

SOIL PROTECTION ACT

Text of the Act as at 1 February 2013

No rights may be derived from this text. The text is based on the most recently published integral version of the Soil Protection Act (1996), corrected by the Bulletin of Acts, Orders and Decrees 1993, 690; and updated by the Bulletin of Acts, Orders and Decrees 1996, 366; 1996, 577; 1997, 63; 1997, 86; 1997, 510; 1997, 532; 1997, 730; 1999, 30; 1999, 537; 2000, 505; 2001, 517; 2005, 482; 2005, 680; 2007, 115 and as most recently amended 2007, 349.

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CHAPTER 1. GENERAL

Section 1

1. In this Act in the provisions based thereon the following definitions shall apply:

Our Minister: Our Minister of Housing, Spatial Planning and the Environment;

Inspector: the locally competent Inspector of the State Inspectorate of Health, by order of Our Minister;

soil: the firm part of the earth with the liquid and gaseous components and organisms contained therein;

interests of soil protection: the interests of preventing, restricting or remedying changes of properties of the soil, which entail a reduction of or a threat to the functional properties the soil has for man, flora and fauna;

contaminated site: site where the soil is contaminated or in danger of becoming contaminated in relation to territories that on account of said contamination, the cause or the consequences thereof are connected with each other in a technical, organisational or planning sense;

preliminary investigation: investigation carried out by reason of a suspicion that there is a contaminated site;

site assessment: investigation whether a contaminated site implies a seriously contaminated site;

site for investigation: site in which a preliminary investigation or site assessment will take place or is taking place;

remediation: the limitation and as far as possible the elimination of contamination and the direct consequences thereof or the danger of contamination of the soil;

seriously contaminated site: site where the soil is, or there is a danger that it will be, contaminated, so that the functional properties which the soil has for man, flora and fauna have been, or are in danger of being, seriously reduced;

remedial investigation: inventarisation of the possible methods of remediation, including a description of the environmental, technical and financial aspects, as well as the quality of the soil to be achieved by remediation implemented in these ways, culminating in the selection of a means of remediation;

water authority: the water authority as referred to in section 1.1 of the Water Act;

provincial environment programme: provincial environment programme as referred to in section 4.14 of the Environmental Protection Act, insofar as that concerns sites as referred to in subsection two, under a, under 1°, of that section;

area-dedicated approach: an approach focused on remediation of multiple contaminations in the deeper groundwater in a designated area.

CHAPTER II. TECHNICAL SOIL COMMITTEE

Section 2

There is a Technical Soil Committee.

Section 2a

1. The task of the Committee is upon request to advise Our Minister on the implementation of legal regulations and policy, insofar as these concern matters of a technical nature relating to soil protection.

2. Any request for advice on any matter which is not primarily Our Minister's concern shall be made with the agreement of Our Minister who bears particular responsibility for that matter.

3. Advice on such a matter as referred to in the second subsection shall also be submitted by the Committee to Our Minister who bears for that matter.

Section 2b

Our Minister and Our Ministers who are also concerned shall ensure that the Committee is fully informed of policy on soil protection.

Section 2c

Once every four years the Committee shall provide Our Minister with a report, in which at the very least the terms of reference, membership, structure and procedures of the Committee shall be subject to scrutiny. Our Minister shall send this report, accompanied by his own comments, to the two Chambers of the States General.

Section 3

1. The Committee shall comprise a Chairman and up to eleven other members.
2. The Chairman and the other members of the Committee shall be appointed by virtue of their knowledge of soil protection.

Section 3a

1. The Chairman and the other members of the Committee shall be appointed by Our Minister. Our Minister shall consult the Committee before he appoints a Chairman.
2. The Chairman and the members shall be appointed for a period of four years. They shall then be immediately eligible for re-appointment.
3. The Chairman and/or the members may resign from the Committee at any time by notifying Our Minister of this intention in writing.
4. In exceptional circumstances Our Minister may suspend or dismiss the Chairman and/or the members from their posts.

Section 3b

1. The Committee shall elect one of its members to be deputy Chairman.
2. The deputy Chairman may resign at any time by notifying Our Minister of his intention in writing.
3. In exceptional circumstances, the Committee may suspend or dismiss the deputy Chairman from his post.

Section 4

1. The Committee shall be assisted by a Secretary.
2. The Secretary shall be appointed, suspended and dismissed by Our Minister after consultation with the Committee.
3. The Secretary shall not be a member of the Committee.
4. The Secretary shall be answerable for the performance of his task solely to the Committee. Our Minister may provide the Committee with the use of an office of which the Secretary shall be in charge.
5. Our Minister may make provision for a secretariat for the Committee, which shall be managed by the Secretary.

Section 5

1. The Committee may be assisted in its activities by people who are not members of the Committee.
2. Our Minister may nominate officials who shall be authorised to attend the meetings of the Committee, notwithstanding that no more than one of those officials shall attend any meeting of the Committee.

Section 5a

1. The meetings of the Committee shall be open to the public.
2. A meeting or part of a meeting shall not be open to the public in such cases as referred to in section 10, first subsection, of the Government Information (Public Access) Act and in cases where the interests of public access are outweighed by the interests referred to in section 10, second subsection, of that Act.

Section 5b

1. The recommendations of the Committee shall be in accordance with the opinion of the majority at the meeting.
2. Minority views expressed at the meeting shall be mentioned in or with the recommendations.

Section 5c

The Committee shall place at the disposal of Our Minister the documents on which its recommendations are based.

Section 5d

1. The Chairman of the Committee shall at least once a year consult with Our Minister about the activities proposed by the Committee for the next twelve months. The Committee shall subsequently draw up a definitive programme of activities and shall submit this to Our Minister.
2. In preparation for the consultation referred to in the first subsection, the Committee shall draw up a schedule of its proposed activities and shall present this to Our Minister. The Committee shall attach to this schedule an estimate of the costs to be incurred in the performance of these activities.
3. The Committee shall perform its activities within the limits of the monies allotted to it each year in the Budget.

Section 5e

The Committee shall set further rules in respect of its procedures and shall submit these to Our Minister.

CHAPTER III. GENERAL PROVISIONS FOR PROTECTION OF THE SOIL

Section 6

1. In the interests of soil protection, regulations may be laid down by, or pursuant to, a General Administrative Order with regard to the performance of acts, which entail disposal on or in the soil of substances, which may pollute or impair the soil, with a view to leaving them there.
2. This may include regulations with respect to:
 - a. disposal for storage on or in the soil of substances to be indicated in the said Order;
 - b. disposal of wastes on or in the soil;
 - c. discharges of polluted water or sludge flowing onto or into the soil;
 - d. the burying of mortal remains;
 - e. spreading on the soil of ashes originating from the cremation of mortal remains.

Section 7

1. In the interests of soil protection, regulations may be laid down by, or pursuant to, a General Administrative Order with regard to the performance of acts causing substances, which may pollute or impair the soil to be added to the soil in order to influence the structure or the quality of the soil.
2. This may include regulations with respect to:
 - a. depositing substances on or in the soil, which influence the load-bearing capacity of the soil;
 - b. depositing fertilisers on or in the soil.

Section 8

1. In the interests of soil protection, regulations may be laid down by, or pursuant to, a General Administrative Order with respect to the carrying out of works on or in the soil, causing operations to be performed or substances to be used which may pollute or impair the soil.
2. This may include regulations with respect to:

- a. earth and foundation works;
 - b. soil surveys;
 - c. laying of pipelines and other conduits;
 - d. installation of storage tanks or reservoirs;
 - e. land clearance, removal of soil or excavations;
 - f. deep soil-processing;
 - g. works concerned with drainage, well-point drainage or ground-water extraction;
 - h. works for the purpose of a geothermal heating system
3. With respect to works as referred to in the second subsection, under h, the rules referred to in the first subsection may be laid down for the interests of suitable use of soil energy.

Section 9

1. In the interests of soil protection, regulations may be laid down by General Administrative Order with regard to the transport of substances to be indicated in the said Order, which may pollute or impair the soil.
2. This may include regulations with respect to:
- a. transport of such substances with the aid of pipelines or other conduits;
 - b. the performance of transshipment operations involving such substances;
 - c. transport of such substances with the aid of vehicles.

Section 10

1. In the interests of soil protection, regulations may be laid down by General Administrative Order with regard to the performance of acts causing, as a secondary effect, substances, which may pollute or impair the soil to find their way onto or into the soil.
2. This may include regulations with respect to:
- a. the use of anti-slip agents;
 - b. treatment of objects with substances to be indicated in the said Order to apply surface layers thereon or remove such layers there from;
 - c. the processing of objects, causing substances indicated in the said Order to be liberated.

Section 11

In the interests of soil protection, regulations may be laid down by General Administrative Order with regard to the performance of acts not coming under sections 6 to 10 inclusive which may cause erosion, compaction or salination of the soil.

Section 12

1. Regulations shall be laid down by General Administrative Order with regard to the infiltration of water referred to in section 1 of the Water Act in which shall be stated:
- a. in which cases there is a hazard to the contamination of the groundwater, as referred to in section 6.26, second subsection, of that Act;
 - b. what provisions for the protection of the groundwater must be attached to a permit for the infiltration of water.
2. Regulations to protect the soil may also be laid down by this Order.
3. It may be laid down by this Order that the regulations stated therein shall apply only to categories of cases specified therein.
4. It may furthermore be laid down by General Administrative Order to what extent the Provincial Executive or the management of the water board need not comply with these regulations with regard to the subjects referred to therein, either in a general sense or in categories of cases specified by the Order.

Section 12a

1. Rules may be laid down by or pursuant to General Administrative Order for the use of earth and dredging spoil on or in designated categories of soil in the interests of soil protection.

2. It may be determined by General Administrative Order that under a decision by a designated administrative body earth or dredging spoil may be used in cases other than those subject to the rules referred to in the first subsection, provided that it does not pose any unacceptable risks to public health and does not pose a threat to the functional properties of water, soil and air for people, plants and animals. An administrative body that exercises this possibility shall lay down in its decision the requirements applicable to quality, including the composition of earth or dredging spoil.

3. The rules referred to in the first subsection may always include rules for the quality of earth or dredging spoil, including composition and emission, the method of checking quality and the use of the soil on or in which earth or dredging spoil is used.

