

# MINING DECREE OF THE NETHERLANDS

EFFECTIVE 1<sup>ST</sup> JANUARY, 2003 (as amended per 1<sup>ST</sup> January 2017)

(UNOFFICIAL TRANSLATION PREPARED FOR DORHOUT ADVOCATEN N.V. at GRONINGEN by J.L. DEN DULK)

This translation is based on the text of the original Mining Decree 2003 of 6 December, 2002 (State Gazette 604), its later amendments (in particular its major amendment based on the Decree of 21 December 2016 for amendment in connection with implementation of guideline (EU) nr 2013/30). It reflects the amendments up to and including 1<sup>st</sup> September 2018.

## Notes for guidance:

1. The attached translation aims to assist professionals that are not conversant with the Netherlands language in understanding the contents of the Netherlands mining legislation in general that was revised in 2003 and thereafter. It should be emphasized that a number of subjects covered by the Mining Decree may or are (to be) laid down in further regulations, that may not have been issued or, when issued, translated (yet);
2. Neither the undersigned nor Dorhout Advocaten N.V. 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 Decree in the Netherlands language - accept any responsibility or liability in, or for incorrections and/or interpretations based on, this unofficial translation; the NL text is guiding. The translation is based on the text of the Mining Law as at 1<sup>st</sup> May 2018, as published by the Ministry of Economic Affairs and Climate.
3. The names and the titles of certain Netherlands governmental institutions and of various acts have not been translated. For pragmatic reasons it was also decided not to translate the Articles 182 up to and including 194.



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September 2018

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**Decree of 6 December, 2002 (State Gazette 604), containing rules implementing the Mijnbouwwet (as amended)**

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

On the recommendation of Our Minister for Economic Affairs of 30<sup>th</sup> August, 2002 nr WJZ 02042889; Having regard to Annex 14, Part II, to the Convention on International Civil Aviation, concluded in Chicago on 7 December 1944 (Bulletin of Acts and Decrees 1947, 165), the International Treaty concluded in London on 30 November 1990 on preparation for, the fighting and co-operation in oil pollution, (Collection of treaties and conventions 1992, 1), the Treaty concluded in Paris on 22 September 1992 on the protection of the marine environment in the northeastern section of the Atlantic Ocean (Collection of treaties and conventions 1993, 141), the International Treaty to prevent pollution by ships, established in London on 2 November 1973 (Collection of treaties and conventions 1978, 188), Articles 1n and 1o, Article 19, Article 25, Article 35.3, Article 39, Article 41.1, Article 43.2, Article 49, Article 52.1, Article 123.5, Article 130, Articles 135.4.a and 135.7, Article 136.1, Article 139.2, Article 141.2, Article 151 and Article 190 of the Mijnbouwwet, as well as Article 99.2 of the Wet bodembescherming;

Having heard the Council of State (advice of 22<sup>nd</sup> October, 2002, nr W10.02.0387/II);

In view of the more detailed report by Our Minister for Economic Affairs of 3<sup>rd</sup> December, 2002, WJZ 02057343;

Have approved and understood:

## CHAPTER 1. GENERAL

### § 1.1 Definitions

#### Article 1

In this Decree and the provisions based thereon, the terms below shall be defined as follows:

- a. Act: Mijnbouwwet;
- b. damage: harm to the interests referred to in Articles 49.2 and 49.3 of the Mijnbouwwet;
- c. mining activities: activities to which Articles 49.1 and 49.5 of the Mijnbouwwet apply;
- d. the operator: the person as meant in Article 41.4 of the Mijnbouwwet;
- e. safety: the safety of persons and the protection of goods, in so far as no rules have been prescribed in this area by or by virtue of the Arbeidsomstandighedenwet;
- f. inspecteur-generaal der mijnen: inspecteur-generaal der mijnen as meant in Article 126.2 of the Mijnbouwwet;
- g. brine: water with an increased concentration of minerals that remains after extraction of water from produced silt groundwater;
- h. Kustwacht Nederland: an organization established by Our Minister van Infrastructuur en Milieu and Our Minister van Defensie that is designated by these Ministers as Kustwacht Nederland;
- i. Kustwachtcentrum: the information centre of the Kustwacht Nederland established for the discharge of coast guard tasks;
- j. stimulate: the treatment of a reservoir to improve the productivity or the injectivity.

#### Article 2

1. The following shall be designated as a mining work, as meant in Articles 1.n of the Mijnbouwwet:
  - a. boreholes, intended for exploration for and production of minerals or terrestrial heat or for the storage of substances, in so far as these do not form part of the works as referred to in b. up to and including e. here below, and have not been entirely decommissioned;
  - b. works for the exploration for production of minerals or terrestrial heat;
  - c. works for the storage of substances and the retrieval of stored substance, with the exception of:
    - 1° water for storage or heat or cold at a maximum depth of 500 meters;
    - 2° water for public water supply as meant in the Drinkwaterwet;
    - 3° groundwater and brine that without addition of substances are brought back to a depth of a maximum of 500 meters in the same area in which it was produced;
  - d. works for the processing of minerals produced or terrestrial heat prior to the customer's point of delivery;
  - e. works for processing substances prior to their being stored or before processing of stored and retrieved substances prior to the customer's point of delivery;
  - f. works for measuring and registering the substances or terrestrial heat referred to in d. and e. here-above prior to the customer's point of delivery;
  - g. works for facilitation of transportation of the substances referred to in d. and e. here above or terrestrial heat referred to in d. and e. here above prior to the customer's point of delivery;
  - h. works for the accommodation of persons involved in mining activities that are anchored in, or present above, the surface water.
2. If boreholes or works as meant in Article 1.a up to and including Article 1.h here above are physically connected to each other, the system as a whole shall be considered as a mining work.

## **§ 1.2 Other general provisions**

### **Article 3**

1. Measures shall be taken to prevent damage when mining activities are carried out.
2. If during the course of mining activities serious damage is threatening to occur, or serious damage has occurred, this shall be notified to the inspecteur-generaal der mijnen immediately.

### **Article 4**

1. The operator shall draw up a work plan listing all mining activities to be carried out in a licence area.
2. The work plan is an annual roll-over 5-year plan. The operator shall submit the plan to the inspecteur-generaal der mijnen within 4 weeks after the granting of a licence as meant in Article 6 or 25 of the Mijnbouwwet and subsequently every year before 1st November of the year preceding the first calendar year to which the plan pertains.
3. Drastic changes in the mining activities included in the first calendar year to which the relevant work plan applies shall be notified to the inspecteur-generaal der mijnen at least 4 weeks before the relevant activity is carried out.
4. Further rules shall be set by ministerial regulation with respect to the content of the work plan.

### **Article 5**

The documents and data as meant by or by virtue of this Mijnbouwbesluit shall be properly drafted and kept updated by an assigned person, a research worker as meant in Article 9, an operator as meant in Article 92.d and a licensee as meant in Articles 152 and 157. They shall be kept for at least 1 year unless otherwise provided for by or by virtue of this Mijnbouwbesluit.

### **Article 6**

1. The cases and method of transportation as meant in Article 130 of the Mijnbouwwet shall comprise:
  - a. transportation that takes place between 7.00 hrs and 20.00 hrs;
  - b. transportation by helicopter, provided that no more than 4 seats are required to be available.
2. If during the course of mining activities serious damage is threatening to occur, or serious damage has occurred, the transportation as meant in Article 6.1.a may according to an instruction of the inspecteur-generaal der mijnen take place between 0.00 hrs and 24.00 hrs.
3. The holder of a licence as meant in Article 6 or 25 of the Mijnbouwwet or a person that carries out a reconnaissance survey or intends to do so, shall in cases described in a ministerial regulation provide civil servants as meant in Articles 129 and 131 of the Mijnbouwwet with transportation, lodging, meals and other amenities.

### **Article 7**

1. Rules shall be set by ministerial regulation with regard to the way in which the application for an exemption or licence under or by virtue of the Mijnbouwwet is made and with regard to the data and the documents to be submitted thereby.
2. If after an exemption or a licence has been granted changes occur in the data and documents that have been submitted in accordance with the regulation referred to in Article 7.1, the holder of the exemption or the licence shall notify the changes to the party to whom the information should have been submitted.
3. An exemption or a licence can be changed or withdrawn if:
  - a. the data or documents accompanying the application prove to be so incorrect or incomplete to such an extent that a different decision would have been taken with regard to the application, had the correct circumstances been fully known at the time of the assessment,

- b. the circumstances on the basis of which the exemption or licence was granted have changed to such an extent that a different decision would have been taken with regard to the application if the changed circumstances had existed at the time of assessment,
  - c. the exemption or licence cannot be maintained due to the risk of damage, or
  - d. restrictions or conditions attaching to the exemption or licence are not complied with.
4. An exemption or a licence can be changed or withdrawn at the request of the holder, in so far as the danger of possibility of damage does not resist this.
  5. This Article similarly applies to other decisions to be taken under or by virtue of this Mijnbouwbesluit.

#### **Article 8**

1. If during the course of mining activities on the continental shelf an archeological monument as meant in Article 1.1 of the Erfgoedwet or a presumed archeological monument is found, or an archeological find as meant in Article 1.1 of the Erfgoedwet is made, then Article 5.10 of the Erfgoedwet is applicable and the Articles Articles 56, 58.1 and 59 of the Monumentenwet 1988 as it read before the Erfgoedwet became effective, shall similarly apply.
2. The operator, or the manager, respectively, shall provide the data as meant in Article 48, and the data generated by research with respect to the laying and location of a pipeline as meant in Article 92.a to the Minister van Onderwijs, Cultuur en Wetenschap, to the extent those data can provide information about the presence of archeological monuments or presumed archeological monuments in or on the bottom of the territorial sea or the continental shelf.

## **CHAPTER 2. RECONNAISSANCE SURVEY**

### **§ 2.1 General**

#### **Article 9**

1. This chapter applies to reconnaissance survey performed by means of artificially generated tremor.
2. In this Chapter the term 'researcher' shall be defined as the person who has commissioned the reconnaissance survey, or, in the absence of a principal, the person who carries out the reconnaissance survey.

#### **Article 10**

1. At least 4 weeks prior to commencement of a reconnaissance survey the researcher shall submit the following to the inspecteur-generaal der mijnen:
  - a. data about the way in which the reconnaissance survey will be carried out;
  - b. a map indicating the area in which, and the lines along which, the reconnaissance survey will be carried out, and the name of the contractor;
  - c. the dates on which the reconnaissance survey will be carried out;
  - d. if vessels will be used for the reconnaissance survey at sea: the names, nationalities and registration details of these vessels;
  - e. if the reconnaissance survey is carried out in surface water in which shipping is moderate or intensive as meant in Articles 16 or 17, respectively:
    - 1° information about the competencies and experience of the person that stays in contact with the other shipping activities in and around the area of the survey;
    - 2° information about the vessel, and the vessel's equipment in relation to radar, navigation and telecommunication apparatus, on which the person as meant in 1° is present, and
  - f. if the reconnaissance survey is carried out in surface waters with intensive shipping activities, information as meant in Article 10.1.e will also be provided about the person and the vessels that assist the person as meant in Article 10.1.e. 1°.



2. In deviation of Article 10, first sentence, the information as meant in Articles 10.1.e and 10.1.f. may after consent by Our Minister be provided at a later moment in time preceding the reconnaissance survey.
3. The researcher shall immediately inform the inspecteur-generaal der mijnen of any changes to the information as meant in Article 10.1.
4. The inspecteur-generaal der mijnen can, if the reconnaissance survey is carried out in surface waters, oblige a researcher to transport civil servants designated by the inspecteur-generaal der mijnen with a suitable means of transportation to locations indicated by these civil servants where a reconnaissance survey is or will be carried out.

## **§ 2.2 General rules for reconnaissance survey in surface waters**

### **Article 11**

This paragraph applies to reconnaissance survey in surface water.

### **Article 12**

1. During the course of a reconnaissance survey measures shall be taken to prevent disturbing sound effects on marine mammals.
2. Rules shall be set by ministerial regulation with regard to the measures as meant in Article 12.1.

### **Article 13**

The researcher shall inform the Kustwachtcentrum daily of the progress of a reconnaissance survey in the area in which the survey is being carried out, to the extent it concerns an area within the territorial sea or the continental shelf, indicating in any case the time of the day when the survey will commence and when it will finish.

### **Article 14**

Without the consent of a competent authority designated by our Minister van Verkeer en Waterstaat it is prohibited to carry out a reconnaissance survey if the visibility from the reconnaissance vessel is less than the length of the cables to be used, or being used, in the survey.

### **Article 15**

1. It is prohibited to carry out a reconnaissance survey using cables that are more than 1,500 metres in length and that, in terms of width, are more than 150 metres apart.
2. This prohibition does not apply if the survey vessel is accompanied by another vessel whose task it is to keep other shipping traffic in and around the survey area at a safe distance and for this purpose is equipped with radar, navigation and telecommunication equipment and sufficient pyrotechnic devices.
3. Further rules can be set by ministerial regulation in agreement with Our Minister van Verkeer en Waterstaat with regard to the equipment as meant in Article 15.2.

## **§ 2.3 Special rules for reconnaissance survey in surface waters**

### **Article 16**

1. It is prohibited to carry out a reconnaissance survey in or above the sections of the territorial sea and the continental shelf that are scarcely used by shipping traffic and have been designated by ministerial regulation.
2. The prohibition does not apply if:
  - a. there is a person on board the survey vessel who stays in contact with the other shipping traffic in and around the survey area in the interest of the safety of the shipping traffic, and

- b. the vessel on board of which the person as meant in Article 16.2.a is present, is equipped with radar, navigation and telecommunication equipment intended for the escorting of and the communication with the other shipping traffic in and around the survey area.
3. Rules can by ministerial regulation, in agreement with Our Minister van infrastructuur en milieu, be set with regard to the required competence and experience of the person as meant in Article 16.2.a, as well as more detailed rules with regard to the equipment as meant in Article 16.2.b.

#### **Article 17**

1. It is prohibited to carry out a reconnaissance survey in or above the sections of the territorial sea and the continental shelf that are densely used by shipping traffic and have been designated so by ministerial regulation.
2. This prohibition does not apply if:
  - a. the rules set by or by virtue of Articles 16.2 and 16.3 have been complied with;
  - b. the survey vessel is accompanied by at least 2 vessels whose task it is to assist the person as meant in Article 16.2.a in escorting or keeping at a distance other shipping traffic and that are, for this purpose, equipped with radar, navigation and telecommunication equipment together with sufficient pyrotechnic devices.
3. Article 15.3 similarly applies to the equipment as meant in Article 17.2.b.

#### **Article 18**

1. It is prohibited to carry out a reconnaissance survey without a licence issued by Our Minister, in agreement with Our Minister van Infrastructuur en Milieu, in or above the sections of the territorial sea and the continental shelf that are used as anchoring areas in the vicinity of entry harbours and have been designated so by ministerial regulation.
2. A licence can be granted subject to restrictions and conditions can be attached thereto.
3. A licence shall only be refused in the interest of shipping.

