

Act of 31 October 1991,

containing regulations governing public access to government information

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

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

Whereas We have considered that, in view of Article 110 of the Constitution, it has proved desirable, in the interests of effective, democratic governance, to amend the rules concerning openness and public access to government information and to incorporate these rules in statute law wherever possible;

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 I. Definitions

Section 1

The definitions employed in this Act and the provisions deriving from it shall be as follows:

- a. document: a written document or other material containing data which is deposited with an administrative authority;
- b. administrative matter: a matter of relevance to the policies of an administrative authority, including the preparation and implementation of such policies;
- c. internal consultation: consultation concerning an administrative matter within an administrative authority or within a group of administrative authorities in the framework of their joint responsibility for an administrative matter;
- d. independent advisory committee: a committee appointed by the government to advise one or more administrative authorities, the members of which do not include any civil servants who advise the administrative authority to which they are responsible on the subjects put before the committee. A civil servant who is the secretary or an advisory member of such a committee shall not be regarded as a member for the purposes of this provision;
- e. civil service or mixed advisory committee: a committee responsible for advising one or more administrative authorities, which is composed partly or wholly of civil servants whose duties include advising the administrative authority to which they are responsible on the subjects put before the committee.
- f. personal opinion on policy: an opinion, proposal, recommendation or conclusion of one or more persons concerning an administrative matter and the arguments they advance in support thereof;
- g. environmental information: all information available in written, visual, auditive or digital form concerning the condition of water, air, soil, fauna, flora, agricultural land and nature reserves; concerning activities, including activities causing nuisance such as noise, and measures which have or probably will have an adverse affect on these; and concerning relevant protective activities and measures, including measures under administrative law and environmental protection programmes.

Section 1a

1. This Act shall apply to the following administrative authorities:

- a. Our Ministers;

b. the administrative authorities of provinces, municipalities, water boards and regulatory industrial organisations;

c. administrative authorities whose activities are subject to the responsibility of the authorities referred to in subsection 1 (a and b);

d. such other administrative authorities as are not excluded by order in council.

2. Notwithstanding subsection 1 (d), this Act shall apply only to such administrative authorities responsible for education and research in the policy field of the Ministry of Education, Culture and Science as have been designated by order in council.

Chapter II. Public Access

Section 2

An administrative authority shall, in the exercise of its functions, disclose information in accordance with the present Act, without prejudice to provisions laid down in other statutes.

Chapter III. Information on application

Section 3

1. Anyone may apply to an administrative authority or to an agency, service or company carrying out work for which it is accountable to an administrative authority for information contained in documents concerning an administrative matter.

2. The applicant shall specify the administrative matter or the document relevant to it about which he wishes information.

3. An application for information shall be granted with due regard for the provisions of sections 10 and 11.

Section 4

If the application concerns documents held by an administrative authority other than that to which the application has been submitted, the applicant shall, if necessary, be referred to that authority. If the application was made in writing, it shall be forwarded and the applicant shall be notified accordingly.

Section 5

1. The decision on an application for information shall be given verbally or in writing.

2. The applicant shall receive written notification of a refusal to disclose all or part of the information for which he applied in writing. If the application was made verbally, the applicant shall receive, on request, written notification of the refusal. This option shall be brought to the attention of the applicant.

3. The decision shall likewise be given in writing if the application for information concerns a third party and said third party has applied for this information. In such a case, the decision and the information relevant to the third party shall be sent to him.

Section 6

The administrative authority shall decide on the application for information at the earliest possible opportunity, and in any event no more than two weeks after the date of receipt of the application. The administrative authority may defer the decision for no more than a further two weeks. The applicant shall be notified in writing, with reasons, of the deferment before the first two-week period has elapsed.

Section 7

1. The administrative authority shall provide information concerning the documents which contain the information required by:

- a. issuing a copy of the documents or conveying their exact substance in some other form,
- b. permitting the applicant to take note of the contents of the documents,
- c. supplying an extract from the documents or a summary of their contents, or
- d. supplying information contained in the documents.

2. In choosing one of the methods listed in subsection 1 the administrative authority shall take into account the preference of the applicant and the importance of smooth, rapid procedure.

Chapter IV. Information provided voluntarily

Section 8

1. The administrative authority directly concerned shall provide, of its own accord, information on its policy and the preparation and implementation thereof, whenever the provision of such information is in the interests of effective, democratic governance.

2. The administrative authority shall ensure that the information is supplied in a comprehensible form and in such a way as to reach the interested party and as many interested members of the public as possible at a time which will allow them to make their views known to the administrative authority in good time.