4. The order referred to in the first subsection may stipulate cases in which the derogation referred to in the second subsection must satisfy the rules laid down under Section 36 and Section 37, first and eighth subsections, of the Soil Protection Act.

5. The order referred to in the first subsection may stipulate that the designated administrative body referred to in the second subsection may lay down a map containing details of the quality and function of the soil.

Section 12b

It may be laid down by General Administrative Order that there may be derogation from the rules laid down under or pursuant to Sections 6 to 12a inclusive:

- a. insofar as those rules apply to activities referred to in those Sections that involve the use of building materials, earth or dredging spoil on or in soil, and
- b. Our Minister has established that at least an equivalent level of envisaged soil protection is assured by means other than application of those rules.

2. Further rules for the application of the first subsection may be laid down by or pursuant to General Administrative Order.

Section 13

Any person performing acts on or in the soil as referred to in sections 6 to 11 inclusive and who is aware or can reasonably suspect that such acts are likely to contaminate or impair the soil shall be obliged to take any measure that can be reasonably required of him in order to prevent the soil being so contaminated or impaired or, in the event of such contamination or impairment occurring, to take remedial action and to limit and to eliminate as much as possible the contamination or the impairment or the direct consequences thereof. If the contamination or impairment is the result of an unusual event, the measures shall be taken forthwith.

Section 14

[Repealed.]

Section 15

1. The regulations to be laid down by, or pursuant to, a General Administrative Order pursuant to sections 6 to 12a inclusive may include regulations containing:
 - a. a prohibition on carrying out work as referred to therein, if when performing the said work the requirements laid down in the said Order with respect to the substances or objects used for the purposes of the said work are not fulfilled;
 - b. a prohibition on carrying out such work other than in accordance with the requirements laid down in the said Order with respect to the manner in which, the circumstances under which or the place where the said work may be carried out;

- c. a prohibition on carrying out such work without it having been demonstrated by an investigation in a manner to be indicated in the said Order that contamination or impairment of the soil will not be caused or will not be caused exceeding a given value;
 - d. a prohibition on carrying out such work without reporting this in a manner to be indicated in the said Order to a government body to be named therein, stating the information laid down therein.
 - e. the obligation to comply with an order of a government body indicated in the said Order, to cease or reduce the use of a geothermal heating system in the interests of the efficient use of geothermal heating within a period laid down in the said Order
2. The regulations referred to in the first subsection may include a prohibition on using without the scope of a work as referred to therein an object to be named in the said Order and intended for storage or transport of substances likewise to be named therein, if the said object:
- a. has not been approved in a manner to be indicated in or pursuant to the said Order;
 - b. is not of a type approved by testing in accordance with regulations laid down in or pursuant to the said Order.
3. If a work is referred to in sections 6 to 12 inclusive may result in serious contamination or impaired of the soil, the regulations to be laid down by General Administrative Order pursuant to the said sections may contain a complete prohibition on carrying out such work.

Section 16

1. The regulations to be laid down by General Administrative Order pursuant to sections 6 to 12 inclusive may contain the obligation that with regard to work belonging to a category specified therein and which may cause serious contamination or impairment of the soil, the person carrying out or causing others to carry out such work, other than as a subordinate:
- a. shall provide financial security in respect of observance of regulations which apply to him pursuant to the Order;
 - b. shall provide financial security to cover his liability in respect of damage originating from contamination or impairment of the soil caused by the work.
2. Further regulations shall be laid down in the Order with respect to this obligation, indicating in any case the amount for which and the term during which the security shall at most be maintained, as well as the conditions which must be fulfilled before the obligation shall come to an end. It can furthermore be laid down on which of the persons referred to in the first subsection the obligation rests. The Order shall name the government body authorised to determine the amount to be withdrawn from the security provided as recoupment in the event that a regulation for which financial security is required is not observed. It may be determined by the Order that the competent authority can recover the amount to be recouped with an injunction. Regulations may be laid down in the Order in respect of cases in which the obligation is carried out by taking out and maintaining insurance; due allowance shall be made for what can reasonably be covered by insurance.

Section 16a

1. The regulations to be laid down by, or pursuant to, a General Administrative Order pursuant to section 6 to 12 inclusive may include regulations relating to objects, which are deposited on or in the soil during the performance of work referred to in those sections.
2. The regulations to be laid down by General Administrative Order pursuant to sections 6 to 12 inclusive may also contain the obligation to ensure that on completion of a work as referred to in the said sections the soil is left in a condition to be specified in the said Order. Regulations may be laid down concerning the manner in which the said obligation is to be observed.

Section 17

1. The regulations to be laid down by General Administrative Order pursuant to sections 6 to 12a inclusive may contain the obligation to carry out such measurements, recording or tests as indicated in the said Order in order to obtain information with respect to a substance introduced, inadvertently or otherwise, or transported into the soil, or with respect to the effect this substance has on the soil. Requirements may also be imposed with regard to the manner in which the

measurements, recording and tests shall be carried out and the information obtained by means thereof shall be submitted to a government body to be indicated in the said Order.

2. The first subsection accordingly supplies with regard to the geothermal heating systems as referred to in section 8, third subsection and the field of influence of a said system outside the site where it is installed.

3. The regulations to be laid down by, or pursuant to, a General Administrative Order pursuant to sections 6 to 12 inclusive may furthermore contain the obligation to comply with further requirements imposed on the person concerned by government bodies to be indicated in the said Order in respect of subjects mentioned therein. The Order by which a further requirement is imposed or amended shall also state a term, commencing on the date on which the said Order becomes effective, which term must elapse before the requirement contained in the Order comes into force.

Section 18

1. A General Administrative Order adopted pursuant to sections 6 to 12 inclusive may contain a provision to the effect that regulations laid down in the said Order shall only apply in areas belonging to a category indicated with a view to the nature of the soil.

2. A General Administrative Order adopted pursuant to sections 6 to 12 inclusive may contain a provision to the effect that regulations laid down in the said Order shall only apply in areas laid down in or pursuant to a provincial ordinance.

3. It may be laid down by an order pursuant to Section 8, first subsection that provincial or municipal regulations may designate areas in which the rules laid down by that order shall apply with regard to soil energy systems.

Section 19

By General Administrative Order made by virtue of sections 6 to 12 inclusive, it may be laid down that the authority empowered to issue an environmental permit for activities with respect to an establishment as referred to section 2.1, first subsection, under e, of the General Provisions Act Environmental Law when issuing or amending the permit, may differ with regard to the subjects mentioned therein as to the restraints subject to which the permit is issued, or as to thereto attached provisions of the regulations laid down by the Order. In that case the Order shall state the extent to which the empowered authority may differ from the regulations. It may also be laid down by the Order that differing from the regulations is only authorised in given categories of cases.

Section 20

If it is essential to make an immediate provision, Our Minister may, in the interests of soil protection, take a decision with respect to work as referred to in sections 6 to 11 inclusive. Such a decision, which shall be published in the Netherlands Government Gazette, shall lapse six months after it has become effective or, if within that period a General Administrative Order to replace the said decision has come into effect, on the date on which the said Order comes into force. The term may be extended by Our Minister, once only, by at most six months in a decision, stating the grounds on which it is based, which shall be published in the Netherlands Government Gazette.

CHAPTER IV. GENERAL PROVISIONS IN CASE OF SOIL CONTAMINATION

§ 1. General

Sections 21 to 26 inclusive

[Repealed.]

Section 27

1. Any person who shall perform acts on or in the soil as referred to in sections 6 to 11 inclusive and shall be aware of the contamination or impairment of the soil ensuing from those acts must notify as soon as possible the Provincial Executive of the province of the contamination or impairment, stating which of the measures referred to in section 13 he intends to take or has already taken.
2. In cases covered by the first subsection the Provincial Executive may give instructions for the measures that must be taken. The Provincial Executive may also issue instructions to commission an examination of the decontaminability and the immobilizability of the contaminated soil in a way determined in said instruction. Unless otherwise dictated by the urgency of the case, the Provincial Executive shall not instruct the excavation of contaminated soil until after taking cognizance of the results of the examination of the decontaminability and the immobilizability of the soil.
3. Any person who has been involved in the acts shall immediately notify those responsible for the acts or the Provincial Executive of the province of the contamination or impairment.
4. The Provincial Executive shall as soon as possible inform the Burgomaster and Aldermen of the municipality where the contamination or impairment has occurred and the inspector about the notifications, which have been made in pursuance of the first or third subsection.

Section 28

1. Any person who plans to take remedial measures or acts as a consequence of which the contamination of the soil will be reduced or removed shall notify that plan to the Provincial Executive of the province concerned.
2. The following details shall be supplied with the notification referred to in the first subsection:
 - a. results of a survey of the quality of the soil;
 - b. results of a more detailed survey, if performed;
 - c. time the activities referred to in the first subsection shall start;
 - d. if contaminated ground water will be removed, the destination of the ground water;
 - e. if contaminated soil will be excavated, the destination of the earth and whether the contaminated earth will be decontaminated or immobilized;
 - f. if the contaminated soil will not be fully or partly decontaminated, the notification shall additionally be accompanied by an assessment of the decontaminability or the immobilizability of the contaminated earth.
3. Notwithstanding the second subsection, a notification within the meaning of the first subsection shall be accompanied by the information referred to in the fourth subsection if the contamination will be reduced or moved solely through extraction of groundwater within the meaning of Section 1.1, first subsection of the Water Act, for which purpose:
 - a. a licence is required under Section 6.4 of the Water Act and the extraction occurs for the purpose of the soil energy system;
 - b. a licence is required under a water board regulation, or
 - c. a notification must be submitted under the Water Act to the competent authority referred to in that Act,
4. A notification within the meaning of the third subsection shall be accompanied by the following information:
 - a. the intended commencement time of the extraction of contaminated groundwater and the proposed duration of extraction;
 - b. the destination of the groundwater;

- c. details showing that extraction of the groundwater and, if applicable, its replacement will not harm the interests of soil protection, and
- d. a copy of the licence application or, as the case may be, of the notification submitted to the competent authority referred to in that Act.