#### **Article 19**

1. It is prohibited to carry out a reconnaissance survey without a licence issued by Our Minister, in agreement with Our Minister van Defensie, in or above the sections of the territorial sea and the continental shelf that are used as exercise and shooting areas and have been designated so by ministerial regulation.
2. A licence can be granted subject to restrictions, and conditions may be attached thereto.
3. A licence shall only be refused in the interest of the defence of the realm.

#### **Article 20**

It is prohibited to carry out a reconnaissance survey in areas that form part of the territorial sea and the continental shelf that have by ministerial regulation been designated as the "Hoek van Holland Roadstead" .

### **§ 2.4 Use of explosives during a reconnaissance survey**

#### **Article 21**

It is prohibited to use explosive substances for reconnaissance survey in surface waters.

#### **Article 22**

1. It is prohibited to carry out a reconnaissance survey using explosive substances without a licence issued by Our Minister, other than in surface water.
2. A licence can be granted subject to restrictions and conditions can be attached thereto. These conditions can in any case relate to:
  - a. the nature, marking and quantity of the explosive substances to be used;
  - b. the manner in which the substances as meant under Article 22.2.a will be used;

- c. measures that will be taken to prevent damage, and
  - d. the period during which use can be made of the substances as meant in Article 22.2.a.
3. A licence can only be refused in the interest of the environment or the safety.

#### **Article 23**

1. The researcher shall ensure that in the case of a reconnaissance survey involving explosive substances:
  - a. it shall be carried out in such a way that the safety of third parties is not jeopardized;
  - b. it shall be carried out in such a way that damage to the environment is prevented or limited as much as possible;
  - c. as and when relevant, it shall be notified in good time to the mayor and aldermen of the municipality where the survey will take place;
  - d. it shall be carried out at such a distance from buildings, public works and other facilities that damage to the same is prevented;
  - e. the substances that have not exploded are made safe or removed.
2. Further rules shall be set by ministerial regulation concerning the use of explosive substances.

### **CHAPTER 3. THE PRODUCTION AND STORAGE OF SUBSTANCES**

#### **§ 3.1 The production plan**

#### **Article 24**

1. The production plan as meant in Article 34.1 of the Mijnbouwwet for the production of hydrocarbons shall contain:
  - a. a description of the expected quantity and the composition of the hydrocarbons present, broken down according to reservoir layer and reservoir compartment;
  - b. a specification of the data with regard to the structure of the reservoir, broken down according to reservoir layer and reservoir compartment, with pertaining geological, geophysical and petrophysical studies and the uncertainty analyses used thereby;
  - c. a description of a production method that is not in conflict with the legal requirements set by or by virtue of this Mining Decree with respect to production of hydrocarbons;
  - d. a description of the mining work and its location;
  - e. a specification of the number of boreholes used in the production;
  - f. a specification of the sequence and timeframe involved in the making boreholes;
  - g. a specification of the location, length and diameter of the tubing of the boreholes;
  - h. a specification of the location and the manner in which the hydrocarbons enter into the tubing;
  - i. a specification of the composition and quantities of the substances that annually inevitably are co-produced with the production of hydrocarbons;
  - j. a specification of the quantities of hydrocarbons produced that are annually used, vented or flared;
  - k. a specification of the composition and quantities of minerals and other substances that are annually re-introduced into the subsoil during production;
  - l. a specification of the annual costs of the production, broken down into costs for investment, maintenance, operational management and the costs of abandonment and removal of mining works;
  - m. a map indicating the contours of the expected final extent of soil subsidence;
  - n. an overview indicating the course of the expected extent of soil subsidence over time;
  - o. an indication of uncertainty concerning the expected extent of soil subsidence as meant in m. and n. here above;
  - p. a risk analysis concerning soil tremor as a result of the production;

- q. a description of the possible extent and expected nature of damage caused by soil movement;
  - r. a description of the measures taken to prevent or reduce soil movement, and
  - s. a description of the measures taken to prevent or reduce damage by soil movement.
- The above items m. up to and including s. do not apply to reservoirs located on the seaward side of the line as laid down in Article 1.1 of the Wet grenzen Nederlandse territoriale zee.
2. In the production plan as meant in Article 24.1 the considerations will be explained that were important in the choices made for each subsection, to the extent relevant.

#### **Article 25**

1. The production plan as meant in Article 34.1 of the Mijnbouwwet for the production of salt shall contain:
  - a. a description of the structure of the salt layer from which salt is produced, and the location of the salt layer relative to other strata, with pertaining geological, geophysical and petrophysical studies and the uncertainty analyses used thereby;
  - b. a specification of the expected quantity of producible brine and salt and the composition of the salt to be produced;
  - c. a description of the location and the shape of the cavity during and after production;
  - d. a specification of the rock mechanics calculations of the cavity's stability during and after production;
  - e. a specification of the quantities of substances injected annually during the production, and
  - f. a description of the manner in which the cavity is decommissioned following cessation of production.
2. Articles 24.1.c up to and including g Articles 24.l. up to and including to 24.s and Article 24.2 similarly apply.

### **§ 3.2 The storage of substances**

#### **Article 26**

1. The storage plan as meant in Article 39.b of the Mijnbouwwet shall contain:
  - a. a description of the quantity and the composition of the substances that are stored;
  - b. a specification of the data with regard to the structure of the deposit and the location of the reservoir relative to other strata, with pertaining geological, geophysical and petrophysical studies and the uncertainty analyses used thereby;
  - c. a specification of the substances used when the substances are introduced into the subsoil;
  - d. an inventory of the risks involved in spreading the substances that are stored in the subsoil, the occurrence of chemical processes in the subsoil and the impacts on the mineral reservoirs present in the subsoil, or the composition of these minerals;
  - e. an inventory of measures that will be taken to prevent the risks as meant in Article 26.d;
  - f. a description of the manner in which the reservoir is left behind following cessation of the storage, and
  - g. a risk analysis concerning soil movement as a result of storage.
2. Articles 24.1.d up to and including 24.1.g, Articles 24.1.l, 24.1.q, 24.1.r, 24.1.s and Article 24.2 similarly apply, with the proviso that Articles 24.1.g, 24.1.q, 24.1.r and 24.1.s do not apply to reservoirs located on the seaward side of the line laid down in the Annex to the Mijnbouwwet.
3. This Article does not apply if paragraph 3.5 of this Mijnbouwbesluit applies.

#### **Article 27**

In the event that the storage of substances is of a temporary nature then the storage plan as meant in Article 26 shall also contain:

- a. a description of the manner in which the stored substances will be retrieved and of the substances used thereby, and

- b. a specification of the composition and quantities of the substances other than the stored substances that will inevitably be extracted from the subsoil when the stored substances are retrieved.

### **§ 3.3 Exceptions w.r.t. storage licence**

#### **Article 28**

The categories of cases as meant in Article 25.2 of the Mijnbouwwet to which the prohibition on storing substances without a licence does not apply, are the storage of:

- a. substances to avert the immediate danger of an uncontrolled outflow of substances from the subsoil;
- b. substances that are used for:
  - 1<sup>o</sup>. the exploration for and production of minerals and terrestrial heat;
  - 2<sup>o</sup>. substances for which a licence on the basis of Article 25 of the Mijnbouwwet is required or
  - 3<sup>o</sup>. the construction of a borehole deeper than 500 metres beneath the surface of the earth, not being the cases as meant in Articles 28.b.1<sup>o</sup> and 28.b.2<sup>o</sup>;
- c. substances that during the activities as meant in Articles 28.b.1<sup>o</sup>, 2<sup>o</sup> and 3<sup>o</sup> inevitably come up to the surface, and are re-introduced into the same or a similar reservoir from where they originate;
- d. rainwater that has fallen on the mining work and the surrounding site;
- d. water used for the storage of heat or cold at a maximum depth of 500 m;
- e. water for public water supply as meant in the Drinkwaterwet;
- f. groundwater and brine that without addition of substances are brought back to a depth of a maximum of 500 meters in the same area in which they were produced;

### **§ 3.4 Further rules**

#### **Article 29**

Further rules may be set by ministerial regulation with regard to the content of the production plan as meant in Articles 24 and 25, and the plan for the storage of substances as meant in Articles 26 and 27.

### **§ 3.5 Supplemental conditions for permanent storage and transportation of CO<sub>2</sub>**

#### **Article 29a**

In this paragraph the following is understood to mean:

- a. leakage: the leakage of CO<sub>2</sub> from the CO<sub>2</sub> storage complex;
- b. significant risk: a combination of a probability of the occurrence of damage and the size of the damage that cannot be ignored;
- c. significant irregularity: an irregularity in the injection or storage activities or in the situation of the CO<sub>2</sub> storage complex itself that creates the risk of leakage or creates a risk for the environment or the public health;
- d. directive nr 2009/31/EG: directive nr 2009/31/EG of the European Parliament and the Council of 23 April 2009 concerning the geological storage of carbon dioxide and for amendment of directive 85/337/EEG of the Council, the directives 2000/60/EG, 2001/80/EG, 2004/35/EG, 2006/12/EG and 2008/1/EG and Ordinance (EG) nr 1013/2006 (PbEG L140) of the European Parliament and the Council.

#### **Article 29b**

Ministerial regulation can set rules for a licence for permanent storage of CO<sub>2</sub> concerning:

- a. the period of the injection and the area;
- b. the location and delimitation of the storage reservoir and the area of the storage complex;

- c. the data with respect to the hydraulic unit;
- d. conditions for the storage process;
- e. the total volume of CO<sub>2</sub> that can maximally be stored in conformity 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>.

#### **Article 29c**

1. Our Minister will attach to the licence for permanent storage of CO<sub>2</sub> the condition to incorporate risk management as meant in Article 31d.1.h of the Mijnbouwwet in a risk management plan.
2. The risk management plan shall at least contain a description of the measures to be taken to limit the risk of significant irregularity and the possible consequences thereof and shall comply with Attachment I, phase 3.3. of the Directive nr 2009/31/EG.

#### **Article 29d**

1. Our Minister will attach to the licence for permanent storage of CO<sub>2</sub> the condition to carry out corrective measures as meant in Article 31d.1.k of the Mijnbouwwet according to a plan.
2. The plan contains at least a description of the measures with respect to the correction of significant irregularities or to the sealing off of leaks to prevent leakage or to have it stopped during the injection of CO<sub>2</sub> and during the further storage.

#### **Article 29e**

1. The operator shall take immediately appropriate measures on the basis of the plan as meant in Article 29d, as soon as a leakage or significant irregularity occurs.
2. The operator shall as soon as a significant irregularity or leakage occurs, report this immediately to the inspecteur-generaal der mijnen and submits to him as soon as possible data about:
  - a. the causes of the significant irregularities or leakage;
  - b. the nature and seriousness of the effects of the significant irregularity or leakage;
  - c. the measures that have been taken or are considered to be taken to prevent, limit or remove the significant irregularity or leakage;
  - d. the measures that are considered to prevent that a significant irregularity or a leakage can occur again.
3. The operator shall in the event of a leakage or significant irregularity that encompasses a risk of leakage, immediately notify the Nederlandse emissieautoriteit thereof.

#### **Article 29f**

1. Our Minister attaches to the licence for permanent storage of CO<sub>2</sub> the condition to carry out monitoring, as meant in Article 31d.1.i of the Mijnbouwwet, according to the monitoring plan.
2. The monitoring plan incorporates the manner of the monitoring of:
  - a. the injection facilities,
  - b. the storage complex and
  - c. the environment in the direct vicinity of the storage complex and is in conformity with Attachment II, subpart 1.1. of the Directive nr. 2009/31/EG.
3. The monitoring plan relates to the period commencing at the moment that a licence for the permanent storage of CO<sub>2</sub> becomes effective and lapses at the moment that the licence is withdrawn on the basis of Article 31j of the Mijnbouwwet.
4. The choice of the monitoring technology will be based on the best practices that are available at the time of the drafting of the licence.
5. To the licence will also be attached the condition that the monitoring plan will be updated 3 months before the commencement of the injection of CO<sub>2</sub> and to update it every period of 5 years on the basis of changes in the assessed risk of leakage, changes in the assessed risks for

the environment and the public health, new scientific knowledge and improvements in the best available techniques. The updated monitoring plan shall be submitted to Our Minister for approval. The monitoring will be carried out according to the approved monitoring plan.

#### **Article 29g**

1. The document as meant in Article 31i.2 of the Mijnbouwwet with respect to closing off will at least contain:
  - 1<sup>o</sup>. to the extent it concerns mining works not being mining facilities:
    - a. a work programme for the decommissioning of the boreholes
    - b. a description of the manner in which materials belonging to the mining work will be removed;
    - c. a description of the waste materials present at the mining work and their destination;
    - d. a description of the measures that will be taken to prevent damage;
    - e. a description of the measures that will be taken to restore the site on which the mining installation was constructed into its original condition;
  - 2<sup>o</sup>. to the extent it concerns mining facilities:
    - a. a work programme for the decommissioning of boreholes;
    - b. the manner in which the removal of the mining installation and scrap and other materials as meant in Article 44.2 of the Mijnbouwwet will take place;
    - c. the manner in which it will be demonstrated that the location on which the mining installation was placed on the seabottom is free from scrap and other material;
    - d. the manner in which the mining installation and the scrap and other materials will be removed;
    - e. the final destination of the mining installation, the parts thereof and the scrap and other materials and
    - f. the waste substances and other substances present on the mining installation and their final destination.
2. The plan will also contain data about the moments in time that the phases of the decommissioning will be carried out.

#### **Article 29h**

1. Our Minister will attach to the licence for permanent storage of CO<sub>2</sub> the condition to carry out activities for the prevention or limitation of damage as a result of soil movement as meant in Article 31d.1.i of the Mijnbouwwet, according to a plan.
2. The plan contains at least:
  - a. a map detailing the contours of the expected final extent of soil subsidence or soil elevation,
  - b. an overview of the phasing of the expected extent of soil movement or soil elevation over time,
  - c. a description of the uncertainty with respect to the expected extent of soil movement as meant in b. and c. here above,
  - d. a risk analysis about soil tremors as a result of the storage,
  - e. a description of the possible size and expected nature of the damage as a result of soil movement,
  - f. a description of the measures that will be taken to prevent or limit soil movement, and
  - g. a description of the measures that will be taken to prevent or limit damage as a result of soil movement.
3. This Article does not apply to storage reservoirs that lie on the seaward side of the line laid down in the Attachment to the Mijnbouwwet.

