



Ministry of Transport, Public Works  
and Water Management

# Water Act



# Colophon

Translation	Polltaal Vertalingen Gabriëlle van Poll - Bakhuizen van den Brink
Information Telephone	Legal Department +31 70 351 61 71
Photography	Ministry of Transport, Public Works and Water Management
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# Bill

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

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

Whereas We have considered that the government, in its concern for the quality of life in the country and for the protection and improvement of the environment, faces a major challenge where this concern relates to water management, and that it is desirable with a view to an effective and efficient approach of water management to rationalise and modernise the available statutory instruments and, in doing so, to focus on an integrated management of water systems;

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:

We order and command that this Act be entered in the Bulletin of Acts, Orders and Decrees and that all involved ministries, authorities, boards and civil servants shall ensure its proper implementation.

Done at The Hague, 29 January 2009

Beatrix

The State Secretary of Transport, Public Works and Water Management,  
J.C. Huizinga-Heringa

Published on the twelfth of March 2009  
The Minister of Justice,

E.M.H. Hirsch Ballin



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# Chapter 1.

## General Provisions

### § 1. Definitions

#### Section 1.1

1. The following definitions shall apply in this Act and the provisions based thereon, unless otherwise provided:

*body of groundwater*: distinct volume of groundwater;

*body of surface water*: a distinct volume of water on the surface of the earth, including the substances therein as well as its bed, shore and, where explicitly designated pursuant to this act, dryer shore areas, as well as flora and fauna;

*dike ring*: system of primary flood defence structures that, either alone or in combination with high ground, provides protection against flooding, in particular by external water;

*external water*: water in a body of surface water, the level of which is directly influenced by high storm surges, high water levels in one of the major rivers, high water levels in the IJsselmeer or the Markermeer or a combination thereof;

*extraction plant*: establishment or site for the purpose of extracting groundwater;

*groundwater extraction*: extraction of groundwater by means of an extraction plant;



*groundwater*: water below the surface of the earth, including the substances therein;

*management*: government activity with regard to one or more individual water systems or parts thereof directed at achieving the objectives referred to in section 2.1;

*national waters*: water systems or parts thereof managed by the State;

*Our Minister*: Our Minister of Transport, Public Works and Water Management;

*Our Ministers*: Our Minister of Transport, Public Works and Water Management in combination with Our Ministers of Housing, Spatial Planning and the Environment and of Agriculture, Nature and Food Quality, each insofar as the matters concerned are part of his/her shared responsibility;

*primary flood defence structure*: flood defence structure that offers protection against flooding by virtue of the fact that it forms part of a dike ring or is situated in front of a dike ring;

*protection zone*: a zone adjacent to a water management structure in which regulations and restrictions may apply for the protection of that structure;

*public sewer*: facility for the collection and transport of urban waste water, managed by a municipality or a corporation charged with such management by a municipality;

*recharge of water*: introduction of water into the soil for the purpose of supplementing the groundwater, in connection with groundwater extraction;

*regional waters*: water systems or parts thereof that are not managed by the State;

*river basin district*: area as referred to in section 2 subsection 15 of the Water Framework Directive;

*river basin management plan*: plan as referred to in section 13 of the Water Framework Directive;

*sea*: marine waters, not including the inland waters of states, including the seabed and the subsoil thereof;

*storage area*: an area designated for purposes of water management pursuant to the Spatial Planning Act that is not a body of surface water or part thereof, intended for expansion of the storage capacity of one or more water systems and registered as storage area;

*UN Convention on the Law of the Sea*: the UN Convention on the Law of the Sea done on 10 December 1982 (Treaty Series 1983, 83);

*urban waste water*: household waste water or a mixture thereof with industrial waste water, rainwater run-off, groundwater or other waste water;

*water authority*: the competent administrative authority of the public body charged with management;

*Water Framework Directive*: Directive 2000/60/EC of the European Parliament and of the Council of the European Union of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ L 327);

*water management structure*: body of surface water, storage area, flood defence structure or ancillary structure;

*water management*: government activity by public bodies directed at achieving the objectives referred to in section 2.1;

*water permit*: permit as referred to in sections 6.2, 6.3, 6.4, 6.5, 6.13, 6.18 or 6.19;

*water system*: distinct volume of water consisting of one or more bodies of surface water and groundwater as well as storage areas, flood defence structures and ancillary structures;

*water treatment plant*: plant for the treatment of urban waste water, exploited by a water board or a municipality or a corporation charged with the treatment of urban waste water by the management of a water board, including transport of urban waste water in the course of those activities;

2. For the purposes of this Act extraction plants that form an entity shall be regarded as one single extraction plant.
3. For the purposes of this Act, where the sea is involved, a body of surface water shall also include the subsoil of the seabed.

## § 2. Geographical provisions

### Section 1.2

1. For the purposes of this Act and the concept of river basin district therein, the territory of the Netherlands shall be subdivided into those segments of the Ems, Meuse, Rhine and Scheldt river basin districts that are situated on Dutch territory. For the purposes of this section, Dutch territory shall include the territorial sea on the landward side of a line every point of which is at a distance of one nautical mile from the seaward side of the low tide line referred to in section 1 of the Dutch Territorial Sea (Limits) Act or the baseline referred to in section 2 of that Act.
2. The mutual boundaries of the Dutch parts of the river basin districts shall be determined by or pursuant to administrative order. This administrative order shall also assign the various bodies of groundwater to the relevant river basin districts.
3. In preparing this administrative order, Our Ministers shall hear the Provincial Executive of the provinces concerned and the water authorities as well as the competent authorities of the other states in the river basin district.

### Section 1.3

1. The dike rings and the primary flood defence structures shall be indicated on the maps appended to this Act as Annexes I and IA.
2. The Annexes referred to in subsection 1 may be amended by administrative order. The Provincial Executive and the water authorities responsible for the dike rings and primary flood defence structures concerned shall be heard in the course of the preparation of this administrative order.
3. An administrative order as referred to in subsection 2 shall come into force no earlier than three months from the date it was submitted to both Houses of the States General.

### Section 1.4

This Act shall also apply in the Dutch exclusive economic zone.

# Chapter 2.

## Objectives and Standards

### § 1. Objectives

#### Section 2.1

1. The purpose of this Act shall be to:
  - a. prevent and, where necessary, limit flooding, swamping and water shortage; while simultaneously
  - b. protecting and improving the chemical and ecological status of water systems; and allowing water systems to fulfil societal functions; and
  - c. allowing water systems to fulfil societal functions.
2. This Act shall be also directed at achieving other objectives than those referred to in the first subsection, insofar as this is laid down elsewhere in this Act.

## § 2. Flood defence safety standards

### Section 2.2

1. Annex II to this Act shall lay down the safety standard for each dike ring as the average annual overtopping probability of the highest high-water level that the primary flood defence structure erected as direct defence against external water must be designed to withstand, also taking into account other factors that determine the flood defence capacity of such structures. Section 1.3 subsections 2 and 3 shall apply mutatis mutandis.
2. In keeping with and in substitution of the overtopping probability referred to in subsection 1, the safety standard for each dike ring shall be further specified by ministerial order as the average annual probability of flooding of the area protected by the dike ring as a result of the breach of a primary flood defence structure.
3. Primary flood defence structures not erected as a direct defence against external water must, as long as a safety standard as referred to in subsection 2 has not been laid down for the dike ring around the area with respect to which it has a flood defence function, offer at least the same degree of safety as on 15 January 1996.

### Section 2.3

1. A ministerial order shall specify the ratio between high-water levels and the probability that these will be exceeded that shall form the basis for determining the flood defence capacity of primary flood defence structures for specifically indicated locations. Such order may also specify the significance of other relevant factors.
2. The factors referred to in subsection 1 shall be specified every six years.

### Section 2.4

A safety standard shall be laid down by administrative order, having heard the Provincial Executive, or by provincial order, for flood defence structures specified therein that are not primary flood defence structures managed by the State or another water authority respectively.

### Section 2.5

A ministerial order, having heard the Provincial Executive, or a provincial order shall specify, for flood defence structures specified therein that are not primary flood defence structures managed by the State or another water authority respectively, the ratio between water levels and the probability that these will be exceeded that shall form the basis for determining the flood defence capacity of primary flood defence structures for specifically indicated locations. Such order may also specify the significance of other relevant factors.

### Section 2.6

Our Minister shall arrange for the drawing up and availability of technical guidelines for the design, management and maintenance of primary flood defence structures. These guidelines shall serve as recommendation for the water authorities.

### Section 2.7

1. Landward displacement of the coastline shall be prevented or remedied by authority of the government, where deemed necessary by Our Minister in view of the safety standard to be met in consequence of this Act.
2. The coastline as referred to in subsection 1 shall be indicated on a map made available free of charge by Our Minister that shall be updated every six years. The availability of the map shall be announced in the Government Gazette.

## § 3. Standards regarding water quantity, water quality and fulfilment of functions

### Section 2.8

Standards shall be laid down by provincial order with regard to the average annual overtopping probability of the areas designated therein with a view to determining the appropriate storage and conveyance capacity for regional waters.

### Section 2.9

1. The priority of social and ecological needs that shall determine the distribution of available surface water in the event or threat of a water shortage shall be laid down by administrative order.
2. Further rules shall be laid down by or pursuant to that order or, in cases designated in such order, by provincial order, regarding the priority referred to in subsection 1. These rules may also provide for application *mutatis mutandis* of that priority to the available surface water.

### Section 2.10

Standards for the chemical and ecological status of water systems shall be laid down on the basis of Chapter 5 of the Environmental Management Act in accordance with the system of environmental objectives listed in Section 4 of the Water Framework Directive.

### Section 2.11

Standards may be laid down by administrative order for national waters and, with a view to international obligations or supra-regional interests, for regional waters, regarding functions that may be assigned to these waters pursuant to Chapter 4. For regional waters, such standards may also be laid down by or pursuant to provincial order.

## § 4. Monitoring and assessment

### Section 2.12

1. The water authority shall submit a report on the general structural condition of a primary flood defence structure to the Provincial Executive every six years.
2. The water authority responsible for external waters, i.e. the major rivers, shall submit a report to the Provincial Executive on the degree of compliance with the ledger for these waters, also taking into account the high-water levels referred to in section 2.3 subsection 1.
3. The Provincial Executive shall submit a report to Our Minister on each of the dike rings in its territory for every period as referred to in subsection 1, on the understanding that where a dike ring is situated in more than one province the Provincial Executives of the provinces concerned shall submit a joint report to Our Minister. Our Minister shall forward the reports of the Provincial Executive, as well as his comments thereon, to both Houses of the States General.
4. The reports referred to in subsection 1 shall include a safety assessment. This assessment shall also take into account the safety standard laid down pursuant to section 2.2 subsections 1 or 2, the factors specified pursuant to section 2.3 subsection 1, the technical guidelines referred to in section 2.6 subsection 1 and the ledger referred to in section 5.1. Further rules applying to the assessment shall be laid down by ministerial order.
5. If the safety assessment so warrants, the reports referred to in subsection 1 shall include a description of the measures deemed necessary within a specified period of time.
6. Within one year after the forwarding referred to in subsection 3, final sentence, Our Minister shall submit to both Houses of the States General, together with the programme referred to in Section 7.23 subsection 1, an overview of measures taken by the water authorities with regard to primary flood defence structures that are shown in the reports referred to in subsection 1 to fall short of the safety standard referred to in Section 2.2 subsections 1 and 2.

### Section 2.13

Our Minister shall submit a report on the effectiveness and impact of the safety standard in Annex II to both Houses of the States General every twelve years.

### Section 2.14

Without prejudice to section 2.12, rules may be laid down by or pursuant to administrative order or by or pursuant to provincial order on periodic monitoring by a water authority of parameters to be specified in such order and the evaluation based on these monitoring results of the degree of compliance with the standards referred to in subsections 2 and 3, where such standards were laid down by the State or at a provincial level respectively.

# Chapter 3.

## Organisation of Water Management

### § 1. Assignment of management and due care responsibilities

#### Section 3.1

1. The water systems that shall be wholly or with the exception of designated sections administered by the State shall be designated by or pursuant to administrative order.
2. The boundaries of bodies of surface water covered by subsection 1 shall also be laid down by or pursuant to administrative order. For this purpose, the bodies of surface water of rivers shall be limited by the outer crown line of a primary flood defence structure where such a primary flood defence structure is indicated on the map in Annex 1 to this Act or, in the absence of such a line, a similar line to be designated in that order with respect to the grounds destined to resist high water.
3. By or pursuant to administrative order, grounds within a body of surface water may be designated dryer shore areas as referred to in section 1.1.
4. A proposal for an order as referred to in subsection 1 shall be made after consultation of the Provincial Executives of all provinces as well as the management of all Water Boards on the content thereof.
5. A proposal for an administrative order containing an amendment of the designation referred to in subsection 1 may be made only after Our Minister, the other water authority concerned and the Provincial Executive have reached agreement on a management transfer or takeover as referred to therein.



