

(Text as at 05-08-2008)

Act of 20 October 2006 containing new rules for spatial planning (Spatial Planning Act)

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

Greetings to all who see or hear these presents! Be it known:

Whereas We have considered that to promote a sustainable spatial quality it is desirable that new rules on spatial planning are laid down in order to strengthen the role of the land-use plan, make spatial policy more targeted and effective and simplify the planning regulations;

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

Chapter 1. General Provisions

Section 1.1

1. In this Act and the provisions based on it:
 - a. Our Minister means Our Minister of Housing, Spatial Planning and the Environment;
 - b. the inspector means the official designated as such by a decision of Our Minister;
 - c. planning permission means permission as referred to in section 3.3 (a);
 - d. demolition permit means a permit as referred to in section 3.3 (b);
 - e. preparation decision means a decision as referred to in section 3.7;
 - f. project decision means a decision that, for the purpose of realising a project which may include one or more buildings, non-construction works or activities or the use thereof inconsistent with the current land-use plan, the land-use plan does not apply.
2. In this Act and the provisions based on it:
 - a. land, lands or area includes soil surface and subsoil at different levels, as well as surface waters, territorial waters and the exclusive economic zone;

- b. adopt a land-use plan includes amend a land-use plan.

Chapter 2. Structure schemes

Section 2.1

1. In the interests of effective spatial planning, the municipal council shall adopt one or more structure schemes for the entire area within its jurisdiction. The structure scheme shall contain the main features of the proposed development of the area, and the main elements of the spatial policy to be pursued by the municipality. It shall also describe how the council intends to provide for the realisation of the proposed development.
2. The municipal council may adopt a structure scheme for aspects of municipal spatial policy. The structure scheme shall contain the main features of the proposed development of these aspects. The subsection shall also describe how the council intends to provide for the realisation of the proposed development.
3. The municipal council may adopt a structure scheme in cooperation with the councils of adjoining municipalities for an area lying within the municipalities concerned.

Section 2.2

1. In the interests of effective provincial spatial planning, the provincial council shall adopt one or more structure schemes for the entire area within its jurisdiction. The structure scheme shall contain the main features of the proposed development of the area, and the main elements of the spatial policy to be pursued by the province. It shall also describe how the council intends to provide for the realisation of the proposed development.
2. The provincial council may adopt a structure scheme for aspects of provincial spatial policy. The structure scheme shall contain the main features of the proposed development of these aspects. The structure scheme shall also describe how the council intends to provide for the realisation of the proposed development.
3. The provincial council may adopt a structure scheme in cooperation with the councils of adjoining provinces for an area lying within the provinces concerned.

Section 2.3

1. In the interests of effective national spatial planning, Our Minister shall adopt one or more structure schemes for the entire country with the agreement of Our Ministers whom it may concern. The structure scheme shall contain the main features of the proposed development of the country. It shall also describe how Our Minister intends to provide for the realisation of the proposed development.
2. Our Minister or such other of Our Ministers as may be concerned with the agreement of Our Minister may adopt a structure scheme for aspects of national spatial policy belonging to his ministerial portfolio. The structure scheme shall contain the main features of the proposed development of these aspects. It shall also describe how Our Minister or such other of Our Ministers as may be concerned intends to provide for the realisation of the proposed development.
3. The adoption of a structure scheme as referred to in subsections 1 and 2 shall not be initiated until Our Minister or such other of Our Ministers as may be concerned with the agreement of Our Minister has submitted an outline of this structure scheme to the House of Representatives of the States General and the House has debated this outline in public. If the House of Representatives of the States General does not decide to hold a public debate on the outline of the proposed structure scheme within four weeks, the adoption of the structure scheme can be initiated. Our Minister or such other of Our Ministers as may be concerned, with the agreement of Our Minister shall, inform the House of the conclusions he has drawn from the debate.
4. The implementation of a structure scheme shall not be initiated less than eight weeks after Our Minister or such other of Our Ministers as may be concerned has sent it to the States General. If it is indicated by or on behalf of one of the Houses of the States General within eight weeks of submission of the structure scheme that it wishes to debate this document in public, the implementation of a structure scheme shall not be initiated less than six months after submission, or the debate has ended, whichever is the earlier. Our Minister or such other of Our Ministers as may be concerned shall inform the States General in writing of the conclusions he has drawn from the debate for national spatial policy.

Section 2.4

1. Notice of the decision adopting a structure scheme shall also be given electronically.

2. Rules may be laid down by or pursuant to order in council regarding the preparation, form and structure of structure schemes, and how they are made available.

Chapter 3. Land-use plans and imposed land-use plans

Part 3.1 Provisions regarding the content of land-use plans

Section 3.1

1. The municipal council shall adopt one or more land-use plans covering the entire area within its jurisdiction, in which the intended uses of the land included in the plan are designated in the interests of effective spatial planning and rules are laid down regarding those intended uses. These rules shall in any event relate to the use of the land and of the buildings erected there. These rules may also relate to the practicability of the land uses included in the plan, provided that in regard to housing categories these rules refer only to percentages for the plan area.
2. The intended uses of the lands, including the rules laid down in this regard, shall be determined at intervals not exceeding 10 years, calculated each time from the date of adoption of the previous land-use plan.
3. If the municipal council is satisfied that the land uses designated in the land-use plan and the rules made for this purpose are consistent with effective spatial planning, it may, notwithstanding subsection 2, decide to extend the period of ten years referred to therein by a further ten years. Supplemental to the provisions of section 3:42 of the General Administrative Law Act, the municipal executive shall also publish the notice of the extension decision in the Government Gazette and electronically.
4. If the council does not either adopt a new land-use plan or take a decision to extend the existing plan before the expiry of the period of ten years referred to in subsection 2 or 3, its power to collect fees for services rendered by or on behalf of the municipal authorities after that time in connection with the land-use plan will lapse.
5. If the period referred to in subsection 2 is exceeded the municipal executive shall make a written announcement to this effect. It shall deposit this announcement together with the land-use plan in which the intended land uses were most recently designated with the municipal secretariat for public inspection. Section 3:12, subsection 1 of the General Administrative Law Act applies *mutatis mutandis*. An

announcement shall also be made in the Government Gazette and electronically of the opportunity to inspect these documents.

Section 3.2

Intended uses may be designated provisionally in a land-use plan and provisional rules regarding these uses may be laid down. A provisional plan applies for a period specified therein of no more than five years.

Section 3.3

In order to prevent land included in a land-use plan becoming less suitable for the realisation of the use specified in the plan or to maintain and protect a use realised in accordance with the plan, the land-use plan may impose a prohibition on:

- a. carrying out non-construction works or activities;
- b. demolishing buildings;

within an area indicated in that plan without or contrary to a permit from the municipal executive.

Section 3.4

Where the intended use shown in a land-use plan for certain lands differs from the actual use, one or more areas may be designated in respect of which realisation is deemed necessary in the near future.

Section 3.5

Areas may be designated in a land-use plan within which the buildings present there need to be modernised or replaced by similar buildings of the same or similar scale. Until this modernisation or replacement has taken place the use of these buildings is deemed to be in non-conformity with the plan.

Section 3.6

1. A land-use plan may provide for the municipal executive, subject to rules laid down in the plan, to:
 - a. amend the plan within limits specified in the plan;
 - b. amplify the plan;
 - c. grant dispensation from rules laid down in the plan;
 - d. lay down further requirements in regard to matters described in the plan or parts thereof.

2. A power as referred to in subsection 1 (a) to amend the plan may include an obligation to amplify it as referred to in subsection 1 (b).
3. An amendment or amplification as referred to in subsection 1 (a) or 1 (b) respectively forms part of the plan and may, while the land use has not yet been realised, be replaced by a new amendment or amplification.
4. A dispensation as referred to in subsection 1 (c) may be made subject to restrictions. Conditions may be attached to a dispensation.
5. Interested parties shall be given the opportunity to state their views on a proposed dispensation or further requirement as referred to in subsection 1. Part 3.4 of the General Administrative Law Act applies to the preparation of an amendment or amplification, provided that notice as referred to in section 3:12 of that Act is also given electronically, that the draft decision and associated documents are also made available electronically, that the municipal executive decides on the amendment or amplification within eight weeks after the end of the period of public inspection and that notice of the decision to adopt the amendment or amplification is also given electronically.
6. Rules may be laid down by order in council regarding the transferability of the dispensation.

Part 3.2 Procedural provisions regarding the land-use plan

Section 3.7

1. A municipal council may declare that a land-use plan is to be prepared.
2. The preparation decision shall state the area to which it applies and the date on which it will enter into force.
3. To prevent land designated in a preparation decision becoming less suitable for the realisation of the use specified in the plan, section 3.3 may be applied *mutatis mutandis*.
4. To prevent land designated in a preparation decision becoming less suitable for the realisation of a use specified in the plan, the decision may prohibit a change in the use of the land or buildings designated therein. The decision may also determine that the municipal executive may grant dispensation from such prohibition in accordance with rules laid down therein.
5. A preparation decision lapses if within one year of the date of its entry into force a draft land-use plan is not deposited for inspection. A preparation decision also

lapses when the land-use plan announced in the preparation decision enters into force.

6. Notwithstanding the first sentence of subsection 5, a preparation decision, in so far as it relates to an area which is included in a project decision to which section 3.13, subsection 2 applies, lapses if a draft land-use plan which incorporates the project decision is not deposited for public inspection within the period specified in that project decision.
7. A preparation decision shall be made public by depositing it for public inspection. Section 3:42 of the General Administrative Law Act applies. The preparation decision shall also be announced in the Government Gazette and electronically.
8. Rules may be laid down by or pursuant to order in council regarding the form and structure of structure schemes, and how they are made available.

Section 3.8

1. The preparation of a land-use plan is subject to part 3.4 of the General Administrative Law Act provided that:
 - a. the notice referred to in section 3:12 of that Act is also published in the Government Gazette and electronically and the draft decision and associated documents are also made available electronically;
 - b. at the same time as the publication of the notice referred to at a, it is sent electronically to the central government and provincial departments charged with promoting the interests affected by the plan, to the executive committees of the water boards and to the municipalities affected by the plan;
 - c. if lands are designated in the draft for which the intended use is likely to be realised in the near future, notice is also given to those persons listed in the land register database as the owners of the land or as having a limited entitlement in relation to the land;
 - d. any person may state his views on this matter to the municipal council;
 - e. the municipal council gives its decision on the adoption of the land-use plan within twelve weeks of the end of the inspection period.
2. The views submitted may not relate to a draft land-use plan in so far as this is based on an instruction which relates to a location specified therein and from which no derogation is possible.
3. A decision adopting the land-use plan shall be made public within two weeks of its adoption. The municipal executive shall also publish a notice of the decision

adopting the land-use plan in the Government Gazette and electronically. It shall at the same time send the notice referred to in the previous sentence electronically to the departments and administrative authorities referred to in subsection 1 (b), and it shall make the decision and associated documents available electronically.

Notwithstanding section 3:1, subsection 1 (b) of the General Administrative Law Act, sections 3:40, 3:42 and 3:45 and part 3.7 of that Act apply to the decision adopting the land-use plan.

