

# MINING ACT OF THE NETHERLANDS (Mijnbouwwet)

EFFECTIVE 1<sup>ST</sup> JANUARY, 2003, as amended in 2006, 2008, 2009, 2010 and 2011

(UNOFFICIAL TRANSLATION PREPARED FOR DORHOUT ADVOCATEN AT GRONINGEN BY J.L. DEN DULK)

## This translation includes:

1. the text of the original Mining Act 2003;
2. mere textual changes as a result of the Amendment Act ("Veegwet"), dated 20.11.06;
3. more fundamental changes as a result of the Amendment Act dated 12.06.08 setting forth in particular a more detailed description of EBN's tasks;
4. changes relating to introduction of the Rijkscoördinatieprocedure (Act dated 25.09.08);
5. changes relating to the stimulation of active use of licences for exploration, production and storage (Act dated 26.11.09);
6. changes relating to the Act dated 6 June 2011 dealing in particular with CO<sub>2</sub> storage activities.

## Notes for guidance:

1. The attached translation aims to assist professionals that are not familiar with the Netherlands language in understanding the contents of the Netherlands mining legislation that was revised in 2003 and thereafter. It should be emphasized that a number of subjects covered by the Mining Law may be, or is to be, laid down in further decrees and regulations, that may not have been issued or, when issued, translated (yet);
2. Neither the undersigned nor Dorhout Advocaten can – in spite of efforts to provide a translation that is as closely as possible a reflection of the original (and amended) text of the Mining Law in the Netherlands language - accept any responsibility or liability in, or for incorrections and/or interpretations based on, this translation; the Netherlands text is and remains guiding.
3. The names and the titles of certain Netherlands governmental institutions and of various acts have not been translated. The translation is based on the text of the Mining Law as at 21<sup>st</sup> September 2011, as published by the Ministry of Economic Affairs.

I am very grateful to Jolien Koops for the careful editing of this revised version of the translation.



Joost den Dulk

Groningen, September 2011

## **MINING ACT 2003 (as amended up to September 2011)**

### **Rules concerning the exploration for and production of minerals, and concerning activities connected with mining**

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Rules concerning the exploration for and production of minerals and concerning activities connected with mining (Mining Act)

**BILL**

(02-12-1997)

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

To all who see or hear this, greeting! Let it be known:

Whereas We have considered that it is desirable to replace the existing system of legal regulations concerning the exploration for and production of minerals by new regulations, which fulfil current requirements, and to lay down a number of rules concerning certain activities connected with mining;

We, having heard the Raad van State, and having consulted with the Staten-Generaal, have approved and understood, and we now approve and understand as follows:

## **CHAPTER 1. DEFINITIONS AND GENERAL PROVISIONS**

### **Article 1**

In this act and the provisions based thereon, the following definitions apply:

- a. minerals: minerals or substances of organic origin, present in the subsoil, in a concentration or deposit which is there by natural origin, in solid, liquid or gaseous form, with the exception of marsh gas, limestone, gravel, sand, clay, shells and mixtures thereof;
- b. terrestrial heat: heat present in the subsoil, which has originated there by natural causes;
- c. continental shelf: that part of the sea bed located beneath the North Sea and the subsoil thereof, over which the Kingdom, in accordance with the Treaty of the Law of the Sea, signed at Montego-Bay on 10 December 1982 (Tractatenblad 1983, 83), has sovereign rights, and which is located on the seaward side of the line referred to in Article 1.1 of the Wet grenzen Nederlandse territoriale zee;
- d. reconnaissance survey: a survey that does not make use of a drill hole, for the presence of minerals or the presence of terrestrial heat, or for discovering additional information about minerals or terrestrial heat;
- e. exploration for minerals: a search for the presence of minerals or for additional information about these, by making use of a drill hole;
- f. production of minerals: using a drill hole, tunnel, shaft or other subsurface work to extract minerals from the subsoil other than in the form of samples or formation tests;
- g. exploration for terrestrial heat: a search for the presence of terrestrial heat, or for additional information about this, making use of a drill hole;
- h. production of terrestrial heat: the extraction of terrestrial heat from the subsoil other than extraction thereof in conjunction with the production of minerals or the storage of substances;
- i. storage of substances: conveying into or keeping substances at a depth of more than 100 metres below the earth's surface, or the recovering of these substances, other than the conveyance into or keeping therein or retrieval therefrom of substances aimed at the extraction of terrestrial heat from the subsurface;
- j. exploration licence: a licence for the exploration of minerals;
- k. production licence: a licence for the production of minerals, as well as for exploration for minerals;

- l. storage licence: a licence for the storage of substances;
- m. environmental mining licence: a licence as meant in Article 40.2;
- n. mining work: a work that according to an order in council forms part of a designated category of works:
  - 1°. for the purpose of the exploration for or the production of minerals or terrestrial heat;
  - 2°. for the purpose of the storage of substances;
  - 3°. that relate to the works mentioned in 1°. and 2°. here above;
- o. mining installation: a mining work anchored in or present above the soil of surface water;
- p. Our Minister: Our Minister of Economic Affairs.
- q. exploring for CO<sub>2</sub> storage complexes: search for storage complexes by using a borehole or by the conducting of tests using injection of CO<sub>2</sub> to characterise the storage reservoir;
- r. exploration licence for CO<sub>2</sub> storage complexes : a licence for the exploration for CO<sub>2</sub> storage complexes;
- s. CO<sub>2</sub> storage complex: storage reservoir for CO<sub>2</sub> and the surrounding geological areas that may have an impact on the general integrity of the storage and the safety thereof;
- t. storage reservoir: a reservoir used for storage;
- u. permanent CO<sub>2</sub> storage : permanent storage of CO<sub>2</sub> and substances that are stored in direct relation therewith, with the exception of storage of CO<sub>2</sub> for research- or development purposes or for the testing of new products or procedures if the planned storage capacity is less than 100 kiloton.

## Article 2

1. This act also applies to the continental shelf.
2. This act, with the exception of Article 51, only applies with respect to minerals insofar as the minerals are located at a depth of more than 100 metres beneath the earth's surface.
3. This act only applies with respect to terrestrial heat insofar as the terrestrial heat is located at a depth of more than 500 metres beneath the earth's surface.

## Article 3

1. Minerals are the property of the state.
2. The ownership of minerals produced using a production licence is transferred to the licence-holder by the production thereof. The first sentence similarly applies with respect to minerals that are extracted from the subsoil in the form of samples or formation tests using an exploration licence.
3. The ownership of substances that are retrieved using a storage licence is transferred by the act of retrieval to the person who was the owner of the said substances immediately prior to these being conveyed into the subsurface, or to the person who at the time of retrieval is the legal successor of that owner.
4. In all negotiations connected with the ownership of minerals, the State is represented by Our Minister.

## Article 4

The rightful claimant to the surface of the earth is obliged to permit the holder of a licence for the exploration for CO<sub>2</sub> storage complexes, the exploration for or the production of minerals or terrestrial heat, or for the storage of substances, to explore for CO<sub>2</sub> complexes, to explore for or produce minerals or terrestrial heat in the subsoil, or to store substances in accordance with the rules governing these activities, insofar as these activities take place at a depth of more than 100 metres beneath the surface, and without prejudice to the right of the rightful claimant to the surface to receive compensation for damage caused by these activities.

## Article 5

For the application of the Belemmeringenwet Verordeningen and the Belemmeringenwet Privaatrecht, works that are or have been being carried out with a view to exploration for CO<sub>2</sub> complexes, exploration for or production of minerals or terrestrial heat, or with a view to the storage of substances, are designated as public works in the public interest.

## CHAPTER 2. LICENCES FOR EXPLORATION AND PRODUCTION OF MINERALS AND TERRESTRIAL HEAT

### § 2.1 General rules

#### Article 6

1. Without a licence by Our Minister, it is prohibited:
  - a. to explore for minerals;
  - b. to produce minerals;
  - c. to explore for terrestrial heat;
  - d. to produce terrestrial heat.
2. It may be stated by order in council that the prohibition does not apply to categories of exploration for or production of terrestrial heat described in the said order in council.
3. The provisions of this chapter relating to exploration for or production of minerals similarly apply to the exploration for or production of terrestrial heat.

#### Article 7

1. A licence will not be granted insofar it, at the date of its effectiveness, would apply to an area for which at that moment in time a licence, held by another person for the same minerals would already apply.
2. A licence will also not be granted, insofar it at the date of its effectiveness would apply for a reservoir for which at that moment in time a storage licence, held by another person, would already apply.
3. Article 7.1 will not apply in respect of the other minerals meant in Article 11.1.

#### Article 8

A production licence will only be granted if it is feasible, that the minerals within the area for which the licence will apply, are economically producible.

#### Article 9

1. Without prejudice to Articles 7 and 8 a licence can only be refused:
  - a. on the basis of the technical or financial capabilities of the applicant,
  - b. on the basis of the manner in which the applicant intends to carry out the activities for which the licence is applied for,
  - c. on the basis of lack of efficiency and sense of responsibility, which shall include sense of responsibility for society that the applicant has demonstrated in activities as meant in Article 6.1 and Article 25.1, under a previous licence, or

- d. if a choice has to be made out of two or more applications for a licence that within the scope of an evaluation on the basis of the items 1.a., 1.b. and 1.c. have shown to be equal, in the interest of the efficient and energetic exploration and production.
2. A licence can be refused on the basis of the financial capabilities of the applicant if it is not sufficiently warranted that the applicant will comply with the obligations imposed on him as meant in Articles 46, 47 and 102.
3. In view of the application of the Articles 9.1 and 9.2 a ministerial regulation may set further rules that will be taken into account by a decision on an application. Such rules will in any event be set with respect to exploration and production licences for hydrocarbons.
4. Publication in the Staatscourant of a regulation as referred to in the second sentence of Article 9.3 shall be made in the Official Journal of the European Community. A decision to amend such regulation will also be published in the Official Journal of the European Community.

## **Article 10**

1. Without prejudice to Articles 7 and 8, the holder of an exploration licence who by using that licence has demonstrated the presence of the related minerals, and has submitted an application during the period of the validity of the said licence, shall be granted a production licence for those minerals in the area to which the exploration licence applies. If the exploration licence applies to an area that is not delimited according to Article 11.5, and the presence of the relevant minerals has been demonstrated only in a part of the area, the production licence shall only be granted for that part of the area for which granting is justified from a geological point of view.
2. Article 10.1 does not apply if refusal of the production licence is justified on one of the grounds referred to in Articles 9.1.a, 9.1.b or 9.1.c. Articles 9.2, 9.3 and 9.4 similarly apply.
3. If an application as referred to in Article 10.1 has been submitted, the exploration licence, to the extent it relates to the area applied for, shall at least remain valid until the time when the decision relating to the application becomes irrevocable. If a production licence is granted, the exploration licence for the minerals in question becomes invalid at the time when the decision becomes irrevocable for the area to which the production licence applies. To the extent that as a result hereof conditions as referred to in Article 12 are invalidated but have not become ineffective, they shall become conditions that attach to the production licence.

## **§ 2.2 Restrictions and conditions**

### **Article 11**

1. A licence will specify for which of the activities referred to in Article 6 and for which minerals it is valid. If in a production licence it is stated that it applies to certain minerals, it will also apply to other minerals that are inevitably produced in conjunction with those certain minerals.
2. A licence will specify for what period it is valid. This is done such that the period is no longer than necessary for carrying out the activities for which the licence is granted.
3. A licence will specify for which area it is applicable. For the delineation of the area, the limits on the surface are indicated. Unless the licence specifies otherwise, the area shall consist of the surface area indicated and its subsoil.
4. The delineation of the area shall be done in such a manner that the activities can be carried out in the good possible manner from a technical and economical point of view. A ministerial regulation can set further rules for the implementation of the previous sentence in connection with an exploration or production licence for hydrocarbons.

5. A ministerial regulation may specify that an exploration licence for minerals specified therein may only be granted for an area whose boundaries result from a previous geometrical division of the area to which this act applies, or a part thereof. In this case Article 11.4 shall not apply.

#### **Article 12**

An exploration licence will specify within which periods after the licence has become irrevocable the exploration activities indicated in the licence must be carried out. The licence may also specify within which periods after the licence has become irrevocable the reconnaissance survey indicated in the licence must be carried out.

#### **Article 13**

1. A licence for hydrocarbons shall not be granted with restrictions other than those meant in Article 11. No conditions will be attached to this licence other than those meant in Article 12.
2. A licence that is not a licence for hydrocarbons can also be granted with restrictions other than those referred to in Article 11. Conditions other than those referred to in Article 12 can also be attached to this licence. These other restrictions and conditions, other than conditions based on Article 98, can only be justified on the grounds of the interests of safety, the defence of the realm or systematic management of mineral deposits.

### **§ 2.3 Procedure**

#### **Article 14**

Rules shall be set by ministerial regulation as to the manner in which the application for a licence must be submitted, and as to the accompanying data and documents that must be submitted.

#### **Article 15**

1. As soon as an application for a licence has been submitted, other persons shall be given the opportunity to submit applications for a similar licence for the same mineral and for the same area.
2. Our Minister will publish an invitation for that purpose in the Staatscourant. The invitation will mention the provisions of Article 17. If the application concerns an application for an exploration or production licence for hydrocarbons, the invitation will also be published in the Official Journal of the European Community.
3. Other persons may submit applications during 13 weeks following the publication of the invitation in the Staatscourant, or, in the event it concerns hydrocarbons, the Official Journal of the European Community.
4. The procedure referred to in Articles 15.1 up to and including 15.3 shall not be applied in respect of:
  - a. an application for a production licence as meant in Article 10.1;
  - b. an application for a production licence submitted by the holder of an exploration or production licence connected with the find of a reservoir of which it is feasible that it is located in his area and partly in the adjacent area applied for;
  - c. an application for an area for which no licences will be granted on the grounds of Article 7;
  - d. an application submitted in accordance with Article 15.3.

5. In the case referred to in Article 15.4.b. Our Minister will for a period of 13 weeks give any other holders of an exploration or production licence for the same mineral, for areas adjacent to the area applied for as referred to in Article 15.4.b, the opportunity to submit an application for a production licence for that mineral in that area.

#### **Article 16**

Gedeputeerde Staten of a province to which the application for a licence is applicable, shall be enabled to advise on the application submitted within a reasonable timeframe to be set by Our Minister.

#### **Article 17**

1. Our Minister shall reach a decision on an application for a licence within 6 months after its receipt. If Article 15.1 or 15.5 has been applied, our Minister shall take a decision on all applications within 6 months after the lapse of the period referred to in Articles 15.3 or 15.5, respectively.
2. Our Minister can extend the period within which he must reach a decision on an application, once only, by a maximum of 6 months.
3. A decision to grant a licence shall be published in the Staatscourant.

### **§ 2.4 Amendment, transfer and withdrawal**

#### **Article 18**

1. Without prejudice to Article 32c, Our Minister can only amend a licence at the request of the holder.
2. A licence may not be amended in such a way that it becomes valid for:
  - a. other activities or other minerals;
  - b. a larger area.
3. An application for an extension of the period of validity of a licence will only be honoured if the time specified in the licence is insufficient for the completion of the activities covered by the licence, and these activities have been carried out in compliance with the licence. A decree extending the period for which a licence in the Staatscourant is valid may restrict the area for which the said licence is valid to a part of the area. Articles 11.3 and 11.4 similarly apply.
4. An application for a reduction of the area for which a licence is valid shall only be honoured having regard to Articles 11.3 and 11.4.
5. A decision to amend a licence shall be published in the Staatscourant .

#### **Article 19**

By or by virtue of an order in council, rules will be set for:

- a. the splitting of a licence, as a result of which two or more licences are created for 2 or more areas;
- b. the joining of 2 or more licences, as a result of which a single licence is created for a single area.

#### **Article 20**

1. The holder of a licence can only transfer his licence to another party subject to consent in writing to this effect by Our Minister. Articles 7.2 and Article 9, with the exclusion of Article

- 9.1.d, similarly apply. Conditions can be attached to such consent. The consent can be subject to restrictions.
2. If the holder of a licence wishes to transfer part of the licence to another party, he must also submit an application for the splitting of the licence as referred to in Article 19.a.
  3. A decision granting consent shall be published in the Staatscourant.