### Section 3.2

1. Administrative authorities shall be charged, by provincial order, with the management of water systems or sections thereof that are not managed by the State, taking into account section 2 subsection 2 of the Water Boards Act.
2. Where other administrative authorities than water boards have been charged with such management by provincial order, sections 4.6, 5.1, 7.2, 8.1 and 8.3 of this Act shall not apply to the authorities concerned, nor shall section 5.29 if those authorities are provinces or municipalities, except where those sections are declared applicable to water management structures designated by or pursuant to that order in connection with the special significance of those water management structures.
3. Section 3.1 subsection 3 shall apply mutatis mutandis.

### Section 3.3

1. In order to ensure the timely taking of measures in the event of high water that may constitute a danger to a primary flood defence structure erected as direct defence against external water, Our Minister shall ensure that:
  - a. information shall be made available on the expected deviation from the high water levels published by Our Minister for that purpose;
  - b. warnings shall be issued and further information shall be made available to the water authorities responsible for primary flood defence structures and the Provincial Executives concerned as soon as, in the event of a storm surge, high water in one of the major rivers, high water in the IJsselmeer or the Markermeer or a combination thereof, the high-water level is expected to exceed the alert level.
2. Alert levels as referred to in subsection 1 (b) shall be laid down every six years by order of Our Minister, published in the Government Gazette.

### Section 3.4

1. Urban waste water discharged into a public sewer shall be treated in an establishment destined for this purpose under the responsibility of a water board. Such an establishment may be operated by the water board itself or by a legal entity charged with such treatment by the management of the water board.
2. Without prejudice to subsection 1 the management of the water board concerned and the council of the municipality concerned may decide, at the suggestion of one of the parties involved, that treatment of urban waste water specified in that decision shall, in that municipality, as of a date specified in that decision, be treated in an establishment destined for this purpose under responsibility of that municipality. A decision as referred to in the previous sentence may be taken only on the grounds that this is evidently more efficient for the treatment of urban waste water.

3. The management of the water board and the council of the municipality concerned shall give a ruling on a suggestion as referred to in subsection 2 within one year from the date on which it was received by the council of the municipality concerned or the management of the water board. In the absence of agreement within that period the matter shall be decided by the Provincial Executive, having heard both parties.

### Section 3.5

1. The municipal council and the municipal executive shall ensure the efficient collection of rainwater run-off to the extent that the person who disposes of it, intends to dispose of it or must dispose of it cannot, in all fairness, be expected to recharge such rainwater run-off on or into the ground or into the surface water.
2. The municipal council and the municipal executive shall also ensure the efficient processing of the rainwater collected. Processing of rainwater shall include at least the following measures: storage, transport, effective use or recharge, whether or not after treatment, on or into the ground or into the surface water of collected rainwater as well as its transportation to a treatment plant.

### Section 3.6

1. The municipal council and the municipal executive shall ensure that measures are taken in the public municipal area to preclude or limit, as far as possible, a structurally adverse influence by the groundwater level on the purpose allocated to that area to the extent that the taking of such measures is effective and is not the responsibility of the water board or the province.
2. The measures referred to in subsection 1 shall also include the processing of collected groundwater, and also storage, transport, effective use or recharge, whether or not after treatment, on or into the ground or into the surface water and its transportation to a treatment plant.

## § 2. Cooperation between competent authorities

### Section 3.7

1. Water authorities responsible for of water systems in one and the same river basin district shall, where necessary with a view to coordinated and efficient water management, draw up water agreements that regulate those mutual aspects of such management as exceed their management area.
2. Water authorities may invite another public authority to participate in a water agreement if such authority is responsible for a water management duty that is not carried out by the water authority concerned.
3. Further rules with regard to water agreements may be laid down by or pursuant to administrative order or, in the case of water agreements that exclusively regard regional waters, provincial order.

### Section 3.8

Water boards and municipalities shall ensure the required coordination of responsibilities and competences including the independent intake, collection and treatment of waste water with a view to coordinated and efficient water management.

## § 3. Supervision by higher authority

### Section 3.9

1. The Provincial Executive shall be responsible for the supervision of all primary flood defence structures in the province concerned.
2. If a primary flood defence structure is situated in more than one province, the Provincial Executives of the provinces concerned may decide by means of concurrent decisions that the supervision of such flood defence structure shall be carried out by the Provincial Executive of one of those provinces.

### Section 3.10

1. Rules may be laid down by or pursuant to provincial order regarding the dissemination of information by the management of water boards with a view to coordinated and efficient regional water management.
2. If international obligations or supra-regional considerations make this necessary, rules may be laid down by or pursuant to administrative order regarding the information to be disseminated by the management of provinces, water boards or municipalities with a view to such water management.

### Section 3.11

1. Rules regarding the preparation, adoption, amendment and content of plans, decisions or water agreements as referred to in section 3.7 subsection 1, to be adopted by the management of water boards, directed at coordinated and efficient regional water management, may be laid down by or pursuant to provincial order.
2. If international obligations or supra-regional considerations require this, rules may be laid down by or pursuant to administrative order on the preparation, adoption, amendment and content of plans, decisions or water agreements as referred to in section 3.7 subsection 1, to be adopted by the management of water boards, directed at coordinated and efficient regional water management.

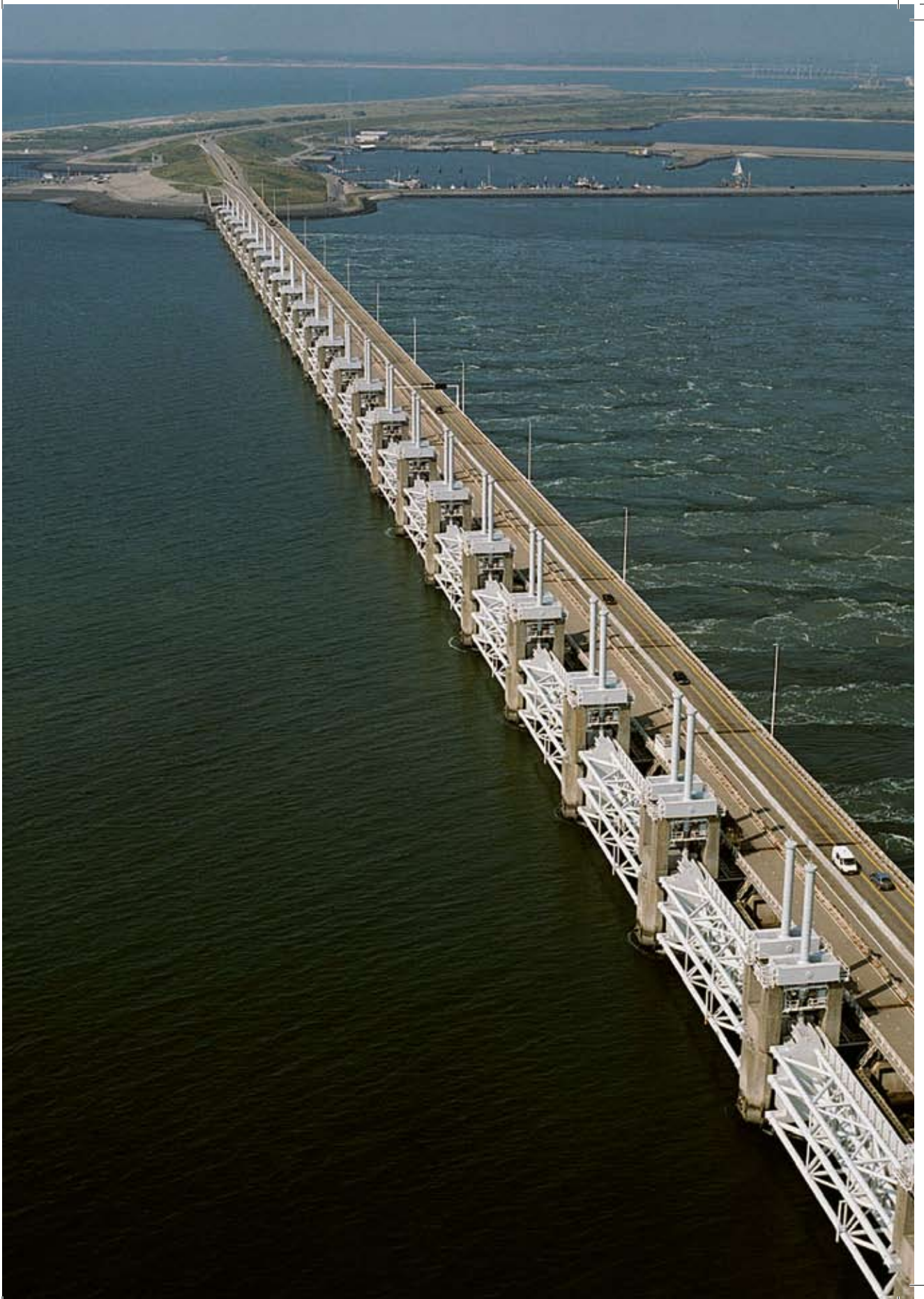
### Section 3.12

1. The Provincial Executive may, if a coordinated and efficient regional water management requires this, issue an instruction to the management of a water board regarding the exercise of duties or competences. If the area of jurisdiction of the water board concerned is situated in two or more provinces, the instruction shall be issued by the Provincial Executive or Executives of the province or provinces concerned charged with supervision of that water board.
2. The instruction shall specify a period within which the instruction is to be carried out.

3. An instruction shall not be issued until the management of the water board has had the opportunity to express its opinion regarding the intention to issue an instruction, unless urgent circumstances prevent this.
4. If the management of a water board does not or does not adequately take a decision as required under subsection, 1 the Provincial Executive shall be authorised to do so on behalf of that management and for the account of that water board. If the Provincial Executive makes use of this authorisation Our Minister shall be informed of that fact without delay.

### Section 3.13

1. Our Minister may, if international obligations or supra-regional considerations require this, issue an instruction to the provincial Executive or the management of a water board regarding the exercise of duties or competences regarding water management. Section 3.13 subsection 2 shall apply mutatis mutandis.
2. An instruction shall not be issued until the administrative authority concerned and, if the instruction is addressed to the management of a water board, the Provincial Executive or Executives of the province or provinces charged with supervision of that water board, has or have had the opportunity to express its or their opinion regarding the intention to issue an instruction, unless urgent circumstances prevent this.
3. If the management of a water board does not or not adequately take a decision as required under subsection 1, the Provincial Executive shall be authorised to do so on behalf of that council and for the account of the public authority concerned.



# Chapter 4.

## Plans

### § 1. The national water plan

#### Section 4.1

1. Our Ministers shall draw up a national water plan containing the main elements of national water policy and the associated aspects of national spatial policy. The spatial aspects of this plan shall also constitute a structure plan as referred to in section 2.3 subsection 2 of the Spatial Planning Act.
2. The main elements shall at least include:
  - a. an indication, in the light of the statutory objectives and standards, of the desired development, operation and protection of the water systems and the corresponding timetable;
  - b. description of the measures and provisions needed to realise such development, operation and protection;
  - c. an indication of the likely financial and economic consequences of the proposed policy.
3. The plan shall also include:
  - a. river basin management plans for the Rhine, Meuse, Scheldt and Ems river basin districts, insofar as these regard or also regard Dutch territory;
  - b. North Sea policy;
  - c. the functions of the national waters.

## Section 4.2

Once adopted, Our Ministers shall submit the national water plan to the States General.

## Section 4.3

1. Rules shall be laid down by or pursuant to administrative order on the preparation, format and content of the national water plan, including the river basin management plans for the Rhine, Meuse, Scheldt and Ems river basin districts insofar as these regard or also regard Dutch territory. These rules shall at least provide for:
  - a. the manner in which the draft plan shall be prepared in joint consultation with representatives of the management of all provinces and water boards as well as the municipal councils;
  - b. consultation of the competent authorities of the other states in the Rhine, Meuse, Scheldt and Ems river basin districts;
  - c. with regard to North Sea policy: consultation of the competent authorities of the other states concerned, and
  - d. public consultation of residents and interested parties.
2. Our Ministers shall notify the competent authorities of the states concerned of the comments received on the draft international river basin management plan where these comments do not exclusively regard the Dutch part of such plan.

