

Working Conditions Act

Act of 18 March 1999, containing provisions to improve working conditions (Working Conditions Act)

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

To all those who see or hear of this pronouncement, greetings! Let it be known that:
As We have considered that it is desirable for the quality of policy on working conditions to be improved, to create more flexibility and to introduce administrative penalties, and to make other changes, and to establish a new Working Conditions Act to this end;

Having heard the views of the Council of State, and having consulted the States-General, We have approved and understood, and We approve and understand the following:

Chapter 1. Definitions and scope

Definitions

Article 1

1. The following definitions apply to this Act and the provisions based on it:
 - a. employer:
 - 1°. the party on whose behalf another person is required to perform work in accordance with a contract of employment or appointment under public law, except where the person is made available to a third party in order to perform work that the third party would normally make arrangements to have performed itself;
 - 2°. the party to which or to whom another person is made available to perform work as referred to in 1°;
 - b. employee: the other person referred to in a.
2. The following definitions also apply to this Act and the provisions based on it:
 - a. employer:
 - 1°. the party which or who, without being an employer or employee as defined in paragraph one, has work performed by another person under his, her or its authority;
 - 2°. the party which or who, without being an employer or employee as defined in paragraph one, has work performed by another not under his, her or its authority in a dwelling, in cases to be designated by order in council;
 - b. employee: the other person referred to in a, with the exception of persons carrying out voluntary work.
3. The following definitions apply to this Act and provisions based on it:
 - a. Our Minister: Our Minister of Social Affairs and Employment;
 - b. works council: the works council referred to in the Works Councils Act;
 - c. staff representation body: the staff representation body referred to in the Works Councils Act;
 - d. supervisor: the supervisor referred to in the General Administrative Law Act, and designated as such on the basis of article 24;

- e. employment-related psychosocial pressure: sexual intimidation, aggression and violence, aggravation and pressure of work in the employment situation that cause stress;
 - f. stress: a condition that has physical, mental or social consequences that are perceived as negative;
 - g. workstation: any place where work is (usually) performed;
 - h. tools: all machinery, plant, apparatus and equipment used at the workplace;
 - i. accident at work: an unintentional, sudden event affecting an employee in connection with the performance of work that had the virtually immediate consequence of damaging his/her health and led to him/her taking time off sick, or that had the virtually immediate consequence of causing his/her death;
 - j. Health and Safety Service: a service as referred to in article 14a, paragraphs two and three;
 - k. self-employed person: a person who performs work without being an employer or employee as defined in paragraphs one or two;
 - l. voluntary worker: a person who performs work on a non-professional basis for an organisation set up under private or public law that is not liable to pay corporation tax, or for a sporting organisation and who is not an employee as defined in article 2 of the 1964 Wages and Salaries Tax Act apart from a person who performs work:
 - a. in preparation for professional work;
 - b. in the context of a community service order or in the context of compliance with conditions laid down to avoid criminal prosecution as referred to in article 74, paragraph two, item f, or article 77f, paragraph one, item b, of the Criminal Law Act or in the context of participation in a project as referred to in article 77e of the Criminal Law Act;
 - c. as referred to in article 16, paragraph six, item c.
4. The following definitions apply to this Act and the provisions based on it:
- a. punishable act: an action, or failure to act, that contravenes this Act or the provisions based on it, in respect of which a penalty can be imposed, where such action or failure to act is not mentioned in the Economic Offences Act as being an economic offence;
 - b. penalty: the administrative sanction taking the form of an unconditional obligation to pay a certain sum of money to the State.
5. All references in this Act and the provisions based on it to a "business" or an "establishment" that indicate a location also cover another location where work is (usually) performed.

Extension of Scope

Article 2

This Act and the provisions adopted on its basis also apply to:

- a. work performed within the exclusive economic zone;
- b. activities carried out by apprentices and students in training establishments or parts thereof, including outdoors, that are comparable to work performed in the exercise of the profession for which they are being trained;
- c. work performed entirely or partly outside the Netherlands by individuals working on board ships that are entitled to fly the Dutch flag under Dutch law;
- d. work performed for an employer established in the Netherlands entirely or partly outside the Netherlands by individuals working on aircraft.

Chapter 2. Working conditions policy

Occupational health and safety policy

Article 3

1. The employer shall ensure that the health and safety of employees is protected with respect to all employment-related aspects, and to this end shall conduct a policy aimed at achieving the best possible working conditions, taking account of the following factors in the light of the state of the art and professional provision of services:
 - a. unless this cannot reasonably be required, the employer shall organise the work in such a way that it has no detrimental effect on the employee's safety and health;
 - b. unless this cannot reasonably be required, hazards and risks to the safety or health of the employee shall wherever possible be avoided or limited at source in the first instance; to the extent that such hazards and risks cannot be avoided or limited at source, other appropriate measures shall be taken, with measures aimed at collective protection having priority over measures aimed at individual protection; appropriate and properly-fitting personal protective equipment shall be supplied to the employee only if the employer cannot reasonably be required to take measures aimed at individual protection;
 - c. where this can reasonably be required, the design of the workstations, the working methods, tools, and the actual work required shall be adapted to employees' individual characteristics;
 - d. monotonous work and work that needs to be carried out at a particular speed shall be avoided, where this can reasonably be required, and if not, shall be limited;
 - e. appropriate measures shall be taken in respect of first aid for accidents, fire-fighting and the evacuation of employees and other individuals present, and appropriate contact shall be maintained with the relevant external emergency services;
 - f. every employee must be capable of taking the necessary appropriate action in the event of a serious and immediate threat to his or her own safety or that of others, taking his or her technical skills and the resources available into account, in order to counter the consequences of such a threat. Article 29, paragraph one, third sentence, applies accordingly.
2. The employer shall operate a policy aimed at preventing employment-related psychosocial pressure, or limiting it if prevention is not possible, as part of the general working conditions policy.
3. In order to implement paragraph one, the employer shall ensure an appropriate distribution of powers and responsibilities among the employees, taking account of their individual capabilities.
4. The employer shall regularly review the working conditions policy in the light of experience with it in practice, and shall adapt measures as often as experience indicates the need to do so.

