

Information on Dutch cultural policy

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THE MONUMENTS AND HISTORIC BUILDINGS ACT 1988

Department for the Preservation of Monuments and Historic Buildings

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The Minister of Welfare, Health and Cultural Affairs,  
L.C. Brinkman

The Minister of Housing, Physical Planning and the Environment,  
E.H.T.M. Nijpels

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The Minister of Justice,  
F. Korthals Altes

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**THE ACT PROVIDING FOR THE PRESERVATION OF MONUMENTS AND HISTORIC  
BUILDINGS OF HISTORIC AND ARTISTIC IMPORTANCE  
(MONUMENTS AND HISTORIC BUILDINGS ACT)**

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

Greetings to all who shall see or hear these presents! Be it known:

Whereas We have considered that it is desirable to establish new provisions for the preservation of architectural and archeological monuments and to involve local and authorities in this to a greater extent;

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

## CHAPTER 1. GENERAL PROVISIONS

### Article 1

For the purposes of this act and the provisions based upon it, the following definitions shall apply:

- a. **Our Minister:** Our Minister of Health, Welfare and Cultural Affairs;
- b. **Monuments:**
  1. All objects constructed at least fifty years ago which are of public interest because of their beauty, scientific significance or cultural and historic value;
  2. Sites which are of public interest because of the presence of the objects referred to under 1;
- c. **Archeological monuments:** monuments referred to in b. under 2;
- d. **Protected monuments:** immovable monuments recorded in the registers established by this act;
- e. **Religious monuments:** immovable monuments which are the property of a particular denomination, congregation, parish or church organisation and which are used exclusively or mainly for worship;
- f. **Town and village conservation areas:** groups of immovable objects which are of public interest because of their beauty, their spatial and structural relationship or their cultural and historical value and which include at least one monument;
- g. **Protected town and village conservation areas:** town and village conservation areas which have been designated as such by Our Minister of Housing, Physical Planning and the Environment under the provisions of Section 35 of this act, from the date of publication of such designation in the Government Gazette;
- h. **Archeological activities:** activities involving excavation and intended to locate or examine monuments;
- i. **Monuments and Historic Buildings Council:** the Monuments and Historic Buildings Council referred to in Section 50.

### Section 2

1. The destination of the monument shall be taken into account in the implementation of this act.
2. No decision under the provisions of this act shall be taken on a religious monument without consultation with the owner.

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### CHAPTER II. PROTECTED MONUMENTS

#### # Designation

##### Section 3

1. Our Minister may, either at the request of interested parties or of his own accord, designate monuments as protected monuments.
2. Before Our Minister takes a decision, he shall request the advice of the municipal council in the municipality in which the monument is located. In the event of the monument being located outside a built-up area as referred to in Section 8 of the Road Traffic Act (Bulletin of Acts, Orders and Decrees 1935, 554) he shall also consult the Provincial Executive.
3. Our Minister shall notify by registered letter the parties registered in the land register as owners or as the holders of any other rights, the registered mortgagees and the party applying for designation, in the event of an such an application, of the request for advice referred to in subsection 2.
4. The Burgomaster and Aldermen shall provide the interested parties referred to in subsection 3 with the opportunity to attend and conduct consultations as referred to in subsection 2 either in person or through an authorised representative.
5. The Municipal Council shall produce a recommendation within five months of the request for advice referred to in subsection 2 having been submitted; in the case of the Provincial Executive, this period shall be four months.
6. Having heard the Monuments and Historic Buildings Council, Our Minister shall arrive at a decision within ten months of the request for advice having been submitted and in the event of designation having been requested, within ten months of having received such a request.

##### Section 4

1. Our Minister shall notify the Municipal Council and the Provincial Executive of his decision. In the event of a designation, the Burgomaster and Aldermen shall make this decision open to public inspection at the municipal secretariat. The Burgomaster shall announce such an inspection in the customary manner.
2. Our Minister shall notify those parties registered in the land register as owners or as the holders of any other rights, the registered mortgagees and the party applying for designation, in the event of such an application, of his decision. In the event that designation is to take place, the parties shall be notified by registered letter.

##### Section 5

From the date on which the notification referred to in Section 3, subsection 3 has taken place until such time as the entering into the register as referred to in Section 6 or Section 7 has taken place or until it has been established that the monument is not to be entered in one of these registers, Sections 11 to 3 (inclusive) shall apply by analogy.

##### Section 6

1. Our Minister shall keep a register of protected monuments for each municipality. He shall enter in the register each monument he has designated provided no appeal against such designation has been filed or provided such an appeal has been rejected.
2. Our Minister shall send a copy of the entry in the register to the Provincial Executive, the Burgomaster and Aldermen, the mortgage registry, the land registry and the ships' mortgage register.