5. Notification as referred to in the first subsection may be dispensed with, if the person concerned may reasonably assume that neither remedial measures nor the act to which his plan relates in any way involve serious contamination and can also establish:

1° that the relevant quantity of contaminated soil or contaminated groundwater amounts respectively to no more than 50 cubic metres or 1000 cubic metres, or

2° that it follows from the nature of the acts referred to in the first subsection that the soil will be removed only temporarily and will be brought back after removal.

6. It may be laid down by General Administrative Order in which cases, other than those referred to in the first subsection, notification may be dispensed with, provided no seriously contaminated site is involved.

7. The Provincial Executive shall inform the inspector of the notification made pursuant to the first subsection, and the Burgomaster and Aldermen of the municipality concerned unless it relates to their own plan. At the same time they shall publish it in one or more daily, news, free local papers or digitally

8. This section does not apply to sites referred to in sections 27, 30, first subsection, and 43.

Section 28a

Rules may be laid down under ministerial order for:

- a. assessment of the decontaminability or the immobilizability of contaminated earth within the meaning of sections 27 and 28 of this Act or in a General Administrative Order pursuant to section 8.40 of the Environmental Protection Act;
- b. method of dividing the contaminated soil into batches at the excavation site.

Section 29

1. The Provincial Executive can make a decision on whether a seriously contaminated site is in question:

- a. on the basis of site assessment or
- b. on the basis of notification as referred to in section 28, first subsection.

The Provincial Executive shall in all instances take a decision:

- a. at the request of the party that submitted the further assessment or the party that submitted the notification within the meaning of Section 28, first subsection;
- b. in the event of application of Section 39, first subsection.

3. The Provincial Executive shall take a decision as soon as possible and in all instances within fifteen weeks of receiving:

- a. the further assessment or the notification referred to in Section 28, first subsection, or
- b. a request subsequently made to that effect by the party that submitted the further assessment or the party that submitted the notification referred to in Section 28, first subsection.

4. The person who has made a notification as referred to in section 28, first subsection, shall not

perform the acts referred to in that subsection until:

- a. after a decision as referred to in the first subsection, under b, has been given, or
- b. if no decision has been given as referred to in the first subsection, under b, within the period referred to in the third subsection, after that period has ended.

5. Notwithstanding the first and second subsections, the Provincial Executive shall not take a decision within the meaning of the first subsection on a notification submitted in accordance with

Section 28, third subsection. The party that submitted a notification within the meaning of Section 28, third subsection, shall not take any action referred to in that subsection unless:

- a. at least five weeks have elapsed since the notification, and
- b. after the issue of a licence if required for such actions under the Water Act or a water board regulation.

§ 2. Powers in case of seriously contaminated or impaired soil as a result of unusual event

Section 30

1. If as the result of an unusual event the soil is or threatens to be seriously contaminated or impaired, the Provincial Executive shall forthwith take such measures as it deems necessary in order to remove and remedy as much as possible the contamination or impairment and the direct consequences thereof.
2. With regard to a person who commits an act, which in the opinion of the Provincial Executive is the sole or contributory cause of the contamination or impairment, the measures referred to in the first subsection may include:
 - a. an order to cease the said act;
 - b. an order to cease the said act in the event of failure to comply with requirements imposed by the Provincial Executive.
3. With regard to the person on whose property the cause of contamination or impairment is located, or the contamination, the impairment or the direct consequences occur, the measures referred to in the first subsection may include an order to admit persons designated therein to his property and to enable them, if necessary with the use of aids:
 - a. to institute an on-site investigation into the cause and scale of the contamination, the impairment or the direct consequences thereof;
 - b. to remove or remedy as much as possible the contamination, the impairment and the direct consequences thereof.
4. With regard to any person on whose property measures must be taken in order to can remedy the contamination or the impairment and the direct consequences thereof in the direct vicinity, the measures referred to in the first subsection may include an order to allow designated persons access to his property and to enable them to carry out the prescribed measures.

Section 31

If Our Commissioner in the province where the soil has been contaminated or impaired as referred to in section 30 deems that this presents such a danger to the environment or such damage to property is to be feared as to make immediate action essential, he shall take the measures referred to in section 30 for as long as this situation continues and until the Provincial Executive makes use of its powers.

Section 32

1. Unless the urgency of the situation dictates otherwise, the Provincial Executive and Our Commissioner shall not implement section 30 or 31 without having offered the inspector and the Burgomaster of the municipality where the contamination, the impairment or the direct consequences thereof occur the opportunity to submit their recommendations on the matter.
2. Unless the urgency of the situation dictates otherwise, it shall not implement the said sections without having offered the person concerned the opportunity to remedy the contamination, the impairment or the direct consequences thereof.
3. In the decision whereby a measure is taken as referred to in section 30, the Provincial Executive and Our Commissioner shall impose a period of up to one year at the end of which the measure shall lapse. The Provincial Executive may extend such a term by a maximum of one year at a time, if in its view the severity of the contamination, the impairment or the consequences thereof have not or not sufficiently diminished.

Section 33

The Burgomaster of a municipality where the soil has been contaminated or impaired as referred to in section 30 or the direct consequences thereof occur may request the Provincial Executive or Our Commissioner to implement the measures referred to in section 30.

Section 34

A decision taken pursuant to section 30 or 31 shall be communicated forthwith to the person concerned as well as to the Burgomaster of the municipality where the contamination, the impairment or the direct consequences thereof occur and the provincial environment committee, referred to in section 2.41 of the Environment Protection Act.

Section 35

[repealed]

§ 3. Remediation

Section 36

It shall be decreed by, or pursuant to, a General Administrative Order in which cases the functional properties of the soil for man, fauna and flora have been or are in danger of being seriously reduced.

Section 37

1. In a decision within the meaning of section 29, first subsection, in which the Provincial Executive holds that serious contamination exists, the Provincial Executive shall also determine whether the existing or proposed use of the soil or the potential spread of the contamination will pose such risks to people, plants or animals as to necessitate urgent decontamination.
2. If the Provincial Executive holds that risks exist within the meaning of the first subsection, the Provincial Executive shall order decontamination to start before a time of its choosing that shall be as early as possible after the decision referred to in the first subsection takes effect. In the decision the Provincial Executive may specify the latest time for submission of the remediation plan referred to in section 39.
3. In the decision the Provincial Executive may state temporary protective measures which must be taken prior to remediation and also the way in which and how frequently it should receive reports on the implementation of these measures.
4. If the Provincial Executive holds that risks within the meaning of the first subsection do not exist, the Provincial Executive may state in the decision the measures that must be taken to protect the soil and how and when it must receive reports on implementation of the measures. The decision may further stipulate restrictions that must be observed by the owner, leaseholder or user of a site where serious contamination exists.
5. The Provincial Executive may stipulate in the decision which natural or legal person must fulfil an obligation imposed in the decision through application of the second subsection, the third subsection or the first sentence of the fourth subsection.
6. The Provincial Executive shall state in the decision the changes to use of the soil about which it must receive a report.
7. In response to a report within the meaning of the third and fourth subsections, a report within the meaning of the sixth subsection or a change of circumstances, the Provincial Executive may stipulate differently the risks referred to in the first subsection, or stipulate, or stipulate differently, the time of decontamination or the time of submission of the remediation plan referred to in the second subsection.
8. Regulations may be attached to the General Administrative Order referred to in section 36 with regard to the implementation of the first, second and seventh subsections.

Section 38

1. The party who decontaminates the soil shall do so in a way that:

- a. makes the soil at least suitable for the function it will be assigned after decontamination, with the fullest possible limitation of the risks for people, plants or animals resulting from exposure to the contamination;
 - b. limits to the fullest possible extent the spreading of contaminating substances;
 - c. limits to the fullest possible extent the need to take measures and impose restrictions on use of the soil within the meaning of section 39c and section 39d.
2. Under or pursuant to a General Administrative Order, it shall be possible to lay down further rules regarding the provisions of the first subsection.
3. If not contrary to the interests of soil protection, the Provincial Executive may, at the request of the person undertaking remediation, decide that the remediation may take place in stages. At the same time it shall state:
- a. for which stages must a report be sent to the Provincial Executive prior to implementation and what information this report should contain;
 - b. during which stage which temporary protective measures should be taken;
 - c. in which manner and at what time reports should be made to the Provincial Executive on the implementation of temporary protective measures and
 - d. what changes of soil use must be reported to the Provincial Executive.
4. In response to a report within the meaning of the third subsection, under paragraph a or d, or a report within the meaning of the third subsection, under paragraph c, the Provincial Executive may issue instructions for further performance of decontamination, including changes to elements of a remediation plan already approved.

Section 39

1. If an instance of serious contamination is suspected, the report referred to in section 28 shall further be accompanied by, insofar as not already required pursuant to that section, the results of a further examination plus, if an intention exists to decontaminate the soil, the results of the remediation investigation and a remediation plan, which shall include at least:
- a. a more detailed description of how remediation will be carried out, indicating how the provisions of section 38, first subsection, shall be satisfied;
 - b. a description of the intended effects of the remedial measures to be taken, including a more detailed description of the soil quality that will be achieved through remediation;
 - c. if the soil remains contaminated after remediation, a description of the limitations in usage of the soil, or of measures likely to be necessary to protect the soil, as well as an indication of the costs of such measures;
 - d. an estimate of the remediation costs and a statement of funds available for that purpose;
 - e. if the contaminated earth will be excavated or the contaminated ground water will be removed, the destination of such earth or ground water;
 - f. if contaminated earth will be relocated within the contaminated site, a description of the conditions under which such relocation will occur;
 - g. the time remediation is expected to be completed;
 - h. if the contamination may spread and the remedial measures will extend over a period of three years or more:
 - 1°. a statement of the intended interim effects and the times the Provincial Executive will receive written notification of the effects of the measures taken and the extent to which those measures correspond with the intended effects;
 - 2°. a description of another method of achieving the intended effects referred to under paragraph b, if the method described in the remediation plan will not lead to those effects.
- The Provincial Executive may lay down further rules regarding details that must be included in the remediation plan.
2. The remediation plan shall be subject to the approval of the Provincial Executive, which shall approve the plan only if it is of the opinion that the remediation described in the plan satisfies the provisions made under or pursuant to section 38. The Provincial Executive may withhold its approval of the plan if the provisions made under or pursuant to the first subsection have not been met. The Provincial Executive shall decide on this matter within a term of fifteen weeks after submission of the remediation plan. Within six weeks of the date of receipt of the report, the Provincial Executive may extend the aforementioned term by not more than fifteen weeks. Work

on carrying out the remediation plan may start after the Provincial Executive has approved the plan or the plan has received approval by law. Instructions may be attached to such approval. Approval by law shall exist if the Provincial Executive has not taken a decision within the approval term of fifteen weeks or by the end of the extended term. An approval by law shall be deemed a decision within the meaning of section 1.3 of the General Administrative Law Act.