## **Article 21**

1. Our Minister can withdraw a licence if:
  - a. the data or documents accompanying the application are found to be so inaccurate or incomplete that following the application a different decision would have been taken, had in the evaluation the true circumstances been known,
  - b. the licence is no longer necessary for the proper execution of the activities to which it applies,
  - c. this is justified by a change in the technical or financial capabilities of the holder,
  - d. the activities are not carried out in conformity with the licence, or
  - e. the rules applying to the holder of the licence or to the designated person as such as meant in Article 22 are not being observed.
2. Our Minister shall not proceed with withdrawal on the grounds of Article 21.1.d or 21.1.e, until and unless he has warned the holder in writing, and the holder or the designated person meant in Article 22 continues or repeats the infringement after having received the warning.
3. Our Minister can withdraw a production licence at the request of the holder. Such a request can only be refused if for the systematic management of mineral reservoirs it is necessary that the holder complies with a condition attached to the licence or observes a rule applicable to him as such.
4. The holder of an exploration licence can surrender the licence. The licence shall lapse with effect from the day after the day on which Our Minister has received a written statement from the holder stating that he is surrendering the licence.
5. The licence lapses by operation of the law:
  - a. if the holder is a natural person, on the day after the day of his decease;
  - b. if the holder is a legal person, on the day after the day that that person ceased to exist.
6. A decree to withdraw a licence or the event of the lapse of a licence shall be published in the Staatscourant.

## **§ 2.5 Special provisions**

### **Article 22**

1. This Article applies to the holding of a licence by more than one natural or legal person.
2. In the case of an application for a licence, the persons are regarded as the joint applicant for the licence. After the licence has been granted, they are regarded as the joint holders of the licence.
3. Article 20 similarly applies in the event a person wishes to transfer his interest in the licence to another person.
4. In deviation of Article 21.5, the licence does not lapse if one of the holders, being a natural person, deceased or that one of the holders, being a legal person, ceases to exist, but his interest in the licence transfers to his co-licensees.
5. One of the persons shall be designated to carry out the actual operations or to commission these. Only the designated person is permitted to carry out the actual operations or to commission these.
6. The designation shall initially be stated in the licence.

7. The holder of the licence can designate another person from within his ranks after having received consent in writing from Our Minister.
8. If the designated person is no longer able to carry out the actual operations, or to commission them, Our Minister shall withdraw the designation. If none of the persons has been designated, Our Minister shall designate one of them.
9. Our Minister shall take the decisions relating to the designation on the basis of the grounds mentioned in Article 9.1.a up to and including Article 9.1.c. Articles 9.2, 9.3 and 9.4 similarly apply.

### **Article 23**

1. The holder of a production licence for hydrocarbons shall not proceed with the production from a reservoir that can reasonably be assumed to straddle the border of the licence area, as long as there is no agreement in force as referred to in Article 42.2, unless Our Minister has granted an exemption with respect to the obligation to conclude an agreement.
2. If during or after the production of hydrocarbons it appears or has appeared that the reservoir concerned straddles the border of the licence area, the licence holder as meant in Article 23.1 is obliged to immediately after that fact having become known, notify the party authorized to the production of hydrocarbons or terrestrial heat in the adjacent area and to co-operate in the conclusion of an agreement as meant in Article 42.2, first sentence. The second, third and fourth sentence of Article 42.2 apply.

### **Article 24**

This chapter, with the exception of Article 6, does not apply to the exploration for or production of minerals within the scope of the search for information for pure scientific research, or in line with central government policies. In taking a decision about a licence for these activities, Our Minister shall refer to the stipulations of this chapter, insofar as this is compatible with the special nature of the licence.

## **CHAPTER 3. LICENCES FOR THE STORAGE OF SUBSTANCES AND FOR THE EXPLORATION FOR CO<sub>2</sub> STORAGE COMPLEXES**

### **§ 3.1 General rules**

#### **Article 25**

1. It is prohibited without a licence granted by Our Minister to
  - a. store substances;
  - b. explore for CO<sub>2</sub> storage complexes.
2. This prohibition does not apply to categories of cases described by an order in council.

#### **Article 26**

1. A storage licence shall not be granted insofar as it, at the time it becomes effective, would cover an area for which another party already holds a storage licence.
2. A storage licence shall also not be granted insofar on its effective date it would cover a reservoir for which at that moment in time another party already holds a licence as meant in Article 6.
3. In the event a holder of an exploration or production licence for hydrocarbons has been granted a storage licence for the same area and for the same substance, the exploration or

production licence shall cease to exist at the moment that the granted storage licence becomes irrevocable.

4. As from the moment that a production licence as meant in Article 26.3 ceases to exist, the minerals in the area to which the production licence was applicable shall be deemed to be substances that have been stored by the holder of the storage licence as meant in Article 26.3 and of which the ownership shall be vested in him.
5. Article 26.3 does not apply to a holder of an exploration or production licence for hydrocarbons if he has, before this Article 26 has become effective, been granted an irrevocable storage licence for the same area and for the same substance.
6. In deviation of Articles 26.1 and 26.2 a licence for the permanent storage of CO<sub>2</sub> or a licence for the exploration for CO<sub>2</sub> storage complexes will not be granted to the extent the licence when becoming effective would apply for a CO<sub>2</sub> storage complex for which at that moment in time a licence as meant in Articles 6 or 25 is already valid, irrespective of who the holder of the subject licence is.

#### **Article 26a**

1. Without prejudice to Article 26.6, the holder of a licence for the exploration for CO<sub>2</sub> complexes that by using that licence has demonstrated the suitability of a reservoir for permanent storage of CO<sub>2</sub>, will, on the basis of his application submitted during the validity period of that licence, be granted a storage licence for the found storage reservoir.
2. Article 26.1 does not apply if the refusal of a storage licence as meant in Article 26.a.1 is justified by one of the grounds mentioned in Article 27.
3. If an application as meant in Article 26.a.1 has been submitted, the licence for the exploration for CO<sub>2</sub> complexes, to the extent relating to the storage reservoir applied for, shall remain valid at least until the moment in time when the decree by which a decision is made on the application becomes irrevocable. If a licence for permanent storage of CO<sub>2</sub> is granted, the licence for the exploration for CO<sub>2</sub> storage complexes will, for the area for which a storage licence applies, lapse at the moment that the decree becomes irrevocable. To the extent that as a result thereof conditions would become redundant that have not been fulfilled yet, they will apply as conditions that attach to the storage licence.

#### **Article 26b**

1. As soon as an application for a storage licence has been submitted, other parties shall be afforded the opportunity to submit an application for a storage licence for the same area.
2. Our Minister shall publish an invitation in the Staatscourant for this purpose. This invitation shall cite the provisions of Article 17 or, if it concerns permanent storage of CO<sub>2</sub>, the terms of Articles 31c.3 up to and including 31c.5.
3. Other parties can submit an application during a period of up to 13 weeks after the date on which the invitation is published in the Staatscourant.
4. The procedure set out in Articles 26.1 up to and including 26.3 shall not be applied in respect of:
  - a. an application that is submitted in accordance with Article 26.3;
  - b. licences to which Article 26.1 or Article 26.2 applies;
  - c. an application for an area for which on the ground of Article 26.6 a licence can not be granted;
  - d. an application for a licence for permanent storage of CO<sub>2</sub> to which Article 26a applies.
5. Article 26b.1 up to and including 26b.4a and c similarly apply to an application for a licence for the exploration for CO<sub>2</sub> storage complexes.

## Article 27

1. Without prejudice to Article 26, a storage licence can only be refused:
  - a. on the grounds of the technical or financial capabilities of the applicant,
  - b. on the grounds of the manner in which the applicant proposes to carry out the activities for which the licence is applied for,
  - c. on the grounds of the lack of efficiency and sense of responsibility demonstrated by the applicant in the conduct of activities carried out under a previous licence granted under this Mijnbouwwet,
  - d. in the interests of safety,
  - e. in the interests of the defence of the realm,
  - f. in the interests of systematic management of reservoirs of minerals or terrestrial heat,
  - g. for the due implementation of the Protocol, established at London on 7 November 1996, to the Treaty, established on 29 December 1972, for the prevention of pollution of the sea as a result of the discharge of waste and other substances (Tractatenblad 1998, 134 and Tractatenblad 2000, 27),
  - h. if the general interest requires that the area for which an application for a storage licence is submitted, is used to store substances other than those described in the application,
  - i. if a choice has to be made between 2 or more applications for a licence that in an evaluation on the basis of the items a. up to and including h. have proven to be equivalent, in the interest of an efficient and energetic storage.
2. A licence can be refused on the grounds of the financial capabilities of the applicant if it is insufficiently warranted, that the applicant will comply with the obligations to be imposed on him as meant in Articles 46, 47 and 102.
4. Without prejudice to Article 26 a licence for permanent storage of CO<sub>2</sub> will be refused if:
  - a. storage under the proposed exploitation conditions means that a significant risk of leakage or significant environmental or health risks exist;
  - b. the granting of the licence would mean that in the same hydraulic unit more than 1 storage reservoir would exist and the potential pressure interactions are such that both reservoirs cannot at the same time comply with the safety requirements.
4. In view of the application of Articles 27.1, 27.2 and 27.3, further rules that shall be taken into account in taking the decision on an application for a licence, may be set by ministerial regulation.

## Article 28

A storage licence, other than a licence for the permanent storage of CO<sub>2</sub>, shall specify for which substances, for which area and for which period it is valid. It shall thereby be stipulated that:

- a. the substances brought into the subsoil must be retrieved before a point in time specified in the licence, or
- b. the substances will have to be left definitively in the subsoil.

## Article 29

1. A storage licence can also be granted subject to restrictions other than those meant in Article 28. Conditions can be attached to a licence.
2. The restrictions and conditions other than conditions based on Article 98 can only be justified in the interest of safety, the defence of the realm or the systematic management of deposits of minerals or terrestrial heat.
3. In deviation of Article 29.2, to a licence for permanent storage of CO<sub>2</sub> can also be attached restrictions and conditions as meant in Article 31d.1.

### **Article 30**

1. Our Minister can amend or withdraw a storage licence if this is justified on the grounds of the interests meant in Article 29.2 and 29.3.
2. Furthermore, Our Minister can amend or revoke a storage licence in the event of non-compliance with the provisions of Article 39a.
3. Without prejudice to Article 30.1 Our Minister can also on the ground of Article 31h amend or withdraw a licence for permanent storage of CO<sub>2</sub>.
4. A decision to amend or revoke a licence shall be published in the Staatscourant.

### **Article 31**

The holder of a storage licence can only transfer his licence to another person with the written approval by Our Minister. Articles 20.2, 20.3, 26.2 and 27 similarly apply.

### **Article 31a**

1. In respect of storage licences the Articles 14,17,19 and 21, with the exception of Article 21.4, and Article 22 similarly apply. 2.
2. In deviation of Article 31a.1 only the Articles 14 and 22 similarly apply to licences for the permanent storage of CO<sub>2</sub>.
3. With respect to a licence for exploration for CO<sub>2</sub> storage complexes the Articles 9.1. up to and including 9.3, 11.2, 11.3, 11.4, 12, 13.2, 14, 17, 18, it being understood that “other minerals” is read as “other substances”, 19, 20, it being understood that in Article 20.1 second full sentence “Article 7.2” is read as “Article 26.6, 21.1, 21.2, 21.4, 21.5, 21.6 and 22 similarly apply.

## **§ 3.2 Supplemental rules with respect to the permanent storage of CO<sub>2</sub>**

### **Article 31b**

An application for a licence for permanent storage of CO<sub>2</sub> will at least contain the following subjects:

- a. the period of injection of CO<sub>2</sub> and the size of the licence area,
- b. a characterization of the storage reservoir and the storage complex and an assessment of the expected safety of the storage,
- c. the technical and financial possibilities of the applicant,
- d. the total volume of CO<sub>2</sub> that will be stored,
- e. the future sources of CO<sub>2</sub> and transportation methods,
- f. the composition of the CO<sub>2</sub> stream,
- g. the maximum allowable velocity and pressure at injection of CO<sub>2</sub> and the maximum allowable pressure of the stored CO<sub>2</sub>,
- h. the location of the reservoir where CO<sub>2</sub> will be stored,
- i. risk management,
- j. monitoring,
- k. closing,
- l. corrective measures,
- m. soil movement, and
- n. a description of the financial security or an equivalent means that will be provided and proof that this will legally and actually be provided before the CO<sub>2</sub> storage will be commenced.

### Article 31c

1. Our Minister will send an application for a licence for the permanent storage of CO<sub>2</sub> that complies with Article 31b, together with the pertaining documents to the European Commission within 1 month after receipt thereof.
2. Our Minister will send the draft of a licence for the permanent storage of CO<sub>2</sub> together with the pertaining documents for advice to the European Commission:
  - °a. after lapse of the period meant in Article 26b.3, or
  - °b. after receipt of the application for the licence if Article 26a.1 applies.
3. Our Minister will take a decision on the application ultimately within 10 months after receipt of the application.
4. Our Minister can extend the periods mentioned in Articles 31c.2 and 31c.3 once by a maximum period of 6 months.
5. A decree to grant a licence will be published in the Staatscourant.
6. Our Minister will send a copy of the decision for information to the European Commission. A deviation from of the advice meant in Article 31c.2 will state reasons therefor.

### Article 31d

1. A licence for the permanent storage of CO<sub>2</sub> will at least address the following subjects:
  - a. the period of injection of CO<sub>2</sub> and the area,
  - b. the location and the delimitation of the storage reservoir and the area of the storage complex,
  - c. data with respect to the hydraulic unit,
  - d. conditions for the storage process,
  - e. the total maximum volume of CO<sub>2</sub> that can be stored in accordance with the licence,
  - f. the value limits of the pressure of the stored CO<sub>2</sub>,
  - g. the maximum allowable velocity and pressure at injection of CO<sub>2</sub> and the maximum allowable pressure of the stored CO<sub>2</sub>,
  - h. risk management,
  - i. monitoring
  - j. sealing,
  - k. corrective measures,
  - l. soil movement,
  - m. the composition of the CO<sub>2</sub> stream that will be stored, inclusive of substances that are added for the purpose of the monitoring and the control of CO<sub>2</sub> migration, and
  - n. the amount of financial security or an equivalent arrangement.
2. Section 3.4 of the Algemeen wet bestuursrecht, with the exclusion of Article 3:18, applies to the preparation of a decision about a licence for the permanent storage of CO<sub>2</sub>, to the extent the storage is not in the continental shelf or under the territorial sea in a storage reservoir that lies on the seaward side of the line laid down in the attachment to this Mijnbouwwet.

### Article 31e

1. A holder of a licence for the permanent storage of CO<sub>2</sub> or, if the licence is held by more persons, a designated person as meant in Article 22, will notify Our Minister of the planned changes of the exploitation of the storage reservoir and the injection facilities with pertaining above surface facilities.
2. Article 31d.3, to the extent relevant, applies to an application by a holder of a licence for permanent injection of CO<sub>2</sub> for a change in one or more parts of a granted licence.

**Article 31f**

1. A holder of a licence for the permanent storage of CO<sub>2</sub> or, if the licence is held by more persons, a designated person as meant in Article 22, will keep in a register the quantities and characteristics of the CO<sub>2</sub> streams, including their composition delivered, stored and leaked.
2. Ministerial rules will set rules about the composition of the register.

**Article 31g**

1. A holder of a licence for the permanent storage of CO<sub>2</sub> or, if the licence is held by more persons, a designated person as meant in Article 22, will at least once a year provide to Our Minister the following data:
  - a. the results of the monitoring of the stored CO<sub>2</sub> stating the technology used;
  - b. the quantities and the characteristics of the CO<sub>2</sub> streams delivered and stored, together with a statement about the composition of these streams,
  - c. evidence that financial security or an equivalent arrangement has been arranged and maintained, and
  - d. other data that Our Minister considers to be relevant for the assessment of the interests mentioned in Articles 27.1.a, 27.1.b, 27.1.c and 27.3.b and for the enlargement of the knowledge about the behavior of the CO<sub>2</sub> in the storage reservoir.
2. By or by virtue of order in council rules can be set about the data mentioned in Article 31.g.1 and the time of submission.

