section 10.45 or 10.48;
  - b. is authorised to recover or dispose of the waste substances in question:
    - 1<sup>o</sup> pursuant to Chapter 8;
    - 2<sup>o</sup> on the basis of a dispensation pursuant to section 10.2, subsection 2, or an exemption pursuant to section 10.63, subsection 2 or 3, from the prohibition referred to in section 10.2, subsection 1;
    - 3<sup>o</sup> pursuant to section 10.52;
    - 4<sup>o</sup> on the basis of a dispensation pursuant to section 10.54, subsection 3, or an exemption pursuant to section 10.63, subsection 3, from the prohibition referred to in section 10.54, subsection 1;
  - c. is exempted pursuant to section 10.50 from the obligations laid down by or pursuant to sections 10.38 to 10.40, 10.45, 10.46 and 10.48;

- d. is authorised, on the basis of an exemption pursuant to the Marine Pollution Act, to discharge the waste substances in question or to take them on board a vessel or aircraft with a view to discharging them;
- e. is authorised, pursuant to the Pollution of Surface Waters Act, to place waste substances of the nature and composition in question in surface waters;
- f. is established in a country other than the Netherlands and takes the waste substances to that country in accordance with the EEC regulation on shipments of waste and Title 10.7.

### **Section 10.38<sup>1</sup>**

1. Any person who discards industrial or hazardous waste by transferring it to a person as referred to in section 10.37, subsection 2 (a to e), shall record the following information:
  - a. the date of transfer;
  - b. the name and address of the person to whom the waste substances are transferred;
  - c. the usual nomenclature and the quantity of the waste substances concerned;
  - d. the place to which and the manner in which the waste substances are transferred;
  - e. the proposed manner in which the waste substances are to be managed;
  - f. if the transfer takes place through the agency of another person who is commissioned to transport the waste substances to the person for whom they are intended: the latter's name and address and the name and address of the person for whom the waste substances are to be transported.
2. The information recorded shall be kept for at least five years during which period it shall be available to those persons entrusted with the task of monitoring compliance with the Act.
3. [This subsection has not yet entered into force]

### **Section 10.39**

1. Any person discarding industrial or hazardous waste by transferring it to a person as referred to in section 10.37, subsection 2 (a to e), shall:
  - a. furnish this person with a specification of the nature, properties and composition of the waste substances concerned;
  - b. furnish the person commissioned to transport the waste substances to that person with an accompanying note.
2. The accompanying note shall at a minimum include the information referred to in subsection 1 (a) and in section 10.38, subsection 1.

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<sup>1</sup> A third subsection shall be added to section 10.38 on a date to be determined by royal decree. It shall read as follows:

A person as referred to in section 10.37, subsection 2 (a or b), who discards industrial or hazardous waste by transferring it to another person of this kind, shall notify an agency to be designated by Our Minister of the information referred to in subsection 1 with regard to the transfer. In this case the obligation referred to in subsection 1 shall not apply.

#### **Section 10.40**

1. A person as referred to in section 10.37, subsection 2 (a or b), to whom industrial or hazardous waste is transferred shall, for each transfer made to him, notify an agency designated by Our Minister of the following:
  - a. the date of transfer;
  - b. the name and address of the person from whom the waste substances were received;
  - c. the usual nomenclature and the quantity of the waste substances;
  - d. the place to which and the manner in which the waste substances are transferred;
  - e. how the waste substances are to be recovered or disposed of;
  - f. if the transfer takes place through the agency of another person who was commissioned to transport the waste substances to him: the latter's name and address and the name and address of the person for whom the waste substances are to be transported.
2. A person as referred to in subsection 1 shall be prohibited from receiving industrial or hazardous waste without a specification and an accompanying note as referred to in section 10.39, subsection 1 (a and b), being provided.
3. The information referred to in subsection 1 shall be sent to the competent province or municipality at its request.

#### **Section 10.41**

1. Rules shall be laid down by or pursuant to order in council on how sections 10.38 to 10.40 should be implemented.
2. It shall be laid down by or pursuant to order in council whether the notification referred to in section 10.38, subsection 3 and section 10.40 should take place before the transfer or receipt of waste substances or thereafter. A distinction may be made according to categories of waste.

#### **Section 10.42**

1. Persons referred to in section 10.38, subsection 1, may be obliged, by or pursuant to order in council, to notify an agency designated by Our Minister of the information referred to in that section.
2. Sections 10.40, subsection 3 and section 10.41 shall apply *mutatis mutandis*.

#### **Section 10.43**

1. With regard to industrial and hazardous waste, categories of cases may be designated by or pursuant to order in council to which the obligations laid down in sections 10.38 to 10.40 shall not apply.
2. If subsection 1 is applied, persons as referred to in section 10.40, subsection 1, shall be obliged by or pursuant to the order in council to record the information referred to in those provisions in the manner indicated therein.

## **§ 10.6.2 The transport of industrial and hazardous waste**

### **Section 10.44**

1. Any person who transports industrial or hazardous waste shall be obliged to carry with him an accompanying note as referred to in section 10.39 for as long as the waste substances remain in his possession.
2. If another person receives the waste substances, he shall give that person the accompanying note when the waste substances are received.
3. Rules shall be laid down by or pursuant to order in council on how the obligations referred to in subsections 1 and 2 should be implemented. In so doing, categories of cases may be designated to which such obligations shall not apply.

## **§ 10.6.3 The collection of industrial and hazardous waste**

### **Section 10.45**

1. It shall be prohibited to collect industrial or hazardous waste:
  - a. without having been placed on a list of collectors, or
  - b. without a licence from Our Minister, if the waste substances belong to the categories designated pursuant to section 10.48.
2. A dispensation may be granted from the prohibition referred to in subsection 1 by or pursuant to order in council for categories of cases indicated therein, if this does not conflict with the interests of protecting the environment.
3. Our Minister shall designate an agency to place, on his behalf, collectors on the list referred to in subsection 1.
4. A collector shall be removed from the list on the instructions of Our Minister.
5. Our Minister shall lay down rules on the criteria for placing collectors on, and removing them from, the list.

### **Section 10.46**

1. In the interests of the efficient management of industrial and hazardous waste, rules shall be laid down by or pursuant to order in council on the collection of such waste, whether or not it originates from persons belonging to a category designated by or pursuant to the order in council.
2. They shall include rules:
  - a. on how a collector shall notify the agency designated pursuant to section 10.45, subsection 3, and the information that he must submit in so doing;
  - b. imposing an obligation to give notice of any change to the information submitted upon notification of the agency;
  - c. on making the information submitted upon notification of the agency, and any change as referred to in point b, available for inspection by any person;
  - d. obliging the collector to carry documents to be indicated therein during collection showing that he is on the list of collectors.

3. The rules may provide that inclusion on the list of collectors only applies for a period indicated therein.

#### **Section 10.47**

1. In the interests of the efficient management of industrial or hazardous waste, rules may be laid down by order in council on the collection of such waste.
2. These rules may in any event include:
  - a. rules providing that the municipalities or provinces shall take measures or create or maintain facilities for the purpose of collecting such waste substances;
  - b. rules providing that categories of industrial hazardous waste indicated therein which are transferred separately shall be collected separately.
3. The order in council shall indicate the time limit within which the rules must be implemented by the administrative authorities designated therein.

#### **Section 10.48**

1. In the interests of the efficient management of industrial or hazardous waste, it may be provided by order in council that a licence from Our Minister shall be required for the collection of categories of such waste designated therein.
2. Sections 8.5 to 8.25 shall apply *mutatis mutandis* to the issue, refusal, amendment and withdrawal of a licence as referred to in subsection 1, with the proviso that, for the purposes of the said sections, the interests of protecting the environment shall be limited to the interests of efficient waste management.
3. Section 8.36f, subsection 2 shall apply *mutatis mutandis* to holders of licences as referred to in subsection 1.

#### **Section 10.49**

1. The conditions attached to the licence referred to in section 10.48, subsection 1 may in any event:
  - a. provide that in categories of cases designated therein, waste substances shall not be collected without special permission from Our Minister;
  - b. impose an obligation to accept waste substances designated therein if offered to the collector;
  - c. impose an obligation to collect separately waste substances designated therein that have been transferred separately;
  - d. impose an obligation to fetch waste substances designated therein if offered to the collector;
  - e. impose an obligation to transfer waste substances to persons designated therein.
2. A licence shall apply only to the person to whom it is issued. This person shall ensure that the conditions attached to the licence are observed.

#### **§ 10.6.4 Further provisions concerning the management of industrial and hazardous waste**

### **Section 10.50**

1. If, for the purpose of their management, there is an obligation to take in certain substances, preparations or other products as referred to in section 10.17 or an equivalent voluntary arrangement to take them in, Our Minister may indicate categories of cases by ministerial order to which the obligations imposed by or pursuant to sections 10.38 to 10.40, 10.45, 10.46 and 10.48, shall not apply.
2. A ministerial order as referred to in subsection 1 shall include the obligation to record information to be indicated therein in a manner to be indicated therein.

### **Section 10.51**

1. In the interests of the efficient management of industrial and hazardous waste, rules may be laid down by order in council on discarding the categories of industrial and hazardous waste designated by the order outside an establishment.
2. The order may in any event lay down rules imposing an obligation:
  - a. to separate these waste substances and keep them apart from *inter alia* other substances and waste;
  - b. to transfer these waste substances separately if they are being transferred to another person.

### **Section 10.52**

1. In the interests of protecting the environment, rules may be laid down by order in council on the management of the categories of industrial waste designated by the order.
2. Rules may in any event be laid down by order in council prohibiting the recovery or disposal outside an establishment of categories of industrial waste designated by the order without a licence from the administrative authority designated for this purpose by the order.
3. The order may impose an obligation to satisfy further requirements relating to subjects indicated therein. The order shall designate the administrative authority that may set these requirements.

### **Section 10.53**

Sections 8.5 to 8.25 shall apply *mutatis mutandis* to the granting, refusal, amendment and withdrawal of a licence as referred to in section 10.52, subsection 2.

### **Section 10.54**

1. It shall be prohibited to recover or dispose of hazardous waste outside an establishment.
2. The prohibition shall not apply to acts that persons who collect hazardous waste are permitted to commit pursuant to sections 10.47 or 10.48.
3. Section 10.2, subsection 2 shall apply *mutatis mutandis*.

## Section 10.55

1. It shall be prohibited to:
  - a. transport industrial or hazardous waste for other persons in exchange for payment;
  - b. trade in industrial or hazardous waste;
  - c. act as an intermediary on behalf of other persons in the management of industrial or hazardous waste, without having been placed on the list of transporters, traders or intermediaries as a transporter, trader or intermediary respectively.
2. The prohibition referred to in subsection 1 (a) shall not apply to persons who are authorised to collect industrial or hazardous waste pursuant to section 10.45.
3. Our Minister shall designate an agency to place, on his behalf, transporters, traders and intermediaries on the list referred to in subsection 1.
4. Our Minister shall lay down further rules on the placing of transporters, traders and intermediaries on the list referred to in subsection 1. These rules shall in any event include criteria for placing persons on and removing them from the list.
5. With regard to the activities referred to in subsection 1, a transporter, trader or intermediary shall record the following information:
  - a. the name and address of the person:
    - 1° from whom the waste substances originate;
    - 2° to whom the waste substances are to be transferred;
  - b. the usual nomenclature and the quantity of the waste substances.
6. Section 10.38, subsection 2 shall apply *mutatis mutandis*.

## **Title 10.7 The shipment of waste within, into and from the European Community**

### **Section 10.56**

1. Our Minister shall lay down rules implementing article 27 of the EEC regulation on shipments of waste.
2. Our Minister may lay down rules implementing other articles of the EEC regulation on shipments of waste than that referred to in subsection 1.

### **Section 10.57**

It may be laid down by order in council that Titles II, VII and VIII of the EEC regulation on shipments of waste shall apply *mutatis mutandis* to shipments of waste within the Netherlands.

### **Section 10.58**

1. Importing or exporting waste to which the EEC regulation on shipments of waste applies into or from Dutch territory shall be prohibited if, in the opinion of Our Minister, this would conflict with the interests of environmental protection.
2. Exporting waste to which the EEC regulation on shipments of waste applies from the Netherlands for recovery or disposal in a country outside the European Union, where the EEC regulation on shipments of waste does not apply, shall also be prohibited if Our Minister must reasonably conclude that the intended method of recycling or disposal would conflict with the interests of environmental protection.
3. Our Minister shall be the competent authority referred to in article 36 of the EEC regulation on shipments of waste.

### **Section 10.59**

Sections 4:2, 4:5 and 4:6 of the General Administrative Law Act shall apply *mutatis mutandis* to notifications as referred to in the EEC regulation on shipments of waste.