## Section 4.4

1. The Provincial Executive shall draw up one or more regional water plans containing the main elements of the water policy to be pursued in the province and the associated aspects of provincial spatial policy. In terms of spatial aspects, these plans shall also constitute master plans as referred to in section 2.2 subsection 2 of the Spatial Planning Act.
2. The main elements shall encompass, among other things:
  - a. definition of the functions of the regional waters;
  - b. an indication, in the light of the statutory objectives and standards and in connection with the functions referred to under (a), of the desired development, operation and protection of the water systems and the corresponding timetable;
  - c. a description of the measures and provisions necessary to realise the development, operation and protection referred to under (b);
  - d. an indication of the likely financial and economic consequences of the proposed policy.
3. In cooperation with the Provincial Executives of neighbouring provinces the Provincial Executive shall ensure that, taken together, the regional water plans shall cover the complete territory of all the provinces.

#### Section 4.5

1. The Provincial Executive shall lay down rules by provincial order on the preparation, structure and organization of the regional water plan. These rules shall at least cover:
  - a. the manner in which the draft plan shall be prepared in joint consultation with the water authorities responsible for of the water systems in the province as well as the municipal councils;
  - b. consultation of Our Minister, the Provincial Executives of the neighbouring provinces and, with regard to water systems that form part of or transcend the national border, the German or Belgian authorities responsible for such water systems;
  - c. public consultation of interested parties and inhabitants of the province.
2. Once adopted, a regional water plan shall be submitted to Our Minister.

### § 3. Management plans

#### Section 4.6

1. A water authority shall draw up a management plan for the water systems under its management. In the case of regional waters such a plan shall take into account the regional water plan regarding those regional waters and, where there is or could be a relationship between the water systems concerned, must guarantee coordination with the management plans of other water authorities.
2. The plan shall include:
  - a. a programme of measures and provisions that, supplementary to and in elaboration of that included in the national or regional plan regarding the measures necessary for the development, operation and protection of national or regional waters respectively, including the corresponding timetables;
  - b. additional allocation of functions to national or regional waters where the national or regional plan respectively provides for such allocation;
  - c. the plans for the implementation of that management;
  - d. an indication of the financial resources needed to implement the programme and carry out that management.



### Section 4.7

1. Rules shall be laid down by or pursuant to administrative or provincial order on the preparation and approval as well as the structure and form of management plans for national or regional waters respectively. These rules shall at least cover:
  - a. consultation of:
    - the other water authorities referred to in section 4.6 subsection 1;
    - the Provincial Executives of the provinces concerned;
    - for regional waters: the municipal executive of the municipalities on whose territory the water systems of parts thereof are situated;
    - for rivers that form or transcend the national border: the competent Belgian, German or British authorities;
  - b. public consultation of interested parties and residents in the area concerned;
  - c. approval of a management plan for regional waters by the Provincial Executive.
2. The administrative or provincial order referred to in subsection 1 shall provide for submission or notification of a management plan, upon its adoption, to the agencies consulted in accordance with subsection 1 as well as to Our Minister.

## § 4. Periodic revision of plans

### Section 4.8

1. The plans referred to in this chapter shall be subject to revision once every six years. Interim revision of such plans shall also be allowed.
2. Rules may be laid down by administrative order regarding the term within which the revision of a plan must be operational.

# Chapter 5. Construction and Management of Water Management Structures

## § 1. General provisions

### Section 5.1

1. The water authority shall arrange for the establishment of a ledger listing the conditions that water management structures shall be subject to in terms of orientation, shape, dimension and construction. This register shall include a map showing the position of water management structures and adjoining protection zones.
2. The ledger shall include a technical management register regarding primary flood defence structures or flood defence structures subject to section 2.4, containing a description of the characteristics of the construction in terms of its flood protection capacity and its actual condition.
3. Further regulations may be laid down by or pursuant to provincial order or, in the case of water management structures managed by the State, administrative order, regarding the content, form and periodic revision of the ledger for categories of water management structures specified therein. Such order may also grant dispensation from the obligations with regard to specific water management structures for which those elements cannot, by virtue of their nature or function, be described, or the dimensions of which are small.

### Section 5.2

1. The water authority shall be required to lay down one or more formal decisions with regard to target levels for designated bodies of surface water or groundwater under its management.
2. A decision as referred to in subsection 1 shall lay down water levels or bandwidths within which water levels may vary, that shall, as far as possible, remain unchanged during the periods indicated.
3. Designation shall take place by or pursuant to administrative order in the case of national waters or, in the case of regional waters, provincial order. Such order may include further rules on national or regional waters respectively with regard to the formal decision on target levels.

### Section 5.3

Taking into account the rules laid down by or pursuant to Chapter 2, a water authority shall take the necessary measures for the safe and efficient use of the water management structures under its management in accordance with the functions allocated to those water management structures by virtue of Chapter 4.

### Section 5.4

1. The construction or modification of a water management structure by or on behalf of a water authority shall be executed in accordance with a project plan drawn up by that authority for that purpose. The erection of a structure to influence a body of groundwater shall be treated in a similar manner as the construction or modification of a water management structure.
2. The plan shall encompass, among other things, a description of the structure concerned and the manner in which it will be implemented, as well as a description of the measures that shall be taken with a view to the reversal or limitation of the adverse effects of such implementation.
3. If the plan involves the relocation of a primary flood defence structure it may also include measures to ensure that the area between the site where the original primary flood defence structure is situated and the place where the new primary flood defence structure is to be situated is in harmony with its surroundings.
4. Subsection 1 shall not apply if the Transport Infrastructure (Planning Procedures) Act or the Road Widening Emergency Act applies, or if section 3.5 of the Spatial Planning Act is implemented with regard to the structure involved.

## § 2. Project procedure for water management structures

### Section 5.5

This division shall apply to project plans to construct, relocate or reinforce primary flood defence structures and, in cases defined by or pursuant to provincial order, to water board management project plans to construct or modify flood defence structures other than primary flood defence structures and to other water management structures of supra-local significance that are to be erected promptly and in a coordinated manner.

### Section 5.6

1. Preparation of a project plan shall be subject to section 3.4 of the General Administrative Law Act.
2. A project plan shall also be deposited for inspection as referred to in section 3.11 of the General Administrative Law Act at the offices of the administrative authorities concerned. Everyone shall be free to submit an opinion on the plan.
3. A water authority shall adopt a project plan for the construction, relocation or reinforcement of a primary flood defence structure within twelve weeks of the expiry date of the period during which comments may be submitted. Once adopted, the water authority shall submit the plan to the Provincial Executive without delay.

### Section 5.7

1. A project plan shall be subject to approval by the Provincial Executive of the province on whose territory it is to be implemented.
2. If the plan regards a water management structure that is situated in more than one province the Provincial Executives of the provinces concerned may determine by corresponding decisions that the Provincial Executive of the province on whose territory the water management structure is mainly situated shall be responsible for approval of the project plan.
3. Contrary to section 10.31 subsections 2 and 3 of the General Administrative Law Act a decision regarding approval of a project plan for construction, relocation or reinforcement of a primary flood defence structure may not be deferred.

### Section 5.8

1. The Provincial Executive shall seek to coordinate the preparation of the decisions necessary to implement the project plan.
2. The Provincial Executive may demand all cooperation needed for successful coordination from other relevant authorities. These authorities shall extend such cooperation as is required of them.
3. If the plan regards a water management structure that is situated in more than one province the Provincial Executive of the provinces concerned may determine by corresponding decisions that the Provincial Executive of one of those provinces shall seek to coordinate the preparation of the decisions referred to in subsection 1.
4. A water authority shall also be authorised to request decisions as referred to in subsection 1 from the competent authorities.

### Section 5.9

1. The preparation of the decisions referred to in section 5.8 subsection 1 shall be subject to section 3.4 of the General Administrative Law Act, on the understanding that:
  - a. draft decisions shall be submitted to the Provincial Executive within a period of time to be specified by the Provincial Executive, which shall be responsible for submission as referred to in section 3.13 subsection 1 of that Act;
  - b. the Provincial Executive may apply section 3.11 subsection 1 and section 3.13 of that Act to the draft decisions;
  - c. everyone shall be free to submit an opinion;
  - d. contrary to section 3.18 of that Act, such decisions shall be taken within a period of time to be specified by the Provincial Executive;
  - e. the decisions shall be forwarded to the Provincial Executive without delay;
  - f. the Provincial Executive shall decide whether to apply section 3.18 subsection 2 of that Act.

### Section 5.10

Where a zoning plan requires permission as referred to in section 3.3 of the Spatial Planning Act for the construction of structures and the undertaking of activities, such requirement shall not apply in an area covered by an adopted project plan.

### Section 5.11

1. If an administrative authority, other than a State authority competent in first instance to give a ruling on a request for a decision necessary for the implementation of the project plan, fails to submit or is late in submitting a draft ruling on that request to the Provincial Executive or fails to take or is late in taking a decision or takes a decision contrary to the project plan or takes a decision that, according to the Provincial Executive, must be amended, the Provincial Executive may take a decision regarding that request. In the latter case such decision shall take the place of the decision of the administrative authority competent in first instance. If the Provincial Executive intends to give a ruling on the request, it shall consult with the administrative authority competent in first instance.
2. Subsection 1 shall apply mutatis mutandis to decisions to be taken ex proprio motu to implement the project plan and to other decisions than those taken to implement the project plan, directed at implementation of the measures included in the project plan.
3. If, when applying subsection 1, the decision on a request for a decision as referred to in that subsection is taken by the Provincial Executive, the administrative authority that was competent in first instance to decide on the application shall transfer the fees received in that connection to the Provincial Executive.

### Section 5.12

The decisions referred to in section 5.8 subsection 1 shall, insofar as their preparation was coordinated, be published simultaneously by the Provincial Executive.

### Section 5.13

1. An appeal may be lodged with the Administrative Jurisdiction Division of the Council of State against a decision as referred to in sections 5.7 subsection 1 and 5.8 subsection 1.
2. Contrary to section 6.8 of the General Administrative Law Act the period within which an appeal may be lodged against the decisions referred to in section 5.8 subsection 1 shall commence on the day after that on which the publication referred to in section 5.12 took place.

### Section 5.14

1. A writ of summons as referred to in section 18 subsection 1 of the Expropriation Act may be issued after the project plan has been approved by the Provincial Executive. The court shall not rule on such expropriation until the project plan has become irrevocable.
2. Expropriation by virtue of title II or II (a) of the Expropriation Act may also take place to implement the measures in a project plan referred to in section 5.4 subsections 2 or 3.

## § 3. Special provisions with regard to pollution of the bed and shore of bodies of surface water

### Section 5.15

1. If, due to an unusual occurrence, the bed or shore of a body of surface water has been or threatens to be polluted or impaired to such an extent that the quality of that bed or shore constitutes an impediment to the achievement of the desired quality of the area, the water authority shall without delay take the measures it deems necessary to remove the cause of that pollution or impairment and to limit and reverse as far as possible the direct consequences thereof.
2. Sections 30 subsections 2, 3 and 4 and 74 of the Soil Protection Act shall apply mutatis mutandis on the understanding that “the Provincial Executive” shall be read as: the water authority.

### Section 5.16

1. A water authority may order persons with a title to land containing a pollution that could constitute an impediment to achieving the desired quality of the area and that is situated in or forms part of the bed or shore of a body of surface water, to investigate that pollution in a specified manner.
2. A water authority may order anyone whose activities have caused pollution of the bed or shore of a body of surface water to investigate such pollution in a specified manner.

3. A water authority may order persons with a title to land containing a pollution that could constitute an impediment to achieving the desired quality of the area and that is situated in or forms part of the bed or shore of a body of surface water to take temporary safety measures in a specified manner.
4. The orders referred to in subsections 1 and 3 shall be issued only to persons with a title to land that they have or had the use of for business purposes.

### Section 5.17

1. If a water authority takes measures or makes provisions as referred to in section 4.6 subsection 2 (a) in connection with pollution or impairment of the bed or shore of a body of surface water that constitutes an impediment to achieving the desired quality of the area, and such pollution or impairment is not limited to that bed or shore, those measures or provisions shall also apply to ground that does not form part of the bed or shore of the body of surface water, where:
  - a. the source of the pollution or impairment is situated in the bed or shore of the body of surface water, and
  - b. pollution or impairment of ground that does not form part of the bed or shore of a body of surface water constitutes a severe risk.
2. In cases as referred to in subsection 1, a water authority shall consult with the competent administrative authority by virtue of the Soil Protection Act on the situation before taking measures or making provisions.
3. Chapter IV, paragraph 3 of the Soil Protection Act shall not apply to measures or provisions as referred to in subsection 1 taken by the water authority in ground that does not form part of the bed or shore of a body of surface water.