4. Notwithstanding subsection 3, the decision adopting the land-use plan shall be published six weeks after its adoption if the provincial executive or the inspector submitted its or his views and these views were not fully incorporated or if the municipal council in adopting the land-use plan made modifications in the draft other than due to the views of the provincial executive or the inspector. In such a case, after the plan has been adopted, the municipal executive shall without delay send the council decision electronically to the provincial executive or the inspector.
5. The decision adopting the land-use plan enters into force on the day following the expiry of the appeal period unless subsection 6 applies.
6. If the conditions referred to in subsection 4 are met, the provincial executive or Our Minister may, within the period referred to in that subsection and without prejudice to any other competences vested in it or him, issue an instruction as referred to in section 4.2, subsection 1 or section 4.4, subsection 1 (a) respectively to the municipal council to the effect that the relevant part of the adopted land-use plan ceases to form part of the land-use plan as adopted. Section 4.2, subsections 2 to 4 or section 4.4, subsections 2 to 4 do not apply to this instruction. The provincial executive or Our Minister shall state in the reasoned justification the facts, circumstances and considerations underpinning its decision which prevent the province or central government from using other powers which vest in it to protect the relevant provincial or national interests. The decision adopting the land-use plan shall then be published excluding that part, together with the instruction decision. The period referred to in subsection 4 shall be extended by one week. Once the instruction decision has become final the relevant part of the adoption decision lapses.

Section 3.9

1. Section 3.8 does not apply to a rejection of an application to adopt a land-use plan.

2. The municipal council shall take a rejection decision as referred to in subsection 1 as soon as possible and in any event within eight weeks of receipt of the application.

Part 3.3 Provisions on a project decision preceding the adoption of a land-use plan

Section 3.10

1. The municipal council may take a project decision with a view to realising a project.
2. The decision shall contain sound spatial arguments for the project.
3. Conditions and restrictions may be attached to the decision. These conditions and restrictions may also extend to the practicability of the project, provided that in relation to categories of buildings they may only relate to percentages in the project area.
4. The municipal council may delegate the power referred to in subsection 1 to the municipal executive.

Section 3.11

1. Part 3.4 of the General Administrative Law Act applies to the preparation of a project decision, provided that:
 - a. the notice referred to in section 3:12 of that Act is also published in the Government Gazette and electronically, and the draft with the associated documents is made available electronically;
 - b. at the same time as the publication of the notice referred to at a, it is sent electronically to the central government and provincial departments charged with promoting the interests affected by the decision, to the executive committees of the water boards and to the municipalities affected by the decision;
 - c. notice is also given to those persons listed in the land register as the owners of the land included in the draft decision or as having a limited entitlement in relation to the land;
 - d. any person may state his views on the draft decision;
 - e. the municipal council gives its decision on the adoption of the land-use plan within twelve weeks of the end of the inspection period.

2. Section 3.8, subsections 2 to 6 apply *mutatis mutandis*, provided that 'land-use plan', 'decision adopting the land-use plan', 'adopted land-use plan' and 'adoption decision' are read as 'project decision'.

Section 3.12

1. Section 3.11 does not apply to the rejection of an application for a project decision.
2. The municipal council shall take a rejection decision as referred to in subsection 1 as soon as possible and in any event within eight weeks of receipt of the application.

Section 3.13

1. Within one year of a project decision becoming final, the municipal executive shall deposit for inspection a draft land-use plan complying with the project decision.
2. The period referred to in subsection 1 may be extended in the project decision by:
 - a. up to two years if at the time the decision is taken it appears that the project will be incorporated in the land-use plan when that plan is adopted in accordance with section 3.1, subsection 2; or
 - b. up to four years if at the time the decision is taken it appears that the project will be incorporated in the land-use plan at the same time as a project on adjacent land or on land which is included in the same land-use plan to be elaborated.
3. Notwithstanding subsection 1, the municipal council may, one year after the project decision has become final, apply section 3.38.
4. The power to collect fees for services rendered by or on behalf of the municipal authorities related to the project decision is suspended until the land-use plan or the administrative ordinance in which the project is incorporated has been adopted. The power lapses if the land-use plan or the administrative ordinance is not adopted within six months after the expiry of the term set in subsection 1, extended in accordance with subsection 2 where applicable, or in subsection 3, respectively.

Section 3.14

In so far as a draft land-use plan is based on a project decision as referred to in section 3.10 and this draft is deposited for inspection within the period referred to in

section 3.13, subsection 1 or 2, views submitted may not relate to that part of the draft land-use plan based on the project decision.

Section 3.15

The term 'land-use plan' in sections 3.13 and 3.14 includes an amplification of a land-use plan as referred to in section 3.6, subsection 1, opening words and (b).

Part 3.4. Provisions regarding implementation of and derogations from the land-use plan

§ 3.4.1. Planning permission

Section 3.16

1. Planning permission must and may only be refused if:
 - a. the work or activity is inconsistent with a land-use plan, an imposed land-use plan, a project decision included in such plans, the requirements laid down in accordance with such plans, an administrative ordinance, a decision as referred to in section 3.40, 3.41 or 3.42 below or with a preparation decision;
 - b. a permit is required for the work or activity pursuant to the Monuments and Historic Buildings Act 1988 or a provincial or municipal monuments and historic buildings ordinance is required and has not been granted;
 - c. the work or activity is inconsistent with the requirements laid down by or pursuant to an ordinance as referred to in section 4.1, subsection 3 or by or pursuant to an order in council as referred to in section 4.3, subsection 3.
2. The permission may be issued subject to restrictions, and conditions may be attached thereto.
3. If the permission relates to a protected site or a site of special archaeological interest as referred to in the Monuments and Historic Buildings Act 1988, the municipal executive shall send a copy of its decision to the National Service for Archaeology, Cultural Landscape and Built Heritage, or this National Service and the provincial executive respectively, immediately after it has been made public.
4. Without prejudice to the provisions of section 8.4, subsection 3, the permission enters into force in the seventh week after the date it was made public.
5. Rules may be laid down by order in council with regard to the transferability of the planning permission.

Section 3.17

1. If the work or activity is only permissible by virtue of an intended use designated provisionally or a provisional rule on use, the municipal executive shall specify in the permission a period, consistent with the provisions in the land-use plan regarding the duration of the designated use, on the expiry of which the work or activity must be removed or terminated or otherwise brought into line with the land-use plan.
2. On the expiry of the period referred to in subsection 1, the title holder or his legal successor is obliged, at his discretion, to remove or terminate the work or activity or to bring it into line with the land-use plan.

Section 3.18

1. The municipal executive shall decide on an application for planning permission within six weeks of the date of receipt of the application.
2. Notwithstanding subsection 1, the municipal executive shall defer the decision if there are no grounds for refusing permission and before the date of receipt of the application:
 - a. a preparation decision entered into force;
 - b. a draft land-use plan was deposited for inspection;
 - c. a declaration as referred to in section 4.1, subsection 5 or section 4.3, subsection 4 was published,for the area in which the work or activity is to be carried out. The decision on an application for planning permission prescribed due to the application of section 3.7, subsection 3 shall not be deferred.
3. The deferment lasts until:
 - a. the preparation decision has lapsed in accordance with section 3.7, subsection 5 or 6;
 - b. the deadline for adopting the land-use plan pursuant to section 3.8, subsection 1 (e) has passed;
 - c. the deadline for publishing the land-use plan after its adoption pursuant to section 3.8, subsection 3, 4 or 6 has passed;
 - d. the land-use plan has entered into force;
 - e. the deadline referred to in section 4.1, subsection 5 or section 4.3, subsection 4 has passed;
 - f. the ordinance referred to in section 4.1 or the order in council referred to in section 4.3 has entered into force.

4. Notwithstanding subsection 2, planning permission may be granted if:
 - a. the work or activity is not in conflict with the land-use plan in preparation, or
 - b. it pertains to a work or activity in relation to which section 3.10, 3.22, 3.23, 3.27, 3.29, 3.40, 3.41 or 3.42 is being applied.
5. Notwithstanding subsection 1, the municipal executive shall also defer the decision if there are no grounds for refusing permission and the application pertains to a work or activity in an area forming part of a protected site as referred to in the Monuments and Historic Buildings Act 1988, and for which there is not yet a land-use plan or administrative ordinance which affords it protection.
6. The deferment referred to in subsection 5 lasts until a land-use plan or administrative ordinance which complies with section 36 of the Monuments and Historic Buildings Act 1988 has entered into force.
7. Without prejudice to subsection 4, the municipal executive may, notwithstanding subsection 5, grant planning permission if the work or activity is not in conflict with the land-use plan, including a project decision, being prepared for the protection of the protected site. Before taking this decision the municipal executive shall hear the National Service for Archaeology, Cultural Landscape and Built Heritage.

Article 3.19

The municipal executive may revoke a planning permission if:

- a. it transpires that permission was granted in consequence of an incorrect or incomplete submission;
- b. the activities were not commenced within a period specified by the permission from the date of the permission;
- c. the activities have been discontinued for longer than a period specified by the permission;
- d. the restrictions under which the permission was granted or the conditions attached thereto are being violated.

§ 3.4.2 Demolition permit

Section 3.20

1. A demolition permit as referred to in section 3.3 is not required for demolition:

- a. in consequence of a notice of the municipal executive pursuant to chapter III, part 2 of the Housing Act;
 - b. of buildings for which pursuant to section 43 of the Housing Act no building permit is required.
2. A demolition permit may be refused if a building permit may be granted for a building to be erected in place of the building to be demolished but no application has been made for such a permit.
3. The demolition permit must be refused if:
 - a. a permit is required pursuant to the Monuments and Historic Buildings Act 1988 or a provincial or municipal monuments and historic buildings ordinance to demolish the building and this has not been granted;
 - b. the demolition would violate the rules laid down by or pursuant to an ordinance as referred to in section 4.1, subsection 3 or by or pursuant to an order in council as referred to in section 4.3, subsection 3.
4. The municipal executive shall decide on an application for a demolition permit within twelve weeks from the date of its receipt. If the permit pertains to an accommodation hut or to a structure that forms part of a protected site as referred to in the Monuments and Historic Buildings Act 1988, the municipal executive shall notify the inspector or the National Service for Archaeology, Cultural Landscape and Built Heritage respectively at the time of the publication or as soon as possible thereafter.
5. Notwithstanding subsection 4, the municipal executive may defer the decision on the demolition permit if an application has been made for a building to be erected in place of the building to be demolished but a final decision has not yet been given on that application. The deferment lasts until a final decision has been given on the application for a building permit.
6. The permit may be granted subject to restrictions, and conditions may be attached thereto.
7. Without prejudice to the provisions of section 8.4, subsection 3 the permit enters into force with effect from the seventh week after the date of its publication.
8. Rules shall be laid down by order in council regarding the transferability of the demolition permit.

Section 3.21

The municipal executive may revoke a demolition permit. Section 3.19 applies *mutatis mutandis*.

