

# Act of 25 October 2021, concerning rules on the accessibility of information in the public interest (Open Government Act)

We, Willem-Alexander, by the grace of God King of the Netherlands, Prince of Orange-Nassau, etc., etc., etc.

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

Whereas We have considered that, partly with a view to Article 110 of the Constitution, the Convention of 25 June 1998, done at Aarhus (Denmark) on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Dutch Treaty Series 2001, 73) and Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC (OJ L 41), it has proved desirable, in the context of unceasing efforts to ensure good and democratic governance, to increase access to government information for all, to encourage active disclosure, to elevate transparency in public administration to a norm, to update the rules on openness and public access and incorporate these rules in statute in so far as possible, so that public access becomes a right of the citizen and remains a duty of the government;

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

## Chapter I. Rights

### Section 1.1. Right of access

Everyone has the right of access to public information without having to state an interest, subject to the restrictions laid down by this Act.

## Chapter 2. General provisions

### Section 2.1. Definitions

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

*document*: a written document or other complete set of recorded data which has been drawn up or received by an authority, person or body as referred to in section 2.2, subsection 1 and which, by its nature, is connected with the public task of that authority, person or body;

*environmental information*: that which is defined as such in section 19.1a of the Environmental Management Act;

*Our Minister*: Our Minister of the Interior and Kingdom Relations;

*public information*: information contained in documents held by an authority, person or body within the meaning of section 2.2, subsection 1, or information that can be demanded of an administrative authority pursuant to section 2.3.

### Section 2.2. Scope

1. This Act applies to:

- a. administrative authorities;
- b. the Houses of the States General and the Joint Session of the two Houses of the States General;
- c. the Council for the Judiciary and the Board of Representatives;
- d. the Council of State, unless the Council is exercising the royal prerogative, and excepting the Administrative Jurisdiction Division;
- e. the Court of Audit;
- f. the National Ombudsman and Deputy Ombudsman as referred to in section 9, subsection 1 of the National Ombudsman Act, and ombudsmen and ombuds committees as referred to in

section 9:17 (b) of the General Administrative Law Act.

2. For the purposes of this Act, the authorities, persons and bodies referred to in subsection 1 (b) to (f), which under the General Administrative Law Act are not administrative authorities, are to be equated with administrative authorities.

#### **Section 2.4. Duty of care and disclosure**

1. An administrative authority must ensure that the documents it receives, produces or otherwise possesses are in good condition, well ordered and accessible.
2. An administrative authority must do everything in its power to ensure that the information it provides in accordance with this Act is up to date, accurate and comparable.
3. If an administrative authority discloses information in accordance with this Act, this must be done in such a way as to reach the interested party and as many interested members of the public as possible and in the following generally accessible manner:
  - a. in electronic form, in a machine-readable open format, together with the metadata, in accordance with Article 5, paragraph 1 of Directive 2003/98/EC of the European Parliament and of the Council of 17 November 2003 on the re-use of public sector information (OJ 2003 L 345) as amended by Directive 2013/37/EU of the European Parliament and of the Council of 26 June 2013 amending Directive 2003/98/EC on the re-use of public sector information (OJ 2013 L 175);
  - b. or, if provision in a machine-readable open format cannot reasonably be expected, in another electronically searchable form;
  - c. or, if provision in electronic form cannot reasonably be expected, by providing a copy of the exact content in some other form;
  - d. or, if provision of a copy or of the exact content cannot reasonably be expected, by providing an extract or a summary of the content, providing information contained in the document or allowing inspection.
4. An administrative authority is not responsible for the accuracy or completeness of information drawn up by third parties.
5. If the administrative authority is aware of the inaccuracy or incompleteness of information provided, it must give notification of this.
6. If the administrative authority provides information, it will, if necessary, also provide information, in so far as such information is available, about the methods used to compile the said information.

#### **Section 2.5. Interest in public access**

For the purposes of this Act, it is assumed that there is a public interest in public access to public information in a democratic society.