3. If the intention referred to in section 28, first subsection, is such that remediation will not be carried out immediately after the decision referred to in section 29, first subsection, has been made, the Provincial Executive may stipulate that the documents referred to in the first subsection do not need to be submitted as early as at the time of the report.

4. The party who remediates the soil shall report to the Provincial Executive changes to a remediation plan already approved by the Provincial Executive not later than two weeks prior to implementation of the plan. The Provincial Council may lay down further rules for the details that must be provided together with the report. Section 28, seventh subsection, shall apply *mutatis mutandis*.

5. In response to a report within the meaning of the fourth subsection, the Provincial Executive may issue instructions for further performance of remediation, which may include making changes to a remediation plan already approved.

6. This Section shall not apply to a notification within the meaning of Section 28, third subsection.

Section 39a

The party who remediates the soil and the party who actually performs the remediation shall carry out remediation in accordance with the remediation plan approved by the Provincial Executive and the instructions attached to such approval. If the Provincial Executive has issued instructions within the meaning of section 39, fifth subsection, the remediation shall be performed in accordance with those instructions.

Section 39b

1. Under or pursuant to a General Administrative Order, it shall be possible to lay down rules for categories of standard remediations to be designated by ministerial order, consisting of simple, similar remediations of short duration. The remediation may be confined to part of an instance of contamination.

2. A General Administrative Order within the meaning of the first subsection shall in any event include rules for:

- a. the survey that precedes remediation;
- b. details that must accompany the report referred to in the third subsection, and how such details shall be supplied;
- c. details the party who performs the remediation must provide to the Provincial Executive during remediation and how and when such details shall be supplied;
- d. approach to and method of remediation, including the commencement, duration and completion of remediation.

3. A party that intends to perform remediation or activities that will reduce or move soil contamination in accordance with the rules laid down under the first subsection shall report this intention to the Provincial Executive of the province concerned. Section 28, seventh subsection, shall apply *mutatis mutandis*. Rules may be laid down by General Administrative Order for the method and time of such reports and cases may be stated in which such a report shall not be required.

4. Subject to rules laid down pursuant to the first subsection, the remediation may start five weeks after the date of receipt by the Provincial Executive of the report referred to in the third subsection. In circumstances indicated in a General Administrative Order, a term shorter than five weeks may be laid down under such order. The report shall lose its validity if remediation is not started within a term laid down under a General Administrative Order.

5. Sections 28, 29, 37, 39, 39a, 39c, 39d and 40 shall not apply if remediation is reported and subsequently performed in accordance with rules laid down under or pursuant to the first, third and fourth subsections. Derogation from sections 39c and 39d shall be possible in the event of a General Administrative Order within the meaning of the first subsection.

6. On completion of the soil remediation the party that remediated the soil shall submit a written report on it to the Provincial Executive. The report shall require the approval of the Provincial Executive and it shall be approved only if remediation occurred in accordance with the rules laid down by or pursuant to the first, third and fourth subsections. Rules may be laid down by or pursuant to General Administrative Order for the information that must be provided in the report, the way the information must be provided, the time when this must occur and the period within which the report will be approved.

7. Remediation categories may be designated by or pursuant to General Administrative Order for which the report referred to in the first subsection shall not require approval by the Provincial Executive.

8. This Section shall not apply in cases referred to in Section 27, Section 30, first subsection, and Section 43.

Section 39c

1. After performance of remediation or phase of remediation within the meaning of section 38, third subsection, the party who remediated the soil or performed a phase in the remediation shall report such in writing to the Provincial Executive as soon as possible. The report shall include at least:

- a. description of the remedial measures taken;
- b. description of the soil quality after performance of the remediation, including a description of the nature and scale of contamination if any contamination remains in the soil after remediation;
- c. if contaminated earth has been excavated or contaminated ground water has been removed from the soil: the quantity, quality and destination of this earth or ground water;
- d. if earth was brought in for remediation purposes: the quality and origin of the supplied earth;
- e. evaluation of how far the effects of the remedial measures taken correspond with the intended effects referred to in section 39, first subsection, under paragraph b;
- f. If contamination remains in the soil after remediation and only restrictions on the use of the soil are necessary: a description of those restrictions. If after remediation only soil protection measures are necessary: a statement of the necessity of such measures. If after remediation restrictions and measures are both necessary: a statement of the necessity of the restrictions and measures.

2. The report shall be subject to the approval of the Provincial Executive, which shall approve the report only if remediation occurred in accordance with the provisions of or pursuant to Section 38, and if the stated soil usage restrictions are sufficient in its opinion to ensure that contamination remaining after remediation will not degrade the quality of the soil as described in the report under the first subsection, under b. The Provincial Executive may withhold its approval of the report if remediation did not occur in accordance with the remediation plan that was approved by the Provincial Executive, the decision under which the Provincial Executive approved the remediation plan and the conditions attached to that decision, or the instructions given by the Provincial Executive under article 39, fifth subsection. Conditions may be attached to such approval. Section 28, seventh subsection, shall apply mutatis mutandis to approval of the report.

3. The Provincial Executive may lay down further rules for details that must be included in the report.

4. In the decision approving the written report, the Provincial Executive may stipulate changes in use of the soil that must be made known to the Provincial Executive. In response to such a notification the Provincial Executive may decide that additional remediation is required.

Section 39d

1. If contamination remains in the soil after remediation and the report referred to in section 39c states the need for measures within the meaning of section 39c, first subsection, under paragraph f, the party who performed the remediation shall submit an aftercare plan together with or as soon as possible after submission of the said report, describing such measures. The after-care plan shall further include an estimate of the costs of the measures and, insofar as restrictions are necessary on use of the soil in addition to measures, a description of such restrictions.

2. The measures may include:

a. regular inspection of facilities provided for performance of remediation and times at which interim reports on this matter will be submitted to the competent authority;

b. upkeep, maintenance and if necessary repair, improvement or replacement of such facilities.

3. The aftercare plan shall be subject to the approval of the Provincial Executive, which shall approve the plan only if in its opinion the soil usage restrictions or measures stated in the plan are sufficient to ensure that contamination remaining after remediation will not impair soil quality described in the report pursuant to section 39c, first subsection, under paragraph b. Work on carrying out the aftercare plan may start after the Provincial Executive has approved the plan or the plan has received approval by law. Instructions may be attached to such approval. Approval by law shall exist if the Provincial Executive has not taken a decision within a term of six months after receiving the aftercare plan. An approval by law shall be deemed a decision within the meaning of section 1.3 of the General Administrative Law Act.

Section 28, seventh subsection, shall apply mutatis mutandis to approval of the aftercare plan.

4. Section 39c, fourth subsection, shall apply mutatis mutandis to approval of the after-care plan.

5. The Provincial Executive may lay down further rules for the details that must be included in the aftercare plan.

Section 39e

1. The owner, long-term leaseholder or user of the land where contamination remains in the soil after remediation shall comply with the soil usage restrictions as described in the written report referred to in Section 39c, first subsection, or the after-care plan referred to in article 39d, first subsection.

2. The measures described in the aftercare plan shall be carried out by the party who remediated the soil or by the party duly designated for that purpose in the aftercare plan approved by the Provincial Executive. The measures shall be carried out in accordance with the aftercare plan approved by the Provincial Executive and in accordance with the instructions attached to such approval.

Section 39f

1. The Provincial Executive may attach to its approval of the remediation plan referred to in section 39, second subsection, or to its approval of the aftercare plan referred to in section 39d, third subsection, the requirement that the party who performs the soil remediation shall furnish financial security for the taking of measures to carry out the remediation plan, or measures within the meaning of section 39d, first subsection. In doing so the Provincial Executive shall in any event state the maximum amount of the security that shall be kept in place.

2. Rules may be laid down by General Administrative Order for cases and ways in which and the manner in which financial security shall be furnished and kept in place. This order may stipulate that the amount owed for failure to meet obligations for which financial security was provided may be collected by the Provincial Executive by means of an enforcement order.

Section 40

1. Notwithstanding sections 28 and 39, and if not contrary to the interests of protection of the soil, the Provincial Executive may stipulate that it shall be sufficient to provide the details stated below in a report within the meaning of section 28,:

a. the results of a further assessment of only part of the soil contamination, and

b. a remediation plan for the part referred to under a.

2. The documents referred to in the first subsection shall require the approval of the Provincial Executive. Section 39, second subsection, shall apply.

Section 41

Burgomaster and Aldermen shall give the Provincial Executive a statement of the sites for

investigation and seriously contaminated sites known to them and situated within their boundaries. Burgomaster and Alderman shall inform the person on whose property such a site occurs as quickly as possible.

Section 42

If:

- a. a seriously contaminated site is found on the same territory as another seriously contaminated site or
- b. seriously contaminated sites occur within bordering territories and in the opinion of the Provincial Executive there is sufficient connection between the sites referred to under a or under b as regards the way in which the contamination can be tackled, the Provincial Executive shall lay down that remediation of both sites shall be undertaken at the same time.

Section 43

1. The Provincial Executive, with regard to the territory on which the contamination is situated or where the direct consequences thereof occur, may:
 - a. in a site for investigation, order a site assessment to be carried out in a prescribed manner or
 - b. in a seriously contaminated site, order temporary protective measures to be taken.
2. The orders referred to in the first subsection may be given only to the person who has real or personal rights to said property and at the same time uses it or has used it to practise a business.
3. The Provincial Executive may also order:
 - a. the person whose acts have caused a site for investigation or a seriously contaminated site, or
 - b. the owner or long leaseholder of the property on which the contamination is situated or the consequences thereof occur,to carry out site assessment in a prescribed manner thereto indicated or, in the event of serious contamination, to carry out remedial investigation or to take remedial action if it has been stipulated in a decision within the meaning of section 37, first subsection, that it is urgently necessary to perform remediation, or to take measures required under section 37, fourth subsection.
4. The order to take remedial action referred to in the third subsection may also demand that protective measures be taken urgently or that a remediation plan be formulated.
5. The order to take remedial action referred to in the third subsection may not be given if the contaminated site concerned has been remedied in accordance with section 38, first subsection

Section 44

[Repealed.]