Aspects of health and safety policy

Article 4. Workstation modification for employees with structural functional limitations

1. Further to article 3, paragraph one, opening sentence and under c, the employer, referred to in article 1, item a, under 1° shall, in the exercise of his/her/its activity as referred to in article 7:658a of the Civil Code and article 76e of the Sickness Benefits Act, modify,
 - a. the structure of the workstation, the working methods and tools used in the performance of work, and the actual work to be performed, to employees who have difficulty in performing the work required as a result of disability caused by illness, and
 - b. the structure of the business where this is necessary in order to retain employees who are needed to perform particular tasks or in respect thereof remain within the business.

2. Paragraph one applies accordingly to the party liable to pay the excess as referred to in article 1, paragraph 1, item h, of the Sickness Benefits Act and the individual as referred to in article 29, paragraph two, items a, b and c of that Act, who was until recently in an employer/employee relationship with the party liable to pay the excess during the period that the party liable to pay the excess has to pay sickness benefits to that individual.

Risk inventory and assessment

Article 5

1. When operating a working conditions policy, the employer shall produce a written inventory and assessment of the risks to which employees are exposed as a result of their work. This risk inventory and assessment also includes a description of the measures aimed at limiting hazards and risks, and risks affecting particular groups of employees.
2. The risk inventory and assessment shall deal with employees' access to an expert employee or individual, as defined in articles 13 or 14, or the health and safety service.
3. A plan of action, indicating the measures to be taken in conjunction with the relevant risks and the relationship between them, in accordance with article 3, shall be part of the risk inventory and assessment. The plan of action also lays down a timetable for taking these measures.
4. The risk inventory and assessment is adjusted as often as is found to be necessary in the light of experience with it, changes to working methods or working conditions, or the state of the art and professional provision of services.
5. If the employer has work carried out by an agency employee, he/she/it shall provide the agency supplying the staff with a description of the measures aimed at preventing hazards and risks, and the risks to which the agency employee will be exposed at his/her workstation, well before the agency employee takes up his/her post, so that the agency can pass this description on to the employee.

Preventing and limiting serious accidents involving dangerous substances

Article 6

1. When operating the working conditions policy, the employer shall take the measures required to prevent and limit serious accidents involving dangerous substances and the consequences of such accidents for the safety and health of individuals employed in the business, the establishment, or a part thereof. Rules shall be established in or by virtue of order in council relating to:
 - a. the categories of businesses, establishments or parts thereof in respect of which the employer takes such measures;
 - b. the information which the employer produces in writing or provides to the supervisor or employees and other experts referred to in article 13, paragraphs one to three, the persons referred to in article 14, paragraph one, and the health and safety service in respect of the businesses, establishments or parts thereof referred to in a;
 - c. the measures taken by the employer in respect of the businesses, establishments or parts thereof referred to in a;
 - d. when and how often the obligations referred to in b and c are met;
 - e. a prohibition on operating the business, the establishment or part thereof if any of the obligations under this article are not (adequately) met;
 - f. monitoring compliance with the provisions established in or by virtue of this article.
2. Our Minister may specifically designate a business, an establishment, or a part thereof in respect of which the employer is covered by one or more of the obligations referred to in or by virtue of paragraph one, where the presence of dangerous substances may lead to particular dangers to the

safety and health of the employees working there. The designation will specify when the relevant obligations have to be met. Operation of the designation is suspended until the deadline for submitting a notice of objection or appeal has expired, or, if an objection or appeal is submitted, until a decision on the objection or appeal has been taken.

3. Failure to comply with the first sentence of paragraph one is an offence. Where failure to comply with the rules established in or by virtue of paragraph one is regarded as a criminal act, that act is an offence.

Publication of information

Article 7

1. The supervisor shall without prompting publish information obtained by virtue of article 6, paragraph one, under b, and under an order in council. Rules regarding this may be established in or by virtue of order in council.
2. Without prejudice to article 10, paragraph one, of the Government Information (Public Access) Act and by way of deviation from article 10, paragraph two, of that Act, the publication of information as referred to in paragraph one shall not be carried out insofar as the interest of publication does not outweigh the following interests:
 - a. the interest referred to in article 10, paragraph two, item e, of the Government Information (Public Access) Act;
 - b. the interest referred to in article 10, paragraph seven, under b, of the Government Information (Public Access) Act, as it relates to the prevention of sabotage.
3. Article 10, paragraph two, opening sentence and under f, of the Government Information (Public Access) Act does not apply to the provision on request of information obtained by the appointed official referred to in article 24 in relation to the application of the provisions established in or by virtue of article 6 with a view to the implementation of European Union Council Directive no. 96/82/EC of 9 December 1996 on the control of major-accident hazards involving dangerous substances (OJ L 10).
4. Article 10, paragraph two, opening sentence and under b, of the Government Information (Public Access) Act applies to the provision on request of information relating to data referred to in paragraph three only where such data is of a confidential nature.
5. Article 10, paragraph two, opening sentence and under g, of the Government Information (Public Access) Act applies to the provision on request of data referred to in paragraph three only where the data in question could be detrimental to attempts to prevent sabotage.
6. By way of deviation from paragraph five, in respect of environmental information as defined in article 19.1a of the Environmental Management Act, article 10, paragraph seven, opening sentence and under b, of the Government Information (Public Access) Act applies only where the data in question could be detrimental to attempts to prevent sabotage.

Information and training

Article 8

1. The employer shall ensure that employees are given appropriate information about their duties and the associated risks, and on the measures in place to prevent or limit these risks.

The employer shall also ensure that employees are given appropriate information about how the panel of experts referred to in articles 13, 14, 14a and 15 is organised in the business or establishment.