### **Chapter 3. Proactive disclosure**

#### **Section 3.1. Active disclosure as a best-efforts obligation**

1. When performing its task, the administrative authority directly concerned must proactively disclose information contained in documents held by the administrative authority to the general public if this is reasonably possible without disproportionate efforts or costs, except in so far as section 5.1, subsections 1, 2 and 5, and section 5.2 prevent disclosure or no reasonable interest would be served by disclosure. The information will at a minimum include information on the policy, including preparation, implementation, compliance, enforcement and evaluation.
2. In the case of partial non-disclosure, the administrative authority will give notification of this at the same time as disclosure.

3. Documents as referred to in subsection 1 are not disclosed until interested parties who are likely to have objections to disclosure have been given the opportunity to state their views within a time limit set by the administrative authority.
4. The administrative authority will notify an interested party that subsection 1 is being applied, noting when disclosure will take place and the documents to be disclosed. Such notification will be equated with a decision (*besluit*).

### Section 3.3. Active disclosure of categories of information

1. [This subsection has not yet entered into force]

2. [This subsection has not yet entered into force]

3. On the recommendation of Our Minister it may be provided by order in council that:
  - a. the administrative authority must proactively disclose other categories of information in accordance with subsection 1 or 2; and
  - b. categories of decision are designated which, notwithstanding subsection 2 (k), are to be disclosed proactively.
4. The disclosure referred to in subsections 1 and 2 must take place at the earliest possible opportunity, and in any event no more than two weeks after recording or receipt of the information.
5. Notwithstanding subsection 4:
  - a. the drafts and the associated requests for advice referred to in subsection 1 (c), as well as the related advisory opinions referred to in subsection 2 (e) at 1°, must be disclosed by the administrative authority that requested the advisory opinion no later than at the same time as the submission of the bill to the States General or publication of the generally binding regulation or order, if in its request for advice the administrative authority gave reasons to substantiate that earlier disclosure would be detrimental to the intended purpose of the Act, the regulation or the order;
  - b. in the case of bills containing general estimates and the documents concerning the statement of the State's revenues and expenditure as referred to in Article 105, paragraphs 1, 2 and 3 of the Constitution, the accompanying explanatory documents as well as, in the case of a bill submitted on the day referred to in Article 65 of the Constitution in so far as that bill concerns the levying of taxes, the versions for which a request for advice has been made, the advisory opinions on those versions as referred to in subsection 2 (e) and the studies related to those versions as referred to in subsection 2 (j), disclosure takes place at the same time as submission of the bill or the documents to the States General;
  - c. meeting documents as referred to in subsection 2 (b) and (c) are disclosed at the same time as their distribution to the participants in the meeting in question;
  - d. agendas as referred to in subsection 2 (d) are disclosed no later than at the start of the meeting in question;
  - e. the content of a written application as referred to in subsection 2 (i) is disclosed along with the decision on the application;
  - f. the disclosure of studies as referred to in subsection 2 (j) at 1° takes place no later than four weeks after receipt of the study;
  - g. the disclosure of a decision imposing a remedial sanction that does not fall within the exception set out in subsection 2 (k) at 6° takes place no later than two weeks after the decision becomes final and unappealable;
  - h. documents received, as referred to in subsection 2, are not disclosed until after interested parties who are likely to have objections to disclosure have been given the opportunity to state their views within a two-week period;
  - i. documents as referred to in subsection 2, during the preparation of which or in relation to which after application of (h) it has become apparent that an interested party is likely to have

objections to a prescribed disclosure, are disclosed two weeks after adoption or expiry of the time limit set on the basis of (h) for views to be stated.

6. The disclosure as referred to in subsection 2 (e) is made:
  - a. in the case of a request for advice from an advisory body or advisory committee, by the administrative authority that requested the advice;
  - b. in the case of an advisory opinion from an advisory body or advisory committee, by that advisory body or advisory committee, except in the cases referred to in subsection 5 (a) and (b);
  - c. in the case of an advisory opinion from an external party, by the administrative authority that received the advice.
7. The administrative authority notifies an interested party that subsection 5 (i) is being applied, noting when disclosure will take place and the documents to be disclosed. Such notification will be equated with a decision (*besluit*).
8. The administrative authority gives notification of partial non-disclosure at the same time as disclosure. In the case of complete non-disclosure, the administrative authority gives notification of the manner in which and the time at which the non-disclosed document would otherwise have been disclosed.
9. Our Minister may lay down further rules by ministerial order concerning the manner in which documents referred to in this section are to be actively disclosed.

