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# Public Records Act 1995

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Act of 28 April 1995 replacing the Public Records Act 1962 (Bulletin of Acts and Decrees, no. 313) and in connection therewith to amend a number of other Acts of Parliament

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 developments in the field of public records make it desirable to replace the Public Records Act 1962 and in connection therewith to amend a number of other Acts of Parliament;

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. General provisions

### Section 1

The following definitions apply in this Act and the provisions based on it:

- a. Our Minister: Our Minister of Education, Culture and Science;
- b. administrative authority:
  - 1°. an organ of a legal person established under public law, or
  - 2°. any other person or body invested with any public authority;
- c. records:
  - 1°. records in any form whatsoever received or created by an administrative authority which, by their nature, are designed to be kept by that authority;
  - 2°. records in any form whatsoever, which have been received or created by an institution or person whose rights or duties have passed to an administrative authority and which, by their nature, are designed to be kept by that institution or person;
  - 3°. records, in any form whatsoever, which, pursuant to agreements with or decisions or bequests by institutions or persons, or on another basis, are kept in repositories;
  - 4°. reproductions, in any form whatsoever, which, by or pursuant to Act of Parliament, have been substituted for the records referred to at 1°, 2° or 3° or which have been made pursuant to the provisions of section 7;
- d. responsible authority: the authority which, by or pursuant to Act of Parliament, is responsible for the care of records;
- e. storage area: area, intended or designated for the storage of records pending their transfer in accordance with section 12, subsection 1 or section 13, subsection 1;
- f. repository: a repository designated by or pursuant to this Act for the permanent preservation of records.

### Section 2

For the purposes of this Act and the provisions based upon it, administrative authorities are defined as including administrative authorities which were or are abolished before or after the entry into force of this Act.

### Section 2a

The prohibition on processing personal data as referred to in section 16 of the Personal Data Protection Act does not apply to processes concerning:

- a. the replacement of records as referred to in section 7;
- b. the transfer of records to a repository as referred to in sections 12 and 13;

- c. the placing of records as referred to in section 1 (c) (3°) in a repository, or;
- d. the management of records kept in a repository, with the exception of the making available of such records for consultation or use.

## **Section 2b Reuse**

1. Use within the meaning of sections 14 and 17 of this Act includes reuse within the meaning of Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003 on the reuse of public sector information (OJ 2003 L 345).
2. The Reuse of Government Information Act does not apply to the making available for use of records that have been transferred to a repository, unless the present Act provides otherwise.

## **Chapter II. Records in general**

### **Section 3**

Administrative authorities are obliged to ensure that the records kept by them are in good condition, are properly arranged and accessible, and are thus maintained, and to arrange for the destruction of records which are eligible for destruction.

### **Section 4**

1. Any regulation whereby an administrative authority is abolished, merged or divided, or whereby one or more duties of one administrative authority are transferred to another, must contain a provision concerning their records.
2. Any regulation establishing a temporary administrative authority must contain a provision concerning the preservation of its records after it has been abolished.
3. Any regulation whereby all or some of the duties of an administrative authority are transferred to a legal person must contain a provision to the effect that such of the records concerning those duties which have not been transferred to a repository will be made available to the said legal person for a period not exceeding twenty years. This provision must in any event specify more precisely the period referred to in the first sentence and include a clause concerning the supervision of the management of the relevant records, in accordance with the provisions laid down by or pursuant to this Act.

### **Section 5**

1. The responsible authority is obliged to draw up disposal lists indicating in any event what records are eligible for destruction.
2. The lists are finalised in the case of:
  - a. records of the Senate and the House of Representatives of the States General, the other High Councils of State and the King's Office: by Royal Decree on the recommendation of Our Minister in consultation with the relevant administrative authority;
  - b. records of the ministries: by Our Minister and such other of Our Ministers as is also concerned;
  - c. records of other administrative authorities: by Our Minister.
3. A decision finalising a disposal list is published in the Government Gazette.

### **Section 6**

Our Minister may destroy records kept in a state repository only with the authorisation of the person on whose instructions the records were transferred.

### **Section 7**

The responsible authority is empowered to replace records by reproductions, with a view to destroying the records thus replaced.