### **Section 10.60**

1. Acts as referred to in article 26, paragraph 1 of the EEC regulation on shipments of waste shall be prohibited.
2. It is prohibited to ship waste substances if this would contravene:
  - a. the prohibition laid down in article 18, paragraph 1 of the EEC regulation on shipments of waste;
  - b. the condition laid down in article 24, paragraph 6 of the EEC regulation on shipments of waste;
  - c. a condition laid down in article 5, paragraph 2 or 5, article 8, paragraph 2 or 5, article 9, paragraph 1, article 11, article 15, paragraph 8, first sentence, article 20, paragraph 7, first sentence, or paragraph 8, article 23, paragraph 6, first sentence, article 28, paragraph 1, second sentence, article 29, or article 39, paragraph 2 of the EEC regulation on shipments of waste;



- d. a condition laid down pursuant to article 4, paragraph 2 (d), article 7, paragraph 3, article 15, paragraph 5, or article 23, paragraph 4 of the EEC regulation on shipments of waste;
- e. a condition laid down in article 5, paragraph 6, article 8, paragraph 6, article 15, paragraph 8, last sentence, article 17, paragraph 7, first sentence, article 23, paragraph 6, third sentence, or article 35 of the EEC regulation on shipments of waste.

## **Title 10.8 Further provisions**

### **Section 10.61**

1. Rules may be laid down by order in council concerning the inclusion in the waste ordinance of rules as referred to in sections 10.21, 10.24, 10.25 and 10.26, in so far as this is necessary in the interests of efficient waste management.
2. An order in council as referred to in subsection 1 shall indicate the time limit within which and, if necessary, the manner in which these rules shall be included in the ordinance.

### **Section 10.62**

1. Our Minister may issue a municipality with a binding instruction concerning the inclusion in the waste ordinance of rules as referred to in sections 10.21, 10.24, 10.25 and 10.26, in so far as this is necessary in the interests of efficient waste management.
2. Section 10.61, subsection 2 shall apply *mutatis mutandis*.
3. Our Minister shall consult with the municipality concerned about an intention to issue an instruction. He shall notify the States General of such an intention, stating the reasons therefor.
4. The instruction shall be announced in the Government Gazette.

### **Section 10.63**

1. The municipal executive may grant an exemption from the prohibition laid down in section 10.30, subsection 1, if this does not conflict with the interests of efficient wastewater management.
2. The municipal executive may grant an exemption from the prohibition laid down in section 10.2, subsection 1, against discarding waste substances by incinerating them outside an establishment, in so far as the waste is not hazardous and if this does not conflict with the interests of environmental protection.
3. The provincial executive may grant an exemption from the prohibition laid down in section 10.2, subsection 1, against discarding waste substances by landfilling them or otherwise placing them on or under the ground outside an establishment, in so far as the waste is not hazardous and if this does not conflict with the interests of environmental protection, and from the prohibitions laid down in sections 10.37 and 10.54, if this does not conflict with the interests of efficient waste management.

4. Our Minister may grant an exemption from the provisions of an order in council pursuant to sections 10.15 to 10.19, 10.28, 10.29, 10.47 and 10.51, if this does not conflict with the interests of efficient waste management, and from the provisions of section 10.52, the provisions laid down by or pursuant to an order in council under section 10.41, subsections 1 and 2, section 10.42, subsection 1, section 10.43, subsection 1, section 10.44, subsection 3, and section 10.46, subsection 1, and the provisions of section 10.23, subsection 3, and section 10.48, if this does not conflict with the interests of environmental protection.

#### **Section 10.64**

1. Sections 8.5 to 8.25 shall apply *mutatis mutandis* to the issue, refusal, amendment and withdrawal of an exemption as referred to in section 10.63, with the proviso that for those purposes – with the exception of an exemption from the prohibitions laid down in section 10.2, subsection 1 and section 10.54, subsection 1 – the interests of protecting the environment shall be limited to the interests of the efficient management of the category of waste substances in question, or – if the exemption concerns the rules laid down pursuant to sections 10.15, 10.17 and 10.18 – the interests referred to in that section.
2. Notwithstanding subsection 1, an order in council pursuant to sections 10.15, 10.17 and 10.18 may lay down that in categories of cases indicated therein Part 3.5 of the General Administrative Law Act shall not apply. If the first sentence is applied, Our Minister shall announce the decision granting the exemption in the Government Gazette. In this announcement he shall indicate how interested parties may take cognisance of the contents of the decision.

## **CHAPTER 11. OTHER ACTIVITIES**

## **CHAPTER 12. REPORTING, RECORD-KEEPING AND MONITORING OBLIGATIONS**

### **Title 12.1 The environmental report**

#### **Section 12.1**

1. In this title and in the provisions based thereon, 'reporting year' shall mean the calendar year which immediately precedes the year in which the environmental report must be drawn up.
2. The provisions laid down by or pursuant to this Title shall apply to categories of cases designated by order in council where establishments may have serious adverse effects on the environment. The order may stipulate that rules specified therein shall apply only in categories of cases specified therein. The order shall apply exclusively to establishments for which:
  - a. the provincial executive of a province is authorised in accordance with section 8.2 to give a decision on a licence application, or
  - b. the executive committee of a regional public body as referred to in the Government in Transition Framework Act is authorised pursuant to section 8.2a, subsection 1 (b) to give a decision on a licence application, or the executive committee has delegated this power pursuant to section 8.2b, subsection 1.

#### **Section 12.2**

1. The person who operates the establishment shall each year draw up an environmental report which is formulated concisely and in a manner that is intelligible for the general public.
2. The report shall contain an overall description for the reporting year of:
  - a. the nature of the establishment and the activities and processes in the establishment;
  - b. the adverse effects on the environment caused by the establishment, including a summary of the relevant quantitative data;
  - c. the technical, organisational and administrative measures taken and facilities installed in respect of the establishment in order to protect the environment.
3. With respect to the matters referred to in subsection 2, the report shall provide information on:
  - a. the main changes that have taken place in the reporting year in relation to the previous reporting year; and
  - b. the developments that may reasonably be expected in the next reporting year.
4. It may be stipulated by order in council that the report shall contain a general description of environmental measures taken in respect of products.

### **Section 12.3**

The requirement referred to in section 12.2 that an environmental report be drawn up for the public shall not apply if the person operating the establishment has registered as an organisation in relation to the said establishment on the basis of article 6 of the EEC eco-management and audit scheme regulation and is included as such in the list of registered organisations referred to in article 7, paragraph 2 of the Regulation.

### **Section 12.4**

1. The person who operates the establishment shall each year draw up an environmental report for the administrative authority authorised to grant a licence to the establishment pursuant to section 8.1. In any event in which a licence is required pursuant to section 1 of the Pollution of Surface Waters Act, the report shall also be drawn up for the administrative authority authorised to grant the licence.
2. The report shall be drawn up in accordance with rules laid down by or pursuant to order in council. The report shall include data designated by or pursuant to the order in council regarding:
  - a. the adverse effects on the environment caused by the establishment in the reporting year;
  - b. the technical, organisational and administrative measures taken and facilities installed in the reporting year in respect of the establishment in order to protect the environment;
  - c. the developments which can reasonably be expected with regard to the matters referred to in points a and b in the next reporting year.
3. Rules may be laid down by or pursuant to the order in council relating to the manner in which the data referred to in subsection 2 must be obtained.
4. Only those data shall be designated in accordance with subsection 2, second sentence, which may reasonably be required:
  - a. in order for the administrative authorities referred to in subsection 1 to fulfil the tasks referred to in section 18.2 of the Environmental Management Act or section 29 of the Pollution of Surface Waters Act;
  - b. in order for the said administrative authorities or other administrative authorities to determine the environmental policy they are to pursue and to monitor progress made in implementing this policy; or
  - c. in order to implement a binding decision of the Council of the European Union or the Commission of the European Communities.
5. It shall be possible to determine by or pursuant to an order in council as referred to in subsection 2 the extent to which an administrative authority as referred to in subsection 1, in attaching restrictions or conditions to a licence related to matters indicated in the said order in council, may depart from the rules laid down by or pursuant to the order in council or impose further requirements. It may further be determined that the power to

depart from the rules or impose further requirements shall apply only to categories of cases designated by or pursuant to the order in council.

### **Section 12.5**

1. The extent to which an administrative authority as referred to in section 12.4, subsection 1 may attach conditions to the licence which require data to be made available to it which do not have to be included in an environmental report drawn up for the said administrative authority pursuant to section 12.4 shall be laid down by or pursuant to an order in council as referred to in section 12.4, subsection 2.
2. Rules may be laid down by or pursuant to order in council as referred to in section 12.4, subsection 2, regarding matters which need to be regulated in connection with the entry into force of the rules laid down by or pursuant to the order in council.

### **Section 12.6**

1. Environmental reports shall be written in the Dutch language.
2. Subsection 1 shall not apply to environmental reports as referred to in section 12.4 which are drawn up for an administrative authority if the Frisian language is used in accordance with Part 2.2 of the General Administrative Law Act. If the environmental report is written in the Frisian language, the person who operates the establishment shall on request provide a translation of the report in the Dutch language.
3. If the person who operates the establishment provides information in order to register or remain registered as an organisation as referred to in section 12.3, subsection 1 shall apply *mutatis mutandis* to the information.
4. It shall not be necessary for an environmental report that is made public to contain commercial secrets or security information with regard to which an irrevocable decision to maintain secrecy has been taken for an earlier reporting year pursuant to Chapter 19, provided the report expressly refers thereto.

### **Section 12.7**

1. At the earliest opportunity, but no later than six months after the end of the reporting year, the person who operates the establishment shall, upon request, permit any person to inspect free of charge, or shall provide in return for payment no greater than the cost, a copy of an environmental report that he must draw up pursuant to section 12.2 or 12.4.
2. The person who operates an establishment shall give advance notice of the opportunity to inspect or obtain the report. This shall be done in such a way that the objective is achieved as effectively as possible. In cases where both an environmental report for the public as referred to in section 12.2 and an environmental report for an administrative authority as referred to in section 12.4 must be drawn up, notice of both reports shall be given at the same time.
3. If the person who operates an establishment is registered as an organisation in relation to that establishment, as referred to in section 12.3, information as referred to in section

12.6, subsection 3 shall, for the purposes of this section, be considered equivalent to an environmental report for the public as referred to in section 12.2.

4. Any person shall be entitled to demand through the civil courts that the person who operates the establishment complies with the obligations set out in this section.

### **Section 12.8**

1. The person who operates the establishment shall, as soon as possible after an environmental report for the administrative authority, as referred to in section 12.4, subsection 1, first sentence, has been drawn up, but in any event no more than three months after the end of the reporting year, submit two copies of the environmental report drawn up by him for the previous reporting year to the administrative authority. In cases to which section 12.4, subsection 1, second sentence, applies, he shall at the same time submit two copies of the report to the administrative authority referred to in the second sentence.
2. The administrative authority referred to in section 12.4, subsection 1, first sentence, shall send a copy of any report received to the inspector. The administrative authority referred to in section 12.4, subsection 1, second sentence, shall send a copy of any report received to the institute referred to in section 32 of the Pollution of Surface Waters Act.

### **Section 12.9**

If the person who operates the establishment is required to make available to any administrative authority other than the administrative authorities referred to in section 12.4 data which have been presented in the required form in an environmental report as referred to in section 12.4, he may comply with this requirement by submitting the said report and referring for the said data to the appropriate section of the report.

### **Section 12.10<sup>2</sup>**

1. The person who operates the establishment shall allow an independent expert to assess whether the report referred to in section 12.2 provides a true picture of the environmental pollution caused by the establishment and the environmental measures taken in operating the establishment in the reporting year. Requirements to be met by an independent expert as referred to in the first sentence may be laid down by order in council.
2. The notice referred to in section 12.7, subsection 2 shall not be given until after the assessment referred to in subsection 1 has taken place.

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<sup>2</sup> Not yet in force (see section 22.3, subsection 2)

## CHAPTER 13. PROCEDURES FOR LICENCES AND EXEMPTIONS

### Part 13.1 General

#### Section 13.1

1. If Part 3.5 of the General Administrative Law Act is applied with respect to the taking of decisions pursuant to the Acts referred to in subsection 2, Part 13.2 shall be taken into account if this is required by or pursuant to the Act in question.
2. The Acts referred to in subsection 1 are:
  - the Mining Act,
  - the Dry Rendering Act,
  - the Nuclear Energy Act,
  - the Noise Abatement Act,
  - the Groundwater Act,
  - the Air Pollution Act,
  - the Pollution of Surface Waters Act,
  - the Marine Pollution Act,
  - the Environmentally Hazardous Substances Act,
  - the Soil Protection Act,
  - the Earth Removal Act,
  - the Protection of Antarctica Act.

