



# The Water Act in brief

THE WATER ACT

The Netherlands

## Why do we need a new Water Act?

### Climate change

Originally most of the Netherlands was a marsh land. Over the centuries it has been protected by dikes and the fact that a large part of our country is below sea level is something we tend to take for granted. Climate change will have far-reaching consequences for our country as far as water is concerned. Flood protection, the prevention against flooding, damage caused by draughts and good water quality are areas that will require additional efforts in the future. The aim of modern water management is to do justice to the many relationships and interests involved with our water resources. A new Water Act is being prepared in order to meet water management requirements facing our country in future. It is expected to take effect as from late 2009.

### Integrated water management

The Water Act highlights integrated water management based on the 'water system approach'. This approach is based on all relationships within water systems. For example, the relationship between the quality and quantity of water, between surface water and groundwater, but also the relationship between water, land use and water users. In addition to this, integrated water management is also characterised by its relationship with the environment. This is reflected in policy areas such as nature, the environment and spatial planning.



## Advantages of the new Water Act

The new Water Act will create a framework for the modernisation of Dutch water management required for the coming decades. The integration of a number of authorisations will reduce administrative burden for citizens and businesses. The Water Act links up well with the new Spatial Planning Act, which will enhance the relationship with spatial environmental policy. One integrated act simplifies the implementation of the European Water Directives. This applies, among other things, to the Water Framework Directive, which is based on the management of international transboundary river basins (rivers, lakes and deltas), the Directive on the Assessment and Management of Flood Risks and the Marine Strategy Framework Directive.





# Content of the new Water Act

## Integration of existing acts

The Water Act will integrate the following eight existing water management statutes:

- Water Management Act;
  - Surface Waters Pollution Act;
  - Marine Waters Pollution Act;
  - Groundwater Act;
  - Act of 14 July 1904 containing provisions on land reclamation and construction of dikes;
  - Flood Defences Act;
  - Public Works Management Act (sections relating to waterways);
  - Public Works Act 1900 (sections relating to waterways).
- Furthermore, sections from the Soil Protection Act relating to waterbeds are incorporated into the Water Act.

## Further details via implementation regulations

The Water Act does not regulate water management in every detail. The details of some subjects will be regulated in secondary legislation: the Water Decree (an administrative order), Regulations governing Water (a ministerial regulation) or regulations issued by water authorities and provinces. These implementation regulations take effect at the same time as the Water Act.

## New requirements for water systems

The Water Act provides the basis for the requirements to which water systems can be subjected. The standards for primary flood defence structures are laid down in the act itself, other standards for public waterways are incorporated in the Water Decree or Water Regulation. Regional waterways are governed by the standards laid down in provincial regulations and plans. In this way the Water Act lays down the basis to set standards for water systems with a view to preventing unacceptable flooding. By doing so, it retains the existing practice of taking formal decisions on water levels or target water levels. Because of land use, a water level is closely linked with spatial planning. In the event of water shortages, the Water Act enables letting one function prevail over the other (the 'priority of rights'). The Water Act also provides standards for the storage or drainage capacity of regional water systems. A regional water system should be constructed in such a way that it can store or drain sufficient water in the event of an excess of water.

## Obligations of water authorities

Water authorities are also obliged to meet a number of important water quality requirements. The quality of the surface water is subject to chemical and ecological quality standards. The groundwater quality is governed by chemical quality standards only. For water quality standards, the Water Act refers to lists of substances and standards provided by the Environmental Management Act and the Groundwater Directive. The Objectives Order, which takes effect in 2009, is decisive for water authorities.





## Instruments

The Water Act provides for the following administrative-legal instruments for the implementation of water policy.

### Water agreements and administrative arrangements

Water authorities can conclude water agreements with other authorities on water management. These agreements are not subject to any formal requirements and may concern any water management topic. The Act also provides for administrative agreements between a water authority and a municipality. The procedural requirements of the latter possibility are more simplified.

### Ledgers

The water authorities should draw up ledgers on waterways. This is a register which states the requirements to be met by a waterway with respect to its situation, form, size and construction. The ledger should also clearly indicate the management borders of waterways and their protection zones. For example: a water-restraining structure often belongs to a protection zone in which activities are only permitted provided that stringent requirements are satisfied so that the stability of a dike is not jeopardised. The water authorities are already familiar with ledgers. However, this duty is new for the Department of Public Works and Water Management.

### Project plans

A water authority can construct a civil-engineering structure or modify it by means of a project plan, which should provide a description of the structure and the way in which the construction or modifications will be implemented. Major civil-engineering structures are subject to a project procedure, in any case for primary flood defence structures. The project procedure may also apply to urgent projects of supra-regional importance, the application of which is laid down by provincial regulations. Project plans subject to a project procedure require the approval of the Provincial Executive. The province is responsible for a coordinated approach.

