

[Text valid as from 20 May 2008]

Act of 31 October 1991, containing regulations governing public access to government information

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, in view of Article 110 of the Constitution, it has proved desirable, in the interests of effective, democratic governance, to amend the rules concerning openness and public access to government information and to incorporate these rules in statute law wherever possible;

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

Chapter I. Definitions

Section 1

The definitions employed in this Act and the provisions deriving from it are as follows:

- a. document: a written document or other material containing data which is deposited with an administrative authority;
- b. administrative matter: a matter of relevance to the policies of an administrative authority, including the preparation and implementation of such policies;
- c. internal consultation: consultation concerning an administrative matter within an administrative authority or within a group of administrative authorities in the framework of their joint responsibility for an administrative matter;
- d. independent advisory committee: a committee appointed by the government to advise one or more administrative authorities, the members of which do not include any civil servants who advise the administrative authority to which they are responsible on the subjects put before the committee. A civil servant who is the secretary or an advisory member of such a committee is not regarded as a member for the purposes of this provision;
- e. civil service or mixed advisory committee: a committee responsible for advising one or more administrative authorities, which is composed partly or wholly of civil servants whose duties include advising the administrative authority to which they are responsible on the subjects put before the committee;
- f. personal opinion on policy: an opinion, proposal, recommendation or conclusion of one or more persons concerning an administrative matter and the arguments they advance in support thereof;
- g. environmental information: that which is defined as such in section 19.1a of the Environmental Management Act;
- h. re-use: the use of information that is public pursuant to this or any other Act of Parliament and that is contained in documents deposited with a public authority, for purposes other than the initial purpose within the said authority's public task;
- i. public authority:
 - 1°. an authority of a legal person which has been established under public law, or
 - 2°. any other person or body corporate which is invested with any public authority.

Section 1a

AVT08/BZK90905

1

1. This Act applies to the following administrative authorities:
 - a. Our Ministers;
 - b. the administrative authorities of provinces, municipalities, water boards and regulatory industrial organisations;
 - c. administrative authorities whose activities are subject to the responsibility of the authorities referred to in subsection 1 (a and b);
 - d. such other administrative authorities as are not excluded by order in council.
2. Notwithstanding subsection 1 (d), this Act applies to the administrative authorities exempted under that provision in so far as it relates to the provision of environmental information.

Chapter II. Public Access

Section 2

1. An administrative authority shall, in the exercise of its functions, disclose information in accordance with the present Act, without prejudice to provisions laid down in other Acts of Parliament, on the basis that it is in the public interest to do so.
2. The administrative authority shall do everything in its power to ensure that the information that it discloses in accordance with the present Act is up to date, accurate and comparable.

Chapter III. Information on application

Section 3

1. Anyone may apply to an administrative authority or to an agency, service or company carrying out work for which it is accountable to an administrative authority for information contained in documents concerning an administrative matter.
2. The applicant shall specify the administrative matter or the document relevant to it about which he wishes information.
3. The applicant is not required to declare an interest in the application.
4. If the wording of an application is too general, the administrative authority shall as soon as possible ask the applicant to make his application more specific and shall help him do so.
5. An application for information shall be granted with due regard for the provisions of sections 10 and 11.

Section 4

If the application concerns documents held by an administrative authority other than that to which the application has been submitted, the applicant shall, if necessary, be referred to that authority. If the application was made in writing, it shall be forwarded and the applicant shall be notified accordingly.

Section 5

1. The decision on an application for information shall be given verbally or in writing.
2. The applicant shall receive written notification of a refusal to disclose all or part of the information for which he applied in writing. If the application was made verbally, the

applicant shall receive, on request, written notification of the refusal. This option shall be brought to the attention of the applicant.

3. The decision shall likewise be given in writing if the application for information concerns a third party and said third party has applied for this information. In such a case, the decision and the information relevant to the third party shall be sent to him.

Section 6

1. The administrative authority shall decide on the application for information at the earliest possible opportunity, and in any event no more than two weeks after the date of receipt of the application. The administrative authority may defer the decision for no more than a further two weeks. The applicant shall be notified in writing, with reasons, of the deferment before the first two-week period has elapsed.

2. Without prejudice to subsection 3, information shall be provided at the earliest possible opportunity, and in any event no more than four weeks after the date of receipt of the application. If the amount or complexity of the information justifies an extension, this time limit may be extended by up to four weeks. The applicant shall be notified in writing, with reasons, of the extension before the first four-week period has elapsed.

3. In the event that the administrative authority decides to provide information when an interested party is likely to object, disclosure of the information must be delayed for two weeks after the decision is made known.

Section 7

1. The administrative authority shall provide information concerning the documents which contain the information required by:

- a. issuing a copy of the documents or conveying their exact substance in some other form;
- b. permitting the applicant to take note of the contents of the documents;
- c. supplying an extract from the documents or a summary of their contents, or
- d. supplying information contained in the documents.