### Part 13.2 Special provisions

#### Section 13.2

1. If the preparation of the decision on a licence or exemption application requires the drawing up of an environmental impact statement, notice shall be given of this application within ten weeks of the receipt thereof. Section 3:19, subsection 2, section 3:20, subsection 1 (a and b), and subsection 2, section 3:21 and section 3:22 of the General Administrative Law Act and sections 13.4 and 13.6 shall apply *mutatis mutandis* to this notification.
2. If subsection 1 applies, section 3:19, subsection 1, second sentence, of the General Administrative Law Act shall not apply.

### **Section 13.3**

Section 3:18, subsection 1 of the General Administrative Law Act shall not apply in cases as referred to in section 7.28.

### **Section 13.4**

If a licence or exemption application relates to an establishment or work, the deposit for inspection referred to in section 3:19, subsection 2 of the General Administrative Law Act shall in any event take place at the municipal hall of the municipality in which the establishment or work is or will be entirely or principally situated, and the design shall be communicated at the same time by:

- a. posting a notice at the municipal hall so that its contents can be clearly read by the public;
- b. sending a notice, not addressed to specific individuals, to the users of premises in the direct vicinity of the establishment or work, in so far as this can help to achieve the intended purpose.

### **Section 13.5**

The overview referred to in section 3:21, subsection 1 (d) of the General Administrative Law Act shall also specify the notifications concerning the same subject submitted in accordance with section 8.19, in so far as this is reasonably required for the assessment of the design.

### **Section 13.6**

If the applicant so requests, the competent authority shall give him the opportunity, before it deposits for inspection documents which he has not submitted himself, to examine those documents for the purpose of the application of sections 19.3 to 19.6. The documents referred to in the first sentence shall not include the reports drawn up in accordance with section 3:25, subsection 2 of the General Administrative Law Act and copies of reservations submitted by parties other than the administrative authorities concerned in accordance with section 3:24 of that Act. Section 10 of the Government Information (Public Access) Act shall not apply.

### **Section 13.7**

Notwithstanding section 3:28 of the General Administrative Law Act, the competent authority shall postpone the decision on the application if it relates to an establishment belonging to a category designated pursuant to section 41 of the Noise Abatement Act which is situated on a site as referred to in that section, around which no zone has yet been established. The obligation to postpone a decision shall not apply if the competent authority is of the opinion that the licence must be refused on other grounds. The competent authority shall notify the applicant of the postponement in writing. The competent authority shall give a decision on the application within twelve weeks of a zone being established around the site concerned.



### **Section 13.8**

If an application in respect of which section 3:29 of the General Administrative Law Act applies is dealt with in conjunction with other applications for a decision to which Divisions 3.5.2 to 3.5.5 of this Act apply, the time limit laid down under that section shall also apply to the decision on the other applications.

### **Section 13.9**

The obligations referred to in section 3:30, subsection 2 of the General Administrative Law Act shall not apply to the intended amendment of a licence implementing an obligation that applies to the competent authority pursuant to section 8.45 or 8.46.

### **Section 13.10**

In cases where Our Minister is authorised to issue a licence or exemption, he may, in agreement with Our Minister concerned, dispense, in whole or in part, with the application of Part 3.5 and section 3:44 of the General Administrative Law Act and section 8.7, section 8.30, subsection 1, second sentence, and section 8.31 in so far as this is required in the interests of state security.

### **Section 13.11**

1. The competent authority may stipulate that Divisions 3.5.3 to 3.5.5, or Division 3.5.6 of the General Administrative Law Act shall not be applied to the making of the decision on an application for a licence or exemption or to a decision to amend such, if that decision:
  - a. relates to the management of hazardous waste which must be managed at short notice owing to unusual circumstances;
  - b. relates to the management of waste substances other than hazardous waste which must be managed at short notice owing to unusual circumstances and in connection with the quantity in which those waste substances are produced;
  - c. implements an obligation imposed pursuant to section 17.4.
2. In cases as indicated pursuant to section 8.35, Our Minister may, in cases as referred to in subsection 1, lay down that the Divisions referred to in that subsection shall not be applied.

## **CHAPTER 14. COORDINATION**

### **§ 14.1 Coordinating applications for a decision**

#### **Section 14.1**

1. In the event that several applications are made for one and the same establishment for interrelated decisions, and Part 3.5 of the General Administrative Law Act applies to at least one of the decisions, the provincial executive of the province where the establishment is or shall be wholly or mainly situated may, if at least one of the applications is addressed to the executive, take measures to coordinate the handling of the applications.
2. The provincial executive shall be required to take measures to coordinate the handling of applications as referred to in the chapeau of subsection 1 if they are addressed to different administrative authorities and one of the bodies or the applicant or one of the applicants so requests.
3. At the request of a person who intends submitting one or more applications as referred to in the chapeau of subsection 1, the provincial executive shall also be required to take measures to coordinate the handling of the applications, if the applications are to be addressed to different administrative authorities.
4. Where applications for decisions not subject to Divisions 3.5.1 to 3.5.5 are concerned, the obligations referred to in subsections 2 and 3 shall apply only in so far as the obligations can be met, given the statutory provisions governing the issue of decisions.
5. A request as referred to in subsection 2 or three shall be submitted to the provincial executive in writing.
6. If the provincial executive applies subsection 1, 2 or 3, it shall forthwith inform in writing the applicants and each of the other administrative authorities to which one or more of the applications is addressed.

#### **Section 14.2**

1. With respect to applications as referred to in the chapeau of section 14.1, subsection 1, which have been made within a period of six weeks, the provincial executive, if at least one of the applications is addressed to it, may decide that the date on which the last application was received shall be taken as the date of receipt of all the applications. If a draft decision on an application has already been published in accordance with section 3:19, subsection 1, second sentence, of the General Administrative Law Act, the application shall not be subject to the first sentence.
2. The provincial executive shall be required, with respect to applications as referred to in subsection 1, to take a decision as referred to therein, if requested by another administrative authority to which one or more of the applications is addressed or by the applicant or one of the applicants. Such a request shall be submitted in writing to the provincial executive.

3. If the provincial executive applies subsection 1 or 2, it shall forthwith inform the applicants and each of the other administrative authorities to which one or more of the applications is addressed, stating the date on which the last application was received. The competent authority shall make a note of this on the document whereby the application was submitted.

### **Section 14.3**

1. In the event that the processing of a number of applications is to be coordinated, the provincial executive shall in any event take measures to ensure that the various administrative authorities authorised to take a decision regarding the applications, when evaluating the said applications, take into account the relationship between the applications and also consider the correlation between the decisions given on the applications.
2. The provincial executive shall at least also ensure that as far as possible:
  - a. joint notice of the applications, in so far as notice thereof is given pursuant to section 3:29, subsection 3 of the General Administrative Law Act, is given in accordance with section 13:19, subsection 2 of that Act and section 13.4;
  - b. joint notice of the draft decisions in question is given in accordance with section 3:19 of the General Administrative Law Act and section 13.4;
  - c. an opportunity is provided to jointly lodge oral reservations with respect to the draft decisions concerned in accordance with section 3:25 of the General Administrative Law Act;
  - d. the decisions concerned are published jointly in accordance with section 3:44 of the General Administrative Law Act.

### **Section 14.4**

The provincial executive may demand that the administrative authorities authorised to take a decision on the applications to be coordinated as referred to in section 14.1, and the advisers concerned with the decisions on the applications cooperate in whatever way necessary to ensure successful coordination. The administrative authorities and advisers shall be obliged to cooperate as demanded of them.

## **§ 14.2 Coordinating the drawing up of an environmental impact statement**

### **Section 14.5**

1. If, with regard to an activity or several related activities, more than one decision has been designated in the preparation of which an environmental impact statement must be drawn up on the basis of the provisions laid down by or pursuant to this Act and the issue of which is subject to Part 3.5 of the General Administrative Law Act, a single environmental impact statement shall be drawn up for the preparation of those decisions.

2. In cases other than those referred to in subsection 1, if more than one decision has to be taken with respect to an activity or several related activities, in the preparation of which an environmental impact statement must be drawn up on the basis of the provisions laid down by or pursuant to this Act, it may be decided that a single environmental impact statement will be drawn up for the preparation of those decisions.
3. A decision pursuant to subsection 2 shall be taken:
  - a. if the power to take the decisions referred to in subsection 2 rests with a single administrative authority: by the said authority;
  - b. if the decisions are being taken on request pursuant to statutory provisions and the applications concerned may be prepared or dealt with in a coordinated manner pursuant to section 14.1: by the provincial executive of the province concerned;
  - c. in other cases: jointly by the administrative authorities authorised to take the decisions concerned.
4. A decision pursuant to subsection 2 may be taken *ex officio* or on request. In cases as referred to in subsection 3 (b), the decision may be taken only on request if the provincial executive is not authorised to take one of the decisions concerned.

#### **Section 14.6**

1. Any person undertaking an activity in a case as referred to in section 14.5 may, at the same time as notifying the competent authority as referred to in section 7.12, subsection 1, request that section 14.5, subsection 2 be applied.
2. In cases as referred to in section 14.5, subsection 3 (b and c), such a request may also be made by an administrative authority authorised to take a decision as referred to in subsection 2 of that section. The request shall be submitted within two weeks of the date of publication relating to the environmental impact statement, pursuant to or with the application *mutatis mutandis* of section 7.12, subsection 4.
3. The request – stating all the decisions to which it relates – shall be submitted in writing to the body which must make a decision regarding it. In a case as referred to in section 14.5, subsection 3 (c), the request shall be submitted to one of the competent administrative authorities, which shall send the request forthwith to the other competent bodies.
4. The body to which the request has been submitted shall note the date of receipt on the document whereby the request was made and shall send the applicant confirmation of receipt, stating the said date.

### **Section 14.7**

1. A request shall be granted unless this conflicts with the interests of proper decision-making.
2. A decision on a request shall not be taken before the person undertaking the activity concerned and the administrative authorities authorised to take the decisions concerned have been given the opportunity to give their views thereon.
3. The decision on the request shall be taken within four weeks of the date of receipt.

### **Section 14.8**

In cases as referred to in section 14.5, subsection 3 (c), the decision on the request shall designate one of the competent administrative authorities to take responsibility for coordination as referred to in section 14.9, subsection 1.

### **Section 14.9**

1. If, by virtue of section 14.5, subsection 1, an environmental impact statement must be drawn up or if it has been decided in accordance with section 14.5, subsection 2, to draw up a single environmental impact statement, the statement shall be prepared and dealt with in a coordinated manner.
2. Coordination shall be entrusted to:
  - a. if the power to take the decisions concerned rests with a single administrative authority: the said authority;
  - b. if the said decisions are being taken on request pursuant to statutory provisions and the applications concerned may be prepared or dealt with in a coordinated manner pursuant to section 14.1: by the provincial executive of the province concerned;
  - c. in other cases: the administrative authority designated pursuant to section 14.8.

### **Section 14.10**

1. The body charged with coordination shall take measures to ensure that when the guidelines referred to in section 7.15 are issued, the relationship between the guidelines shall be taken into account and that when the decisions are taken, in the preparation of which an environmental impact statement has been drawn up, the correlation between the decisions shall be taken into account.
2. The body charged with coordination shall in any event ensure that as far as possible:
  - a. the notifications of the intention to submit requests, as referred to in section 7.12, subsection 1, and of the intention to take decisions as referred to in section 7.13, subsection 1, are published simultaneously in accordance with section 7.12, subsections 4 and 5;
  - b. the guidelines to be issued pursuant to section 7.15 shall be sent together to the person drawing up the environmental impact statement;

- c. the environmental impact statement shall be sent to each of the competent bodies and, in accordance with section 7.20, subsection 1, to the advisers and the Environmental Impact Assessment Committee;
  - d. the environmental impact statement shall be published pursuant to section 7.20, subsections 2 and 3;
  - e. the comments and recommendations submitted with respect to the environmental impact statement shall, in accordance with section 7.22, be deposited for inspection and sent to each of the competent bodies and, in accordance with section 7.23, subsections 3 and 4, section 7.25, subsection 2, and section 7.26, subsection 3, to the person who submitted the statement, the Environmental Impact Assessment Committee and the advisers;
  - f. one public hearing as referred to in section 7.24 shall be held on the environmental impact statement;
  - g. a report on the hearing shall be drawn up in accordance with section 7.24, subsection 2, sent to each of the competent bodies and the persons and bodies referred to in section 7.24, subsection 3, and deposited for inspection.
3. Section 14.4 shall apply *mutatis mutandis*.

#### **Section 14.11**

1. In cases where a body has been charged with coordination of the preparation and handling of an environmental impact statement:
  - a. notwithstanding section 7.17, subsection 1, the statement may be presented to the said authority;
  - b. the Environmental Impact Assessment Committee and the advisers may submit their recommendations on the guidelines to be issued with respect to the content of the statement and on the statement itself to the said authority;
  - c. a person who make use of the opportunity provided in accordance with section 7.14, subsection 3, to comment on the issuing of guidelines regarding the content of the said statement may submit the comments to the said authority;
  - d. a person who makes use of the opportunity provided in accordance with section 7.23, subsection 1, to comment on the said statement may submit the comments to the said authority;
2. If documents as referred to in subsection 1 are submitted or presented to another competent authority, it shall send these forthwith to the body charged with coordination.