§ 3.4.3 Dispensations

Section 3.22

1. The municipal executive may grant a dispensation from a land-use plan in order to provide for a temporary need for a given period. This period may not exceed five years. Conditions may be attached to the dispensation.
2. A land-use plan may exclude the application of this section if a temporary dispensation as referred to in subsection 1 is incompatible with a feature for the protection of which a particular land use was specified in the plan.
3. On the expiry of the period referred to in subsection 1 the person to whom the dispensation was granted or his universal successor is obliged, at his discretion, either to restore the situation in conflict with the land-use plan to its original state or to bring it into line with the land-use plan.
4. Rules may be laid down by order in council which must be taken into account in granting a temporary dispensation. Rules may also be laid down by or pursuant to order in council regarding the form and structure of the temporary dispensation and how it is made available.

Section 3.23

1. The municipal executive may grant a dispensation from a land-use plan for cases to be specified by or pursuant to order in council.
2. A dispensation may be granted subject to restrictions, and conditions may be attached thereto.
3. Rules may be laid down by order in council which must be taken into account before a dispensation is granted. Rules may be laid down by or pursuant to order in council regarding the form and structure of the dispensation and how it is made available, as well as its transferability.

Section 3.24

1. The municipal executive shall decide within four weeks of receipt of the application for a dispensation as referred to in section 3.22 or 3.23 whether subsection 3 will be applied.
2. If subsection 3 is not applied, the dispensation shall be refused.

3. Part 3.4 of the General Administrative Law Act applies to the preparation of a decision on a dispensation as referred to in section 3.22 or 3.23, provided that the municipal executive decides within four weeks after the expiry of the inspection period. Notice of the draft decision and of a decision to grant a dispensation shall also be given electronically.
4. Without prejudice to the provisions of section 8.4, subsection 3, the dispensation enters into force from the seventh week after the date of its publication.

Section 3.25

The rules of a land-use plan do not apply in so far as they relate to:

- a. construction for which a building permit is not required under section 43, subsection 1 of the Housing Act, or
- b. the use of buildings and locations which complies with the regulations laid down by the order in council referred to in section 43, subsection 1 (c) of the Housing Act.

Part 3.5 Land-use plans imposed by the provinces or central government and the preceding project decisions

§ 3.5.1 Province-imposed land-use plan and project decision

Section 3.26

1. In cases where provincial interests are at stake the provincial council, having heard the municipal council concerned, may adopt an imposed land-use plan for the land concerned, thereby excluding the powers of the municipal council to adopt a land-use plan for this land.
2. Parts 3.1 and 3.2 apply *mutatis mutandis* provided that 'land-use plan' and 'municipal authorities' are read as 'imposed land-use plan' and 'provincial authorities' respectively and that in regard to section 3.1 and part 3.2 the provincial council and the provincial executive act in the place of the municipal council and the municipal executive respectively.
3. The imposed land-use plan is deemed to form part of the land-use plan or land-use plans to which it relates.
4. The provincial council may determine by a decision as referred to in subsection 1 that the powers and obligations referred to in section 3.3 in conjunction with § 3.4.1 and § 3.4.2, or in section 3.6, subsection 1, or in chapter IV, part 1 of the

Housing Act, except section 57, are to be exercised by the provincial executive instead of the municipal executive. The provincial executive shall provide the municipal executive with the data referred to in section 57 of that Act needed for entry in the public register. If the provincial council applies the first sentence of this subsection in relation to the powers and obligations referred to in section 3.3, the powers provided for in § 3.4.3 shall also be exercised by the provincial executive, thereby excluding the powers of the municipal council in this regard. The provincial executive shall send a copy of the decisions given on the basis of the powers referred to in the first and second sentences to the municipal executive without delay.

5. The provincial council shall determine in the adoption decision the period for which the municipal council will be excluded from adopting a land-use plan for the area, provided that this period does not exceed the ten years referred to in section 3.1, subsection 2.

Section 3.27

1. The provincial council may, having heard the municipal council, take a project decision with regard to the realisation of a project of provincial importance.
2. Sections 3.10 to 3.14 and section 3.26, subsections 4 and 5 apply *mutatis mutandis*, provided that 'land-use plan' and 'municipal authorities' are read as 'imposed land-use plan' and 'provincial authorities' respectively, and that the provincial council and the provincial executive act in the place of the municipal council and the municipal executive respectively.

§ 3.5.2 Central government-imposed land-use plans and project decisions

Section 3.28

1. In cases where national interests are at stake Our Minister, having heard the municipal council and the provincial council, may adopt an imposed land-use plan for the land concerned, thereby excluding the powers of the municipal council and the provincial council to adopt a land-use plan or an imposed land-use plan respectively for this land.
2. Parts 3.1 and 3.2, except section 3.8, subsections 4 and 6, apply *mutatis mutandis* provided that 'land-use plan' and 'municipal authorities' are read as 'imposed land-use plan' and 'Our Minister' respectively, and in regard to section

- 3.1 and part 3.2 Our Minister acts in the place of the municipal council and the municipal executive.
3. The imposed land-use plan is deemed to form part of the land-use plan or land-use plans to which it relates.
 4. Our Minister may determine by a decision as referred to in subsection 1 that the powers and obligations referred to in section 3.3 in conjunction with § 3.4.1 and § 3.4.2, or in section 3.6, subsection 1, or in chapter IV, part 1 of the Housing Act, except section 57, are to be exercised by himself instead of the municipal executive. Our Minister shall provide the municipal executive with the data referred to in section 57 of that Act needed for entry in the public register. If Our Minister applies the first sentence of this subsection in relation to the powers and obligations referred to in section 3.3, the powers provided for in § 3.4.3 shall also be exercised by him, thereby excluding the powers of the municipal executive in this regard. Our Minister shall send a copy of the decisions given on the basis of the powers referred to in the first and second sentences to the municipal executive without delay.
 5. Our Minister shall determine in the adoption decision the period during which the municipal council will be excluded from adopting a land-use plan or the provincial council from adopting an imposed land-use plan for the area concerned, provided that this period does not exceed the ten years referred to in section 3.1, subsection 2.
 6. The power to enact provincial ordinances as referred to in section 4.1 remains intact in so far as these ordinances are not in conflict with a land-use plan adopted pursuant to subsection 1.
 7. The provisions of a provincial ordinance as referred to in section 4.1 do not apply in so far as they conflict with an imposed land-use plan adopted pursuant to subsection 1.

Section 3.29

1. Having heard the municipal council and the provincial council, Our Minister or such other of Our Ministers as may be concerned in agreement with Our Minister may take a project decision with regard to the realisation of a project of national importance.
2. Sections 3.10 to 3.14, except section 3.8, subsections 4 and 6, which are declared applicable *mutatis mutandis* in section 3.11, subsection 2, and section 3.28, subsections 5 to 7 apply *mutatis mutandis*, provided that Our Minister acts in the

place of the municipal council and the municipal executive, that 'land-use plan' and 'municipal authorities' in sections 3.13 and 3.14 are read as 'imposed land-use plan' and 'Our Minister' respectively, and that in section 3.28, subsections 6 and 7 'imposed land-use plan adopted pursuant to subsection 1' is read as 'project decision adopted'.

Part 3.6 Coordination in implementation of spatial policy

§ 3.5.1 Municipal coordination

Section 3.30

1. The municipal council may designate by resolution cases or categories of cases for which it is desirable for the implementation of an aspect of municipal spatial policy that:
 - a. the preparation and announcement of resolution to be further specified, either in response to an application or on the council's own initiative, be coordinated, or
 - b. the preparation and announcement of a land-use plan, including the project decision preceding it, be coordinated with the preparation and announcement of decisions as referred to at a.
2. In coordinating the preparation and announcement as referred to in subsection 1 (a) or (b), the procedure described in sections 3.31 and 3.32, or this procedure in conjunction with, in the case of a land-use plan the procedure described in section 3.8, or in the case of a project decision the procedure described in section 3.11, applies.
3. If a decision as referred to in subsection 1 (a) relates *inter alia* to a decision as referred to in section 3.40, the procedure described in sections 3.31 and 3.32 in conjunction with the procedure described in section 3.11 applies, provided that 'project decision' is read as 'decision as referred to in section 3.40'.
4. If the decisions referred to in subsection 1 (b) include a planning permission or building permit, this must and may only be refused, notwithstanding section 3.16, subsection 1 (a) or section 44, subsection 1 (c) respectively, of the Housing Act if the construction or installation is inconsistent with the land-use plan referred to in subsection 1 (b).

Section 3.31

1. In cases designated by the municipal council with the application of section 3.30, the municipal executive shall promote the coordinated preparation of the decisions designated by or pursuant to that section. The municipal executive may request other administrative authorities to extend the cooperation needed for successful coordination. To this end, an administrative authority which is competent to decide on an application for such a decision shall send a copy of that application to the municipal executive without delay.
2. The municipal executive is amongst those competent to submit applications as referred to in subsection 1 to the competent administrative authorities.
3. Part 3.4 of the General Administrative Law Act applies to the preparation of decisions referred to in subsection 1 provided that:
 - a. the notices referred to in section 3:12 of that Act are also given in the Government Gazette and electronically;
 - b. the municipal executive may apply section 3.11, subsection 1 collectively to draft decisions of the General Administrative Law Act and combine the notices referred to in section 3:12 of that Act on different matters into a single notice, to be given by the municipal executive;
 - c. the draft decisions are sent within a period to be determined by the municipal executive in agreement with the competent authority concerned to the municipal executive, which shall ensure that these documents are sent on in accordance with section 3:13, subsection 1 of that Act;
 - d. any person may state his views;
 - e. notwithstanding section 3:18 of that Act the decisions are taken within a period to be determined by the municipal executive in agreement with the competent authority concerned;
 - f. the decisions are sent to the municipal executive without delay;
 - g. the municipal executive decides on the application of section 3:18, subsection 2 of that Act;
 - h. the municipal executive is included among the recipients referred to in section 3:44 of that Act.

Section 3.32

The municipal executive shall announce simultaneously the adoption of the land-use plan referred to in section 3.30, subsection 1 and any other decisions to which section 3.31, subsection 3 has been applied. It shall announce these decisions in the Government Gazette and also electronically.

§ 3.6.2 Provincial coordination

Section 3.33

1. The provincial council may designate by resolution cases or categories of cases for which it is desirable for the implementation of an aspect of provincial spatial policy that:
 - a. the preparation and announcement of decisions to be further specified, either in response to an application or on the council's own initiative, are coordinated, or
 - b. an imposed land-use plan as referred to in section 3.26, including a project decision preceding it, is adopted and its preparation and announcement are coordinated with the preparation and announcement of decisions as referred to at a.
2. The provincial executive may require that other administrative authorities which are not an administrative authority of central government extend the cooperation needed for successful coordination. These administrative authorities shall extend the required cooperation.
3. In a resolution as referred to in the opening words of subsection 1 the provincial council may also determine that the provincial executive may take the decisions needed for the implementation referred to, in response to an application or on its own initiative, thereby excluding the administrative authority with primary competence, unless this is an administrative authority of central government.
4. In coordinating the preparation and announcement as referred to in subsection 1 (a) or (b), the procedure described in sections 3.22 and 3.23, or this procedure in conjunction with either, in the case of an imposed land-use plan, the procedure described in section 3.8 or, in the case of a project decision, the procedure described in section 3.11, applies provided that the provincial council and the provincial executive act in the place of the municipal council and the municipal executive respectively.
5. If a decision as referred to in subsection 1 (a) relates *inter alia* to a decision as referred to in section 3.41, the procedure described in sections 3.31 and 3.32 in conjunction with the procedure described in section 3.11 applies, provided that 'project decision' is read as 'decision as referred to in section 3.41' and that the provincial council and the provincial executive act in the place of the municipal council and the municipal executive respectively.