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3. The copy sent to the Burgomaster and Aldermen shall be open to public inspection at the municipal secretariat. Any person who so wishes shall be supplied with copies at his own expense.
4. The copy sent to the mortgage registry shall be entered in the public registers. The mortgage registry shall record the designation as a protected monument of the site concerned in accordance with regulations issued by Our Minister of Housing, Physical Planning and the Environment.

### Section 7

1. If a monument is not located within the boundaries of a municipality, Section 3, subsections 2 to 6 (inclusive), Section 4, subsection 1 and Section 6 shall not be applicable.
2. Before taking a decision relating to a monument as referred to in subsection 1, Our Minister shall consult the Monuments and Historic Buildings Council.
3. Our Minister shall take a decision on a request for designation within five months of such a request having been received.
4. Our Minister shall keep a national register of the monuments referred to in subsection 1 and designated by him, provided no appeal against such designation has been filed or provided such an appeal has been rejected. A copy of the registration shall be sent to the body which manages the area in question, to the mortgage registry, the land registry and the ships' mortgage registry, and if the monument is located within the boundaries of a province, to the Provincial Executive. Section 6, subsection 4 shall apply by analogy.

### Section 8

1. Our Minister is authorised to make changes in the register by virtue of his office or at the request of parties with an interest in the matter. Sections 3 to 7 (inclusive) shall apply by analogy.
2. If, in the opinion of Our Minister, such a change is insignificant or if it is the removal from the register of a monument which no longer exists, Section 3 shall not apply by analogy.

### Section 9

1. The mortgage registry, the land registry and the ships' mortgage registry shall notify Our Minister within fourteen days of any change in the person or body in whose name a protected monument is registered in the land registry or of any change in its description. Our Minister shall enter such amendments in the register.
2. Our Minister shall notify the Provincial Executive and the Burgomaster and Aldermen of such amendments.

### Section 10

If the copies of the register do not correspond with the register or with each other, only those monuments referred to on the copy entered in the public registers shall qualify as protected monuments.

### #2. Permits for alteration, demolition or removal

### Section 11

1. It is prohibited to damage or destroy a protected monument.
2. It is prohibited without a written permit or contrary to the stipulations of a written permit:

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- a. to demolish, disturb, move or in any way change a protected monument;
- b. to restore, use or allow a protected monument to be used in such a way as to mar its appearance or to endanger it in any way.

### Section 12

1. An application for a permit as referred to in Section 11 shall be submitted in writing to the Burgomaster and Aldermen. It shall be accompanied by the information they require.
2. If the applicant has not submitted the required information, the Burgomaster and Aldermen shall, within one month of the receipt of the application, grant the applicant fourteen days to supply the required information.
3. If the provisions of subsection 2 have been applied and the applicant has not supplied the required information within the period of fourteen days referred to in that subsection, the application shall be considered inadmissible from the first day after the fourteen-day period.
4. If the provisions of subsection 2 have been applied and, in the opinion of the Burgomaster and Aldermen, the applicant has not supplied sufficient information as referred to in subsection 2, they shall declare the application inadmissible within fourteen days of the day on which the information was received.
5. If the provisions of subsection 2 have been applied and, in the opinion of the Burgomaster and Aldermen, the applicant has supplied the required information referred to in subsection 2, the application is admissible and the period referred to Section 16, subsection 3 or Section 17, subsection 3 shall commence the day after the day on which the applicant submitted the information in question.
6. If the provisions of subsection 2 have not been applied, the application shall be considered admissible.
7. If the provisions of subsection 4 have not been applied, the application is admissible and the period referred to in Section 16, subsection 3 or Section 17, subsection 3 shall commence the day after the day on which the applicant has submitted the required information referred to in subsection 2.
8. If the application is admissible, the Burgomaster and Aldermen shall make it open to public inspection at the municipal secretariat. Should the application contain information which it is justifiable not to disclose on the grounds of business confidentiality, or should it be possible to deduce such information from an application, the Burgomaster and Aldermen may grant a written request from the applicant that such information should not be made public. The Burgomaster shall give notification of such an inspection in the customary manner and of the possibility of lodging an objection with the Burgomaster and Aldermen within fourteen days. If Section 17, subsection 1 is applicable, the Burgomaster and Aldermen shall immediately forward to our Minister any objections received within the specified period.

### Section 13

1. Contrary to the provisions of Section 12, subsection 1, an application for a permit relating to a monument as referred to in Section 7, subsection 1 shall be submitted to Our Minister. The information required by Our Minister shall accompany such an application.
2. Section 12, subsections 2 to 7 (inclusive) shall apply by analogy.