2. The administrative authority shall provide the information in the form requested by the applicant, unless:

- a. it cannot reasonably be expected to provide the information in that form;
- b. the information is already available to the public in another form which is easily accessible to the applicant.

3. If the application concerns environmental information as referred to in section 19.1a, subsection 1 (b) of the Environmental Management Act, the administrative authority shall, if necessary, also provide information, if available, about the methods used to compile the said information.

Chapter IV. Information provided without an application

Section 8

1. The administrative authority directly concerned shall provide, of its own accord, information on its policy and the preparation and implementation thereof, whenever the provision of such information is in the interests of effective, democratic governance.

2. The administrative authority shall ensure that the information is supplied in a comprehensible form and in such a way as to reach the interested party and as many interested

members of the public as possible at a time which will allow them to make their views known to the administrative authority in good time.

Section 9

1. The administrative authority directly concerned shall ensure that the policy recommendations which the authority receives from independent advisory committees, together with the requests for advice and proposals made to the advisory committees by the authority, shall be made public where necessary, possibly with explanatory notes.
2. The recommendations shall be made public no more than four weeks after they have been received by the administrative authority. Their publication shall be announced in the Netherlands Government Gazette or in some other periodical made generally available by the government. Notification shall be made in a similar manner of non-publication, either total or partial.
3. The documents referred to in subsection 1 may be made public by:
 - a. including them in a publication which is generally available;
 - b. publishing them separately and making them generally available, or
 - c. depositing them for public inspection, providing copies or making them available on loan.

Chapter V. Exceptions and restrictions

Section 10

1. Disclosure of information pursuant to this Act shall not take place insofar as:
 - a. this might endanger the unity of the Crown;
 - b. this might damage the security of the State;
 - c. the data concerned relate to companies and manufacturing processes and were furnished to the government in confidence by natural or legal persons;
 - d. it concerns personal data within the meaning of division 2 of chapter 2 of the Personal Data Protection Act, unless the disclosure manifestly does not constitute a breach of privacy.
2. Nor shall disclosure of information take place insofar as its importance does not outweigh one of the following:
 - a. relations between the Netherlands and other states or international organisations;
 - b. the economic and financial interests of the State, other bodies constituted under public law or the administrative authorities referred to in section 1a, (c) and (d);
 - c. the investigation of criminal offences and the prosecution of offenders;
 - d. inspection, control and oversight by administrative authorities;
 - e. respect for personal privacy;
 - f. the importance to the addressee of being the first to note the information;
 - g. the prevention of disproportionate advantage or disadvantage to the natural or legal persons concerned or to third parties.
3. Subsection 2, opening words and (e) does not apply in so far as the person involved has consented to the disclosure.
4. Subsection 1, opening words, (c) and (d), subsection 2, opening words and (e), and subsection 7, opening words and (a) do not apply in so far as the disclosure concerns environmental information related to environmental emissions. Notwithstanding subsection 1, opening words and (c) disclosure of environmental information shall not take place if the interests of disclosure do not outweigh the interests stated there.
5. Subsection 2, opening words and (b) applies to the disclosure of environmental information concerning confidential procedures.

6. Subsection 2, opening words and (g) does not apply to the disclosure of environmental information.
7. Disclosure of environmental information pursuant to this Act shall not take place if the interests of disclosure do not outweigh the following interests:
 - a. the protection of the environment to which this information relates;
 - b. the security of companies and the prevention of sabotage.
8. If subsection 4, first sentence does not apply, the application of subsections 1, 2 and 7 to environmental information shall take account of whether or not the information concerns environmental emissions.

Section 11

1. Where an application concerns information contained in documents drawn up for the purpose of internal consultation, no information shall be disclosed concerning personal opinions on policy contained therein.
2. Information on personal opinions on policy may be disclosed, in the interests of effective, democratic governance, in a form that cannot be traced back to any individual. If those who expressed the opinions in question or who supported them agree, information may be disclosed in a form that may be traced back to individuals.
3. Information concerning the personal opinions on policy contained in the recommendations of a civil service or mixed advisory committee may be disclosed if the administrative authority directly concerned informed the committee members of its intention to do so before they commenced their activities.
4. Notwithstanding subsection 1, in the case of environmental information the interests of protecting personal opinions on policy shall be weighed against the interests of disclosure. Information concerning personal opinions on policy may be disclosed in a form that cannot be traced back to any individual. Subsection 2, second sentence applies *mutatis mutandis*.