Section 45

1. If the Provincial Executive intends to give an order pursuant to section 43 as a result of a notification as referred to in section 28, it shall give notice of this to the person who has made the notification.
2. The Provincial Executive shall not give an order by virtue of section 43 until after the Burgomaster and Aldermen of the municipality concerned and the inspector have been given the opportunity to proffer their recommendation.
3. The Provincial Executive shall not give an order by virtue of section 43 without having given the person concerned the opportunity to carry out site assessment or remedial investigation, to take remedial action, to take temporary protective measures or to draw up a remediation plan within a period to be set after consultation with the person concerned, or to take the measures required under section 37, fourth subsection.
4. In such a case as that referred to in the third subsection, the Provincial Executive may give directions with regard to the way in which this should be carried out.
5. If the Provincial Executive of another province also intends to give an order to the person concerned, at the request of the person concerned the Provincial Executive shall also involve the Executive of the other province in the consultation referred to in the third subsection and in

establishing the period within which the site concerned must be investigated or remedied in pursuance of a given order

6. If the Provincial Executive gives an order on the grounds of section 43 with regard to a site for investigation or a seriously contaminated site not situated on the property of the person to whom the order is given, it shall not do so until after consultation with the person on whose property said investigation or seriously contaminated site occurs.

Section 46

1. An order to take remedial action as referred to in section 43, third subsection, unless it relates to temporary protective measures, shall not be given to the owner or long leaseholder of the property, if this person on the occasion of the consultation with him pursuant to section 45, third subsection, shows that he:

- a. had no sustainable legal relationship with the polluter or polluters during the period in which the contamination was caused;
- b. has had no direct or indirect involvement in the cause of the contamination, and
- c. was not aware or in all fairness could not have been aware of the contamination at the moment of acquiring the title to the property.

2. If an owner or long leaseholder:

- a. does not comply with the provisions of the first subsection under a, but did not in the main cause the contamination or
- b. does not comply with the provisions of the first subsection under b, but did not in the main cause the contamination,

yet otherwise complies with the provisions of the first subsection, the Provincial Executive shall not give him an order, if it is mutually agreed that he shall pay them an amount equal to the costs of remedying that part of the contamination in which the polluter or he has been involved.

3. The second subsection accordingly applies to any person whose acts have contributed to a seriously contaminated site but did not in the main cause the contamination.

Section 47

1. An order by virtue of section 43 shall be communicated to the Burgomaster and Aldermen of the municipality concerned and to the inspector.

2. In such a case as referred to in section 45, sixth subsection, the order shall also be communicated to the person on whose property said investigation or seriously contaminated site occurs.

Section 48

The Provincial Executive is responsible for preliminary investigation and site assessment as well as remedial investigation and remediation of serious contamination located within the province insofar as this is not provided for in the manner referred to in sections 13, 27, 28, 43 to 47 inclusive, 55b or 72.

Section 49

1. If necessary to enable a further assessment, remediation study, remediation, measures referred to in Section 37, third and fourth subsections, or measures referred to in Section 39e, second subsection, the Provincial Executive may take measures within the meaning of Section 30, second, third and fourth subsections. The measures may additionally concern the taking of measures within the meaning of Section 37, third and fourth subsections.

2. For the purpose of making a preliminary investigation, the Provincial Executive may furthermore take such a measure as referred to in section 30, third subsection, under a, with regard to any person on whose property that investigation must take place.

3. With regard to cases as referred to in the first and second subsections, the investigation or remediation of which shall be carried out by the Burgomaster and Aldermen, the powers assigned to the Provincial Executive by virtue of those subsections shall be assigned to the Burgomaster and Aldermen. Section 55 applies accordingly to the Burgomaster and Aldermen.

4. Section 47, first subsection, accordingly applies with regard to the exercise of the powers referred to in the first, second and third subsection.

Section 50

1. At the request of the Provincial Executive on behalf of a public authority designated in that request, Our Minister, if it is necessary in order to enable the remediation of a seriously contaminated site, may requisition:
 - a. the title or use of immovable property lying within the territory where the cause of the contamination is situated or where the contamination or the direct consequences thereof occur;
 - b. limited rights, governing the property under a, or the use thereof.
2. Before the Provincial Executive makes a request such as that referred to in the first subsection, it shall attempt to acquire the property by amicable agreement. With its request it shall include a report on the consultation thereon with the various entitled parties. Our Minister shall not exercise the powers assigned to him in the first subsection until he has notified the States General of his intention in this regard; he shall thereby submit the report referred to in the second sentence.
3. The Requisition Act shall apply, notwithstanding that section 3, 3a, 5, 9, third subsection, and 13, third subsection, second sentence, shall not apply.
4. The contamination of the soil is not to be taken into account when determining indemnification, except where the damage is attributed to the person entitled to indemnification or where that person will unjustifiably be enriched from such indemnification.
5. The authority on whose behalf the property has been requisitioned shall pay to the entitled party with whom agreement has not been reached on an amount for indemnification in the consultation in accordance with section 17 of the Requisition Act, or who has not taken part in that consultation, an advance on that indemnification amounting to 90 per cent of the amount offered to him as indemnification.

Section 51

1. The Provincial Executive may invite the Burgomaster and Aldermen to grant a temporary exemption from a local development plan, pursuant to section 3.22, first subsection of the Physical Planning Act, for a period to be decided but in any case not exceeding five years, in the event that remediation requires storage of soil or another material for that period contrary to the provisions of that plan. If this invitation is not acted upon within ten weeks, the exemption may be granted by the Provincial Executive.
2. The provisions laid down in, or pursuant to, the Physical Planning Act, sections 3.22, third, fourth or fifth subsection, accordingly apply.

Section 52 **[Repealed.]**

Section 53

1. Burgomaster and Aldermen may request the Provincial Executive to make them responsible for sites for investigation, remedial investigation or remediation in the seriously contaminated site, insofar as such investigation or remediation will be carried out by or on behalf of the Provincial Executive within the boundaries of their municipality.
2. The Provincial Executive shall make a decision on a request as referred to in the first subsection within four weeks of its receipt. The inspector shall be notified of their decision.

Section 54 **[Repealed.]**

Section 55

1. A decision within the meaning of section 29, first subsection, in conjunction with section 37, first subsection, section 39b in conjunction with section 14 of the Ministerial Order similar remediations, section 39c, second subsection, and section 39d, third subsection, and of orders within the meaning of the sections 30, 43 and 49 give, referring to an appended cadastral map,

the cadastral specification of the real estate with regard of which from the decision or the order a public restriction as referred to section 1, paragraph a, of the Recognizability Public Restrictions Real Estate Act result, or with regard of which with the decision or the order such restriction will be amended or expired.

2. Rules may be laid down by Ministerial Order concerning the implementation of the first subsection.

§ 3a. Special provisions for decontamination of industrial sites

Section 55a

For the purposes of this section and pursuant provisions, an industrial site means premises within the meaning of section 1, first subsection, of the Land Registry Act on which business activities are carried out by an enterprise within the meaning of the Income Tax Act 2001 or the Corporation Tax Act 1969, insofar as such enterprise does not operate in the agricultural sector, as contained in the Community guidelines for state aid for the agricultural sector dated February 1, 2000 (OJ C28), or superseding equivalent legislation.

Section 55ab [to enter into force at a time yet to be determined]

1. A further contamination assessment shall be made by the owner of a business site or, if subject to a long lease, the leaseholder of a business site identified by an exploratory survey or other field study into soil quality as being contaminated, or in the event of occurrence of direct consequences of contamination if the site falls into a category of business sites designated by or pursuant to General Administrative Order where an instance of serious contamination is likely to have occurred and urgent remediation is required within the meaning of Section 37, first subsection.

2. The further assessment shall be performed within six months of the date of this Section entering into force and submitted immediately to the Provincial Executive.

3. If ownership or leasehold is transferred, the transferring owner or leaseholder shall remain under obligation to conduct the further assessment and the obligation shall rest jointly on the succeeding owner or leaseholder.

Section 55b

1. The owner of an industrial site or, if the industrial site is subject to a long lease, the leaseholder of an industrial site where an instance of serious contamination has occurred must decontaminate the soil if a decision within the meaning of section 37, first subsection, prescribes early decontamination. Decontamination shall start not later than at the time specified in the decision. The owner or leaseholder shall take temporary safety measures within the meaning of section 37, third subsection, or measures within the meaning of section 37, fourth subsection, and shall report on the implementation of such measures, insofar as such is required under the decision referred to in section 37, first subsection.

2. Section 43, third subsection, shall not apply insofar as it concerns the possibility of the Provincial Executive to order the owner or leaseholder of an industrial site within the meaning of the first subsection to decontaminate the soil, take temporary safety measures or implement measures required under section 37, fourth subsection.

3. If ownership or the lease is transferred, the obligation to decontaminate shall continue to rest upon the owner or leaseholder who transferred the ownership or lease until such time as the succeeding owner or leaseholder has furnished, and the Provincial Executive has duly accepted, financial security for the decontamination costs. Section 39f, second subsection, shall apply.

§ 3b. Special provisions applicable to an area-dedicated approach

Section 55c

1. At the request of an administrative body or on its own authority, the Provincial Executive may designate an area where an area-dedicated approach shall be adopted.

2. An area-dedicated approach shall be adopted for the purpose of:
 - a. avoiding to the fullest possible extent the risks of contamination spreading outside the designated area, and
 - b. protecting existing and envisaged functions of, in and on soil within the designated area.