### Section 14

1. The Burgomaster and Aldermen shall decide in the matter of an application as referred to in Section 12, subsection 1 unless it relates to:
  - a. an archeological monument;
  - b. a monument which is being used by Our Minister of Defence and which also has a



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2. **military destination.**  
In those cases where this is not decided by the Burgomaster and Aldermen, it shall be decided by Our Minister.

### Section 15

1. The Municipal Council shall pass a bylaw regulating at least the consulting of a commission for the preservation of monuments to advise the Burgomaster and Aldermen on applications for permits as referred to in Section 11.
2. Our Minister shall be notified without delay of the establishment of such a bylaw. It shall enter into force two months after such notification unless Our Minister has proposed before such date that it be suspended.
3. The provisions of subsections 1 and 2 shall apply by analogy to amendments to and the rescission of the bylaw.

### Section 16

1. In cases where the Burgomaster and Aldermen decide on an application for a permit, they shall immediately send a copy of the application to the Director of the Department for the Preservation of Monuments and Historic Buildings and, if the protected monument is situated outside a built-up area as referred to in Section 8 of the Road Traffic Act, to the Provincial Executive.
2. Our Minister and the Provincial Executive shall produce a written recommendation on the application within three months of the copy having been sent.
3. The Burgomaster and Aldermen shall come to a decision within three months of having received the last of the recommendations referred to in subsection 2, and in any event within six months of the date on which the application was submitted.
4. The Burgomaster and Aldermen shall notify the applicant of their decision in writing within the period referred to in subsection 3. If, in their opinion, there are valid grounds for extending this period, they may extend it for six months at the most, provided they notify the applicant of this within the period referred to in subsection 3.
5. If the Burgomaster and Aldermen fail to comply with the provisions of subsection 3 or 4, it shall be assumed that the permit has been issued.
6. Issuing a permit under the provisions of subsection 5 shall be considered a Ministerial Order as referred to in the Administrative Decisions Appeals Act (Bulletin of Acts, Orders and Decrees 1975, 284).
7. The Burgomaster and Aldermen shall immediately send a copy of their decision to Our Minister, to the Provincial Executive and to any parties who have lodged objections.
8. A permit shall not come into force for thirty days from the date on which it was issued or was granted by law. If during that period an appeal is filed under the provisions of the Administrative Decisions Appeals Act, the permit shall not enter into force until the appeal has been settled, unless it is decided on the grounds of Section 107 of the Council of State Act (Bulletin of Acts, Orders and Decrees 1986, 670) to lift the suspension of the application in question. If such an appeal has been filed, the Chairman of the Judicial Division of the Council of State shall notify the permit-holder and the competent authority immediately.

### Section 17

1. In cases where Our Minister decides on an application for a permit, the Burgomaster and Aldermen shall pass on the application to him directly after it has been received. At the same time, they shall send a copy to the Provincial Executive and notify the applicant in writing of the date on which the application was passed on.
2. The Burgomaster and Aldermen, and, if the protected monument in question is situated

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outside a built up area as referred to in Section 8 of the Road Traffic Act, the Provincial Executive, shall advise Our Minister on the application within three months of its having been sent on.

3. Our Minister shall come to a decision within three months of having received the last advice referred to in subsection 2 and in any event within six months of the application having been submitted.
4. Section 16, subsections 4 and 5 shall apply by analogy. Section 16, subsections 6 and 8 shall apply.
5. Our Minister shall immediately send a copy of his decision to the Burgomaster and Aldermen, the Provincial Executive and to those parties who have lodged objections.

### Section 18

With respect to a religious monument, the Burgomaster and Aldermen and Our Minister shall not take any decision under the provisions of Section 16 or Section 17 other than in agreement with the owner, insofar as decisions which are of vital significance to worship in the monument are concerned.

### Section 19

1. The Burgomaster and Aldermen and Our Minister may subject a permit to conditions which are in the interest of the preservation of monuments.
2. A permit may be subject to a time limit.

### Section 20

1. The Burgomaster and Aldermen and, in the case of monuments which are not situated within a municipality, Our Minister, shall keep a public register which shall record the following;
  - a. permits issued under the provisions of Section 16, subsection 3 or Section 17, subsection 3;
  - b. permits which may be assumed to have been issued under the provisions of Section 16, subsection 5 or Section 17, subsection 4.
2. The register referred to in subsection 1 shall also record:
  - a. the date of the permit;
  - b. the number of the permit;
  - c. the location of the monument to which the permit relates as well as the important details from the land register;
  - d. the nature of the work.
3. The information referred to in subsection 2 shall be recorded within one week of the date on which:
  - a. a permit as referred to in subsection 1a has been issued;
  - b. a permit as referred to in subsection 1b may be assumed to have been issued.