**Article 31h**

1. Our Minister will where necessary amend or withdraw a licence for permanent storage of CO<sub>2</sub>:
  - a. after having become aware of leakages or significant irregularities
  - b. if it appears that the licence conditions are not complied with or that there is a risk for leakages or significant irregularities,
  - c. if this appears to be required on the basis of the most recent scientific findings and technological progression, or
  - d. if the financial security or an equivalent arrangement appears to be insufficient.
2. Review of the license will take place after the lapse of a period of 5 years after the granting of the license and subsequently every 10 years.

**Article 31i**

1. A holder of a licence for the permanent storage of CO<sub>2</sub> or, if the licence is held by more persons, a designated person as meant in Article 22, will close off a storage reservoir and removes the injection facilities with the pertaining above surface facilities if storage of CO<sub>2</sub> has ceased in accordance with the conditions of his licence.
2. Before commencing the closing off of the storage reservoir and the removal of the injection facilities with the pertaining above surface facilities, the holder or the designated person as mentioned in Article 31.1.1 will submit to Our Minister an updated version of the documents meant in Articles 31d.1.h up to and including 31d.1.l.
3. The holder or the designated person as mentioned in Article 31.1. shall not commence the closing off before Our Minister has agreed with the updated versions.

### Article 31j

1. Our Minister will at his initiative or at the request of the holder withdraw a licence for permanent storage of CO<sub>2</sub> if:
  - a. the holder of a licence for permanent storage of CO<sub>2</sub> or, if the licence is held by more persons, a designated person as meant in Article 22 has demonstrated in writing that the stored CO<sub>2</sub> will be fully and permanently closed in,
  - b. the storage facility is closed off and the injection facilities with the pertaining above surface facilities have been removed,
  - c. after the moment in time that the storage facility has been closed off and the injection facilities have been removed a period of at least 20 calendar year has lapsed or so much shorter or longer as is, considering Article 31j.1.a, in Our Minister's judgement, permissible, and
  - d. the holder as meant in Article 31j.1.a has provided him with a financial contribution with which the anticipated costs, but at least the estimated monitoring costs will, during a period of 30 years commencing the date of withdrawal, be covered.
2. Articles 31c and 31d.2 similarly apply to the document as meant in Article 31j.a.
3. By or by virtue of order in council rules can be set about Article 31j.1.

### Article 31k

1. Commencing the moment in time that a licence has been withdrawn by virtue of Article 31j, Our Minister is in charge of:
  - a. monitoring,
  - b. corrective measures and
  - c. the preventive and redo measures as meant in Articles 17.12 and 17.13 of the Wet Milieubeheer.
2. If after the moment in time as meant in Article 31k.1 leakages of CO<sub>2</sub> occur:
  - a. Our Minister will report the leakages to the Nederlandse emissieautoriteit and
  - b. Our Minister hands in, before 1 May of the next succeeding calendar year, at least a number of green house gas emission rights as meant in Article 1:1 of the Wet Milieubeheer that corresponds with the volume of the emission as a result of the leakages.
3. Commencing the moment in time as meant in Article 31k.1 the obligation to maintain the financial security or an equivalent arrangement ceases to exist.
4. The monitoring concerns the level in which leakages or significant irregularities can be assessed. If significant irregularities or a threat thereof is assessed Our Minister will intensify the monitoring.
5. Our Minister will recover the costs that are related with Article 31k.1 and have arisen after withdrawal from the previous owner of a licence for the permanent storage of CO<sub>2</sub> or, if the licence is held by more persons, a designated person as meant in Article 22, to the extent he has not acted carefully in the period preceding the withdrawal of the storage licence.
6. By or by virtue of order in council rules can be set about Articles 31k.1.a and 31k.2.

### Article 31l

1. If Our Minister withdraws a licence by virtue of Article 31h.1 he will continue the work with respect to storage in conformity with the conditions that attach to the licence and Article 31f, until he has again granted a licence for permanent storage of CO<sub>2</sub>.
2. If in deviation of Article 31l.1 no new licence is granted then Our Minister will close off the storage reservoir and removes the injection facilities and the pertaining above surface facilities in conformity with the conditions of the licence.

3. If either Article 31l.1 or Article 31l.2 is applied, Our Minister will as necessary update the documents as meant in Articles 31d.h up to and including 31d.i
4. The costs that Our Minister has made in applying Articles 31l.1 up to and including 31l.3 will be recovered by him from the previous holder of a licence for permanent storage of CO<sub>2</sub> or, if the licence is held by more persons, a designated person as meant in Article 2. If recovery is not possible, Our Minister will recover the costs from the financial security or equivalent arrangement provided by the previous licence holder.
5. Our Minister shall in the period that commences with the withdrawal of a licence revise periodically the financial security or an equivalent arrangement.
6. The financial security or an equivalent arrangement provided by the previous licence holder ceases to exist when all available data in the opinion of Our Minister show that the stored CO<sub>2</sub> remains completely and safely closed in after payment of the costs meant in Article 31l.4 that have not yet been paid by the previous holder or the designated person meant in Article 31l.4, and the costs that the Minister according to reasonable expectation will have to make during a continuous period of 30 years, including the costs for monitoring.
7. If the costs as meant in Article 31l.6 are in excess of the financial security or an equivalent arrangement, these excess costs will be recovered by Our Minister from the previous licence holder or designated person.
8. If Article 31l.1 or Article 31l.2 applies, Our Minister is in charge of the handing in of the rights as meant in Article 31k.2.

#### **Article 31m**

Our Minister will keep a register of the granted licences for permanent storage of CO<sub>2</sub> and the closed in storage reservoir and surrounding storage complexes including information with which it can be judged whether the stored CO<sub>2</sub> is completely and permanently closed in.

#### **Article 31n**

Our Minister will see to it that the environmental information about permanent storage of CO<sub>2</sub> is accessible to the general public. Article 10 of the Wet openbaarheid bestuur similarly applies.

#### **Article 32**

1. The holder of a licence for permanent CO<sub>2</sub> storage or, if the licence is held by more persons, a designated person as meant in Article 22 and the manager of a transportation network are obliged to each and every person person requesting so, to allow at conditions that are reasonable, transparent and non-discriminatory, to store CO<sub>2</sub> in his storage facility or to transport through his transportation network, respectively.
2. A holder and a manager as meant in the first full sentence can refuse the request for storage or transportation on the basis of lack of capacity, connection possibilities or incompatibility of technical specifications.
3. Lack of capacity or connection possibilities can not be claimed if the holder and the manager can remove that lack by carrying out the necessary work that increases the capacity to the extent this is economically justified or the party making the request is prepared to pay for the work and the work to be carried out will not have a negative effect on the environmental safety of the transportation and the storage of CO<sub>2</sub>.
4. By or by virtue of order in council further rules can be set about Article 32.4.

## **CHAPTER 3a. REDUCTION OF AN AREA**

### **Article 32a**

1. Our Minister will annually before 1<sup>st</sup> April make an inventory of the parts of an area for which a production or storage licence for hydrocarbons applies, where:
  - a. in the previous 2 calendar years no significant activities with respect to the exploration for or production of hydrocarbons or storage of substances have taken place;
  - b. the production activities ceased;
2. Our Minister will notify the inventory in the Staatscourant.

### **Article 32b**

1. Our Minister can reduce an area to which a production licence for hydrocarbons or a storage licence applies by a part thereof, if in that part during a period of 2 previous calendar years no significant activities with respect to the exploration for or production of hydrocarbons or the storage of minerals have taken place or the production activities ceased.
2. Our Minister will notify the holder of a production or storage licence in writing of his intent to reduce an area as meant in Article 32b.1 and will enable him to make plausible, within 6 month commencing the first day after the day of sending of the notification, that in that part significant activities as meant in Article 32b.1 have been or will be carried out.
3. Significant activities as meant in Article 32b.2 shall in any event be deemed to have occurred or to occur if:
  - a. exploration, production or storage activities as meant in Articles 1.e, 1.f or 1.i, respectively, have been carried out or will, in the Minister's view, be carried out within a reasonable period of time;
  - b. a production plan as meant in Article 34 has been submitted;
  - c. a storage plan as meant in Article 39, in conjunction with Article 34, has been submitted.
4. Ultimately within 4 months after lapse of the period meant in Article 32b.2 or, if the holder of the licence has within that period notified in writing that no activities will be or have been carried out, ultimately within 4 months after that notification, Our Minister shall render a decree about reduction of a licence area. Our Minister may attach restrictions and conditions to the decree. If Our Minister has not rendered a decree within the period as meant in the first sentence, the area will be designated as not to have been reduced.

### **Article 32c**

1. A decree as meant in Article 32b shall be rendered in such a manner that both the area covered by the licence area that remains after it has been reduced and that part by which it is reduced comply with the provisions of Articles 11.3 and 11.4.
2. The decree shall in any event mention:
  - a. the licence area that remains after the reduction;
  - b. the part by which the licence area is reduced; and
  - c. the moment in time when the reduction of the area covered by a licence is to occur.
3. The decision shall be published in the Staatscourant.

## CHAPTER 4. ENSURING THAT THE ACTIVITIES ARE EXECUTED PROPERLY

### § 4.1 General obligations

#### Article 33

The holder of a licence as referred to in Articles 6 or 25, or, if the licence has lost its validity, the last holder of the licence, must take all steps that can reasonably be required of him to prevent that as a result of the activities carried out by using the licence:

- a. adverse consequences for the environment are caused,
- b. damage as a result of soil movement is caused,
- c. safety is jeopardized or
- d. the interest of a systematic management of reservoirs of minerals or of terrestrial heat is jeopardized.

#### Article 34

1. The production of minerals from a reservoir will be carried out according to a production plan.
2. The holder of a production licence or the person designated in accordance with Article 22 shall submit a production plan to Our Minister.
3. The production plan needs the approval of Our Minister.
4. Section 3.4 of the Algemene wet bestuursrecht applies to a decision with respect to the approval of a production plan, to the extent the production of minerals does not occur in the continental shelf or under the territorial sea from a reservoir that is located on the seaward side of the line established in the attachment to this Mijnbouwwet. Points of view may be submitted by anybody. Section 3.4 of the Algemene wet bestuursrecht does not apply if it concerns a decision with respect to an amendment of a decision with respect to approval of a production plan.
5. Article 34.1 does not apply to the production of minerals within the scope of the search for data for pure scientific research or for the central government policies to be implemented.

#### Article 35

1. The production plan sets forth in respect of each reservoir within the licence area at least a description of:
  - a. the anticipated volume of minerals present and the location thereof;
  - b. the commencement and duration of the production;
  - c. the method of production and the activities relating thereto;
  - d. the volume of minerals to be produced annually;
  - e. the cost on an annual basis of the production of the minerals;
  - f. the soil movement as a result of the production and the measures to prevent damages as a result of soil movement, to the extent the production of minerals does not take place in the continental shelf or under the territorial sea from a reservoir that is located on the seaward side of the line established in the attachment to this Mijnbouwwet, unless our Minister has decided otherwise.
2. The Technical committee soil movement provides advice to Our Minister with respect to Article 35.1.f.
3. By or by virtue of an order in council further rules can be set with respect to the production plan.

**Article 36**

1. Our Minister can only refuse his approval with respect to the drawn up production plan:
  - a. in the interest of systematic management of the deposits of minerals;
  - b. in connection with the risk of damage as a result of soil movement, to the extent the production of minerals does not take place in the continental shelf or under the territorial sea from a reservoir that is located on the seaward side of the line established in the attachment to this Mijnbouwwet, unless Our Minister has decided otherwise.
2. Our Minister can state his approval subject to restrictions and attach conditions thereto, if these are justified by a ground mentioned in Article 36.1.
3. Our Minister can withdraw his approval or amend the restrictions and conditions, if such is justified by the grounds mentioned in Article 36.1. The third sentence of Article 34.4 similarly applies to a decision stating withdrawal of a decision stating approval to a production plan and with respect to amendment of restrictions and conditions as meant in the first sentence.

**Article 37 (deleted per 1<sup>st</sup> July 2005)****Article 38 (deleted per 1<sup>st</sup> January 2010)****Article 39**

1. Articles 34 up to and including 38 similarly apply to:
  - a. the production of terrestrial heat, and
  - b. the storage of substances.
2. Article 39.1 will not be applied to the extent Chapter 3, paragraph 3.2 will be applied.

**Article 39a**

Within a period of 12 month after a storage licence has become irrevocable, the holder of the storage licence or the person designated by virtue of Article 22 shall submit a storage plan as meant in Article 39 to Our Minister.

**Article 40**

1. This Article applies in those cases where chapter 8 of the Wet algemene bepalingen Milieubeheer does not apply in relation to a mining work.
2. Without a licence by Our Minister it is prohibited to erect a mining work or to continue its existence. This prohibition does not apply to mining works belonging to a category that is exempted from this prohibition by or by virtue of an order in council and for which that order in council sets rules for the protection of the environment.
3. The licence can only be refused on the grounds of protection of the environment.
4. The licence can be granted subject to restrictions. Conditions can be attached to the licence. The restrictions and conditions can only be justified on the grounds of protection of the environment.
5. The licence can specify that Our Minister has powers described therein for the implementation of the conditions it contains.
6. A ministerial regulation will set rules as to the manner in which the application for a licence must be submitted, and about the data and documents that have to be submitted with it. The ministerial regulation shall designate which public bodies must be given the opportunity to render advice in connection with the taking of a decision, or that will be involved in some other way in the preparatory procedure.

7. Our Minister can amend the restrictions and conditions, insofar as they do not concern the location of the mining work and the amendment is justified in the interests of the protection of the environment.
8. Article 21.1, with the exception of Articles 21.1.c. and 21.2, similarly apply.
9. Section 3.4. of the Algemene wet bestuursrecht applies to the preparation of a decree to grant a licence.
10. A licence can contain a condition:
  - a. that terms and conditions designated thereby will only become effective at a moment in time stated thereby, or as and when a particular circumstance will occur;
  - b. that terms and conditions stated thereby will only be valid up to a certain moment in time or a circumstance stated thereby;
  - c. that terms and condition designated thereby will, after the licence has lost its validity, will remain in force during a period of time stated thereby.
11. The following parts of the Wet algemene bepalingen omgevingsrecht similarly apply:
  - a. Article 4.2. with respect to a decision about:
    1. ° the amendment or withdrawal of a licence;
    2. ° the granting of a licence for the continuance of a mining work in the event that the prohibition referred to in Article 40.2 did not apply to that mining work and the prohibition became effective at some moment in time other than as a result of a change of the mining work or its performance.
  - b. Articles 2.25.1 and 8.1.
12. The following parts of the Wet Milieubeheer similarly apply: chapter 7, Articles 8.40.1, 8.40.2, 8.41, 8.42 and section 13.2

#### **Article 41**

1. In view of the risk of soil movement, measurements shall be carried out before the start of the production of minerals during the production and for up to 30 years after cessation of the production. By or by virtue of an order in council rules shall set for these measurements and the reporting of their results.
2. This Article 41 similarly applies to the production of terrestrial heat and the storage of substances.
3. Unless otherwise specified in the licence concerned, this Article 41 does not apply to the production of minerals or terrestrial heat or the storage of substances in the continental shelf or under the territorial sea, insofar as the production or storage occurs from or in a reservoir located on the seaward side of the line established in the attachment to this Mijnbouwwet.
4. The obligations arising out of this Article attach to the holder of the relevant licence referred to in Articles 6 or 25, or, if the licence has lost its validity, on the last holder of the licence. If the licence is held by more than one natural or legal person, the obligations arising out of this Article attach to the person designated in Article 22, or, if the licence has lost its validity, on the last person designated on the basis of that Article.

#### **Article 42**

1. If a licence meant in Articles 6 or 25 applies to an area for which another person holds a licence as meant in Articles 6 or 25, Our Minister can oblige the licence holder to tolerate that the holder of the other licence exercises the rights arising therefrom, to an extent to be determined by Our Minister.
2. If a licence for the production of minerals or terrestrial heat applies to an area in which a reservoir is present which can reasonably be expected to extend beyond the boundary of the licence area, the licence holder is obliged to co-operate in reaching an agreement between the licence holder and the party entitled to produce minerals or terrestrial heat in

the adjacent area, unless Our Minister grants an exception from this obligation. The agreement shall be aimed at production in mutual agreement. The Agreement can stipulate that obligations that by virtue of chapters 2, 3 and 4 attach to the persons referred to under Article 22, attach to one of these persons. Our Minister may stipulate conditions in respect of the agreement to be concluded. The agreement and changes to the agreement must be submitted to Our Minister.