### **Article 29i**

1. In relation to the permanent storage of CO<sub>2</sub> and the transportation of CO<sub>2</sub> through a transportation network as meant in Article 32.1 of the Mijnbouwwet it is prohibited to store and transport substances other than:
  - a. occasional related substances originating from the CO<sub>2</sub> source or the capture or injection process,
  - b. substances that are necessary for transportation or storage in the storage reservoir or
  - c. tracing elements that have been added to the CO<sub>2</sub> to assist in the monitoring and the control of the movement of CO<sub>2</sub> within the CO<sub>2</sub> storage complex.
2. The concentration of the substances as meant in Article 29.1.i.a up to and including Article 29.1.i.c shall not exceed levels that will hamper the integrity of the storage reservoir or the relevant transportation network or establish a significant risk for the environment or the public health.
3. The CO<sub>2</sub> and the substances as meant in Article 29.1.i.a up to and including Article 29.1.i.c shall not be stored unless the operator has established that they comply with Article 29i.2.

### **Article 29j**

1. The licence sets forth the amount for which security will be provided for the year in which injection will commence in accordance with the application and for the subsequent 4 years. The amount for the 4<sup>th</sup> year will be applicable for the subsequent years as long as it has not been revised.
2. The amount will annually be fixed as the aggregate of:
  - a. an estimate of the cost of acquisition of the greenhouse gas emission rights as meant in Article 1.1 of the Wet milieubeheer, assuming emission as a result of uncontrolled outflow of CO<sub>2</sub> during the last 3 months of the year concerned.
  - b. an estimate of the cost of the implementation of the risk management plan as meant in Article 29c, based on implementation during 2 years;
  - c. an estimate of the cost of the taking of measures as per the plan with respect to corrective measures as meant in Article 29d, assuming the most drastic measure or measures foreseen in the plan.
  - d. an estimate of the cost to be incurred still of implementation of the monitoring plan as mentioned in Article 29f based on withdrawal of the licence within 20 years after the closing off;
  - e. an estimate of the cost of implementation of the closing plan as meant in Article 29g;
  - f. an estimate of the financial contribution as meant in Article 31j.1.d of the Mijnbouwwet.
3. The form of security to be provided is subject to the prior concurrence by Our Minister. The licence holder shall submit an application to that effect at least 6 months before the security will be provided. By applying Article 28.1 last sentence of the Dienstenwet paragraph 4.1.3.3 of the Algemene wet bestuursrecht is not applicable to the application.
4. Our Minister shall state his concurrence if the security has been provided such that in Our Minister's opinion is it established that the State can therewith as necessary also comply itself with all obligations as meant in Article 29j.2 for the account of the licence holder. Financial security in this Article shall also be understood to mean an equivalent provision from a point of view of security for the State.
5. The licence holder shall before the commencement of injection of CO<sub>2</sub> demonstrate to Our Minister that the security has been provided in accordance with the Mijnbouwwet and this Article.
6. Our Minister will, without prejudice to Article 31h.1.d of te Mijnbouwwet on the basis of Article 29j.2 every 5 years, calculated from the granting of the licence, review the amount for the first next 5 years. The amount that has been fixed in the licence for the last year will apply to subsequent years as long as it has not been adjusted. The licence holder shall submit to Our



- Minister ultimately 3 months before the lapse of a period of 5 years the data necessary for the estimates as meant in Article 29j.2 together with adequate financial data and explanation.
7. The licensee shall cease the injection of CO<sub>2</sub> as soon as continued injection would lead to a volume of stored CO<sub>2</sub> that is more than 15% higher than the volume as per the estimates as meant in Article 29j.a for the establishment of the level of the amount for which at that moment in time security was provided.
  8. Our Minister can by ministerial rules set further criteria for estimation of the cost as meant in Article 29j.2.

#### **Article 29k**

The operator shall annually provide Our Minister before 1<sup>st</sup> April with:

- a. the results of the monitoring of the stored CO<sub>2</sub> with respect to the preceding calendar year, stating the technology used,
- b. proof that financial security or an equivalent provision has been established and maintained and
- c. changes in the financial and technical possibilities of the licence holder.

#### **Article 29l**

1. If the operator requests the withdrawal of a licence for permanent storage of CO<sub>2</sub> as meant in Article 31j of the Mijnbouwwet, then he will submit to Our Minister:
  - a. data that show that the stored CO<sub>2</sub> will remain completely and permanently shut in,
  - b. a proposal for a financial contribution as meant in Article 31j.1.d of the Mijnbouwwet that the operator shall pay upon the withdrawal of the licence.
2. The financial contribution as meant in Article 29l.1 will take into account the parameters as meant in Attachment I of the Directive 2009/31/EG of the European Parliament and the Council of 23 April 2009 concerning the geological storage of carbon dioxide and to amend Directive 85/337/EEG of the Council, the Directives 2000/60/EG, 2001/80/EG, 2004/35/EG, 2006/12/EG and 2008/1/EG and Ordinance (EG) nr 1013/2006 (PbEG L 140) of the European Parliament and the Council, and elements with respect to the history of the storage of CO<sub>2</sub> that are relevant for the definition of the obligations in force after the transfer and covers at least the estimated monitoring cost for a period of 30 years after withdrawal of the licence.

#### **Article 29m**

Ministerial rules can set further conditions with respect to Articles 29c up to and including 29h.2 and 29i up to and including 29l.

## **CHAPTER 4. MEASUREMENT OF SOIL MOVEMENT**

### **§ 4.1 Measurements concerning soil movement**

#### **Article 30**

1. The operator shall carry out measurements of soil movement as a result of the production of minerals or terrestrial heat as meant in Article 41 of the Mijnbouwwet. The measurements shall be carried out in accordance with a measurement plan.
2. The operator shall submit the measurement plan to Our Minister for each reservoir from which is produced.
3. The measurement plan requires the approval of Our Minister before production can be commenced.
4. Our Minister decides on the measurement plan within 8 weeks of submission thereof. The approval shall be deemed to have been given by operation of the law if Our Minister fails to take a decision within the approval period. The approval by operation of the law is, for the purpose

of being able to lodge an objection or to file an appeal, equivalent to a decision as referred to in Article 1:3.1 van de Algemene Wet bestuursrecht.

5. Our Minister can grant approval subject to restrictions and attach conditions thereto.
6. The measurement plan covers the period of production and the subsequent 30 years. The operator shall update the measurement plan during the period of production and the subsequent 5 years annually, and shall provide Our Minister before 1<sup>st</sup> November with a copy thereof. Our Minister can give the operator an instruction as to the moments in time when, and locations where, measurements are to be carried out.
7. The measurement plan shall at least contain a description of:
  - a. the moments in time when measurements are carried out;
  - b. the locations where measurements are carried out, and
  - c. the measurement methods .
8. One of the moments in time as meant in Article 30.7.a shall precede the commencement of production.
9. Further rules concerning the measurement plan can be set by ministerial regulation.

#### **Article 31**

1. The operator shall ensure that the measurements take place in a careful and reliable manner.
2. The operator shall submit the results of the first measurement as meant in Article 30.8 to the inspecteur-generaal der mijnen no later than 2 weeks prior to commencement of production.
3. The operator shall submit to the inspecteur-generaal der mijnen the results of the measurements 12 weeks after these have been carried out.
4. Further rules can be set by ministerial regulation concerning the content and method of the provision of the measurement results.

#### **Article 32**

Articles 30 and 31 similarly apply to the storage of substances.

### **§ 4.2 Salt cavities**

#### **Article 33**

1. In the case of salt production and storage of substances in a cavity that originated as a result of production of salt, the measurement plan as meant in Article 30.1 shall also contain a description of:
  - a. the moments in time when measurements are carried out in the cavity, and
  - b. the method used to carry out cavity measurements.
2. The operator shall submit the results of the measurements, as well as the cavity maps and cavity cross-sections based on the measurements, to the inspecteur-generaal der mijnen no later than 12 weeks after the measurements have been carried out.
3. The cavity maps and cavity cross-sections shall be updated as soon as new information becomes available.
4. Further rules may can be set by ministerial regulation concerning the maps and cross-sections as meant in Article 33.2.

## **CHAPTER 5. MINING WORKS**

### **5.1 MINING WORKS, EXCLUDING MINING INSTALLATIONS**

#### **§ 5.1.1 General**

##### **Article 34**

This section 5.1 applies to mining works, excluding mining installations.

##### **Article 35**

1. A mining work designated for production shall be equipped with measuring devices for measuring the quantities of minerals or terrestrial heat that are produced, consumed, destroyed or removed;
2. A mining work designated for storage shall be equipped with measuring devices for the measurement of the quantities of substances that are brought into the subsurface, retrieved therefrom, used, destroyed or removed;
3. Our Minister can grant an exemption from Articles 35.1 and 35.2 at a request to that effect that also sets forth in which other manner the data as mentioned in Articles 35.1 and 35.2 will be obtained.
4. Rules may be set by ministerial regulation concerning the number of measurements, the nature of the measurements and the measuring devices to be used.

#### **§ 5.1.2 Rules on the use of mining works**

##### **Article 36**

A mining work shall be separated from its surroundings in such a way, and measures shall be taken with regard to the entrances in such a way, that they cannot be accessed freely by unauthorized persons. The site shall be suitably guarded.

##### **Article 37**

1. A mining work shall be set up at a safe distance from:
  - a. buildings that do not form part of a mining work and in which naked flames are, or can be, used;
  - b. public roads;
  - c. railways;
  - d. public works, or
  - e. highly flammable crops.
2. The operator shall see to it that the system of care as meant in Article 2.42e of the Arbeidsomstandighedenbesluit and the document as meant in Article 2.42f of that besluit, also cover safety issues.
3. Rules can be set by ministerial regulation with regard to the safe distances, the system of care and the document.

#### **§ 5.1.3 Environment**

##### **Article 38**

1. It is prohibited to vent or flare natural gas at a mining work into the atmosphere or to emit other polluting substances.
2. Article 38.1 does not apply if the venting or flaring of natural gas, or the emission of other polluting substances is inevitable for a normal operation of the mining work. In that case all

measures shall be taken to prevent or limit as much as possible damage resulting from natural gas being vented or flared or other polluting substances being emitted.

3. Rules can be set by ministerial regulation in the interest of the environment with regard to the measures as meant in Article 38.2

#### **§ 5.1.4 Rules on the decommissioning of mining works**

##### **Article 39**

1. Full or partial decommissioning of a mining work designated exclusively for production shall take place in accordance with a closing plan to be submitted to Our Minister by the operator. The closing plan shall be submitted no later than 1 year after the cessation of the production.
2. The closing plan requires the approval of Our Minister. Approval can be granted subject to restrictions or conditions may be attached with regard to the risk of damage.
3. Our Minister shall decide on the closing plan within 13 weeks after submission thereof.
4. Approval shall have been given by operation of the law shall if Our Minister fails to take a decision within the approval period. The approval, for the purpose of being able to lodge an objection and to file on appeal, is equivalent to a decision as meant in Article 1:3.1 of the Algemene wet bestuursrecht.
5. Articles 39.1 up to and including 39.3 similarly apply to a mining work designated wholly or partly for storage, with the exclusion of a mining work for permanent storage of CO<sub>2</sub>.

##### **Article 40**

1. The closing plan closure shall contain at least:
  - a. a description of the manner in which the material belonging to the mining work will be removed;
  - b. a description of the waste substances present at the mining work and their intended destination;
  - c. a description of the measures to be taken to prevent damage;
  - d. a description of the measures to be taken to return the site on which the mining work is erected into its original condition as much as possible;
  - e. in so far as Article 40.1.d is not possible: a description of the condition in which the mining work is left behind and, to the extent applicable, its intended purpose;
  - f. the moment in time when the described activities will commence and when these will be finished, and
  - g. the planned moment in time of closure.
2. As soon as the operator has decommissioned a mining work, either in whole or in part, he shall notify the inspecteur-generaal der mijnen thereof.
3. Further rules may be set by ministerial regulation concerning the closing plan. .

##### **Article 40a**

1. The operator shall within a period of 1 year after the exploration has ceased notify the inspecteur-generaal der mijnen of the full or partial decommissioning of a mining work intended for exploration.
2. In deviation of Article 40a.1, the period as meant in Article 40a.1 commences if an application has been made for a production licence and a decision has been irrevocably made not to grant a production licence.
3. The operator shall on the occasion of the notification submit a description as meant in Article 40.1.a up to and including e. with respect to the measures that have been taken.

## **Part 5.2 Mining installations**

### **§ 5.2.1 General**

#### **Article 41**

This section 5.2 applies to mining installations.

#### **Article 42**

1. Article 35 similarly applies to mining installations projecting above surface water.
2. Articles 37.2 and 37.3 similarly apply to mining installations.

### **§ 5.2.2 The design, installation and use of mining installations that project above surface water**

#### **Article 43**

This paragraph pertains to mining installations that protrude above surface water.

#### **Article 44**

1. It is prohibited to install a mining installation, for this purpose also including a safety zone as meant in Article 43 of the Mijnbouwwet, in areas used as exercise and shooting area and have been designated so by ministerial regulation.
2. Our Minister can grant exemption from this prohibition in agreement with our Minister van Defensie. The exemption can be granted subject to restrictions, or conditions may be attached thereto.
3. An exemption shall only be refused in the interest of the defence of the realm or safety.
4. If Article 28.1, last sentence of the Dienstenwet is applied, then paragraph 4.1.3.3 of the Algemene wet bestuursrecht does not apply to an application for an exemption as meant in Article 44.2.

#### **Article 44a**

Further rules may be set by ministerial regulation about the application for an exemption as meant in Article 43.4 of the Mijnbouwwet and about the amendment or withdrawal of this exemption.

#### **Article 45**

1. It is prohibited to install a mining installation, which shall be understood to also mean a safety zone as meant in Article 43 of the Mijnbouwwet, in areas in which dense shipping activities take place and have been designated so by ministerial regulation.
2. Our Minister can, in agreement with our Minister van Defensie, grant exemption from this prohibition. The exemption can be granted subject to restrictions or conditions may be attached thereto.
3. An exemption will only be refused in the interest of shipping activities or safety.
4. If Article 28.1, last sentence of the Dienstenwet is applied, then paragraph 4.1.3.3 of the Algemene wet bestuursrecht does not apply to an application for an exemption as meant in Article 44.2.

#### **Article 45a**

1. It is prohibited to place a mining installation, which shall be understood to also mean a safety zone as meant in Article 43 of the Mijnbouwwet, in an area that is designated in a kavelbesluit or a voorbereidingsbesluit as meant in the Articles 3.1 or 9.1, respectively, of the Wet windenergie op zee.

2. Our Minister can grant an exemption of the prohibition. The exemption can be granted subject to restrictions and conditions can be attached thereto.
3. An exemption shall only be refused in the interest of generation of electricity or the safety.
4. If Article 28.1 last sentence of the Dienstenwet is applied, then paragraph 4.1.3.3 of the Algemene wet bestuursrecht does not apply to an application for an exemption as meant in Article 45a.2.

#### **Article 46**

When a mining installation is installed, measures shall be taken to prevent damage.

#### **Article 47**

The installation of a mining installation shall take place in such a way that lines and cables present in the seabed will not be damaged.

#### **Article 48**

1. The operator shall prior to the installation of a mining installation investigate:
  - a. the condition of the soil where the mining installation is to be installed with a view to the installation's stability, and
  - b. the presence of obstacles in the immediate vicinity of the location where the mining installation is to be installed.
2. The operator shall 2 weeks before the investigation is carried out notify the directeur Kustwacht of its plan.