### Section 5.18

If pollution or impairment of the bed or shore of a body of surface water as referred to in section 6.8 is not limited to that bed or shore a water authority shall, before exercising its competences, consult with the competent administrative authority by virtue of the Soil Protection Act on this subject before taking measures or making provisions.

### Section 5.19

The cases in which the quality of the bed or shore of a body of surface water constitutes an impediment to achieving the desired level of quality of the area may be determined by or pursuant to administrative order. Such order may lay down in which cases intervention in the bed or shore of a body of surface water is required without delay.

## § 4. Obligations to consent and special competences

### Section 5.20

1. Persons charged with inspecting water systems or parts thereof, operating under the responsibility of a water authority, shall be authorised to enter any location with the exception of residential premises without the consent of the occupant with the necessary equipment.
2. The persons referred to in subsection 1 shall also, if so designated by a decision of a water authority, be authorised to enter residential premises without the consent of the occupant where these premises form part of a water management structure or are in direct contact with such a structure.
3. Sections 5.13, 5.15 subsections 2 and 3, 5.16 and 5.20 of the General Administrative Law Act shall apply *mutatis mutandis*.

### Section 5.21

1. A water authority may, where reasonably necessary for the performance of its duties, compel holders of land-titles to tolerate investigations as well as related activities on or in that land.
2. Except in urgent cases the decision imposing an obligation to tolerate specific activities shall be announced to the title holders at least two weeks before the investigation commences.

### Section 5.22

1. A person who, in order to obtain information required for an application for or amendment of a water permit or to comply with another obligation by virtue of this Act or an order issued by a province or water board for purposes of water management, must carry out investigations on or in land for which he has no authorization may, in the absence of consent by the title-holders, request the water authority or the competent authority by virtue of Chapter 6 to impose on the title-holders an obligation to tolerate specific activities in accordance with section 5.21
2. When imposing an obligation to tolerate specific activities the water authority or the competent authority shall take those steps necessary to ensure that the title-holders are adequately compensated for any damage sustained.

### Section 5.23

1. Holders of titles to real estate shall be required to tolerate maintenance and repairs to water management structures where these activities are carried out by or under supervision of a water authority.
2. Holders of titles to land situated adjacent to or in a body of surface water that is under maintenance by or supervision of the water authority shall be required to tolerate dredged material or grass cuttings on that land removed during regular maintenance of that body of surface water.
3. A water authority shall give holders of such titles at least forty-eight hours' written notice of planned activities.



### Section 5.24

1. A water authority may, where is reasonable for the discharge of its duties, oblige holders of titles to land to tolerate the construction or modification of a water management structure and related activities when, in his opinion, the interests of those holders of titles to land do not require expropriation.
2. Section 5.21 subsection 2 shall apply.

### Section 5.25

1. Holders of titles to real estate shall be required to tolerate the placing and maintenance by or on behalf of the water authority on that property of measuring equipment, signals, markings or other signs if, in the opinion of the water authority, such is necessary to allow a water management structure to fulfil its function.
2. Subsection 1 shall apply mutatis mutandis to traffic signs placed or maintained by or on behalf of the competent authority by virtue of the Shipping Traffic Act.

### Section 5.26

Holders of titles to real estate that is situated in or forms part of a body of surface water or storage area shall be required to tolerate swamping and flooding as a result of conveyance or temporary storage of surface water.

### Section 5.27

Holders of titles to land where the groundwater is affected by extraction of groundwater or recharge of water in accordance with a water permit shall be required to tolerate such extraction or recharge, without prejudice to section 7.18.

## § 5. Danger to water management structures

### Section 5.28

1. For the purposes of this paragraph danger shall be understood to mean: circumstances that pose an immediate and serious threat to the sound condition or one or more water management structures.
2. This paragraph shall not apply to dangers that are the consequence of accidents as referred to in the North Sea Accident Control Act.

### Section 5.29

1. The water authority shall arrange for drills to be held to practice effective action in case of danger. It shall also draw up an emergency response plan for the water management structures under its management that complies with rules laid down by or pursuant to administrative order.
2. The emergency response plan shall provide for coordination with provincial coordination plans, disaster plans and disaster management plans in the field of water management that have been laid down for the area in which the water management structures are situated.

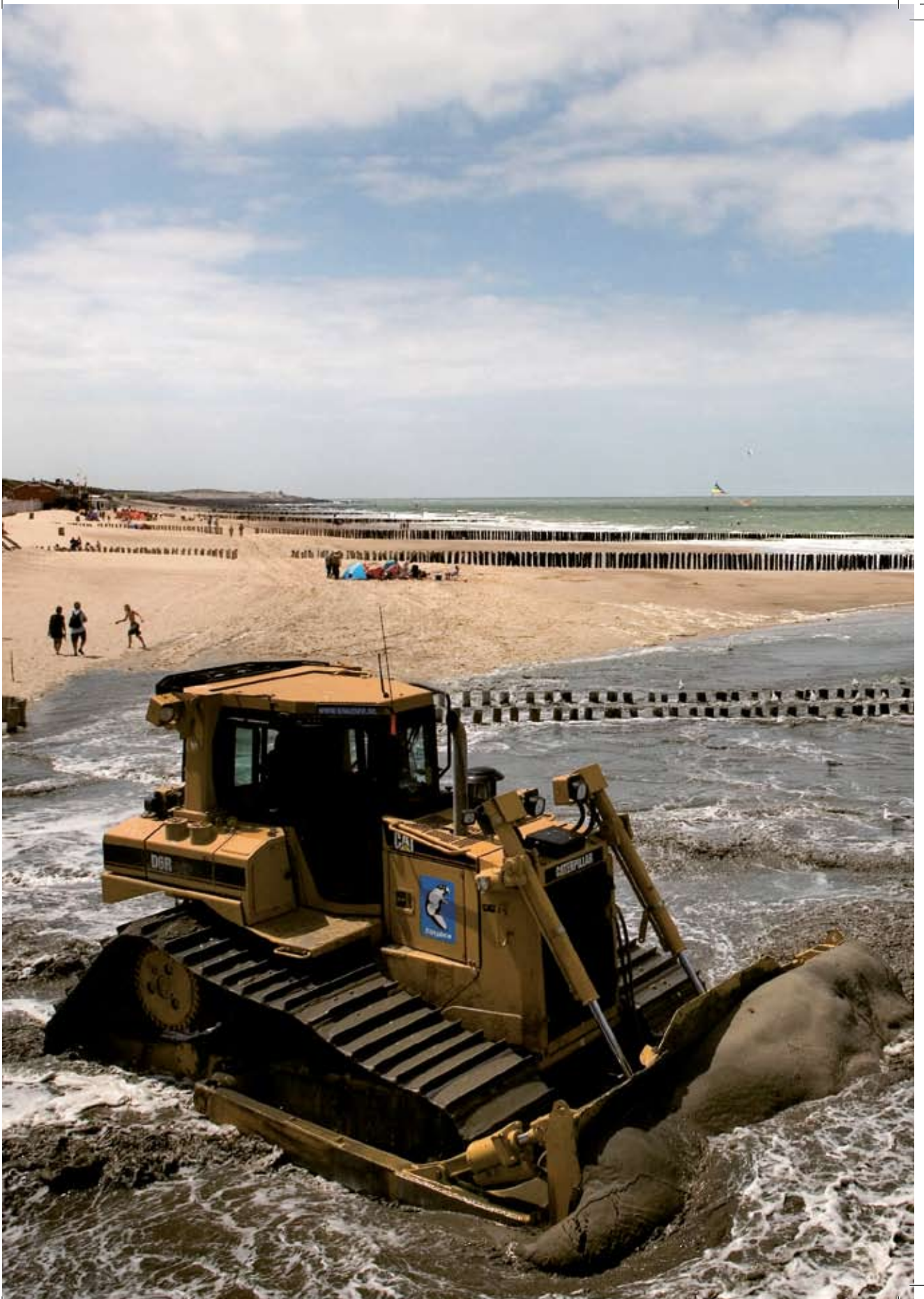
3. A draft emergency response plan shall in any case be submitted to the management of the regional fire brigade and to the municipal executive of the municipalities in which the water management structures are situated.

### Section 5.30

1. In case of danger the water authority shall be authorised, for as long as the resulting situation so warrants, to take the measures it deems necessary, if need be contrary to statutory regulations, on the understanding that it shall not take measures that contravene the constitution or obligations under international law.
2. If the management of a water board has availed itself of the authority referred to in subsection 1 it shall inform the provincial Executive of this fact without delay.
3. The water authority shall, as soon as the actual circumstances that led to the application of subsection 1 allow, restore the water management structure as far as possible to the state prescribed in the ledger.
4. The water authority shall see to the evaluation of the events and actions that occurred as a consequence of the application of subsections 1 and 3. It shall in any case submit a copy of such evaluation to the Provincial Executive for purposes of information, as well as to the municipal executive of the municipalities in which the water management structures are situated.

### Section 5.31

1. The Provincial Executive may, if in its opinion the management of a water board fails to respond or responds inadequately to danger, apply section 3.12 *mutatis mutandis*.
2. If circumstances do not permit a prior convening of the Provincial Executive, Our Commissioner in the province concerned shall be authorised to exercise the authority referred to in subsection 1 for as long as the danger persists and until the Provincial Executive exercises that power.
3. Our Minister may, if in his opinion the Provincial Executive or Our Commissioner in the province wrongfully fails to exercise or inadequately exercises the power referred to in subsections 1 or 2, apply section 3.13 *mutatis mutandis*.



# Chapter 6.

## Activities in Water Systems

### § 1. Water permit and general rules

#### Section 6.1

In this chapter and the provisions based thereon the following definitions apply, unless stated otherwise:

*competent authority*: administrative authority authorised to grant a water permit, as the occasion arises in accordance with section 6.17;

*discharge*: introduction of substances into a body of surface water or introduction of water or substances into a treatment plant;

*dumping of substances*: deliberate disposal into the sea or at sea of substances, vessels, aircraft or structures erected on the seabed in a manner as referred to in section 6.3 subsection 1 (a) in connection with section 6.12 (b) or section 6.3 subsections 1 (b) or 3.

*revision permit*: permit granted in accordance with sections 6.18 subsection 1 or 6.19 subsection 1;

*substances*: waste substances, pollutants or hazardous substances.

## Section 6.2

1. The introduction of substances into a body of surface water shall be prohibited, unless:
  - a. Our Minister or, in the case of regional waters, the management of the water board concerned has granted a permit to do so;
  - b. dispensation has been granted by or pursuant to administrative order;
  - c. section 6.3 applies .
2. The introduction of water or substances into a treatment plant with the aid of a structure other than a public sewer shall be prohibited, unless:
  - a. a permit to do so has been granted by the management of the water board referred to in section 3.4;
  - b. dispensation has been granted by or pursuant to administrative order.
3. For application of subsection 1, land within a body of surface water that has been designated dryer shore area shall not be considered to form part of that body of surface water.
4. Subsection 1 shall not apply to discharges as a consequence of the use of fertilizer on agricultural land in forelands and areas outside the dikes in the course of normal agricultural activities, insofar as rules have been laid down on this subject pursuant to the Fertilizer Act.

## Section 6.3

1. The following shall be prohibited without a permit granted by Our Minister:
  - a. disposal of substances by introducing them into the sea or burning them at sea from a vessel or aircraft;
  - b. disposal in the sea of vessels, aircraft or structures erected on the seabed;
  - c. taking substances on board a vessel or aircraft with the intent to dispose of them in a manner as referred to under (a) or delivering or storing substances for that purpose.
2. Subsection 1 shall also apply to activities that take place on board vessels and aircraft registered in the Netherlands that are outside the Netherlands and the Dutch exclusive economic zone.
3. Subsection 1 (a) shall apply mutatis mutandis to disposal of substances by introducing them into the sea or burning them at sea from a structure erected on the seabed, unless such activities are in line with or the consequence of normal operating procedure of that structure, provided disposal of substances is not the objective of those activities.

#### Section 6.4

1. Extraction of groundwater or recharge of water without a permit from the Provincial Executive shall be prohibited:
  - a. for industrial purposes, if the quantity of water to be extracted exceeds 150,000 m<sup>3</sup> per year;
  - b. for the public drinking water supply or geothermal energy storage.
2. By provincial order, subsection 1 may be declared not applicable to extractions where the amount to be extracted does not exceed 10 m<sup>3</sup> per hour.