### Section 21

1. The permit may be withdrawn by the party which issued it if:
  - a. it becomes apparent that the permit was issued on the basis of incorrect or incomplete information;
  - b. it becomes apparent that the permit-holder is not adhering to the stipulations of Section 19, subsection 1;
  - c. the circumstances of the permit-holder have changed to such an extent that the interests of the monument should be put first.
2. The permit-holder shall be notified of the impending withdrawal and shall be provided

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with the opportunity to have a say. Reasons shall be provided for the decision to withdraw the permit. A copy shall be sent to Our Minister or to the Burgomaster and Aldermen and the Provincial Executive.

#### # 3. Compensation for the outcome of an application for a permit

##### Section 22

1. Insofar as it is apparent that the applicant for a permit as referred to in Section 11 is suffering losses as a result of the rejection of the application or as a result of the conditions attached to the permit, which losses he cannot reasonably be expected to bear in their entirety, Our Minister may, subject to the provisions of subsection 2, having heard the Compensation Assessment Committee, award him, at his request, a reasonable amount of compensation.
2. If the decision on the application for a permit has been taken by the Burgomaster and Aldermen contrary to the advice of Our Minister, the Municipal Council, having heard the Compensation Assessment Committee in the matter of the compensation referred to in subsection 1, shall decide against the municipality. Section 23 to Section 29, subsection 2, first sentence (inclusive) shall apply by analogy, provided the Municipal Council acts on behalf of Our Minister. Section 7, subsection 2 of the Administrative Decisions Appeals Act shall in any event not apply.

##### Section 23

1. Our Minister shall establish a Compensation Assessment Committee for the purposes of advising on one or more requests for compensation.
2. The Compensation Assessment Committee shall consist of one or more members.
3. Members of the Compensation Assessment Committee shall not be officials employed by the Ministry or by a service, company or organisation which is the responsibility of Our Minister.
4. For the purposes of this chapter, an official as referred to in subsection 3 shall be taken to be any person whose employment is covered by an employment contract drawn up in accordance with civil law.

##### Section 24

1. Our Minister shall send any request for compensation as well as all documents relating to the case to the Compensation Assessment Committee within fourteen days of having received it.
2. Our Minister shall provide any cooperation requested by the Compensation Assessment Committee.

##### Section 25

1. The Compensation Assessment Committee shall provide the applicant or his authorised representative with the opportunity to elaborate on his request for compensation at a public meeting.
2. The Compensation Commission may call officials employed by the Ministry or a service, company or organisation which is the responsibility of Our Minister to appear at such a public meeting in order to provide information.
3. Should the Compensation Assessment Committee wish to conduct an on-site examination, it shall notify the applicant and Our Minister beforehand as to when it wishes to do so.

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#### Section 26

The Compensation Assessment Committee shall advise Our Minister within three months of the request for compensation having been submitted. It shall send a copy of its recommendation to the applicant at the same time.

#### Section 27

1. Our Minister shall provide the applicant with the opportunity to voice his opinion on the recommendation either in writing or orally in the presence of the Compensation Assessment Committee.
2. The Compensation Assessment Committee shall, if so requested, provide Our Minister with further details on its recommendation and its comments on the applicant's view of its recommendation.

#### Section 28

The applicant shall not be charged for the expenses of the Compensation Assessment Committee.

#### Section 29

1. Our Minister shall come to a decision within two months of having received the recommendation of the Compensation Assessment Committee. If his decision is contrary to the recommendation of the Compensation Assessment Committee, he shall provide reasons for this.
2. There are no other forms of appeal than those provided for in the Administrative Decisions Appeals Act. Sections 11 and 12 of this act shall not be applicable.

#### # 4. Coercive measures

#### Section 30

1. Our Minister may, insofar as he is the authority issuing the permit, if necessary with the help of the police, prevent actions which contravene a prohibition as referred to in Section 11 or conditions as referred to in Section 19.
2. Except in urgent cases, this shall take place only after the offender has received a written warning.

#### Section 31

1. Our Minister may, insofar as he is the authority issuing the permit, restore the protected monument to its former condition as far as possible at the expense of the party who is acting in contravention of a prohibition as referred to in Section 11 or conditions as referred to in Section 19.
2. The offender shall be notified in writing of a decision to invoke subsection 1.
3. Except in urgent cases, subsection 1 shall not be invoked unless the decision referred to in subsection 2 has become irrevocable.