## **Section 8**

1. The responsible authority is empowered to alienate records not kept in a state repository in so far as these are:
  - a. records of the Senate and the House of Representatives of the States General, the other High Councils of State and the King's Office: after authorisation has been given by Royal Decree on the recommendation of Our Minister;
  - b. records of other administrative authorities: on the authorisation of Our Minister.
2. No authorisation is required for the alienation of records as referred to in subsection 1, if such alienation takes place by way of implementing a regulation laid down by Act of Parliament.
3. Our Minister may not alienate records kept in a state repository other than in order to implement a regulation laid down by Act of Parliament or with the authorisation of the person on whose instructions the records were transferred.

## **Section 9**

1. Further rules concerning the drawing up of lists as referred to in section 5 and concerning the replacement or alienation of records are to be laid down by or pursuant to order in council.
2. Our Prime Minister may lay down rules on the basis of which, in the event of exceptional circumstances, the provisions of this Act concerning the destruction of records may be waived.

## **Section 10**

If records are wrongly being kept by an administrative authority other than that by which they ought to be kept, the responsible authorities concerned will ensure that the records are moved to the appropriate place.

## **Section 11**

1. Any person with records in their possession is obliged, within four weeks of receiving notification to that effect, to hand the records over to the administrative authority by which they ought to be kept in accordance with the provisions of this Act, at the expense and risk of the administrative authority in question, to enable it to have the records reproduced.
2. The administrative authority returns the records within four weeks to the person who handed them over, even if the government may have a claim to the said records on some other basis.

## **Section 12**

1. The responsible authority transfers to a repository records which are not eligible for destruction and which are more than twenty years old.
2. Rules are to be laid down, by or pursuant to order in council, which must be complied with when transferring records.

## **Section 13**

1. The responsible authority may transfer to a repository records which are not eligible for destruction and which are less than twenty years old if the keeper of the repository is of the opinion that there is sufficient reason to make space available for them.
2. A refusal pursuant to subsection 1 may be reviewed by the keeper's immediate superior.

3. If records which are over twenty years old are still frequently used or consulted by the administrative authority, authorisation to suspend their transfer may, in response to a request by the responsible authority, be granted by Our Minister or, in the case of records for which a repository other than a state repository or provincial repository is the designated place of custody, the provincial executive.
4. The authorisation referred to in subsection 3, to which conditions may be attached, is granted for a period not exceeding ten years, after which an extension may be obtained.

## **Section 14**

With the exception of the provisions of sections 15, 16 and 17, records kept in a repository are open to the public. With the exception of the restrictions arising out of the provisions of the said sections, all persons are entitled to consult these records free of charge and to make or have made, at their own expense, images, copies, extracts or versions of all or part of the records concerned.

## **Section 15**

1. When transferring records as referred to in section 1 (c) (1°) and (2°), the responsible authority, on the recommendation of the keeper of the repository, may only impose restrictions on public access for a limited period and in the interests of:
  - a. privacy;
  - b. the State or its allies;
  - c. the prevention in some other way of disproportionate advantage or disadvantage to the natural or legal persons concerned or to third parties.

If the keeper of a repository is a state archivist as referred to in section 26, subsection 2, the National Archivist as referred to in section 25, subsection 1 is asked for a recommendation as referred to in the first sentence.

2. The authority responsible for the records kept in a repository may not impose restrictions as referred to in subsection 1 following the transfer of records as referred to in subsection 1 unless circumstances have arisen since the date of transfer which, had they been known at that time, would have led to the imposition of restrictions on public access in accordance with subsection 1.
3. Having heard the person on whose instructions the records were transferred, the authority responsible for the records kept in a repository may lift the restrictions on public access imposed pursuant to subsection 1 or 2 or may set them aside in respect of an applicant if the latter's interest in consulting or using the records outweighs the interests served by the restrictions.
4. Restrictions on public access imposed pursuant to subsection 1 or 2 do not apply to records which are more than 75 years old, unless Our Minister or, in the case of records for which a repository other than a state repository or provincial repository is the designated place of custody, the provincial executive decides otherwise.
5. Subsection 3 does not apply to records to which public access has been restricted in the interests of the State or its allies.
6. Subsection 4 applies to records relating to the interests of the State or its allies unless the Cabinet decides otherwise.
7. The regulations on the right to information which would apply if the records had not been transferred to a repository applies to the records referred to in subsection 5.