6. If an environmental impact statement is obligatory in accordance with section 7.2 or section 7.4 of the Environmental Management Act in regard to the implementation of a component of provincial spatial policy, the notification referred to in section 7.12, subsection 1 or section 7.13, subsection 1 of that Act shall be accompanied by an overall description of the consequences for spatial policy, of the socioeconomic consequences and of the consequences for other relevant interests expected from this implementation.
7. Section 3.30, subsection 4 applies *mutatis mutandis* provided that 'land-use plan' is read as 'imposed land-use plan'.
8. In so far as the implementation of a component of the provincial spatial policy is unduly constrained by provisions laid down – pursuant to acts of parliament or otherwise – by or pursuant to regulations adopted by a municipality or water board, their application may, where there are compelling reasons, be excluded when taking and implementing decisions as referred to in subsection 1 (a) or (b).

Section 3.34

1. If an administrative authority, not being an administrative authority of central government, with primary competence for taking a decision as referred to in section 3.33, subsection 1 (a) or (b) fails to take a timely decision in accordance with the application or takes a decision which in the opinion of the provincial executive requires amendment the provincial executive may take a decision. In that case this decision takes the place of the decision of the administrative authority with primary competence. If the provincial executive intends to take a decision itself, it shall consult with the administrative authority with primary competence for taking the decision.
2. If the decision on an application is taken by the provincial executive in accordance with subsection 1, the administrative authority with primary competence for deciding on the application shall pay the fees received for this purpose over to the province.

§ 3.6.3 Central government coordination

Section 3.35

1. It may be determined by Act of Parliament or by a decision of Our Minister or another of Our Ministers, with the agreement of the cabinet, that it is desirable for the implementation of an aspect of national spatial policy that:

- a. the preparation and announcement of decisions to be further specified, either in response to an application or on the Minister's own initiative, are coordinated, or
 - b. an imposed land-use plan as referred to in section 3.28, including a project decision preceding it, is adopted and its preparation and announcement are coordinated with the preparation and announcement of decisions as referred to at a.
2. An Act of Parliament or decision as referred to in the opening words of subsection 1 intended to adopt an imposed land-use plan, will designate the Minister who, notwithstanding section 3.28, subsection 2, will act in the place of the municipal executive and together with Our Minister will act in the place of the municipal council.
3. An Act of Parliament or decision referred to in the opening words of subsection 1 intended to coordinate the preparation and announcement of decisions, will designate the Minister who will have primary responsibility for coordinating preparation and announcement. This minister may require other administrative authorities to extend the cooperation needed for successful coordination. These administrative authorities shall extend the required cooperation. It may also be determined that this Minister and such other of Our Ministers as may be concerned may jointly adopt the decision needed for the implementation referred to, in response to an application or on their own initiative, thereby excluding the administrative authority with primary competence.
4. In coordinating the preparation and announcement as referred to in subsection 1 (a) or (b), the procedure described in sections 3.31 and 3.32, or this procedure in conjunction with either, in the case of an imposed land-use plan, the procedure described in section 3.8, subsections 1, 3 and 5 or, in the case of a project decision, the procedure described in section 3.11, applies provided that Our Minister designated in the Act of Parliament or decision referred to in the opening words of subsection 1 acts in the place of the municipal executive and this Minister and Our Minister act jointly in the place of the municipal council. In the case of a project decision, the decisions concerned enter into force on the day after the date on which the appeal period expires.
5. If a decision as referred to in subsection 1 (a) relates *inter alia* to a decision as referred to in section 3.42, the procedure described in the sections 3.31 and 3.32 in conjunction with the procedure described in section 3.11 applies, provided that 'project decision' is read as 'decision as referred to in section 3.42' and that Our

Minister designated in the Act of Parliament or decision referred to in the opening words of subsection 1 acts in the place of the municipal executive and this Minister and Our Minister act jointly in the place of the municipal council.

6. If an environmental impact statement is obligatory pursuant to section 7.2 or 7.4 of the Environmental Management Act in regard to the implementation of a component of national spatial policy, the notification referred to in section 7.12, subsection 1 or section 7.13, subsection 1 of that Act shall be accompanied by an overall description of the consequences for spatial policy, of the socioeconomic consequences and of the consequences for other relevant interests expected from this implementation.
7. Section 3.30, subsection 4 applies *mutatis mutandis* provided that 'land-use plan' is read as 'imposed land-use plan'.
8. In so far as the implementation of a component of the national spatial policy is unduly constrained by provisions laid down – pursuant to Act of Parliament or otherwise – by or pursuant to regulations adopted by a province, municipality or water board, their application may, where there are compelling reasons, be excluded when taking and implementing decisions as referred to in subsection 1 (a) or (b).
9. A decision as referred to in the opening words of subsection 1 shall be sent to both Houses of the States General. The decision shall not be put into effect until both Houses have assented thereto. This assent will be deemed to have been given if neither House has taken a decision with regard to further procedure within four weeks of the decision being sent.

Section 3.36

1. If an administrative authority with primary competence for taking a decision as referred to in section 3.35, subsection 1 (a) fails to take a timely decision in accordance with the application, or takes a decision which in the opinion of Our Minister designated pursuant to section 3.35, subsection 3 and such other of Our Ministers as may also be concerned requires amendment, Our Ministers referred to may take a decision jointly. In this case this decision takes the place of the decision of the administrative authority with primary competence. If Our Ministers referred to in the first sentence intend to take a decision themselves, they shall consult with the administrative authority with primary competence for deciding.
2. If the decision on an application is taken by Our Ministers referred to in subsection 1 in accordance with that subsection, the administrative authority with primary

competence for deciding on the application shall pay the fees received for this purpose over to the national exchequer.

§ 3.6.4. Land use and acquisition

Section 3.36a

1. Cases to which, pursuant to section 3.30, 3.33 or 3.35, sections 3.31 and 3.32, or sections 3.31 and 3.32 in conjunction with section 3.8 or 3.11 are applied are for the purposes of the Public Works (Removal of Impediments in Private Law) Act deemed to involve public works of general utility.
2. If application of the Public Works (Removal of Impediments in Private Law) Act is necessary for the implementation of one or more decisions as referred to in section 3.35, subsection 1 (a):
 - a. Our Minister may, notwithstanding section 2, subsection 4 of the Public Works (Removal of Impediments in Private Law) Act:
 1. designate another place or municipality where the hearings will take place;
 2. determine that the hearing is to be conducted by a person designated by Our Minister of Transport, Public Works and Water Management;
 - b. notwithstanding section 2, subsection 5 and section 3, subsection 2 of the Public Works (Removal of Impediments in Private Law) Act, the provincial executive shall not be heard.
3. If application of the Public Works (Removal of Impediments in Private Law) Act is necessary for the implementation of one or more decisions as referred to in section 3.30, subsection 1 (a), section 3.33, subsection 1 (a) or section 3.35, subsection 1 (a), the following applies in the place of section 4 of that Act:
 1. an interested party may lodge an appeal with the Administrative Law Division of the Council of State against a decision as referred to in section 2, subsection 5 or section 3, subsection 2 of that Act;
 2. section 7:1 of the General Administrative Law Act does not apply;
 3. the effect of a decision as referred to in section 2, subsection 5 or section 3, subsection 2 of the Public Works (Removal of Impediments in Private Law) Act is suspended until the deadline for the submission of an appeal has passed.

Article 3.36b

1. The writ of summons referred to in section 18, subsection 1 of the Expropriation Act may be issued after:
 - a. the land-use plan including a project decision, as referred to in section 3.30, subsection 1 (b), or the imposed land-use plan including a project decision, as referred to in section 3.33, subsection 1 (b) or section 3.35, subsection 1 (b), has been adopted;
 - b. a land-use plan or imposed land-use plan in regard to which section 3.4 has been applied or a project decision has been adopted at the same time as a development plan;in so far as an appeal has not been lodged with regard to the land included in the relevant plan, project decision or operating plan to which the writ of summons relates.
2. Without prejudice to the provisions of section 59, subsection 1 of the Expropriation Act, the judgment of the court may not be entered in the public registers until the land-use plan, imposed land-use plan or project decision has become final.
3. In addition to the requirements of sections 54n and 59 of the Expropriation Act, a judgment by the Administrative Jurisdiction Division of the Council of State or a declaration by the secretary of the Council of State to the effect that the land-use plan or the project decision has become final is needed before the entry referred to in subsection 2 can be made.

Part 3.7 Further rules

Section 3.37

1. Rules may be laid down by or pursuant to order in council regarding the preparation, form and structure of land-use plans and imposed land-use plans and how they are made available and further rules may be laid down regarding their content and practicability. Rules may also be laid down regarding the content of the explanatory notes accompanying a plan.
2. Rules may be laid down by or pursuant to order in council regarding the preparation, form, structure and practicability of a project decision and how it is made available, as well as regarding the supporting spatial planning documentation which accompanies it.

Chapter 3A. Administrative ordinances and derogations for projects

Section 3.38

1. Without prejudice to those cases where a land-use plan is required by or pursuant to a statutory regulation, the municipal council may, notwithstanding section 3.1, adopt an administrative ordinance instead of a land-use plan for those parts of the territory of the municipality in which spatial development is not expected. These areas will be managed in accordance with existing land use. Notice of a decision to adopt an administrative ordinance shall also be given electronically.
2. The ordinance shall be reviewed in any event within ten years of its adoption. Section 3.1, subsections 4 and 5, first two sentences apply *mutatis mutandis*.
3. In order to maintain and protect existing land use in accordance with the ordinance the latter may prohibit, within an area indicated therein, without or in derogation from a permit from the municipal executive:
 - a. the carrying out of certain non-construction works, or activities;
 - b. the demolition of buildings.
4. The ordinance may provide for the municipal executive to grant a dispensation, subject to rules included in the ordinance, from rules specified in the ordinance. The dispensation may be granted subject to restrictions. Conditions may be attached to a dispensation. Interested parties shall be given the opportunity to make known their views regarding a proposed dispensation.
5. Rules may be laid down by or pursuant to order in council regarding the form and structure of the ordinance and how it is made available, and further rules may be laid down regarding its content.
6. Part 3.4, except sections 3.17 and 3.18, subsection 2 (c) and subsection 3 (e), applies *mutatis mutandis* to the area included in the ordinance provided that 'land-use plan' or 'land-use plan, which may include a project decision', is read as 'ordinance' and that in section 3.18, subsection 4, 'or 3.29' is read as ', 3.29, 3.40, 3.41 or 3.42'.

Section 3.39

1. On the date on which an administrative ordinance enters into force for an area to which a land-use plan applies, the land-use plan lapses in so far as it relates to that area.

2. On the date on which a land-use plan enters into force for an area to which an administrative ordinance applies, the administrative ordinance lapses in so far as it relates to that area.