#### Section 32

The rightful claimants of a protected monument shall be obliged to tolerate the execution of the work which Our Minister has ordered to be carried out under the provisions of Sections 30 and 31. If necessary, the work shall be carried out with the help of the police.

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### Section 33

1. Our Minister may collect the costs owing under the provisions of Section 31 by means of a writ.
2. The writ shall be served and executed at the debtor's expense in the manner prescribed in the Code of Civil Procedure for court rulings and notarised documents.
3. Within thirty days of the writ having been served, an appeal against it may be made by issuing a summons to the State. Such an appeal shall cause the execution of the writ to be suspended.

## CHAPTER III. GRANTS

### Section 34

1. Our Minister may provide a government grant for the restoration and upkeep of protected monuments.
2. Regulations shall be established by an Order in Council with respect to applications for, the awarding of and accounting for grants as referred to in subsection 1 and for the manner in which provincial and municipal authorities are to be involved in this.
3. The grant shall consist of either a fixed annual amount or a percentage of the costs which are to be determined by Our Minister.
4. An Order in Council as referred to in subsection 2 shall not enter into force until two months after the date of publication in the Government Gazette. Both houses of the States-General shall be notified immediately of such publication.

## CHAPTER IV. TOWN AND VILLAGE CONSERVATION AREAS

### Section 35

1. Having heard the Municipal Council, the Provincial Executive, the National Physical Planning Commission and the Monuments and Historic Buildings Council, Our Minister and Our Minister for Housing, Physical Planning and the Environment can designate town and village areas as town and village conservation areas and withdraw such designation.
2. Our Minister shall send the proposal for designation or the withdrawal thereof simultaneously to the Municipal Council, the Provincial Executive, the National Physical Planning Commission and the Monuments and Historic Buildings Council. The Municipal Council shall make a recommendation through the Provincial Executive within six months, the Provincial Executive within nine months and the National Physical Planning Commission and the Monuments and Historic Buildings Council within twelve months of the proposal having been sent.
3. Our Minister and Our Minister of Housing, Physical Planning and the Environment shall decide on designation or the withdrawal thereof within sixteen months of the proposal having been sent.
4. Our Minister shall publish notification of designation or the withdrawal thereof in the Government Gazette and he shall notify the Municipal Council, the Provincial Executive, the National Physical Planning Commission and the Monuments and Historic Buildings Council. He shall also publish notification of the designation or withdrawal thereof in the appropriate daily newspapers.

### Section 36

1. The Municipal Council shall draw up local plans as referred to in the Town and Country Planning Act (Bulletin of Acts, Orders and Decrees 1985, 626) for the purpose of



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- protecting a town or village conservation area. In the event of the designation of a town or village conservation area, a time limit can be set for this.
2. In the event of the designation of a town or village conservation area, the question of whether existing local plans may be considered as protective within the meaning of the previous subsection shall be determined.

#### Section 37

1. In town and village conservation areas it is prohibited to demolish buildings either entirely or partially without a written permit (demolition permit) from the Burgomaster and Aldermen or in contravention of such a permit.
2. A demolition permit is not required for demolition on the grounds of an order from the Burgomaster and Aldermen.
3. Sections 21 to 23 (inclusive) of the Urban and Village Renewal Act (Bulletin of Acts, Orders and Decrees 1984, 406) shall apply.

#### Section 38

The Municipal Council can file an appeal with the Crown against a decision taken under Section 35 within two months of the date of publication of the notification of designation or the withdrawal thereof in the Government Gazette.

### CHAPTER V. EXCAVATIONS AND FINDS

#### Section 39

1. It is prohibited to carry out excavations without a written permit from Our Minister.
2. The permit can be issued to a government service, an establishment for university education or a municipality.
3. The permit shall be refused if:
  - a. there are grounds for assuming that the applicant is not qualified to carry out excavations;
  - b. it may be reasonably expected that the applicant is not capable of carrying out excavations;
  - c. the applicant is a municipality which does not have a repository suitable for archeological finds as referred to in Section 44.
4. Our Minister may attach conditions to a permit.
5. The permit shall be issued for a particular excavation or for a particular site and for a certain time or until further notice.
6. Our Minister can withdraw a permit if the permit-holder is carrying out the excavations in an incompetent manner, if he is not complying with the conditions of the permit or is in any other way making improper use of the permit.

#### Section 40

1. An application for a permit as referred to in Section 39 shall be submitted in writing to Our Minister.
2. Having heard the Monuments and Historic Buildings Council, Our Minister shall come to a decision within six months of receiving the application. This period may be extended once for a maximum of three months.