Section 9

1. The administrative authority directly concerned shall ensure that the policy recommendations which the authority receives from independent advisory committees, together with the requests for advice and proposals made to the advisory committees by the authority, shall be made public where necessary, possibly with explanatory notes.

2. The recommendations shall be made public no more than four weeks after they have been received by the administrative authority. Their publication shall be announced in the Netherlands Government Gazette or in some other periodical made generally available by the government. Notification shall be made in a similar manner of non-publication, either total or partial.

3. The documents referred to in subsection 1 may be made public by:

- a. including them in a publication which is generally available,
- b. publishing them separately and making them generally available, or
- c. depositing them for public inspection, providing copies or making them available on loan.

Chapter V. Exceptions and restrictions

Section 10

1. Disclosure of information pursuant to this Act shall not take place insofar as::

- a. this might endanger the unity of the Crown;

b. this might damage the security of the State;

c. the data concerned relate to companies and manufacturing processes and were furnished to the government in confidence by natural or legal persons.

2. Nor shall disclosure of information take place insofar as its importance does not outweigh one of the following:

a. relations between the Netherlands and other states or international organisations;

b. the economic and financial interests of the State, other bodies constituted under public law or the administrative authorities referred to in section 1a, subsection 1 (c and d) and subsection 2;

c. the investigation of criminal offences and the prosecution of offenders;

d. inspection, control and oversight by administrative authorities;

e. respect for personal privacy;

f. the importance to the addressee of being the first to note the information;

g. the prevention of disproportionate advantage or disadvantage to the natural or legal persons concerned or to third parties.

3. Subsection 2, chapeau and at b, shall apply to the disclosure of environmental information concerning confidential procedures.

4. Subsection 2, chapeau and at g, shall not apply to the disclosure of environmental information. It is possible to refrain from disclosing such information pursuant to this Act if its publication would make damage to the environment more likely.

Section 11

1. Where an application concerns information contained in documents drawn up for the purpose of internal consultation, no information shall be disclosed concerning personal opinions on policy contained therein.

2. Information on personal opinions on policy may be disclosed, in the interests of effective, democratic governance, in a form which cannot be traced back to any individual. If those who expressed the opinions in question or who supported them agree, information may be disclosed in a form which may be traced back to individuals.

3. Information concerning the personal opinions on policy contained in the recommendations of a civil service or mixed advisory committee may be disclosed if the administrative authority directly concerned informed the committee members of its intention to do so before they commenced their activities.

Chapter VI. Other provisions

Section 12

Rules applicable to the central government may be laid down by or pursuant to an order in council concerning charges for copies of documents made and extracts from or abstracts of documents supplied in response to applications for information.

Section 13

Publication of recommendations by the Council of State or independent advisory committees which were issued before 1 May 1980 shall not be compulsory under the present Act.

Section 14

Further rules concerning the implementation of provisions laid down by or pursuant to the present Act may be laid down:

- a. for central government, by or pursuant to an order by Our Prime Minister in accordance with the views of the Cabinet;
- b. for provinces, municipalities, water boards and the other administrative authorities referred to in section 1a, subsection 1 (c and d) and subsection 2, by their executive bodies.

Section 15

[Lapsed.]

Section 16

The provisions of the previous Government Information (Public Access) Act (Bulletin of Acts and Decrees 1987, no. 581) shall continue to apply to appeals against decisions given pursuant to the said Act which had been lodged before the present Act entered into force.

Section 17

Our Prime Minister and Minister of General Affairs, and our Minister of the Interior shall, within five years of the entry into force of the present Act, report to the States General on its application.

Chapter VII. Amendments to certain Acts of Parliament

Section 18

[Contains amendments to other regulations.]

Section 19

The provisions of the previous Act shall continue to apply to advisory reports, recommendations and proposals issued by the Council of State before the present Act entered into force.

Section 20

[Contains amendments to other regulations.]

Section 21

Restrictions on access imposed before the entry into force of the present Act shall continue to apply to applications pursuant to the 1962 Public Records Act (Bulletin of Acts and Decrees 1962, no. 313) for consultation or use of documents which had been deposited in a repository before the entry into force of the present Act.

Sections 22-24

[These articles contain amendments to other regulations.]

Chapter VIII. Concluding provisions

Section 25

The 1978 Government Information (Public Access) Act (Bulletin of Acts and Decrees 1978, no. 581) shall be repealed.

Section 26

This Act shall enter into force on a date to be determined by Royal Decree.

Section 27

This Act may be cited as the Government Information (Public Access) Act.

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

Done at The Hague, 31 October 1991

Beatrix

R. F. M. Lubbers

Prime Minister,

Minister of General Affairs

C. I. Dales

Minister of the Interior

Published the thirty-first of December 1991

E. M. H. Hirsch Ballin

Minister of Justice