### **Section 14.12**

1. In the event that a decision, in the preparation of which an environmental impact statement must be drawn up on the basis of the provisions laid down by or pursuant to this Act, has been designated with respect to an activity, and one or more decisions, with respect to which section 14.1 cannot be applied, must be taken with respect to the activity, it may be decided at the request of the person undertaking the activity to coordinate the preparation of the decisions.
2. A decision pursuant to subsection 1 shall be taken:
  - a. if the power to take the decisions referred to in subsection 1 rests with one administrative authority: by the said authority;
  - b. in other cases: jointly by the administrative authorities authorised to take the decisions concerned.

### **Section 14.13**

1. A request as referred to in section 14.12, subsection 1 shall be submitted in writing at the same time as the notification referred to in section 7.12, subsection 1. The request shall state all the decisions to which it relates.
2. Section 7.12, subsection 2 shall apply *mutatis mutandis*. The competent authority shall send a copy of the request forthwith to the other competent bodies.
3. A request as referred to in section 14.12, subsection 1 shall be granted only if the competent authority and the other competent bodies agree thereon. Section 14.7, subsections 2 and 3 shall apply *mutatis mutandis*.

### **Section 14.14**

1. If a request as referred to in section 14.12, subsection 1 is granted, the body authorised to take the decision in the preparation of which an environmental impact statement must be drawn up, shall act as the coordinating body. The other bodies concerned shall for the purposes of sections 7.12 to 7.26 be considered as advisers.
2. If with respect to the activity to which the request relates, more than one decision must be taken in the preparation of which an environmental impact statement must be drawn up on the basis of the provisions laid down by or pursuant to this Act, the decision on the request shall designate one of the administrative authorities authorised to take the decisions to take responsibility for coordination.
3. The body charged with coordination shall in any event ensure that as far as possible:
  - a. when guidelines as referred to in section 7.15 are issued, the relationships of the decisions to which the request relates shall be taken into account;
  - b. the competent administrative authorities shall consult one another in good time to promote the greatest possible harmonisation of the decisions to be taken.
4. Section 14.4 shall apply *mutatis mutandis*.

**Section 14.15**

Section 7.34 shall apply *mutatis mutandis* with respect to the period within which the decisions concerned must be taken.



**Section 14.16**

Further rules may be laid down by order in council with respect to the tasks of the body charged with coordination.

## CHAPTER 15. FINANCIAL PROVISIONS

### Title 15.3 Regulations on awarding grants

#### Section 15.12

Notwithstanding section 4:21, subsection 3 of the General Administrative Law Act, Title 4.2 of the General Administrative Law Act shall apply to grants awarded in accordance with this Title exclusively to legal persons established under public law.

#### Section 15.13

1. Our Minister may award a grant for activities in the field of environmental management designated by or pursuant to order in council or by ministerial order.
2. Rules concerning the following may in any event be laid down by or pursuant to an order in council or ministerial order:
  - a. criteria for awarding grants;
  - b. the period for which the grant is awarded;
  - c. the conditions under which the grant is awarded;
  - d. the application for a grant and decision-making on applications;
  - e. the obligations of the recipient of the grant;
  - f. the amount of the grant or the way in which this is determined;
  - g. the payment of the grant and of advances.
3. Our Minister may impose an annual ceiling on grants for the different activities for which grants may be awarded by issuing a ministerial order. He shall determine how the available amount is to be divided.
4. An application may be rejected and a decision to award a grant on the basis of this Act may be revoked or amended in so far as awarding the grant would or does contravene the state's obligations pursuant to a treaty. If the grant is withdrawn or a decision amended, it may be determined that interest is payable on grant amounts not owing that have been paid. The withdrawal or amendment shall apply retroactively from the date on which the grant was awarded, unless determined otherwise at the time of the withdrawal or amendment. Section 4:49, subsection 3 and section 4:57 of the General Administrative Law Act shall not apply to the withdrawal or amendment.

#### Section 15.14

1. The persons designated by Our Minister shall be authorised to demand information from the applicant for a grant. Sections 5:13, 5:15, in so far as it applies to places used by the applicant, and 5:17 of the General Administrative Law Act shall apply *mutatis mutandis*.
2. An application may be rejected if the applicant fails to cooperate with the exercising of the powers referred to in subsection 1.

#### Section 15.15

1. The persons designated by decision of Our Minister shall be charged with monitoring compliance with the obligations imposed on the grant recipient.
2. The person charged with monitoring shall not have the powers referred to in sections 5:18 and 5:19 of the General Administrative Law Act.
3. A decision as referred to in subsection 1 shall be published in the Government Gazette.
4. The grants awarded in accordance with this Act shall carry the obligation that the grant recipient shall lend the person charged with monitoring all the cooperation that the latter may reasonably require in exercising his powers.

#### **Title 15.4 Indemnification of costs and losses**

##### **Section 15.20**

1. If the person to whom a decision is addressed pursuant to:
  - a. section 8.1, subsection 1 (b), section 8.1, subsection 1 (c), in conjunction with section 8.21, subsection 1 in cases where section 8.21, subsection 2 is not applicable, section 8.22, subsection 2, section 8.23, subsection 1, section 8.25, subsections 1 (a and b), section 8.34 or section 8.39, subsection 2,
  - b. section 10.48 or 10.52 in conjunction with one or more of the provisions referred to in point a,
  - c. section 13, subsection 1 (b), in conjunction with section 15, subsection 5, or section 43, subsection 1 of the Air Pollution Act,
  - d. section 13, subsection 1 in conjunction with section 26, subsection 7 (b) of the Environmentally Hazardous Substances Act,
  - e. section 24, subsection 1 in conjunction with section 26, subsection 7 (b) of the Environmentally Hazardous Substances Act,
  - f. section 30 or 31 of the Soil Protection Act,as a result thereof, incurs costs or sustains loss which should not reasonably continue to be chargeable or wholly chargeable to him, the authority which issued the order at first instance shall, at his request or at its own discretion, grant him indemnification to be fairly determined, in so far as reasonable indemnification has not or cannot be provided by any other means.
2. Subsection 1 shall apply *mutatis mutandis* with respect to persons who incur costs or sustain loss as referred to in subsection 1 due to a measure as referred to in section 40 of the Environmentally Hazardous Substances Act.
3. If a decision as referred to in subsection 1 is issued in respect of an application, a request for indemnification may be submitted after a copy of the draft decision has been sent to the applicant.
4. If the authority referred to in subsection 1 has invited recommendations from experts with respect to a request for indemnification or the intention to grant indemnification *ex officio*, it shall send a copy of the recommendations to the interested party. It shall also state the period within which the latter may make his views known regarding the recommendations.

5. A decision on an application for indemnification shall be issued as soon as possible but in any event within four months of the date on which the request was received, or within seven months of that date in cases as referred to in subsection 4.

#### **Section 15.21**

1. Section 15.20 shall apply *mutatis mutandis* with respect to persons to whom the provisions of an order in council or a ministerial order or an ordinance as referred to in
  - a. section 1.2 of this Act,
  - b. section 10.15 or section 10.17, subsection 1 of this Act,
  - c. section 24 or 31 of the Environmentally Hazardous Substances Act,
  - d. sections 6 to 11 of the Soil Protection Act,apply and who as a result thereof incur costs or sustain loss which should not reasonably continue to be chargeable or wholly chargeable to them.
2. In cases as referred to in subsection 1, Our Minister shall decide whether to grant indemnification except in cases as referred to in subsection 1 (a), when the provincial executive shall make the decision.

#### **Section 15.22**

1. In so far as the indemnification is granted without the approval of Our Minister, the costs thereof shall be borne by the competent authority.
2. Notwithstanding subsection 1, the costs thereof shall be borne by the competent authority in cases as referred to in section 15.20, subsection 1 (a), in so far as costs have been incurred in connection with the granting of indemnification because the provisions of a provincial environmental ordinance as referred to in section 1.2, subsection 1 (a), become applicable and indemnification has been granted without the approval of the provincial executive.

#### **Section 15.23**

1. In response to a request from the competent authority, it may be laid down by royal decree that the costs of indemnification shall be borne in whole or in part by the State.
2. Section 15c of the Council of State Act shall apply *mutatis mutandis*.

### **Title 15.5 Air Pollution Fund**

#### **Section 15.24**

1. There shall be an Air Pollution Fund.
2. The Fund shall be a legal person established at The Hague.
3. Our Minister shall be charged with the management of the Fund.
4. Every year the Fund shall receive:
  - a. a contribution equal to that specified in the Budget Act, supplemented by an amount necessary for the Fund's capital to be of the size provided for by or pursuant to subsection 5;

- b. the credit balance of the most recently closed account of the Fund;
  - c. other income.
5. Monies not spent in the year in which they are received shall remain in the Fund. The Fund's capital shall, on 31 December each year, equal at least a fifth of the total amount paid into the Fund in that year and in the four previous years. Our Minister may raise the capital of the Fund.

#### **Section 15.25**

1. Indemnification may be granted from the Fund at the request of anyone who has sustained loss due to sudden air pollution which should not reasonably be chargeable or wholly chargeable to him.
2. For the purposes of subsection 1, the definition of air pollution applied in the Air Pollution Act shall apply.

#### **Section 15.26**

1. Our Minister shall determine fairly the amount of the indemnification referred to in section 15.25.
2. No indemnification shall be granted with respect to:
  - a. loss amounting to less than EUR 225;
  - b. loss which has been or may be recovered by civil action;
  - c. loss which has been or may be compensated for by another means.
3. If establishing in advance that the options referred to in subsection 2 (b or c) are not available would result in an unreasonable delay in dealing with the request, or in costs which should not reasonably be borne by the interested party, such indemnification may be paid from the Fund.
4. The Fund shall acquire the rights of the interested party with respect to third parties regarding the loss sustained by him, to the extent of the amount paid to him.

#### **Section 15.27**

1. An application for indemnification of the loss must be submitted to the Fund within eight weeks of the date on which the applicant became aware of, or may reasonably be expected to have become aware of, the loss.
2. Further rules may be laid down by order in council regarding the submission and handling of and the decision on applications for indemnification.

#### **Section 15.28**

1. Further rules may be laid down by order in council with regard to the structure and administration of the Fund and the supervision to be exercised thereover.
2. Our Minister shall make an annual report to the States General on the management of the Fund.

### **Title 15.7 Inspections**

### **Section 15.31**

By or pursuant to an order in council, rules may be laid down with regard to payment for inspections as referred to in:

- a. section 13, subsection 2 (d and e) of the Air Pollution Act;
- b. section 2, subsection 2 (d and e) of the Noise Abatement Act;
- c. section 27 of the Environmentally Hazardous Substances Act;
- d. section 15, subsection 2 of the Soil Protection Act.

### **Title 15.8 Returnable deposits, money-back system**

#### **Section 15.32**

1. Rules may be laid down by order in council as referred to in section 10.17, subsection 1:
  - a. obliging categories of persons designated therein who market substances, preparations or other products in the Netherlands in packaging designated therein, to charge a returnable deposit laid down by or pursuant to the order in council for such packaging and to take back the packaging after use and return the deposit;
  - b. obliging categories of persons designated therein who market substances, preparations or other products designated therein in the Netherlands to charge a returnable deposit laid down by or pursuant to the order in council for such substances, preparations or other products and to take them back after use and return the deposit.
2. Rules may be laid down by order in council as referred to in section 10.17, subsection 1:
  - a. obliging categories of persons designated therein who market substances, preparations or other products in the Netherlands in packaging designated therein to take back such packaging after use in return for an amount laid down by or pursuant to the order in council;
  - b. obliging categories of persons designated therein who market substances, preparations or other products designated therein in the Netherlands to take these back after use in return for an amount laid down by or pursuant to the order in council.
3. If subsection 1 or 2 is applied, it may be laid down that actions indicated therein must be carried out by categories of persons designated therein other than those referred to in subsections 1 and 2. In such cases it may also be laid down that the categories of persons designated therein should remit the returnable deposit referred to in subsection 1 or the amount referred to in subsection 2 in whole or in part to one or more persons designated therein in a manner indicated therein.
4. If subsection 1 or 2 is applied, a period shall be stipulated after which the rules shall apply to substances, preparations or other products which were already being manufactured and were already present in the Netherlands on the date that the order in council took effect.

## **Title 15.9 Municipal and provincial levies**

### **Section 15.33**

1. To cover the costs it incurs in connection with the management of household waste, each municipality may institute a levy which may be imposed on persons who, whether by virtue of a personal or property right or otherwise, actually use premises in respect of which an obligation to collect household waste applies pursuant to sections 10.21 and 10.22.
2. The costs referred to in subsection 1 shall include the VAT that, pursuant to the VAT Compensation Fund Act, confers entitlement to a contribution from the Fund.
2. Sections 216 to 219, section 229d and sections 230 to 257 of the Municipalities Act shall apply *mutatis mutandis* to these levies.