#### Section 41

The permit-holder shall notify the Director of the National Archeological Field Survey Service of

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the commencement and termination of an excavation.

#### Section 42

Our Minister may determine that the rightful claimant of a site shall tolerate a government authority or establishment as referred to in Section 39, subsection 2 entering a site in the interests of archeological examination, taking measurements there or carrying out excavations. Insofar as the rightful claimant suffers any loss through this, he shall be compensated by the State. The court in whose jurisdiction the site or the largest part thereof is situated shall be notified of legal claims for the compensation of such loss.

#### Section 43

1. Movable monuments which are found during excavations and of which no-one can prove title to ownership shall be the property of the State.
2. Contrary to the provisions of subsection 1, movable monuments which have been found during legal excavations by a municipality and of which no-one can prove title to ownership shall be the property of the municipality.
3. The owner of the land on which the movable monuments have been found shall receive an amount equal to half the value of those monuments from their owner.
4. The court referred to in Section 42 shall be notified of legal claims in the matter of compensation.

#### Section 44

1. Our Minister can designate a building or part thereof as a repository for archeological finds if they fulfil the requirements he considers necessary for storing movable monuments in a responsible manner.
2. Our Minister may withdraw a decision as referred to in subsection 1.

#### Section 45

1. Having heard the Monuments and Historic Buildings Council, Our Minister shall assign movable monuments which are the property of the State and which have been found during excavations to repositories for archeological finds. From the time such objects are handed over to a repository for archeological finds they shall be the property of the owner of the repository.
2. Conditions may be attached in the interests of the preservation of monuments to the assignment as referred to in subsection 1.

#### Section 46

If so requested, the excavator shall be given access to movable monuments found during an excavation for which, under the provisions of this act, he was authorised or such monuments shall be made available to him temporarily for scientific research.

#### Section 47

1. Any person who finds, other than during an excavation, a thing which he may reasonably expect to be a monument is bound to report the find within three days.
2. The matter shall be reported to the Burgomaster of the municipality in which the find was made, or, if the find was made outside the boundary of a municipality, to Our Minister.
3. The Burgomaster shall inform the Director of the National Archeological Field Survey Service of such a report immediately.

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### Section 48

The rightful claimants of a movable monument as referred to in Section 47 are bound to keep the monument available or to make it available for scientific research for six months from the date of the report referred to in the previous section.

### Section 49

1. Having heard the Monuments and Historic Buildings Council, Our Minister can, for the purposes of scientific research, issue instructions with respect to the carrying out of work during which a thing as referred to in Section 47 has been found, or he can order such work to stop entirely or in part either for a certain length of time or indefinitely.
2. Loss incurred through a measure as referred to in subsection 1 shall be compensated by the State. The court under whose the find has been made shall be notified of such legal action for compensation.

## CHAPTER VI. THE MONUMENTS AND HISTORIC BUILDINGS COUNCIL

### Section 50

1. There is a Monuments and Historic Buildings Council which shall advise Our Minister either on request or of its own accord on matters which relate to monuments and historic buildings or to town and village conservation areas.
2. This Council shall furthermore carry out the activities with which it has been charged by law, by Royal Decree or by Our Minister.

### Section 51

1. The Monuments and Historic Buildings Council shall consist of between twenty and forty members.
2. The chairman and other members shall be appointed by Royal Decree and discharged on the recommendation of Our Minister.
3. The members of the Monuments and Historic Buildings Council shall be appointed for a period to be determined by Royal Decree; membership shall end on attaining the age of seventy.
4. The Monuments and Historic Buildings Council shall appoint a deputy chairman from among its members.

### Section 52

The Monuments and Historic Buildings Council shall consist of the following five sections:

Section I. The National Archeological Field Survey Commission;

Section II. The National Historic Monuments Commission;

Section III. The National Commission for Museums;

Section IV. The National Commission for the Description of Monuments and Historic Buildings;

Section V. The National Commission for the Protection of Monuments against Disasters and War Damage.

### Section 53

1. The Monuments and Historic Buildings Council shall have a secretariat.
2. The secretary of the Monuments and Historic Buildings Council shall be appointed and dismissed by Our Minister.



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### Section 54

1. The Monuments and Historic Buildings Council shall, with the approval of Our Minister, establish regulations on its working methods.
2. The Monuments and Historic Buildings Council may set up commissions which include people who are not members of the Monuments and Historic Buildings Council.

### Section 55

1. The members of the Monuments and Historic Buildings Council and its commissions may be awarded an attendance fee by Our Minister.
2. The members of the Monuments and Historic Buildings Council and its commissions shall be compensated for travel and accommodation expenses in accordance with what has been determined in this respect for civil servants.