#### Section 6.5

The following activities may be prohibited by or pursuant to administrative order for national waters and, in the case of international obligations or supra-regional interests, for regional waters in the absence of a permit by Our Minister or the management of the water board:

- a. recharge of water into or extraction from a body of surface water;
- b. extraction of groundwater or recharge of water in other cases than those referred to in section 6.4;
- c. making use of a water management structure or an associated protection zone by carrying out activities, erecting or maintaining structures or dumping, placing, laying or leaving solid substances or objects in, on, above, over or under it, unless such use is consistent with its function.

#### Section 6.6

1. Rules may be laid down by or pursuant to administrative order with regard to activities as referred to in sections 6.2 to 6.5, on the understanding that for regional waters, where activities referred to in sections 6.4 and 6.5 are concerned, rules shall only be laid down with respect to international obligations or supra-regional interests.
2. An obligation may be imposed by or pursuant to administrative order with regard to activities specified therein to comply with regulations laid down by an administrative authority designated by or pursuant to that administrative order. Such order may determine that these regulations may deviate from the rules referred to in subsection 1.
3. The order may furthermore stipulate that the rules referred to in subsection 1 may be deviated from by water board bye-law or provincial order or in the conditions attached to a water permit.

#### Section 6.7

The rules referred to in section 6.6 subsection 1 may also include dispensation from the obligation to hold a permit as referred to in sections 6.3 to 6.5 or from a prohibition of activities specified therein as well as from an obligation to report the carrying out of activities, to conduct monitoring activities, to record data and submit a statement thereof to an administrative authority designated therein, taking into account rules to be laid down by or pursuant to administrative order.

### Section 6.8

Any person who does or omits an act and who is aware or should have suspected that such an act or omission could cause pollution or impairment of the bed or shore of a body of surface water shall be required to take any measures that may reasonably be required of him to prevent such pollution or impairment or, in the event such pollution or impairment occurs, to limit and eliminate as far as possible such pollution or impairment and the direct consequences thereof. If the pollution or impairment is the consequence of an unusual occurrence, these measures shall be taken without delay.

### Section 6.9

1. Any person who does an act as referred to in section 6.8 and, doing so, receives information regarding pollution or impairment of the bed or shore of a body of surface water caused by that act, shall report this pollution or impairment to the water authority without delay. He shall indicate what measures as referred to in section 6.8 he intends to take or has already taken.
2. A water authority may issue instructions regarding the measures referred to in section 6.8 to be taken.

### Section 6.10

1. Our Minister may prohibit or restrict, in whole or in part, access to a water management structure under the management of the State by means of a local announcement to that effect or by any other appropriate means.
2. Subsection 1 shall not apply to use by public traffic, unless such prohibition or restriction of access regards a safety zone established around a structure within the Dutch exclusive economic zone in accordance with article 60 of the UN Convention on the Law of the Sea.

### Section 6.11

1. The authority conferred in this chapter may also be exercised with regard to acts as referred to in section 6.5 (c) done in the Dutch exclusive economic zone for the protection of other interests than those referred to in section 2.1 insofar as such is not provided for by or pursuant to another act.
2. The authority conferred in this chapter may also be exercised with regard to activities as referred to in section 6.2 subsection 2 to safeguard the efficient operation of a water treatment plant.

### Section 6.12

This chapter shall not apply to:

- a. activities for which rules have been laid down by or pursuant to the Nuclear Energy Act or the Prevention of Pollution from Ships Act;
- b. activities on board vessels or aircraft in or at sea where such activities relate to or result from the normal use of that vessel or aircraft, provided that use is not directed at the disposal of substances;
- c. activities on board warships, auxiliary naval vessels and other vessels used for military purposes irrespective of nationality;

- d. activities at sea regarding which rules have been laid down by or pursuant to the Mining Act, as well as extraction of groundwater in the course of or for purposes of the search for and mining of minerals or geothermal energy as referred to in section 1 of that Act, where such extraction takes place at a depth of over 500 metres beneath the surface of the earth;
- e. activities regarding which rules have been laid down by or pursuant to the Plant Protection Products and Biocides Act unless otherwise determined by administrative order.

## § 2. Further provisions with respect to water permits

### Section 6.13

This paragraph shall also apply to permits required by virtue of water board bye-laws, where these regard activities in a water system or protection zone. The status of dispensation required by virtue of such a bye-law shall be equal to that of a permit.

### Section 6.14

- 1 Rules shall be laid down by or pursuant to administrative order on the manner in which to apply for a water permit and on the information and documents to be submitted by the applicant with a view to obtaining a decision on that application. The order may, contrary to section 2.15 subsections 1 and 2 of the General Administrative Law Act, lay down that an application may wholly or partly be submitted by electronic means, or that the competent authority shall accept applications wholly or partly submitted by electronic means. That order may stipulate that such obligations shall apply only in specifically indicated cases.
2. An order as referred to in section 6.13 may also lay down rules with respect to the data regarding the activity specified by that order submitted by the applicant with a view to the decision on the application.

### Section 6.15

1. An application for a permit shall be submitted to the municipal executive of the municipality where the activity will wholly or partly take place. The application may also, contrary to the first sentence, be submitted to the competent authority. In that case, the competent authority shall submit a copy of the application to the municipal executive of the municipality where the activity will wholly or partly take place.
2. The department to which the application was submitted shall send the applicant a receipt of the application without delay, stating the date on which the application was received.
3. The competent authority shall without delay send the applicant a communication stating its authorisation to decide on the application and the procedure to be followed in preparation of such decision.



### Section 6.16

1. The preparations for a decision to grant, amend or revoke a permit for the discharge of substances or, in the cases referred to in section 6.4, extraction of groundwater or recharge of water shall, unless otherwise provided by administrative order, be subject to sections 3.4 of the General Administrative Law Act and 13.2 of the Environmental Management Act. For purposes of application of section 3.4 of the General Administrative Law Act the documents as referred to in section 3.11 of that Act shall also be made available for consultation in the municipality where the activity will wholly or partly take place.
2. A permit for extraction of groundwater or recharge of water as referred to in section 6.4 shall not be granted or amended until the management of the water board concerned has been given the opportunity by the Provincial Executive to give an opinion on the application or the draft decision on the application.
3. Administrative authorities may be designated by administrative order to be given the opportunity by the competent authority to advise on the draft decision to grant or amend a permit.

### Section 6.17

1. If an application for a permit regards an activity or series of activities with respect to which more than one administrative authority is competent, such application shall be processed by and a decision shall be taken by the highest ranking authority. In the absence of a highest ranking authority the application shall be processed by and a decision shall be taken by the administrative authority on whose territory the activity or series of activities will mainly take place.
2. Contrary to subsection 1 the administrative authorities concerned may jointly designate another administrative authority from their midst to process the application and decide on it.
3. A decision as referred to in subsection 1 shall not be taken before the other administrative authorities involved have had the opportunity to give advice on the application or draft decision on the application.
4. Subsections 1 to 3 apply mutatis mutandis to applications for amendment of a permit leading to an increase in the number of administrative authorities involved.

### Section 6.18

1. If an amendment is requested for a permit relating to an activity that is one of a series of activities the applicant performs and for which one or more water permits are already in place the competent authority may, in consultation with the other competent authorities, determine, in the interest of efficient implementation and enforcement of the permits concerned, that a water permit must be applied for that covers all activities in that series and that also provides for the amendment requested.
2. In the event of a decision under subsection 1 to the effect that an application must be submitted for a revision permit, the competent authorities shall decide to not process applications for amendment of separate water permits that apply to activities in the relevant series.

3. The competent authority for the revision permit to be granted under subsection 1 may not, in granting that permit, amend the rights the applicant already derives from the permits granted earlier other than would be possible by virtue of section 6.22 in connection with sections 2.1, 6.11 and 6.20.
4. A revision permit granted under subsection 1 shall take the place of any permits granted earlier for the relevant series of activities as of the time such permit becomes effective. These permits shall expire at that point in time when the revision permit becomes irrevocable.

### Section 6.19

1. If different water permits are in force for a series of activities one of the competent authorities, in agreement with the other competent authorities, may by virtue of its office grant a permit covering all the activities in that series with a view to efficient implementation and enforcement of the permits concerned.
2. Section 6.18 subsection 2 shall apply mutatis mutandis as soon as the draft revision permit referred to in subsection 1 has been sent to the holders of the permits referred to in subsection 1. Section 6.18 subsections 3 and 4 shall apply mutatis mutandis.

### Section 6.20

1. Permits may be subject to conditions and restrictions. The conditions attached to a permit may regard, among other things:
  - a. financial security for the fulfilment of obligations resulting from the permit or for coverage of liability for damage resulting from the adverse effects on the water system of the activity permitted or the discontinuation of such activity;
  - b. removal, compensation or limitation of adverse effects for the water system of the activity permitted or the discontinuation of such activity.
2. Further rules may be laid down by or pursuant to administrative order regarding the conditions and restrictions to be attached to a permit.
3. Contravention of the conditions attached to a permit shall be prohibited.

### Section 6.21

A permit shall be refused if its issue would be incompatible with the objectives referred to in section 2.1 or the interests referred to in section 6.11.

### Section 6.22

1. The competent authority may amend or supplement a permit and the attached conditions and restrictions.
2. The competent authority may revoke a permit in whole or in part if the permit has not been used for three consecutive years.

3. The competent authority shall revoke a permit in whole or in part :
  - a. at the request of the permit-holder insofar as this is not incompatible with the objectives and interests referred to in sections 2.1 and 6.11;
  - b. in the event of circumstances or facts as a result of which the activity or activities for which the permit was granted is or are no longer considered permissible, taking into account the objectives and interests referred to in sections 2.1 and 6.11;
  - c. in the event a treaty or a decision by an international organization that is binding for the Netherlands or a legal provision implementing such a treaty or decision so compels.
4. The competent authority shall not revoke a permit in cases as referred to in subsection 3 (b) or (c) where an amendment of or supplement to the conditions and restrictions attached to the permit would suffice.

#### Section 6.23

1. If, as a result of amendment or partial revoking of a permit granted under section 6.17, the involvement of the administrative authority that granted the permit in its capacity as competent authority ends, the permit-holder shall be notified which administrative authority shall be competent once the decision has become irrevocable, together with the decision to amend or partially revoke.
2. Subsection 1 shall apply mutatis mutandis if the involvement of the competent authority ends by the partial refusal of a permit.

#### Section 6.24

1. A permit shall also cover the legal successors of the permit-holder, unless the permit provides otherwise.
2. The legal successor of the permit-holder shall inform the competent authority of his succession within four weeks of the permit becoming legally binding for that successor.

### § 3. Special provisions regarding pollution

#### Section 6.25

1. Where an administrative order to be adopted pursuant to section 6.6 relates to the discharge or dumping of substances, sections 8.40 subsections 2 and 3 and 8.40 (a) of the Environmental Management Act shall apply to this order mutatis mutandis.
2. A proposal for an administrative order to be adopted pursuant to section 6.6 shall not, where this order relates to the discharge or dumping of substances, be submitted until the draft proposal has been published in the Government Gazette and all have been given the opportunity, within four weeks after the date on which it was made public, to notify Our Minister of requests and objections. The draft proposal shall be submitted to both Houses of the States General on the day it is published.

### Section 6.26

1. Sections 8.8, 8.9, 8.10 subsection 2, 8.11 subsections 3 and 4, 8.12 to 8.12 (b), 8.19, 8.20 subsection 1, 8.21, 8.22 and 8.25 subsection 2 (a) of the Environmental Management Act shall apply mutatis mutandis to permits for discharge or dumping of substances.
2. A permit for recharge of water shall be granted only where there is no danger of pollution of groundwater. Evaluation of that danger shall be subject to the rules laid down by virtue of section 12 of the Environmental Management Act.
3. Without prejudice to section 6.20 a permit as referred to in subsection 2 shall be subject to conditions pursuant to the rules laid down by virtue of section 12 of the Soil Protection Act. The permit shall in any case be subject to provisions to ensure monitoring of the groundwater quality.
4. Subsections 2 and 3 shall apply mutatis mutandis to the conditions attached to a permit for the extraction of groundwater where these conditions relate to recharge of water.