Section 3.40

1. The municipal council may decide that an administrative ordinance does not apply within an area included in the ordinance, for the purpose of realising a project of municipal importance which may include one or more buildings, non-construction works or activities or the use of buildings or lands and which is inconsistent with the ordinance. Sections 3.10 to 3.12 apply *mutatis mutandis*. The rules laid down by or pursuant to order in council as referred to in section 3.37, subsection 2 apply *mutatis mutandis* to this decision.
2. The municipal council shall at its discretion either adopt, within one year of the decision referred to in subsection 1 becoming final, an amendment to the ordinance corresponding to the decision, or apply section 3.13, subsections 1, 2 and 4 *mutatis mutandis*, provided that 'project decision' is read as 'decision as referred to in section 3.40'.
3. Until the municipal council has adopted an ordinance as referred to in subsection 2, section 3.13, subsection 4 applies *mutatis mutandis* provided that 'land-use plan' is read as 'ordinance' and the parenthetical phrase in the second sentence does not apply.

Section 3.41

1. Having heard the municipal council, the provincial council may decide that an administrative ordinance does not apply for the purpose of realising a project of provincial importance which may include one or more buildings, non-construction works or activities or the use of buildings or lands and which is inconsistent with the ordinance.
2. Within one year of the decision referred to in subsection 1 becoming final, section 3.27, subsection 2 shall be applied provided that in sections 3.10 to 3.14, declared to apply *mutatis mutandis*, 'project decision' is read as 'decision as referred to in section 3.41, subsection 1'. An imposed land-use plan adopted in this manner is deemed to be a land-use plan.

Section 3.42

1. Having heard the municipal council and the provincial council, Our Minister or such other of Our Ministers as may be concerned in agreement with Our Minister may decide that an administrative ordinance does not apply for the purpose of realising a project of national importance which may include one or more buildings, non-construction works or activities or the use of buildings or lands and which is inconsistent with the ordinance.
2. Within one year of the decision referred to in subsection 1 becoming final, section 3.29, subsection 2 shall be applied provided that in sections 3.10 to 3.14, declared to apply *mutatis mutandis*, 'project decision' is read as 'decision as referred to in section 3.42, subsection 1'. An imposed land-use plan adopted in this manner is deemed to be a land-use plan.

Chapter 4. General rules and specific instructions

Part 4.1 General rules and instructions of the province

Section 4.1

1. If necessary for effective spatial planning at provincial level, rules may be laid down by or pursuant to provincial ordinance regarding the content of land-use plans, including project decisions preceding them, regarding the accompanying explanatory memorandum or supporting documentation and regarding the content of administrative ordinances. It may be determined that a rule applies to only one part of the territory of the province indicated therein. Notice of a decision adopting the ordinance shall also be given electronically.
2. Within one year of the provincial ordinance entering into force or such other period as is specified in that ordinance, the municipal council shall adopt a land-use plan or an administrative ordinance which makes due allowance for the provincial ordinance.
3. Rules may be laid down by or pursuant to a provincial ordinance as referred to in subsection 1 which are necessary until a land-use plan or administrative ordinance as referred to in subsection 2 has entered into force to prevent land or buildings included in the provincial ordinance becoming less suitable for the realisation of the objective of that ordinance.

4. Rules may be laid down by or pursuant to order in council regarding the content, form and structure of the provincial ordinance and how it is made available.
5. The provincial council may declare that an ordinance is to be prepared. Section 3.7, subsections 2, 3, 4, 7 and 8, §3.4.1 and §3.4.2 and chapter IV, part 1 of the Housing Act, except section 57 of that Act, apply *mutatis mutandis*, provided that the provincial executive acts in the place of the municipal executive unless it provides otherwise in its declaration. The provincial executive shall furnish the municipal executive with the data referred to in section 57 of the Housing Act necessary for the entry in the public register. The decision lapses when the ordinance enters into force and in any event after six months.
6. A proposal for a draft provincial ordinance to be adopted under the present section shall not be made until the draft has been published in the Government Gazette, electronically and in the manner customary in the province concerned and everyone has been given the opportunity to bring comments thereon to the attention of the provincial council in writing or electronically within a period to be specified in the announcement of at least four weeks.

Section 4.2

1. If necessary for effective spatial planning at provincial level, the provincial executive may issue an instruction to the municipal council to adopt a land-use plan within a period to be determined in the instruction in accordance with regulations given therein regarding the content of that land-use plan.
2. Subsection 1 is applied only after the municipal executive has been consulted and at least four weeks after the provincial council has been informed of the proposal to issue the instruction.
3. In applying subsection 1 the provincial executive may also declare that a land-use plan as referred to in subsection 1 is to be prepared by the municipality. Section 3.7 applies *mutatis mutandis*. A preparation decision adopted by the provincial executive is deemed of equal status with a preparation decision adopted by the municipal council.
4. Part 3.4 of the General Administrative Law Act applies to the preparation of a decision to issue an instruction as referred to in subsection 1. Notice of the draft decision and of the decision to issue an instruction shall also be given electronically.

5. Rules may be laid down by or pursuant to order in council regarding the form and structure of the instruction and how it is made available.

Part 4.2 General rules and instructions of central government

Section 4.3

1. If necessary for effective spatial planning at national level, rules may be laid down by or pursuant to order in council on the recommendation of Our Minister or of such other of Our Ministers as may be concerned in agreement with Our Minister regarding the content of land-use plans, of province-imposed land-use plans including project decisions preceding them and of administrative ordinances. It may be determined therein that a rule only applies to one part of the country indicated therein. The rules laid down pursuant to section 4.1, subsection 4 apply *mutatis mutandis* to the form and structure of the rules and how they are made available. Notice of a decision to adopt the order in council shall also be given electronically.
2. Within one year of the order in council entering into force or such other period as is specified in the order, the municipal council shall adopt a land-use plan or administrative ordinance which makes due allowance for the order.
3. Rules may be laid down by or pursuant to an order in council as referred to in subsection 1 which are necessary until a land-use plan or administrative ordinance as referred to in subsection 2 has entered into force to prevent land or buildings included in the order becoming less suitable for the realisation of the objective of the order.
4. Our Minister or such other of Our Ministers as may be concerned in agreement with Our Minister may declare that an order in council is to be prepared. Section 3.7, subsections 2, 3, 4 and 7, §3.4.1 and §3.4.2 and chapter IV part 1 of the Housing Act, except section 57 of that Act, apply *mutatis mutandis* provided that Our Minister, together where appropriate with such other of Our Ministers as may be concerned, acts in the place of the municipal executive unless his or their declaration provides otherwise. Our Minister, together where appropriate with such other of Our Ministers as may be concerned, shall furnish the municipal executive with the data referred to in section 57 of the Housing Act necessary for the entry in the public register. The decision lapses when the order in council enters into force and in any event after nine months. The rules laid down pursuant

to section 3.7, subsection 8 apply *mutatis mutandis* to the form and structure of the preparation decision and how it is made available.

5. A proposal for an order in council to be adopted under this section shall not be made until the draft has been submitted to both Houses of the States General, has been published in the Government Gazette and electronically and everyone has been given the opportunity to bring comments thereon to the attention of Our Minister in writing or electronically within a period to be specified in the announcement of at least four weeks.

Section 4.4

1. If necessary for effective spatial planning at national level, Our Minister or such other of Our Ministers as may be concerned in agreement with Our Minister may:
 - a. issue an instruction to a municipal council to adopt a land-use plan within a period determined therein in accordance with regulations laid down therein regarding the content of that land-use plan;
 - b. issue an instruction to the provincial council to apply section 4.1 within a period determined therein not exceeding six months;
 - c. issue an instruction to the provincial executive to apply section 4.2 within a period determined therein not exceeding three months.
2. Subsection 1 is applied only after the municipal executive or the provincial executive has been consulted and at least four weeks after the House of Representatives of the States General has been informed of the intention to issue the instruction.
3. In applying subsection 1, Our Minister or such other of Our Ministers as may be concerned in agreement with Our Minister may also declare that a land-use plan as referred to in subsection 1 is to be prepared by the municipality. Section 3.7, subsections 1 to 7 apply *mutatis mutandis*. The rules laid down pursuant to section 3.7, subsection 8 apply *mutatis mutandis* to the form of the preparation decision and how it is made available. A preparation decision adopted by Our Minister or such other of Our Ministers as may be concerned in agreement with Our Minister is deemed to be of equal status with a preparation decision adopted by the municipal council.
4. Part 3.4 of the General Administrative Law Act applies *mutatis mutandis* to the preparation of a decision to issue an instruction as referred to in subsection 1.

Notice of the draft decision and of the decision to issue an instruction shall also be given electronically.

5. The rules laid down by or pursuant to order in council referred to in section 4.2, subsection 5 apply *mutatis mutandis*.

Chapter 5. Intermunicipal cooperation in urban areas

(reserved)

Chapter 6. Financial provisions

Part 6.1 Compensation

Section 6.1

1. The municipal executive shall on application award compensation to a person who suffers or will suffer loss in the form of a loss of income or a reduction in the value of property due to one of the causes listed in subsection 2 in so far as the loss should not reasonably be borne by the applicant and compensation is not otherwise sufficiently provided for.
2. The causes referred to in subsection 1 are:
 - a. a provision in a land-use plan or imposed land-use plan, not being a provision as referred to in section 3.6, subsection 1, or in an administrative ordinance as referred to in section 3.38;
 - b. a provision in an amendment to a plan, an amplification of a plan, a dispensation or a further requirement as referred to in section 3.6, subsection 1 (a) to (d);
 - c. a dispensation granted pursuant to an administrative ordinance as referred to in section 3.38;
 - d. a decision as referred to in sections 3.10, 3.22, 3.23, 3.27, 3.29, 3.40, 3.41 or 3.42;
 - e. the deferment of a decision on granting a building permit, planning permission or demolition permit pursuant to section 50, subsection 1 of the Housing Act, section 3.18, subsection 2 or section 3.20, subsection 5 respectively;
 - f. a provision in a provincial ordinance as referred to in section 4.1, subsection 3 or in an order in council as referred to in section 4.3, subsection 3 in so far as this provision contains a ground for refusal as referred to in section 3.16,

subsection 1 (c), section 3.20, subsection 3 (b) or section 44, subsection 1 (f) or (g) of the Housing Act;

g. a royal decree as referred to in section 10.4.

3. The application shall explain the basis for the claim and state how the amount claimed was arrived at.
4. An application for compensation in respect of a cause as referred to in subsection 2 (a), (b), (c), (d), (f) or (g) shall be submitted within five years from the time when the cause referred to in subsection 1 became final.
5. An application for compensation for loss as a result of a deferment as referred to in subsection 2 (e) may not be submitted before and must be submitted within five years after the adopted land-use plan was deposited for inspection.

Section 6.2

1. The applicant himself remains liable for loss which falls within the scope of normal societal risk.
2. The applicant in any event remains liable for:
 - a. loss of income: an amount equal to 2% of the income immediately before the loss was incurred;
 - b. depreciation in the value of property: an amount equal to 2% of the value of the property immediately before the loss was incurred unless the depreciation was a consequence of:
 - 1°. the designation of an intended use for the land which includes the property, or
 - 2°. rules as referred to in section 3.1 relating to the property.

