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# Autonomous Administrative Authorities Framework Act

## Valid from 01/01/2015 to the present

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Act of 2 November 2006 containing rules concerning autonomous administrative authorities (Autonomous Administrative Authorities Framework 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 it is desirable to lay down basic rules concerning autonomous administrative authorities at central government level;

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

#### Section 1

For the purposes of this Act, the following definitions apply:

- a. autonomous administrative authority: an autonomous administrative authority of central government which by Act of Parliament, by order in council pursuant to Act of Parliament, or by ministerial order pursuant to Act of Parliament, has been invested with public authority and is not hierarchically subordinate to a minister;
- b. Our Minister: Our Minister whom it may concern.

#### Section 2

1. This Act does not apply to autonomous administrative authorities which have been invested with public authority only in so far as they are authorised to take decisions on the basis of the Government Information (Public Access) Act or on the basis of the power to take decisions or perform acts with respect to a public servant as referred to in section 1 of the Central and Local Government Personnel Act as such, his surviving relatives or his successors-in-title.
2. Autonomous administrative authorities established before this Act entered into force are subject to this Act if this is provided for in the Act of Parliament, order in council or ministerial order referred to in section 1 (a).

#### Section 3

1. An autonomous administrative authority may be established only if:
  - a. there is a need for an independent opinion based on specific expertise;
  - b. strict application of the rules is required in a large number of individual cases;
  - c. participation of civil society organisations is deemed particularly appropriate in the light of the nature of the administrative task in question.
2. Subsection 1 applies *mutatis mutandis* if an existing autonomous administrative authority is charged with a different task, entailing the exercise of public authority, from the one for which it was established.

#### Section 4

1. Only a body of a legal person established under public law may be invested with public authority.

2. Notwithstanding subsection 1, a body of a legal person established under private law may be invested with public authority by Act of Parliament, by order in council pursuant to Act of Parliament, or by ministerial order pursuant to Act of Parliament, provided:
  - a. this is deemed particularly appropriate for the promotion of the public interest to be served thereby, and
  - b. there are sufficient guarantees that the exercise thereof can take place independently of the other present and future activities of that organisation.

## **Section 5**

1. Our Minister must notify both houses of the States General of any intention to charge an autonomous administrative authority with public authority or deprive it thereof by order in council pursuant to Act of Parliament or by ministerial order pursuant to Act of Parliament.
2. The recommendation for an order in council as referred to in subsection 1 must not be made until at least four weeks after the draft has been presented to both houses of the States General.
3. Subsection 2 applies *mutatis mutandis* to the adoption of a ministerial order as referred to in subsection 1.

## **Section 6**

All Acts of Parliament, royal decrees and ministerial orders which:

- a. charge an autonomous administrative authority with the exercise of public authority or deprive it thereof;
- b. amend the powers of Our Minister vis-à-vis an autonomous administrative authority; or
- c. amend obligations that an autonomous administrative authority should observe vis-à-vis Our Minister;

must be co-signed by Our Minister for Housing and the Central Government Sector.

## **Section 7**

An autonomous administrative authority that, together with one or more other autonomous administrative authorities, forms part of the same legal person or organisational unit, may fulfil the obligations under this Act partly on behalf of the other autonomous administrative authorities.

## **Section 8**

An autonomous administrative authority requires the approval of Our Minister before accepting a mandate, unless the mandate is issued by Our Minister. Approval may be withheld on the grounds that the mandate is incompatible with the law or that Our Minister believes that the power to be mandated may hinder the autonomous administrative authority in the proper performance of its tasks.

## **Section 9**

A member of an autonomous administrative authority may not also be a public servant subordinate to Our Minister.

## **Chapter 2 Provisions on autonomous administrative authorities established under public law**

### **Section 10**

This Chapter applies to autonomous administrative authorities that are bodies of a legal person established under public law.

### **Section 11**

1. If an autonomous administrative authority adopts administrative regulations on the basis of a

statutory regulation, the administrative regulations require the approval of Our Minister.

2. Approval may be withheld on the grounds that the administrative regulations are incompatible with the law or that Our Minister believes they may hinder the autonomous administrative authority in the proper performance of its tasks.

#### **Section 12**

1. Our Minister appoints, suspends and dismisses the members of an autonomous administrative authority.
2. Suspension and dismissal may take place only on the grounds that the person concerned is unsuited or incompetent to do the job in question, or for other compelling reasons relating to the person concerned. Termination of employment may also take place at a member's own request.