## CHAPTER VII. PENALTIES

### Section 56

1. Any person who wilfully contravenes Section 11 in conjunction with Section 37, subsection 1, or a measure taken on the grounds of Section 49, subsection 1 shall be penalised with a prison sentence of one year at the most or a category five fine.
2. Any person who wilfully contravenes Section 39, subsection 1 or Section 47, subsection 1 shall be penalised with a prison sentence of one year at the most or a category five fine.
3. The offences are crimes.

### Section 57

1. Any person who contravenes Section 11, Section 37, subsection 1 or a measure taken on the grounds of Section 49, subsection 1, shall be penalised with a maximum of six months' detention or a category five fine.
2. Any person who contravenes either Section 39, subsection 1 or Section 47, subsection 1 shall be penalised with a maximum of six months' detention or a category five fine.
3. The offences are misdemeanours.

### Section 58

1. Our Minister or Burgomaster and Aldermen can designate people who are charged with supervising adherence to the provisions of or pursuant to this act.
2. The investigation of the indictable offences referred to in Sections 56 and 57 shall be carried out by the people designated in article 141 of the Code of Criminal Procedure, as well as by the officials designated by Our Minister or by the Burgomaster and Aldermen as such, in accordance with the officials designated by Our Minister of Justice who are charged with the supervision referred to in subsection 1.
3. The officials referred to in subsections 1 and 2 shall at all times have access to all protected monuments insofar as this is reasonably required for the carrying out of their duties. If necessary they shall gain access with the help of the police. They are authorised to be accompanied by people charged by Our Minister with carrying out the work which he has instructed under the provisions of Section 31.
4. Written authorisation from the Public Prosecutor is required to enter a building without the occupant's permission.
5. Any person who enters a building without the occupant's permission shall draw up a written report of the event under oath or affirmation of office. The report shall be sent to

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the Public Prosecutor no later than four days after the day on which the event has taken place. A copy of the report shall be handed to or posted to the occupant within the same period of time.

## CHAPTER VIII. TRANSITIONAL AND FINAL PROVISIONS

### Section 59

1. As long as a municipal bylaw as referred to in Section 15 has not entered into force, Our Minister shall decide on applications for a permit as referred to in Section 11.
2. Sections 17 to 21 (inclusive) shall apply to a decision on an application.

### Section 60

The Dutch Monument and Historic Buildings Act (Bulletin of Acts, Orders and Decrees 1961, 200) is rescinded.

### Section 61

1. Decisions taken on the grounds of Sections 9, 14, 17, 20, 22, subsection 2, 23, subsection 1, 25, subsection 1 or 31, subsection 1 of the Dutch Monument and Historic Buildings Act (Bulletin of Acts, Orders and Decrees 1961, 200) shall be considered as decisions as referred to in respectively Sections 3, subsection 4, 11, 30, 31, 35, 39, subsection 1, 42, 49 or 58, subsection 1 of this act.
2. If an appeal can still be filed or has been filed against decisions taken on the grounds of those sections of the Dutch Monument and Historic Buildings Act (Bulletin of Acts, Orders and Decrees 1961, 200) referred to in subsection 1, then such appeals shall be dealt with with due regard to Sections 26 and 27 of that act.

### Section 62

1. Notifications which have been sent under the provisions of Section 8 of the Dutch Monument and Historic Buildings Act (Bulletin of Acts, Order and Decrees 1961, 200) shall be dealt with with due regard to Sections 8 and 9 of that act.
2. Applications for permits as referred to in Section 14 of the Dutch Monument and Historic Buildings Act (Bulletin of Acts, Orders and Decrees 1961, 200), which were submitted before the present act came into force, shall be dealt with in accordance with Section 15 of the former act.

### Section 63

1. The register, the recording and the entry referred to in Section 10 of the Dutch Monument and Historic Buildings Act (Bulletin of Acts, Orders and Decrees 1961, 200) shall apply respectively as the register, the recording and the entry referred to in Section 6 of this act.
2. The writ for the collection of costs owing under the Dutch Monument and Historic Buildings Act (Bulletin of Acts, Orders and Decrees 1961, 200) as referred to in Section 19 of that act shall apply as a writ for the collection of the costs owing under the present act as referred to in Section 33.

### Section 64

Decision taken under the provisions of Section 23, subsection 2 of the Dutch Monument and Historic Buildings Act (Bulletin of Acts, Order and Decrees 1961, 200) shall remain valid after the

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recision of the act. Section 61, subsection 2 of this act shall apply by analogy.