## **Section 15a**

1. Section 15, subsection 1, opening words and (c) do not apply in so far as the records contain environmental information as referred to in section 19.1a of the Environmental Management Act.

2. In so far as the records kept in the repository contain environmental information as referred to in section 19.1a of the Environmental Management Act, the responsible authority must, notwithstanding section 15, subsection 3, set aside the restrictions on public access imposed pursuant to section 15, subsection 1, opening words and (c) or subsection 2 in respect of an applicant.
3. Notwithstanding section 15, subsection 1 (a) and subsection 2 in conjunction with subsection 1 (a), no restrictions on public access are imposed in so far as the environmental information as referred to in section 19.1a of the Environmental Management Act contained in the records concerns environmental emissions.
4. In so far as the records kept in the repository contain environmental information concerning environmental emissions, the responsible authority must, in respect of the records kept in the repository, notwithstanding section 15, subsection 3, set aside the restrictions on public access imposed pursuant to section 15, subsection 1 (a) or subsection 2 in conjunction with subsection 1 (a) in respect of an applicant.

## **Section 16**

1. Public access to the records referred to in section 1 (c) (3°) may be restricted by the relevant agreements and/or decisions and bequests.
2. If such documents have been placed in a repository on some other basis the responsible authority may impose restrictions on public access to them. The provisions of section 15 apply *mutatis mutandis*.

## **Section 17**

1. The keeper of a repository makes the documents kept there available for use or consultation by an applicant with due regard for any restrictions imposed on public access and in accordance with sections 5 and 6 of the Reuse of Government Information Act.
2. The keeper is empowered to refuse an application to use or consult records if, in his opinion, the condition of the records does not permit such access or the records cannot safely be entrusted to the applicant.
3. Written notification is given of a refusal to grant all or part of a written application for use or consultation. If the application was made verbally, the applicant receives, on request, written notification of the refusal. This option is brought to the attention of the applicant.
4. If the nature or extent of the use or consultation of records poses a serious threat to their condition, the keeper is empowered to decide that, instead of the said records, reproductions, which are not records, as referred to in section 1 (c) (4°), will be made available.

## **Section 18**

1. The keeper of a repository is obliged to lend records, for a given period of time, to the administrative authority by which they would have been kept if they had not been transferred to a repository unless, in his opinion, the condition of the records does not permit this.
2. The keeper of a repository is empowered, with due regard to the restrictions imposed on public access, to lend records to an institution for a given period of time, provided expert management and secure storage are guaranteed. Conditions may be attached to such a loan.
3. The keeper is empowered to refuse an application for a loan as referred to in subsection 2, if, in his opinion, the condition of the records does not permit such a loan or the records cannot safely be entrusted to the applicant.
4. Written notification is given of a refusal to grant all or part of a written application for a loan as

referred to in subsection 2. If the application was made verbally, the applicant receives, on request, written notification of the refusal. This option is brought to the attention of the applicant.

5. If the nature or extent of the use or consultation of the records lent out as referred to in subsection 2 poses a serious threat to their condition, the keeper is empowered to decide that reproductions will be lent in their place.
6. The applicant may be charged for the costs of the loan.

## **Section 19**

If the costs referred to in section 14 and section 18, subsection 6 are passed on to the applicant, the responsible authority will lay down rules governing the said costs. Section 9, subsections 1 and 4 of the Reuse of Government Information Act apply *mutatis mutandis* to costs passed on to the applicant.

## **Section 20**

The keeper of a repository is empowered to issue copies of authentic documents which have to be kept by him in accordance with this Act.

## **Section 21**

1. Rules are to be laid down by or pursuant to order in council governing the durability of records to be created by administrative authorities, the construction, alteration, furnishing and refurnishing of storage areas and repositories, and the use of buildings or parts thereof as storage areas or repositories.
2. Rules may be laid down by or pursuant to order in council on the arrangement and accessibility of records and their maintenance thus.

## **Section 22**

Rules are to be laid down by or pursuant to order in council concerning archival qualifications and the training of archivists.