2. The employer shall ensure that employees are given appropriate training for their particular tasks in respect of the working conditions.

3. If personal protective equipment is supplied to employees, and if protective devices are fitted to tools or other objects, the employer shall ensure that employees are informed of their purpose, operation, and how they are to be used.
4. The employer shall monitor compliance with instructions and rules issued to prevent or limit the risks referred to in paragraph one, as well as the correct use of personal protective equipment.
5. In the case of employees under the age of 18, the employer shall, when carrying out the activities required under the preceding paragraphs, take particular account of the fact that these employees are, because of their age, lacking in work experience and not yet physically or mentally fully mature.

Notifying and recording accidents at work and occupational diseases

Article 9

1. The employer shall notify the relevant supervisor immediately of any accidents at work leading to death, lasting injury or hospital admission, and shall follow this up with a written report to the supervisor as soon as possible if asked to do so.
2. The employer shall keep a list of notified accidents at work, and of accidents at work leading to employees taking more than three days off work, indicating the nature and date of the accident.
3. The person referred to in article 14, paragraph one, as being responsible for the task referred to in item b of that paragraph, or the health and safety service, shall notify the body appointed by Our Minister of all cases of occupational disease.

Preventing hazards to third parties

Article 10

1. If the safety or health of persons other than employees can be put at risk as a result of, or in direct connection with, the work that the employer has done by his/her/its employees in a business or establishment, or in the immediate surroundings, the employer shall take appropriate measures to prevent that hazard.
2. Failure to comply with paragraph one is an offence.

General obligations of employees

Article 11

Employees are obliged to take the utmost care of their own safety and health, and that of other individuals concerned, in what they do or do not do at the workplace, in accordance with their training and the instructions given by the employer. In particular, they must:

- a. use tools and dangerous substances properly;
- b. use personal protective equipment supplied to them properly, and return it to the proper storage place after use, unless a provision is established by virtue of this Act stating that employees are not required to use their protective equipment as indicated above;
- c. not to modify protective devices fitted to tools or other objects or to remove them without need, and to use them correctly;
- d. to participate properly in the training referred to in article 8;
- e. to notify the employer or their local manager immediately of any hazards to safety or health of which they become aware;
- f. to assist the employer, employees, and other experts referred to in article 13, paragraphs one to

three, the individuals referred to in article 14, paragraph one, and the health and safety service, where necessary in the exercise of their obligations and tasks under this Act.

Chapter 3. Cooperation, consultation, particular rights of the works council, the staff representation body and employees affected, and arrangements for the panel of experts

Cooperation, consultation and particular rights of the works council, the staff representation body and employees affected

Article 12

1. The employer and employees will cooperate in the implementation of the working conditions policy.
2. The employer shall consult the works council or staff representation body in relation to matters affecting the working conditions policy and its implementation. This process shall involve an active exchange of information.
3. In businesses normally employing fewer than 10 people which do not have a works council or staff representation body, the employer shall consult affected employees with regard to the risk inventory and assessment, organisation of the panel of experts referred to in article 13, paragraphs one to three, the health and safety service and the panel of experts referred to in article 15.
4. Members of the works council or the staff representation body shall, in connection with their duties relating to employees' working conditions, be given the opportunity:
 - a. to hold confidential discussions with the supervisor when he/she visits the business or the establishment;
 - b. to accompany the supervisor when he/she visits the business or the establishment, unless he/she indicates that this would impede him/her in the proper performance of his/her duties.
5. In respect of the provisions established in or by virtue of this Act, affected employees are replaced by a works council or staff representation body for the purposes of the application of sections 3.6 and 4.1.2 of the General Administrative Law Act.
6. If there is no works council or staff representation body, by way of deviation from article 3.41 of the General Administrative Law Act, the employer shall notify affected employees of a decision as rapidly as possible. This decision shall, by way of deviation from article 3.40 of the General Administrative Law Act, not take effect with regard to them before the employer has complied with his/her/its duty of notification as defined in the preceding sentence.

Panel of employees who are experts in prevention and protection

Article 13

1. The employer shall seek the assistance of one or more expert employees in connection with compliance with his/her/its obligations under this Act.
2. If the employer cannot obtain sufficient assistance within the business or establishment, it shall be provided via a combination of expert employees and other experts.
3. If the employer cannot obtain any assistance within the business or establishment, it shall be provided by other experts.
4. The employees and other experts shall have such knowledge, experience and resources, be of such numbers, be available for such time and organised in such a way that they can provide proper assistance.

5. The employer shall give the employees the opportunity to give their assistance autonomously and independently. The employees will not be disadvantaged in their position in the business or establishment as a result of the proper exercise of this task. Article 21, paragraph four, of the Works Councils Act applies accordingly.
6. The experts retain their autonomy and independence vis à vis the employer when providing assistance.
7. The provision of assistance always includes:
 - a. helping to carry out and formalise a risk inventory and assessment as referred to in article 5;
 - b. advising or cooperating closely with either the works council or the staff representation body, or the affected employees if there is no works council or staff representation body, in respect of measures that have been taken or are planned with a view to improving the working conditions policy;
 - c. implementing or helping to implement the measures referred to in item b.
8. A copy of the advice referred to in paragraph 7, item b, shall be sent to the employer.
9. The measures needed to comply with paragraphs four and ten will be described in the risk inventory and assessment referred to in article 5.
10. By way of deviation from paragraphs one and three, employers employing no more than 25 employees may also perform assistance-related tasks themselves (in the case of employers who are natural persons) or have them performed by the manager (in the case of employers who are legal persons) if these individuals have sufficient knowledge, experience and resources to perform these tasks properly.