Section 6.3

In arriving at its decision on the loss eligible for compensation, the municipal executive shall in any event take account of:

- a. the predictability of the cause of loss;
- b. the options available to the applicant to prevent or limit the loss.

Section 6.4

1. The municipal executive shall charge the applicant a fee.
2. The municipal executive shall notify the applicant of the fee payable and of the fact that the amount owing must be transferred to the account of the municipality or paid at the place indicated within four weeks of the date the notification was

sent. If the amount has not been transferred or paid within this time, it shall declare the application inadmissible, unless the applicant cannot reasonably be considered to be in default.

3. The fee shall be €300, which amount may be increased or decreased by up to two-thirds by an ordinance of the municipal council.
4. If the claim is fully or partially upheld, the municipal executive shall reimburse the fee paid by the applicant.
5. The amount referred to in subsection 3 may be amended by order in council in so far as justified by changes in the consumer price index.

Section 6.4a

1. In so far as loss which is eligible for compensation by virtue of sections 6.1 to 6.3 is due to a decision on a request for the purpose of realising a project to include or amend provisions in a land-use plan including a project decision preceding it or a decision as referred to in section 3.40, section 1 or to grant a dispensation other than as referred to in section 6.8 or 6.9, the municipal executive may agree with the applicant that the latter will bear all or part of that loss.
2. An applicant who has entered into an agreement as referred to in subsection 1 is an interested party in regard to a decision of the municipal executive on an application for compensation pursuant to section 6.1 related to the adoption of a land-use plan, to the taking of a project decision or of a decision as referred to in section 3.40, subsection 1 or to the granting of a dispensation which he has requested.
3. Any person who has a financial interest in the determination of a development fee as referred to in section 6.17, subsection 1 or its recalculation is an interested party in regard to a decision of the municipal executive on a request for compensation by virtue of section 6.1 related to the adoption of a land-use plan, its amendment or amplification, or the taking of a project decision or a decision as referred to in section 3.40, subsection 1 if the compensation could have financial consequences for the development fee or its recalculation.

Section 6.5

If the municipal executive awards compensation as referred to in section 6.1, the municipal executive shall also reimburse:

- a. the reasonable costs of legal representation and other expert assistance;
- b. statutory interest, to be calculated with effect from the receipt of the application.

Section 6.6

1. If the provincial council adopts an imposed land-use plan with the application of section 3.26, subsection 1, takes a project decision with the application of section 3.27 or takes a decision as referred to in section 3.41, the provincial executive acts in the place of the municipal executive for the purpose of the rules laid down by or pursuant to this part.
2. If Our Minister adopts an imposed land-use plan with the application of section 3.28, subsection 1, takes a project decision with the application of section 3.29, or takes a decision as referred to in section 3.42, he acts in the place of the municipal executive for the purpose of the rules laid down by or pursuant to this part.
3. If Our Minister together with Our designated Minister adopts an imposed land-use plan with the application of section 3.35 or takes a project decision, Our designated Minister acts in the place of the municipal executive for the purpose of the rules laid down by or pursuant to this part.
4. For the purpose of this section, a request for compensation for loss shall be submitted to the municipal executive. The latter shall ensure that the application is forwarded without delay to the relevant administrative authority which decides on the application. The fee referred to in section 6.4 shall be collected by the deciding administrative authority; the municipal ordinance referred to in section 6.4, subsection 3 does not apply.
5. This section applies *mutatis mutandis* to compensation for loss resulting from a cause referred to in section 6.1, subsection 2 (f).

Section 6.7

Rules may be laid down by or pursuant to order in council regarding the format and processing of an application for compensation for loss, and further rules may be laid down regarding the submission, justification for and method of assessing such an application. These rules may include an obligation for the municipal council and the provincial council to adopt an ordinance in this regard.

Part 6.2 Indemnification of higher costs of the municipality

Section 6.8

1. If provisions are included in a land-use plan or an imposed land-use plan, including a project decision preceding it, for the benefit of interests wholly or partly promoted by a public body other than the municipality at the written request of that public body or in accordance with statutory regulations which may increase the costs for the municipality, and agreement has not been reached on the distribution of these costs, the provincial executive may, at the written request of the municipal executive, oblige that public body to indemnify the municipality in so far as:
 - a. the costs should not reasonably be borne by the municipality,
 - b. the indemnity is not adequately provided for otherwise and
 - c. the indemnity is not excluded pursuant to statutory regulation.
2. A decision on the request of the municipal executive shall be given after the land-use plan or imposed land-use plan including a project decision preceding it has entered into force.
3. Notwithstanding subsection 1 the decision on the request shall be given by Our Minister or by Our Minister and such other of Our Ministers as may be concerned, if the other public body is central government.

Section 6.9

Section 6.8 applies *mutatis mutandis* if, for the benefit of interests wholly or partly promoted by a public body other than the municipality, at the written request of that public body a dispensation is granted as referred to in section 3.22 or a decision is taken to defer granting a building permit or planning permission pursuant to section 50, subsection 1 of the Housing Act or pursuant to section 3.18, subsection 2, provided that the request for compensation may only be submitted by the municipal executive. The request may be submitted within four weeks of the dispensation or the decision to delay becoming final.

Part 6.3 Grants

Section 6.10

1. Our Minister or such other of Our Ministers as may be concerned in agreement with Our Minister may for the purpose of implementing the national spatial policy provide grants for:
 - a. developing or adopting structure schemes and plans of provinces or municipalities;
 - b. preparing projects or activities of strategic importance for the implementation of national spatial policy;
 - c. undertaking projects or activities of strategic importance for the implementation of national spatial policy.
2. Our Minister may also provide grants for activities designated by order in council as referred to in section 4.3 to implement rules laid down by or pursuant to this measure.

Section 6.11

1. Rules shall be laid down by or pursuant to order in council relating to the manner in which the grant monies are distributed.
2. Rules may be laid down by or pursuant to order in council relating to:
 - a. the setting of a grant ceiling, the period for which the grant ceiling shall be fixed and the manner in which this is made public;
 - b. the award of grants;
 - c. the cases in which a grant will be refused;
 - d. the obligations of the grant recipient;
 - e. the formal approval of the grant;
 - f. the withdrawal or amendment to the disadvantage of the recipient of the grant before it is formally approved;
 - g. the payment of the grant;
 - h. advance payments.

Part 6.4 Land development

Section 6.12

1. The municipal council shall adopt a development plan for land for which a building plan has been designated by order in council.
2. Notwithstanding subsection 1, the municipal council may decide in a decision to adopt a land-use plan, an amendment as referred to in section 3.6, subsection 1,

- a project decision or a decision as referred to in section 3.40, subsection 1 not to adopt a land development plan if:
- a. the land development costs for the land included in the plan or decision will be recovered by some other means;
 - b. it is not necessary to determine the period of development or the timetable as referred to in section 6.13, subsection 1 (c), (4°) and (5°) respectively, and
 - c. it is not necessary to lay down requirements, rules or a further elaboration of rules as referred to in section 6.13, subsection 2 (b), (c) or (d) respectively.
3. The municipal council may delegate to the municipal executive the powers referred to in subsections 1 and 2, in the case of a decision to adopt a land-use plan as referred to in section 3.6, subsection 1 (a) or of a decision as referred to in section 3.10, subsection 4.
 4. A development plan shall be adopted and made public at the same time as the land-use plan, the amendment referred to in section 3.6, subsection 1, the project decision or the decision referred to in section 3.40, subsection 1 to which it relates.
 5. The municipal council may adopt an intermunicipal development plan in cooperation with the councils of neighbouring municipalities. The executive councils of these municipalities shall deposit the adopted plan for inspection at the same time. Notwithstanding section 3.8, subsection 3, the period referred to in that subsection commences after the adoption of the development plan by all the municipal councils concerned.
 6. A development plan may prohibit certain non-construction works or activities from being carried out until an amplification plan for the land concerned as referred to in section 3.6, subsection 1 (b) has entered into force. The development plan may provide for the municipal executive to grant dispensation from this prohibition.

Article 6.13

1. A development plan shall include:
 - a. a map of the area to be developed;
 - b. a description of the works and activities needed to prepare the area for construction, install the utilities and lay out the public space in the area;
 - c. a development budget, comprising:

- 1°. where necessary an estimate of the input values of the lands, these values being regarded as costs related to the development of these lands for the purpose of this part;
 - 2°. an estimate of the other development costs, including an estimate of the losses eligible for compensation by virtue of section 6.1;
 - 3°. an estimate of the revenues arising from development, and the timetable for the estimates referred to at 1° to 3°;
 - 4°. the period during which the land will be developed;
 - 5°. in so far as necessary a timetable for the execution of the works, activities, measures and building plans, and if necessary the links between them;
 - 6°. a description of how the costs to be recovered will be distributed between the lands to be allocated.
2. A development plan may include:
 - a. a map showing the intended land use and the plots which the municipality intends to acquire;
 - b. the requirements for the works and activities needed to prepare the area for construction, install the utilities and lay out the public space in the area;
 - c. rules for the execution of the works and activities referred to at b;
 - d. a further elaboration of the rules referred to in section 3.1, subsection 1 and section 3.10, subsection 3 with regard to their practicability.
 3. In the case of land for which an amplification as referred to in section 3.6, subsection 1 (b) is still awaiting adoption, or for which due to the phasing a building permit as referred to in section 6.17, subsection 1 cannot be granted, the content of the elements of the development plan referred to in subsections 1 and 2 may be general in character.
 4. In calculating the costs and revenues it shall be assumed that the entire development area will be developed.
 5. Where compulsory purchase does not apply, the input value of land shall be determined by applying sections 40b to 40f of the Expropriation Act *mutatis mutandis*. In the case of land which has been compulsorily purchased or for which a compulsory purchase decision has been taken, or which has been or is being acquired on the basis of expropriation, the input value shall be equal to the indemnity pursuant to the Expropriation Act.

6. Costs related to works, activities and measures which benefit the development area or a part thereof, and which are attributable to the development plan shall be included in the development budget on a *pro rata* basis.
7. Costs not included in the development plan pertaining to one or more locations or parts thereof may be included in the development budget in the form of a fund contribution if a structure scheme has been adopted for these locations or parts thereof which gives indications of the sums which can be paid from the fund.
8. Further rules shall be laid down by or pursuant to order in council on the development budget, the revenues to be included therein and the types of recoverable cost.
9. Rules may be laid down by or pursuant to order in council regarding the availability of the development plan and further rules shall be laid down with regard to:
 - a. the maps, requirements and rules referred to in subsections 1 and 2;
 - b. how the development budget should be drawn up and calculated, and
 - c. the costs which form part of the development plan.
10. A proposal for an order in council to be adopted under subsection 8 shall not be made until the draft has been submitted to both Houses of the States General, has been announced in the Government Gazette and electronically and everyone has been given the opportunity to bring comments thereon to the attention of Our Minister in writing within a period of at least four weeks to be specified in the announcement.