3. The power referred to in the first subsection may be exercised if contamination cases in the deeper groundwater of an area are mixed or capable of being mixed to such an extent that in the opinion of the Provincial Executive the cases cannot be distinguished or demarcated from each other for the purposes of this Act, or if contamination cases in the deeper groundwater of an area are, in the opinion of the Provincial Executive, capable of significantly influencing each other if approached separately and, in the opinion of the Provincial Executive:

- a. desirable spatial developments and other plans for development of the area are being obstructed as a result of this;
- b. a likelihood exists of measures for preventing the spreading of contamination outside the area not being carried out or not being carried out efficiently or cost effectively, or
- c. other exceptional circumstances make an area-dedicated approach desirable.

Section 55d

1. An area-dedicated approach shall be carried out in accordance with a plan adopted and approved for that purpose. The plan shall be carried out by the administrative body that adopted it.

2. Section 29 and paragraphs 3 and 3a of Chapter IV shall not apply to remediation of contaminations in deeper groundwater that have been indicated in the plan in accordance with Section 55g.

Section 55e

The plan referred to in Section 55d, first subsection, shall be adopted by:

- a. an administrative body that intends to make a request within the meaning of Section 55c, first subsection, or
- b. the Provincial Executive, if it intends to take a decision on its own authority, within the meaning of Section 55c, first subsection.

2. The plan shall contain at least the following information:

- a. the objectives of the area-dedicated approach within the managed area and the measures to be taken to fulfil them;
- b. the period of time within which those objectives will be fulfilled;
- c. a description of the survey conducted with a view to preparing the plan;
- d. the way the plan fits in with the relevant spatial and water plans;
- e. an estimate of the costs of remediation and an overview of the funds available for that purpose;
- f. the way obstructions to an effective area-dedicated approach will be removed, and how cooperation with the Provincial Executive will take place if it does not adopt the plan, and
- g. the contaminations present in the deeper groundwater referred to in Section 55g.

3. The plan shall take into account the consequences of the area-dedicated approach for sites outside the area and if necessary provisions shall be included for monitoring any consequences that occur for those sites and for measures for subsequent intervention.

4. Part 3.4 of the General Administrative Law Act shall apply to preparation of the plan.

5. If a request is made within the meaning of Section 55c, first subsection, the adopted plan referred to in the first subsection, under a, shall be submitted with the request to the Provincial Executive.

Section 55f

A plan not adopted by the Provincial Executive shall require its approval. The Provincial Executive may withhold approval of the plan if it exercises its authority within the meaning of Section 55c, first subsection, or if in its opinion the area-dedicated approach is unlikely to fulfil the objectives mentioned in Section 55c, second subsection.

Section 55g

1. In the case of contamination that is to be remediated as part of an area-dedicated approach and that was named in the plan that was adopted in accordance with Section 55e and has become irrevocable, the administrative body that adopted the plan referred to in Section 55d, first subsection, shall irrevocably take the place of the party to whom an order may be given under Section 43 in respect of the contamination concerned, or who is subject to an obligation within the meaning of Section 55b.

2. The administrative body that adopted the plan referred to in Section 55d, first subsection, may add contaminations to the adopted plan. Section 55e, fourth subsection, and Section 55f shall not apply to these changes. The first subsection shall apply *mutatis mutandis* to such contamination as soon as the amendment decision has become irrevocable.

3. The administrative body that adopts the plan shall inform the Provincial Executive of an amendment of the plan within the meaning of the second subsection.

Section 55h

Rules may be laid down by or pursuant to General Administrative Order for:

- a. information to be submitted with a request within the meaning of Section 55c, first subsection;
- b. performance of a soil survey for preparation of a plan within the meaning of Section 55d, first subsection;
- c. subjects that must always be included in the plan;
- d. monitoring and evaluation of the progress of an area-dedicated approach.

Section 55i

If more than one administrative body holds competence in the area under Section 88, first or seventh subsection, or the Sections mentioned in the first subsection, the powers of the Provincial Executive referred to in this paragraph shall be exercised by:

- a. the Provincial Executive of the province in which the largest part of the area is located, if the area is located in more than one province;
- b. the Burgomaster and Aldermen of the municipality that is subject to Section 88, first subsection, if the Provincial Executive is the competent authority for a part of the area and the largest part of the area is located in that municipality;
- c. the Provincial Executive in all other cross-boundary situations.

§ 4. Compulsory purchase by municipalities in case of seriously contaminated sites

Section 56

In these sections reasonable price shall be taken to mean: a price that would be obtained on a sale in free commercial trade between reasonable parties, whereby the contamination of the soil would not be taken into account.

Section 57

1. A municipality shall be obliged to purchase the land, the dwelling standing thereon or rights relating to the ground or dwelling, if:
 - a. the dwelling is located within the boundaries of the municipality on land that contains a seriously contaminated site or makes up part of a seriously contaminated site;
 - b. it has been determined under section 37, first subsection, that the present or intended use of the soil or the possible spread of contamination will pose such risks to people, plants or animals that early decontamination is necessary, and
 - c. that land has been sold for housing or has been long leased out after the contamination was caused.
2. The purchase shall be made at a reasonable price.

Section 58

The obligation shall stand only if a request to purchase is made by:

- a. the owner of the land or the dwelling;
- b. a person who holds the long lease, building and planting rights, usufruct or the right to use the dwelling, to which the land or the dwelling is subject.

Section 59

1. The obligation shall stand only towards an entitled party who can show that he:
 - a. occupies the dwelling;
 - b. had no sustainable legal relationship with the polluter or polluters during the period in which the contamination was caused;
 - c. has had no direct or indirect involvement in the cause of the contamination;
 - d. was not aware or in all fairness could not have been aware of the contamination at the moment of acquiring the title to the property.
2. Furthermore the holder of the rights must show that it is not possible to sell the dwelling at a reasonable price in free commercial trade. He shall in any event be able to demonstrate that such is the case if he has offered the dwelling for sale at a reasonable price three times in a daily newspaper to no avail during a period of six months from determination pursuant to section 37, first subsection, that the existing or intended use of the soil or the possible spread of contamination will pose such risks to people, plants or animals as to require early decontamination.

Section 60

The municipality is not obliged to purchase, if:

- a. the contamination concerns only the groundwater or
- b. the Provincial Executive has made a request as referred to in section 50, first subsection, or anticipating this, has come to an amicable settlement as referred to in section 50, second subsection.

Section 61

Section 75, third subsection, does not apply to:

- a. the holder of the rights referred to in section 59
- b. the municipality, which purchases the land, the dwelling or any right relating to the land or the dwelling;
- c. the person to whom the municipality sells the land, the dwelling or the title to the land or the dwelling unless he occupies or has been occupying this dwelling.

Section 62

Burgomaster and Aldermen shall come to a decision within thirteen weeks of a request. They shall send a transcript of the request and their decision thereon to the Provincial Executive.

Section 63

Any disputes concerning the municipality's decision on the request or with regard to the purchase price shall come under the cognisance of the court in whose jurisdiction the dwelling is situated.

§ 5. Special regulations applying to bodies of surface water

Section 63a

1. For the purposes of this paragraph, 'manager' shall have the same meaning as assigned under Section 1.1 of the Water Act.

2. For the purposes of this paragraph, 'surface water body' shall have the same meaning as assigned under Section 1.1 of the Water Act.

Section 63b

If soil contamination or degradation within the meaning of Section 13 also affects the soil or bank of a surface water body, the Provincial Executive shall consult on this matter with the manager before exercising its powers.

Section 63c

1. Notwithstanding Section 99, fourth subsection, the soil or bank of a surface water body shall also be subject to Section 28, Section 28a and Section 29, paragraphs 3 and 3a of Chapter IV and Section 75, if:

- a. a case of serious contamination also affects such soil or banks;
- b. it has been decided in accordance with Section 37, first subsection, that urgent remediation is required in the case, and
- c. the source of the contamination or degradation is located outside the soil or bank.

2. In a case within the meaning of the first subsection, the Provincial Executive shall consult with the manager before exercising its powers.

CHAPTER V. DISPENSATION AND EXEMPTION

Section 64

1. In agreement with Our Minister of Agriculture, Nature and Food Quality and after consulting the Technical Soil Committee, Our Minister may by means of a Ministerial Order exempt certain action categories from regulations laid down pursuant to Chapter III, insofar as this does not conflict with the interests of soil protection.

2. A dispensation shall be made subject to regulations necessary in the interests of soil protection.

3. If the rules referred to in the first subsection, laid down under chapter III, concern acts for the purpose of fertilising the soil or improving the structure of the soil by adding materials, it shall be possible, notwithstanding the first subsection, for Our Minister of Agriculture, Nature and Food Quality to grant exemption from these rules, in agreement with Our Minister and after hearing the Technical Soil Committee, insofar as not otherwise dictated by the interests of protecting the soil. The second subsection shall apply *mutatis mutandis*.

Section 65

1. It may be laid down in a General Administrative Order as referred to in sections 6 to 11 inclusive that government bodies indicated in the said Order may upon request, in cases not conflicting with the interests of soil protection, grant exemption from prohibitions and obligations indicated in the Order. If an organ of State has not been appointed as the government authority, a

provincial environmental ordinance laid down pursuant to section 1.2 of the Environmental Protection Act shall be observed when a decision on exemption is taken.

2. Authority as referred to in the first subsection is not applicable to establishments requiring a permit as referred to in section 2.1, first subsection, under e, of the General Provisions Act Environmental Law.

3. An exemption may be granted subject to restrictions; regulations can be linked to exemptions. Restrictions and regulations are imposed in the interests of soil protection.

4. With a view to the observance of international obligations regulations may be laid down by General Administrative Order as referred to in the first subsection with respect to cases in which exemption may be granted and with respect to the regulations or restrictions which shall in any case be imposed in respect of an exemption.

5. Part 3.4 of the General Administrative Law Act and Part 13.2 of the Environmental Protection Act shall apply to preparation of a decision on a request to grant exemption, unless otherwise stipulated in a General Administrative Order as referred to in sections 6 to 11 inclusive.

6. Section 8, third subsection accordingly supplies, if the exemption is related to a geothermal heating system.

Section 66

1. Restrictions under which an exemption is granted, and regulations associated therewith, may in the interests of soil protection be amended, supplemented or withdrawn. If no restrictions or regulations are imposed, this may subsequently be done in the said interests.

2. An exemption may be withdrawn wholly or in part if:

- a. a regulation associated with the exemption is not observed;
- b. this is necessary in the interests of soil protection.