#### **Article 43**

1. Our Minister may impose a safety zone around a mining installation, the extent of which shall be determined by him. Such safety zone may not extend further than a distance of 500 metres measured from the exterior of the installation.
2. No person may, without an exemption granted by Our Minister, be present or have any matter of any kind whatsoever present within a safety zone as established by virtue of Article 43.1 other than for the purpose of carrying out a reconnaissance survey or on the grounds of a licence for exploration for or production of minerals or terrestrial heat, or for the storage of substances. Conditions can be attached to the exemption. By or by virtue of an order in council rules will be set with respect to the application for, amendment or withdrawal of an exemption.

#### **Article 44**

1. A mining installation that is no longer in use must be removed.
2. Article 44.1 similarly applies to scrap metal or other material that has become present there or in the near vicinity as a result of the installation, the use or the removal of the mining installation.
3. Our Minister can limit the obligation to remove under the soil of the surface water to a depth to be set by him.
4. Our Minister can set a time limit within which the obligation to remove has to be fulfilled.
5. Article 41.4 similarly applies.

#### **Article 45**

1. Our Minister can stipulate that a cable or pipeline present on or in the continental shelf, that is used for the exploration for or production of minerals or terrestrial heat, or for the storage of substances, must be removed after cessation of its use. Articles 44.2 and 44.3 similarly apply.
2. The obligations of this Article attach to the operator of the cable or pipeline, or, if nobody can be designated as operator, to the last operator of the cable or pipeline.

### **§ 4.2 Financial security**

#### **Article 46**

1. Our Minister can stipulate that security will have to be provided to cover the liability for the damages that can reasonably be expected to occur through soil movement resulting from the production of minerals.
2. At the request of Our Minister a thoroughly detailed report, showing what reasonably estimated damages will occur, will be submitted to him.
3. The amount of and the period during which, the moment in time and the manner in which the provision of security will be provided, must be to the satisfaction of Our Minister.
4. This Article similarly applies to the production of terrestrial heat and the storage of substances.

5. This Article does not, unless the licence concerned states otherwise, apply to the production of minerals or terrestrial heat or the storage of substances in the continental shelf and under the territorial sea, to the extent the production or storage takes place from or in a reservoir that is located on the seaward side of the line established in the attachment to this Mijnbouwwet.
6. Article 41.4 similarly applies, it being understood, however, that if a licence is transferred after the damages have become known, the obligations of this Article in respect of those damages remain attached to the person that at the time of the damage having become known, was the holder of the licence or the designated person as meant in Article 22.

#### **Article 47**

1. Our Minister can stipulate that security will have to be provided for the discharge of matters that will become due in the event he takes administrative compulsory legal measures for the implementation of the obligations under or by virtue of this Mijnbouwwet in respect of the removal or leaving in situ, or the demolition or re-use of mining installations that are no longer used, after removal.
2. Articles 41.4 and Article 46.3 similarly apply.
3. In deviation of Article 47.2, the security stipulated by Our Minister as meant in Article 47.1 is the obligation of the holder of a licence for the permanent storage of CO<sub>2</sub> or, if the licence is held by more persons, the designated person as meant in Article 22.

#### **Article 48**

1. Our Minister can stipulate that security will have to be provided for the discharge of matters that will become due in the event he takes administrative compulsory legal measures for the implementation of the obligations under or by virtue of this Mijnbouwwet in respect of the removal or leaving in situ, or the demolition or re-use of cables or pipelines on or in the continental shelf that are no longer used, after removal.
2. Articles 45.2 and 46.3 similarly apply.

### **§ 4.3 Further rules**

#### **Article 49**

1. By or by virtue of an order in council, rules can be set in respect of:
  - a. the exploration for minerals or terrestrial heat;
  - b. the production of minerals or terrestrial heat;
  - c. the storage of substances;
  - d. the conduct of a reconnaissance survey;
  - e. drill holes, other than those for the exploration for or production of minerals or terrestrial heat or for the storage of substances more than 500 metres beneath the surface of the earth;
  - f. pipelines and cables that are used for the purpose of the exploration for or the production of minerals or terrestrial heat, or for the storage of substances;
  - g. the substances that jointly with CO<sub>2</sub> are transported and stored.
2. The rules meant in Article 49.1 may be set for the purpose of:
  - a. a systematic management of deposits of minerals, terrestrial heat and other natural resources;
  - b. the protection of the safety;
  - c. the protection of the environment;
  - d. the limitation of damage as a result of soil movement.

3. The rules meant in Article 49.1 can also be set, insofar as the activities meant in Article 49.1 take place on or in the territorial sea for the purpose of:
  - a. shipping, the defence of the realm, fishery, the generation of electricity, the preservation of the living riches of the sea, pure scientific research and the laying and maintenance of subsea cables and pipelines;
  - b. the protection of historical, archaeological and other scientific finds.
4. The rules meant in Article 49.1 can, to the extent they are set, contain restrictions.
5. The rules meant in Article 49.1 can also relate to the removal or leaving behind and the demolition or re-use of mining works, cables and pipelines that are no longer used, after their removal.
6. The rules meant in Article 49.3, to the extent they are set for the purpose of shipping, the generation of electricity, the protection of historical, archaeological and other scientific finds or the defence of the realm, can contain restrictions with respect to the locations where the activities meant in Article 49.1 may take place.

### **Article 50**

Our Minister can, in cases of a serious impact arising or threatening to arise on the interests referred to in Articles 49.2 or 49.3 prescribe measures relating to the activities meant in Articles 49.1 and 49.5.

### **Article 51**

1. By or by virtue of an order in council rules can be set for the protection of safety in view of collapse, in respect of the use of a drill hole, tunnel, shaft or other subsurface structure for the extraction from the subsoil of:
  - a. minerals, insofar as these minerals are located at a depth of less than 100 metres beneath the surface of the earth;
  - b. solids other than lime or minerals.
2. The order in council mentioned in Article 51.1 can specify that:
  - a. without a licence the extraction of substances meant in Article 51.1 is prohibited;
  - b. Our Minister has the authority as per the order in council to implement the rules set thereby.
3. Our Minister can, in cases of a serious impact arising or threatening to arise on safety in view of collapse, prescribe measures with respect to the activities referred to in Article 51.1.

### **Article 52**

1. By or by virtue of order in council rules can be set for the protection of safety in view of collapse, in respect of the use of a drill hole, tunnel, shaft or other subsurface work for the extraction from the subsoil of limestone and about the use of said subsoil work for purposes other than the extraction of limestone.
2. The order in council meant in Article 52.1 can stipulate that:
  - a. the carrying out of the activities meant in Article 52.1 is prohibited without a licence by gedeputeerde staten of the province in which the work is wholly or partly located; Minister;
  - b. if it concerns the use of a subsurface work for purposes other than the extraction of limestone, that the carrying out of these activities does not require a licence but a prior notice in writing to gedeputeerde staten of the province in which the work or the greatest part of it is located;

- c. gedeputeerde staten of the province in which the work or the greatest part of it is located has the authorities described in the order for the implementation of the regulations designated thereby.
- 3. Provinciale staten of the province in which the work or the greatest part of it is located can in the event of an obligation to notify set rules for the use of a subsurface work for purposes other than the extraction of limestone.
- 4. Provinciale staten of the province in which the work or the greatest part of it is located can, in cases a serious impact of the safety with a view of collapse arises or threatens to arise, prescribe measures with respect to the activities meant in Article 52.1.

## **CHAPTER 5. FINANCIAL CONDITIONS**

### **§ 5.1.1 Payments in connection with the exploration for and production of hydrocarbons**

#### **§ 5.1.1.1 General**

##### **Article 53**

This section applies to assessment on and collection in connection with surface rental, cijns and state profit share from the holder or co-holder of a licence for the exploration for or production of hydrocarbons.

##### **Article 54**

In this section the following shall be understood to mean:

- a. co-holdship: situation in which the licence is held by more than one natural or legal person;
- b. co-holder: each of the natural or legal persons meant in Article 54.a.;
- c. the designated co-holder: the person designated in Article 22;
- d. the landward side: that part of the territory of the Netherlands that lies on the landward side of the line established in the attachment to this Mijnbouwwet;
- e. the seaward side: the continental shelf and that part of the territory of the Netherlands that lies on the seaward side of the line established in the attachment to this Mijnbouwwet;
- f. inspector: the person of the Rijksbelastingdienst designated by ministerial ruling of Our Minister of Finance;
- g. the collector: the person of the Rijksbelastingdienst designated by ministerial ruling of Our Minister of Finance.

##### **Article 55**

- 1. An amendment to paragraph 5.1.1.2., with the exception of an amendment that is the result of application of Article 58.3, does not apply to the holder of an exploration licence granted before the effective date of such amendment, unless that holder requests for application of the paragraph as amended;
- 2. An amendment to paragraph 5.1.1.2., with the exception of an amendment that is the result of application of Article 58.3, in paragraph 5.1.1.3., or in paragraph 5.1.1.4., with the exception of Article 68.1, does not apply to the holder of a production licence granted before the effective date of such amendment, unless the holder requests for application of the paragraphs as amended.

3. A request as meant in Articles 55.1 and 55.2 will have to be submitted in writing to Our Minister within 3 months after the date that that amendment became effective.
4. Our Minister will honour a request as meant in Articles 55.1 and 55.2, unless it is in conflict with the public interest.

### § 5.1.1.2 Surface rentals

#### Article 56

1. Surface rental is due by the person who on the 1<sup>st</sup> January of the calendar year for which it is assessed, is the holder of an exploration licence on the seaward side and the person that on the 1<sup>st</sup> January of the calendar year for which it is assessed, is the holder of a production licence.
2. In the event of co-holdership, the surface rental is assessed on the designated co-holder.

#### Article 57

1. The basis for assessment is the surface of the area for which an exploration or production licence as meant in Article 56.1, is effective on 1<sup>st</sup> January.
2. The period over which surface rental is assessed is the calendar year.

#### Article 58

1. The 2011 tariff for the holder of an exploration licence is a sum per square kilometre in accordance with the following table. The first period is the first calendar year in which the licence is effective on 1<sup>st</sup> January. The next periods are the calendar years subsequent to that calendar year.

Tariff for 2011	
Period	Tariff per km <sup>2</sup>
1st to 6th year incl.	€ 235,--
7th to 9th year incl.	€ 4470,--
Following years	€ 703,--

2. The tariff for 2011 for the holder of a production licence is € 703 per square kilometre.
3. At the beginning of a calendar year the tariffs as meant in Articles 58.1 and 58.2 are replaced by other tariffs by Ministerial rules. These tariffs will be calculated on the basis of the index figure meant in Article 1 of the koninklijk besluit of 28 September 1992 (Staatsblad 507), that defines the index figure for wages, as was applicable on 31<sup>st</sup> December of the previous year.

#### Article 59

1. Surface rental must be filed.
2. The holder, or in the event of co-holdership, the designated co-holder, will ultimately before 1<sup>st</sup> April of the calendar year for which surface rental is assessed, file a return to that effect.

### § 5.1.1.3 Cijns

#### Article 60

Cijns will be assessed on the holder, or in the event of co-holdership, on each of the co-holders of a production licence.

#### Article 61

If in the licence area both natural gas and mineral oil are produced, separate cijns is assessed on natural gas and mineral oil.

#### Article 62

1. The criterion for assessment is the turnover achieved by the holder, or in the event of co-holdership, by each of the co-holders, during the calendar year for which cijns is assessed.
2. The turnover is the number of units of mineral oil or natural gas produced in the licence area and accruing to the holder, or in the event of co-holdership to each of the co-holders during the calendar year, multiplied by the price per unit at which these units have been sold. If with respect to those sales conditions have been agreed upon or have been imposed that differ from conditions that would have been agreed at arms' length, the turnover will be calculated as if the latter conditions had been agreed. If units have been taken from the production activities other than through sales, the turnover meant in Article 62.1 will be calculated as if these units had been sold under conditions that would have been agreed at arms' length.
3. In the calculation of the number of units produced, the units of mineral oil or natural gas used for the purpose of the following will not be taken into account:
  - a. for the exploration for or the production in the licence area in which they have been produced;
  - b. for the processing before delivery of those units and the transportation to the place where that processing takes place.
4. Units of mineral oil or natural gas that in accordance with Article 94.2.a. accrue to the company meant in that Article, will not be taken into account in the application of Article 62.1.

#### Article 63

1. The tariff is a percentage that is determined on the basis of the total number of units produced in the licence area during the calendar year. The number of units of mineral oil is determined by a pressure of 101,325 kPa and a temperature of 15° C. Mineral oil shall be deemed to include condensate. The number of units of natural gas is determined by a pressure of 101,325 kPa and a temperature of 0° C and converted to units with a calorific value of 35,1692 MJ/m<sup>3</sup> upper value.
2. In determining the number of units meant in Article 63.1, Article 62.3 applies.
3. The percentage is made up by means of a system of tranches in accordance with the tables below, and is calculated by:
  - a. determining the quantity that falls within that tranche, and multiplying this quantity by the percentage belonging to that tranche,
  - b. adding up these products and
  - c. dividing this sum by the aggregate number of units produced in the licence area.

Mineral Oil		
Quantity extracted by holder or jointly co- holders in thousands of m3	Composition of this tranche	
	Landward side	Seaward side
Tranche 1: 0 to 200	0%	0%
Tranche 2: 200 to 600	2%	0%
Tranche 3: 600 to 1200	3%	0%
Tranche 4: 1200 to 2000	4%	0%
Tranche 5: 2000 to 4000	5%	0%
Tranche 6: 4000 to 8000	6%	0%
Tranche 7: 8000 and above	7%	0%

Natural gas		
Quantity extracted jointly by holder or joint holders in millions of m3	Composition of this tranche	
	Landward side	Seaward side
Tranche1: 0 to 200	0%	0%
Tranche 2: 200 to 600	2%	0%
Tranche 3: 600 to 1200	3%	0%
Tranche 4: 1200 to 2000	4%	0%
Tranche 5: 2000 to 4000	5%	0%
Tranche 6: 4000 to 8000	6%	0%
Tranche 7: 8000 and above	7%	0%

4. The tariff for any a calendar year will be increased by 25% if for that year the weighted average value of crude oil imported into the Netherlands for that year exceeds € 25 per barrel. Ministerial rules will set rules as to the manner in which the weighted average as mentioned in the first sentence will be established.
5. Without prejudice to the increase under Article 63.4, the tariff will be increased by 100% if the holder has not concluded an agreement as referred to in Article 90 in relation to the production licence. This increase will not take place with respect to units that have been produced from a reservoir in respect of which an agreement as meant in Article 97 has been concluded.

#### Article 64

1. Cijns must be filed.
2. The holder, or in the event of co-holdership, each of the co-holders, will ultimately on 1st April of the year following the year for which cijns is due, file a return.

### § 5.1.1.4 Profit share

#### Article 65

Profit share is levied from the holder of, or in the event of co-holdership, from each of the co-holders, of a production licence.

#### Article 66

1. The basis for assessment is the resulting sum of the profit and loss account less the losses as referred to under Article 66.3, for a financial year, drawn up by the holder of, or in the event of co-holdership, by each of the co-holders of a production licence having taken into account the Articles 67 and 68, less the losses to be settled on the basis of Article 66.3.. The profit and loss account will contain the costs and proceeds of the production activities attributable to that year and to that licence.
2. If the holder or co-holder is also a holder or co-holder of one or more other production licences, a consolidated profit and loss account can be drawn up.
3. If the result as meant in Article 66.1 is negative, then this constitutes a loss. This loss will, by application of chapter IV of the Wet op de vennootschapsbelasting 1969, be settled with the positive results of the 3 previous financial years and of the next financial years.