### **Section 3.3a. Active disclosure in the form of overviews**

1. Rather than making disclosure in accordance with section 3.3, subsection 2 (k) an administrative authority may disclose information about decisions concerning grants to parties other than natural persons in an overview which can be consulted electronically by individuals and in which, in so far as the information is included in the decision and section 5.1, subsections 1, 2 and 5 and section 5.2 do not prevent disclosure, at a minimum the following details are disclosed:
  - a. the basis for the grant;
  - b. the recipient;
  - c. the activities for which the grant is provided, as well as the outcome-based regulations incorporated in the decision;
  - d. the amounts awarded, definitive amounts determined and amounts changed;
  - e. withdrawals;
  - f. the date of the decision.
2. Rather than making disclosure in accordance with section 3.3, subsection 2 (k) an administrative authority may disclose information about decisions other than decisions concerning grants in an overview which can be consulted electronically by individuals and in which, in so far as the information is included in the decision and section 5.1, subsections 1, 2 and 5 and section 5.2 do not prevent disclosure, at a minimum the following details are disclosed:
  - a. the basis for the decision;
  - b. the legal consequence of the decision, including the regulations incorporated in the decision;
  - c. the term of validity of the decision;
  - d. the addressee, in so far as the protection of privacy does not prevent inclusion of this information;
  - e. the date of the decision.
3. Rather than making disclosure in accordance with section 3.3, subsection 2 (l) an administrative authority may disclose information about written rulings in complaints procedures in an overview which can be consulted electronically by individuals and in which, in so far as the information is included in the ruling and section 5.1, subsections 1, 2 and 5 and section 5.2 do not prevent disclosure, at a minimum the following details are disclosed:

- a. the date of receipt of the complaint;
  - b. the organisational unit concerned;
  - c. the job title of the public servant against whom the complaint was made;
  - d. the description of the conduct to which the complaint relates;
  - e. the findings;
  - f. the ruling;
  - g. the conclusions;
  - h. the date of the ruling.
4. In the overview referred to in subsection 3, an administrative authority may present comparable complaints concerning an organisational unit in combined form if the rulings and conclusions are also comparable. Each combined overview will state the number of rulings submitted per month rather than the information referred to in subsection 3 (a) and (h).
  5. An overview as referred to in this subsection is to be updated at least every two weeks.
  6. Our Minister may lay down further rules by ministerial order concerning the manner in which overviews referred to in this section are to be actively disclosed.

### **Section 3.3b**

Disclosure of the documents referred to in sections 3.3 and 3.3a takes place electronically in a generally accessible manner by means of digital infrastructure maintained by Our Minister. This infrastructure is available for the disclosure of other documents.

### **Section 3.4. Public access in the case of a substantial public interest**

Notwithstanding sections 5.1 and 5.2, an administrative authority may disclose information proactively if, in a specific case, another substantial public interest, including the interests of public security, public health, the environment or the protection of the democratic legal order, so necessitates.

### **Section 3.5. Section on public access in annual reports**

In its annual budget or the annual budget of the public body or legal entity to which the administrative authority belongs, an administrative authority must consider policy intentions regarding the implementation of this Act and address in its annual report the matter of implementation, partly in relation to the policy intentions.

## **Chapter 4. Disclosure upon application**

### **Section 4.1. Application**

1. Anyone may submit an application for public information to an administrative authority or an institution, service or company operating under the responsibility of an administrative authority. In the latter case the responsible administrative authority will decide on the application.
2. An application may be submitted verbally or in writing and may be sent electronically in the manner indicated by the administrative authority.
3. The applicant is not required to state an interest in the application.
4. The applicant must specify the matter or the related document about which he wishes to receive information.
5. If the wording of an application is too general, the administrative authority must, within two weeks after receipt of the application, ask the applicant to make the application more specific and help the applicant do so.
6. The administrative authority may decide not to process an application if the applicant does not

cooperate with a request to make the application more specific as referred to in subsection 5. Notwithstanding section 4:5, subsection 4 of the General Administrative Law Act, the decision not to process the application is notified to the applicant within two weeks after the application has been made more specific or after the time limit set for doing so has expired without being used.