#### **Section 13**

1. A member of an autonomous administrative authority may not perform outside work that is undesirable with a view to the proper performance of his job or the maintenance of his independence or of confidence therein.
2. A member of an autonomous administrative authority must notify Our Minister of the intention to accept outside work other than by reason of his office.
3. Outside work performed by a member of an autonomous administrative authority other than by reason of his office must be made public, by depositing a list of the outside work for inspection with the autonomous administrative authority and with Our Minister.

#### **Section 14**

1. Members of an autonomous administrative authority receive remuneration or compensation.
2. Our Minister sets the remuneration or compensation.
3. Apart from the remuneration or compensation and the reimbursement of exceptional costs arising from his job, a member of an autonomous administrative authority that does not form part of the State does not receive any income from the legal person to which the autonomous administrative authority belongs.
4. Subject to the application, *mutatis mutandis*, of article 383 of Book 2 of the Civil Code, the members of an autonomous administrative authority that does not form part of the State must be reported on in the annual report referred to in section 18.

#### **Section 15**

1. The rules on legal status applicable to public servants appointed by ministries apply *mutatis mutandis* to staff employed by an autonomous administrative authority that does not form part of the State. The powers laid down in those rules, except for the powers to make rules conferred on Us or on Our Minister for Housing and the Central Government Sector, are exercised by the autonomous administrative authority. In so far as those rules provide that powers must be exercised with the involvement of Our Minister for Housing and the Central Government Sector, these powers are exercised with the involvement of Our Minister.
2. Subsection 1 may be departed from in part by order in council.

#### **Section 16**

Staff working for an autonomous administrative authority are subject to the authority of the autonomous administrative authority and must render account for their activities solely to that

authority.

### **Chapter 3 Information, management and supervision**

#### **Section 17**

1. If an autonomous administrative authority is authorised to set charges, the level of the charges set by the autonomous administrative authority requires the approval of Our Minister. Approval may be withheld if the charges are incompatible with the law or the public interest.
2. Approval is not required if the autonomous administrative authority is bound by an upper limit for the charge.

#### **Section 18**

1. An autonomous administrative authority must draw up an annual report by 15 March each year. The annual report must describe the tasks performed and policies pursued, including the policy on quality assurance.
2. The annual report must be sent to Our Minister and to both houses of the States General.

#### **Section 19**

1. With regard to the performance of its tasks and exercise of its powers, an autonomous administrative authority oversees:
  - a. timely preparation and implementation;
  - b. the quality of the procedures used;
  - c. the careful treatment of persons and institutions that come into contact with it;
  - d. the careful handling of any notices of objection and complaints received.
2. An autonomous administrative authority must take measures to ensure that individuals and institutions that come into contact with it have the opportunity to propose improvements to working methods and procedures.
3. An autonomous administrative authority must report on the measures taken to implement subsections 1 and 2 in the annual report referred to in section 18.

#### **Section 20**

1. An autonomous administrative authority must provide Our Minister, upon request, with all the information he requires to perform his task. Our Minister may ask to inspect all business information and documents if that is reasonably necessary for him to perform his task.
2. In providing the information referred to in subsection 1, an autonomous administrative authority must indicate where necessary which information is confidential. Its confidentiality may stem from the nature of the information, or from the fact that natural or legal persons have provided it to the autonomous administrative authority on condition that it is treated as confidential.

#### **Section 21**

1. Our Minister may lay down policy rules relating to the way in which an autonomous administrative authority performs its tasks.
2. The policy rules must be published in the Government Gazette.

#### **Section 21a**

1. Our Minister for Housing and the Central Government Sector, at the request of an autonomous

administrative authority that does not form part of the State, and in consultation with such of Our Ministers as it may concern, may decide that the autonomous administrative authority must make use of a service that is maintained by another central government administrative authority and that is used for the performance of the task of one or more central government administrative authorities. A 'service' means a coherent collection of operational management processes; these processes, including automation and administrative information provision, accommodation and human resources management, do not substantively determine the outcomes of the using organisation's primary process.