Particular provision for additional expert assistance in relation to specific prevention and protection tasks

Article 14

1. In addition to the provisions contained in article 13, the employer will obtain assistance from one or more experts holding a certificate as described in article 20 or who is registered as a company doctor in a register of acknowledged specialists as referred to in article 14 of the Individual Healthcare Professions Act in relation to the following tasks:
 - a. reviewing the risk inventory and assessment referred to in article 5 and obtaining advice on it; assistance in helping employees who are unable to perform their duties as a result of illness, including assistance in implementing the rules laid down in or by virtue of article 25, paragraphs one, two, three, four and seven of the Work and Income (Capacity for Work) Act, or in or by virtue of article 71a, paragraphs one, two, three, four and seven of the Invalidity Insurance Act;
 - c. conducting:
 - 1°. the occupational health review referred to in article 18;
 - 2°. the medical for new employees, if the employer operates this system.
2. The following aspects are taken into account when implementing paragraph one:
 - a. assistance with the tasks referred to in paragraph one is performed effectively;
 - b. assistance with the task referred to in paragraph one, item a, is organised within the business or the establishment;
 - c. where it is not entirely possible to arrange the assistance for the task referred to in paragraph one, item a, within the business or establishment, assistance shall be provided by one or more

- experts holding a certificate as described in article 20;
- d. the individuals providing the assistance have such resources, are of such numbers, are available for such time and are organised in such a way that they can provide proper assistance for the tasks referred to in paragraph one.
3. A copy of the advice referred to in paragraph one, item a, shall be sent to the works council or staff representation body by the individual who drafted it. In the absence of a works council or staff representation body, a copy of this advice shall be sent to the affected employees by the employer as rapidly as possible.
4. A written record shall be kept of the way in which assistance is provided with regard to the task referred to in paragraph one, item b.
5. Tax and social insurance numbers as defined in article 2, paragraph three, item j of the State Taxes Act may be used in the data processing activities needed to carry out the task referred to in paragraph one, item b.
6. Article 464 of Volume 7 of the Civil Code, insofar as this relates to the analogous application of articles 457 and 464, paragraph two, item b, of Volume 7 of the Civil Code, does not apply to medical procedures carried out in relation to the implementation of this Act by individuals charged with the tasks referred to in paragraph one, item b.
7. The expert employees and other experts referred to in article 13, and the individuals referred to in paragraph one, shall cooperate when providing assistance to an employer.
8. Article 13, paragraphs five and six, applies accordingly.
9. Bearing in mind the provisions of paragraph two, assistance can be arranged for the tasks referred to in paragraph one in respect of:
- a. collective labour agreements or arrangements made by or on behalf of a administrative body with the appropriate powers, or
- b. arrangements in respect of which the employer has reached written agreement with the works council or staff representation body.
10. If both a collective labour agreement, or an arrangement as referred to in paragraph nine, item a, and an arrangement as referred to in paragraph nine, item b, are in force, then the provisions contained in the agreement and the arrangements apply in parallel. In the event of conflict, the provisions of the collective labour agreement or the arrangement referred to in paragraph nine, item a, apply.
11. For the purposes of this article and the provisions based on it, collective labour agreements as referred to in paragraph nine, item a, and arrangements as referred to in paragraph nine, items a and b, are in force for five years from the date on which they first took effect. If a collective labour agreement or arrangement as referred to in the preceding sentence is amended within five years of taking effect, the period referred to in the preceding sentence is terminated when the amended collective labour agreement or arrangement takes effect.
12. Paragraph one, opening sentence and item a, do not apply to employers:
- a. who employ people to work for no more than 40 hours a week, or
- b. who normally employ at most 25 employees, if they use a model to create a risk inventory and assessment.
13. Rules shall be established in or by virtue of an order in council relating to:
- a. working time that is disregarded when applying paragraph twelve, item a;
- b. the model referred to in paragraph twelve, item b.

14. Provisions may be established in or by virtue of an order in council specifying that assistance is not required in respect of one or more of the tasks referred to in paragraph one, items b and c, taking the rules established in or by virtue of this particular order in council into account.

Safety-net arrangements for the panel of employees who are experts in prevention and protection

Article 14a

1. If assistance in respect of the tasks referred to in article 14, paragraph one, is not organised in order to implement article 14, paragraph nine, then this assistance shall be organised taking this article into account.
2. The employer shall seek the assistance of a health and safety service holding a certificate as described in article 20 and that is part of the structure of the business or establishment in respect of the tasks referred to in article 14, paragraph one.
3. If the employer cannot obtain sufficient assistance within the business or establishment, it shall be provided via another health and safety service holding a certificate as described in article 20.
4. The expert employees and other experts referred to in article 13, and the employees who are members of the health and safety service, shall cooperate when providing assistance to an employer.
5. Article 13, paragraphs five and six, applies accordingly.
6. Article 14, paragraphs three to six and twelve to fourteen, apply.

Expert company emergency response assistance

Article 15

1. With a view to complying with the obligations imposed on the employer under article 3, paragraph one, item e of this Act, the employer shall seek the assistance of one or more employees who have been designated by him/her/it as emergency response experts.
2. Assistance shall in any case comprise:
 - a. providing first aid in the event of accidents;
 - b. containing and extinguishing fires and containing the consequences of accidents;
 - c. raising the alarm and evacuating all employees and other individuals in the business or establishment in an emergency.
3. Emergency response staff shall have such training and resources, be of such numbers and be organised in such a way that they can properly perform the tasks referred to in paragraph two.