#### **Article 49**

1. The operator shall immediately after the installation of the mining installation provide the inspecteur-generaal der mijnen with precise details of the location of the mining installation.
2. The operator of the production installation shall in the event that an existing production installation enters or leaves the Netherlands waters notify de inspecteur-generaal der mijnen thereof, within a timeframe to be set by ministerial regulation that commences in any event before the date that the production installation enters or leaves the Netherlands waters.

#### **Article 50**

1. A mining installation shall be sufficiently strong to withstand the forces to be expected as a result of wind strength, beating of waves, currents and the use of the installation.
2. A mining installation must not subside, move or drift off.
3. A mining installation shall be safely installed with a view to the landing of helicopters.

#### **Article 51**

1. A mining installation shall be equipped with a helideck.
2. The helideck:
  - a. shall be sufficiently large for the use by helicopters;
  - b. shall be provided with markings and equipment for the landing and take-off of helicopters;
  - c. shall be suitable for the parking of helicopters,
  - d. shall be positioned independent of other parts of the mining installation, and
  - e. shall be free from obstacles and flammable materials.
3. The operator shall provide Our Minister van Infrastructuur en Milieu with a detailed drawing of the helideck and a drawing of the mining installation on which the helideck is indicated.
4. The helideck shall only be used following approval by Our Minister van Infrastructuur en Milieu. Approval shall only be refused on the basis of the requirements set out in Article 51.2. The approval shall be valid for a period of no more than 3 years.
5. Our Minister can grant an exemption from Article 51.1. The exemption can be granted subject to restrictions or conditions may be attached thereto. If Article 28.1 last sentence of the

Dienstenwet is applied, then paragraph 4.1.3.3 of the Algemene wet bestuursrecht does not apply to an application for an exemption.

6. Further rules will be set by ministerial regulation of Our Minister van Infrastructuur en Milieu concerning the requirements set out in Articles 51.2.

#### **Article 52**

1. A mining installation shall in order to guarantee safety be provided with:
  - a. identification marks,
  - b. sound beacons,
  - c. light beacons, and
  - d. where stipulated by Our Minister van Infrastructuur en Milieu.: electronic beacons or radar reflectors.
2. The mining installation shall further be equipped with communication devices with which a link with the shore and with vessels in use for reconnaissance, exploration or production is possible under any circumstances.
3. A mining installation shall also be equipped with devices for performing meteorological and oceanographical observations, to the extent stipulated by Our Minister van Infrastructuur en Milieu.
4. The identification marks as meant in Article 52.1.a:
  - a. shall, in the case of a mining installation designated for production, consist of an indication of the licence area in which the mining installation is positioned with an addition that provides a unique identification; this identification shall be once-off and cannot be altered;
  - b. shall, in the case of a mining installation used for exploration, be a unique identification used in international traffic.
5. The uninterrupted operation of the light and sound beacons as meant in Articles 52.1.b and 52.1.c shall be warranted.
6. Our Minister van Infrastructuur en Milieu can grant an exemption from the obligations as meant in Articles 52.1.b. and 52.1.c. The exemption can be granted subject to restrictions or conditions may be attached thereto.
7. The operator shall at the request of Our Minister van Infrastructuur en Milieu demonstrate that the equipment in question as meant in Article 52.1 meets the requirements laid down by or by virtue of this Article.
8. Rules shall, in agreement with Our Minister van Infrastructuur en Milieu be laid down by ministerial regulation concerning the identification marks, beacons and reflectors as meant in Article 52.1, the communication devices referred to in Article 52.2 and the equipment and observations referred to in Article 52.3, and the provision of data generated therewith to Our Minister van Infrastructuur en Milieu.

#### **Article 53**

1. The operator shall periodically check the technical integrity of a mining installation designated for production or storage. The operator shall draw up a survey programme for this purpose every 5 years.
2. The survey programme shall describe for each year which parts of the mining installation will be checked in what manner to establish their technical integrity.
3. Rules shall be set by ministerial regulation on the content of the checking programme and the annual checks referred to in Article 53.2.
4. The operator shall provide Our Minister with the survey programme for the first time together with the statements mentioned in Articles 53.a.1.a and 53.a.1.b-.

### **Article 53a**

1. The operator shall provide to the inspecteur-generaal der mijnen ultimately 2 days before a mining installation designated for production or storage is commissioned:
  - a. a statement by an independent expert that the technical integrity of the mining installation is warranted in view of the design, construction and installation;
  - b. a statement by an independent expert that the survey programme for the mining installation as meant in Article 53 is compliant.
2. The operator shall after the mining installation has been commissioned also provide the data as meant in Article 53a.1 every month before the lapse of a period of 5 years, of which the first period commences on the day following the day of commissioning.
3. Rules may be set by ministerial regulation about the statements mentioned in Article 53.a.1.

### **Article 54**

1. The operator shall if the strength or stability of a mining installation is impaired or is threatened to be impaired immediately notify the inspecteur-generaal der mijnen thereof.
2. The operator shall in the case of a mining installation designated for exploration immediately take appropriate measures and notify the Inspector-Generaal der Mijnen thereof.
3. The operator shall in the case of a mining installation designated for production immediately take appropriate remedial action. The operator shall following remedial work on the installation provide the inspecteur-generaal der mijnen with a statement by an independent expert that assesses the installation's strength and stability.

### **Article 55**

1. It is prohibited to install a mining installation designated for production without Our Minister's approval. The request for approval shall be submitted no later than 8 weeks before the planned installation of the mining installation.
2. The approval shall be refused if the mining installation does not meet the requirements and standards laid down in Articles 46, 47, 50, 51 and 52.
3. The approval can only be refused in connection with the risk of damage or in connection with the generation of electricity.
4. The approval can be granted subject to restrictions and conditions can be attached thereto in connection with the risk of damage or in connection with the generation of electricity.
5. The approval shall be deemed to have been given by operation of the law if Our Minister has not decided on a request for approval within 8 weeks after receipt. Such approval by operation of the law is, for the purpose of being able to lodge an objection and to file an appeal, equivalent to a decision as meant in Article 1:3.1 of the Algemene wet bestuursrecht.
6. Articles 55.1 up to and including 55.5 similarly apply to a mining installation designated for exploration to the extent it is placed on a location intended for exploration only, with the proviso that an approval period of 8 weeks shall in each case be taken to mean a period of 2 weeks.
7. The operator shall ultimately 3 days before the intended day of placing of a mining installation designated for exploration on a location designated for production, notify this in writing to the inspecteur-generaal der mijnen. The notification shall be accompanied by a statement by an independent expert that the technical integrity of the mining installation to be placed is warranted. Submission of this statement is not required if it is not older than 5 years and the statement has been submitted previously.
8. Articles 55.1 up to and including 55.4 similarly apply to a mining installation designated for storage.

### **Article 56**

1. The following shall in any case be submitted with the request for approval as meant in Article 55.1:
  - a. data on the presence of lines and cables in the vicinity of the planned installation location;



- b. data on the condition of the soil and the presence of obstacles as meant in Article 48;
  - c. in the case of a mining installation designated for production or storage, the design of the load-bearing structure together with a description of the method of installation and a report on the identification marks, sound beacons, light beacons and, where stipulated by Our Minister van Verkeer en Waterstaat, electronic beacons or radar reflectors of the mining installation;
  - d. in the case of a mining installation designated for exploration on a location designated for exploration: a statement by an independent expert that the technical integrity of the mining installation is warranted, it being understood, however, that
    - 1<sup>o</sup>. the submission is not required if the statement is not older than 5 years and the statement has been submitted previously;
    - 2<sup>o</sup>. article 53a.2 similarly applies;
  - e. in the case of a mining installation designated for production or storage: a statement by an independent expert that according to his preliminary views the mining installation to be installed complies with Article 50.
2. Rules can be laid down by ministerial regulation concerning the statement as meant in Articles 56.d and 56.e.

### **§ 5.2.3 Decommissioning and removal of mining installations that project above surface waters**

#### **Article 57**

This paragraph relates to mining installations that project above surface waters.

#### **Article 58**

The operator shall when decommissioning and removing a mining installation take measures to prevent damage.

#### **Article 59**

If an operator intends to remove a mining installation designated for exploration, scrap and other material as meant in Article 44.2 of the Mijnbouwwet, he shall notify the inspecteur-generaal der mijnen thereof at least 24 hours before the time of removal. The operator shall immediately notify any change of this time.

#### **Article 60**

1. The decommissioning and removal of a mining installation designated for production shall take place in accordance with a removal plan drawn up by the operator.
2. The operator shall send the removal plan, accompanied by a statement by an independent expert in which the plan is assessed, to Our Minister for approval not later than 8 weeks before the removal.
3. Our Minister can only refuse his approval of the drawn up removal plan in connection with the risk of damage.
4. The approval shall be deemed to have been given by operation of the law if Our Minister has not taken a decision within the approval period of 8 weeks or before the end of the extension period. The approval by operation of the law is, for the purpose of being able to lodge an objection and file an appeal, equivalent to a decision as meant in Article 1:3.1 of the Algemene wet bestuursrecht.
5. Articles 60.1 up to and including Article 60.3 similarly apply to a mining installation intended for storage, with the exclusion of a mining installation for the permanent storage of CO<sub>2</sub>.

#### **Article 61**

1. The removal plan shall contain at least a description of:

- a. the way in which removal of the mining installation and of scrap and other material as meant in Article 44.2 of the Mijnbouwwet is to take place;
  - b. the way in which it will be demonstrated that the location where the mining installation stood on the seabed is free from scrap and other material;
  - c. the way in which the mining installation and the scrap and other material will be removed;
  - d. the ultimate destination of the mining installation, the parts thereof and scrap and other material, and
  - e. the waste and other substances present on the mining installation and their ultimate destination.
2. The removal plan shall furthermore contain details of the moments in time when the elements of the plan as meant in Articles 61.a up to and including Article 61.e will be carried out.
  3. Further rules concerning the removal plan can be set by ministerial regulation.

#### **Article 62**

The operator shall after a mining installation intended for exploration, production or storage, scrap and other material as meant in Article 44.2 of the Mijnbouwwet have been removed immediately notify the inspecteur-generaal der mijnen in writing, submitting data to demonstrate this.

#### **§ 5.2.4 Design, installation, decommissioning and removal of mining installations located completely below surface water.**

#### **Article 63**

1. A mining installation located completely below surface water shall be equipped with a protective construction to prevent damage.
2. The protective construction shall be sufficiently strong and shall be firmly installed to withstand forces to be expected as a result of currents, anchors and fishing tackle.
3. Our Minister can grant an exemption from Article 63.1. The exemption can be subject to restrictions or conditions may be attached to it.
4. If Article 28.1 last sentence of the Dienstenwet is applied, then paragraph 4.1.3.3 of the Algemene wet bestuursrecht does not apply to an application for an exemption as meant in Article 63.3.

#### **Article 64**

Articles 44 up to and Including 49 and 58 similarly apply to a mining installation as meant in Article 63.1.

#### **Article 65**

The operator shall notify the inspecteur-generaal der mijnen 8 weeks before the installation of a mining installation as meant in Article 63.1. The notification shall be accompanied by the design of the construction, the data as meant in Articles 56.1.a and 56.1.b and a description of the manner of installation.

#### **Article 66**

1. A mining installation as meant in Article 63.1 shall, following cessation of its activities, be decommissioned and removed in accordance with rules to be set by ministerial regulation.
2. The operator shall inform the inspecteur-generaal der mijnen at least 24 hours before the time of removal of the mining installation.
3. The operator shall after the mining installation has been removed immediately notify the Inspecteur-generaal der mijnen in writing and thereby submit the data demonstrating this.

## **Part 5.3 Boreholes**

### **§ 5.3.1 General**

#### **Article 67**

1. Measures shall be taken to prevent damage when constructing, extending, changing, using, testing, repairing and decommissioning a borehole and the stimulation via a borehole.
2. The construction, extension, changing, testing, repairing and decommissioning of a borehole and the stimulation via a borehole shall take place under the responsibility and in the presence of the operator. The use of a borehole shall take place under responsibility of the operator.

#### **Article 68**

The activities as meant in Article 67.1 shall only be performed if the substances in question from subsoil formations can be maintained under control.

#### **Article 69**

1. A borehole shall be fitted with suitable tubing.
2. Each series of tubing as meant in Article 69.1 shall be cemented over a sufficient distance and then tested for reliability.
3. The first series of tubing shall be properly sealed immediately after it has been cemented.

#### **Article 70**

The operator shall during the work for the purpose of construction, repair and decommission of a borehole ensure that:

- a. a borehole is fitted with safety facilities for sealing purposes;
- b. the reliability of the safety facilities is periodically tested, and
- c. persons involved in the borehole periodically take part in exercises in the use of safety facilities.

#### **Article 71**

A borehole shall not be taken into service for the production of minerals or the storage of substances until it has been properly equipped and completed for this purpose and reliable safety facilities for the sealing have been installed.

#### **Article 72**

1. A borehole shall not be decommissioned until:
  - a. sufficient measures have been taken to prevent damage, and
  - b. the mineral-bearing strata and mineral deposits, in so far as they can be damaged by water, have been sealed in a water-tight manner.
2. Article 72.1 does not apply to the decommissioning of a borehole that is used for the permanent storage of CO<sub>2</sub>.

#### **Article 73**

Further rules concerning the following shall be set by ministerial regulation:

- a. the safety facilities and the exercises for the use of the safety facilities as meant in Article 70;
- b. the preparation of a borehole as meant in Article 71 and its safety facilities, and
- c. the decommissioning as meant in Article 72.

## **§ 5.3.2 Provision of information in connection with boreholes**

### **Article 74**

1. The construction, extension, change, use, testing, repair or decommissioning of a borehole and the stimulation of a reservoir via a borehole shall take place in accordance with a work programme drawn up by the operator.
2. The operator shall inform the inspecteur-generaal der mijnen at least 7 days before the moment when maintenance work of a borehole is commenced.
3. Article 74.1 does not apply to the decommissioning of a borehole that is used for the permanent storage of CO<sub>2</sub>.

### **Article 75**

1. A drilling register shall be present on the mining work concerned during the construction of a borehole.
2. The drilling register shall be continuously updated.
3. The operator shall keep the drilling register for at least 5 years after the mining work has been decommissioned.

### **Article 76**

1. The operator shall on a daily basis draw up a report on the construction, extension, change repair or decommissioning of a borehole and the stimulation of a reservoir via a borehole and shall immediately notify the inspecteur-generaal der mijnen thereof.
2. The operator shall submit the pertaining final report to the inspecteur-generaal der mijnen within 4 weeks after completion of the activities as meant in Article 76.1.