### **Section 15.34**

1. In so far as costs are incurred in connection with the granting of indemnification pursuant to section 15.20, subsection 1 (a), or section 15.21, subsection 1 (a), because the provisions of a provincial environmental ordinance as referred to in section 1.2, subsection 2 (a) become applicable, the provincial council may impose a levy on the abstraction of groundwater to cover the said costs.
2. The levy shall be imposed on persons owning establishments for the abstraction of groundwater, not including establishments which serve solely to regulate the water table or the hydraulic head.
3. The ordinance instituting the levy may stipulate that the levy be imposed on the owners of establishments as referred to in subsection 2 in one or more protected areas as referred to in Chapter VI, Division 2 of the Soil Protection Act, or owners of such establishments throughout the entire province.
4. The levy shall be based on the amount of water abstracted.
5. A levy shall be instituted within one year of the date on which the indemnification referred to in subsection 1 came into effect pursuant to section 20.3.
6. The levy shall be imposed annually for a period of no more than ten years. The ordinance instituting the levy may stipulate, under regulations set out in the ordinance, that the person liable to pay the levy may pay in a lump sum the amount outstanding at the time of request.
7. Chapter XV of the Provinces Act shall apply *mutatis mutandis*.

## **Title 15.9A Fees**

### **Section 15.34a**

No fees shall be payable with regard to decisions granting, amending or withdrawing licences or exemptions pursuant to this Act.

## **Title 15.10 Waste management contributions**

### **Section 15.35**

For the purposes of the implementation of this Title and the provisions based thereupon, the following definitions shall apply:

*waste management contribution*: a contribution towards the costs of managing waste;

*waste management contribution agreement*: a written agreement for the payment of a waste management contribution between those who import into or market in the Netherlands a particular substance, preparation or other product.

### **Section 15.36**

1. If it proves necessary in the interests of efficient waste disposal, Our Minister may, in response to a reasoned request and after consultation with Our Minister of Economic Affairs, declare a waste management contribution agreement binding on all those who import into or market in the Netherlands a particular substance, preparation or other product.
2. Our Minister shall lay down rules regarding the matters which ought in any event to be included in a waste management contribution agreement for which a universally binding declaration is requested, and regarding the information to be submitted with a request as referred to in subsection 1. Such information shall in any event include anything showing that a reasonable effort was made to prevent users of that substance, preparation or other product being obliged in practice to pay a contribution for its management more than once.

### **Section 15.37**

1. A request as referred to in section 15.36 may be submitted only by individuals or organisations whose joint turnover of the substances, preparations or other products in question, in the opinion of Our Minister, means that they constitute a significant majority of those who import into or market in the Netherlands those substances, preparations or other products. In deciding whether those who have submitted such a request, or their organisations, do in fact constitute a significant majority, Our Minister shall in any event take into account the number of such persons or organisations in proportion to the total number of those who import into or market in the Netherlands those substances, preparations or other products.
2. Our Minister shall announce the submission of the request in the Government Gazette and one or more national daily newspapers. Section 3:20 of the General Administrative Law Act shall apply *mutatis mutandis*, with the proviso that only the substance of the request shall be stated and that any person may submit their reservations against the request in writing only.
3. Our Minister shall give a decision on the request within sixteen weeks of its submission. If it proves impossible to take a decision until an obligation ensuing from a treaty which is binding upon the Netherlands or a decision of an international organisation which is binding upon the Netherlands has been met, the deadline for the decision shall be



postponed until the procedure relating to that obligation has been completed. The applicant shall be informed of the postponement.

4. Our Minister shall announce the decision taken on the request in the Government Gazette. The statement of the grounds on which the decision is based shall in any event indicate the consideration given to the views expressed concerning the request. If Our Minister's decision declares a waste management contribution agreement universally binding, the text of the agreement shall be placed in the Government Gazette.
5. Our Minister shall also announce the decision taken on the request by publishing the substance of the decision in one or more national daily newspapers, stating the place where the decision on the request may be consulted in the Government Gazette.

### **Section 15.38**

1. Our Minister may, upon request, and after consultation with Our Minister of Economic Affairs, grant exemption from a waste management contribution agreement which has been declared universally binding if the applicant ensures that the waste substance in question is managed in such a way that, in the opinion of Our Minister, it is at least as effective as the management method stipulated in the universally binding waste management contribution agreement in question.
2. Exemption may be granted subject to restrictions. Conditions may be attached to the exemption.
3. An exemption granted pursuant to subsection 1 may be altered or revoked in response to a request to that effect or without such a request. Section 15.39, subsection 2 shall apply *mutatis mutandis*, the interests referred to in point b being replaced by: failure to fulfil the requirement referred to in subsection 1 of this section.
4. With regard to the giving of a decision as referred to in subsections 1 and 3, section 15.37, subsections 2 to 5 shall apply *mutatis mutandis*. Prior to reaching a decision, Our Minister shall inform the exemption holder of his intention to alter or revoke an exemption, except in cases where the exemption holder requests alteration or revocation.

### **Section 15.39**

1. A decision given pursuant to section 15.36, subsection 1 shall be valid for a maximum period of five years, which is to be stated in the decision.
2. After consultation with Our Minister of Economic Affairs, Our Minister may revoke a decision given pursuant to section 15.36, subsection 1, if:
  - a. the information provided in respect of the request is found to be so incorrect or incomplete that another decision would have been given if the correct information had been known at the time the request was assessed;
  - b. on the basis of a change in circumstances or information gained after the decision was taken, it must be assumed that the interests of efficient waste management would be unacceptably damaged if the decision were to remain in force;

- c. a treaty or decision of an international organisation which is binding upon the Netherlands, or regulations for the implementation thereof, requires revocation of the decision.
3. Before revoking a decision given pursuant to section 15.36, subsection 1 on the basis of subsection 2 (a), Our Minister shall give those who submitted the request for the agreement to be made universally binding the opportunity to express their views. Our Minister shall announce the revocation of the decision in the Government Gazette.
4. Section 15.37, subsections 2, 4 and 5 shall apply *mutatis mutandis* to the proposal to revoke a decision given pursuant to section 15.36, subsection 1 on the grounds referred to in subsection 2 (b or c).

#### **Section 15.40**

Every individual shall be bound to comply with a waste management contribution agreement which applies to him and which has been declared universally binding in respect of any other individual who has a reasonable interest in compliance.

### **Section 15.41**

If one or more of the persons who import into or market in the Netherlands a substance, preparation or other product for which a waste management contribution agreement has been declared universally binding considers that there are reasonable grounds to suspect that one or more other persons are failing to comply with one or more of the universally binding provisions in the agreement, such a person or persons may request Our Minister to investigate the matter, with a view to taking legal action pursuant to section 15.40. The inspector shall institute the investigation, and report its findings to Our Minister. Our Minister shall make the report available to the person or persons who had requested it.

## **Title 15.11 Funding of the care of closed landfill sites**

### **Section 15.42**

In this Title and the provisions based thereon, the definitions of 'landfill site', 'closed landfill site' and 'company landfill site' in Title 8.3 shall apply.

### **Section 15.43**

This Title shall not apply to landfill sites where dredging spoil is deposited and which are run solely or partly by Our Minister of Transport, Public Works and Water Management.

### **Section 15.44**

1. The provincial executive shall institute a levy to defray the costs associated with:
  - a. the care of landfill sites referred to in section 8.49 situated in the province concerned;
  - b. an obligation for the province concerned to contribute to a fund as referred to in section 15.48;
  - c. the province's inventory of sites where waste has been landfilled and where landfilling ceased prior to 1 September 1996, and the investigation and systematic monitoring of the presence, nature and scale of any pollution at those sites.
2. The levy referred to in subsection 1 may also relate to the costs associated with liability insurance as referred to in article 176 of Book 6 of the Civil Code.
3. Sections 227 to 232h of the Provinces Act shall apply *mutatis mutandis* to the levy and its collection.

### **Section 15.45**

1. The levy shall be payable by those who run landfill sites.
2. The amount of the levy shall be set at such a level that the revenue from the levy and the related interest and investment income defray the costs that are expected to be associated with the implementation of the after-care plan that the provincial executive has approved, as referred to in section 8.49, subsections 3 and 4 or, if no after-care plan is applicable, the care of the landfill site referred to in section 8.49, subsection 1. If, after the levy has been set, it appears that the revenue from the levy is higher or lower than the amount needed to defray the costs that are expected to be connected with the care

of that landfill site, the amount to be levied may be revised. Any levy payments already made shall be deducted from the revised amount.

3. Notwithstanding subsection 2, the levy on non-company landfill sites in the province concerned may be set on the basis of the amount and type of waste deposited at the site. The amount shall be set at such a level that the revenue from the levy and the related interest and investment income defray the costs that are expected to be associated with the care of those landfill sites. The costs referred to in the second sentence shall be calculated with due regard to the after-care plans applying to those sites, which the provincial executive has approved.
4. Subsection 3 shall not apply to landfill sites where dredging spoil is deposited.

#### **Section 15.46**

1. The provincial executive may stipulate that those who run landfill sites to which section 15.45, subsection 3 does not apply, must provide financial security for compliance with the obligation applying to them pursuant to section 15.44, subsection 1 (a) and section 15.45. It shall in any event indicate the maximum amount for which security must be provided.
2. The obligation to provide financial security shall cease to apply when a levy amount, as referred to in section 15.45, subsection 2, has been paid, in so far as the part that corresponds to the amount that has been paid is concerned.
3. The provincial executive may recover the security provided, in so far as the person providing it has failed to pay the levy amount set pursuant to section 15.45, subsection 2 on time.
4. Section 5:26 of the General Administrative Law Act shall apply *mutatis mutandis* to the collection of the amount to be recovered pursuant to subsection 3.
5. Further rules may be laid down by order in council concerning the way in which financial security must be provided.

#### **Section 15.47**

1. The provincial executive of a province shall institute a fund for their province intended for the care of closed landfill sites referred to in section 8.49.
2. Notwithstanding subsection 1, the provincial executives of a number of provinces may jointly institute a fund for their provinces as referred to in subsection 1.
3. The fund shall be a legal entity.
4. The provincial executive of the province or provinces concerned shall be responsible for the administration of the fund operating in their province or provinces.

5. The fund shall receive each year:
  - a. the revenue from the levy referred to in section 15.44, less the amount for the defrayal of the costs associated with the activities referred to in section 15.44, subsection 1 (c) and with the part of the levy referred to in section 15.48, subsection 2;
  - b. the amounts recovered pursuant to section 15.46, subsection 3;
  - c. the interest and investment income acquired using the fund;
  - d. the credit balance on the fund's last year-end account statement.
6. The fund shall be authorised to receive amounts intended for the care referred to in section 8.49, other than those referred to in subsection 5.
7. The fund shall be used solely to defray costs that:
  - a. are incurred in connection with the implementation of the care of closed landfill sites referred to in section 8.49 in the province or provinces concerned;
  - b. are associated with the activities of the fund in the province or provinces where it is in operation;
  - c. are incurred to cover the liability referred to in article 176, paragraph 4 of Book 6 of the Civil Code, but only in so far as the levy referred to in section 15.44 also relates to these costs.
8. The costs referred to in subsection 7 shall not include the administration costs incurred by the province or provinces concerned in connection with the care of closed landfill sites referred to in section 8.49.

#### **Section 15.48**

1. The provincial executives of provinces may jointly institute a fund to cover major financial risks associated with the care of closed landfill sites referred to in section 8.49.
2. The fund referred to in subsection 1 shall each year receive from the provinces a proportion of the levies paid to the provinces, as referred to in section 15.45, to be determined by the administrators of the fund.
3. Section 15.47, subsections 3, 4 and 8, in connection with subsection 7 (b) shall apply *mutatis mutandis*.

#### **Section 15.49**

1. Neither a province, nor the fund referred to in this Title shall hold the last person to run the landfill site liable, on the basis of article 176, paragraph 4 of Book 6 of the Civil Code, for any damage caused by a landfill site that has come to light after the declaration as referred to in section 8.47, subsection 3 has been issued.
2. In the event that the last person to run a landfill site for which a declaration as referred to in section 8.47, subsection 3 has been issued is liable, on the basis of article 176, paragraph 4 of Book 6 of the Civil Code, for the damage caused by that landfill site, the person in respect of whom that person is liable may claim compensation from the fund referred to in this Title that is operational in the province concerned.