#### Article 67

1. The result as mentioned in Article 66.1 shall in any event comprise:
  - a. the arms' length value of the hydrocarbons that have been taken from the production activities other than through sale;
  - b. the differences between the valuation of stocks beginning of year and end of year taken at 1st January and 31st December of a calendar year in accordance with sound business practices;
  - c. the result obtained by the sale of the production licence.
2. The result as mentioned in Article 66.1 shall in any event comprise:
  - a. the costs of reconnaissance and exploration survey that have been carried out by virtue of an exploration licence and that have not been debited to another profit and loss account;
  - b. depreciation on costs made before the production licence was granted and that have not been debited to another profit and loss account.
3. The result as mentioned in Article 66.1 shall not comprise:
  - a. depreciation on the purchase price with respect to an exploration licence, insofar as this purchase price of the licence does not already exceed the costs debited by the transferor to a profit and loss account;
  - b. the value of the hydrocarbons produced and used in the production activities.
4. In the event that the inspector issues an advance ruling, in respect of which he may stipulate additional requirements and against which objections may be lodged, to the effect that a legal act seeks to protect against exposure to a price or the risk of depreciation in relation to hydrocarbons that have been or are to be produced, the result of the relevant legal act shall belong to the result meant in Article 66.1.
5. If the holder or co-holder has agreed, or has been imposed upon conditions that differ from arms' length conditions, the result as meant in Article 66.1 shall be determined as if the latter conditions would have been agreed.

## Article 68

1. The profit and loss account as referred to in Article 66.1 will be drawn up by mutatis mutandis application of Articles 3.8, 3.14.1b up to and including g, Articles 3.14.3 up to and including 3.14.6, Articles 3.25 up to and including 3.39, 3.52, 3.53.1a and 3.53.1b, 3.53.2, Articles 3.54, 3.56 and 3.57 of the Wet inkomstenbelasting 2001, and Articles 7.4 and 7.5, Article 8.4, Articles 9 up to and including 10b, 14 up to and including 14b, and 15d of the Wet op de vennootschapsbelasting 1969, except to the extent provided otherwise by or pursuant to this Mijnbouwwet, or to the extent otherwise by the difference in nature between the holder or co-holder on the one hand and a natural person within the meaning of inkomstenbelasting respectively a tax subject under the vennootschapsbelasting on the other hand leads to the contrary.
2. For the purpose Article 68.1, “enterprise” as used in the said Articles of the Wet op de inkomstenbelasting 2001 and of the Wet op de vennootschapsbelasting 1969 will read: “production enterprise”.
3. For the purpose of the drawing up of the profit and loss account as referred to in Article 66.1, the costs will be increased by 10%, with the exception of:
  - a. taxes and other Dutch public law charges due to the State by the holder of the production licence;
  - b. depreciation of the purchase price with respect to the take-over of a production licence, insofar such purchase price exceeds the costs not yet debited to a profit and loss account by the transferor of such licence;
  - c. appropriations to the provision with respect to the abandonment obligation ensuing from a production licence acquired, insofar the transferor of such licence has already made appropriations;
4. To the extent that the Wet op de inkomstenbelasting 2001 or the Wet op de vennootschapsbelasting 1969 has granted the power to set rules in an order in council or a ministerial regulation and proper implementation of Article 68.1 in respect of such rules requires adjustment of this Article, this adjustment may be arranged by order in council or ministerial regulation by Our Minister in consultation with Our Minister of Finance.

## Article 68a

1. If, calculated from the moment that this Article becomes effective, for the purpose of the exploration for or production of a reservoir of gas on the seaward side to be designated by Our Minister, investments are made in capital equipment not previously used with respect to that reservoir, the holder, or in the event of co-holdship, each of the co-holders, can, additionally, charge 25% of the investment amount to the result as meant in Article 66.1. A designation takes place at the request of the holder of an exploration or production licence if the reservoir complies with conditions to be set by ministerial rules with respect to the distance between the reservoir and existing infrastructure, the size and the productivity of the reservoir.
2. Investment is deemed to mean the commitment of obligations with respect to the purchase of capital equipment, and the making of production costs with respect to a capital equipment, to the extent those obligations and costs are for the account of the holder or the co-holder.
3. If at the end of a financial year the capital equipment has not been taken into use and the investment deduction would exceed what at the end of that year has been paid with respect to the investment, then in deviation of Article 68a.1 an amount equal to the payment qualifies and the excess will qualify in the next years, to the extent payments are made, but not later than in the year in which the capital equipment is taken into use.
4. If the holder or co-holder of an exploration licence is not also holder or co-holder of a production licence, then the holder or co-holder can charge the investment deduction

meant in Article 68a.1 to the result in the first year in which he is holder or co-holder of a production licence. Article 68a.3 similarly applies.

5. For the purpose of this Article capital equipment shall also be understood to mean exploration or evaluation drilling.

#### **Article 68b**

Ministerial rules may be set with respect to:

- a. the rendering of additional data and documents pertaining to the profit and loss account as meant in Article 66.1,
- b. about the capital equipment as meant in Article 68a.1, and
- c. the implementation of Article 68a.

#### **Article 69**

1. The rate is 50%.
2. To the extent possible, the amount of profit share due by the holder or co-holder with respect to any financial year will be reduced by the set-off amount relating to such financial year to be computed as per the procedure set forth in Article 69.3. If it is not possible to deduct the full amount to be set off, the surplus will be added to the amount to be set off with respect to the next financial year. If the amount to be set off is negative, such amount will be deducted from the amount to be set off with respect to the next financial year.
3. The amount to be set off as referred to in Article 69.2 is taken to mean the amount computed by:
  - a. determining the result of the profit and loss account with respect to the relevant financial year, provided that Article 68.3 will not be taken into account;
  - b. reducing such result by the amount of profit share due in respect of the relevant financial year after application of this Article;
  - c. applying the corporate income tax rate applicable to such difference for the relevant financial year.
4. Article 69.2 will not apply if the holder or co-holder is not subject to taxation in the Netherlands with respect to the result generated by the production enterprise.

#### **Article 70**

1. Profit share is levied by way of assessment.
2. The holder or, in the event of a co-holdership, each of the co-holders will send the inspector a profit and loss account drawn up with respect to the relevant financial year as referred to in Article 66.1, together with the corporate income tax return with respect to such financial year, and a computation of the amount to be set off with respect to such financial year as referred to in Article 69.2, and a balance sheet stating the assets and liabilities of the production enterprise as per the end of the financial year.

### **§ 5.1.1.5 Assessment and collection**

#### **Article 71**

The payments meant in this sub-chapter will be assessed by the inspector and collected by the collector.

**Article 72**

Without prejudice to the other matters stipulated by or by virtue of this paragraph, the assessment and collection of surface rental, cijns and profit share are effected by similar application of the Algemene wet inzake rijksbelastingen, the Invorderingswet 1990 and the Kostenwet invordering rijksbelastingen and the provisions based on those acts.

**Article 73**

1. Articles 30f.1 and 30f.3.a of the Algemene wet inzake rijksbelastingen similarly apply to the computation of the assessment interest pertaining to the profit share.
2. Articles 30f.2 and 30f.3.c of the Algemene wet inzake rijksbelastingen similarly apply to the computation of assessment interest pertaining to cijns and surface rental.

**Article 74**

1. The inspector and the collector shall provide to Our Minister at his request and at no cost, the data and information required for the implementation of this Mijnbouwwet.
2. The inspector and the collector shall render access to the persons designated by Our Minister and allow their inspection of all data Our Minister needs for the implementation of this Mijnbouwwet.

**§ 5.1.2 Payments to the province****Article 75**

Articles 54.a up to and including 54.e apply to this sub-chapter.

**Article 76**

1. The holder of a production licence that occupies a site within the province for the production of hydrocarbons and on which site mining works are present, shall pay a one off amount to the province.
2. In the event of co-holdership the payment is due by the designated co-holder.

**Article 77**

1. The basis for the assessment meant in Article 76 is the surface area of the site meant in Article 76.1.
2. The tariff for 2003 is € 4.50 per square metre. Article 58.3 similarly applies.

**Article 78**

Gedeputeerde staten determines the amount of the payment and will notify the amount due to the holder or the designated co-holder.

**Article 79**

Without prejudice to the provisions set by or by virtue of this sub-chapter, the assessment and collection will be effected by similar application of Articles 11, 12, 14, 17.1, 28.1, 28.5, 28.6 and 29 of de Invorderingswet 1990, it being understood that the collector will be substituted by Gedeputeerde Staten.

## Article 80

If a payment to the province will be determined later to be a different amount, then the loss of interest brought about by that later determination will be charged to the person concerned or the province. Simple interest will be charged of which the percentage equals the percentage of the assessment interest, meant in Article 30f.5 of the Algemene wet inzake rijksbelastingen.

## § 5.2. Participation in exploration for and production of hydrocarbons and other tasks and activities of the designated company

### § 5.2.1 General

#### Article 81

In this section, the following definitions shall apply:

- a. the company: the company as referred to in Article 82.1;
- b. exploration activities: activities that on the basis of an exploration licence are or can be carried out or activities that emanate from reconnaissance surveys for the presence of hydrocarbons within the licence area, or for further data on those hydrocarbons;
- c. mining activities: production and exploration activities that are or can be carried out on the basis of a production licence or activities that emanate from reconnaissance surveys for the presence of hydrocarbons within the licence area, or for further data about those hydrocarbons;
- d. exploration agreement: an agreement of cooperation between the holder of an exploration licence and the company for the carrying out of exploration activities;
- e. mining agreement: an agreement of cooperation between the holder of a production licence and the company for the carrying out of mining activities

#### Article 82

1. In the interest of efficient exploration or production, a systematic management and an optimal disposal of hydrocarbons, Our Minister designates an N.V. or B.V., of which all shares are, directly or indirectly, held by the State, and which has as its task:
  - a. the participation in exploration activities on the basis of exploration agreements in conformity with paragraph 5.2.2;
  - b. the participation in mining activities on the basis of mining agreements, in conformity with paragraph 5.2.3., including the activities directly related therewith, and which shall in any event be deemed to include treatment, transport and sales of the hydrocarbons produced;
  - c. the carrying out of the asks, the exercise of rights and the discharge of obligations that emanate from the agreement of cooperation as meant in Article 11.1 of the Koninklijk Besluit of 30 May, 1963, nr 39 (Staatsblad 126) and the regulations and agreements related thereto;
  - d. to provide to the Minister at his request the data necessary for the assessment of the practicability of intended energy policies, in particular with respect to exploration for, production, management and disposal of hydrocarbons.
2. Without prejudice to Article 82.1, the company can by decree of Our Minister in the general interest of the energy policies be assigned tasks other than the tasks as meant in Article 82.1. By or by virtue of a general order in council the general interests will be described for the benefit of which and the cases in which Our Minister may assign a task as mentioned in the previous sentence. Our Minister can attach conditions and restrictions to a decree assigning a task.

3. The company will not, either directly or indirectly, carry out activities other than activities for the performance of the tasks as meant in Articles 82.1. and 82.2, unless Our Minister has given his consent thereto. Our Minister can attach conditions and restrictions to his consent. Such consent will only be give if the activities and their performance:
  - a. are closely related to the activities for the performance of tasks as meant in Articles 82.1 and 82.2,
  - b. do not hamper or otherwise frustrate the sound performance of those tasks, and
  - c. also serve the general interest of the energy policies.
4. Our Minister can withdraw or amend a decision to assign a task as meant in Article 82.2 or a decision to consent as meant in Article 82.3 if the conditions for the assignment of that task or of the statement of consent as meant in Articles 82.2 or 82.3 are no longer met.

### **Article 83**

1. If the company carries out activities as meant in Article 82.3, it is obliged to keep, either on a consolidated basis or not, separate books and records for on the one hand those activities and on the other hand the activities for the performance of its tasks as meant in Articles 82.1 and 82.2.
2. The separate books and record will be established such that:
  - a. the registration of debts and proceeds of the different activities are separated;
  - b. all charges and proceeds are, on the basis of consequently applies and objectively justifiable principles of cost price administration allocated correctly;
  - c. the principles of cost price administration according to which the bookkeeping tasks take place are recorded in a clear manner.
3. The proceeds realized by the company with the performance of the tasks as meant in Articles 82.1 or 82.2 will not be used for the financing of the activities as meant in Article 82.3.
4. The company will perform the activities as meant in Article 82.3 by means of competitive tariffs and conditions and on the basis of a full charging of all costs.

### **Article 84**

The articles of association of the company and any change in said Articles are subject to the consent of the Minister. He will withhold his consent only if, in his opinion, the articles of association insufficiently warrant a proper discharge of the tasks as mentioned in Articles 82.1 and 82.2.

### **Article 85**

Our Minister can give instructions to the company in the interest of a proper discharge of the tasks as mentioned in Articles 82.1 and 82.2.

### **Article 86**

1. The company shall provide to Our Minister all data and information he needs for the implementation of this Mijnbouwwet.
2. By ministerial regulation rules may be set about the data and information to be provided and about the manner in which and the moment in time when the data and information have to be provided.

## § 5.2.2 Participation in exploration activities

### Article 87

1. The company shall at the request by the holder of an exploration licence render its cooperation in the establishment of an exploration agreement.
2. The cooperation agreement will be established within a period of 6 months, starting on the moment in time that a request as per Article 87.1 was made. Our Minister can extend the period with 6 months only once. The exploration agreement requires the agreement of Our Minister.
3. The exploration agreement cannot be amended or terminated unless with Our Minister's consent.

### Article 88

In the exploration agreement terms will be incorporated that will reflect that in the interest of exploration activities cooperation will be established, whereby:

- a. the licensee takes an interest of 60% and the company an interest of 40%;
- b. the works that have been established by means of the investments as meant in Article 90.1.a will be owned for 60% by the licensee and 40% by the company;
- c. the licensee and the company shall in the interest of the cooperation and pro rata their respective interest in the cooperation, provide the means designated for the expenditure as meant in Article 90.1.a;
- d. Netherlands law will apply to the Agreement.

### Article 89

The exploration agreement shall contain conditions that will oblige the licensee to:

- a. exercise the rights emanating from the licence for the benefit of the cooperation and in accordance with the joint decisions that were taken by the licensee and the company with due regard to Article 91;
- b. submit for the joint approval by the licensee and the company the conclusion, amendment or termination of long-term cooperation with third parties with respect to reconnaissance and exploration;
- c. extend to the cooperation the benefits of his knowledge and experience in the field of reconnaissance, exploration and disposal of hydrocarbons and matters related thereto, such as the transportation, storage and processing thereof.

### Article 90

1. The exploration agreement will contain conditions that oblige the company to:
  - a. compensate the licensee 40% of the expenditure by the licensee that in accordance with Article 91 has been approved or is in accordance with an approved annual investment and financing plan;
  - b. not to hamper the licensee in taking decisions based on normal commercial considerations;
  - c. cast its vote in the decision making process according to Article 91 on the basis of transparent, objective and non-discriminatory principles.
2. The Agreement will contain terms that aim to reflect that with respect to decisions taken to whom will be assigned the supply, the performance of works or the rendering of services:
  - a. the licensee is not obliged to render information to the company prior to the decision to be taken;
  - b. the company does not have a vote in the taking of that decision.

## Article 91

The exploration agreement will contain conditions aiming to the effect that:

- a. a joint decision of the licensee and the company is taken in a meeting in which the licensee and the company are pro rata to their respective interest in the co-operation represented by a number of empowered persons;
- b. a joint decision of the licensee and the company, in deviation of Article 91.a, can be taken outside the meeting, provided this occurs by a joint statement in writing or by identical statements in writing by the licensee and the company, signed by them or by the persons empowered by them;
- c. a joint decision of the licensee and the company, by which the company, and, in the event that the licence is held by more than one person, the person as meant in Article 22.5, each have a decisive vote, is required for:
  1. ° the annual investment and financing plan;
  2. ° activities and purchases that are not included in the annual investment and financing plan that exceed an amount of € 500,000;
  3. ° the multi-annual plan with respect to the exploration activities within the licence area.

## Article 92

The licensee will not take a decision relating to whom an order will be placed for the purchase, the performance of work or the rendering of services, if it is feasible that this decision brings about:

- a. a financial disadvantage to the State, to the extent it concerns matters that are due in accordance with this chapter, or
- b. a financial disadvantage to the company.

## § 5.2.3 Participation in mining activities

### Article 93

1. The holder of a production licence for hydrocarbons and the company will establish a mining agreement, unless our Minister has stipulated on the occasion of the granting of the licence that this obligation does not apply. Our Minister will only stipulate that the obligation as set out in the previous sentence does not apply, if the State will, according to a reasonable assessment, be faced with a financial disadvantage.
2. The agreement will be concluded within 1 year after the granting of the licence. Our Minister can extend the term of 1 year only once with a maximum term of 1 year. The agreement is subject to the Minister's consent.
3. The licensee will not carry out any production activities until the date that the consent has been given. Until that date the decision as meant in Article 97.2 will require the concurrence of the company.
4. Article 87.3 similarly applies.