2. If an autonomous administrative authority that does not form part of the State performs its tasks under strict application of the rules in a large number of individual cases, Our Minister for Housing and the Central Government Sector may, in consultation with such of Our Ministers as it may concern and without the autonomous administrative authority submitting a request to this effect, decide that the autonomous administrative authority must make use of a service as referred to in subsection 1.
3. A decision as referred to in subsection 1 or 2 is taken only if, in the view of the ministers involved in the decision, it increases the efficiency and effectiveness of the performance of the autonomous administrative authority's task.
4. By ministerial order, Our Minister for Housing and the Central Government Sector, in consultation with such of Our Ministers as it may concern, may lay down rules governing the manner in which the autonomous administrative authority makes use of the service.
5. This section does not apply to an autonomous administrative authority as referred to in section 38.

#### **Section 21b**

1. An autonomous administrative authority that makes use of a service pursuant to section 21a must contribute to the cost of maintaining the service.
2. The contribution must be paid by the legal person to which the autonomous administrative authority belongs. The contribution must be paid to the legal person to which the administrative authority that maintains the service belongs.
3. The basis of the contribution referred to in subsection 1 must be determined by order in council.
4. Further rules governing the determination or payment of the contribution must be laid down by or pursuant to order in council. It may be stipulated therein that the amount to be charged is set at zero, in so far as the national budget contains a provision replacing the autonomous administrative authority's contribution.

#### **Section 22**

1. Our Minister may reverse a decision made by an autonomous administrative authority.
2. A decision to do so must be announced in the Government Gazette.

#### **Section 23**

1. If Our Minister is of the opinion that an autonomous administrative authority is seriously neglecting its duties, Our Minister may take whatever measures are necessary.
2. Except in urgent cases, no measures must be taken until the autonomous administrative authority has been given the opportunity to fulfil its duties properly within a period to be set by Our Minister.
3. Our Minister must notify both houses of the States General without delay of any measures he has taken as referred to in subsection 1.

## **Chapter 4 Provisions on financial supervision**

### **Part 1. Budget of public-law autonomous administrative authorities**

#### **Section 24**

This Part applies to autonomous administrative authorities that are bodies of a legal person established under public law.

#### **Section 25**

An autonomous administrative authority that forms part of the State must send the draft budget for the following year to Our Minister by 1 April each year.

#### **Section 26**

An autonomous administrative authority that does not form part of the State must send the budget for the following year to Our Minister annually by a date to be determined by Our Minister.

#### **Section 27**

1. The budget referred to in section 26 must contain an estimate of revenues and expenses, an estimate of planned investments and an estimate of income and expenditure.
2. Each budget item must be accompanied by a separate explanatory note.
3. The explanatory notes must make clear which budget items refer to the performance of the tasks entrusted to an autonomous administrative authority by or pursuant to the law, and which refer to other activities.
4. Unless the activities to which the budget relates have not been performed before, the budget must include a comparison with the budget of the current year and the last approved annual accounts.

#### **Section 28**

1. The budget referred to in section 26 must also include:
  - a. if the law provides that the costs of an autonomous administrative authority are to be charged to the national budget: a proposal to Our Minister concerning the amount to be included in the national budget in the year concerned;
  - b. if the law provides that the costs of an autonomous administrative authority are to be covered from charges to be levied by the autonomous administrative authority: a proposal to Our Minister concerning the charges to be levied in the year concerned;
  - c. if the law provides that the costs of an autonomous administrative authority are to be covered from both the national budget and charges: a combination of the proposals referred to in points a and b.
2. If an autonomous administrative authority makes an estimate of other expenses or income, they must be stated separately, accompanied by an explanation.

#### **Section 29**

1. The decision to adopt the budget referred to in section 26 requires the approval of Our Minister.
2. Approval may be withheld if the budget is incompatible with the law or the public interest.

#### **Section 30**

If significant differences arise or threaten to arise in the course of the year between the actual and

budgeted revenues and expenses or income and expenditure, an autonomous administrative authority must notify Our Minister without delay, stating the cause of the differences.

## **Part 2. Management and reporting in public-law autonomous administrative authorities that do not form part of the State**

### **Section 31**

This Part applies to autonomous administrative authorities which are bodies of a legal person other than the State, established under public law.

### **Section 32**

Our Minister may provide that an autonomous administrative authority requires his prior approval for the following:

- a. the establishment of or acquisition of an interest in a legal person;
- b. the acquisition of title to, the alienation or the encumbrance of registered property;
- c. the conclusion and termination of agreements for the acquisition, alienation or encumbrance of registered property or for the renting or lease thereof;
- d. the conclusion of credit agreements and loan agreements;
- e. the conclusion of agreements whereby the autonomous administrative authority undertakes to provide security, including security for third-party debts, or whereby it binds itself as guarantor or joint and several debtor or warrants performance by a third party;
- f. the formation of funds and reserves other than the equalisation reserve referred to in section 33;
- g. filing for bankruptcy or protection from creditors.