## § 4. Coordination with the Environmental Management Act or Nuclear Energy Act

### Section 6.27

1. An application to grant or amend a permit for discharge from an establishment that includes an IPPC installation as referred to in section 1.1 subsection 1 of the Environmental Management Act or from an establishment as referred to in section 15 (b) of the Nuclear Energy Act shall be submitted at the same time as an application to grant or amend a permit pursuant to those Acts.
2. A ruling on an application as referred to in subsection 1 for a water permit shall, in accordance with Chapter 14 of the Environmental Management Act, be prepared in coordination with a ruling on the relevant application pursuant to that Act or the Nuclear Energy Act. The acts referred to in section 14.3 subsection 2 of the Environmental Management Act shall in any event take place simultaneously.
3. An application for a water permit as referred to in subsection 1 shall in any event not be processed if no application pursuant to the Environmental Management Act or the Nuclear Energy Act has been submitted within six weeks of its submission or if the processing of an application pursuant to those Acts has been discontinued.
4. The authority competent to rule on an application for a permit by virtue of the Act concerned shall issue an advice on the correlation between the rulings on the various applications within eight weeks of receiving the application referred to in subsection 1. That authority shall furthermore be given the opportunity to give advice on the draft ruling on the application. In cases as referred to in section 3.18 subsection 2 of the General Administrative Law Act the competent authority may decide to extend the term referred to in the first sentence by a reasonable period to be specified in its decision. In the event the application is subject to section 30 subsection 4 of the Services Act, the extension period shall be adapted to the period by which the term for a ruling on the application may be extended by virtue of that subsection.

5. If a permit granted in accordance with the Environmental Management Act contains a provision by virtue of section 8.17 of that Act stating the term of its validity, a similar provision shall be included in the water permit.
6. If a relevant permit granted pursuant to the Environmental Management Act or the Nuclear Energy Act is revoked, the water permit may also be revoked. Section 8.25 subsection 8 of the Environmental Management Act shall apply mutatis mutandis.
7. Subsections 2, 4 and 5 and sections 6.28 and 6.29 shall apply mutatis mutandis to an amendment proprio motu of a permit as referred to in subsection 1. Furthermore, the Provincial Executive shall at least ensure that the relevant rulings shall be published and jointly communicated.
8. If, in a case as referred to in section 8.28 of the Environmental Management Act or the Nuclear Energy Act in conjunction with that section, an appeal is lodged against a ruling on an application for a permit pursuant to one of those Acts, the appeal ruling may also apply to a related ruling on a water permit.

#### Section 6.28

1. In cases as referred to in section 6.27 subsection 1, where the Provincial Executive or one of Our Ministers is competent to grant the permit required under the relevant Act, the Provincial Executive or Our Minister concerned may, if the correlation between the rulings on the various applications so requires in the interest of the protection of the environment, and if necessary contrary to rules laid down pursuant to a provincial order as referred to in section 1.2 or the Environmental Protection Act, issue an instruction to the competent authority regarding the content of such ruling.
2. Such instruction shall be issued within eight weeks of the date on which the draft decision on the application has been deposited for consultation in accordance with section 3.11 subsection 1 or the General Administrative Law Act. It shall be issued only after consultation with the competent authority.
3. The competent authority's decision with regard to which an instruction was issued shall contain a reference to that instruction. A copy shall be appended to each copy of the ruling.

#### Section 6.29

In cases as referred to in section 6.27 subsection 1, where the municipal executive is competent to grant the permit required under the relevant Act, article 6.28 shall apply mutatis mutandis, on the understanding that the Provincial Executive may at the request of the municipal executive issue an instruction to the competent authority.

## § 5. National provision for application by electronic means

#### Section 6.30

The competent authority and the administrative authorities involved in the ruling on an application for a water permit shall apply the provision referred to in section 7.6 subsection 1 of the Environmental Permitting (General Provisions) Act. Section 7.6 subsection 2, second and third sentences of that Act shall apply mutatis mutandis.

# Chapter 7.

## Financial Provisions

### § 1. Taxes

#### Section 7.1

1. In this chapter and the provisions based thereon the following definitions apply unless otherwise provided:

*business premises*: premises or site other than residential premises, a waste water treatment plant or a public sewer, that in terms of nature and layout can be considered a separate entity;

*discharge*: introduction of waste substances, pollutants or hazardous substances into a body of surface water;

*General Act*: General State Taxes Act;

*residential premises*: premises that, judging from their layout, are intended to form a separate living unit, the individual parts of which are not, judging from their layout, intended for separate use;

*tax official*: official as referred to in section 123 subsection 3 (b) of the Water Boards Act or an official as referred to in section 7.10 subsection 4 who, for purposes of the General Act, takes the place of the inspector.

2. For purposes of subsection 2 and 3:

- a. ground within a body of surface water that has been designated dryer shore area pursuant to section 3.1 or 3.2 shall not be considered to form part of that body of surface water; and
- b. the exclusive economic zone shall not be considered to form part of any body of surface water.

### Section 7.2

1. A tax bearing the name pollution tax shall be imposed on discharges into a body of surface water under State management.

2. The management of a water board may impose a tax under the name pollution tax on discharges into a body of surface water under management of that water board.

3. The tax may be imposed:

- a. with regard to discharges from business or residential premises: on the person who has the use of those premises;
- b. with regard to discharges via a public sewer or a water treatment plant: on the person responsible for the management of that public sewer or water treatment plant;
- c. with regard to discharges other than those referred to in subsections (a) or (b): on the person responsible for those discharges.

4. With regard to a pollution tax imposed by a water board, for purposes of subsection 3 (a):

- a. use of residential premises by the members of a household shall be considered to mean use by the person designated by the tax official;
- b. use by a person who has been granted the use of a part of business premises shall be considered to constitute use by the person who granted the use of that part, on the understanding that the person who granted the use of that part shall be authorised to recover the tax as such from the person who was granted the use;
- c. granting someone full-time disposal of residential or business premises shall be considered to constitute use by the person who put those premises at another person's disposal, on the understanding that the person who put the premises at another person's disposal shall be authorised to recover the tax as such from the person at whose disposal the premises were put.

5. The revenue of the pollution tax shall be used to fund the management of the water authority's water system.

### Section 7.3

1. The pollution tax shall be based on the quantity and nature of the substances discharged in the course of a calendar year. The standard used shall be the pollution load of the substances discharged in the course a calendar year, expressed in pollution units.
2. One pollution unit shall equal, with respect to the following:
  - a. oxygen demand: the annual consumption of 54.8 kilograms of oxygen;
  - b. weight in kilograms for the group of substances encompassing chrome, copper, lead, nickel, silver and zinc: 1.00 kilogram;
  - c. weight in kilograms for the group of substances encompassing arsenic, mercury and cadmium: 0.1 kilogram;
  - d. weight in kilograms for the group of substances encompassing chlorides: 650 kilograms;
  - e. weight in kilograms for the group of substances encompassing sulphates: 650 kilograms;
  - f. weight in kilograms for the group of substances encompassing phosphorus: 20 kilograms;
3. The State pollution tax shall not apply to discharges of chlorides, sulphates, phosphorus and silver.

### Section 7.4

1. The number of pollution units with respect to the weight in kilograms for the groups of substances listed below discharged into a body of surface water managed by the State in the course of a calendar year shall be reduced to a minimum of zero per business premises, sewer or treatment plant by the product of the number of pollution units with respect to the oxygen demand of the substances introduced into a body of surface water under State management from those business premises or that sewer or treatment plant, and:
  - a. for the group encompassing chrome, copper, lead, nickel and zinc: 0.04;
  - b. for the group encompassing mercury, cadmium and arsenic: 0.006.
2. The number of pollution units, calculated after application of subsection 1, shall be fixed at zero for each of the groups of substances referred to in that subsection, provided that number is lower than 10.
3. A tax on discharges into a body of surface water managed by a water board shall be subject mutatis mutandis to section 122 (f) subsection 3 of the Water Boards Act.



### Section 7.5

1. The number of pollution units shall be based on data obtained by the taxable person through daily monitoring, sampling and analysis in accordance with rules to be laid down by ministerial order or tax regulation.
2. The tax official shall, at the request of the taxable person, under conditions to be specified, allow deviation from the frequency of monitoring, sampling and analysis as referred to in subsection 1, provided the taxable person is able to convince that official that data obtained through monitoring, sampling and analysis over a limited number of days will suffice for calculation of the pollution load.
3. Determination of the oxygen demand of the substances discharged in the course of a calendar year shall be based on the sum of the chemical oxygen demand and oxygen demand as a result of transformation of nitrogen compounds.
4. If the outcome of the method for determining the level of chemical oxygen demand has been seriously affected by biologically non-degradable or virtually non-degradable substances, a correction shall be applied to the outcome in accordance with provisions to be laid down by ministerial order or tax regulation.
5. Section 122 (h) subsections 1, 5 and 6 and section 122 (i) to (l) of the Water Boards Act shall apply mutatis mutandis to discharges from a sewer or a treatment plant.

### Section 7.6

1. The tax rate for discharges into a body or surface water under State management shall be € 35.30 per pollution unit.
2. Without prejudice to subsection 1, the rate per pollution unit of the tax on discharges into a body of surface water under State management from a treatment plant for biological treatment of household waste water shall be 50% of the amount referred to in subsection 1;
3. The tax rate for discharges into a body or surface water managed by a water board shall be equal to the pollution tax rate referred to in section 122 (d) of the Water Boards Act laid down for the year concerned by the water board.
4. Without prejudice to subsection 1, discharges as referred to in subsection 2 shall be exempt from taxation if such discharges occur other than at the behest of the water authority, provided the amount of waste substances, pollutants or hazardous substances has not increased.

### Section 7.7

1. The Provincial Executive shall be authorised to impose a tax, referred to as groundwater tax, on extraction of groundwater to defray the costs the province incurs for:
  - a. measures directly related to prevention and counteracting of adverse effects of extraction of groundwater and recharge of water;
  - b. research necessary for purposes of groundwater policy;
  - c. maintaining a register of groundwater extraction and recharge of water;
  - d. compensation pursuant to section 7.14 subsection 1 for damage resulting from the implementation of section 6.4;
  - e. implementation of section 7.19.
2. The tax shall apply to the holders of establishments or structures intended for the extraction of groundwater designated by provincial order.
3. The tax shall be based on the amount of groundwater extracted. For purposes of determining the standard, if water is recharged under the conditions of a permit, the amount recharged shall be deducted from the amount of groundwater extracted in accordance with further rules to be laid down by provincial order.

### Section 7.8

1. The following discharges shall be exempt from environmental taxes :
  - a. discharges via a waste water sewer;
  - b. discharges of substances from a treatment plant by a water authority into a body of surface water under that water authority's management;
  - c. discharges of substances originating from a treatment plant other than by the water authority, provided the discharge occurs into a body of surface water under that authority's management and the amount of pollutants or hazardous substances has not increased.
2. An administrative order may lay down that instances of groundwater extraction specified in that order are exempt from the groundwater tax.
3. Furthermore, additional rules regarding the pollution tax may be laid down by administrative order or by tax regulation. Further rules regarding the costs referred to in section 7.7 subsection 1 (b) may be laid down by administrative order.

### Section 7.9

Our Minister may, pursuant to rules laid down by ministerial order, levy a charge on an applicant to cover the cost of processing an application for a decision by virtue of Chapters 5 or 6 of this Act.

## § 2. Pollution tax imposed by the State

### Section 7.10

1. The pollution tax on discharges into a body of surface water under State management shall be imposed by Our Minister by means of an assessment. The tax shall be imposed per calendar year.
2. Without prejudice to the other provisions in this subsection, the tax referred to in subsection 1 shall be imposed under application mutatis mutandis of the General Act, with the exception of sections 2 subsection 4, 37 to 39, 47 (a), 48, 52, 53, 54, 76, 80 subsections 2,3 and 4, 82, 84, 86 and 87 of that Act.
3. For the purposes of the General Act, Our Minister shall act for Our Minister of Finance.
4. For the purposes of the General Act, furthermore, the official or officials designated by order of Our Minister shall act for the State tax authorities and the inspector or officials of the Tax and Customs Administration.
5. A decision as referred to in subsection 4 shall be announced by publication in the Government Gazette.

### Section 7.11

1. If business or residential premises or a water treatment plant are or is used or managed by more than one person, the tax official may address an assessment regarding the tax on those premises or that water treatment plant to one of those persons.
2. The official referred to in subsection 1 shall be authorised to combine assessments of a similar nature for one and the same taxable person as referred to in section 7.2 in one single notice of assessment.

### Section 7.12

The officials designated by Our Minister who, for the purposes of the General Act, acts for the officials of the Tax and Customs Administration, shall be authorised, where this is necessary in all reason for imposing the tax referred to in section 7.10, to:

- a. enter any location other than a residential area without the permission of the user or users with the necessary equipment, if need be with the help of the police;
- b. take samples of discharges into bodies of surface water under State management.