### Article 94

1. Article 88 similarly applies.
2. The agreement shall also contain conditions that for the benefit of mining activities a cooperation will be established, whereby:
  - a. the licensee will transfer to the company 40% of the ownership of the hydrocarbons produced and saved from the reservoirs;
  - b. both the licensee and the company are entitled to take in kind their own entitlement in the hydrocarbons produced and saved, it being understood that they will aim to as

- much as possible cooperate in the sales of the hydrocarbons produced and saved from the reservoirs;
- c. the licensee and the company regularly consult in the interest of the disposal;
3. The agreement will fix an amount with respect to the cost already made by the licensee:
    - a. that can reasonably be ascribed to the activities that led to the find of the reservoir;
    - b. for the further evaluation of that reservoir;
    - c. for investments made in the interest of mining activities.

#### **Article 95**

1. Articles 89 similarly applies
2. The agreement shall also contain conditions that oblige the licensee to:
  - a. see to it that the works that have been created within the licence area before the agreement was established will belong for 60% to the licensee and for 40% to the company;
  - b. to timely inform and enable the company to take an interest of up to 40% in the arrangements to be made with respect to the production and disposal of the hydrocarbons produced, such as the transportation, the storage and the treatment thereof.

#### **Article 96**

1. Article 90 similarly applies.
2. The agreement shall also contain a condition that obliges the company to promptly compensate the licensee 40 % of the amount as meant in Article 94.3, increased by simple interest of which the percentage equals the statutory interest, over a period of 5 years, calculated from the date the relevant cost were made.
3. Article 96.2 does not apply to the extent that the company has, within the scope of an exploration agreement, already paid the cost as meant in Article 94.3

#### **Article 97**

1. Articles 91.a and 91.b similarly apply.
2. The agreement will also contain terms reflecting that a joint decision of the licensee and the company whereby the company, and, if the licence is held by more persons, the person meant in Article 22.5, each have a deciding vote, is required for:
  1. ° the annual investment and financing plan;
  2. ° activities and purchases that have not been incorporated in the annual investment and financing plan that exceed an amount of € 500,000;
  3. ° the multi-annual planning with respect to mining activities within the licence area;
  4. ° allowing the licensee that in view of the limited purpose of the cooperation a part of the mining activities will not or no longer be carried out for the joint account of the licensee and the company;
  5. ° entering into commitments for the supply of hydrocarbons;
  6. ° decisions with respect to the transportation of hydrocarbons produced.

#### **Article 97a**

Article 92 similarly applies.

**Article 97b**

1. If after application of the end of the first full sentence of Article 93.1 hydrocarbons have been proven to be present in another reservoir in the licence area, Our Minister can decide that as yet an agreement as meant in Article 93 will be established. This paragraph similarly applies to that agreement, it being understood, however, that:
  - a. the agreement will only be applicable to that other reservoir;
  - b. the agreement will be established within 1 year after the date of the decision of Our Minister.
2. In deviation of Article 146.4, Our Minister can at the request of the company in agreement with the licensee, decide that this paragraph similarly applies to a production licence as meant in Article 143.2, it being understood, however, that:
  - a. the mining agreement can be made applicable to only one or more reservoirs of hydrocarbons in the licence area;
  - b. in the mining agreement terms can be included that deviate from the Articles 94, 95, 96 and 97;
  - c. the agreement will be established within 1 year after the date of the decision of Our Minister.

**§ 5.3 Payments in connection with licences other than for exploration for or production of hydrocarbons****Article 98**

1. The holder of a licence for the production of minerals other than hydrocarbons and the holder of a licence for the production of terrestrial heat will have to pay an annual amount to the State, insofar this has been laid down in the conditions attached to the licence. The amount will be guided by the size of or the benefits obtained by the production and the activities related thereto.
2. The holder of a storage licence will have to pay an annual amount to the State, insofar this has been laid down in the conditions attached to the licence. The amount will be guided by the size of or the benefits obtained by the storage and the activities related thereto.
3. The holder of a licence as referred to Articles 98.1 or 98.2 who uses a site within a province, in which site there are installations for the production or storage of hydrocarbons, will pay a once off amount to the province, insofar this is laid down in the licence conditions. The amount will be guided by the regulations in sub-chapter 5.1.2.
4. If the licence is held by more than one natural or legal person, the licence conditions will stipulate to which extent each of these persons will be liable to pay an amount as referred to in Articles 98.1 up to and including 98.3.

**Article 99 (deleted as per 8 August 2008)****Article 100**

Without prejudice to the matters stipulated by or by virtue of this sub-chapter, the assessment and collection as meant in Article 98.1 will be made, with similar application of Articles 11, 12, 14, 17.1, 25.1, 25.2, 28.1, 28.2, 28.5, 28.6 and 29 of the Invorderingswet 1990, it being understood, however, that the receiver will be substituted by Our Minister.

**Article 101**

1. If a payment as meant in Article 98.1 to the state, or a prepayment for a payment as meant in Article 98.1 will at a later moment in time be determined to be a different amount, the

shortfall of interest resulting from this later determination will be charged either to the person concerned or the state. For this purpose, simple interest is charged.

2. The person concerned will be charged simple interest calculated over the amount for which a postponement of payment has been granted in accordance with Article 25 of the Invorderingswet 1990. The interest will be calculated over the period for which such postponement has been granted.
3. The interest percentage as meant in Articles 101.1 and 101.2 equals the percentage of the interest as meant in Article 30f.5 of the Algemene wet inzake rijksbelastingen.
4. The interest as meant in Articles 101.1 and 101.2 is due to the state on the date subsequent to the date that its determination has been notified to the person concerned. Article 100 similarly applies with respect to the assessment and the collection of this interest.

## **§ 5.4 The provision of security**

### **Article 102**

1. Should there be any doubt as to whether the person who under the terms of this chapter owes a payment to the state will make the said payment, Our Minister can stipulate that the person concerned provides security for the discharge of the payment.
2. The amount of and the period during which, the point in time and the manner in which the security will be provided will have to be to the satisfaction of Our Minister.
3. The obligations under this Article remain valid after the expiry of the licence, unless the payment obligations have already been discharged.

## **§ 5.5 Implementation rules**

### **Article 103**

1. By or by virtue of an order in council additional rules can in any event be set in connection with:
  - a. the implementation of this chapter;
  - b. payments in connection with licences other than those for exploration for and production of hydrocarbons.
2. The proposal for an order in council to be established by virtue of Article 103.1.b will not be made before 4 weeks have lapsed since the submission of the draft thereof to both chambers of the Staten-Generaal.

## **§ 5.6 Scientific research**

### **Article 104**

This chapter does not apply to licences as meant in Article 24.

## **CHAPTER 6. ADVISORS**

### **§ 6.1. The Mining Council**

#### **Article 105**

1. There shall be a Mining Council.
2. In connection with the exploration for or production of minerals or terrestrial heat, or the storage of substances, the task of the Mining Council shall be:
  - a. to advise Our Minister if requested so by him on the decisions to be taken by him;
  - b. to provide Our Minister if requested so by him with information necessary for the evaluation of the feasibility of proposed statutory provisions and general policy plans.
3. Our Minister shall in any event request advice by the Mining Council on decisions to be taken by him regarding the granting or withdrawal of licences as referred to in Articles 6 or 25.

#### **Article 106**

1. The Mining Council shall consist of a chairman and not more than nine other members.
2. The chairman and the other members of the Mining Council shall be appointed, suspended and dismissed by Our Minister. The Council can appoint deputy chairmen from among its members. The appointment of the members shall be based on their professionalism in the fields that are relevant for mining activities and activities related thereto.
3. The members shall be appointed for no more than 4 years. Re-appointment can not be for more than 4 years on each occasion.

#### **Article 107**

1. The Mining Council shall have a secretariat that consists of one or more persons designated by Our Minister.
2. The designated persons shall be responsible solely to the Council in relation to their work for the Mining Council.

#### **Article 108**

The members of the Mining Council shall refrain from voting on matters in which they have a personal interest.

#### **Article 109**

1. The Mining Council shall draw up rules for its administration.
2. The administration rules and any amendments thereto must be approved by Our Minister.

#### **Article 110**

The Mining Council shall compile a report by 1st July of each year on its activities and on the efficacy and efficiency of its activities and of working methods during the previous calendar year. The report shall be sent to Our Minister.

### **Article 111**

The Mining Council shall if requested so by him provide Our Minister with the information he needs for the performance of his task. Our Minister can request inspection of business data and documents, insofar as this is reasonably necessary for the performance of his task.

### **Article 112**

The administration of the documents concerning the operations of the Mining Council shall be effected in the same way as is done by the Ministry of Economic Affairs. After cessation of the Council's work the documents shall be stored in that Ministry's archives.

## **§ 6.2 The Technical Committee Soil Movement**

### **Article 113**

In this paragraph the following definitions apply:

- a. committee: Technical committee soil movement;
- b. mining activities: activities as meant in Articles 1.d up to and including Article 1.d.i and 51;
- c. mining company: natural person or legal person that carries out mining activities.

### **Article 114**

1. There shall be a Technical committee soil movement.
2. In connection with the consequences of mining activities for movement of the soil and damages that may occur as a result thereof, the task of the committee is as follows:
  - a. to advise Our Minister if requested so by him on the decisions to be taken by him;
  - b. to provide Our Minister if requested so by him with the information that is necessary for evaluating the feasibility of proposed statutory provisions;
  - c. if requested so, to provide at no cost to him information to a person that may expect damages as a result of soil movement that could reasonably result from mining activities, about the relation between the soil movement and the mining activities;
  - d. if requested so, to provide information to a person that incurred physical damages by soil movement that could reasonably result from mining activities, about the relation between those damages and the mining activities, and the amount of the damages.
3. Our Minister shall in any event seek the advice of the committee before he, on the basis of Article 46, determines or amends the sum for which security must be provided.
4. The committee will render advice to Our Minister with respect to soil movement as meant in Article 31b.m.

### **Article 115**

1. The Technical committee soil movement consists of a chairman and no more than 9 other members.
2. The chairman and the other members of the committee shall be appointed, suspended and dismissed by Our Minister. The appointment of the members shall be based on their professionalism in the fields that are relevant for mining activities and activities relating to mining activities. The committee can appoint deputy chairmen from amongst its members.
3. The members shall be appointed for no more than 4 years. Re-appointment can only be for no more than 4 years on each occasion.

### Article 116

1. Before the committee will be requested to render an advice as meant in Article 114.1.d, the person that has incurred damages that in his view can be attributed to a mining enterprise, will notify it in writing to be liable and claim compensation for damages. The notification of liability will occur within 3 months after the moment in time that the claimant has become aware or reasonably could have been aware of the damages.
2. The claimant as meant in Article 116.1 can request the committee to render advice, if within 3 months after the sending of the notice of liability no agreement has been reached with the mining enterprise about compensation for the damages.
3. A request for advice will ultimately within 1 month after the lapse of the period mentioned in Article 116.2, be submitted to the committee. The committee can, at the request of the claimant or the mining enterprise concerned, extend the period by a period the committee will set.
4. If a claimant is not sure as to which mining enterprise he should direct his notification of liability, the committee, will, to the extent it is aware thereof, provide the name and the address of the enterprise concerned.

### Article 117

1. The person requesting advice as referred to in Article 114.1.d, will pay a contribution to the secretariat of the committee.
2. The contribution is:
  - a. € 90 for a natural person, and
  - b. € 181 for persons other than s meanta under a.
3. The advice will be admissible for processing after the requesting person has paid the contribution due in a manner to be set by the secretariat.
4. If the advice shows that the damage is wholly or partly attributable to mining activities, the contribution will be refunded to the party having requested the advice. This will only apply if the amount as mentioned in the advice of the committee, is higher than the amount that the mining enterprise was prepared to pay in response to the notification of liability as meant in Article 116.
5. The amounts mentioned in Article 117.2 can be changed by ministerial regulation if the consumentenprijsindex induces so.

### Article 118

1. The committee will not process a request for advice, if it is apparent that there is no relation between the damages and the mining activities.
2. If the committee admits a request for advice for processing, it will send a copy of the request for the advice to the mining enterprise concerned. The latter can, if it desires so, respond in writing to the request for advice within 1 month after the date of the sending of the request.

### Article 119

1. The committee investigates the causal relation between the mining activities conducted and the damages, including the size of the damage. It can assign experts to conduct investigations.
2. The committee will within 3, however ultimately within 6 months after the date that a request for advice has been submitted, render a preliminary advice to the party requesting the advice and to the mining enterprise.

3. The party requesting the advice and the mining enterprise can, within 1 month after the date of the sending of the preliminary advice, state reservations as to the preliminary advice.
4. The committee will subsequently establish a final advice.
5. The advice contains a judgement about the causal relation between the mining activities conducted and the damages, and the size of the damages.

#### **Article 120**

1. The committee can demand the mining enterprise to provide all information that the committee deems necessary for the implementation of its task, assigned to it by Article 114.2.
2. The mining enterprise will provide the requested information to the committee within a reasonable time frame set by it.
3. If the committee has obtained information for the implementation of its task as meant in Article 114.2.d, it will provide this information to the party requesting the advice, unless it concerns data as meant in Article 10.1.c of the Wet openbaarheid van bestuur.

#### **Article 121**

The Articles 107 up to and including 112 similarly apply to the Technical committee soil movement.

#### **Article 122**

Ministerial rules will in any event set further rules about the data that will have to be provided with the request for advice, and can set further rules about the procedure relating to the advice as meant in Article 114.2.d.

## **CHAPTER 7. REPORTING**

#### **Article 123**

1. The person carrying out the activities to which, or by virtue of which Articles 49.1 or 51.1 or 52.1, apply, shall provide Our Minister with the data specified in Article 123.5, insofar as the person concerned is in the possession of these data in connection with those activities.
2. Our Minister can have the provided data, or part of those data, administered by a body designated by him for the purpose, that will, if requested so by him, also advise him on the basis of those data.
3. The data provided are data as referred to in Article 10.1.c of the Wet openbaarheid van bestuur.
4. The data designated under the terms of Article 123.5.c, lose their confidential nature after a period specified under the terms of that Article. After the said period, Article 10.1.c of the Wet openbaarheid van bestuur shall no longer apply to these designated data.
5. By or by virtue of an order in council:
  - a. the data to be provided to Our Minister shall be defined;
  - b. rules shall be set as to when and the manner in which the data are to be provided, as to the administration of the data and as to the use that can be made of the data;
  - c. rules will be set about the moment in time that Article 10.1.c of the Wet openbaarheid van bestuur no longer applies to these data.
6. This Article similarly applies to documents and samples.

**Article 124**

1. Our Minister shall send to the Commission of the European Communities an annual report containing data on the following:
  - a. the areas released for exploration for and production of hydrocarbons;
  - b. the licences granted for hydrocarbons;
  - c. the holders of the licences granted for hydrocarbons and the composition of those holders;
  - d. the estimated reserves of hydrocarbons.
2. Our Minister shall also send the report referred to in Article 124.1 to both chambers of the Staten-Generaal and make it available for public inspection. He shall publish a notice to this effect in the Staatscourant.
3. Our Minister will send to the Committee of the European Community once every 3 years a report about the register meant in Article 31m and other information as requested by the Committee.

**Article 125**

1. Our Minister shall send every 2 years to the Staten-Generaal a summary of the activities relating to natural gas.
2. The summary shall at least contain:
  - a. the licences applied for, or the granted exploration and production licences insofar these relate to the exploration for and production of natural gas;
  - b. the natural gas reservoirs found, with an indication as to:
    1. ° in which licence areas these reservoirs have been found and
    2. ° whether natural gas is produced from these reservoirs and if not, when production will be commenced;
  - c. the size of the natural gas reserves found and other natural gas reserves, whereby a separate reporting will be done about the natural gas reserves that geologically or geographically relate to each other;
  - d. an estimate of the production of natural gas per licence area or the areas that geologically or geographically relate to each other, over a period of 10 years, commencing the year in which the summary is sent to the Staten-Generaal;
  - e. the existing and future facilities for underground storage of natural gas;
  - f. the production plans as meant in Article 34, submitted and approved by Our Minister.