Information rights of expert employees and individuals, emergency response staff and health and safety services

Article 15a

The employer shall ensure that the expert employees and other experts referred to in article 13, the individuals referred to in article 14, paragraph one, the emergency response staff referred to in article 15, and the health and safety service can be made aware of:

- a. the accident reports and list of accidents at work referred to in article 9;
- b. a requirement as referred to in article 27, paragraph one;

- c. an order as referred to in article 28, paragraph one;
- d. a request for dispensation as referred to in article 30, paragraph two;
- e. an injunction to enforce an administrative order or the imposition of a fine as referred to in article 28a;
- f. a report as referred to in article 36, paragraph one;
- g. an injunction as referred to in article 37, paragraph one;

Chapter 4. Particular obligations

Specific rules relating to working conditions, and exceptions to and expansions of the scope

Article 16

1. Rules are established governing employees' working conditions in or by virtue of an order in council.
2. The rules referred to in paragraph one
 - a. relate to occupational health and safety management and the organisation of work, the design of workstations, working with dangerous substances and biological agents, the degree of physical strain to which workers are exposed, the physical factors present at the workplace, tools used in work, personal protective equipment and the health and safety notices to be displayed in the workplace, and
 - b. can also serve to implement articles 3, 4, 5, 8, 9, 13, 14, 14a, 15 and 18.
3. The rules referred to in paragraphs one and two may contain:
 - a. a prohibition on performing certain work described in the relevant measure, or having it performed, where it is associated with particular risks to health or safety;
 - b. a prohibition on performing certain work described in the relevant measure, or having it performed, if the requirements or regulations established with regard to that work in or by virtue of the measure in question are not met;
 - c. a prohibition on having certain dangerous substances or objects described in the relevant measure present, where they are associated with particular risks to health or safety;
 - d. a prohibition on having certain dangerous substances or objects described in the relevant measure present, if the requirements or regulations established with regard to those substances or objects in or by virtue of the measure in question are not met;
 - e. a prohibition of performing certain work described in the relevant measure, or having it performed, if the employees have not had an occupational health medical examination.
4. Provisions may be established in or by virtue of an order in council specifying that this Act and the provisions based on it do not apply, in whole or in part, to:
 - a. work performed in or on an aircraft, ocean-going vessel or inland waterway vessel, or a vehicle on the public highway or a railway or tram line;
 - b. work performed in the course of military service;
 - c. work performed by employees and activities as described in article 2, item b, by apprentices and students in training establishments;
 - d. work performed in the course of an exploratory survey, finding or extracting minerals or geothermal heat, or the storage of substances as referred to in the Mining Act;

- e. work performed within the exclusive economic zone.
5. The measure referred to in paragraph three, under e, makes the performance of work dependent on the result of an occupational health medical examination only insofar as the work in question presents particular dangers to the life or health of the employee him/herself or of other people, or insofar as this is appropriate for other particular reasons. Specific rules are laid down in or by virtue of an order in council relating to this occupational health medical examination and the way in which the result is recorded, processed and archived. These rules must always cover cases in which a request for a repeat examination can be submitted and how this is handled.
6. Rules may be established in or by virtue of an order in council with regard to the work or activities:
- a. referred to in paragraph four;
 - b. carried out in civilian public service;
 - c. carried out in a prison or house of detention as defined in the Custodial Institutions Act, a hospital as defined in the Hospital Orders (Framework) Act, or a youth custodial institution as defined in the Youth Custodial Institutions (Framework) Act,
- that deviate from or form an addition to this Act or the provisions based on it. With regard to the work or activities referred to in paragraph four, under c, it may be specified in or by virtue of an order in council that section 4.1.2 of the General Administrative Law Act does not apply.
7. It may be specified in an order in council that the obligation to comply with particular requirements of this Act or the provisions based on it, where they relate to work that is associated with particular risks to health or safety, also applies to:
- a. self-employed persons;
 - b. employers who are performing the work in question themselves;
 - c. employers of voluntary workers;
 - d. voluntary workers.
8. It may be specified in an order in council that the obligation to comply with particular requirements in cases described in the measure in question rests with a party other than the employer. The measure may specify that the obligation then rests on the owner or manager, or the party otherwise empowered to take decisions on the design, construction or maintenance of workstations and tools, with all the necessary details being set out in the measure in question.
9. The rules referred to in paragraph one may apply to aspects other than those referred to in paragraph two, or may apply to parties other than the employer or the parties referred to in paragraphs seven and eight, where this is necessary in order to meet the obligations laid down by virtue of the Treaty establishing the European Community aimed at promoting improvements to the working environment.
10. Employers, or parties other than the employer as referred to in paragraphs seven, eight and nine, and employees, are required to comply with the requirements and prohibitions laid down in or by virtue of the order in council established on the basis of this article, article 20, paragraph one, and article 24, paragraph nine, to the extent and in the manner specified in or by virtue of that order.
11. Insofar as failure to comply with the requirements and prohibitions referred to in paragraph ten is regarded as a criminal act, that act is an offence.

Flexibility of approach for employers and employees

Article 17

It may be specified in an order in council that, having regard to the requirements laid down in the order in question, one or more of the provisions established by virtue of this Act may be complied with in a

manner other than the manner specified in the provision in question. However, this only applies to collective arrangements as referred to in article 1:3, paragraph one, of the Working Hours Act or to arrangements in respect of which the employer has reached agreement in writing with the works council or staff representation body. Such variations in approach must never lead to the level of protection falling below that established by the provisions laid down in the first sentence.

Occupational health medical examination

Article 18

Employers shall give employees the opportunity to undergo examinations at regular intervals with a view to preventing or limiting the risks posed to their health by their work to the greatest possible extent.

Multiple employers

Article 19

1. If more than one employer has work performed in a business or establishment, they shall cooperate appropriately in order to ensure compliance with the provisions established in or by virtue of this Act.
2. Before work falling under a category specified in an order in council starts, the employers shall ensure that a written description of how they are to cooperate is produced, what action is to be taken in respect of cooperation and how this is to be monitored.