### Section 7.13

1. The tax on discharges into a body of surface water under State management shall be collected in accordance with the Collection of State Taxes Act 1990 and the Tax Collection (Costs) Act as though this tax were a State tax as defined in section 2 subsection 1 (a) of the Collection of State Taxes Act 1990, on the initiative of the receiver referred to in section 2 subsection 1 sub I of that Act or by any other official referred to in that Act.
2. A preliminary notice of assessment for the tax referred to in subsection 1, dated the year covered by the assessment, shall be payable in a number of identical instalments equal to the number of months of the year remaining after the month in which the assessment was dated. The first instalment shall be due one month after the date on the notice of assessment and each following instalment at monthly intervals thereafter.
3. If application of section 2 leads to no more than two monthly instalments, the assessment referred to in that subsection shall be payable two months after the date of the notice of assessment.

## § 3. Compensation

### Section 7.14

1. Any person who suffers or will suffer damage as a consequence of the lawful exercise of a water management duty or competence shall, at his request, be awarded compensation by the administrative authority concerned where such damage should not within all fairness remain for his account and where compensation is not or not sufficiently otherwise guaranteed.
2. A request for compensation of damage shall include a motivation as well as a justification of the amount claimed. By or pursuant to administrative order or provincial or water board order, rules may be laid down on the format, submission and motivation of a request for compensation.
3. The administrative authority may reject the request if five years have passed since the date on which the damage became apparent or the claimant could reasonably have been aware of the damage, but in any case after twenty years have passed since the event that caused the damage. By or pursuant to administrative, provincial or water board order referred to in subsection 2, rules may be laid down regarding the processing and appraisal of a request for compensation.
4. A separate ruling shall be given on the award of compensation.
5. Without prejudice to section 7.15, further rules may be laid down by or pursuant to administrative order regarding damage eligible for compensation by virtue of subsection 1.

### Section 7.15

For purposes of section 7.14, damage shall also be defined as damage in connection with swamping and flooding where these are the consequence of the relocation of a flood defence structure or of other measures intended to increase the conveyance or storage capacity of water systems.

### Section 7.16

Section 6.1 of the Spatial Planning Act shall not be applied where an interested party has recourse to or may have recourse to compensation as referred to in section 7.14 subsection 1.

### Section 7.17

1. If damage that was compensated by an administrative authority by virtue of section 7.14 is the consequence of a ruling on an application, the administrative authority may decide to charge the costs involved to the applicant who requested that ruling.
2. If an administrative authority other than Our Minister awards compensation as referred to in section 7.14 in connection with activities for the necessary promotion of a public interest the promotion of which is not or only partly the duty of that administrative authority Our Minister may, at the request of that administrative authority, impose an obligation to compensate the costs involved in the application of section 7.14 that are the consequence of such promotion of interests in whole or in part.
3. An obligation as referred to in subsection 2 may not be imposed unless the public authority whose interests are promoted in whole or in part as well as other directly involved parties have been given the opportunity to present their opinions on the matter.
4. A decision to impose an obligation as referred to in subsection 2 shall be announced by publication in the Government Gazette.

### Section 7.18

1. Damage to real estate caused by groundwater extraction or recharge of water by virtue of a water permit shall, insofar as can reasonably be required, be remedied by the permit-holder.
2. Where such damage was not remedied the permit-holder is required, upon request, to indemnify any person who has the use of that real estate.
3. The owner of real estate may, however, if the nature or the extent of the damage is such that ownership of that real estate has become of too little value for him, demand that the permit-holder takes over ownership of that real estate. Such claim may be laid both in the event of non-acceptance of a sum offered in compensation and after acceptance of such a sum.
4. Competence with regard to claims based on this section shall lay with the court within whose jurisdiction the real estate or the larger part thereof is situated.

### Section 7.19

1. Any person entitled to lay down a claim by virtue of section 7.18 subsections 1, 2 or 3 for damage in connection with a water permit for the extraction of groundwater or recharge of water as referred to in sections 6.4 or 6.5 (b) or by virtue of a water board order may first request the Provincial Executive of the province in which the real estate or the larger part thereof referred to in section 7.18 is situated to investigate the matter.

2. If real estate is situated in an area where the groundwater level is affected by more than one extraction and investigation shows that it is not possible to determine or not possible to determine within a reasonable term which of those extractions is responsible for the damage to that real estate, the Provincial Executive shall award such person either compensation of the costs to remedy that damage or an indemnification. The person concerned shall then be required to relinquish any third-party rights.

#### Section 7.20

1. If the court rules in favour of a claim as referred to in section 7.18 subsection 3, it shall condemn the permit-holder to take over ownership of the real estate and to pay the purchase price. The only legal remedy against this ruling shall be to lodge an appeal. Such an appeal must, under penalty of inadmissibility, be registered in accordance with section 433 of the Code of Civil Procedure within eight days of having been filed.
2. Sections 27 subsections 1 and 2, 28 subsections 1, 2 and 3, 29 to 35 and 37 subsection 1 of the Expropriation Act shall apply mutatis mutandis to the determination of the purchase price, on the understanding that the court may appoint not only one or an odd number of experts, but also two.
3. Upon becoming final, the judgment condemning the permit-holder to take over the real estate may be registered in the public registers referred to in Part 2, Title 1, Book 3 of the Civil Code. Registration of the judgment shall cause the title to the real estate to revert to the permit-holder.

### § 4. Damage to water management structures

#### Section 7.21

1. The costs of damage to water management structures managed or maintained by a water authority, for which the owners or users of vessels are liable, shall be estimated by the official designated by the water authority to do so and recorded in an official report, a copy of which shall, if possible, be sent to the master of the vessel.
2. If the estimated sum is not paid to the official concerned as security or if a guarantee is not provided to his satisfaction for payment of that sum within a reasonable period this official shall be authorised, if needs be with the help of the police, to prevent the vessel from continuing its journey, returning home or setting out on a new journey, even if the vessel has since moved outside his jurisdiction.
3. Without prejudice to the right to compensation of damage, the public administrative authority shall be authorised to use the sum paid to repair the damage. If the actual costs are found to be lower than the sum paid the excess shall be returned to the payer with statutory interest from the day the payment was made.

### Section 7.22

1. The State may – barring moderation by a judge – recover the costs to be borne by the State of an investigation of pollution or impairment of the bed or shore of a body of surface water and of measures as referred to in section 4.6 subsection 2 (a) or section 5.15 subsection 1 in connection with pollution or impairment of the bed or shore of a body of surface water that constitutes an impediment to the achievement of the desired quality of the area from any person whose wrongful act caused the relevant pollution or impairment and who is therefore or otherwise , ‘hors contract’, liable under civil law towards any authority for the consequences thereof.
2. The State may, if the costs referred to in subsection 1 are also partly for the account of a water board, also recover these costs in accordance with that subsection.
3. The State may recover costs to be borne by the State as referred to in subsection 1 in accordance with the rules on unjustified enrichment from anyone enriched in an unjustified manner by such investigation or measures. Subsection 2 shall apply mutatis mutandis.
4. The competences referred to in subsections 1 and 3 shall fall to the water board in cases where costs as referred to in subsection 1 are wholly for the account of the water board, as well as in cases where the State does not make use of these competences, insofar as such costs are to be borne by the State.
5. Section 75 subsection 5 of the Soil Protection Act shall apply mutatis mutandis.

## § 5. Subsidy for measures regarding primary flood defence structures

### Section 7.23

1. Our Minister shall, upon request, grant a subsidy to a water authority that is to take measures as a consequence of amendment of the rules laid down pursuant to sections 2.2, 2.3 or 2.12 subsection 4 if the measures concerned have been included in a programme to be determined by Our Minister on a yearly basis.
2. The subsidy referred to in subsection 1 shall be awarded for one hundred percent of the costs of implementation.
3. The Transport, Public Works and Water Management (Grants) Framework Act shall apply.

# Chapter 8.

## Enforcement

### Section 8.1

1. It shall be the responsibility of the water authority to:
  - a. effect enforcement under administrative law of the provisions laid down by or by virtue of Chapters 5 and 6 or by virtue of section 10.1 where these provisions regard the water systems under its management and the associated protection zones as well as of the provisions laid down by or pursuant to title 12.3 of the Environmental Protection Act with regard to the introduction of substances into a body of surface water;
  - b. collect and record data that are vital for the implementation of the duty referred to under (a);
  - c. handle complaints relating to compliance with the provisions referred to under (a).
2. For purposes of subsection 1, where activities referred to in section 6.4 are concerned, the status of the water authority shall be considered equal to that of the Provincial Executive.



## Section 8.2

1. Without prejudice to section 8.1 subsection 1, the duties referred to in that subsection shall be the responsibility of:
  - a. with respect to an activity for which a permit is required and which is subject to section 6.17 subsection 1 or 2: the administrative authority that rules on the permit application;
  - b. with respect to an activity subject to a duty to report, monitor, register or state by virtue of section 6.7: the administrative authority designated in accordance with that section.

## Section 8.3

1. Compliance with the provisions laid down by or pursuant to Chapters 5 and 6 or pursuant to section 10.1 shall be supervised by officials designated by order of Our Minister. If the designated officials resort under a ministry other than that of Our Minister, the relevant decision shall be taken in agreement with the other minister concerned.
2. A decision as referred to in subsection 1 shall be announced by publication in the Government Gazette.
3. Our Minister may lay down rules pertaining to the performance of the duty referred to in subsection 1. Where officials designated in accordance with subsection 1 resort under a ministry other than that of Our Minister, such rules shall be laid down in agreement with the other minister concerned.
4. Officials designated by order of the water authority, other than Our Minister, or another administrative authority charged with the implementation of this Act, shall also be in charge of supervision of compliance with the provisions laid down by or pursuant to Chapters 5 and 6 or pursuant to section 10.1.

## Section 8.4

1. The authority competent by virtue of Chapter 6 may revoke a water permit in whole or in part if:
  - a. the activities are contrary to the permit or its conditions, or fail to comply with the statutory requirements regarding the activity for which the permit was granted;
  - b. data provided with the application for the permit are found to be incorrect or incomplete to such a degree that a different ruling would have been given on the application if the correct data had been available.
2. In cases such as referred to in subsection 1 (a), the competent authority shall not revoke a permit until it has given the permit-holder a reasonable period to conform his activities to the permit and its conditions or the relevant statutory requirements.

## Section 8.5

In cases in which he is charged with administrative enforcement Our Minister shall be authorised to resort to administrative pressure in enforcing the provisions laid down by or pursuant to this Act.

### **Section 8.6**

Enforcement of provisions laid down by or pursuant to Chapter 6 or pursuant to section 10.1 shall be subject to sections 18.3 to 18.3 (f) and 18.8 (a) and (b) of the Environmental Management Act on the understanding that in section 18.3 (e) subsection 5 (b) “revoking a permit or exemption by virtue of section 18.12” shall be read as: revoking a permit by virtue of the Water Act.

### **Section 8.7**

Where an obligation to cooperate with the officials designated in accordance with section 8.3 is concerned, the administrative authority charged with administrative enforcement of the provisions laid down by or pursuant to Chapters 5 and 6 or pursuant to section 10.1 shall be authorised to employ administrative pressure in enforcing section 5.20 subsection 1 of the General Administrative Law Act.

### **Section 8.8**

Officials of the Tax and Customs Administration, competent in matters of customs, shall not give a vessel or aircraft permission to leave the Netherlands if there are serious reasons to believe that one of the injunctions defined in section 6.3 has been or will be contravened.

### **Section 8.9**

1. Without prejudice to the right of other states to institute legal proceedings in accordance with the UN Convention on the Law of the Sea, any person who violates the conditions laid down by or pursuant to this Act in or over the exclusive economic zone shall be subject to Dutch criminal law.
2. Investigation and prosecution of criminal acts as referred to in subsection 1 shall be subject to section 7 of Part XII of the UN Convention on the Law of the Sea

### **Section 8.10**

In their supervision of compliance with section 8.5 or the provisions laid down by or pursuant to this Act, Our Minister and the supervisory bodies shall take into consideration section 7 of Part XII of the UN Convention on the Law of the Sea.



# Chapter 9.

## Legal Protection

### Section 9.1

1. If the court rules in favour of an appeal against a decision taken in accordance with this Act it may, in an intermediate ruling, give the administrative authority that took the decision against which the appeal was lodged the opportunity to remedy the indicated shortcomings.
2. Subsection 1 shall not apply if interested parties who are not a party in the proceedings may be disproportionately prejudiced.
3. The court may also give an oral intermediate ruling. Section 8.67 subsections 2 to 5 first sentence of the General Administrative Law Act shall apply *mutatis mutandis*.