Section 6.14

1. Part 3.4 of the General Administrative Law Act applies to the preparation of a development plan, provided that notice is also given to the persons shown in the land register as the owners of the lands in the development area and this is also sent electronically.
2. Within four weeks of the adoption of the development plan the municipal executive shall notify in writing the owners of the lands of its adoption. It shall also notify them of its deposit for inspection and the period during which appeal may be lodged. This notification shall also be sent electronically.

Section 6.15

1. A development plan shall be revised at least once per year after its entry into force until the works, activities, and construction specified therein have been realised. If

an appeal is lodged against a development plan, the period commences on the day after a decision on the development plan becomes final.

2. An amplification plan as referred to in section 3.6, subsection 1 (b) which includes land for which a general description has been adopted in the development plan does not enter into force until a revision of the said development plan with regard to the land concerned has been adopted and made public.
3. Section 6.14, subsection 1 does not apply to a revision of a development plan, and the notification referred to in section 6.14, subsection 2 may be dispensed with in so far as the revision relates exclusively to:
 - a. a more detailed estimation and specification of the costs and revenues;
 - b. a modification of these estimates to allow for the indexation of costs by methods indicated in the development plan;
 - c. a replacement of estimated by actual costs, or
 - d. other minor matters.

Section 6.16

If the amount of the costs associated with a development in a development plan minus the grants and contributions received or to be received from third parties by the municipality in connection with this development exceeds the amount included in the development plan for the revenues from the development, the municipality may only recover these costs up to the amount of the revenues.

Section 6.17

1. The municipal executive shall recover the development costs of the land lying within a development area by attaching, having due regard to the development plan, a condition to the building permit for a building plan that was designated in accordance with section 6.12, subsection 1 that the permit-holder is liable for a development contribution to the municipality, unless the contribution is secured in some other way or a contribution was agreed and secured prior to the submission of the building application.
2. The municipal executive shall specify a period in the building permit within which the development contribution referred to in subsection 1 should be paid. The municipal executive may include in the building permit provisions regulating the payment of this contribution, which may depend on the execution of works and buildings referred to in the development plan. If these provisions provide that full or

partial payment must be made once construction commences, the municipal executive may require additional guarantees from the permit-holder with regard to the payment. Further rules in this regard may be laid down by order in council.

Section 6.18

1. Allocation categories shall be specified in the development plan for the purpose of determining the development contribution referred to in section 6.17, subsection 1. If necessary these shall be further differentiated.
2. For each such category a basic unit shall be determined expressed as the number of square metres of land area, the number of square metres of floor area or another similar measure.
3. Weighted units shall be calculated by multiplying each basic unit by a weighting factor for each category.
4. The weighted units in the development area shall be added together.
5. The recoverable amount per weighted unit shall be the maximum recoverable amount referred to in accordance with section 6.16, divided by the number calculated in accordance with subsection 4.

Section 6.19

The development contribution referred to in section 6.17, subsection 1 to be paid for each building permit shall be calculated by multiplying the number of weighted units and parts thereof allocated in the development plan to the land referred to in the permit application, or the number of weighted units included in the permit application if higher, by the recoverable amount per weighted unit, and subtracting from this amount:

- a. the input value of the lands referred to in the permit application, estimated in accordance with sections 40b to 40f of the Expropriation Act, in so far as the development plan does not exclude these costs from recovery, and
- b. the costs incurred by the applicant in developing the lands concerned; in calculating the amount to be recovered, these costs must not exceed the estimate thereof in the development plan.

Section 6.20

1. Within three months after the works, activities and measures specified in a development plan have been carried out, the municipal executive shall draw up a statement of account for the development plan.

2. The statement of account shall show the paid development contributions referred to in section 6.17, subsection 1, recalculated on the basis of the total costs and the total number of weighted units in the development area. The basic units and weighting factors referred to in section 6.18, subsections 2 and 3 used in calculating the development contribution paid shall also be used in the recalculation.
3. If a recalculated development contribution is more than 5% lower than the development contribution paid, the municipality shall, no more than one month after confirming the calculation, reimburse the difference in so far as it is more than 5%, proportionately with interest to the person who at the time of the payment of the contribution or a part thereof was holder of the building permit concerned, or to that person's legal successor.
4. If at least 90% of the estimated costs in the development plan have been incurred, a statement of account shall be drawn up at the request of the person who, at the time of payment of a development contribution as referred to in section 6.17, subsection 1, was holder of the building permit concerned or that person's legal successor, relating to the development contribution concerned, and subsection 3 shall be put into effect.
5. An appeal may be lodged against a decision regarding the statement of account and the recalculated development contribution.

Section 6.21

1. Immediately on the expiry of the deadline for payment of a part of or the entire development contribution referred to in section 6.17, subsection 1, the municipal executive may decide that construction cannot commence or must be discontinued until the payment obligations have been met. It shall set the period referred to in section 5:24 of the General Administrative Law Act at no longer than four weeks.
2. The municipal executive may from one month after the expiry of the payment deadline demand by means of an enforcement order the amount owed referred to in subsection 1 increased by the recovery costs. Section 5:26, subsections 2 to 4 of the General Administrative Law Act apply.
3. If three months after the decision referred to in subsection 1 the contribution concerned has not been received by the municipality, the municipal executive may fully or partially revoke the building permit.

Section 6.22

1. A municipality shall pay a financial contribution owed to the permit-holder if the activity to which the contribution relates has been carried out in accordance with the development plan and a request for payment has been submitted to the municipality.
2. Title 4.2 of the General Administrative Law Act does not apply to the payment of a contribution as referred to in subsection 1.

Section 6.23

The municipal council may adopt an ordinance relating to the development of the land, which may contain provisions regarding the procedure for the establishment of an agreement on land development and the contents thereof.

Section 6.24

1. In entering into an agreement on land development the municipal executive may include provisions in the agreement regarding:
 - a. financial contributions towards the land development and, based on a structure scheme which has been adopted, towards spatial planning developments;
 - b. the settlement of losses which are eligible for compensation by virtue of section 6.1.
2. After a development plan has been adopted the municipal executive shall have regard to the development plan when entering into an agreement on land development, provided that the agreement may contain provisions elaborating on matters dealt with in the development plan, but may not contain provisions on matters which may form part of a development plan but were not included therein.
3. The municipal executive shall announce an agreement within two weeks of its conclusion in a municipal bulletin or another daily or weekly newspaper or a free local paper.
4. Section 6.4a, subsection 2 applies *mutatis mutandis* in relation to a person who has concluded an agreement on land development in which provision is made for recovery of losses due to a government planning decision.

Section 6.25

1. If the provincial council, with the application of section 3.26, subsection 1, adopts an imposed land-use plan or, with the application of section 3.27, takes a project

decision or takes a decision as referred to in section 3.41, the provincial council or the provincial executive acts for the purpose of the rules laid down by or pursuant to this part in the place of the municipal council or the municipal executive respectively. 'Municipality' is to be read as 'province'.

2. If Our Minister, with the application of section 3.28, adopts an imposed land-use plan or, with the application of section 3.29, takes a project decision or takes a decision as referred to in section 3.42, Our Minister acts for the purpose of the rules laid down by or pursuant to this part in the place of the municipal council and the municipal executive. 'The municipality' and 'a municipality' are to be read as 'central government'.
3. If Our Minister, together with Our designated Minister where applicable, with the application of section 3.35 adopts an imposed land-use plan or takes a project decision, Our Minister, where appropriate together with Our designated Minister, acts for the purpose of the rules laid down by or pursuant to this part in the place of the municipal council, and Our Minister or Our designated Minister in the place of the municipal executive. 'The municipality' and 'a municipality' are to be read as 'central government'.

Chapter 7. Enforcement and supervision

Section 7.1

The municipal executive shall provide for the administrative enforcement of the provisions laid down by or pursuant to this Act.

Section 7.2

1. The municipal executive shall designate by decision officials who are charged with monitoring compliance with the provisions laid down by or pursuant to this Act.
2. The officials designated pursuant to subsection 1 are empowered to enter a dwelling, bearing the necessary equipment, without the consent of its occupant.

Section 7.3

1. Our Minister shall designate by decision officials who are charged with monitoring the implementation and enforcement of the provisions laid down by or pursuant to this Act.
2. Sections 5:13, 5:15, 5:16, 5:17 and 5:20 of the General Administrative Law Act apply *mutatis mutandis*.
3. Our Minister may determine by ministerial order that administrative authorities charged with implementing or enforcing the provisions laid down by or pursuant to this Act shall provide the officials designated pursuant to subsection 1 with the data indicated therein. The order may lay down rules relating to the timing, frequency and form in which the data are provided. The order may also determine that these rules apply only in the cases indicated therein.

Section 7.4

Without prejudice to article 141 of the Code of Criminal Procedure, the officials designated pursuant to sections 7.2 and 7.3 are charged with investigating offences punishable under articles 179 to 182 and article 184 of the Criminal Code, in so far as these offences relate to an order, warrant, application or action made or undertaken by themselves.

Section 7.5

If a request as referred to in section 5:34 of the General Administrative Law Act is made, the administrative authority which imposed the penalty payment shall give a decision on the request as quickly as possible, but within at most four weeks.

Section 7.6

1. If this is in the interests of effective spatial planning, Our Minister may order that the administrative authority empowered to withdraw permits withdraws the planning permission or demolition permit within a period stipulated by him. If the municipal executive or the provincial executive takes the decision to withdraw the permission or permit it shall send a copy of this decision to Our Minister without delay.
2. If the administrative authority does not comply with the order, Our Minister may take a decision as referred to in subsection 1 until six weeks from the expiry of the

period set. Our Minister shall send a copy of this decision to the municipal executive without delay.

Section 7.7

Where necessary for effective spatial planning in support of provincial interests, the provincial executive may request the municipal executive to withdraw a planning permission or demolition permit within a specified period. If the municipal executive takes a decision withdrawing the permit or permission it shall send a copy to the provincial executive without delay.

Section 7.8

1. Where necessary for effective spatial planning Our Minister may order that where there has been an infringement of a regulation made by or pursuant to this Act, the municipal executive implement a decision to issue an enforcement order or collect or impose and collect a penalty payment within a period set by him. The municipal executive shall notify the Minister in writing of its decision and the subsequent implementation thereof.
2. If the municipal executive does not give full effect to an order, Our Minister may himself take the necessary action at the expense of the municipality.
3. Section 5:26 of the General Administrative Law Act applies provided that 'administrative authority which has taken enforcement action' is read as 'municipal executive'.
4. Our Minister may in his decision issuing the order determine that, notwithstanding section 5:25 of the General Administrative Law Act, the costs associated with implementing the decision referred to in subsection 2 shall be borne by the municipality.

Section 7.9

Where necessary for effective spatial planning in support of provincial interests, the provincial executive may request the municipal executive to make use of its enforcement powers in relation to the infringement of a regulation laid down by or pursuant to this Act within a specified period. The municipal executive shall notify the provincial executive in writing of any decision made and of the implementation thereof.