### Obligation to consent

Rightful citizens and businesses should tolerate certain water management activities. The violation of rights, such as property rights, is called an obligation to consent. For example, on land situated adjacent to or in a water system, cement or grass cuttings that are the by-product of maintenance work can be left behind. Obligations to consent are not new in water management. New is the landowners' obligation to consent the temporary storage of water in a storage area. The ledger of a water authority and the zoning plan of a municipality determine whether or not such an area is qualified as a storage area.

### General rules and the integrated water permit

One of the important points of departure of the Water Act is that as many activities as possible are governed by general regulations. This clarifies in advance what is permitted and what is not. However, it is not possible to lay down all details in general regulations and for activities in water systems the Water Act has introduced the integrated water permit. The Water Act integrates six permits from existing acts into a single water permit. This includes a wide range of activities which were formerly governed by separate statutes, such as discharges of polluting substances into surface water, the extraction of groundwater or the construction of a dike.

### Applications

The water permit can be applied for from the municipality, but also from the competent authority. If an environmental permit is required this can also be applied for, together with the water permit, from the same municipality ('one stop shop'). The municipality will then ensure that the application is forwarded to the appropriate competent authorities. ICT facilities are being developed to support the processing of permits. If the application for a water permit requires transactions by different competent administrative bodies, in principle, the decision is taken by the highest competent authority. Administrative bodies may mutually agree, however, to adopt a different working formula.



## Organisation of water management

Formally speaking, the Water Act acknowledges only two water authorities: the State, as authority of the main waterways system, and the water management boards as the authorities of the regional waterways. The latter are also responsible for waste water treatment. Provinces and municipalities do not act as water managers, formally speaking, though they do have certain water management duties. For the time being, the province remains the competent authority for three categories of groundwater abstraction and infiltration: public drinking water extraction, the underground storage of energy and industrial extractions of more than 150,000 cubic metres per annum. The municipalities have the duty to provide for the collection and drainage of rainwater and groundwater as laid down in the Water Management Act through the Act on Municipal Water Duties.

The Water Act also provides for the mutual supervisory relationships of the government bodies involved. Provinces supervise regional water authorities and municipalities and, if necessary, they may issue instructions or guidance. A province or the State can act on behalf of a water authority by means of resolutions and proceedings. In situations where the interests are supra-regional or if international obligations are at stake, the Minister of Transport, Public Works and Water Management can apply supervisory instruments.

## Financial provisions

The Water Act contains provisions on levies such as charges, legal fees, subsidies, compensation and the recovery of the costs. Existing financial provisions from several water acts have been clustered and integrated. The Water Act provides the basis for the pollution levy and groundwater levy. The pollution levy that has to be paid for direct discharges into surface water is subject to the 'polluter pays' principle. Provinces remain entitled to claim groundwater levies, as is the present case. Water authorities will be able to pay for the expenses incurred with their groundwater-related responsibilities from the revenues of the water system levy, as laid down in the Water Management Boards Act. Municipalities pay for their water-related responsibilities from the municipal water levy, which is laid down in the Municipalities Act.





## Enforcement

The water authority is responsible for the administrative enforcement of the Water Act. To this end, the authority collects and registers the information required and, if necessary, resorts to administrative enforcement or imposes a charge under forfeiture of a penalty. Furthermore, as a sanction, the Water Act provides for the revoking of the water permit.

## The Water Act and Europe

The Netherlands covers parts of four European river basins: the Rhine, Ems, Scheldt and Meuse. The Water Act links up with this. In the Netherlands there is a distinction between main public waterways and regional waterways. Both categories are subject, by way of the national and regional water plans, respectively, which lay down the outline of the water policy and programme of measures. As far as spatial aspects are concerned they also constitute a structure plan as referred to in the Spatial Planning Act. As such, the plans serve as guidance for

spatial planning policy and therefore ensure the enhancement of the relationship between water management and spatial planning. The plans are reviewed once every six years.

The water management boards and the Department for Public Works and Water Management draw up operational water management plans that lay down the measures to be implemented in the coming period. This also covers emergency response plans.

## More information

For more details, background information and recent developments regarding the Water Act, please visit [www.waterwet.nl](http://www.waterwet.nl). If you have any queries, please contact the Water Helpdesk at the Ministry of Transport, Public Works and Water Management: 0800-NLWATER (0800-6592837).



Ministerie van Verkeer en Waterstaat



**Text:** Ministry of Transport, Public Works and Water Management, Directorate-General Water. **Final editing:** Pauw Sanders Zeilstra Van Spaendonck, The Hague. **Design:** T2Ontwerp, The Hague. **Printing:** Koninklijke De Swart, The Hague

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