## **CHAPTER 16. FINANCIAL SECURITY**

## **CHAPTER 17. MEASURES IN SPECIAL CIRCUMSTANCES**

### **Section 17.1**

If an exceptional incident occurs or has occurred in an establishment because of which adverse environmental effects have occurred or are in danger of occurring, the operator of the establishment shall immediately take all the measures which may reasonably be expected of him in order to prevent the consequences of the incident or, in so far as the consequences cannot be prevented, to limit them as far as possible or to reverse them.

### **Section 17.2**

1. The operator of an establishment in which an incident as referred to in section 17.1 occurs or has occurred, shall report the incident as soon as possible to the administrative authority that is competent to issue a licence pursuant to section 8.1 for an establishment or, by virtue of section 8.41, subsection 2 (a), is the body to whom notification is given.
2. As soon as it is available, he shall furnish the administrative authority with information regarding:
  - a. the causes of the incident and the circumstances in which it occurred;
  - b. the names and properties of substances released by the incident;
  - c. other information which may be necessary to the assessment of the seriousness of the consequences of the incident for the environment;
  - d. the measures adopted or considered to prevent, limit or reverse the effects of the incident;
  - e. the measures being considered to prevent a recurrence of an incident of that type.
3. An administrative authority which receives a report as referred to in subsections 1 and 2, shall without delay send the report and the accompanying information to:
  - a. the mayors of the municipalities concerned;
  - b. the inspector;
  - c. the Queen's Commissioners in the provinces concerned in cases where the effects of the incident are experienced or may be experienced outside the territory of the municipality where the establishment is situated;
  - d. the provincial executive of the province concerned, in cases where the incident causes pollution or damage to the soil;
  - e. other administrative authorities or government services which have a direct interest in receiving immediate notification.

### **Section 17.3**

The competent authority shall ensure that the necessary information is collected to analyse an incident as referred to in section 17.1 and to discover the causes. In order to prevent a recurrence the said authority shall if necessary amend the licence, subject to section 8.22 or 8.23, or it shall, if possible, make recommendations to that end.

### **Section 17.4**

1. If an exceptional incident so requires, one or more of the following obligations or the following prohibition may be imposed in the interests of environmental protection on the person on whose premises waste substances designated in the relevant decision are generated or are present:
  - a. an obligation to separate the waste substances and keep them separate, including from waste and other substances;
  - b. an obligation to transfer the waste substances in a separated state if they discard them;
  - c. an obligation to recover or dispose of the waste substances at the place where they are generated, in a manner indicated in the decision;
  - d. a prohibition on keeping the waste substances longer than the period indicated in the decision;
  - e. an obligation to transfer the waste substances to a person belonging to a category designated in the decision, or to take them to a place designated therein.
2. An obligation or prohibition as referred to in subsection 1 may be imposed:
  - a. in so far as the obligation or the prohibition relates to an establishment: by the administrative authority that is the competent authority pursuant to section 8.2 with respect to the licence for the establishment, or, if rules apply to the establishment pursuant to section 8.40, the administrative authority to which a report as referred to in section 8.41, subsection 1 must be made regarding the establishment;
  - b. in other cases: by the provincial executive.
3. The administrative authority referred to in subsection 2 may indicate in its decision within what period and in what manner the obligation must be fulfilled.

### **Section 17.5**

1. Our Minister may request the competent administrative authority within a period indicated by him:
  - a. to apply section 17.4, subsection 1 in the manner indicated by him;
  - b. in this connection, to amend a licence applicable to the person concerned pursuant to Chapter 8.
2. If the required urgency does not permit such a request or if the competent administrative authority has not implemented the request within the stipulated period, Our Minister shall apply section 17.4, subsection 1 or he shall amend the licence.

## **CHAPTER 18. ENFORCEMENT**

### **Section 18.1**

1. This Chapter shall apply to the enforcement of the provisions laid down by or pursuant to this Act, and to the enforcement of the provisions laid down by or pursuant to the Acts referred to in section 13.1, subsection 2, in so far as this has been laid down by or pursuant to the Act concerned.
2. Sections 18.4 to 18.18 shall apply *mutatis mutandis* to the enforcement of the provisions of the EEC regulation on shipments of waste.

### **Section 18.2**

1. The administrative authority which is the competent authority to grant a licence pursuant to section 8.1 for an establishment or which pursuant to section 8.41, subsection 2 (a) is the body to which notice must be given, shall be responsible for:
  - a. the enforcement under administrative law of the provisions applied to the operator of the establishment on the basis of the Acts concerned;
  - b. collecting and recording information about the establishment which is important for the exercise of the task referred to in point a;
  - c. dealing with complaints with respect to compliance with the provisions relating to the establishment laid down by or pursuant to the Acts concerned.
2. If the competent administrative authority pursuant to subsection 1 has given a decision applying executive coercion, imposing an order for a monetary penalty or withdrawing a licence or exemption on the basis of section 18.12 and, after giving the decision, as a result of a change in the establishment or its operation, another administrative authority becomes the competent authority to grant the licence or becomes the body to which notice is given, the administrative authority that has given the decision shall remain the competent authority in relation to the decision until it:
  - a. has become final and has been executed, or the monetary penalty has been collected; or
  - b. has been revoked, or the order imposed in the decision has been withdrawn in accordance with section 5:34 of the General Administrative Law Act.

### **Section 18.2a**

1. Our Minister concerned, the provincial executive, the municipal executive and the water quality manager shall be responsible for ensuring the administrative enforcement of sections 1.1a and 10.1.
2. The provincial executive, the municipal executive and the water quality manager shall be responsible for ensuring the administrative enforcement of the provisions laid down by or pursuant to sections 10.2 and 10.54.



### **Section 18.2b**

1. Our Minister shall be responsible for ensuring that the administrative enforcement of the obligations imposed by or pursuant to Chapter 10, in so far as they relate to:
  - a. prevention and recovery as referred to in Title 10.3;
  - b. transfer of waste as referred to in Title 10.7;
  - c. the collection of industrial waste or hazardous waste as referred to in section 10.45;
  - d. trading, mediation or transportation as referred to in section 10.55.
2. Our Minister shall also be responsible for the administrative enforcement of the obligations imposed by or pursuant to the EEC regulation on shipments of waste.

### **Section 18.2c**

1. The provincial executive shall be responsible for the administrative enforcement of the obligations imposed by or pursuant to Chapter 10, in so far as they relate to the presence of an accompanying note for the transport of industrial waste or hazardous waste as referred to in section 10.44.
2. The provincial executive shall be responsible for the administrative enforcement outside an establishment of the obligations imposed pursuant to section 17.4.

### **Section 18.2d**

1. The municipal executive shall be responsible for the administrative enforcement of the obligations laid down by or pursuant to:
  - a. the waste ordinance;
  - b. section 10.29.
2. The municipal executive shall also be responsible for the administrative enforcement outside an establishment of the obligations laid down by or pursuant to Chapter 10, in so far as they relate to:
  - a. the discarding of wastewater as referred to in sections 10.30 and 10.32;
  - b. the discarding of industrial waste or hazardous waste as referred to in section 10.37;
  - c. the discarding of industrial waste or hazardous waste as referred to in section 10.51;
  - d. the management of industrial waste as referred to in section 10.52.

### **Section 18.2e**

When implementing the task referred to in sections 18.2 to 18.2d, account shall be taken of the environmental policy plan applicable to the administrative authority concerned.

### **Section 18.3**

1. To promote the efficient enforcement of the provisions laid down by or pursuant to the Acts concerned, regular consultations shall be held thereon in each province by the representatives of the administrative authorities concerned with enforcement.
2. The provincial executive shall institute a consultative body for this purpose.

3. The consultations shall provide in any event for agreements concerning the coordination of:
  - a. the exercise of administrative enforcement powers by the administrative authorities concerned; and
  - b. supervision of compliance with the provisions laid down by or pursuant to the relevant Acts by the supervisory authorities operating under the responsibility of the administrative authorities concerned.

#### **Section 18.4**

1. Officials designated by Our Minister concerned shall be charged with monitoring compliance with the provisions laid down by or pursuant to the Act concerned. Officials from ministries other than his own shall not be appointed without the agreement of Our Minister under whose authority they come.
2. For officials designated pursuant to subsection 1 who are responsible to a Ministry other than that of Our Minister concerned, rules regarding the performance of their duties as referred to in subsection 1 shall be laid down only in agreement with Our Minister.
3. Officials designated by the provincial executive and municipal executive or other administrative authorities charged with the implementation of the Act concerned shall also be charged with monitoring compliance with the provisions laid down by or pursuant to the Act concerned within their jurisdiction.
4. By decision as referred to in subsection 1 Our Minister concerned may designate cases or categories of cases with respect to which, notwithstanding subsection 3, only those officials designated by his decision shall be charged with monitoring compliance.
5. A decision as referred to in subsection 1 shall be published in the Government Gazette.

#### **Section 18.5**

The officials designated pursuant to section 18.4 shall be authorised to enter a dwelling, with the necessary equipment, without the permission of the occupant, in order to perform their duties with regard to hazardous waste.

#### **Section 18.6**

The competent authority shall be authorised to apply executive coercion to enforce section 5:20, subsection 1 of the General Administrative Law Act, in so far as it concerns the obligation to cooperate with the officials designated pursuant to section 18.4.

#### **Section 18.7**

Our Minister concerned shall be authorised to apply executive coercion to enforce the provisions laid down by or pursuant to the Act concerned in cases where:

- a. he has been made responsible for the administrative enforcement thereof; or
- b. no other administrative authority is authorised to do so.

### **Section 18.8**

The authority to apply executive coercion pursuant to section 18.7 shall include waste management in the Netherlands by or on behalf of the competent administrative authority in cases where that waste is brought into or removed from Dutch territory in contravention of the provisions laid down by or pursuant to the EEC regulation on shipments of waste or Title 10.7.

### **Section 18.9**

1. An administrative authority shall not apply executive coercion if another administrative authority has already issued a decision to apply executive coercion with respect to the contravention concerned and it has not been withdrawn.
2. An administrative authority shall not impose an order for a monetary penalty if another administrative authority has already given a decision to impose an order for a monetary penalty with respect to the contravention concerned and it has not been withdrawn.

### **Section 18.10**

The administrative authority that has given a decision to apply executive coercion or impose an order for a monetary penalty in respect of a contravention of section 1.1a, 10.1, 10.2 or 10.54, of section 13 of the Soil Protection Act or of the provisions laid down by or pursuant to the Environmentally Hazardous Substances Act, shall send forthwith a copy of the decision to the administrative authorities that are also authorised to undertake the administrative enforcement of those provisions.

### **Section 18.11**

If a request is made as referred to in section 5:34 of the General Administrative Law Act, the administrative authority that imposed the order for a monetary penalty shall take a decision on the request as soon as possible, but in any event within four weeks.

### **Section 18.12**

1. The competent authority with respect to a licence or exemption may wholly or partly withdraw the licence or exemption if activities have been or are being undertaken which contravene the terms of the licence or exemption, or if conditions to which the licence or exemption are subject or general rules which apply to the holder of the licence or exemption are not observed.
2. A licence or exemption relating to the management of hazardous waste or of other waste originating elsewhere may also be withdrawn, in so far as it concerns waste management, if conditions applicable to the holder on the basis of Chapter 10 are not being complied with.
3. The competent authority shall withdraw a licence or exemption only after it has given the person concerned the opportunity to bring his activities into line with the terms of the licence or exemption or by complying with the conditions or general rules referred to in subsection 1 or 2.

### **Section 18.13**

In a case as indicated pursuant to section 8.35, the competent authority shall not give a decision applying executive coercion, imposing an order for a monetary penalty or withdrawing a licence without prior consultation with Our Minister, in so far as the exercise of this power concerns obligations relating to the continuity or capacity referred to in section 10.5, subsection 2.

### **Section 18.14**

1. Any person may request an administrative authority authorised to apply executive coercion, impose an order for a monetary penalty or withdraw a licence or exemption to give a decision to this effect.
2. At the request of Our Minister the competent authority shall give a decision applying executive coercion, imposing an order for a monetary penalty or withdrawing a licence, if, in a case as indicated pursuant to section 8.35, the provisions laid down by or pursuant to this Act with respect to the continuity or capacity referred to in section 10.5, subsection 2 are not being complied with. In the request, Our Minister may lay down a time limit within which the request shall be met.

### **Section 18.14a**

1. If a request made in accordance with section 18.14, subsection 1 relates to section 1.1a, 10.1, 10.2 or 10.54, to section 13 of the Soil Protection Act or to the provisions laid down by or pursuant to the Environmentally Hazardous Substances Act, the administrative authority to which the request was submitted shall give a decision on the request.
2. Subsection 1 shall not apply if:
  - a. another administrative authority that also has enforcement powers has declared in writing that it wants to consider the request; and
  - b. the administrative authority to which the request for the application of executive coercion was submitted has sent the request to the other administrative authority within two weeks of the date on which it was received.