Certification

Article 20

1. Rules shall be drawn up in or by virtue of an order in council specifying that employers, employees, other individuals or bodies must hold one or more certificates showing that they meet requirements laid down in or by virtue of this Act.
2. Our Minister, or a body designated on request by Our Minister, will decide on applications for such certificates and is also entitled to withdraw or suspend certificates that have been issued.
3. Designations made under paragraph two may be made subject to conditions.
4. Certificates are issued for a limited period. Requirements may be attached to certificates. The period of validity and conditions are mentioned in the certificate.
5. Rules shall be established in or by virtue of an order in council relating, inter alia, to:
 - a. the grounds on which the designation referred to in paragraph two may be issued, withdrawn or amended;
 - b. how applications for certificates are to be submitted and the data which applicants must provide;
 - c. the grounds on which and circumstances in which certificates may be refused, or certificates that have been issued may be withdrawn or suspended, and
 - d. the fee payable in connection with the designation referred to in paragraph two, and the issue of a certificate, and how it is to be paid.
6. Our Minister will send a report on whether the bodies designated under paragraph two are functioning in an effective and legal manner to the States-General. The first such report will be sent within five years of the date of entry into force of this article and subsequent reports will be sent every four years.

Provision of information

Article 21

1. The bodies designated under article 20, paragraph two, will, on request, supply Our Minister with the information he/she needs to perform his/her duties free of charge. Our Minister may ask to see commercial data and records where this is reasonably necessary to allow him/her to perform his/her duties.
2. The bodies designated under article 20, paragraph two, may be required in an order in council to draw up reports at regular intervals on the activities referred to in article 20, paragraph two, and on the effectiveness and legitimacy of its activities and working method in the preceding period, and send these reports to Our Minister.

Instructions

Article 22

1. Our Minister may give the bodies designated under article 20, paragraph two, instructions on the performance of their duties. He/she will not intervene in individual cases.
2. The bodies designated under article 20, paragraph two, are required to act in accordance with the instructions referred to in paragraph one.

Neglect of duties

Article 23

Action may be taken in an order in council, deviating from this Act wherever necessary, if the bodies designated under article 20, paragraph two, fail to comply properly with their obligations under this Act.

Chapter 5. Inspection and official orders

Officials responsible for inspection

Article 24

1. Officials in Our Minister's department and designated by him/her by resolution are charged with monitoring compliance with the provisions established in or by virtue of this Act.
2. With regard to categories of work designated by Our Minister, officials other than those referred to in paragraph one are (also) charged with monitoring compliance with the provisions established in or by virtue of this Act. If officials in another minister's department are so designated, the resolution designating these officials will be adopted jointly by Our Minister and the other minister in question. Resolutions as described in paragraph one and in this paragraph are notified by publication in the Government Gazette.
3. Supervisors are entitled to enter dwellings, using the necessary equipment, without the inhabitant's consent.
4. Supervisors are also entitled to initiate an investigation into an accident at work at any time. They will produce a report on the investigation.
5. Supervisors shall produce reports in order to comply with article 5:18, paragraph six, of the General Administrative Law Act; these reports, and reports as described in paragraph four, will be sent by the supervisors to employers, works councils and staff representation bodies.
6. Supervisors are entitled to use tax and social insurance numbers as defined in article 47b, paragraph three, of the State Taxes Act in processing personal data, insofar as this is reasonably necessary for the performance of their duties.
7. Supervisors shall consider as rapidly as possible all requests to start an investigation submitted by a

works council or a staff representation body, or by an association of employees which under its articles of association has been set up in order to defend the interests of its members as employees and acts in this capacity in the business or sector in question and has full legal capacity.

8. When conducting investigations into punishable acts, supervisors are entitled to stop any individual and ask him/her to give his/her surname, first names, date of birth and year of birth and address, insofar as this is reasonably necessary to allow them to perform their duties.
9. Provisions may be established in or by virtue of an order in council stating that in circumstances and ways to be specified in the order, the individual performing work, or having it performed, in territorial waters or the exclusive economic zone is required to transport supervisors exercising their powers to locations indicated by the supervisors where the work is being or will be performed.

Inspection of establishments

Article 25

Our Minister shall monitor the activities of the bodies designated under article 20, paragraph two, to ensure that they are implementing the provisions adopted in and by virtue of this Act in an effective and legal manner.

Confidentiality

Article 26

Supervisors may only disclose the names of individuals submitting a complaint or reporting a contravention of this Act and the provisions based on it, to their (i.e. the supervisors') superiors in office, except where the individuals submitting a complaint or reporting a contravention have made a statement in writing to the effect that they do not object to their name being disclosed.

Order to comply

Article 27

1. Designated supervisors may issue employers with an order specifying how they must comply with one or more provisions adopted under or by virtue of this Act.
2. Such orders mention the rules to which the method of compliance applies and lay down a date by which this must be done.
3. Employers are obliged to obey the order. Employees are required to obey the order if this is specified in the order. Employers shall ensure that employees are informed of their obligations as rapidly as possible.
4. For the purposes of the preceding paragraphs, the word 'employers' also applies to the individuals referred to in article 16, paragraphs seven, eight and nine, insofar as the orders relate to obligations described by virtue of that article.
5. Orders may be issued requiring compliance with articles 3, 4, 5, 6, 8, 11, 13, paragraphs one to four, nine and ten, article 14, paragraphs one, two and seven, article 14a, paragraphs two, three and four, article 15, paragraphs one and three, article 16 in respect of rules drawn up by virtue of that article, articles 18 and 19.

Suspension of work

Article 28

1. Designated supervisors may give verbal or written and dated orders requiring individuals to leave locations designated by them, or requiring activities designated by them to be stopped (or not to be started), if they have good grounds to believe that individuals would be at serious risk if they

remained in these locations or if the activities in question were carried out.

2. Verbal orders shall be confirmed to the employer or other individuals referred to in article 16, paragraphs seven, eight and nine as rapidly as possible.
3. The power referred to in paragraph one also applies in cases where, on the basis of the provision laid down in article 27, an order that has been issued does not need to be carried out yet.
4. Officials who have issued orders as described in paragraph one shall withdraw them as soon as they believe that a serious risk no longer exists.
5. Individuals who have issued orders as described in paragraph one are empowered in respect of these orders to take the necessary measures, give the necessary instructions and call for reinforcements. Action and instructions may include, inter alia, placing tools and workstations under seal.
6. All individuals affected by such measures are required to act in accordance with the orders referred to in paragraph one and instructions referred to in paragraph five.
7. Deliberate failure to comply with paragraph six is a crime.