### **Article 77**

Rules or further rules shall be set by ministerial regulation concerning:

- a. the contents of the work programme as meant in Article 74, in so far as it concerns the construction, extension, change, repair or decommissioning of a borehole and the stimulation of a reservoir, and the moment in time that the work programme will be sent to the inspecteur-generaal der mijnen together with the data and documents to be submitted thereby;
- b. the contents of the reports referred to in Article 76 and the way in which these reports are brought to the attention of the inspecteur-generaal der mijnen.

## **Part 5.4 Environment and disaster control plan**

### **§ 5.4.1 General**

#### **Article 78**

This paragraph 5.4.1 applies to mining installations.

#### **Article 79**

For the purposes of this paragraph and the provisions based thereon, the following definitions shall apply:

- a. discharge: the disposal or release of substances in surface water, whether or not deliberately, such as by dumping, pumping, draining off or expulsion;
- b. substances: chemical elements and their compounds, as they occur naturally or are formed by human intervention;
- c. preparation: mixture or solvents of substances;
- d. oil: mineral oil in any form;
- e. oil-containing mixture: mixture containing oil in any concentration whatsoever;
- f. sanitary waste:

- 1°.rinse water and other waste originating from toilets and washrooms;
- 2°.rinse water originating from dwellings for the temporary care of casualties and patients;
- 3°.other waste water, if mixed with rinse water as meant in 1° or 2° here above;
- g. refuse: leftover food, all kinds of household waste and solid waste originating from operational management.

#### **Article 80**

1. It is prohibited to discharge oil, an oil-containing mixture, sanitary waste and refuse from a mining installation.
2. Article 80.1 does not apply to the discharge of:
  - a. an oil-containing mixture in the cases and in the manner determined by Our Minister's regulation, in accordance with Our Minister van Infrastructuur en Mileu;
  - b. sanitary waste:
    - 1°. from a mining installation where no more than 10 persons are normally present;
    - 2°. from a mining installation that is not movable as a whole, on which more than 50 persons are normally present, or a mining installation that is movable as a whole if this waste is broken down by means of a biological purification system;
    - 3°. from a mining installation other than as meant in 1° and 2° here above, if this waste has been treated by means of a mechanical crushing system;
  - c. refuse, to the extent consisting of leftover food, in the cases and in the manner indicated by Our Minister, in agreement with Our Minister van Infrastructuur en Mileu;
3. Article 80.1 does not apply either if the discharge:
  - a. is necessary to ensure the safety of the installation or to rescue human life;
  - b. is the result of damage to the installation or to its equipment if, after the occurrence of the damage or after the discovery of the discharge, all reasonable measures have been taken to prevent or reduce to a minimum further discharge.
4. Our Minister shall, in agreement with Our Minister van Infrastructuur en Mileu , draw up further rules concerning the discharges referred to in Articles 80.2 and 80.3 with regard to:
  - a. the measurement and recording of permitted discharges of oil-containing mixtures;
  - b. control over the oil content of the permitted discharges of oil-containing mixtures.

#### **Article 81**

1. In relation to discharges of substances other than those specified in Article 80 or other contaminating or harmful substances that are related to a normal use of the installation or originating therefrom, such measures shall be taken at a mining installation that contamination of surface water is prevented as much as possible.
2. It is prohibited to discharge substances or preparations as referred to in Article 81.3.a..
3. The following shall in agreement with Our Minister van Infrastructuur en Mileu be carried out by a ministerial regulation by Our Minister that exclusively serves to implement a treaty binding the Netherlands or a decision of an organization regulated by international law that is binding on the Netherlands:
  - a. the designation of the substances or preparations as meant in Article 81.2;
  - b. to set rules that can only contain:
    - 1°. conditions concerning the treatment that substances or preparations must undergo prior to discharge, the quantities of substances to be discharged, and the location and method of discharge;
    - 2°. conditions concerning the notification, measurement and registration of substances or preparations that are discharged.

## **Article 82**

1. The operator shall immediately take appropriate measures in the case of discharges whereby adverse consequences for the environment have arisen or threaten to arise as meant in Articles 80 and 81. The said appropriate measures entail the prevention, control or limiting of the said adverse consequences.
2. The operator shall report the incident to the Kustwachtcentrum and the inspecteur-generaal der mijnen as soon as possible.
3. The operator shall provide the inspecteur-generaal der mijnen as soon as possible with data, as soon as these are known, concerning:
  - a. the causes of the incident and the circumstances under which the incident occurred;
  - b. the substances released as a result of the incident and also their properties;
  - c. other data that are important to be able to assess the nature and severity of the incident's consequences for the environment;
  - d. the measures taken or being considered to prevent, limit or rectify the consequences of the incident;
  - e. the measures being considered to prevent the possibility of such an incident happening again.
4. Further rules shall be set by ministerial regulation concerning the notification as meant in Article 82.2 and the data referred to in Article 82.3.

## **Article 83**

1. Rules shall, in agreement with Our Minister van Infrastructuur en Milieu, be set by ministerial regulation by our Minister concerning the use of certain substances or preparations on a mining installation in order to prevent pollution of surface water.
2. It is prohibited to use substances or preparations as meant in Article 83.3.a.
3. The following shall, in agreement with the Minister mentioned in Article 83.1, be carried out by a ministerial regulation of Our Minister that exclusively serves to implement a treaty binding on the Netherlands or a decision of an organization regulated by international law that is binding on the Netherlands:
  - a. the designation of substances or preparations as meant in Article 83.2;
  - b. to set rules that can only contain:
    - 1<sup>o</sup>. conditions concerning the quantities of substances or preparations to be used and the method of use;
    - 2<sup>o</sup>. conditions concerning the notification, measurement and registration of substances or preparations used.

## **Article 84**

1. It is prohibited to vent or flare natural gas at a mining installation into the open air or to discharge other contaminants.
2. Article 84.1 shall not apply if the venting or flaring of natural gas or the discharge of other contaminants is unavoidable for normal operational management in the mining work. In that case, all measures shall be taken to prevent or limit as much as possible damage as a result of the venting or flaring of natural gas or the discharge of other contaminants.
3. Rules can be set by ministerial regulation concerning the measures as meant in Article 84.2.

## **§ 5.4.1a Report on great dangers and other documents**

### **Article 84a**

This paragraph applies to mining works that are used for the exploration for or production of hydrocarbons.

### **Article 84b**

1. A report on great dangers for a production installation shall besides the documents as meant in Article 45c of the Mijnbouwwet contain the following data:
  - a. a health and safety document as meant in Articles 2.42 and 2.42f of the Arbeidsomstandighedenbesluit;
  - b. an internal disaster plan as meant in Article 84d;
  - c. other information.
2. The operator of a production installation shall consult with a staff council as meant in Article 2 of the Wet op de ondernemingsraden or a representation of personnel as meant in Article 35b of the Wet op de ondernemingsraden when it prepares the report on great dangers for a production installation. The operator of a production installation shall In the absence of a staff council or representation of personnel consult with the employees concerned. Consultation on the report shall also take place with the employees of other employers that on the basis of a long term contract for work are also carrying out work in the enterprise or the site.
3. The operator of a production installation shall comply with the measures that have been established in the report concerning great dangers with respect to the installation concerned.
4. The report on great dangers shall be present on the mining work.
5. Ministerial regulation will set further rules about the other information as meant in Article 84b.1.

#### **Article 84c**

1. A report on great dangers for a non-production installation shall besides the documents as meant in Article 45g of the Mijnbouwwet contain the following data:
  - a. a health and safety document as meant in Articles 2.42 and 2.42f of the Arbeidsomstandighedenbesluit;
  - b. an internal disaster plan as meant in Article 84d;
  - c. other information.
2. The owner of a non-production installation shall consult with a staff council as meant in Article 2 of the Wet op de ondernemingsraden or a representation of personnel as meant in Article 35b of the Wet op de ondernemingsraden when it prepares the report on great dangers for a non-production installation. The owner shall In the absence of a staff council or representation of personnel consult with the employees concerned. Consultation on the report shall also take place with the employees of other employers that on the basis of a long term contract for work are also carrying out work in the enterprise or the site.
3. The owner of a non-production installation shall comply with the measures that have been established in the report concerning great dangers with respect to the installation concerned.
4. The report on great dangers shall be present on the mining work.
5. Ministerial regulation will set further rules about the other information as meant in Article 84c.1.

#### **Article 84d**

1. An internal disaster plan shall contain the following data:
  - a. an emergency plan as meant in Article 3.37v of the Arbeidsomstandighedenbesluit;
  - b. a firefighting plan to be drawn up on the basis of Article 2.24f of the Arbeidsomstandighedenbesluit;
  - c. a disaster control plan as meant in Article 85;
  - d. an analysis of the efficacy of the response to oil leaks.
2. The drafting of an internal disaster plan as meant in Article 84d.1 shall take into account the risk assessment of serious accidents that has been carried out during the drafting of a most recent report on great dangers.
3. Ministerial regulation will set further rules about the internal disaster plan.
4. An operator of a production installation or an owner of a non-production installation shall in the event of a serious accident implement the internal disaster plan without delay.

5. An operator of a production installation or an owner of a non-production installation shall have available the necessary equipment and competence for the implementation of the internal disaster plan.

#### **Article 84e**

1. A regulation for independent verification for boreholes as meant in Article 45l of the Mijnbouwwet shall warrant in an independent manner that the design and control measures for boreholes shall at all times be suitable for the expected borehole circumstances.
2. An independent verifier shall be sufficiently independent and competent.
3. Ministerial regulation will in respect of the regulation as meant in Article 84e.1 set further rules about the selection of the independent verifier, the draft of the regulation as well as the information that will have to be submitted about the regulation.

#### **Article 84f**

1. A regulation for independent verification for installations as meant in Article 45l of the Mijnbouwwet shall in an independent manner warrant that the essential safety and environment elements that are set out in the risk assessment for the installation as described in the report concerning great dangers are suitable, and that the planning of inspections and tests of the essential safety and environment elements are suitable and have been updated and are conducted as foreseen.
2. An independent verifier shall be sufficiently independent and competent.
3. The regulation for independent verification of a production installation shall be in place before the design has been finalized.
4. The regulation for independent verification of a non production installation shall be in place before the activities commence.
5. Ministerial regulation will set further rules about the selection of the independent verifier, the draft of the regulation as well as the information that will have to be submitted about the regulation.

#### **Article 84g**

1. An owner of a non-production installation and an operator of a production installation shall within a period of time to be set by ministerial regulation, on the basis of the advice by the independent verifier, take appropriate measures and respond to the advice of the independent verifier.
2. An owner of a non-production installation and an operator of a production installation shall within a period of time to be set by ministerial regulation, inform the Staatstoezicht op de Mijnen about the advice by the independent verifier and the response to the advice.

#### **Article 84h**

This paragraph applies to mining works that are used for the exploration for or production of hydrocarbons

#### **Article 84i**

1. A notification as meant in Article 45m of the Mijnbouwwet shall contain the following information:
  - a. a safety and health document for a planned installation that is to be drawn up in accordance with Article 2.42f of the Arbeidsomstandighedenbesluit;
  - b. further information.
2. Ministerial regulation will set further rules about the notification.

#### **Article 84 j**

1. A notification as meant in Article 45n of the Mijnbouwwet shall state the following information:
  - a. data about the design of the borehole;



- b. the proposed borehole activities;
  - c. the work program as meant in Article 74;
  - d. a health and safety document for work to be drawn up on the basis of Articles 2.42 and 24.2f of the Arbeidsomstandighedenbesluit;
  - e. the finds and observations by the independent verifier and the response by the operator and the measures taken as a result thereof;
  - f. further information.
2. The operator shall in the case of a borehole activity comply with the measures that have been reported in the notification of the borehole activity.
  3. Ministerial regulation will set further rules about the notification.

#### **Article 84k**

1. A notification as meant Article 45p of the Mijnbouwwet shall contain the following information:
  - a. a health and safety document to be drawn up on the basis of Article 45p of the the Arbeidsomstandighedenbesluit for concurrent operations;
  - b. further information.
2. Ministerial regulation will set further rules about the notification.

#### **Article 84l**

1. An operator of a production installation and owners of non-production installations shall comply with the measures that have been established in the notifications as meant in Articles 84j and 85k.
2. An operator of a planned production installation shall take into account the observations by the Staatstoezicht op de Mijnen with respect to the notification of the design for this installation in the report concerning great dangers for the production installation.

### **§ 5.4.2 Disaster control plan**

#### **Article 84m**

This paragraph applies to mining works.

#### **Article 85**

1. An operator shall ensure that a disaster control plan exists for each mining work in use for the exploration for, or the production or storage of minerals..
2. A disaster control plan relating to a mining installation intended for production or storage shall be revised at least every 5 years.
3. The disaster control plan shall be submitted to Our Minister for the first time at least 4 weeks before the start of exploration, production or storage and, in the case as meant in Article 85.2, subsequently every 5 years after the revision.

#### **Article 86**

1. A disaster control plan shall contain a description of the measures taken and arrangements made to control or limit the consequences of incidents on a mining work or in its vicinity that pose a serious danger to the environment or, to the extent applicable, to the safety of shipping or fishery.
2. The measures and arrangements as meant in Article 86.1 shall in any event be understood to mean:
  - a. the activities performed to fight an incident as meant in Article 86.1;
  - b. the materials present and the fighting facilities used in that context;
  - c. who or which institution is entrusted with the activities as meant in Article 86.2.a, and

- d. who is entrusted with supervision of the actual performance of the activities mentioned in Article 86.2.a.

#### **Article 87**

1. If an incident as meant in Article 86.1 occurs on a mining work, then the disaster control plan shall be implemented immediately.
2. The operator shall as soon as the possibility for this exists, report the incident to the inspecteur-generaal der mijnen and, in the event of an incident on a mining installation, to the Kustwachtcentrum.

#### **Article 88**

1. The operator shall, if an incident as meant in Article 86.1 occurs in the vicinity of a mining work, immediately report the incident to the inspecteur-generaal der mijnen and, in the event of an incident on a mining installation, to the Kustwachtcentrum.
2. The operator shall at the instruction of Our Minister as much as possible, provide help and support in fighting the incident or the limiting of its consequences.

#### **Article 88a**

The operator of a production installation who or whose subsidiary is established in the Netherlands shall, at the request of the Staatstoezicht op de mijnen report on the circumstances of each serious accident that occurred outside the European Union and in which it was involved.

#### **Article 89**

The activities to fight incidents as meant in Article 86.1 or to limit their consequences shall take place under the supervision of an expert designated for this purpose and by competent personnel adequately trained and instructed for that purpose.

#### **Article 90**

Our Minister can specify that one or more operators designated by him, whether or not jointly, at locations and on a scale specified thereby must have vessels, helicopters or other equipment available for immediate use in order to control incidents as meant in Article 86.1 or to limit their consequences.

#### **Article 91**

Our Minister can, with respect to fighting an incident as meant in Article 86.1, or the limiting of its consequences:

- a. issue instructions concerning the way in which the activities in question are to be carried out and what control facilities should be used for this;
- b. specify that the activities concerned be assigned to an institution with expertise and specialist competence in these activities.