## **Chapter III. Central government records**

### **Section 23**

1. The Senate and the House of Representatives of the States General, the other High Councils of State, the director of the King's Office and Our Ministers are responsible for the care of such of their records as have not been transferred to a state repository.
2. Our Commissioners in the province are responsible for the care of the records relating to the tasks referred to in section 182, subsections 1 and 2 of the Provinces Act, in so far as these records have not been transferred to a state repository.
3. Our Minister is also responsible for the care of records kept in state repositories.
4. Rules are to be laid down by order in council concerning the way in which the care referred to in subsection 1 is provided.

### **Section 24**

1. Our Minister is empowered to instruct the administrative authorities referred to in section 23, subsections 1 and 2, and section 41, subsection 1 to comply with the provisions laid down by or pursuant to this Act.
2. Our Minister is empowered to impose an order subject to enforcement action if an administrative

authority fails to act on an instruction as referred to in subsection 1.

3. Our Minister will not avail himself of the power referred to in subsection 2 without consulting the administrative authority concerned.
4. The power referred to in subsection 2 does not apply in respect of the Senate and the House of Representatives of the States General, the other High Councils of State and the King's Office.

## **Section 25**

1. There is a State Archives Department subject to the authority of Our Minister and headed by the National Archivist, who must have an archival qualification.
2. The State Archives Department is responsible for:
  - a. the management of the records kept in state repositories;
  - b. the performance of duties conferred on it by or pursuant to order in council or by Our Minister.

## **Section 25a**

1. The officials appointed as inspectors and chief inspector by order of Our Minister are charged with supervision of compliance with the provisions laid down by or pursuant to this Act regarding management of the records as referred to in section 23, subsections 1 and 2 and section 41, subsection 1.
2. An order as referred to in subsection 1 is published in the Government Gazette.
3. The supervisor does not possess the power mentioned in section 5:19 of the General Administrative Law Act.
4. If a supervisor, pursuant to section 5:15 of the General Administrative Law Act, enters a place where records as referred to in section 23, subsection 1 or 2 or section 41, subsection 1 are kept, or, pursuant to section 5:18 of the General Administrative Law Act, demands to inspect such records, he will comply with the regulations concerning the protection of secrets.

## **Section 25b**

1. The chief inspector as referred to in section 25a, subsection 1 notifies the administrative authority of the findings of the supervision and of the measures that he deems necessary.
2. By 1 July of each year, he reports to Our Minister in writing on the findings of the supervision carried out during the preceding calendar year. Our Minister submits this report, together with his opinion, to the States General.

## **Section 26**

1. The central state repository is located in The Hague, for the preservation of the records of administrative authorities whose functions cover, or used to cover, the State as a whole. Its keeper is the National Archivist.
2. There is a state repository in the capital of each province for the preservation of the records of central government agencies situated in that province, the authorities of the former provinces and departments, and the administrative authorities referred to in section 41, subsection 1, whose functions do not or did not cover the State as a whole. Its keeper is a state archivist, who must have an archival qualification.
3. State repositories other than those referred to in subsections 1 and 2 may be designated or established by Royal Decree.

4. It may be laid down by Royal Decree that records of administrative authorities whose functions cover, or used to cover, the State as a whole are to be kept in the state repository in the capital of the province in which such authorities are or were situated.
5. It may be laid down by Royal Decree that records of administrative authorities whose functions cover, or used to cover, more than one province but not the State as a whole are to be kept in the central state repository.
6. Our Minister decides on whether records other than those referred to in subsections 1 and 2 must be kept in state repositories.
7. Our Minister lays down how the State Archives Department is to be organised further.

## **Chapter IV. Provincial records**

### **Section 27**

1. In accordance with an ordinance to be adopted by the provincial council, the provincial executive is responsible for the care of records of the provincial authorities.
2. The costs of providing the care referred to in subsection 1 are borne by the province.
3. In exceptional cases, Our Minister may provide a grant to cover the costs of the management of records kept in a provincial repository, if, in his opinion, the nature or the volume of the records in question warrants this.
4. Notwithstanding section 4:21, subsection 3 of the General Administrative Law Act, title 4.2 of that Act applies to the grant referred to in subsection 3.