Article 65

1. The Monuments Council referred to in Section 3, subsection 1 and the five sections referred to in Section 5 of the Dutch Monument and Historic Buildings Act (Bulletin of Acts, Orders and Decrees, 1961, 200) shall apply respectively as the Monuments and Historic Buildings Council referred to in Section 50, subsection 1 and the five sections referred to in Section 52 of the present act.
2. The appointments under the provisions of Section 4 of the Dutch Monument and Historic Buildings Act shall apply as appointments referred to in Section 51 of the present act.
3. Regulations issued under the provisions of Section 6 of the Dutch Monument and Historic Buildings Act (Bulletin of Acts, Orders and Decrees 1961, 200) shall apply as regulations as referred to Section 54, subsection 1 of the present act.

Section 66

The Cultural Heritage Preservation Act (Bulletin of Acts, Orders and Decrees 1984, 49) shall be amended as follows:

Section 1 (d) shall be replaced by:

- d. The Commission: the National Commission for Museums referred to in Section 52 of the Monuments and Historic Buildings Act 1988 (Bulletin of Acts, Orders and Decrees 638).

Section 67

The Town and Country Planning Act (Bulletin of Acts, Orders and Decrees 1985, 626) shall be amended as follows:

A

Section 28, subsection 2, second sentence shall read:  
Before taking a decision they shall consult the Provincial Committee on Town and Country Planning.

B

Section 28, subsection 5, second sentence shall be scrapped.

C

Section 37, subsection 8 shall be scrapped.

D

Section 40, subsection 2(b) shall read:  
b. Before taking a decision the Provincial Executive shall consult the Provincial Committee on Town and Country Planning;

E

Section 46, subsection 6 shall read:  
6. The withholding referred to in subsection 5 shall continue until an irrevocable decision has been

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taken on a local plan to be established or revised which complies with the provisions of Section 36 of the Monuments and Historic Buildings Act.

#### Section 68

The Housing Act (Bulletin of Acts, Orders and Decrees 1964, 222) 1) shall be amended as follows:  
6. The withholding referred to in subsection 5 shall continue until an irrevocable decision has been taken on a local plan to be established or revised which complies with the provisions of Section 36 of the Monuments and Historic Buildings Act.

#### Section 69

Sections 13 to 18 (inclusive) and footnote 3 of annex 2 of the Act of 22 December 1983 Containing Regulations on the Financial Consequences for Provinces and Municipalities of Government Policy in the Matter of Government Grants to Provinces and Municipalities (Bulletin of Acts, Orders and Decrees 649) shall be scrapped.

#### Section 70

The Income Tax Act 1964 (Bulletin of Acts, Orders and Decrees) 2) shall be amended as follows:  
In Section 42a, subsection 7, second sentence "Section 10 of the Dutch Monument and Historic Buildings Act (Bulletin of Acts, Orders and Decrees 1961, 200)" shall be replaced by "Section 6 of the Monuments and Historic Buildings Act 1988 (Bulletin of Acts, Orders and Decrees 638).

#### Section 71

The Act Concerning the Taxation of Legal Transactions (Bulletin of Acts, Orders and Decrees 1970, 611) 1) shall be amended as follows:  
In Section 15, subsection 1(p) "Dutch Monument and Historic Buildings Act (Bulletin of Acts, Orders and Decrees 1961, 200)" shall be replaced by "The Monuments and Historic Buildings Act 1988 (Bulletin of Acts, Orders and Decrees 638).

#### Section 72

This act shall enter into force at a time to be determined by Royal Decree.

#### Section 73

This act may be cited as the Monuments and Historic Buildings Act with reference to the year of the Bulletin of Acts, Orders and Decrees in which it will be published.

We order and command that this act shall be published in the Bulletin of Acts, Orders and Decrees, and that all ministerial departments, authorities, bodies and officials whom it may concern shall diligently implement it.

Done at The Hague, 23 December 1988

Beatrix

The Minister of Welfare, Health and Cultural Affairs,  
L.C. Brinkman

The Minister of Housing, Physical Planning and the Environment  
E.H.T.M. Nijpels

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Published 30 December 1988

The Minister of Justice  
F. Korthals Altes

- 1) Last amended by the act of 16 June 1988 Bulletin of Acts, Orders and Decrees, 305
- 2) Last amended by the act of 21 December 1988 Bulletin of Acts, Orders and Decrees, 622

See for the debate in the States General:

Parliamentary papers II 1986/87, 1987/88 no. 19881

Session II 1987/88, p. 3524-3568, 3824, 3859

Parliamentary papers I 1987/88, 19881 (no. 209); 1988/89, 19881 (no. 29, 29a, 29b, 29c, 29d)

Proceedings I 1988/89, see session of 21 December 1988