7. An application for information is granted with due regard for the provisions of chapter 5.

#### **Section 4.1a. Safeguarding the retention of documents**

The administrative authority safeguards the retention of documents relating to an application it has received.

#### **Section 4.2. Referral**

1. In so far as the application concerns information held by a different administrative authority than the one to which the application has been submitted, the applicant must, if necessary, be referred to that authority. If the application was made in writing, in so far as it concerns documents held by another administrative authority, the application must be forwarded to that authority without delay, and the applicant must be notified accordingly.
2. If the application concerns information that ought to have been held by the administrative authority on the basis of any statutory provision, the administrative authority must demand the requested information from the party that has it. The party that has the information in question must provide it to the administrative authority without delay.
3. In so far as an application as referred to in section 4.1, subsection 1 addressed to one of the Houses or the Joint Session of the two Houses of the States General concerns information provided to the States General by the government in confidence, the House or the Joint Session must forward the application for processing to Our Minister or Our Ministers who provided the information in confidence.

#### **Section 4.2a. Consultation between administrative authority and applicant**

If a sufficiently specific application is so extensive that it cannot be decided on within the time limit laid down by section 4.4, subsection 1, the administrative authority must consult the applicant before the expiry of that time limit about the priorities to be assigned when processing the application. In so far as possible the administrative authority must provide the documents applied for in the order desired by the applicant.

#### **Section 4.3. Decision**

1. The decision on an application for information must be given verbally or in writing.
2. The administrative authority must in any case take a written decision on an application for information if:
  - a. a written application is being denied in full or in part;
  - b. the applicant, in the case of full or partial denial of a verbal application, requests a written decision;
  - c. the information applied for is being provided to the applicant solely in accordance with section 5.5, section 5.6 or section 5.7 and conditions are attached to the provision; or
  - d. the information applied for concerns or originated from third parties, unless the latter have stated that they do not require a written decision.
3. In the case of the denial of a verbal application, the option of a written decision will be brought to the attention of the applicant.

#### **Section 4.4. Time limit**

1. The administrative authority must decide on the application for information at the earliest possible opportunity, and in any event no more than four weeks starting from the day after that on which the application is received.
2. The administrative authority may defer the decision for no more than two weeks if the scope or complexity of the information justifies deferment. The applicant must be notified of the deferment in writing, stating reasons, before the initial time limit has expired.
3. Without prejudice to section 4:15 of the General Administrative Law Act, the time limit for issuing a decision is suspended starting from the day after that on which the administrative authority notifies the applicant that section 4:8 of the General Administrative Law Act has been applied, up to and including the day on which the interested party or parties have stated their views or the time limit for doing so has expired without being used.
4. If the suspension referred to in subsection 3 ends, the administrative authority will notify the applicant at the earliest possible opportunity, noting the time limit within which the decision must now be given.
5. If the administrative authority has decided to provide information, the information will be provided at the same time as publication of the decision, unless it is likely that an interested party will object to this, in which case the information will be provided two weeks after publication of the decision. If an application is made for interim relief as referred to in section 8:81 of the General Administrative Law Act, disclosure will be suspended until the interim relief judge has given judgment or the application has been withdrawn.
6. If the administrative authority has decided to provide information that directly concerns a third party or originated from a third party, the administrative authority will simultaneously notify that third party of the decision.

#### **Section 4.5. Provision of information**

1. The administrative authority must provide the information in the form requested by the applicant or, if this cannot reasonably be expected, with due observance of the provisions of section 2.4, subsection 3.
2. If the information is already available to the public in a form which is easily accessible to the applicant, the administrative authority will draw the applicant's attention to this.