### **Section 28**

The provincial executive designates a provincial repository for the preservation of records of provincial bodies to be transferred pursuant to section 12, subsection 1 and section 13, subsection 1.

### **Section 29**

1. The provincial repository is managed by a provincial archivist, who must have an archival qualification, or, where such an archivist has not been appointed, by the secretary of the province.
2. The provincial archivist, subject to the authority of the provincial executive, is charged with supervision of compliance with the provisions laid down by or pursuant to this Act regarding the management of such records of provincial bodies as have not been transferred to a repository. The Provincial Council must adopt an ordinance with regard to this supervision.
3. The provincial archivist is appointed, suspended and discharged by the provincial executive.

## **Chapter V. Municipal records**

### **Section 30**

1. In accordance with an ordinance to be adopted by the municipal council, of which the provincial executive is to be notified, the municipal executive is responsible for the care of the records of municipal bodies.
2. The costs of providing the care referred to in subsection 1 are borne by the municipality.
3. In exceptional cases, Our Minister may provide a grant to cover the costs of the management of records kept in a municipal repository, if, in his opinion, the nature or the volume of the records in question warrants this.



4. Notwithstanding section 4:21, subsection 3 of the General Administrative Law Act, title 4.2 of that Act applies to the grant referred to in subsection 3.

### **Section 31**

The municipal executive designates a municipal repository for the preservation of records of municipal bodies to be transferred pursuant to section 12, subsection 1 and section 13, subsection 1.

### **Section 32**

1. The municipal repository is managed by a municipal archivist, who must have an archival qualification, or, where such an archivist has not been appointed, by the secretary of the municipality.
2. The municipal archivist, subject to the authority of the municipal executive, is charged with supervision of compliance with the provisions laid down by or pursuant to this Act regarding the management of such records of municipal bodies as have not been transferred to a repository. The municipal council must adopt an ordinance with regard to this supervision, of which the provincial executive is notified.
3. The municipal archivist is appointed, suspended and discharged by the municipal executive.

### **Section 33**

[Repealed on 01/10/2012]

### **Section 34**

[Repealed on 01/10/2012]

## **CHAPTER VI. Records of water authorities**

### **Section 35**

1. In accordance with an ordinance to be adopted by the general board, of which the provincial executive is to be notified, the executive board of the water authority will be responsible for the care of the records of water authority bodies.
2. The costs of providing the care referred to in subsection 1 are borne by the water authority.
3. In exceptional cases, Our Minister may provide a grant to cover the costs of the management of records kept in a water authority repository, if, in his opinion, the nature or the volume of the records in question warrants this.
4. Notwithstanding section 4:21, subsection 3 of the General Administrative Law Act, title 4.2 of that Act applies to the grant referred to in subsection 3.

### **Section 36**

The general board designates a repository for the preservation of records of water authority bodies to be transferred pursuant to section 12, subsection 1 and section 13, subsection 1.

### **Section 37**

1. The repository is managed by a water authority archivist, who must have an archival qualification, or, where such an archivist has not been appointed, by the secretary of the water authority.
2. The water authority archivist, subject to the authority of the executive board, is charged with supervision of compliance with the provisions laid down by or pursuant to this Act regarding the

management of such records of water authority bodies as have not been transferred to a repository. The general board must adopt an ordinance with regard to this supervision, of which the provincial executive is notified.

3. The water authority archivist is appointed, suspended and discharged by the general board.

### **Section 38**

With regard to the implementation of this Act by the executive board, sections 124, 124a, 124c to 124h and chapter XVII of the Municipalities Act apply *mutatis mutandis*.

### **Section 39**

[Repealed on 01/10/2012]

## **Chapter VII. Records of other administrative authorities**

### **Section 40**

1. A regulation as referred to in the Joint Regulations Act (Bulletin of Acts and Decrees 1989, no. 571) must include a provision on the care of the records of the public or joint bodies established by the regulation.
2. Such a provision must correspond, as far as possible, with the provisions of this Act.
3. As long as the obligation to include a provision as referred to in subsection 1 in a joint regulation has not been met, the relevant provisions applying to the municipality or, if a province is party to the regulation, the province where the body is established, apply *mutatis mutandis*.