## **CHAPTER 6. PIPELINES AND CABLES**

### **§ 6.1 General**

#### **Article 92**

For the purposes of this chapter the following definitions apply:

- a. pipeline:
  - 1°. pipeline that interconnects two or more mining works for the purpose of the transportation of substances, counting from the first isolating valve of the mining work;

- 2°. a pipeline other than as meant in 1° here above, to be designated by Our Minister, that connects a mining work to another work for the purpose of the transportation of substances, counting from the first isolating valve of the mining work;
- b. cable: line located in the territorial sea or the continental shelf between two or more mining installations or between a mining installation and another work, designated by Our Minister, for the transportation of electricity or electronic signals;
  - c. location: the trajectory, depth and stability;
  - d. operator: the party for whose account and risk a pipeline or cable is laid, used or maintained;
  - e. licence: licence as meant in Article 94.

#### **Article 93**

- 1. A pipeline consists of pipes that are sufficiently strong and suitably connected to one another. The pipeline shall be protected against corrosion and external forces.
- 2. The location of the pipeline shall be such that no damage is caused or is, as much as possible, prevented.
- 3. The characteristics, construction, position and maintenance of the pipeline shall meet requirements to be set by ministerial regulation.

### **§ 6.2 Licence obligation for pipelines**

#### **Article 94**

- 1. It is prohibited to lay a pipeline in the territorial sea or the continental shelf without a licence from Our Minister. If the pipeline will be laid in an area as meant in Articles 44 or 45, then the licence will be granted by Our Minister in agreement with Our Minister van Infrastructuur en Milieu.
- 2. The licence will be refused if the pipeline does not meet the requirements of, or by virtue of, Article 93.
- 3. The licence can be granted subject to restrictions and conditions can be attached thereto in connection with the risk of damage.
- 4. If the licence relates to a pipeline for which, under the Besluit Milieueffectrapportage, the production of an environmental impact report is compulsory, then:
  - a. chapter 7 and section 13.2 of the Wet milieubeheer similarly apply, and
  - b. section 3.4 of the Algemene wet bestuursrecht applies to the preparation of the decision concerning the application for a licence.

#### **Article 95**

Article 94 similarly applies to a pipeline that will be laid in or on an area other than as meant in Article 94.1, first full sentence, and for which, by virtue of the Besluit milieueffectrapportage, the preparation of an environmental impact report is compulsory.

#### **Article 96**

Our Minister decides on the application for a licence within 8 weeks after receipt of the application and, in the event Article 94.4 or Article 95 applies, within the timeframe laid down in Article 3:18 of the Algemene wet bestuursrecht.

### **6.3 The use of a pipeline**

#### **Article 97**

- 1. A pipeline shall not be used for the first time until Our Minister has notified the operator, at the latter's request, that he approves thereof.

2. The operator shall issue the request as meant in Article 97.1 not later than 2 weeks before he wishes to use the pipeline. The operator shall in this connection provide Our Minister with:
  - a. a statement by an independent expert assessing that the characteristics and the laying of the pipeline meet the requirements of or by virtue of Article 93, and
  - b. data showing that the location of the pipeline laid in the territorial sea or the continental shelf meets the requirements of or by virtue of Article 93 and, to the extent applicable, the relevant licence conditions.
3. Approval for use shall be deemed to have been granted by operation of the law if Our Minister has not made the notification as meant in Article 97.1 within 2 weeks after receipt of the request unless in the case of Article 98. The approval by virtue of operation of the law is, for the purpose of being able to lodge an objection and filing an appeal, equivalent to a decision as meant in Article 1:3.1 of the Algemene wet bestuursrecht.

#### **Article 98**

1. If the actual location of a pipeline laid in the territorial sea or on the continental shelf deviates from the location as indicated in the licence, then the operator shall provide to the Minister the data on the actual location thereof within 4 weeks after the laying of the pipeline. If there is no apparent risk of damage, Our Minister can amend the licence correspondingly.
2. Section 3.4 of the Algemene wet Bestuursrecht applies to the preparation of the decree to amend the licence as meant in Article 98.1.

#### **Article 99**

1. The operator shall during the use or conservation of a pipeline periodically check the characteristics and also the location of the pipeline in so far as it has been laid in the territorial sea or the continental shelf, on the basis of the requirements of, or by virtue of Article 93 and, to the extent applicable, against the relevant licence conditions.
2. The operator shall only supply those results of the investigation to the inspecteur-generaal der mijnen, for which departures from the requirements as meant in Article 99.1 are identified.
3. At the instruction of Our Minister the frequency of the check can be increased in connection with the risk of damage.
4. Our Minister can, at the operator's request, decide to reduce the frequency of the check to a level to be indicated in that decision.
5. Rules may be set by ministerial regulation concerning:
  - a. the substance of and the way in which the check takes place;
  - b. the frequency with which the check as meant in Article 99.1 takes place.

#### **Article 100**

1. The operator shall if leakage from a pipeline is identified immediately take all appropriate measures to prevent or limit the damage.
2. The operator shall immediately decommission the pipeline, or the relevant part thereof, and shall depressurize it if the leak poses the risk of damage. The necessary remedial works shall be carried out as soon as possible.
3. The operator shall immediately report the leakage to the inspecteur-generaal der mijnen and if the pipeline is located on the continental shelf or in territorial waters, also to the Kustwachtcentrum.
4. The operator shall supply the inspecteur-generaal der mijnen as soon as possible with data on:
  - a. the causes of the leakage and the circumstances under which it occurred;
  - b. the substances that may have been released as a result of the leakage, and their characteristics;
  - c. other data that are important in order to be able to assess the nature and severity of the leakage;
  - d. the measures taken or being considered to prevent, limit or rectify the consequences of the leakage;

- e. the measures being considered to prevent the recurrence of such leakage.
- 5. This Article similarly applies in cases in which damage or a risk of damage arises in a different manner from that meant in Article 100.1.

#### **Article 101**

1. A repaired pipeline, or the relevant part thereof, shall not be used again until Our Minister has notified the operator, at the latter's request, of his approval thereof.
2. Articles 97.2, 97.3 and Article 98 similarly apply.

#### **Article 102**

Rules can be set by ministerial regulation concerning the temporary decommissioning of a pipeline.

### **§ 6.4 Discontinuation of use of a pipeline**

#### **Article 103**

A decommissioned pipeline laid on the continental shelf shall be left behind in a clean and safe condition unless, on the basis of Article 45 of the Mijnbouwwet, Our Minister prescribes its removal.

#### **Article 104**

1. The operator shall immediately notify Our Minister of the plan to decommission a pipeline laid in the territorial sea or the continental shelf and the manner in which it is to be left behind.
2. Our Minister can issue to the operator instructions concerning the condition in which the pipeline is to be left behind.
3. Our Minister can oblige the operator to periodically check the condition of the pipeline left behind and can, where necessary, stipulate remedial action.

### **§ 6.5 Cables**

#### **Article 105**

1. A cable shall have such characteristics and shall be laid in such a way that no damage will be caused.
2. The position of a cable shall be such that no damage will be caused.
3. Further rules can be set by ministerial regulation concerning the characteristics, the laying and the position of a cable.

#### **Article 106**

Articles 94 up to and including 104 shall similarly apply to a cable, with the proviso that where reference is made to Article 93 in the said Articles, this should be read as: Article 105.

#### **Article 107**

Paragraphs 6.1 up to and including 6.4 and paragraph 6.5, respectively, apply to a conglomeration of a pipeline and a cable.

## CHAPTER 7 PROVISION, MANAGEMENT AND USE OF DATA

### § 7.1 Provision of data

#### Article 108

1. Anyone on whose behalf reconnaissance survey is performed or, in the absence of a principal, the party who performs the reconnaissance survey or a party that later acquires the data obtained in the survey, shall provide Our Minister, at his request and within a period set by him, with the following data obtained during the reconnaissance survey:
  - a. the results of geophysical survey performed;
  - b. the results of geochemical survey performed, and
  - c. the results of geological survey performed.
2. Ministerial regulation will stipulate within which period and which cases the data shall be provided to Our Minister.

#### Article 109

1. The operator shall provide Our Minister with the following data obtained during the construction, use, maintenance, repair and decommissioning of the borehole:
  - a. the profile of the borehole;
  - b. the results of geophysical, geochemical and geological measurements performed in a borehole;
  - c. the results of geophysical, geochemical and geological measurements performed on materials originating from a borehole, and
  - d. the results of the performed production or injection tests.
2. The data meant in Article 109.1 shall be provided for each borehole.
3. The operator shall provide the data as meant in Article 109.1 within 12 weeks of these having been obtained.

#### Article 110

1. The operator shall provide Our Minister with a representative portion of rock samples obtained from a borehole during the construction of the borehole. The operator shall provide the samples within 12 weeks of these having been obtained.
2. The operator shall keep for 12 months a representative portion of liquid and gas samples obtained from a borehole during exploration for minerals. At the request of Our Minister the operator shall supply a representative portion of the samples.
3. Our Minister can, at the operator's request, grant an exemption from the obligation as meant in Article 110.1.

#### Article 111

1. The operator shall provide Our Minister per calendar month with the following data obtained during production of minerals:
  - a. per borehole: the quantities produced and types of minerals;
  - b. per licence area: the quantities and types of minerals removed;
  - c. per mining work: the quantities and types of minerals consumed;
  - d. per mining work: the quantities and types of minerals destroyed;
  - e. per borehole: the quantities of substances other than minerals produced;
  - f. per borehole: the quantities of substances brought into the subsoil for the purpose of production.
2. The operator shall provide the data as meant in Article 111.1 within 4 weeks after the end of the calendar month concerned.

#### **Article 112**

1. The operator shall provide Our Minister per calendar month with the following data obtained in connection with the underground storage of substances:
  - a. per reservoir: the quantities and types of substances stored;
  - b. per reservoir: the quantities and types of substances retrieved and removed;
  - c. per mining work: the quantities and types of substances retrieved and consumed, and
  - d. per mining work: the quantities and types of substances retrieved and destroyed.
2. The operator shall supply the data as meant in Article 112.1 within 4 weeks following the end of the calendar month concerned.

#### **Article 113**

1. The operator shall annually, before 1 March, provide Our Minister with the following data for each reservoir in which hydrocarbons have been found:
  - a. the name adopted by the operator for the reservoir;
  - b. the exploration or production licence or exploration or production licences under which the reservoir is located;
  - c. a structure map;
  - d. the probable year of commencement of production, if production does not take place yet;
  - e. the quantity of producible minerals found as at 1st January of the year under review;
  - f. the expected quantities to be produced annually up to the moment in time that production ceases;
  - g. possible use of the reservoir for storage;
  - h. the reservoir pressure, to the extent known;
  - i. the actual use of the boreholes present in the reservoir, and
  - j. the data as meant in Articles 24.1.b, 24.1.c and 24.1.k, to the extent the data differ materially from the submitted production plan.
2. The operator shall also provide Our Minister annually with the data concerning the expected quantities of producible minerals per probable reservoir in the licence area that have not been proven by means of exploration, and also the associated structure maps.

#### **Article 114**

1. Further rules concerning the data as meant in Articles 108 and 110 and also the way in which these are provided can be set by ministerial regulation.
2. Further rules concerning the data as meant in Articles 109 and 111 up to and including 113 and also the way in which these will be provided, will be set by ministerial regulation.

### **§ 7.2 Confidentiality, management and use of data and their provision for inspection**

#### **Article 115**

1. The institutions as meant in Article 123.2 of the Mijnbouwwet shall carefully manage the data provided by virtue of paragraph 7.1. The institutions are obliged to put and store the data in a sound, orderly and accessible state.
2. Further rules about Article 115.1 can be set by ministerial regulation.

#### **Article 116**

1. The data as meant in Articles 111, 112 and 113.1.a and 113.1.b shall be publicly accessible once 4 weeks have lapsed from the moment in time that the data were supplied.
2. The data and samples as meant in Articles 108 up to and including 110 shall be governed by Article 10.1.c of the Wet openbaarheid van bestuur until 5 years have lapsed from the moment in time that the data were supplied.
3. In deviation of Article 116.2, Article 10.1.c of the Wet openbaarheid van bestuur applies to the data as meant in Article 108.1.a until a period of 10 years has lapsed, if:

- a. the reconnaissance survey has not been carried out by or by assignment of an operator that has for the area concerned a licence to explore for, produce or store minerals and
  - b. the results will during a period of 10 years as meant here above, be available to anyone for a reasonable compensation.
4. The data as meant in Articles 113.1.c up to and including 113.1.j shall be governed by Article 10.1.c of the Wet openbaarheid van bestuur until 10 years have lapsed from the moment in time that the data were supplied.

#### **Article 117**

Our Minister can, so long as the time limits of Article 116 have not expired, make the data as meant in that Article available to the Mijnraad, the Technische commissie bodembeweging and the company as meant in Article 81.a of the Mijnbouwwet, in so far as these data will be used for the following purposes:

- a. to advise Our Minister on reconnaissance survey, the exploration for or production of minerals or terrestrial heat and the storage of substances in the subsoil;
- b. the preparation, on behalf of Our Minister, of estimates of reserves and forecasts of minerals, terrestrial heat and the storage potential of the subsoil;
- c. the systematic mapping of the subsoil at the instruction by Our Minister.

#### **Article 118**

1. The data as meant in Article 116 shall, at the end of the time limits specified therein, be made available for inspection at their storage location.
2. Our Minister shall provide third parties on request and at cost with a copy of the data as meant in Article 118.1. Samples shall be made available only for inspection.
3. In determining the cost price, the costs of collection, acquisition and quality maintenance shall not be taken into account.

### **§ 7.3 Data associated with terrestrial heat and boreholes**

#### **Article 119**

1. Articles 109 up to and including 111 and 115 up to and including 118 similarly apply in the case of exploration for or production of terrestrial heat.
2. Articles 109, 110 and 115 up to and including 118 similarly apply in the case of the use of boreholes as meant in Article 49.1.e of the Mijnbouwwet.

## **CHAPTER 8. GUARANTEE FUND FOR MINING DAMAGE**

### **§ 8.1 Definitions**

#### **Article 120**

For the purposes of this chapter, the following definitions shall apply:

- a. contribution: contribution as meant in Article 135.4.a of the Mijnbouwwet;
- b. fund: Guarantee fund for mining damage as meant in Article 135.1 of the Mijnbouwwet;
- c. mining activities: activities as meant in Article 113.b of the Mijnbouwwet;
- d. mining company: person as meant in Article 113.c of the Mijnbouwwet or its legal successor;
- e. compensation: compensation as meant in Article 137 of the Mijnbouwwet;
- f. reconnaissance survey: survey as meant in Article 1.d of the Mijnbouwwet, with the exception of survey by or on behalf of a mining company who belongs to one of the first 3 sectors as meant in Article 121.2;
- g. advance: advance as meant in Article 140 of the Mijnbouwwet.



## § 8.2 Capital of the Fund

### Article 121

1. The capital of the fund shall be at least € 250,000 per the 1st January of each calendar year.
2. The sectors mentioned in the table below shall, in accordance with the amounts set out in the table, contribute to the provision of the initial capital of the fund.