Administrative enforcement

Article 28a

Designated supervisors are empowered to issue injunctions to enforce an administrative order in respect of compliance with article 5:20 of the General Administrative Law Act insofar as this relates to the obligation to cooperate with the supervisor, articles 24, paragraph nine, and article 28, paragraph one, and the provisions established pursuant to this Act in an order in council.

Stopping work

Article 29

1. Employees are entitled to stop work and not to resume work if and insofar as they have reason to believe that there is a serious threat to individuals as described in article 28 and that the threat is so imminent that an supervisor cannot arrive in time. Employees are entitled to continue receiving their normal hourly wage for such time as they are not working under these circumstances. Employees may not be disadvantaged in their position in the business or establishment as a result of stopping work.
2. Anyone who asserts that the employee cannot reasonably consider that there is an imminent threat as described in paragraph one as a result of the facts which he or she puts forward to explain this belief must prove that this is the case.
3. Employees who stop work without the employer, or the manager in charge of the work, being aware of this must notify the employer/manager without delay.
4. The fact that an employee has stopped work must be brought to the attention of the designated supervisor as soon as possible. The supervisor shall issue an order under article 28, paragraph one, or declare that work can be resumed, issuing an order as described in article 27 where necessary. Once a decision has been made by the designated supervisor, the employee is no longer entitled to continue to refuse to work.

Chapter 6. Exemptions, dispensations and appeal

Exemption and dispensation

Article 30

1. Our Minister may exempt categories of businesses, establishments or working relationships from the requirements laid down in or by virtue of article 5 and articles 12 to 18.
2. Designated supervisors may grant individual businesses or establishments dispensation from the requirements laid down in paragraph one, unless an order has been imposed with regard to any such requirement.
3. Rules may be established in an order in council regarding the granting of exemptions or dispensations as described in paragraphs one and two.
4. Exemptions or dispensations can be issued subject to restrictions.
5. Requirements may be attached to exemptions or dispensations.
6. Exemptions and dispensations may be withdrawn if:
 - a. one or more of the grounds on which it was granted no longer exist(s);
 - b. one or more of the requirements attached to it is/are no longer met;
 - c. facts or circumstances come to light following the granting of the exemption or dispensation that, had they been known at the time that the exemption or dispensation was granted, would have led to the exemption or dispensation not being granted at all or in the same form.
7. A decision regarding a dispensation does not take effect until the deadline for submitting a notice of objection or appeal has expired, or, if an objection or appeal is submitted, until a decision on the objection or appeal has been taken.

Appeal

Article 31

1. Interested parties may submit appeals to Our Minister against decisions taken on the basis of this Act by an official as referred to in article 24, paragraph two.
2. Decisions taken on the basis of this Act by officials as referred to in articles 24, paragraph one, and 34, paragraph one, are issued in the name of Our Minister.

Chapter 7. Sanctions

Penalty clause

Article 32

1. Employers are prohibited from performing or failing to perform actions in contravention of this Act or the provisions based on it if, as they are or should reasonably be aware of, this will or is likely to put the life or lives of one or more employees at risk or cause them serious injury.
2. Failure to comply with paragraph one is a crime.

Punishable acts

Article 33

1. Action or failure to act that contravenes articles 3, 4, paragraph one, 5, 8, 9, paragraphs one and two, articles 11, 13, paragraphs one to four and nine and ten, article 14, paragraphs one, two and seven, article 14a, paragraphs two, three and four, article 15, paragraphs one and three, and articles 18 and 19 are regarded as punishable acts. A first-category fine may be imposed in respect of the acts referred to in the preceding sentence.

2. Action or failure to act that contravenes article 16, paragraph ten, is also regarded as a punishable act where failure to comply with the requirements and prohibitions referred to in that paragraph is defined in or by virtue of an order in council as a punishable act. It is specified in or by virtue of an order in council whether the fine to be imposed in respect of the acts referred to in the preceding sentence shall be a category one or category two fine.
3. Punishable acts as referred to in paragraphs one or two are regarded as offences if a fine is imposed and has become irrevocable in respect of repeated failure to comply with the same statutory obligation in relation to a punishable act on two occasions within a period of 48 months before that punishable act was determined, where the first obligation was imposed at most 24 months before the second.
4. No fine can be imposed in relation to acts that have been found to be offences in or by virtue of this Act.
5. Action or failure to act as described in paragraph three is an offence.

Designation of perpetrators of punishable acts

Article 33a

1. Punishable acts can be carried out by natural persons and legal persons.
2. In the case of punishable acts carried out by legal persons, the fine can be imposed on:
 - 1°. the legal person, or
 - 2°. the individual who ordered the behaviour as a result of which the obligations arising from this Act or the provisions based on it are not met, as well as on the individual who actually supervised this behaviour, or
 - 3°. both the parties referred to in 1° and 2° jointly.
3. The following are regarded as legal persons for the purposes of paragraphs one and two:
 - 1°. unincorporated companies,
 - 2°. partnerships,
 - 3°. shipping firms and
 - 4°. special-purpose fund.

Level of fines and repeat offences

Article 34

1. An official working for Our Minister's department and designated by him/her shall impose the fine on the natural or legal person subject to the obligations arising from this Act and the provisions based on it, insofar as non-compliance is regarded as a punishable act.
2. The official referred to in paragraph one may not already have been designated as a supervisor.
3. The maximum fine that can be imposed for a punishable act is equal to the sum of money for the category that has been assigned to the punishable act.
4. There are two categories:
 - 1°. category one: EUR 9,000;

2°. category two: EUR 22,500.