3. In a case as referred to in subsection 2:
  - a. the administrative authority to which the request was submitted shall notify the sender without delay when its request has been sent;
  - b. the administrative authority to which the request has been sent shall give a decision on the request.

### **Section 18.15**

The administrative authority shall send the inspector and the other advisors a copy of the decision applying executive coercion, imposing an order for a monetary penalty or revoking such decisions or of the decision withdrawing a licence or exemption.

### **Section 18.16**

1. The decision on a request made in accordance with section 18.14, subsection 1 shall be issued as soon as possible but no later than:
  - a. if the request has been sent in accordance with section 18.14a: six weeks after the date on which the request was received by the administrative authority to which the request was submitted;
  - b. in other cases: four weeks after the date on which the request was received.
2. If the request is granted, the administrative authority shall attach to the notice informing the applicant of the decision a copy of the decision applying executive coercion, imposing an order for a monetary penalty or withdrawing a licence or exemption.

### **Section 18.17**

1. A government body may – barring mitigation by the courts – recover any costs it incurs for waste management in respect of which provisions laid down by or pursuant to this Act have been contravened, from the person who committed the unlawful act giving rise to the costs or from the person who is otherwise liable for the consequences thereof under civil law, in the absence of an agreement.
2. In a case as referred to in subsection 1, a government body authority may, in accordance with the rules concerning unjust enrichment, recover the costs referred to therein from the person who is unjustly enriched by the management of the waste substances in question.
3. For the purposes of this section, it shall not be necessary for an unlawful act to have been committed vis-à-vis the government at the time the action referred to in subsection 1 involving the waste substances referred to therein occurred.

### **Section 18.18**

Any action which contravenes a condition attached to a licence or exemption issued pursuant to this Act shall be prohibited.

## **CHAPTER 19. PROVISIONS IN CONNECTION WITH PUBLIC ACCESS**

### **Section 19.1**

After the period within which an appeal may be lodged against a decision as referred to in section 13.1 to which Part 3.5 of the General Administrative Law Act applies, and as long as the said decision has not lapsed, the competent authority shall upon request allow any person to examine the decision free of charge and against a payment no greater than the costs provide a copy of the decision and as far as possible of the documents which had to be deposited for inspection in connection with the taking of the decision and in accordance with this Act or Part 3.5 or section 3:44 or 7:4 of the General Administrative Law Act.

### **Section 19.2**

An administrative authority which has information which may reasonably be assumed to be relevant to the drawing up or assessment of an environmental impact statement shall supply this information to any person who requests it and in the form requested, in so far as this is reasonably possible and with due observance of the provisions laid down by or pursuant to the Government Information (Public Access) Act.

### **Section 19.3**

1. If a document whose publication is laid down by or pursuant to this Act or by Part 3.5 or 3.6 of the General Administrative Law Act contains information the secrecy of which may justifiably be maintained, or if such information may be deduced from such a document, the competent authority may, in response to a written request to this effect from the interested party, permit the latter party for publication purposes to supply another text approved by the competent authority which does not contain the said information or from which the said information cannot be deduced. The competent authority shall make use of this power only with respect to trade secrets and security information. In order to implement a treaty which is binding on the Netherlands or the decision of an international organisation which is binding on the Netherlands, information to which the first sentence of this subsection shall apply may be designated by an order in council pursuant to this Act.
2. If a document whose publication is laid down by or pursuant to this Act or by Part 3.5 or 3.6 of the General Administrative Law Act contains information the secrecy of which must be maintained in the interests of national security or to comply with international agreements, or if such information may be deduced from such a document, another text shall be supplied for publication purposes, on the instructions of our Minister concerned, which does not contain the said information or from which the said information cannot be deduced.

#### **Section 19.4**

1. In cases where section 19.3, subsection 1 has been applied, if in the opinion of the competent authority a second text would not provide sufficient information for a proper assessment of the document to which the request relates, another document in connection with which the said document was submitted, the draft decision or the decision, the person who made the request shall supplement the documents as far as possible with other information which may be relevant to the assessment within a period to be laid down by the said authority.
2. In cases where section 19.3, subsection 2 has been applied, if in the opinion of Our Minister concerned a second text would not provide sufficient information for a proper assessment of the document to which the request relates, another document in connection with which the said document was submitted, the draft decision or the decision, he shall supplement the documents as far as possible with other information which may be relevant to the assessment.
3. The competent authority shall make a note on the second text to show that it replaces the original text which contains information, the secrecy of which is required or may justifiably be maintained. If subsection 1 or 2 has been applied, the note shall also state that the documents have been supplemented with information as referred to in the said subsections.

#### **Section 19.5**

1. The competent authority shall take a decision regarding a request to maintain secrecy within four weeks of receipt of the request. The decision shall be communicated to the person who made the request and the administrative authorities concerned. If the request was made subject to the application of Chapter 7, the decision shall also be communicated to the Environmental Impact Assessment Committee.
2. If a request to maintain secrecy is made in the context of the application of Divisions 3.5.2 to 3.5.5 or Part 3.6 of the General Administrative Law Act or Division 7.2 or 7.5 the competent authority shall suspend the further handling of the application until, if the request is granted, the second text has been supplied and the documents have been supplemented with the information referred to in section 19.4, subsection 1, or if the request is wholly or partly refused, until the decision on the request has become irrevocable. The periods which apply pursuant to section 3:19, subsection 1, and sections 3:28, 3:29 and 4:5 of the General Administrative Law Act and section 7.5, subsection 7, section 7.20, subsection 2, section 13.7 and section 13.8 shall be suspended for as long as the further handling of the application is suspended.
3. If a request to maintain secrecy is made in the context of the application of Division 3.5.6 or Part 3.6 of the General Administrative Law Act or Division 7.6 or 7.7, the competent authority shall delay publication of the document to which the request relates until, if the request is granted, the second text has been supplied and the documents have been supplemented with the information referred to in section 19.4, subsection 1 or, if the

request is wholly or partially refused, until the decision on the request has become irrevocable.

### **Section 19.6**

At the request of the applicant or on the instructions of Our Minister concerned, the competent authority shall not apply section 3:21, subsection 1 (d) of the General Administrative Law Act, in so far as it concerns decisions still in force which have been taken previously, and shall not apply section 13.5 with respect to decisions made before this Act takes effect, if they contain information or if information can be derived from them, the secrecy of which is required or justified on the grounds referred to in section 19.3.

### **Section 19.7**

1. If an environmental report as referred to in Title 12.1 contains information the secrecy of which may justifiably be maintained, or if such information may be deduced from the report, the administrative authority referred to in the first or second sentence of section 12.4, subsection 1 may, in response to a request to this effect from the person who operates the establishment, permit the said person to make public a second text approved by the said authority which does not contain the said information and from which the said information cannot be deduced. The administrative authority shall make use of this power in cases of trade secrets and security information only. A request as referred to in the first sentence shall be made no later than three months after the end of the reporting year and shall be accompanied by a second text.
2. If an environmental report as referred to in Title 12.1 contains information the secrecy of which must be maintained in the interests of national security or to comply with international agreements, or if such information may be deduced from the report, the person who operates the establishment shall make public a second text on the instructions of Our Minister concerned which does not contain the said information and from which the said information cannot be deduced.
3. Section 19.4 and section 19.5, subsection 1 shall apply *mutatis mutandis* except that the administrative authority referred to in subsection 1 shall be deemed to be the competent authority.
4. If a request as referred to in subsection 1 is made, the environmental report in question need not be published for up to four weeks after a final decision has been given on the request.



## **CHAPTER 20. APPEALS TO THE ADMINISTRATIVE COURTS**

### **§ 20.1 General**

#### **Section 20.1**

1. An appeal may be lodged with the Administrative Jurisdiction Division of the Council of State against a decision based on this Act – with the exception of a decision in respect of which another appeals procedure applies under this Act – or on one of the Acts or statutory provisions referred to in subsection 3.
2. The Division shall decide on the appeal referred to in subsection 1 within twelve months of the expiry of the time limit for lodging appeals.
3. The Acts or statutory provisions referred to in subsection 1 shall be:  
section 40 of the Mining Act,  
the Dry Rendering Act, except for section 18,  
the Nuclear Energy Act,  
the Noise Abatement Act  
the Groundwater Act,  
the Air Pollution Act,  
the Pollution of Surface Waters Act  
the Marine Pollution Act,  
the Environmentally Hazardous Substances Act,  
the Soil Protection Act,  
the Protection of Antarctica Act,  
the EEC regulation on shipments of waste, and  
section 125 of the Municipalities Act, section 122 of the Provinces Act, section 61 of the Water Authorities Act and section 5:32 of the General Administrative Law Act, in so far as the decision refers to the enforcement of provisions laid down by or pursuant to the Acts to which Chapter 18 of this Act applies.

#### **Section 20.2**

1. No appeal may be lodged against a decision:
  - a. concerning an environmental policy plan, given pursuant to section 4.3, 4.6, 4.9, 4.12, 4.15a, 4.16 or 4.19;
  - b. concerning a waste management plan, given pursuant to section 10.3.
2. No appeal may be lodged against a decision:
  - a. containing an instruction as referred to in section 8.27;
  - b. containing an instruction as referred to in section 8.31a;
  - c. concerning a declaration as referred to in section 8.36a;
  - d. containing a request as referred to in section 8.39, or
  - e. containing a request as referred to in section 17.5, subsection 1.

3. Notwithstanding subsection 2, an appeal may be lodged against a decision as referred to in that subsection (b, c, d or e), in accordance with the provisions of this Chapter by the competent authority in respect of the decision to which the instruction, the declaration or the request refers.
4. Notwithstanding section 6:8 of the General Administrative Law Act, the period for lodging appeals in a case as referred to in subsection 3 shall in any event commence on the day after the date on which a copy of the decision to which the declaration or request relates was deposited for inspection in accordance with section 3:44, subsection 2 (a) of the General Administrative Law Act.

### **Section 20.3**

1. A decision as referred to in section 20.1, subsection 1 shall take effect on the day after the date on which the time limit for lodging an objection or, if, under section 7:1, subsection 1 (d) of the General Administrative Law Act, no objection may be lodged, an appeal, expires. If a request for a provisional ruling has been submitted to the president of the Administrative Jurisdiction Division of the Council of State during that period, the decision shall not take effect until a decision has been made on that request.
2. If the use of a decision as referred to in section 20.1, subsection 1, before an appeal has been decided, may have a significant effect on that decision, on account of the associated costs or the ensuing change in circumstances which may play a role in the decision on the appeal, a provisional ruling shall be given so that no such effect can occur.

### **Section 20.4**

Section 20.3 shall not apply to decisions:

- a. containing authorisation or objections pursuant to the EEC regulation on shipments of waste;
- b. in accordance with section 18.7 of this Act, section 125 of the Municipalities Act, section 122 of the Provinces Act, section 61 of the Water Authorities Act and section 5:32 of the General Administrative Law Act, in so far as the decisions concern the enforcement of the provisions laid down by or pursuant to the Acts to which Chapter 18 applies.

### **Section 20.5**

In cases where, in the opinion of the competent authority, a decision as referred to in section 20.1, subsection 1 must take effect immediately, it may stipulate in the decision that it should take effect immediately, notwithstanding section 20.3, subsection 1.

## **§ 20.2 Appeals against decisions made subject to Divisions 3.5.2 to 3.5.5 of the General Administrative Law Act**

### **Section 20.6**

1. This Division shall apply to appeals against decisions as referred to in section 20.1, subsection 1, in respect of which Divisions 3.5.2 to 3.5.5 of the General Administrative Law Act apply.
2. An appeal against a decision as referred to in subsection 1 may be lodged by:
  - a. any person who has submitted reservations against the draft decision;
  - b. advisers who have used the opportunity to make recommendations on the draft decision;
  - c. any person who has reservations against amendments made when the decision on the draft was taken;
  - d. interested parties who cannot reasonably be reproached for submitting no reservations against the draft decision.
3. Section 20.5 shall not apply to a decision as referred to in subsection 1.

### **Section 20.7**

Notwithstanding section 6:8 of the General Administrative Law Act, the time limit for lodging appeals against a decision as referred to in section 20.6, subsection 1, shall commence on the day after the date on which a copy of the decision is deposited for inspection in accordance with section 3:44, subsection 2 (a) of the General Administrative Law Act.

### **Section 20.8**

Notwithstanding section 20.3, subsection 1, first sentence, a decision as referred to in section 20.6, subsection 1, in cases as referred to in section 8.5, subsection 2 – in which the licence relates to the construction or modification of an establishment which may also be deemed to be construction work within the meaning of the Housing Act – shall not take effect until the appropriate building permit has been issued.

### **Section 20.9**

If, in a case as referred to in section 8.28 pursuant to this Chapter, an appeal has been lodged against a decision on the application for the granting or amendment of a licence pursuant to section 7 of the Pollution of Surface Waters Act and a related decision has been given pursuant to section 8.1 or section 8.24 of this Act, the judgement on appeal may also relate to the latter decision.