3. Part 3.4 of the General Administrative Law Act and part 13.2 of the Environmental Protection Act shall apply to preparation of a decision on a request from the holder of an exemption to amend the conditions or restrictions on which it was granted and to preparation of other decisions under the first subsection and decisions under the second subsection under paragraph b, unless otherwise stipulated in a General Administrative Order as referred to in sections 6 to 11 inclusive

4. Section 8, third subsection accordingly supplies, if the exemption is related to a geothermal heating system.

Section 67

1. The government body which pursuant to section 65, subsection 1, is or would be authorised to decide on a request for an exemption shall enable the Inspector to submit to the said body his recommendations with regard to the request for exemption and with regard to the draft decision in respect thereof, as well as with regard to the intention of making a decision and a draft decision pursuant to section 66, other than at the request of the holder of the exemption. Other government bodies may be appointed by general administrative order who, if the request concerns a subject indicated therein, shall be enabled to submit recommendations in accordance with the first sentence of the present subsection.

2. The Provincial Executive and the Municipal Executive shall send to Our Minister a copy of a decision taken pursuant to section 65 or section 66.

Section 68

If implementation of section 65, subsection 1, has taken place, the government bodies indicated pursuant to the said subsection shall keep a register containing a record of the decisions taken with respect to exemptions.

CHAPTER VI. SURVEYS IN THE INTERESTS OF SOIL PROTECTION

Section 69

1. It may be laid down by General Administrative Order that:

a. when surveys are conducted on behalf of a public authority in the interests of soil protection, the regulations laid down in the said general administrative order shall be duly observed;

b. Burgomaster and Aldermen, the Provincial Executive, designated in the said Order, bodies being legal entities as referred to in the Joint Regulations Act or other public bodies shall be obliged to conduct surveys as referred to under a above or to lend their assistance to such surveys in the territory under their authority, such with due observance of the regulations laid down in the said general administrative order.

2. Regulations as referred to in subsection 1 above, under a and b, may, inter alia, relate to:

a. the manner in which the survey is to be conducted;

b. the frequency of the survey;

c. the density of the network of measuring points to be used for the purposes of the survey;

d. the processing and recording of the results of the survey;

e. making available results and furnishing information in respect thereof to the government bodies designated in the said general administrative order.

Section 70

It may be determined by General Administrative Order that in cases specified in such order administrative bodies named in such order may, if they consider a local investigation necessary in the interests of protecting the soil, impose on parties with legal rights to the part of the soil where the investigation will be conducted the obligation to allow performance of the investigation and the fitting, presence, maintenance, use and removal of the means necessary for such investigation, without prejudice to the right to compensation of such parties with legal rights.

Section 71

1. It may be laid down by General Administrative Order as referred to in sections 6 to 11 inclusive that any person who pursuant to the said Order is required to conduct a survey in a manner designated therein on or in a part of the soil in respect whereof he lacks the necessary authority may request a government body designated in the said general administrative order to impose on the parties entitled an obligation as referred to in section 70.

2. In the event of implementation of subsection 1 above the General Administrative Order shall also state what information shall be submitted with a request as referred to in subsection 1.

3. When imposing the obligation the government body concerned shall lay down such conditions that the compensation of the rightful claimants for damage is adequately ensured.

Section 72

It may be laid down by General Administrative Order that in specified categories of cases, the party with title to a property where an act has or will be carried out, owing to which the soil can be contaminated or impaired shall be obliged to carry out the investigation indicated by said Order with regard to the quality of the soil, as well as to submit the results of that investigation to the government bodies designated by the Order. Section 71 shall accordingly apply.

CHAPTER VII. FINANCIAL PROVISIONS

§ 1. Damages

Section 73

Damage as a result of an investigation as referred to in section 70 or section 71, shall be indemnified by the authority, which has imposed the obligation to make that investigation, or by the person who has imposed such an obligation to make such an investigation. The claim for indemnification shall come under the cognisance of the Court in whose jurisdiction the investigation took place.

Section 74

1. Damage resulting from an order as referred to in section 30, third or fourth subsection, or section 49 in conjunction with section 30, third or fourth subsection shall be indemnified by the Provincial Executive or the Burgomaster and Aldermen who have given that order.
2. If the Provincial Executive or Burgomaster and Aldermen could have given an order as referred to in section 30, third or fourth subsection, or section 49 in conjunction with section 30, third or fourth subsection but have refrained from doing so in connection with the voluntary co-operation of the person on whom the order would have been served, the first subsection shall apply accordingly.
3. No indemnification for damages shall be made insofar as the damage is attributed to the person entitled to indemnification, or insofar as this person shall unjustifiably be enriched from this indemnification.
4. The claim for indemnification shall come under the cognisance of the court in whose jurisdiction the property concerned is situated.

§ 2. Remediation Costs

Section 75

1. The State may - subject to the Court's mitigation - recover its costs of investigation in sites for investigation and remedial investigation and remediation in seriously contaminated sites from the person, whose unlawful act has caused the contamination or impairment of the soil in the case in question and who in this or any way other than by contract is liable under civil law to some public authority for the consequences thereof.
2. The State may, if costs of a case as referred to in the first subsection, are incurred in part by a province or a municipality, also recover these costs in accordance with that subsection.
3. The State may, as referred to in the first subsection, recover its costs in accordance with the rules concerning unjustified enrichment, from anyone who has unjustifiably benefited from that investigation or that remediation. The second subsection shall apply accordingly.
4. The powers referred to in the first and third subsection are vested in the province or the municipality in those cases in which it entirely incurs the costs referred to in the first subsection, as well as in cases in which the State does not use this power, as far as it incurs such costs.
5. In cases in which the person who has caused the contamination or impairment is not subject to the provisions of the first subsection because he has not acted unlawfully towards any public authority, the costs referred to in that subsection can nevertheless be recovered by the State, if the following conditions apply:
 - a. the polluter at the moment at which the contamination or impairment was caused by his action knew that serious hazard was connected with the substances which caused the contamination or impairment, or should have known this hazard, and
 - b. the polluter with these serious hazards in mind has culpably not refrained from contaminating or impairing actions, while, if these actions have taken place in industry or trade, with regard to serious culpability the following must be taken into account:
 - 1° common business practice among comparable businesses at that time, and
 - 2° the existing alternatives reasonably applicable to the polluter at that time.
6. Our Minister may mandate the Provincial Executive or Burgomaster and Aldermen to waive the right to recover costs payable by central government within the meaning of the first subsection in accordance with the first or third subsection.

§ 3. Contribution for investigation and decontamination of instances of contamination

§ 3.1 [Repealed]

Section 76 to 76iii inclusive
[Repealed].

§ 3.2. *Provision of subsidies to third parties*

Section 76j

1. Our Minister may provide a subsidy for activities designated by or pursuant to a General Administrative Order or by Ministerial Order for investigation and decontamination of instances of serious contamination.
2. Rules may in any event be laid down by or pursuant to a General Administrative Order or by Ministerial Order for:
 - a. criteria for providing subsidies;
 - b. period of time for which a subsidy will be provided;
 - c. conditions attached to the provision of a subsidy;
 - d. application for and decision-making on a subsidy;
 - e. obligations resting upon the recipient of the subsidy;
 - f. amount of the subsidy and the way such amount shall be determined;
 - g. payment of the subsidy and provision of advances.
3. Each year Our Minister may determine by Ministerial Order the ceilings for subsidies for the different activities for which a subsidy may be granted. He shall further determine the method of distributing the available amount.
4. Our Minister may delegate to other administrative bodies the implementation of a General Administrative Order or a Ministerial Order within the meaning of the first subsection, including decisions taken on the basis of such rules.

Section 76k

1. The persons designated by Our Minister under section 76l, first subsection, shall hold authority to require the requester of a subsidy to provide information. Section 5:13, Section 5:15, insofar as it concerns places used by the requester, and Section 5:17 of the General Administrative Law Act shall apply mutatis mutandis.
2. A request may be rejected if the requester fails to provide cooperation in the exercise of the powers referred to in the first subsection.

Section 76l

1. The persons designated by Our Minister under a decree shall be charged with maintaining supervision to ensure compliance with the obligations imposed on the subsidy recipient.
2. The supervisory body shall not possess the powers referred to in sections 5:18 and 5:19 of the General Administrative Law Act.
3. A decision within the meaning of the first subsection shall be announced by its publication in the Government Gazette.
4. Subsidies under this Act shall be provided subject to the obligation that the subsidy recipient shall afford a supervisory body all cooperation that it may reasonably require in the exercise of its powers.

Section 77
[Repealed.]

§ 3.4 *Other provisions*

Section 78 to section 81a inclusive
[Repealed.]

Section 78 to section 81a inclusive

[Repealed.]

Section 82

1. The costs relating to the obligation referred to in section 57 shall be entirely for the account of the municipality concerned.
2. If a municipality is involved, or by virtue of the first subsection becomes involved in a case such as that referred to in section 12 of the Municipal Finance Act, Our Minister may in agreement with Our Ministers of the Interior and Kingdom Relations and of Finance at the request of Burgomaster and Aldermen set an amount for the costs referred to in the first subsection.
3. The Provincial Executive shall provide to the municipality the contribution due under the second subsection.
4. Rules may be laid down by or pursuant to a General Administrative Order for the costs for which a contribution within the meaning of the second subsection may be provided.

Section 83

At the request of the Burgomaster and Aldermen the Provincial Executive shall grant to the municipality an amount equal to 22.5 per cent of the purchase price determined in accordance with section 57, if that municipality can show that it:

- a. had no sustainable legal relationship with the polluter or polluters during the period in which the contamination was caused;
- b. had no direct or indirect involvement in the cause of the contamination and
- c. was not aware or in all fairness could not have been aware of the contamination at the moment of acquiring the title to the property.

Section 84 to 86 inclusive

[Repealed.]

§ 4 Other financial provisions

Section 86a

No duties shall be levied with regard to orders pursuant to this act.

CHAPTER VIII. APPEAL TO ADMINISTRATIVE COURT

Section 87

[Repealed.]