5. Our Minister shall establish policy rules indicating how the level of the fine to be imposed is determined.
6. Without prejudice to paragraph four, the designated official referred to in paragraph one shall increase the fine to be imposed by 50% if the punishable act comes to light less than 24 months after a previous punishable offence consisting of failure to comply with the same statutory obligation came to light and the fine imposed for the first punishable act has become irrevocable.
7. Fines that have not yet been paid expire on the death of the individual on whom they were imposed.

Information, right to remain silent and caution

Article 35

1. If an supervisor takes action in respect of a party concerned from which the party concerned can reasonably deduce that he/she/it is liable to receive a fine as a result of certain behaviour, the party concerned is no longer obliged to make any statement about the behaviour in question insofar as the imposition of the fine is concerned. The party concerned shall be notified of this before he/she/it is verbally requested to provide information.
2. If a designated official as referred to in article 34, paragraph one, intends to impose a fine on the party concerned, the party concerned is notified of this and of the reasons behind the intention. Notification is an action as referred to in paragraph one.
3. If the party concerned does not fully understand the notification referred to in the preceding paragraph as a result of his or her poor command of Dutch, the designated official referred to in article 34, paragraph one, shall, at the request of the party concerned, take all possible steps to ensure that the reasons referred to in the notification are communicated to the party concerned in a language that he or she understands.
4. By way of deviation from section 4.1.2 of the General Administrative Law Act, the designated official referred to in article 34, paragraph one, shall give the party concerned the opportunity to express his/her/its views verbally or in writing according to choice before the fine is imposed.
5. If the party concerned expresses his or her views verbally and does not adequately understand Dutch, the designated official referred to in article 34, paragraph one, shall, at the request of the party concerned, provide an interpreter to assist the party concerned unless it is reasonable to consider that he or she does not need the services of an interpreter.

Fine report

Article 36

1. If an supervisor determines that a punishable act has been performed, he or she shall submit a report on it as rapidly as possible.
2. All such reports shall indicate:
 - a. the nature of the punishable act, specifying the statutory requirement that has been contravened;
 - b. the location where the punishable act was performed;
 - c. the person or persons involved in the punishable act;
 - d. the natural or legal person on whom or on which the obligation to comply with the statutory requirement in question rests.
3. The report shall be submitted to the designated official referred to in article 34, paragraph one.

4. A copy of the report shall be sent or handed to the person referred to in paragraph two, under c and d. If the person referred to in the preceding sentence does not understand the report, the supervisor shall make every effort to ensure that the information contained in the report is communicated to him or her in language that he or she understands.

Decision to impose a fine

Article 37

1. Fines are imposed by means of a decision taken by a designated official as referred to in article 34, paragraph one. The decision is announced within 13 weeks of the date of the fine report referred to in article 36, paragraph one.
2. All such decisions shall indicate:
 - a. the amount of the fine;
 - b. the punishable act as a consequence of which the fine is payable;
 - c. the persons involved in the punishable act;
 - d. the person who is liable for compliance with the Act and the provisions established on the basis of the Act;
 - e. the period(s) of time within which the fine must be paid.
3. If the person referred to in paragraph two, under c and d, does not understand the content of the decision, the designated official referred to in article 34, paragraph one, shall make every effort to ensure that the information contained in the report is communicated to him or her in language that he or she understands

Payment

Article 38

1. Fines shall be paid to the State within 6 weeks of the decision referred to in article 37 being announced.
2. Persons who have received fines are obliged to provide the designated official referred to in article 34, paragraph one, on request with the information required to enforce the fine. More specific rules will be drawn up in ministerial regulations.

Reminders

Article 39

1. If the fine is not paid, the designated official referred to in article 34, paragraph one, shall write to the party on whom the fine has been imposed requesting him/her/it to meet his/her/its obligations within two weeks. The costs incurred in sending the reminder shall be added to the amount of the fine.
2. The reminder will contain notification that if the fine is not paid by the deadline specified in the reminder it will be recovered in accordance with article 40.

Recovery

Article 40

1. If the fine is not paid on time, the designated official referred to in article 34, paragraph one, will collect by way of a writ of execution from the party on whom or on which the fine has been imposed the fine due plus the costs incurred in issuing the reminder and collecting by writ of execution.

2. The writ of execution will be served by a bailiff's notification at the expense of the party on whom or on which the fine was imposed, and produces an executory title as defined in Volume Two of the Code of Civil Procedure.
3. Objections against the writ of execution may be made for a period of six weeks by issuing a summons against the State.
4. Arguments to the effect that the decision referred to in article 37 was not received, that the fine imposed in the decision was unjustified or too high, are not adequate grounds for appeal.
5. Objections do not suspend enforcement unless a judge sitting in interlocutory proceedings decides otherwise.

Expiry period

Article 41

1. Authority to impose a fine expires two years after the date on which the punishable act came to light.
2. The decision to impose a fine interrupts the period referred to in paragraph one.

Alteration of the fine

Article 42

By way of deviation from article 8:69 of the General Administrative Law Act, appeal judges may alter the amount at which the fine has been determined to the detriment of the party concerned.

Reimbursement

Article 43

If a fine has been unjustly imposed, the amount paid plus statutory interest will be reimbursed to the rightful claimant within six weeks of the date on which it became evident that the fine was unjustly imposed.

Chapter 8. Transitional and final provisions

Costs

Article 44

The costs associated with compliance with the rules established in or by virtue of this Act shall not be passed on to employees.

Evaluation

Article 45

Our Minister will send a report on the appropriateness and effects of this Act in practice to the States-General within five years of the entry into force of the Act of 30 November 2006 amending the 1998 Working Conditions Act and other legislation relating to increased responsibility of employers and employees for policies on working conditions (Bulletin of Acts and Decrees 2006, 673).

Official title

Article 46

This Act is referred to as: the Working Conditions Act.

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Articles 47 to 66 [expired as of 01-01-2007]