Section 7.10

1. It is prohibited to use or cause to be used land or buildings in a manner inconsistent with a land-use plan including a project decision, an administrative ordinance, a decision as referred to in section 3.40, 3.41 or 3.42, a preparation decision in so far as subsection 3 or 4 has been applied, a provincial ordinance or an order in council in so far as section 4.1, subsection 3 or 5, or section 4.3, subsection 3 or 4 respectively has been applied or an instruction in so far as section 4.2, subsection 3, or section 4.4, subsection 3 has been applied.
2. Any behaviour which contravenes a condition attached to a permit, permission or dispensation granted in accordance with this Act is prohibited.
3. The violation of a prohibition as referred to in subsection 1 or 2 is a criminal offence.

Chapter 8. Objections and appeals

Part 8.1 Objections and appeals

Section 8.1

Section 7:1 of the General Administrative Law Act does not apply to:

- a. a decision on a request for indemnification of costs as referred to in section 6.8 or 6.9;
- b. a decision regarding the revision of a development plan which was not prepared with the application of part 3.4 of the General Administrative Law Act, or to a decision regarding the statement of account and recalculated development contributions of a development plan;
- c. an instruction decision as referred to in section 3.8, subsection 6, or section 3.11, subsection 2 in conjunction with section 3.8, subsection 6.

Section 8.2

1. An interested party may lodge an appeal with the Administrative Jurisdiction Division of the Council of State against:
 - a. a decision regarding the adoption of a land-use plan or imposed land-use plan;
 - b. a decision as referred to in section 3.1, subsection 3;
 - c. a decision regarding the amendment or amplification of a land-use plan in accordance with section 3.6, subsection 1;

- d. an instruction decision as referred to in section 3.8, subsection 6 or section 3.11, subsection 2, in conjunction with section 3.8, subsection 6;
 - e. decisions as referred to in section 3.30, subsection 1 (a) or (b), section 3.33, subsection 1 (a) or (b) or section 3.35, subsection 1 (a) or (b) if this or another Act provides for appeal to the Administrative Jurisdiction Division against any of these decisions;
 - f. an instruction as referred to in section 4.2, subsection 1 or section 4.4, subsection 1 in so far as this relates to a location specified therein, from which no derogation is possible;
 - g. a decision on a request for indemnification of costs as referred to in section 6.8 or 6.9;
 - h. a decision regarding the adoption of a development plan for lands included in a land-use plan or amendment plan adopted at the same time as referred to in section 3.6, subsection 1 as well as revisions of the development plan concerned and decisions regarding the statement of account and recalculated development contributions of the development plan concerned.
2. In an appeal against a decision as referred to in subsection 1 (a) grounds may not be adduced related to an instruction as referred to in subsection 1 (f) on which that decision is based.
 3. The Administrative Jurisdiction Division of the Council of State shall decide on an appeal as referred to in subsection 1 (a), (b), (c), (d), (g) or (h) within twelve months of the expiry of the appeal period.
 4. If an appeal relates to a land-use plan in which, pursuant to section 3.4, parts are designated for which early implementation is deemed necessary this appeal will be dealt with before other appeals as referred to in subsection 3.
 5. A person who has concluded a land development agreement relating to the lands included in a decision as referred to in sections 6.12, subsections 1 and 2 or 6.15, subsection 1, or who is owner of these lands, is in any case deemed to be an interested party in respect of that decision.

Section 8.3

1. For the purpose of appeals pursuant to chapter 8 of the General Administrative Law Act, the following are deemed to be a single decision:
 - a. if section 3.30, subsection 1 (a), section 3.33, subsection 1 (a) or section 3.35, subsection 1 (a) has been applied, the decisions referred to therein;

b. if section 3.30, subsection 1 (b), section 3.33, subsection 1 (b) or section 3.35, subsection 1 (b) has been applied, the decision regarding the adoption of the land-use plan referred therein to and the other decisions referred to therein,

in so far as these decisions were published at the same time with the application of section 3.32.

2. The competent court shall decide on an appeal as referred to in subsection 1 within six months of the receipt of the defence.
3. In determining the possibility of appeal and the procedure relating to a ruling on an appeal pursuant to chapter 8 of the General Administrative Law Act, a decision regarding the adoption of a development plan and a land-use plan or imposed land-use plan, project decision, or decision as referred to in section 3.40, subsection 1, section 3.41, subsection 1 or section 3.42, subsection 1 which is adopted at the same time, or an amendment or amplification of a land-use plan or imposed land-use plan which is adopted at the same time are deemed to be a single decision.

Section 8.4

1. If during the appeal period for a decision on the adoption of a land-use plan or imposed land-use plan, or of an amendment or amplification thereof, a request for provisional relief has been lodged with the president of the Administrative Jurisdiction Division of the Council of State, the application of the decision is suspended until a decision has been made on the request. In granting the request the president shall indicate the sections of the land-use plan or imposed land-use plan, or of the amendment or amplification thereof, to which the provisional relief applies.
2. If during the appeal period for a project decision as referred to in section 3.10, 3.27 or 3.29 or a decision as referred to in section 3.40, 3.41 or 3.42 a request for provisional relief has been lodged with the competent court, the application of the decision is suspended until a decision has been given on the request.
3. If a request for provisional relief has been lodged before the deadline for appealing against a decision to grant building permission or a demolition permit or a dispensation as referred to in section 3.22 or 3.23, the application of the decision is suspended until a decision has been given on the request.

Part 8.2 Advice on appeals

Section 8.5

1. Our Minister may, acting on behalf of the State, set up a foundation whose purpose will be to carry out the task referred to in section 8.6.
2. Changes in the constitution of the foundation or its dissolution require the consent of Our Minister. Before deciding on such consent Our Minister shall hear the Administrative Jurisdiction Division of the Council of State.
3. The constitution shall guarantee that the foundation carries out its functions impartially and independently.

Section 8.6

The task of the foundation is to draw up, for the administrative courts at their request, expert reports relating to appeals lodged pursuant to this Act. It shall also draw up expert reports relating to appeals lodged pursuant to other Acts for the administrative courts at their request in so far as these concern matters related to spatial planning.

Section 8.7

The persons who make up the various bodies of the foundation and the staff of the foundation shall not perform any jobs or activities the exercise of which would be prejudicial to the impartiality and independence of the foundation or confidence therein.

Section 8.8

1. If a foundation is set up subject to section 8.5, Our Minister shall provide it with a grant in accordance with regulations laid down by or pursuant to order in council in so far as this is reasonably necessary for it to discharge its duties properly.
2. Section 8:36, subsection 1 of the General Administrative Law Act does not apply.

Chapter 9 Planning bodies

Part 9.1 Planning committees

Section 9.1

1. In each province there is a provincial planning committee charged with

- deliberating on and coordinating matters relating to provincial spatial policy.
2. Rules shall be laid down by provincial ordinance regarding the appointment, composition, duties and working methods of the committee.
 3. Rules may be laid down by or pursuant to order in council relating to the ordinance referred to in subsection 2.

Section 9.2 [Repealed with effect from 01-07-2008]

Part 9.2 [Enters into force on a date to be determined]

Part 9.3 [Enters into force on a date to be determined]

Part 9.4 [Enters into force on a date to be determined]

Chapter 10 Concluding provisions

Section 10.1

1. Municipal executives and Our Minister shall announce each year how they intend to put into effect the administrative enforcement of the provisions laid down by or pursuant to this Act during the following year.
2. Municipal executives and Our Minister shall report each year to the municipal council and the States General respectively on how they effected the administrative enforcement of the provisions laid down by or pursuant to this Act in the preceding year and the policy pursued in order to implement chapters 3, 3.3a and 4. Provincial executives shall report annually to the provincial council on the policy they pursued to implement these chapters. Municipal executives and provincial executives shall send a copy of the report to the inspector at the same time as it is submitted to the municipal council or provincial council.

Section 10.2

1. The following persons, not being supervisory officials, shall have such access in the areas referred to below to all sites and premises, other than houses, as is reasonably necessary for the implementation of this Act:
 - a. throughout the country: the persons designated by Our Minister;
 - b. in a province: the persons designated by the King's Commissioner;

- c. in a municipality: the mayor and the persons designated by him.
2. It may be prescribed by order in council that for some sites and premises the powers referred to in subsection 1 may be exercised only by certain of the persons referred to in subsection 1.
3. The persons referred to in subsection 1 shall if necessary gain access with the help of the police.

Section 10.3

1. For land which does not lie within a municipality or a province, a land-use plan may be adopted at central government level in so far as this is determined by order in council, on the recommendation of Our Minister together with Our Minister of Transport, Public Works and Water Management.
2. Chapter 3, parts 3.1, 3.2 except section 3.8, subsections 4 and 6, parts 3.3 and 3.4, § 3.6.1 and part 3.7 where possible apply *mutatis mutandis* to the land-use plan referred to in subsection 1, provided that Our Minister acts in the place of the municipal council and of the municipal executive, and that in section 3.11, subsection 2 'section 3.8, subsections 3 to 6' is read as 'section 3.8, subsections 3 and 5'.
3. Rules may be laid down in the order in council referred to in subsection 1 regarding the administrative authorities which exercise the powers provided for in this Act and regarding the administrative authorities involved in implementation.

Section 10.4

1. It may be determined by royal decree on the recommendation of Our Minister and such other of Our Ministers as may be concerned, that this Act does not apply to work or activity related to national defence designated in the decree.
2. Rules may be laid down by or pursuant to order in council regarding the form of electronic information made available about the decision.

Section 10.5

Any document drawn up to allow the municipality, the province or central government to gain disposal of immovable property in order to implement a land-use plan is free of all legalisation fees and court fees.

Section 10.6

The costs incurred by the municipality or the province in working to implement this Act are costs as referred to in section 193 of the Municipalities Act or section 197 of the Provinces Act. Section 194 of the Municipalities Act or section 197 of the Provinces Act applies.

Section 10.7

Regulations may be laid down by or pursuant to order in council with a view to ensuring that the Netherlands complies with its binding international obligations related to or connected with matters dealt with by or pursuant to this Act.

Section 10.8

1. If further regulation is necessary of matters dealt with in this Act to ensure it is properly implemented, this may be done by order in council.
2. A proposal for an order in council to be adopted under the present section shall not be made until the draft has been submitted to both Houses of the States General, has been published in the Government Gazette and electronically and everyone has been given the opportunity to bring comments thereon in writing to the attention of Our Minister within a period of at least four weeks to be specified in the announcement.

Section 10.9

An order in council as provided for in this Act shall after adoption be sent to both Houses of the States General. It enters into force no earlier than the first day of the second calendar month after the date it appeared in the Bulletin of Acts and Decrees.

Section 10.10

Within five years of the date on which this Act entered into force and every five years thereafter, Our Minister shall report to the States General on the effectiveness and the effects of this Act in practice.

Section 10.11

Prior to the publication of this Act in the Bulletin of Acts and Decrees, Our Minister will renumber the parts, divisions, sections and points of this Act and amend the references thereto in this Act accordingly.

Section 10.12

This Act enters into force on a date to be determined by royal decree, which may differ for the different sections or points thereof.

Section 10.13

This Act may be cited as the Spatial Planning Act.

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

Done at The Hague on 20 October 2006

Beatrix

Minister of Housing, Spatial Planning and the Environment
P. Winsemius

Published on the twenty-eighth of November 2006

Minister of Justice
E.M.H. Hirsch Ballin