#### **Section 4.6. Provision on prevention of abuse**

If the applicant manifestly has a purpose other than obtaining public information or if the application clearly does not concern an administrative matter, the administrative authority may, within two weeks after receipt of the application or without delay after it has become apparent that the applicant manifestly has a purpose other than obtaining public information, decide not to process the application.

#### **Section 4.7. Contacts**

The administrative authority must appoint one or more contacts to answer questions about the availability of public information.

### **Chapter 5. Exceptions**

#### **Section 5.1. Exceptions**

1. Disclosure of information pursuant to this Act does not take place in so far as:
  - a. this might endanger the unity of the Crown;
  - b. this might damage the security of the State;

- c. the data concerned relates to companies and manufacturing processes and was furnished to the government in confidence by natural or legal persons;
  - d. it concerns personal data within the meaning of division 3.1 or division 3.2 of the General Data Protection Regulation (Implementation) Act, unless the data subject has explicitly consented to disclosure of this personal data or this personal data has manifestly been made public by the data subject;
  - e. it concerns national identification numbers that have been prescribed by Act of Parliament or order in council as referred to in section 46 of the General Data Protection Regulation (Implementation) Act, unless provision manifestly does not constitute a breach of privacy.
2. Disclosure of information also does not take place in so far as the interest in disclosure does not outweigh the following interests:
    - a. the Netherlands' relations with other countries and states and with international organisations;
    - b. the economic and financial interests of the State, other bodies constituted under public law or administrative authorities, in the case of environmental information only in so far as the information concerns proceedings of a confidential nature;
    - 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 protection of data related to companies and manufacturing processes other than the data listed in subsection 1 (c);
    - g. the protection of the environment to which this information relates;
    - h. the security of individuals and companies and the prevention of sabotage;
    - i. the effective functioning of the State, other bodies constituted under public law or administrative authorities.
  3. If an application for disclosure is denied on one of the grounds listed in subsection 2, the decision must explicitly state the reasons for denying the application.
  4. Disclosure may be delayed temporarily if this is manifestly required by the importance to the addressee of being the first to learn of the information. The administrative authority must notify the applicant of the time limit within which disclosure will take place.
  5. In exceptional cases disclosure of information other than environmental information may also not take place if disclosure would disproportionately disadvantage another interest than those listed in subsections 1 and 2 and this disadvantage is not outweighed by the public interest in public access. The administrative authority must not base a decision not to disclose information on this ground while also, with regard the same information, basing it on one of the grounds listed in subsections 1 or 2.
  6. Notwithstanding subsection 1 (c), in the case of environmental information, information is also not disclosed in so far as disclosure would seriously harm the interest referred to in subsection 1 (c) and the public interest in disclosing information does not outweigh such harm.
  7. Subsections 1 and 2 do not apply to environmental information that relates to emissions into the environment.

## **Section 5.2. Personal opinions on policy**

1. Where an application concerns information contained in documents drawn up for the purpose of internal consultation, no information is to be provided concerning personal opinions on policy contained therein. Personal policy opinions are defined as civil service recommendations, visions, positions and considerations for the purpose of internal consultation which do not consist of facts, forecasts, policy alternatives, the consequences of a particular policy alternative or other judgments of a predominantly objective nature.
2. The administrative authority may provide information on personal opinions on policy, in the interests of effective, democratic governance, in a form that cannot be traced back to any

individual. If those who expressed the opinions in question or who supported them agree, information may be provided in a form that may be traced back to individuals.

3. Without prejudice to subsections 1 and 2, information from documents drawn up for the purpose of formal administrative decision-making by a minister, a King's Commissioner, provincial executive, a provincial executive member, the municipal executive, a mayor and a municipal executive member concerning personal opinions on policy is to be provided in a form that cannot be traced back to any individual, unless this would disproportionately harm the ability to conduct internal consultations.
4. Notwithstanding subsection 1, in the case of environmental information the interest of protecting personal opinions on policy is to be weighed against the interest of disclosure. Information concerning personal opinions on policy may be provided in a form that cannot be traced back to any individual. If those who expressed the opinions in question or who supported them agree, information may be provided in a form that may be traced back to individuals.