### Section 9.2

1. The intermediate ruling shall state to what extent the appealed ruling contravened the law, as well as what written or unwritten rule of law or general principle of law was violated.
2. The intermediate ruling shall state the term within which the administrative authority must indicate whether it wishes to make use of the opportunity offered as well as the term within which the defects are to be redressed.
3. The court may extend the terms referred to in subsection 2 at the request of the administrative authority.

### Section 9.3

1. The administrative authority shall inform the court in writing of the manner in which the defects have been redressed.
2. The court shall give the other interested parties the opportunity to react in writing to the notification referred to in subsection 1.
3. The court shall give a ruling within twelve weeks of receipt of the notification referred to in subsection 1, unless the court deems further investigation necessary.
4. If the court deems an investigation in session necessary it shall notify the parties of that fact without delay.

### Section 9.4

If the administrative authority indicates it does not wish to make use of the opportunity to remedy the shortcomings or lets the deadline pass, the court shall reverse the decision appealed in accordance with section 8.72 of the General Administrative Law Act.

### Section 9.5

1. If the Administrative Jurisdiction Division of the Council of State declares an appeal against a ruling by virtue of this Act valid, it may order the administrative authority to remedy the shortcomings indicated in an intermediate decision. The provisions of sections 9.1 subsections 1 and 3 and 9.3 shall apply mutatis mutandis.
2. The intermediate decision shall state the term within which the shortcomings are to be remedied. The Division may extend this term at the request of the administrative authority.

# Chapter 10.

## Final Provisions

### Section 10.1

Further rules may be laid down by or pursuant to administrative order on the subjects covered by this Act for the implementation of international obligations relating to matters of water management, as well as for the effective implementation of this Act.

### Section 10.2

An amendment of the Water Framework Directive or another directive, based upon this Directive, by one or more institutions of the European Union, either alone or collectively shall, for the purposes of this Act, take effect on the date on which the amending directive becomes effective, unless another moment in time is determined by ministerial order published in the Government Gazette.

### Section 10.3

1. There shall be an Advisory Committee on Water Management Legislation.
2. It shall be the duty of that Committee to advise the government and the Houses of the States General on the content and structure of water management legislation.
3. The committee shall comprise a chair and a maximum of six other members.

#### **Section 10.4**

Our Minister shall submit a report on the efficacy and the effects of this Act to the States General within five years of its becoming fully effective.

#### **Section 10.5**

The provisions of this Act shall enter into force on a date to be specified by Royal Decree, which date may be different for the various sections or parts thereof.

#### **Section 10.6**

This Act shall be known as the Water Act.

# Annex



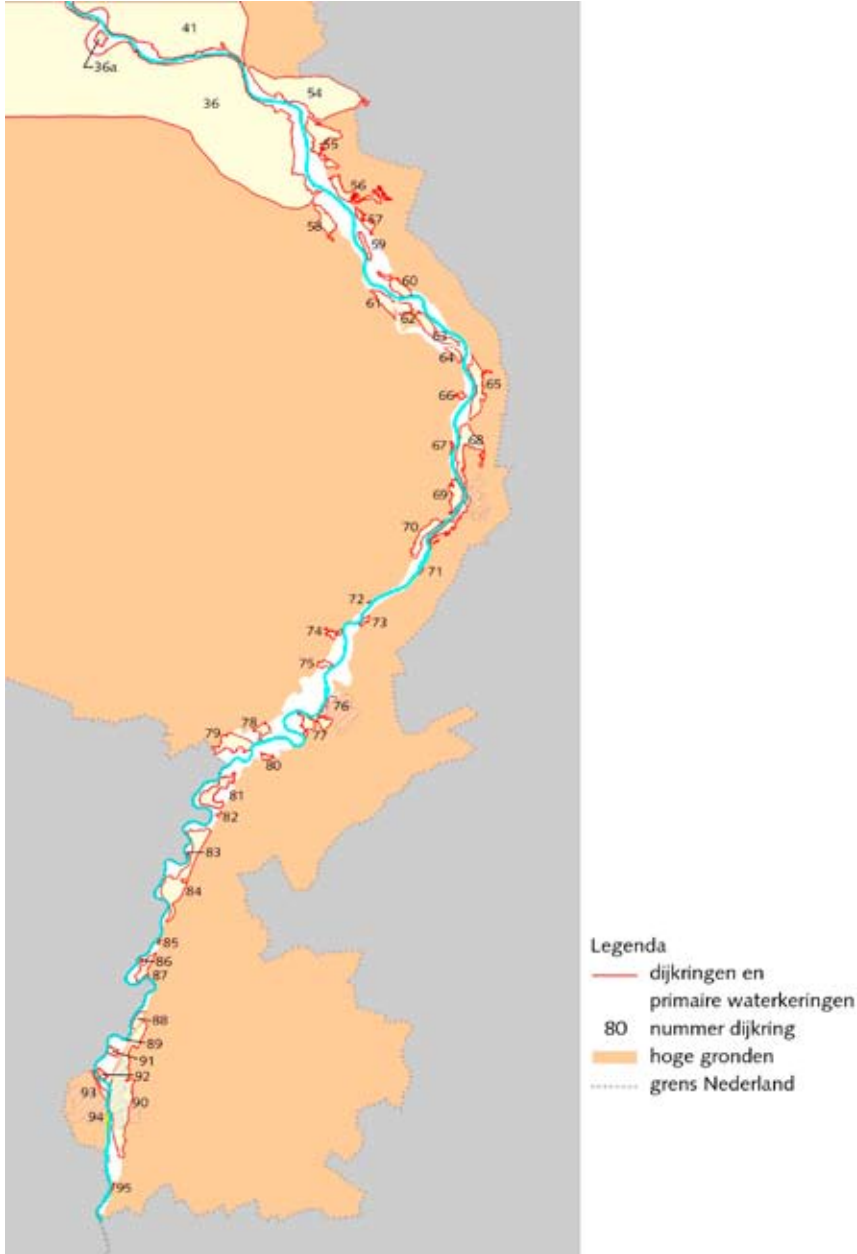


## ANNEX I Dike Rings and Primary Flood Defence Structures as Referred to in Section 1.3 Subsection



Legend/dike rings and primary flood defence structures/primary flood defence structures outside the Netherlands/high ground/dike ring number/see Annex IA Dike rings for the dike rings in Limburg

# Annex 1A Dike Rings and Primary Flood Defence Structures Along the Meuse South of Nijmegen



Legend/dike rings and primary flood defence structures/dike ring number/high ground/Dutch border

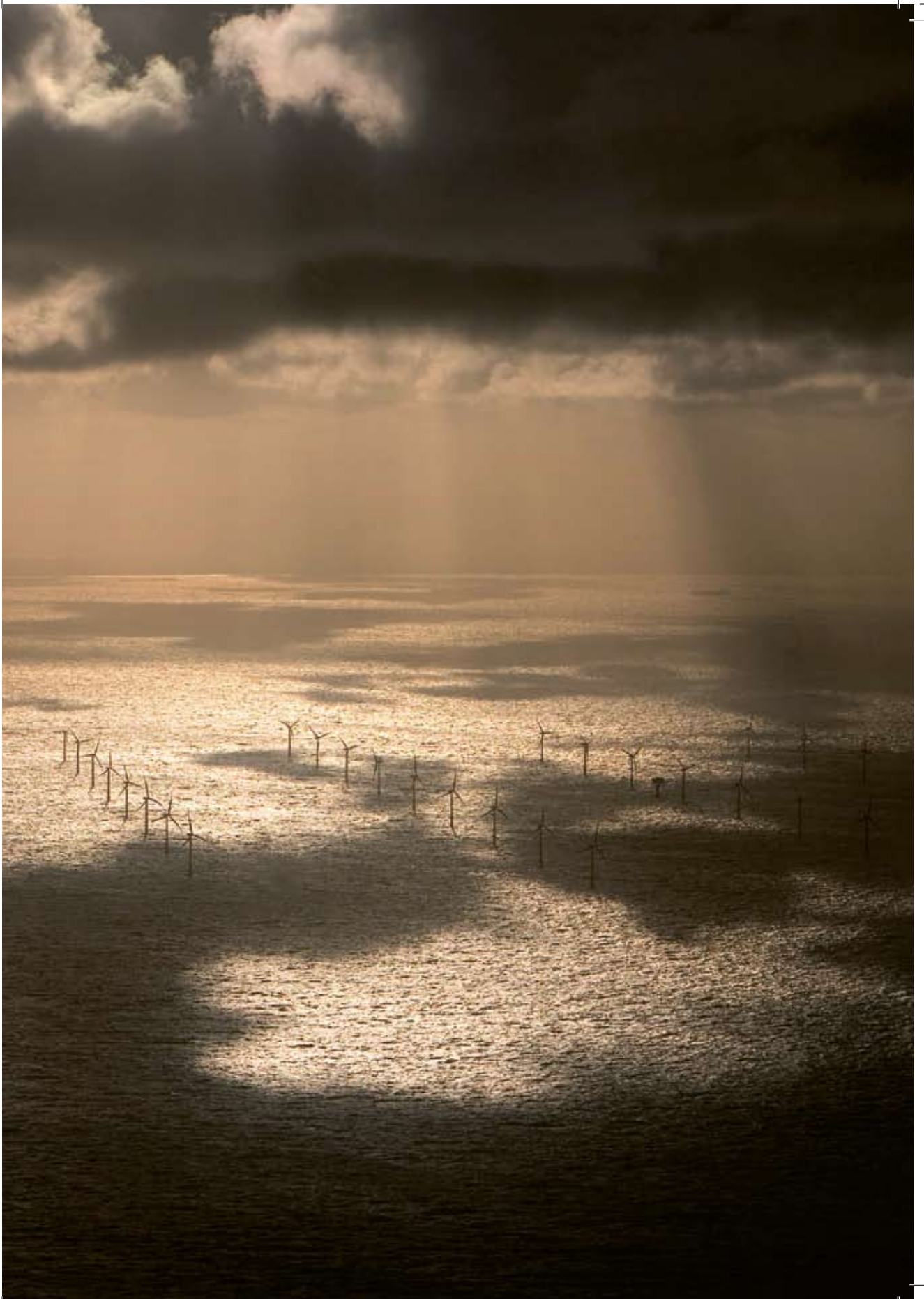
## Annex 2 Safety Standards for Primary Flood Defence Structures

### A. Safety standards for dike rings indicated in Annex I

Dike ring number:	Average overtopping probability per year:	Dike ring number:	Average overtopping probability per year:	Dike ring number:	Average overtopping probability per year:
1.	1/2000	18.	1/10000	36.	1/1250
2.	1/2000	19.	1/10000	36a.	1/1250
3.	1/2000	20.	1/4000	37.	1/1250
4.	1/2000	21.	1/2000	38.	1/1250
5.	1/4000	22.	1/2000	39.	1/1250
6.	1/4000	23.	1/2000	40.	1/500
7.	1/4000	24.	1/2000	41.	1/1250
8.	1/4000	25.	1/4000	42.	1/1250
9.	1/1250	26.	1/4000	43.	1/1250
10.	1/2000	27.	1/4000	44.	1/1250
11.	1/2000	28.	1/4000	45.	1/1250
12.	1/4000	29.	1/4000	46.	1/1250
13.	1/10000	30.	1/4000	47.	1/1250
13a.	1/4000	31.	1/4000	48.	1/1250
13b.	1/1250	32.	1/4000	49.	1/1250
14.	1/10000	33.	1/4000	50.	1/1250
15.	1/2000	34.	1/2000	51.	1/1250
16.	1/2000	34a.	1/2000	52.	1/1250
17.	1/4000	35.	1/2000	53.	1/1250

**B. Safety standards for dike rings indicated in Annex IA**

Dike ring number:	Average overtopping probability per year:	Dike ring number:	Average overtopping probability per year:	Dike ring number:	Average overtopping probability per year:
54.	1/250	68.	1/250	82.	1/250
55.	1/250	69.	1/250	83.	1/250
56.	1/250	70.	1/250	84.	1/250
57.	1/250	71.	1/250	85.	1/250
58.	1/250	72.	1/250	86.	1/250
59.	1/250	73.	1/250	87.	1/250
60.	1/250	74.	1/250	88.	1/250
61.	1/250	75.	1/250	89.	1/250
62.	1/250	76.	1/250	90.	1/250
63.	1/250	77.	1/250	91.	1/250
64.	1/250	78.	1/250	92.	1/250
65.	1/250	79.	1/250	93.	1/250
66.	1/250	80.	1/250	94.	1/250
67.	1/250	81.	1/250	95.	1/250



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[www.transportandwatermanagement.nl](http://www.transportandwatermanagement.nl)

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