CHAPTER IX. FURTHER PROVISIONS

Section 87a

1. At the request of our Minister the Provincial Executive makes a report of:
 - a. the implementation of this Act in its territory and
 - b. the progress of implementation of the soil remediation operation.
2. Rules may be laid down by or pursuant to a General Administrative Order for the details referred to in the first subsection, and also regarding the details to be provided in the report.
3. In response to the report mentioned in the first subsection, a meeting may take place between Our Minister and the Provincial Executive about the implementation of the Act.

4. The Burgomaster and Aldermen of municipalities not named in section 88, first subsection, or pursuant to the seventh subsection, shall provide the Provincial Executive with the details referred to in the second subsection with regard to the territory of their municipality.

Section 88

1. The municipalities of Amsterdam, The Hague, Rotterdam and Utrecht shall rank as the equal of a province for the purposes of:

a. section 27 to 34 inclusive, 37, 38 third and fourth subsection, 39, 39a, 39b, 39c, 39d, third, fourth and fifth section, 39f, first section, 40, 42, 43 to 51 inclusive, 55, 55ab, second subsection, 55b, third subsection, 55c, first and third subsection, 55e, first, second subsection paragraph f, and fifth subsection, 55f, 55g, third subsection, 63c, second subsection, 74 to 76l inclusive, 83, 87a, and 92b;

b. section 4.14, first subsection and second subsection, paragraph a, subparagraph 1°, and in paragraph b, insofar as activities referred to in paragraph a, under 1°, are concerned, and section 4.15, third subsection, of the Environmental Protection Act.

2. A plus region within the meaning of section 104 of the Joint Regulations Act that includes the municipality or municipalities of Amsterdam, Arnhem and Nijmegen, Eindhoven and Helmond, Enschede and Hengelo, The Hague, Rotterdam or Utrecht shall be deemed equivalent to a province for the application of the sections referred to in the first subsection, as well as for application of sections 41, 51, and 53. This equivalence shall be applied:

a. to locations for which the plus region receives funding directly from central government for sites for investigation, remedial investigation or remediation in the seriously contaminated site, and

b. if the powers referred to in those sections have been transferred to the plus region under a General Administrative Order.

3. Sections 41, 51, and 53 shall not apply to cases where the equal ranking referred to in the first subsection applies.

4. In cases where the equivalence referred to in the second subsection applies, the provisions made in the first subsection shall not apply to a municipality located in the plus region concerned.

5. Without prejudice to the third to fourth subsections inclusive, in instances referred to in the first and second subsections:

a. the council or general management of the plus region shall take the place of the Provincial Executive;

b. the Burgomaster and Aldermen or the executive of the plus region shall take the place of the Provincial Executive, and

c. the Burgomaster or chairman of the plus region shall take the place of Our Commissioner in the province.

6. In cases referred to in the fifth subsection:

a. the Provincial Executive shall also be afforded an opportunity to provide advice in accordance with section 32;

b. the Provincial Executive may also submit a request within the meaning of section 33;

c. a decision that involves a decision on such a request shall also be sent to the Provincial Executive;

d. the contents of a decision given under section 30 or section 31 shall also be made known without delay to the Provincial Executive and a copy of the decision shall also be sent to the Provincial Executive.

7. The first subsection may be declared applicable *mutatis mutandis* under a General Administrative Order to municipalities other than those mentioned in the first subsection.

Section 89

For the purposes of implementation of sections 28, 32 to 34 inclusive 41, 43, 45, 47, 49, 51, 53 75 the territory of a supramunicipal authority shall be regarded as equivalent to a municipality and the governing body of such an authority as equivalent to the Municipal Council and the Municipal Executive.

Section 90

1. In the interests of national defence We may grant exemption from regulations pursuant to Chapter III and Chapter IV, § 3:
 - a. having heard the Technical Soil Protection Committee, by General Administrative Order;
 - b. grant dispensation from the said regulations on receipt of a relevant request.
2. An exemption or dispensation shall be made subject to such regulations as are necessary in Our view in the interests of soil protection.
3. The proposal for a decision pursuant to subsection 1 above shall not be presented to Us other than at the request of Our Minister of Defence.

Section 91

1. Any proposal for a General Administrative Order pursuant to this Act, relating to actions causing substances to be introduced onto or into the soil for agricultural purposes shall be presented to Us jointly by Our Minister of Agriculture, Nature and Food Quality and Our Minister; any proposal for a General Administrative Order pursuant to this Act shall be presented to Us jointly by Our Minister and Our Minister of Agriculture, Nature and Food Quality insofar as the Order to a significant extent also relates to actions than can be of influence on the agrarian production capacity of the soil or to actions which are of importance with a view to nature and landscape conservation.
2. Any proposal for a General Administrative Order by virtue of section 36 shall be presented to Us jointly by our Minister and our Minister of Transport, Public Works and Water Management.

Section 92

1. The draft of a General Administrative Order by virtue of section 6 to 12b inclusive, 36, and 38, second subsection or 72, shall be submitted to both Chambers of the States General and shall be published in the Netherlands Government Gazette. This publication shall also state a period of at least four weeks during which anyone who wishes to do so may submit his or her written comments on the draft to Our Minister.
2. The Order pursuant to sections 6 to 12b inclusive or 72, shall be presented to the two Houses of the States-General simultaneously with publication in the Netherlands Government Gazette.
3. A General Administrative Order as referred to in sections 36 and 38, second subsection shall come into force as laid down by Royal Decree four weeks after being forwarded to the States-General, unless within that period of time one of the Chambers of the States-General requests the subject of the Order to be laid down by law. In that case a bill is presented as soon as possible and the Order is withdrawn immediately.
4. The third subsection shall not apply if a General Administrative Order has been laid down under section 36 and section 38, second subsection, solely for the purpose of implementing a treaty with binding force for the Netherlands or a decision of an international organisation with binding force for the Netherlands. In such cases the procedure referred to in the second subsection shall be followed.

Section 92a

[Repealed]

Section 92b

Notwithstanding section 67, first subsection, of the State Taxes Act, the Tax and Customs Administration shall on request provide Our Minister, the Provincial Executive and the Burgomaster and Aldermen free of charge with all data and information necessary for implementation of this Act.

Section 93

If subjects regulated in this Act require further regulation in the interests of proper implementation of the Act, this may take place by general administrative order.

Section 94

Any conduct to a regulation to which an exemption or dispensation has been made subject pursuant to section 64, second subsection, 65, third subsection, or 66, first subsection, is prohibited.

CHAPTER X. ENFORCEMENT

Section 95

1. Sections 5.3 to 5.16 inclusive and 5.18 to 5.23 inclusive, of the Provisions Act Environmental Law shall apply to enforcement of the provisions made by or pursuant to this Act
2. The administrative body referred to in section 5.2, first subsection, of the Provisions Act Environmental Law shall be charged with ensuring enforcement under administrative law of the requirements applicable to the party that carries out the project referred to in that subsection under provisions made under or pursuant to this Act.
3. Our Minister, the Provincial Executive and Burgomaster and Aldemen shall be entrusted with ensuring enforcement under administrative law of section 13.
4. The following administrative bodies shall be entrusted with ensuring enforcement under administrative law of the provisions made by or pursuant to §3 and § 3a of chapter IV and section 72:

- a. in cases within the meaning of section 88, first, second and seventh subsections: the Burgomaster and Aldermen or, as the case may be, the executive of the plus region;
- b. in all other cases: the Provincial Executive.

5. A General Administrative Order within the meaning of Sections 6 to 12a inclusive may stipulate the conditions on which and cases in which the power to conduct administrative enforcement shall be vested in Our Minister and not in the competent authority.

CHAPTER XI. TRANSITIONAL AND FINAL PROVISIONS

Section 96

1. The authority of municipalities and water control boards to draw up ordinances shall continue to exist with respect to the subject for which provision is made in this Act, insofar as such ordinances are not in conflict with the provisions laid down in or pursuant to this Act.
2. Notwithstanding sections 119 of the Provinces Act, 122 of the Municipalities Act and section 59, second subsection, of the Water Boards Act, the provisions of ordinances of provinces, municipalities and water boards concerning the subject for which provision is made in this Act shall remain in force until two years after the present section comes into effect, except in cases where conflict would arise with the regulations laid down in or pursuant to this Act.

Section 97

Provision shall be made by general administrative order as referred to in sections 6 to 11 inclusive for whatever regulation is necessary with respect to the coming into force of regulations laid down in such a general administrative order.

Section 98

For purposes of the implementation of this Act with respect to areas not forming part of a province, regulations shall, as far as necessary, be laid down by general administrative order with regard to the government bodies which shall exercise the powers provided for by this Act, and with regard to the government bodies which shall be involved in such implementation.

Section 99

1. Sections 6 to 12b inclusive shall not be applicable to actions in respect of which regulations are in force laid down in or pursuant to the Pesticides and Biocides Legislation, the Nuclear Energy Act and the Nature Conservation Act.

2. Sections 6 to 12b inclusive shall not apply to mining works within the meaning of section 1 of the Mining Act. It may be determined by or pursuant to a General Administrative Order within the meaning of section 49 of the Mining Act that sections 6 to 12b inclusive and the provisions based on those sections shall apply in full or in part to such works.

3. Sections 27 to 51 inclusive and 53 shall not apply in respect of measures with regard to unusual incidents or remediation of the soil, insofar as this may be provided for pursuant to sections 39 and 44 of the Nuclear Energy Act.

4. This Act shall not apply to a body of surface water and its bed and shores as referred to in section 1.1 of the Water Act and insofar it belongs to the sea the seabed and the subsoil thereof.

Section 99a

1. The provision of a budget or subsidy under this Act may be cancelled or altered on account of a conflict with an obligation resting upon the State under a treaty. It may be determined that in the event of such cancellation or alteration interest shall be payable over unduly paid amounts of subsidy.

2. The cancellation or alteration shall take effect retroactively to the time the subsidy was provided, unless otherwise stipulated in the cancellation or alteration.

Section 100

Mining Act 1903

Section 101

Continental Shelf Mining Act

Section 102

Waste Substances Act

Section 103

Chemical Waste Act

Section 104

Burial and Cremation Act

Section 105

This Act may be cited as the Soil Protection Act.

Section 106

This Act shall come into force on a date to be determined by Us, which date may be different for the various sections or parts thereof.