Chapter V-A. Re-use

Section 11a

1. This chapter does not apply to:
 - a. information that is a literary, scientific or artistic work within the meaning of the Copyright Act, a recording of a performance, a phonogram, the first fixation of a film or a recording of a programme within the meaning of the Neighbouring Rights Act or a database within the meaning of the Databases (Legal Protection) Act, in respect of which a public authority is not the maker, performer, phonogram producer, producer of the first fixation of a film, broadcasting organisation or database producer or the successor-in-title;
 - b. information in the possession of public broadcasters or their subsidiaries, or of other public authorities or their subsidiaries for the purpose of executing a public broadcasting task;
 - c. information in the possession of institutions of education and research;
 - d. information in the possession of cultural institutions;
 - e. information exchanged by public authorities for the sole purpose of fulfilling their public duties.
2. Notwithstanding section 1a, subsection 1 (d), this chapter applies, in respect of re-use, to the administrative authorities excluded under that provision.

Section 11b

1. Anyone may submit an application for re-use to a public authority or an institution, service or company operating under the responsibility of a public authority.
2. The applicant shall indicate in his application what information he wishes to re-use.
3. The applicant is not required to declare an interest in the application.
4. If the wording of an application is too general, the public authority shall as soon as possible ask the applicant to make his application more specific and shall help him do so.

Section 11c

Sections 4 to 7 apply *mutatis mutandis*.

Section 11d

Documents intended for re-use shall be made available electronically whenever possible.

Section 11e

A public authority is not obliged to continue producing documents for the sole purpose of re-use.

Section 11f

The conditions for re-use are the same as those for comparable categories of re-use.

Section 11g

1. No exclusive right to re-use shall be granted, except as is necessary for the provision of a service in the public interest.
2. If an exclusive right is granted for a service in the public interest, the public authority which granted the right shall, at least every three years, review whether the reason for granting an exclusive right still exists.
3. Each exclusive right to re-use that is granted shall be made public in the manner prescribed.

Section 11h

1. The total income from supplying and allowing re-use may not exceed the costs of collection, production, reproduction and dissemination, plus a reasonable return on investment.
2. Further rules relating to the total income referred to in subsection 1 may be laid down by or pursuant to order in council.

Section 11i

Title 1.1, chapter 2, parts 3.1, 3.2, 3.6 and 3.7, title 4.1, chapter 6, parts 7.1 and 7.2, chapter 8 and title 10.1 of the General Administrative Law Act apply *mutatis mutandis* to any public authority that is not an administrative authority.

Chapter VI. Other provisions

Section 12

Rules applicable to the central government may be laid down by or pursuant to order in council concerning charges for copies of documents made and extracts from or abstracts of documents supplied in response to applications for information.

Section 13

Publication of advisory opinions issued by the Council of State or independent advisory committees before 1 May 1980 shall not be compulsory under the present Act.

Section 14

Further rules concerning the implementation of provisions laid down by or pursuant to the present Act may be laid down:

- a. for central government, by or pursuant to an order by Our Prime Minister in accordance with the views of the Cabinet;
- b. for provinces, municipalities, water boards and the other administrative authorities referred to in section 1a (c) and (d), by their executive bodies.

Section 15

[Lapsed as of 1 January 1994]

Section 16

Exclusive rights of re-use granted before this Act came into force shall not be renewed after expiry of the relevant contract or shall lapse by law on 31 December 2008 if the expiry date of the contract is later than that date.

Section 17

Our Prime Minister and Minister of General Affairs, and our Minister of the Interior shall, within five years of the entry into force of the present Act, report to the States General on its application.

Chapter VII. Amendments to certain Acts of Parliament

Section 18

[Contains amendments to other legislation.]

Section 19

The statutory provisions that were applicable to advisory opinions, recommendations and proposals issued by the Council of State on the day before the present Act entered into force shall continue to apply.

Section 20

[Contains amendments to other legislation.]

Section 21

Restrictions on access imposed before the entry into force of the present Act continue to apply to applications pursuant to the 1962 Public Records Act (Bulletin of Acts and Decrees 1962, no. 313) for consultation or use of documents which had been deposited in a repository before the entry into force of the present Act.

Section 22

[Contains amendments to other legislation.]

Section 23

[Contains amendments to other legislation.]

Section 24

[Contains amendments to other legislation.]

Chapter VIII. Concluding provisions

Section 25

The 1978 Government Information (Public Access) Act (Bulletin of Acts and Decrees 1978, no. 581) is repealed.

Section 26

This Act shall enter into force on a date to be determined by Royal Decree.

Section 27

This Act may be cited as the Government Information (Public Access) Act.

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

Done at The Hague, 31 October 1991

Beatrix

R. F. M. Lubbers
Prime Minister,
Minister of General Affairs

C. I. Dales
Minister of the Interior

Published on the thirty-first of December 1991

AVT08/BZK90905

E. M. H. Hirsch Ballin
Minister of Justice