## **§ 20.3 Appeals against decisions made subject to Division 3.5.6 of the General Administrative Law Act**

### **Section 20.10**

1. This Division shall apply to appeals against decisions as referred to in section 20.1, subsection 1, in respect of which Division 3.5.6 of the General Administrative Law Act applies.
2. An appeal against a decision as referred to in subsection 1 may be lodged by:
  - a. any person who has submitted reservations against the draft decision;
  - b. advisers who have used the opportunity to make recommendations on the draft decision;
  - c. any person who has reservations against amendments made when the decision regarding the draft was taken;
  - d. interested parties who cannot reasonably be reproached for submitting no reservations against the draft decision.

### **Section 20.11**

1. Notwithstanding section 6:8 of the General Administrative Law Act, the time limit for lodging appeals against a decision as referred to in section 20.10, subsection 1, shall commence on the day after the date on which a copy of the decision is deposited for inspection in accordance with section 3:44, subsection 2 (a) of the General Administrative Law Act.
2. If, with respect to a decision as referred to in section 20.10, subsection 1, a request for secrecy as referred to in section 19.3 has been made, this decision shall take effect six weeks after the date on which the decision was sent to the person at whom it was directed, notwithstanding section 20.3, subsection 1, first sentence. Notwithstanding subsection 1, in a case as referred to in the first sentence, the period for lodging appeals shall commence on the day following the date on which the decision was sent to the person at whom it was directed, and, notwithstanding section 6:7 of the General Administrative Law Act, shall expire six weeks after the date on which the decision was deposited for inspection in accordance with section 3:44, subsection 2 (a).

### **Section 20.12**

If, in a case as referred to in section 8.28 pursuant to this Chapter, an appeal has been lodged against a decision to amend or withdraw a licence pursuant to section 7a of the Pollution of Surface Waters Act and a related decision has been given pursuant to this Act, the judgement on appeal may also relate to the latter decision.

## **§ 20.4 Appeals against other decisions**

### **Section 20.13**

An appeal may be lodged by an interested party against decisions as referred to in section 20.1, subsection 1, in respect of which Part 3.5 of the General Administrative Law Act does not apply.

## **§ 20.5 Recommendations on appeals concerning environmental management**

### **Section 20.14**

1. Our Minister shall be authorised, on behalf of the State, to set up a non-profit organisation (*stichting*) to carry out the task referred to in section 20.15.
2. Amendments to the constitution of the organisation, or dissolution of the organisation, shall require the permission of Our Minister. Before deciding on the matter, Our Minister shall hear the Administrative Jurisdiction Division of the Council of State.
3. The organisation's constitution shall guarantee that the organisation carries out its activities impartially and independently.

### **Section 20.15**

The organisation shall have the task of providing the administrative court, on request, with an expert report regarding appeals based on section 20.1 of this Act. At the request of the administrative court, the organisation shall also issue an expert report regarding appeals based on other Acts, in so far as they concern matters connected with aspects of environmental management for which Our Minister is responsible.

### **Section 20.16**

Individuals who are members of the organisation's bodies, and the staff of the organisation, shall not hold any post or office that is undesirable with a view to the maintenance of the impartiality and independence of the organisation or confidence therein.

### **Section 20.17**

1. In the event that a non-profit organisation has been set up under section 20.14, Our Minister shall award the organisation a grant in accordance with conditions laid down by or pursuant to an order in council, in so far as this is reasonably necessary to enable it to perform its tasks.
2. Section 8:36, subsection 1 of the General Administrative Law Act shall not apply.

## CHAPTER 21. FURTHER PROVISIONS

### Section 21.1

1. The municipal executive, the provincial executive and each of Our Ministers who may be concerned shall make an annual report to the municipal council, the provincial council and the States General respectively on the policy with respect to the implementation of Chapters 8, 13 and 18 and Division 14.1 of this Act. The municipal executive and the provincial executive shall send the report together with an accompanying letter simultaneously to the municipal council and the provincial council respectively and to the inspector.
2. In their report they shall in any event state:
  - a. the number of times in the period covered by the report that the periods applying pursuant to section 3:19, subsection 1 and section 3:28, or section 3:29, subsection 1 of the General Administrative Law Act and section 13.7 for sending a draft decision and issuing a decision, the reasons for this and the measures which they have taken or will take to prevent the said periods being exceeded;
  - b. for each individual case the way in which they have implemented the Chapters of this Act referred to in subsection 1, with regard to establishments which are either wholly or partially operated by the municipality or province concerned or central government respectively.
3. Cases to which section 13.10 has been applied shall not be included in the report by Our Minister.

### Section 21.2

1. Our Minister shall – in so far as it concerns the jurisdiction of one or more of Our other Ministers, in agreement with the said Ministers – within three years of this Act taking effect and every five years thereafter report to the States General on the way in which this Act has been applied.
2. By or pursuant to order in council, rules may be laid down with regard to the application of subsection 1. These rules may include an obligation for the administrative authorities designated therein to provide every year in the manner stated therein any information which is necessary for the compilation of the report referred to in subsection 1.

### Section 21.3

1. The inspector shall be authorised to request information regarding the implementation or enforcement of the provisions laid down by or pursuant to this Act from an administrative authority charged with these duties.
2. Sections 5:13, 5:17 and 5:20 of the General Administrative Law Act shall apply *mutatis mutandis*.

## **Section 21.5**

For the implementation of this Act with respect to areas which are not part of a municipality or province, rules shall as far as necessary be laid down by order in council with respect to the administrative authorities which will exercise the powers contained in this Act and the administrative authorities which should be concerned with the said implementation.

## **Section 21.6**

1. The current national environmental policy plan shall be taken into account when drafting, amending or withdrawing an order in council pursuant to this Act.
2. A recommendation for an order in council pursuant to section 5.1, subsection 1, shall be made to Us by Our Minister and in so far as it concerns aspects of environmental policy which fall under their jurisdiction, by Our Minister of Transport, Public Works and Water Management and Our Minister of Agriculture, Nature Management and Fisheries.
3. A recommendation for an order in council pursuant to Division 2.2, Chapter 7 or Division 14.2 shall be made to Us by Our Minister and Our Minister of Agriculture, Nature Management and Fisheries. A recommendation for an order in council in accordance with Title 12.1 shall be made to Us by Our Minister and in so far as it concerns aspects of environmental policy which fall under their responsibility, by Our Minister of Transport, Public Works and Water Management, Our Minister of Agriculture, Nature Management and Fisheries and Our Minister of Economic Affairs. If one or more establishments are involved which fall under the jurisdiction of Our Minister of Defence, a recommendation for an order in council in accordance with section 12.1, subsection 2, section 12.4 and section 12.5 shall be made to Us with his participation.
4. A draft order in council pursuant to section 1.1, subsection 1, 3, 6, 7 or 8, section 5.1, subsection 1, section 5.3, subsection 1, section 7.1, subsection 3, section 7.2, subsection 1, section 7.7, section 8.2, section 8.2a, section 8.5, section 8.7, section 8.15, section 8.17, subsection 2, section 8.19, section 8.20, subsection 2, section 8.35, section 8.40, section 8.44, section 8.45, section 8.49, subsection 5, section 10.2, subsection 2, section 10.15, subsection 1, section 10.16, subsection 1, section 10.17, subsection 1, section 10.18, section 10.19, subsection 1, section 10.22, subsection 2, section 10.28, subsection 1, section 10.29, subsection 1, section 10.30, subsection 3, section 10.32, section 10.41 subsections 1 and 2, section 10.42, subsection 1, section 10.43, subsection 1, section 10.44, subsection 3, section 10.46, subsection 1, section 10.47, subsection 1, section 10.48, subsection 1, section 10.51, subsection 1, section 10.52, subsection 1, section 10.54, subsection 3, section 10.61, subsection 1, section 12.1, subsection 2, section 12.2, subsection 4, section 12.4, section 12.5, section 15.13, subsection 1, section 15.32, subsection 1 or 2, or section 15.46, subsection 5 shall be presented to both houses of the States General and published in the Government Gazette. All persons shall be given the opportunity to submit written comments on the draft to Our Minister within a period to be stated therein of at least four weeks.
5. An order in council as referred to in subsection 4 shall be sent to both houses of the States General after it has been drawn up. It shall take effect no sooner than four weeks

from the date of issue of the Bulletin of Acts and Decrees in which it is published. An order in council drawn up pursuant to section 5.1, subsection 1 shall enter into force on a date laid down by royal decree not earlier than four weeks from the date on which it was sent to both houses of the States General unless, within this period the wish is expressed by or on behalf of one of the houses of the States General, or by at least one fifth of the number of members of one of the houses laid down by the Constitution, that the subject matter of the order in council should be regulated by statute. In that event, a Bill to this effect shall be submitted as soon as possible and the order in council shall be withdrawn without delay.

6. Whatever may be regulated pursuant to this Act by order in council shall nevertheless be regulated by ministerial order if the rules only entail implementation of treaties or decisions of international organisations which are binding upon the Netherlands, unless proper implementation requires the amendment of an order in council or the Act. If amendment of an order in council is necessary, this shall be brought to the notice of both houses of the States General at the same time as the recommendation is put before Us, together with a statement of the reasons therefor and an abstract of the proposed order in council. The draft of a ministerial order as referred to in the first sentence shall be sent to both houses of the States General at least four weeks before the order is issued. Subsections 2 and 3 shall apply *mutatis mutandis* to the issue of a ministerial order.
7. Subsections 2 to 5 and the second, third and fourth sentences of subsection 6 shall not apply to an order in council pursuant to section 8.40, 8.44 or 8.45, in so far as it relates solely to establishments as referred to in section 8.2, subsection 3. In this case, the proposal for an order in council shall be made to us by Our Minister of Economic Affairs. If the first sentence of subsection 6 is applied in this case, the ministerial order shall be issued by Our Minister of Economic Affairs.

### **Section 21.7**

Municipalities and water boards shall retain the power to adopt ordinances with respect to the matter dealt with in Chapter 10, in so far as such ordinances do not conflict with provisions laid down by or pursuant to this Act.

### **Section 21.8**

If in the interests of the proper implementation of this Act, matters regulated therein require more detailed regulation, this may be done by order in council.



## **CHAPTER 22. FINAL PROVISIONS**

### **Section 22.1**

1. Chapters 8 and 17, and Title 12.1 of this Act shall not apply to establishments for which a licence is required pursuant to section 15 (b) of the Nuclear Energy Act, unless the provisions of the said Act state otherwise. Nor shall the said Chapters and Title apply to establishments which, by or pursuant to other provisions of the said Act than those mentioned in the first sentence, require a licence or are subject to general regulations, unless the provisions laid down by or pursuant to the said Act state otherwise.
2. Chapter 8 of this Act shall not apply to establishments which require a licence or are subject to general regulations pursuant to:  
the Dry Rendering Act,  
the Pollution of Surface Waters Act,  
the Groundwater Act,  
unless the provisions of the said Acts state otherwise.
3. Chapter 8 of this Act shall not apply to establishments where animal manure within the meaning of the Fertilisers Act, originating outside the establishment is stored, processed, reprocessed or destroyed, in so far as this relates to the efficient management of the said substances.
4. Chapter 10 shall not apply to actions, in so far as the latter are covered by provisions laid down by or pursuant to:  
the Pesticides Act 1962,  
the Prevention of Pollution from Ships Act  
the Veterinary Medicines Act,  
the Fertilisers Act,  
the Shipping Act,  
the Dry Rendering Act,  
the Nuclear Energy Act,  
the Pollution of Surface Waters Act,  
the Marine Pollution Act,  
except in so far as the provisions of these Acts or of this Act provide otherwise.

### **Section 22.2**

This Act may be cited as the Environmental Management Act.

### **Section 22.3**

1. This Act shall enter into force on a date to be determined by Us.
2. Section 12.10 shall enter into force on a date to be determined by royal decree.

## **Appendix to the Environmental Management Act**

The Acts referred to in section 4.6, subsection 3, section 4.12, subsection 3 and section 4.19, subsection 3 of the Environmental Management Act are the following:

the Mining Act

the Water Supply Act

the Aviation Act

the Forestry Act

the Pesticides Act 1962

the Nuclear Energy Act

the Earth Removal Act

the Nature Conservancy Act

the Noise Abatement Act

the Air Pollution Act

the Pollution of Surface Waters Act

the Groundwater Act

the Marine Pollution Act

the Prevention of Pollution from Ships Act

the Land Use Act

the Environmentally Hazardous Substances Act

the Soil Protection Act

the Fertilisers Act

the Energy Conservation (Appliances) Act

the Water Management Act

the Carriage of Dangerous Substances Act (Bulletin of Acts and Decrees 1995, no. 525)

the Infrastructure (Planning Procedures) Act

the Road Traffic Act 1994

the Flora and Fauna Act.