**CHAPTER 8. SUPERVISION AND ENFORCEMENT****8.1 State supervision of mines****Article 126**

1. There shall be a Staatstoezicht op de mijnen. Staatstoezicht op de mijnen is responsible to Our Minister.
2. The head of Staatstoezicht op de mijnen shall be the inspecteur-generaal der mijnen.

**Article 127**

1. The task of the Staatstoezicht op de mijnen is to monitor the carrying out of reconnaissance survey, exploration for and production of minerals and terrestrial heat, and of the storage of substances.

2. The the inspecteur-generaal der mijnen shall after each inspection made within the scope of paragraph 3.2. draw up a report about the compliance with the conditions and the prescribed measures. The report will be sent to the holder of the licence for the permanent storage of CO<sub>2</sub> concerned, or, if the licence is held by more persons, a designated person as meant in Article 22, and will be published within 2 months after the inspection.

#### **Article 128**

1. The inspecteur-generaal der mijnen shall issue an annual report before 1<sup>st</sup> May to Our Minister on the operations of the Staatstoezicht op de mijnen during the past year.
2. In his report, the inspecteur-generaal der mijnen shall make the recommendations he considers to be desirable in view of the efficient and dynamic carrying out in the future of the activities mentioned in Article 127.

#### **Article 129**

1. The officials of the Staatstoezicht op de mijnen designated for this purpose by Our Minister shall be responsible for supervising the fulfilment of the provisions of or by virtue of this Mijnbouwwet, insofar as this supervision has not been entrusted to others on the basis of Article 131.
2. A decision as meant in Article 129.1 shall be notified by publication in the Staatscourant.

#### **Article 130**

In the cases and the manner to be designated by or by virtue of an order in council, the holder of a licence as referred to in Articles 6 or 25, or the person carrying out a reconnaissance survey or who intends to do so, will be obliged to transport the officials meant in Articles 129 and 131 exercising their authority, to the places to be designated by them, where by using the licence, activities are or will be carried out or where a reconnaissance survey will be carried out.

### **§ 8.2 Supervision in specific cases**

#### **Article 131**

1. By decision of Our Minister other officials may be designated to carry out the task of supervision of the fulfilment of the provisions of or by virtue of this Mijnbouwwet, insofar as the supervision specified in the decision concerns certain cases designated in the decision.
2. Our Minister shall not designate officials who are responsible to one of Our other Ministers, except with the agreement of Our Minister concerned.
3. A decision as meant in Article 131.1 shall be notified by publication in the Staatscourant.

#### **Article 131a**

1. The supervision of compliance with matters by or by virtue of Article 52 is assigned to civil servants designated so within their area of competence by decree of Gedeputeerde Staten.
2. Gedeputeerde Staten shall not designate civil servants outside its area of authority unless with the agreement of the governmental authority under which those civil servants fall.
3. A decree as meant in Article 131.a will be published in the provincial newspaper.

## § 8.3 Enforcement

### Article 132

Our Minister is empowered to enforce the fulfilment of the obligations specified in or by virtue of this Mijnbouwwet.

### Article 133

1. Infringement of Article 43.2 shall be punished by a fine of the second category.
2. The infringement made punishable in this Article is an offence.

## CHAPTER 9. GUARANTEE FUND MINING DAMAGE

### § 9.1. General provisions

#### Article 134

1. The expressions set forth in Article 113 shall apply to this chapter.
2. This chapter applies to mining enterprises insofar as they carry out mining activities on the landward side of the line established by the attachment to this Mijnbouwwet.

#### Article 135

1. There is a guarantee fund mining damage.
2. The guarantee fund is a legal person and has its statutory seat at The Hague.
3. Our Minister is in charge of the administration of the guarantee fund.
4. The guarantee fund receives:
  - a. an amount annually due by the mining enterprise, to be imposed by Our Minister taking into account the rules to be set by order in council;
  - b. interest accrued via the guarantee fund;
  - c. the net proceeds established in the last final account of the guarantee fund;
  - d. other income.
5. An order in council will in any event set rules concerning:
  - a. the criterion to establish the size of the amount, taking into account:
    1. ° the size of the mining activities of a mining enterprise on the landward side of the line established by the attachment to this Mijnbouwwet,
    2. ° the size of the compensations for damages that have in the 5 previous years been granted for the account of the guarantee fund in connection with mining activities by the mining enterprise concerned or its successor at law,
    3. ° the nature of the mining activities concerned, and
    4. ° the funds available in the guarantee fund in relation to the anticipated expenditure;
  - b. the moment in time that the amount will become due, and
  - c. interest due if the amount will be determined to be a different amount at a later moment in time.
6. Amounts received in but not disbursed in a year will remain in the Guarantee fund.
7. Rules will be set by order in council about the capital of the guarantee fund also taking into account the total amount of compensations for damages that the mining enterprises, during in any event the last 5 years before the date that this Mijnbouwwet became effective, paid to natural persons that incurred property damages in that period as a result of mining activities carried out by those mining enterprises.

**Article 136**

1. Further rules can be set by order in council about the organisation and the administration of the guarantee fund and the supervision thereof.
2. Annually, Our Minister shall send a report to the Staten-Generaal about the administration of the guarantee fund.

**§ 9.2. Compensation for damages in cases of insolvency****Article 137**

At its request, a natural person having incurred property damage as a result of mining activities will be granted by Our Minister a compensation for damages for the account of the guarantee fund if:

- a. the mining enterprise concerned has been declared bankrupt, has ceased to pay his debts (“surseance”) or is subject to the rules of the debt settlement natural persons (“schuldsaneringsregeling natuurlijke personen”), or
- b. the mining enterprise concerned ceased to exist or deceased, and
- c. the damage has not, wholly or partly, been compensated for in another manner.

**Article 138**

1. If at the moment in time that one of the events, mentioned in Article 137a or 137b occurs, the person meant in the first sentence of Article 137 has not yet submitted a request for advice as meant in Article 114.2.d, he can still submit a request for advice:
  - a. ultimately within 3 months after the moment that the event concerned occurred, or,
  - b. if he could at that moment in time not be familiar with the damages, within 3 months after the moment in time that he became aware or could reasonably have been aware of the damage.
2. Articles 117 up to and including 119 apply, it being understood that the Articles 118.2, 119.2 and 119.3, to the extent relating to the mining enterprise, shall not be applied. The committee will send copies to Our Minister of the request for advice and the preliminary advice.

**Article 139**

1. The person meant in Article 137 submits his request to the guarantee fund ultimately within 3 months after the moment in time that the committee has established its advice meant in Article 119.4 and in any event thereby submits that advice.
2. An order in council can set further rules with respect to the submission, the handling and the decision making on the basis of the request.

**§ 9.3 Preliminary payments****Article 140**

1. Our Minister will grant to the natural person, in respect of whom it has been established, either in the preliminary advice as meant in Article 119.2, or in the definitive advice as meant in Article 19.4, that he incurred property damage as a result of mining activities, at his request a preliminary payment for the account of the guarantee fund, if:
  - a. the mining enterprise has raised objections to the preliminary advice or disagrees with the definitive advice, and

- b. necessary measures have to be taken to repair or reduce the damage. The amount of the preliminary payments that can be granted is a maximum of 60 per cent of the amount of the damage that is mentioned in the preliminary advice.
- 2. If in an agreement as meant in Article 900 of Book 7 of the Civil Code or by a final judgement in court it is established that the damage is not the result of the mining activities or that the damage is set at a lower amount than that, that in aggregate has been paid as preliminary payments, the person, meant in Article 140.1 will, within 3 months after the moment in time that that agreement has been concluded or that judgement has been promulgated, refund to the guarantee fund the amount of the preliminary payment, or the difference between the amount of the damage and the preliminary payment.

#### **Article 141**

- 1. The person as meant in Article 140.1 can, as from the moment that the committee rendered a preliminary advice as meant in Article 119.2, submit a request for a preliminary payment. In any event he will thereby submit that preliminary advice.
- 2. Further rules can be set by order in council about the submission of, the processing of and the decision making on the basis of the request as meant in Article 140.1.

### **CHAPTER 9a. COORDINATION OF THE CONSTRUCTION OR EXTENSION OF MINING WORKS AND PIPELINES FOR THE PRODUCTION OF HYDROCARBONS AND THE STORAGE OF HYDROCARBONS**

#### **Article 141a**

- 1. The procedures meant in article 3.35.1 introduction and part c. of the Wet ruimtelijke ordening apply to:
  - a. a mining work for the purpose of exploration for or production of hydrocarbons in or under an area that is designated on the basis of Articles 10 or 10a of the Natuurbeschermingswet 1998;
  - b. a mining work for the storage of substances;
  - c. pipelines meant exclusively or principally for the transportation of minerals or the transportation of substances in connection with the exploration for or the production of minerals or the storage of substances, respectively, with the aid of a mining work as meant in Article 141a.a. or Article 141a.b., respectively. 2. A mining enterprise as meant in Article 113 shall as soon as possible notify Our Minister in writing of his intent to construct or extend a mining work or pipeline as meant in Article 141a.1. A ministerial regulation can establish a form for the notification and the data to be submitted.
- 3. If, taking into account the size, nature and location of the mining work or pipeline as meant in Article 141a.1 and the number of required decisions for that purpose it is reasonably not to be expected that application of the procedures meant in that Article will accelerate the decision making in a significant manner or otherwise considerable advantages attach thereto, Our Minister can stipulate that:
  - a. none of the procedures meant in Article 3.35.1
  - b. only the procedure meant in Article 3.35.1, introduction and part a.,
  - c. only the procedure meant in Article 3.35.1 introduction and part b. or
  - d. the procedure meant in Article 3.35.1, introduction and part a, followed by the procedure meant in Article 3.35.1 introduction and part b. of the Wet ruimtelijke ordening apply or or applies to the construction or extension of that work or that line.

Our Minister will hear the mining enterprise and the government agencies concerned about an intent to apply the authority mentioned in the first full sentence.

#### **Article 141b**

1. Our Minister is the designated minister meant in Articles 3.35.2 and 3.35.3 of the Wet ruimtelijke ordening.
2. If Article 3.28.4 of the Wet ruimtelijke ordening is applied, then in deviation of that Article Our Minister and the Minister of Housing and Spatial Planning shall jointly substitute the mayor and aldermen with respect to the authorities and obligations meant in that Article.
3. Our Minister can, in conformity with the sentiments of the council of ministers, stipulate that Our Minister and Our other Minister concerned, with similar application of Article 3.35.3 fourth full sentence of the Wet ruimtelijke ordening, take one or more decisions required for the construction or extension of a mining work or pipeline designated thereby as meant in Article 141a.1.

#### **Article 141c**

1. By or by virtue of an order in council the decisions will be designated that for the construction or extension of a mining work or pipeline as meant in Article 141a.1 will in any event be decisions as meant in Article 3.35.1.a of the Wet ruimtelijke ordening.
2. Our Minister can in the interest of the construction or extension of a mining work or pipeline as meant in Article 141a.1 also designate one or more other decisions other than as designated by virtue of Article 141c.1 as decisions meant in Article 3.35.1.a of the Wet ruimtelijke ordening.
3. Our Minister can, if a decision designated by or by virtue of Article 141c.1 would hamper or seriously frustrate the application of a procedure meant in Article 141a.1 stipulate that the decision concerned shall, in deviation of the order in council mentioned in Article 141c.1, not be regarded as a decision as meant in Article 3.35.1.a of the Wet ruimtelijke ordening.

## **CHAPTER 10. LEGAL PROTECTION**

#### **Article 142**

1. A party having an interest can lodge an appeal to the Afdeling bestuursrechtspraak van de Raad van State against a decision taken on the basis of this Mijnbouwwet. The first sentence does not apply to a decision on the basis of chapter 5, with the exception of sub-chapter 5.2.
2. Chapter 20 of the Wet Milieubeheer similarly applies to a decision about an environmental mining licence and concurrence with a production plan, it being understood that Article 20.3 of the Wet milieubeheer does not apply to a decision about an environmental mining licence for a mining work to be located or located on the seaward side of the line laid down in the attachment to this Mijnbouwwet, and a production plan to the extent the production of minerals takes place from a reservoir lying on the seaward side of the line laid down in the attachment to this Mijnbouwwet.
3. Chapter 5, sub-chapters 2. up to and including 4. of the Algemene wet inzake rijksbelastingen similarly apply to an appeal against decisions on the basis of Chapter 5, with the exclusion of the sub-chapter mentioned in the second full sentence of Article 142.2, it being understood that an appeal can be lodged with the high court or the supreme court by the party having an interest and who was authorized to lodge an appeal with the

district court or the high court, respectively, and by the government body that was authorized to take the decision in dispute.

## CHAPTER 11. TRANSITIONAL PROVISIONS

### Article 143

1. The following shall be regarded as an exploration licence:
  - a. a licence granted by virtue of Article 2 of the Wet opsporing delfstoffen;
  - b. an exploration licence granted by virtue of Article 2 of the Mijnwet continentaal plat;
  - c. an exemption granted by virtue of Article 2 of the Mijnwet continentaal plat, if this relates exclusively to surveys that can lead to the finding of the presence of minerals.
2. The following shall be regarded as a production licence:
  - a. a concession granted by virtue of Article 5 of the Act of 21 April 1810 (Bulletin des Lois No. 285);
  - b. a designation of a mine by or by virtue of the Act of 24 June 1901 betreffende exploitatie van Staatswege van steenkolenmijnen in Limburg (Staatsblad 170), the act of 18 June 1918 tot ontginning van steenzout bij Buurse (Staatsblad 421) or the act of 27 September 1920 tot uitbreiding van het Staatsmijnveld (Staatsblad 752);
  - c. a production licence granted by virtue of Article 2 of the Mijnwet continentaal plat;
  - d. an exemption granted by virtue of Article 2 of the Mijnwet continentaal plat, if this relates in whole or in part to the production of minerals.
3. The conditions, restrictions or provisions attaching to a decision as meant in Articles 143.1.a up to and including Article 143.1.c shall apply as restrictions or provisions attaching to the exploration licence. The conditions, restrictions or provisions attaching to a decision as referred to in Articles 143.2.a up to and including 143.2.d, shall apply as restrictions or provisions attaching to the production licence.
4. In deviation of Article 3, the holder of a licence that is regarded as a production licence under the terms of Articles 143.2, preamble, and Articles 143.2.a or 143.2.b, shall be the owner of the mine to which it refers for the period of validity of the licence.
5. As an environmental mining licence will be regarded:
  - a. an approval granted according to Articles 4.6 or 5.7 of the Regeling vergunningen en concessies delfstoffen Nederlands territorium 1996 or a similar approval on the basis of licences or concessions granted before that Regeling became effective;
  - b. a licence granted by virtue of Article 30a of the Mijnreglement continentaal plat.
6. In deviation of Article 143.5, the approval or the licence pertaining to a location to which Chapter 8 of the Wet Milieubeheer applies at the date of this Mijnbouwwet becoming effective, shall not be regarded as an environmental mining licence but as an environmental licence as meant in that chapter. This environmental licence will, if Article 153.3 applies to the site, together with the environmental licence be regarded to be one environmental licence.
7. The restrictions or conditions that attach to the approval or to a licence as meant in Article 143.5 will become restrictions and conditions attaching to the environmental mining licence or the environmental licence.

### Article 144

A production plan as meant in Article 34 shall be a production plan approved by Our Minister as meant in Article 5.2 of the Regeling vergunningen koolwaterstoffen continentaal plat 1996.

### Article 145

1. During a period as mentioned in Article 145.2 the production of minerals without a production plan as meant in Article 34 can be continued after the effective date of this Mijnbouwwet.
2. The period for continuation of the production of minerals is the maximum of:
  - a. a period of 6 months to the extent it concerns production from reservoirs in the continental shelf or under the territorial sea located on the seaward side of the line established by the attachment to this Mijnbouwwet, and
  - b. for areas other than as mentioned under Article 145.2a: 12 months.
3. If the holder of a production licence other than as meant in Article 144 has, before the lapse of a period applicable to him, submitted a production plan to Our Minister in accordance with Article 34 and the decision will not become irrevocable before the lapse of the period, the production can in any event be continued until the date such decision has become irrevocable.