<i>Sector</i>	<i>Proportion</i>
Oil and gas production	€ 125,000
Salt production	€ 75,000
Storage of substances	€ 50,000
Exploratory survey	€ 0

3. If on 1st January of any calendar year the capital at the disposal of the fund is less than the capital that the fund should have at its disposal by virtue of Article 121.1, then the shortfall shall, except where not caused by advances that are recoverable from a mining company, be supplemented by the sectors referred to in Article 121.2. The part due by each sector shall be determined in proportion to the compensation payments made in the previous calendar year by the fund in connection with the mining activities of mining companies belonging to those sectors.
4. If there are no longer any mining companies in a sector on whom a contribution can be imposed, then the part of that sector in the capital of the fund shall be shared equally between the other sectors.

## § 8.3 The contribution to the fund

### Article 122

1. The contribution due by a mining company belonging to one of the first 3 sectors as meant in Article 121.2 shall comprise an amount equal to the advances paid by the fund in the previous calendar year in connection with his mining activities.
2. The amount mentioned in Article 122.1 shall be increased by an amount to cover the proportion of the deficit accounted for the sector, calculated in accordance with Article 121.3. The mining companies that belong to the same sector shall jointly send Our Minister a duly substantiated proposal before 1st March concerning the amount last mentioned in the first sentence. The following shall be taken into account in this connection:
  - a. the nature and scale of the mining activities of each mining company in the 5 previous calendar years;
  - b. the payments made by the fund in the previous 5 calendar years in connection with the mining activities of each mining company.
3. Our Minister shall determine before 1st April the contribution by each mining company, taking into account the proposal as meant in Article 122.2, unless that proposal does not, in his opinion, comply with the third sentence of that Article 122.2, or is contrary to the public interest. If Our Minister departs from the proposal, then the third sentence of Article 122.2 similarly applies.
4. If the mining companies belonging to the same sector do not submit a proposal before 1st March, then Our Minister shall determine the contribution at his discretion before 1st April. Article 122.1 and the first and third full sentences of Article 122.2 similarly apply.



### **Article 123**

Articles 122.2, 122.3 and 122.4 similarly apply to the allocation of the proportion for a sector in the initial formation of the fund's initial capital as meant in Article 121.2 to the mining companies belonging to that sector, with the proviso that Article 121.2.b should be taken to read the amount of the compensations paid by each mining company in the 5 calendar years preceding the entry into force of the Mijnbouwwet to natural persons in connection with his mining activities.

### **Article 124**

1. The contribution due by a mining company belonging to the last sector as mentioned in Article 121.2 shall be an amount equal to the advances paid by the fund in the previous calendar year in connection with his reconnaissance survey.
2. The amount as meant in Article 124.1 shall be increased by an amount to cover the proportion of the deficit for which the sector is responsible, calculated in accordance with Article 121.3. The amount specified last in the first full sentence shall be determined by dividing the sector's share of the deficit between the mining companies who have performed reconnaissance survey in the previous calendar year, in proportion to the number of surveys that each of them has performed in that year. Our Minister determines the amount before 1st April.
3. If no reconnaissance survey has been performed in the previous calendar year, then the contribution shall be due by the mining companies who have performed reconnaissance survey in the period of 5 calendar years preceding that calendar year. The second and third full sentences of Article 124.2 similarly apply.

### **Article 125**

If an advance has been granted for the account of the fund and it is established later in an agreement as meant in Article 900 of Book 7 of the Burgerlijk Wetboek or by irrevocable court ruling that no claim for compensation exists or the compensation is set at a lower amount than the amount paid as an advance, then the fund shall immediately repay the amount disbursed as an advance or the difference between that amount and the honoured amount of the claim to the mining company in question immediately after the party to whom the advance had been granted has refunded this to the fund in accordance with Article 140.2 of the Mijnbouwwet.

### **Article 126**

1. Our Minister shall determine the amount due by a decision
2. Rules can be set by ministerial regulation concerning the way in which the payment is to be made.

### **Article 127 (deleted as per 01.07.2009)**

### **Article 128 (deleted as per 01.07.2009)**

## **§ 8.4 Requests for payments by the fund**

### **Article 129**

Without prejudice to Article 4:2 of the Algemene wet bestuursrecht, a request for compensation or for an advance shall contain at least the following:

- a. the name and address of the mining company in question;
- b. a statement on the time and place of the mining activities;
- c. a statement on the nature and scale of the material damage;
- d. a reasonable specification of the amount of the damage;
- e. if it concerns a request for compensation for damage, a statement showing that one of the circumstances mentioned in Article 137.a or 137.b of the Mijnbouwwet applies, and a statement on the compensation for damage as meant in Article 129.c on other accounts, and

- f. if it concerns a request for an advance, a statement showing that the circumstances as meant in Articles 140.1.a and 140.1.b of the Mijnbouwwet apply.

#### **Article 130**

The fund shall specify the date of receipt on the request and shall immediately send the party requesting a payment a confirmation of receipt stating that date.

#### **Article 131**

Our Minister shall decide on the request within 6 weeks after its receipt.

### **§ 8.5 Management of the fund**

#### **Article 132**

1. The provisions of or by virtue of the Comptabiliteitswet 2001 similarly apply to the fund's financial resources, unless this is in Our Minister's opinion not possible or sensible.
2. The information on the fund's annual budget and annual balance sheet position as at 31st December shall be included in the budget and the departmental annual report by the Ministry of Economic Affairs in the most appropriate policy section, as though the fund were a budget reserve as meant in Article 5.4 of the Comptabiliteitswet 2001.
3. The fund's resources that are temporarily not required shall be kept in the current account of 's Rijks schatkist.

#### **Article 133**

Further rules can be set by ministerial regulation concerning the set-up and administration of the fund and the supervision to be performed on that set-up and administration.

## **CHAPTER 9. SPLITTING, SPLITTING OFF AND COMBINING OF LICENCES**

### **§ 9.1 General**

#### **Article 134**

For the purposes of this chapter, the term "licence" shall be understood to mean: exploration licence, production licence or storage licence.

### **§ 9.2 Splitting of licences**

#### **Article 135**

1. Our Minister shall at the licence holder's request split the licence into 2 or more licences for 2 or more areas.
2. The restrictions and conditions attaching to the licence to be split shall be attached to the licences to be granted by virtue of Article 135.1.
3. The licences to be granted by virtue of Article 135.1 shall apply to the same area as that for which the licence to be split applies.
4. The period of time for which the licences to be granted by virtue of Article 135.1 apply shall lapse at the end of the period on which the licence to be split would have lapsed.

#### **Article 136**

An application for splitting shall not be granted if its result is means that a reservoir of minerals or terrestrial heat or a reservoir for the storage of substances in the original licence area will be located in two or more different licence areas as a result of that splitting.

## **§ 9.2a. Splitting off of licences**

### **Article 136a**

1. Our Minister shall at the licence holder's request as meant in Article 143.8 first full sentence amend the licence by splitting off from the area to which the licence applies a part area that the licence holder wishes to transfer to another party and Our Minister will grant to this licence holder a production licence for the split off part area.
2. The production licence for a split off area granted on the basis of Article 136a.1 shall together with the production licence of which that part has been split off apply for the same area to which the production licence prior to the split off was applicable.
3. The period of time for which the licence to be granted by virtue of Article 136a.1 applies shall lapse at the end of the period on which the production licence of which that part was split off lapses.

## **§ 9.3 Combining of licences**

### **Article 137**

1. Our Minister shall at the joint request of the holders of two or more licences combine the licences in a single licence for an area.
2. The conditions and restrictions attaching to the licences to be combined shall be attached to the licence to be granted by virtue of Article 137.1.
3. The licence to be granted by virtue of Article 137.1 shall apply for the same area as that for which the licences to be combined jointly apply .
4. The period of time for which the licence to be granted by virtue of Article 137.1 applies shall lapse at the end of the period on which one of the said licences to be combined would have lapsed first.

### **Article 138**

1. Licences for the exploration for, the production of or storage of certain substances shall only be combined with licences for exploration for, production or storage, respectively of the same substances
2. Licences for the exploration for and production of terrestrial heat shall only be combined with licences for the exploration for or production of, respectively, the production of terrestrial heat.
3. Licences for the exploration for CO<sub>2</sub> complexes shall only be combined with licences for the exploration for CO<sub>2</sub> complexes.

### **Article 139 (deleted as per 10.97.2011)**

### **Article 140**

An application to combine two or more licences shall only be honoured if the terms of the respective agreements concluded as meant in Article 81.d, or Article 81.e, respectively , of the Mijnbouwwet are identical.

## **§ 9.4 Other rules**

### **Article 141**

1. An application to split or combine exploration or production licences can also be rejected:
  - a. in the interest of efficient and dynamic exploration and production;
  - b. if this serves predominantly to reduce the payments as meant in Chapter 5 of the Mijnbouwwet.

2. An application to split or combine storage licences can also be rejected if this predominantly serves to reduce the payments as meant in Chapter 5 of the Mijnbouwwet.
3. An application to split off a production licence can be also be refused:
  - a. in the interest of efficient and dynamic production;
  - b. if this serves predominantly to reduce the payments as meant in Article 147.2 of the Mijnbouwwet.

#### **Article 142**

1. Licences granted in accordance with paragraph 9.2 shall, with effect from the moment in time that they come into effect, replace the licence to be split. The licence to be split lapses at the moment in time that the licences granted in accordance with section 9.2 become irrevocable.
2. The licence granted in accordance with paragraph 9.3 replaces the licences to be combined with effect from the moment in time that it comes into effect. The licences to be combined lapse at the moment in time that the licence granted in accordance with paragraph 9.3 becomes irrevocable.

#### **Article 143**

1. If with respect to the licence to be split, or one of the licences to be combined, an agreement as meant in Article 81.d or Article 81.e of the Mijnbouwwet has come into being, then the company as meant in Article 81.a and the holders of the licence or licences to be granted by virtue of Articles 135 or 137 shall co-operate in the conclusion of an agreement whose terms are identical to those of the aforementioned agreement.
2. The agreement as meant at the end of Article 143.1 requires Our Minister's consent.
3. Until such time that the consent is granted, the licence holder shall not perform any production activities. Until that moment in time, decisions as meant in Article 91.c and Article 97.2 of the Mijnbouwwet shall require the consent of the designated company.
4. Paragraph 4.1.3.3 of the Algemene wet bestuursrecht similarly applies to a consent as meant in Article 143.2.

#### **Article 143a**

1. Our Minister can, to the extent the setting of restrictions and attaching conditions to a production licence for a split off part area is not compatible with or by virtue of the rules of law set and attach amended conditions and restrictions for the split off part area.
2. Our Minister can amend conditions and restrictions as meant in Article 143a.1 also in view of:
  - a. in the interest of systematic use of minerals, terrestrial heat and other natural riches including ground water with a view to the production of drinking water;
  - b. possibilities for the storage of substances.

#### **Article 144**

The manner in which an application for splitting, splitting off or combining is submitted and the data and documents to be submitted thereby shall be in accordance with rules to be set by ministerial regulation.

## **CHAPTER 10. SAFETY OF QUARRIES**

### **§ 10.1 General**

#### **Article 145**

For the purposes of this chapter, the following definitions shall apply:

- a. limestone production: the extraction of limestone from the subsoil using a borehole, tunnel, shaft or other subsurface work;
- b. quarry: subsurface space formed by limestone production;
- c. gedeputeerde staten: gedeputeerde staten of the province in which the quarry is wholly or partly present

## **§ 10.2 Licence for limestone production**

### **Article 146**

1. It is prohibited to produce limestone without a licence by gedeputeerde staten .
2. A licence can only be refused to protect the safety with regard to the risk of cave-in.
3. Gedeputeerde staten can, in the interest of safety and with a view to the risk of cave-in, attach conditions to a licence or grant a licence subject to restrictions.

### **Article 147**

1. It shall be specified in a licence as meant in Article 146 for what period of time and for what area it applies. The period during which the licence is valid can be extended at the licence holder's request.
2. Conditions can in any event be set or restrictions incorporated in the licence concerning:
  - a. the production method;
  - b. the location, height and width of tunnels, shafts or other subsurface works;
  - c. the dimensions of the pillars;
  - d. the measures to be taken on encountering earth pipes;
  - e. the measures to be taken when tunnels, shafts or other subsurface works cross one another, and
  - f. the manner in which and the frequency with which measurements to determine quarry safety from the rock mechanics point of view are performed and the results thereof are provided.

### **Article 148 (deleted as per 01.01.2011)**

### **Article 149**

If a licence as meant in Article 146 is transferred or passes to another natural person or legal entity other than by transfer, then this person shall notify gedeputeerde staten thereof within 4 weeks after acquisition.

### **Article 150**

1. The holder of a licence as meant in Article 146 shall annually provide gedeputeerde staten with an updated map of the quarry.
2. Rules concerning the map as mentioned in Article 150.1 can be set by ministerial regulation.

## **§ 10.3 Licence for use for other purposes**

### **Article 151**

1. It is without a licence from gedeputeerde staten prohibited to use a quarry that is no longer in use for limestone production for a different purpose or make any modifications thereto.
2. Articles 146.2 and 146.3 similarly apply.

#### **Article 152**

1. In a licence as meant in Article 151 it shall be determined for what purpose, for what period of time and to what area it applies. The period of time for which the licence is valid can be extended at the licence holder's request.
2. Conditions can in any event be set or restrictions attached to the licence concerning:
  - a. measures to prevent access to parts of the quarry outside the licence area;
  - b. the manner in which and the frequency with which measurements to determine quarry safety from the rock mechanics point of view are performed and the results thereof are provided, and
  - c. the locations in the quarry in which modifications are made, the scale of those modifications and the manner in which these will be implemented.

#### **Article 153**

The prohibition set forth in Article 146.1 does not apply to modification of a quarry for use for another purpose.

#### **Article 154**

Article 149 similarly applies.

### **§ 10.4 Safety**

#### **Article 155**

It is prohibited to have present or use explosive substances in a quarry.

#### **Article 156**

1. A quarry shall be designed in such a way and equipped with such safety protections that the danger of cave-in is ruled out as much as possible.
2. Further rules concerning design and protective facilities can be set by ministerial regulation.

#### **Article 157**

1. The holder of a licence as meant in Articles 146 and 151 shall, during limestone production or use for another purpose, take all necessary measures to prevent cave-in of a quarry and to limit the consequences of a cave-in.
2. Further rules concerning the measures as meant in Article 157.1 can be set by ministerial regulation.

#### **Article 158**

The holder of a licence as meant in Articles 146 and 151 shall perform periodic measurements to determine the safety of a quarry from the rock mechanics point of view and shall supply the results of these to gedeputeerde staten.

#### **Article 159**

1. If the safety of a quarry is threatened by the danger of cave-in, then the holder of a licence as meant in Articles 146 and 151 shall immediately notify gedeputeerde staten thereof.
2. The licence holder shall immediately notify gedeputeerde staten of a cave-in.