### **Section 33**

1. An autonomous administrative authority must form an equalisation reserve.
2. The difference between the actual revenues of an autonomous administrative authority and the actual expenses arising from its activities must be credited or charged to the equalisation reserve.
3. The interest received on the equalisation reserve must be added to the equalisation reserve.

### **Section 34**

1. An autonomous administrative authority must submit the annual accounts to Our Minister at the same time as the annual report referred to in section 18.
2. The decision to adopt the annual accounts requires the approval of Our Minister.
3. Approval may be withheld if the accounts are incompatible with the law or the public interest.

### **Section 35**

1. The annual accounts, which render account for financial management and the results achieved during the previous financial year, must be structured as far as possible in accordance, *mutatis mutandis*, with Title 9 of Book 2 of the Civil Code.
2. The annual accounts must be accompanied by an opinion on their fairness and truth issued by an auditor as referred to in article 393, paragraph 1 of Book 2 of the Civil Code, designated by the autonomous administrative authority. In designating the auditor, an autonomous administrative authority must stipulate that Our Minister must be informed, upon request, of the auditor's audit activities.
3. The opinion referred to in subsection 2 must also cover the regular collection and spending of

funds by an autonomous administrative authority.

4. The auditor must append to the opinion referred to in subsection 2 a report of his findings as to whether the management and organisation of an autonomous administrative authority comply with efficiency requirements.

### **Part 3. Management and reporting in private-law autonomous administrative authorities**

#### **Section 36**

This Part applies to autonomous administrative authorities that are bodies of a legal person established under private law, unless Title 4.2 of the General Administrative Law Act applies to them.

#### **Section 37**

If an autonomous administrative authority exclusively performs the tasks entrusted to it by Act of Parliament, by order in council pursuant to Act of Parliament, or by ministerial order pursuant to Act of Parliament and activities directly connected therewith, sections 26 to 35 apply *mutatis mutandis*.

#### **Section 38**

If an autonomous administrative authority performs the tasks entrusted to it by Act of Parliament, by order in council pursuant to Act of Parliament, or by ministerial order pursuant to Act of Parliament and activities directly connected therewith alongside other activities:

- a. it must keep separate records for those tasks and activities, and
- b. it must report on those tasks and activities separately in its annual accounts.

### **Chapter 5 Other provisions**

#### **Section 39**

1. Every five years, Our Minister must send a report to both houses of the States General so that the efficiency and effectiveness of the functioning of an autonomous administrative authority can be assessed.
2. Every five years after this Act has entered into force, Our Minister for Housing and the Central Government Sector must send a report on the effectiveness and the effects of this Act in practice to both houses of the States General.

#### **Section 40**

Our Minister for Housing and the Central Government Sector must keep a public register containing in any event the following details of all autonomous administrative authorities:

- a. the name or other designation;
- b. the address;
- c. the legal form of the legal person of which the autonomous administrative authority forms part;
- d. the tasks and powers, with references to the statutory regulations concerned;
- e. the provisions (and a brief list of their contents) of the statutory regulations applicable to the autonomous administrative authority in question, which depart from this Act.

#### **Section 41**

1. By virtue of the regulations applicable to the civil service, an autonomous administrative authority must ensure that the necessary technical and organisational measures are taken to protect its data against loss or damage and against unauthorised perusal, alteration and provision.
2. Our Minister may provide that subsection 1 does not apply to an autonomous administrative



authority.

## **Chapter 6 Transitional and concluding provisions**

### **Section 42**

[Repealed on 01/01/2015]

### **Section 43**

[Repealed on 01/01/2015]

### **Section 44**

[Repealed on 01/02/2007]

### **Section 45**

This Act enters into force on the first day of the third calendar month after the date of the Bulletin of Acts and Decrees in which it is published.

### **Section 46**

This Act may be cited as the Autonomous Administrative Authorities Framework 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 2 November 2006

Beatrix

J.W. Remkes  
Minister of the Interior and Kingdom Relations

Published on the thirtieth of November 2006

E.M.H. Hirsch Ballin  
Minister of Justice