### Article 146

1. The restrictions or provisions attached to a licence on the grounds of Article 143.3 shall not apply insofar as they concern the payment of a surface rental, cijns or a share in the profit relating to the exploration for or the production of hydrocarbons. The first full sentence does not apply to concessions granted prior to 1965. In that case, sub-chapter 5.1.1 shall, with the exclusion of paragraph 5.1.1.5, which paragraph is similarly applicable, not apply. The restrictions and provisions shall also not apply insofar as they relate to payments to municipalities in connection with the production of hydrocarbons.
2. Our Minister may amend or withdraw the restrictions or provisions attached to a licence on the basis of Article 143.3 or 143.7, insofar as rules have been set on this subject for the protection of the interests protected by the restrictions and conditions.
3. In an exploration licence or a production licence as referred to in Article 143 held by more than one natural or legal person, Our Minister can designate the person as meant in Article 22. As long as no designation has occurred, the designated person shall be the person who is carrying out the actual operations or has commissioned them. In such a case, Article 22.8, second sentence, does not apply.
4. Sub-paragraph 5.2.3 does not apply to a production licence as meant in Article 143.2, without prejudice to application of Article 97b.2 If a licence as meant in the first full sentence contains the condition, that the company designated in the licence can lodge an objection against a decision of the licensee, that condition will be replaced Article 97.a. If the end of the first full sentence has been applied and conditions have been attached to the production licence concerned about participation by a company designated in that licence, those conditions shall cease to have effect on the moment that the mining agreement has been established and approved and the mining agreement shall replace the agreement of cooperation concluded on the basis of those conditions.
5. If the company, on the basis of conditions attached to an exploration licence as meant in Article 143.1 or a production licence as meant in Article 143.2, respectively, has concluded an agreement of cooperation with the holder of that licence, the implementation of that agreement will be deemed to be the implementation of the task as meant in Article 82.1.a or the task as meant in Article 82.1.b, respectively.

### Article 147

1. Terms and conditions in an agreement signed prior to this Mijnbouwwet having become effective between the state and the holder of an exploration licence or a production licence as meant in Article 143 or the latter's legal predecessor, and this agreement relates to the

decisions referred to in Articles 143.1 or 143.2, shall lapse when this Mijnbouwwet becomes effective insofar as those stipulations are in conflict with this Mijnbouwwet.

2. In deviation of Article 147.1, the terms and conditions shall remain in effect insofar as the agreement relates to a decision as meant in Article 143.2, that was taken prior to 1965 and the terms and conditions relate to financial payments to the State, including the liability for those payments.
3. Terms and conditions in an agreement that was concluded prior to this Mijnbouwwet having become effective concerning mutual consultation on the production of minerals from a deposit that straddles the boundary of a licence area, shall be deemed to have been concluded on the basis of Article 42.2.
4. Terms and conditions in an agreement as meant in Article 147.1 concerning the removal of mining installations as meant in Article 44, insofar as these installations are still in use at the time when this Mijnbouwwet becomes effective, shall lapse when this Mijnbouwwet becomes effective.

#### **Article 148**

1. In the event that a licence in accordance with Article 143.2.c is regarded as a production licence, and on the basis of this licence a company has been established as meant in Article 11.2.a of the Mijnwet continentaal plat, as it read prior to this Mijnbouwwet becoming effective, the following shall be included in the results referred to in Article 66.1:
  - a. also the amounts receivable by the company;
  - b. not the amounts that the holder of the production licence received from the company as holder of shares or of profit-sharing bonds of the said company.
2. In the event as meant in Article 148.1, the following shall be included in the result as meant in Article 66.1:
  - a. also the costs that will be for the account of the company;
  - b. not the interest on the company's capital.

#### **Article 149**

1. If the holder of a production licence as meant in Article 143 or his predecessor at law prior to this Mijnbouwwet having become effective has signed an agreement with the state for the storage of substances for which there is an obligation to obtain a licence on the basis of Article 25 prior to this Mijnbouwwet becoming effective, the holder obtains a storage licence by operation of the law.
2. Within 3 months after this Mijnbouwwet has become effective, Our Minister shall define the restrictions and provisions relating to the licence. The restrictions and provisions shall be harmonised with the agreement referred to in Article 149.1. The agreement lapses when the restrictions and provisions become irrevocably effective.
3. Articles 26.3 and Chapter 3a shall not apply to the holder of a production licence as meant in Article 149.1.

#### **Article 150**

1. In connection with a production licence as meant in Articles 143.2 preamble and 143.1.a or 143.1.b, Article 21.1.b or Article 32b will only be applied against a previously confirmed compensation for damages.
2. A production licence as meant in Article 143.2, replacing a decision referred to in that Article taken prior to 1st January 1965, lapses 2 years after this Mijnbouwwet has become effective, if during 5 years prior to this Mijnbouwwet having become effective no exploration or production has taken place.

3. Article 150.2 does not apply if within the period of 2 years specified in that Article the holder has made it known to Our Minister that he wishes to remain to be holder of the production licence.

### **Article 151**

By order in council, rules can be set relating to exploration licences, production licences, environmental licences or environmental mining licences as meant in Article 143, and with respect to activities that are carried out by using those licences. The rules aim at a proper implementation of this Mijnbouwwet in respect of those licences. The rules can deviate from the conditions set by or by virtue of chapters 1 up to and including 5, 7 and 11, if such is necessary for the proper implementation of this Mijnbouwwet, considering the interests protected by those conditions. An order in council will in any event set rules about the amendment or withdrawal of restrictions or provisions that attach to the licence on the basis of Articles 143.3. or 143.7., insofar about the subject matter hereof rules have been set for the protection of the interests protected by those restrictions and provisions.

### **Article 152**

1. An application relating to a decision as meant in Article 143.1, submitted before this Mijnbouwwet became effective, shall be regarded as an application for an exploration licence.
2. An application relating to a decision as meant in Article 143.2, submitted before this Mijnbouwwet has become effective, shall be regarded as an application for a production licence.
3. An application for an approval or a licence as meant in Article 143.5, shall be regarded as an application for an environmental mining licence or an environmental licence in conformity with the allocation in Articles 143.5 and 143.6.

### **Article 153**

1. A person that at the time that Mijnbouwwet became effective operates a mining work for which at that moment in time no approval or licence as meant in Article 143.5 was necessary and for which at that moment in time a prohibition meant in Article 40.2 became applicable, obtains at that moment in time an environmental mining licence for the mining works by operation of the law.
2. A person that at the time that this Mijnbouwwet became effective operates a mining work for which before that moment in time the prohibition laid down in Article 8.1.1 of the Wet milieubeheer did not apply, or for which an approval or licence as meant in Article 143.5 was not necessary and for which at that moment in time the prohibition became applicable, obtains at that moment in time an environmental licence as meant in Article 8.1 of the Wet milieubeheer for the subject site.
3. A licence referred to in Article 8.1.1 of the Wet milieubeheer, that was in force prior to this Mijnbouwwet becoming effective in respect of sites, for the subsoil part of which chapter 8 of the Wet milieubeheer did not apply on the basis of Article 22.1.1.a of that act, shall be deemed also to have been granted for the subsoil part as from that moment in time.
4. From the moment in time that this Mijnbouwwet has become effective, the licence as meant in Article 153.3 shall be subject to the provisions that before that moment in time applied to the subsoil part, on the basis of the Wet milieubeheer and the Wet Bodembescherming for this subsoil part.

### **Article 154**

A safety zone established by virtue of Article 27 of the Mijnwet continentaal plat and a consent granted by virtue of Article 28 of that act will be considered to be a safety zone and an exemption as meant in Article 43.

### **Article 155**

1. In respect of obligations to pay an amount, originating under an act mentioned in Article 168, after this Mijnbouwwet became effective, the law remains applicable as was applicable on the basis of those acts on the day before this Mijnbouwwet became effective.
2. In deviation of Article 155.1, paragraph 5.1.1.5. will, as from the date this Mijnbouwwet becomes effective, similarly apply to the payment of a bonus, a surface rental, a cijns or a share of the profit on the basis of the acts mentioned in Article 168.

### **Article 156**

For the application of Article 66.1, the result will not include depreciation on the purchase price in respect of a production licence acquired before this Mijnbouwwet has become effective, insofar this purchase price does not exceed the costs, not yet debited by the transferor of that licence to a profit and loss account.

### **Article 157**

Insofar as a result of depreciation on costs effected before this Mijnbouwwet has become effective and before the production licence has been granted, and that have not already been debited to another profit and loss account, the result of the consolidated profit and loss account on the seaward or the landward side, respectively, is negative, the result of the consolidated profit and loss account will for the purpose of Articles 66.2 and 66.3 be calculated as if consolidation only took place in respect of results obtained on the landward side or the seaward side, respectively.

### **Article 158**

1. For the application of Article 66.3 on losses incurred before this Mijnbouwwet has become effective, the result of the consolidated profit and loss account as mentioned in Article 66.2 will be calculated each year as if consolidation only took place of results obtained on the seaward side or the landward side, respectively.
2. Losses that have been incurred before this Mijnbouwwet has become effective on the seaward side or on the landward side, respectively, and that will still have to be compensated, will only be settled with the consolidated results obtained in accordance with the consolidated calculated results in accordance with Article 158.1 on the seaward side, or the landward side, respectively, in one of the years after this Mijnbouwwet has become effective.
3. If the result of the consolidated profit and loss account meant in Article 66.2 is, in respect of one of the years subsequent to this Mijnbouwwet having become effective, negative, then this result will, taking into account the statutory period referred to in Article 20.2 of the Wet op de vennootschapsbelasting 1969, only be settled with the result of the consolidated profit and loss account as meant in Article 66.2 in respect of one of the years subsequent to this Mijnbouwwet having become effective.
4. Where reference is made in this Article to losses incurred before this Mijnbouwwet has become effective, this shall be understood to mean a negative result of a profit and loss

account of a financial year preceding a financial year of this Mijnbouwwet having become effective, drawn up in accordance with the then applicable conditions.

#### **Article 159**

In deviation of Article 69.3 the settlement amount pertaining to the first financial year after this Mijnbouwwet has become effective, resulting from the application of the for that financial year applicable tariff of corporate income tax to be applied to:

- a. the result of the profit and loss account, it being understood that Article 68.3 will not be applied;
- b. increased by or decreased by, respectively:
  1. ° the expenditure or income, respectively, not yet included in the profit and loss account drawn up in previous financial years with due observance of the applicable conditions, which had already been taken into account in the assessment of the tax to be set off against the profit share payable prior to the effective date of this Mijnbouwwet having;
  2. ° the income or expenditure, respectively, included in the profit and loss account drawn up in previous financial years, with due observance of the applicable conditions, which had not yet been taken into account in the assessment of the tax to be set off against the profit share payable prior to the effective date of this Mijnbouwwet;
  3. ° the amounts of profit share of previous financial years taken into account in the assessment of tax to be set off against the profit share due prior to the effective date of this Mijnbouwwet, to the extent that they exceed or fall short of, respectively, the amounts of profit share due with respect to the previous financial years;
- c. reduced by the amount of profit share due with respect to the financial year after application of this Article.

#### **Article 160**

1. The agreement referred to in Article 81 only concerns a reservoir of natural gas as meant in Article IV of the koninklijk besluit van 27 januari 1967 tot uitvoering van artikel 12 van de Mijnwet continentaal plat ten aanzien van opsporings- of winningsvergunningen voor of mede voor olie of aardgas (Stb. 24), if the exploration licence concerned is an exploration licence as referred to in Article 143, that was granted in accordance with the koninklijk besluit mentioned herein.
2. The percentages mentioned in Articles 84 and 86 are 50 in respect of the agreement referred to in those Articles, if the exploration licence concerned is an exploration licence as meant in Article 143, granted in accordance with the koninklijk besluit van 6 februari 1976, houdende uitvoering van artikel 12 van de Mijnwet continentaal plat ten aanzien van opsporings- en winningsvergunningen voor of mede voor aardolie of aardgas (Staatsblad 102).

#### **Article 161**

Agreements that have before this Mijnbouwwet has become effective been concluded between the N.V. or B.V. designated by Our Minister and the holder of an exploration licence for the carrying out of exploration activities for their joint account are agreements as referred to in Article 81.d.

#### **Article 162**

1. The agreement meant in Article 89 only concerns a natural gas reservoir as meant in Article IV of the koninklijk besluit van 27 januari 1967 tot uitvoering van artikel 12 van de Mijnwet continentaal plat ten aanzien van opsporings- of winningsvergunningen voor of

mede voor olie of aardgas (Staatsblad 24) if the subject production licence has been granted on the basis of Article 10, subsequent to an exploration licence as mentioned in Article 143, in continuance of an exploration licence that has been granted in accordance with the koninklijk besluit referred to here above.

2. The percentages mentioned in Articles 92, 93 and 94 are 50 in respect of an agreement as meant in the said Articles, if the subject production licence has been granted on the basis of Article 10, subsequent to an exploration licence as meant in Article 143, in continuance of an exploration licence that has been granted in accordance with the koninklijk besluit van of 6 februari 1976, houdende uitvoering van artikel 12 van de Mijnewet continentaal plat ten aanzien van opsporings-en winningsvergunningen voor of mede voor aardolie of aardgas (Staatsblad 102).

### **Article 163**

Terms and conditions of an agreement concluded before the Mijnbouwwet has become effective, under which one party undertakes to stand guarantor to the state for the payment of surface rental, cijns or profit share by the holder of an exploration licence or a production licence as meant in Article 143 or his predecessor at law, shall not apply insofar as they relate to obligations having arisen from this Mijnbouwwet.

### **Article 164**

1. For the determination of surface rental as meant in paragraph 5.1.1.2, relating to an exploration licence or an production licence as meant in Article 143, the licence shall be deemed to be effective at the time when the decision meant in Articles 143.1 or 143.2, which the present licence replaces, came into force.
2. In a case as mentioned in Article 164.1, for the period starting from the date that this Mijnbouwwet has become effective until the 1st January thereafter the surface rental shall be determined as that part of the surface rental that in accordance with paragraph 5.1.1.2 would have been determined for the year of this Mijnbouwwet having become effective. This part shall be determined as the part to be allocable to the period from the date that this Mijnbouwwet has become effective until the 1st January thereafter. The surface rental is due on 1st April after this Mijnbouwwet has become effective.
3. In a case as meant in Article 164.2, the surface rental shall be decreased by the part of the surface rental due on the basis of one of the acts mentioned in Article 168 over a period subsequent to the date of this Mijnbouwwet having become effective. This part shall be determined to be that part that is to be allocated to the period subsequent to said effective date.

### **Article 165**

The Mining Council, established by act of 1<sup>st</sup> May, 1970 (Staatsblad 196), concerning the regulations with respect to the Mining Council, is considered to be the Mining Council referred to in Article 105. The decisions that have been taken on the basis of that act shall be deemed to be decisions taken on the basis of paragraph 6.1.

### **Article 166**

The contribution as meant in Article 135.4.a will for the first time be due in the year subsequent to the year after this Mijnbouwwet has become effective.

**Article 167**

1. In connection with the possibility of objecting to or appealing against a decision taken on the basis of one of the acts mentioned in Article 168, the laws shall apply as they were applicable before this Mijnbouwwet became effective.
2. In respect of the procedure relating to objections or appeals made against a decision taken on the basis of one of the acts mentioned in Article 168, the laws shall apply as they were applicable before this Mijnbouwwet became effective.

**CHAPTER 12. WITHDRAWAL AND AMENDMENT OF CERTAIN ACTS****Articles 168-188**

(not included in this translation, ref. Mijnbouwwet version 2003).

**Article 189 (deleted as per 1<sup>st</sup> August 2008)****Article 190**

Rules can be set by or by virtue of order in council with respect to mining or activities relating thereto for the implementation of a treaty binding on the Netherlands or a decision of an organization under international law.

**Article 191**

Our Minister of Economic Affairs shall within 5 years after this act has become effective send a report to the Staten-Generaal about the efficacy and the effects of this act in practice.

**Article 192**

This act shall come into effect at a date to be determined by koninklijk besluit.

**Article 193**

This act shall be referred to as: the Mijnbouwwet.

Order and recommend that the foregoing shall be published in the Staatsblad and that all ministries, authorities, councils and officials who may be concerned shall duly enforce it.

Given at The Hague 31<sup>st</sup> October 2002

Beatrix

The Minister of Economic Affairs,