### **§ 10.5 Decommissioning of a quarry**

#### **Article 160**

1. The holder of a licence as meant in Articles 146 and 151 shall notify gedeputeerde staten in good time of the intention to decommission a quarry or part thereof. The holder shall in this connection provide an updated map of the quarry.



2. When decommissioning the quarry, or a part thereof, all necessary measures shall be taken to limit the danger of cave-in.
3. Entrances to the quarry shall be properly shut off.

#### **Article 161**

Articles 160.1 and 160.3 similarly apply if a quarry is temporarily decommissioned.

#### **Article 161a**

1. The amounts that are due on the basis of Article 133.1 of the Mijnbouwwet are fixed amounts.
2. The amounts as meant in Article 133.a of the Mijnbouwwet will be charged for the, at request, granting, amendment or withdrawal of:
  - a. a licence as meant in Articles 6.1.a and 6.1.b of the Mijnbouwwet;
  - b. a concurrence with a production plan as meant in Article 34.3 of the Mijnbouwwet;
  - c. an environmental licence as meant in Article 2.1.1 of the Wet algemene bepalingen milieurecht with respect to a site or a mining work as meant in Article 3.3.4 of the Besluit omgevingsrecht;
  - d. a licence and exemption as meant in Article 40.2 first full sentence and Article 43.4, respectively, of the Mijnbouwwet;
  - e. a licence as meant in Article 94.1 of the Mijnbouwbesluit;
  - f. a concurrence as meant in Articles 39.2 and 55.1 of the Mijnbouwwet;
  - g. an exemption by virtue of this Mijnbouwwet or a ministerial regulation set by virtue thereof that concerns a production installation, a non-production installation, a pipeline or gas transportation grid as meant in Article 1.1.d of the Gaswet;
  - h. a concurrence as meant in Article 5a.1 of the Besluit algemene regels milieu mijnbouw;
  - i. a notification as meant in Articles 7 and 8 of the Besluit algemene regels milieu mijnbouw;
  - j. a tailor made condition as meant in Article 1.2 of the Activiteitenbesluit milieubeheer.
3. The amounts that are charged by virtue of Article 133.1.b of the Mijnbouwwet and the amounts that are charged by virtue of Article 161a.1 are allocated:
  - a. per operator, owner or network operator, whereby a difference can be made between active and non-active operators or owners;
  - b. per activity;
  - c. dependent on the location on land or at sea, the characteristics and the size of the production installation, the non-production installation, the pipeline or the gas transportation grid as meant in Article 1.1.d of the Gaswet.
4. Our Minister will charge and send a decision to that effect to the operator, owner or grid operator concerned.

## **CHAPTER 11. TRANSITIONAL PROVISIONS**

#### **Article 162**

1. Of the conditions attached to an exploration licence as meant in Article 143.1.b of the Mijnbouwwet, those conditions that correspond to the provisions of the following Articles of the Royal Decree implementing Article 12 of the Mijnwet Continentaal Plat of 27 January, 1967 (Staatsblad 24) that are designated by a Roman numeral shall be deleted:
  - a. Article II, with the exception of Article 21.1,
  - b. Article IX, and
  - c. Article X.
2. Of the conditions attached to the exploration licence as meant in Article 162.1, those conditions corresponding to the provisions of the following Articles of the Mijnwet Continentaal Plat (Staatsblad 102) that are designated by a Roman numeral shall be deleted:
  - a. Article II, with the exception of Article 21.1,
  - b. Article IX,

- c. Article X, and
  - d. Article Xa.
3. Of the conditions attached to the exploration licence as meant in Article 162.1, those conditions that correspond to the provisions of Article 2.1 of the Besluit vergunningen koolwaterstoffen continentaal plat 1966 (Staatsblad 212) shall be deleted.
  4. Of the conditions attached to the exploration licence as meant in Article 162.1, those conditions corresponding to the provisions of the following Articles of the Regeling vergunningen koolwaterstoffen continentaal plat 1996 (Staatscourant 93) shall be deleted:
    - a. Article 4.1, with the exception of the condition incorporated in Article 4.2,
    - b. Article 4.12,
    - c. Article 4.14, and
    - d. Article 4.16.
  5. The conditions attached to a licence as meant in Article 143.1.a by virtue of Article 4.1 of the Regeling vergunningen en concessies delfstoffen Nederlands territorium 1966 shall be deleted.
  6. The conditions attached to an exploration licence as meant in Article 162.1 that relate to discharge from a mining installation shall be deleted.

### **Article 163**

1. Of the conditions attached to a production licence as meant in Article 143.2.c of the Mijnbouwwet, those conditions corresponding to the provisions of the following Articles of the Mijnbouwwet implementing Article 12 of the Koninklijk Besluit tot uitvoering van Artikel 12 van de Mijnwet continentaal plat van 27 januari 1976 (Staatsblad 24) that are designated by a Roman numeral shall be deleted:
  - a. Article III.a,
  - b. Article III.b, with the exception of Article 31.1,
  - c. Article V, with the exception of Articles 6 and 7,
  - d. Article VIII,
  - e. Article IX, and
  - f. Article X.
2. Of the conditions attached to a production licence as meant in Article 163.1, those conditions corresponding to the provisions of the following Articles of the Koninklijk Besluit tot uitvoering van Artikel 12 van de Mijnwet continentaal plat van 6 februari 1976 (Staatsblad 102) that are designated by a Roman numeral shall be deleted:
  - a. Article III.a,
  - b. Article III.b, with the exception of Article 31.1,
  - c. Article V, with the exception of Articles 6 and 7,
  - d. Article VIII,
  - e. Article IX,
  - f. Article X, and
  - g. Article Xa.
3. Of the conditions attached to the production licence as meant in Article 163.1, those conditions corresponding to the provisions of Article 3.1 of the Besluit vergunningen koolwaterstoffen continentaal plat 1966 (Staatscourant 212) shall be deleted.
4. Of the conditions attached to the production licence as meant in Article 163.1, those regulations corresponding to the provisions of the following Articles of the Regeling vergunningen continentaal plat 1996 (Staatsblad 93) shall be deleted:
  - a. Article 5.1,
  - b. Article 5.7,
  - c. Article 5.8, and
  - d. Article 5.9.
5. The conditions attached to a licence as meant in Article 143.1 by virtue of Article 5.1 of the Regeling vergunningen en concessies voor delfstoffen Nederlands territorium 1996 shall be deleted.

6. The conditions attached to the production licence as referred to in Article 163.1 that relate to discharge from a mining installation shall be deleted.

#### **Article 164**

1. Licences as meant in Article 1 and Article 28.2 of the Groevenreglement 1947 for exploitation of limestone apply as licences as referred to in Article 146.
2. Licences as meant in Article 1 and Article 28.2 of the Groevenreglement for purposes other than exploitation of limestone shall apply as licences as meant in Article 151, with the proviso that at the time of entry into force of this Decree, the conditions or restrictions attached to these licences shall be deleted in so far as they do not relate to the safety of the quarry in terms of rock mechanics.
3. Gedeputeerde staten can attach restrictions and conditions as meant in Articles 147 and 152, respectively, to the licences as meant in Articles 164.1 and 164.2.

#### **Article 165**

1. A licence as meant in Article 168 of the Mijnreglement 1964 shall apply with effect from the time of entry into force of the Mijnbouwwet for 6 months as a licence as meant in Article 22.
2. If an operator has submitted an application for a licence as meant in Article 22 to Our Minister before the end of the period as meant in Article 165.1 and Our Minister's decision has not become irrevocable before the end of that period, then the use of explosives may be continued until the latter point in time.

#### **Article 166**

The conditions, restrictions or regulations attached to an exploration licence as meant in Article 143.1.a up to and including 143.1.c of the Mijnbouwwet for the protection of the environment shall apply as if attached to an environmental mining licence or environmental licence as meant in Articles 143.5 or 143.6 of the Mijnbouwwet or shall be deemed to have lapsed if the last or previous licence does not exist.

**Article 167**

1. Consent to carry out reconnaissance survey on parts of the continental shelf as meant in Articles 4.12 up to and including 4.17 of the Regeling vergunningen koolwaterstoffen continentaal plat 1996 serves as an exemption as meant in Articles 18 and 20.
2. Consent for conducting an exploration survey or production survey on parts of the continental shelf as meant in Articles 4.12 up to and including 4.17 and Articles 5.7 up to and including 5.10 respectively of the Regeling vergunningen koolwaterstoffen continentaal plat 1996 serves as an exemption as mentioned in Articles 44 and 45.
3. Article 167.2 similarly applies to a mining installation located in the territorial sea or on the continental shelf as meant in Article 63.

**Article 168**

Article 55 does not apply to a mining installation intended for production or exploration that has been installed before the time of entry into force of the Mijnbouwwet.

**Article 169**

With respect to a pipeline laid before 1st January 2003:

- a. Article 93 similarly applies to the extent not otherwise laid down in the ministerial regulation as mentioned in that Article;
- b. Articles 94, 95 and 97 do not apply.

**Article 170**

1. An inspection plan as meant in Article 34.3 and a statement as meant in Article 34.6 of the Mijnreglement Continentaal Plat serve as a survey programme as meant in Article 53 or a statement as meant in Article 56.e, respectively.
2. A disaster control plan as meant in Article 96a of the Mijnreglement Continentaal Plat shall serve as a disaster control plan as meant in Article 85.

**Article 171**

A work plan as meant in Article 20 of the Mijnreglement 1964 or Article 28 of the Mijnreglement continentaal plat that has been drawn up before the time of the entry into force of the Mijnbouwwet shall serve for the first calendar year in which that Mijnbouwwet came into effect as a work plan as meant in Article 4.

**Article 172**

1. The storage of substances can be continued without a storage plan as meant in Article 26 for a period of 12 months after the time of entry into force of this Decree.
2. If a holder of a storage licence has submitted a storage plan to Our Minister before the end of the period meant in Article 172.1 and Our Minister's decision has not become irrevocable before the end of that period, then the storage can in any event be continued until the latter moment in time.

**Article 173**

1. A measurement register as meant in Article 134 of the Mijnreglement 1964 shall serve as a measurement plan as meant in Article 30 for 6 months with effect from the time of entry into force of the Mijnbouwwet.
2. If an operator has submitted an application for consent as meant in Article 30 to Our Minister before the end of the period as meant in Article 173.1 and Our Minister's decision has not become irrevocable before the end of that period, then the use of the measurement register can be continued until the latter moment in time.

#### **Article 174**

1. An exemption as meant in Article 40.4 of the Mijnreglement Continentaal Plat shall serve as an exemption as meant in Article 51.5.
2. A statement as meant in Article 36ja.1 of the Mijnreglement 1964 or Article 40.3 of the Mijnreglement Continentaal Plat shall remain in force until the statement ceases to be valid.
3. An exemption as meant in Article 36k.5 and Article 36l.6 of the Mijnreglement 1964 or Article 41.4 and Article 42.5 of the Mijnreglement continentaal plat shall serves as an exemption as meant in Article 52.6.

#### **Article 175**

1. A drilling program as meant in Article 27.1 of the Mijnreglement 1964 or Article 59.1 of the Mijnreglement continentaal plat and a workprogram as meant in Article 32.b.2 of the Mijnreglement 1964 or Article 63.b.2 of the Mijnreglement continentaal plat serve as a work program as meant in Article 74.
2. A drilling register and a drilling profile as meant in Articles 25 and 34.2, respectively, of the Mijnreglement 1964 or in Article 64 of the Mijnreglement continentaal plat serve as a drilling register and drilling profile as meant in Articles 75.1 and 109.1.a, respectively.

#### **Article 176**

1. A mining work as meant in Article 34 can be wholly or partly decommissioned without a decommissioning plan as meant in Article 39 during 4 weeks after the date of the entry into force of this Decree, it being understood, however, that during that period the Articles 136 and 138 up to and Including 143 of the Mijnreglement 1964 remain applicable to the whole or partial decommissioning of the mining work.
2. A mining installation can be decommissioned and removed without a decommissioning plan as meant in Article 60, after the date of the entry into force of this Decree, it being understood, however, that during that period the Articles 137a and 137 b of the Mijnreglement 1964 and the Articles 68 up to and including 70 of the Mijnreglement Continentaal Plat, respectively, remain applicable to the decommissioning and removal of the mining installation.

#### **Article 177**

Data, documents and samples as meant in Articles 108 up to and including 110, to which Article 10.1.c of the Wet openbaarheid van bestuur applies and that have been supplied to Our Minister before the date of entry into force of this Decree shall, in deviation of Article 116.2, not lose their confidential nature until 10 years have lapsed with effect from the time that the operator or the party who has supplied the items in question has obtained the respective data, documents and samples.

#### **Article 178**

Security provided before the time of entry into force of this Decree for ensuring compliance with matters that will be due shall, if Our Minister applies administrative coercion to enforce the obligations laid down under or by virtue of the Mijnwet continentaal plat in relation to the removal or leaving behind of mining installations no longer in use, or the demolition or reuse of such mining facilities following removal, is based on Article 47 of the Mijnbouwwet.

#### **Article 179**

1. The State shall, in the first year after the entry into force of the Mijnbouwwet, provide the fund as meant in Article 135.1 of the Mijnbouwwet with all the financial means required by the fund to be able to meet its obligations in that year.
2. The fund shall repay the financial means referred to in Article 179.1 to the State in the year following the year of entry into force of the Mijnbouwwet immediately after receipt of the contributions due in the aforesaid year by the mining companies by virtue of Articles 122 and 124.

**Article 180**

An exemption granted before the entry into force of this Decree by virtue of the Lozingenbesluit bodembescherming shall remain effective after the entry into force of this Decree, including all associated conditions and restrictions.

**Article 181**

In deviation of Article 146.1, third full sentence, insofar as the indebtedness has originated before the Mijnbouwwet has come into force, and of Article 155.2 of the Mijnbouwwet, Article 72, insofar Articles 11.3 and 11.4, Article 20.3 and Chapter VA of the Algemene wet inzake rijksbelastingen have been declared to be similarly applicable, and Article 73 of the Mijnbouwwet are not applicable to assessment and collection of a bonus, surface rental, cijns or profit share.

**CHAPTER 12. AMENDMENT OF CERTAIN ORDERS IN COUNCIL**

*(Articles 182 up to and including 194: not translated)*

**CHAPTER 13. FINAL PROVISIONS**

**Article 195 (deleted as per 07.12.2012)**

**Article 196 (deleted as per 01.01.2013)**

**Article 197**

This Decree shall be cited as: the Mijnbouwbesluit.

**Article 198**

This Decree shall come into force when the Mijnbouwwet comes into force, with the proviso that Article 4 shall come into force on 1st January of the calendar year following the calendar year in which that Mijnbouwwet came into force.

Order and instruct that this Decree and accompanying explanatory notes be published in the Staatsblad.

's Gravenhage, 6 December 2002

The Minister of Economic Affairs,