### **Section 41**

1. Responsibility for the care of such records of administrative authorities other than those referred to in previous sections as have not been transferred to a repository rests with:
  - a. the executive or, where there is no executive, the general board;
  - b. in other cases, the person who is invested with any public authority.
2. Rules are to be laid down by order in council with respect to the manner in which the care referred to in subsection 1 is carried out.
3. The costs of providing the care referred to in subsection 1 are borne by the relevant administrative authority.

## **Chapter VIII. Penalties**

### **Section 42**

1. Anyone failing to fulfil the obligation imposed by section 11, subsection 1 is liable to a second-category fine.
2. Such failure constitutes a summary offence.

## **Chapter IX. Transitional and final provisions**

### **Section 43**

The Public Records Act 1962 (Bulletin of Acts and Decrees, no. 313) is repealed.

### **Section 44**

The restrictions on public access imposed pursuant to sections 7a and 7b of the Public Records Act 1962 before the entry into force of this Act remain in force.

#### **Section 45**

Records kept by administrative authorities which are more than 20 years old on the date of the entry into force of this Act are to be transferred on the orders of the responsible authority to a repository within a period of ten years after the entry into force of this Act.

#### **Section 46**

1. Regulations drawn up under the Royal Decree of 28 August 1919 (Bulletin of Acts and Decrees no. 547) by central government and municipalities on the deposition of records of courts of first instance and of magistrate's courts will remain in force until these regulations are terminated in consultation with the municipal executive of the municipality concerned.
2. Regulations drawn up under the Royal Decrees of 19 April 1929 (Bulletin of Acts and Decrees no. 171), 31 May 1929 (Bulletin of Acts and Decrees no. 269), 6 July 1929 ( Bulletin of Acts and Decrees no. 381) and 24 November 1932 (Bulletin of Acts and Decrees no. 560) by central government and municipalities on the deposition of the records referred to in these Decrees will remain in force until these regulations have been replaced by a regulation alienating those records.
3. Records transferred to a state repository pursuant to the Royal Decrees referred to in subsection 2 will, at the request of the relevant municipality to alienate those records, be transferred to that municipality, if in consequence the records will be kept in an approved repository pursuant to section 33, subsection 2, managed by a municipal archivist appointed in accordance with the provisions of section 32, subsection 3.

#### **Section 47**

Depositions other than those referred to in section 46 will remain in place until they are terminated following consultation between the government bodies involved.

#### **Section 48**

The disposal lists finalised pursuant to article 3 of the Public Records Decree (Bulletin of Acts and Decrees 1968, no. 200), as it read before the entry into force of this Act, will remain in place until they are replaced by the disposal lists finalised pursuant to section 5 of this Act.

#### **Section 49**

Authorisations granted pursuant to article 20 of the Public Records Decree, as it read before this Act entered into force, will continue to apply until they are replaced by an authorisation granted pursuant to section 13, subsection 3 of this Act.

#### **Section 50**

[Amends other legislation]

#### **Section 51**

[Amends other legislation]

#### **Section 52**

[Amends other legislation]

#### **Section 53**

[Amends other legislation]

**Section 54**

[Amends other legislation]

**Section 55**

[Amends other legislation]

**Section 56**

[Amends other legislation]

**Section 57**

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#### **Section 80**

[Amends other legislation]

#### **Section 81**

[Amends other legislation]

#### **Section 82**

[Amends other legislation]

#### **Section 83**

[Amends other legislation]

#### **Section 84**

[Amends other legislation]

#### **Section 85**

On publication in the Bulletin of Acts and Decrees, the designation '19..' occurring in this Act will be replaced with the year of the Bulletin of Acts and Decrees in which this Act is published and the three dots in the designation (Bulletin of Acts and Decrees no. ...) will be replaced by the number of the Bulletin of Acts and Decrees in which this Act is published.

#### **Section 86**

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

#### **Section 87**

This Act may be cited as the Public Records Act, stating the year of the Bulletin of Acts and Decrees in which it appears.

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, 28 April 1995

Beatrix

A. Nuis  
State Secretary for Education, Culture and Science

Published on the thirtieth of May 1995

W. Sorgdrager  
Minister of Justice