### **Section 5.3. Information which is more than five years old**

In the case of an application for information which is more than five years old, if the administrative authority refuses to disclose the information it must give reasons why the interests referred to in section 5.1, subsections 2 or 5 or section 5.2 outweigh the public interest in public access, despite the passage of time.

### **Section 5.4. Formation of a new government**

Notwithstanding sections 5.1 and 5.2, the information held by the *formateur* or the *informateur* [individuals tasked with forming a new government following a parliamentary election], or information sent by an administrative authority to the *formateur* or the *informateur*, is not public until the formation of the new government has been completed.

### **Section 5.4a. Support for members of parliament and of provincial and municipal councils**

1. Notwithstanding sections 5.1 and 5.2, information concerning the support provided to individual members of the Senate or House of Representatives of the States General, provincial councils or municipal councils by public servants working for the Senate or House of Representatives, the provincial clerk's office or the municipal clerk's office is not public.
2. Notwithstanding section 5.2, subsection 1, in relation to information provided to individual members of parliament, personal opinions on policy is defined as civil service recommendations, visions, positions and considerations for the purpose of internal consultation.

### **Section 5.5. Provision of information that concerns the applicant**

1. Without prejudice to provisions laid down elsewhere by Act of Parliament, an administrative authority must provide to every natural person or legal person, upon their application, the information concerning the applicant contained in documents, unless an interest arises that is listed in section 5.1, subsection 1 (a), (b) or (c), or in (d) or (e) in so far as third parties are concerned, or unless an interest listed in section 5.1, subsection 2 or 5 or section 5.2 outweighs the interest of the applicant in access to the information concerning the applicant. The applicant must specify the matter or the related document about which he wishes to receive information.
2. Subsection 1 applies *mutatis mutandis* to an application concerning a deceased spouse, registered partner, child or parent of the applicant, unless provision of the information is prevented by a living will of the deceased.
3. The administrative authority ensures that the applicant's identity is properly established.
4. The administrative authority may attach conditions to the provision of information for the purpose of protecting one of the interests listed in sections 5.1 and 5.2, unless the requested information

would be publicly available to everyone under sections 5.1 and 5.2.

### **Section 5.6. Provision of non-public information on account of compelling reasons**

1. In the event that information cannot be disclosed pursuant to sections 5.1 and 5.2, the administrative authority may decide to provide the information solely to the applicant, if there are compelling reasons not to withhold the requested information from the applicant, despite the applicable ground or grounds for exception.
2. Subsection 1 applies only in so far as this would not be contrary to an applicable duty of confidentiality.
3. The administrative authority may attach conditions to the provision of the information for the purpose of protecting the interests listed in sections 5.1 and 5.2.

### **Section 5.7. Access to non-public information for research purposes**

1. An administrative authority may, for the purposes of historical, statistical, scientific or journalistic research, offer access to information:
  - a. that may not be disclosed pursuant to sections 5.1 and 5.2; or
  - b. in relation to which establishing whether the information may be disclosed pursuant to sections 5.1 and 5.2 would require disproportionate efforts.
2. The administrative authority may attach conditions to the granting of access.
3. Access to information pursuant to subsection 1 must in any case be granted subject to the condition that the party to whom access is granted must not disseminate the information further without a prior decision of the administrative authority disclosing the information by applying sections 5.1 and 5.2.

## **Chapter 6. Digital information management**

### **Section 6.1. Purpose**

The administrative authority will take measures to ensure the permanent accessibility of digital documents, as referred to in section 2.4, subsection 1.

### **Section 6.2. Multiannual plan**

1. Our Minister, in agreement with Our Minister of Education, Culture and Science, must submit a multiannual plan to the States General concerning the manner in which administrative authorities make their digital government information permanently accessible.
2. The multiannual plan contains long-term objectives for improving the manner in which digital documents are produced, ordered, retained, destroyed and made accessible as well as the short-term steps to be taken to this end.
3. The multiannual plan sets out steps to ensure that everyone can have the greatest possible insight into the public information held by an authority, person or body as referred to in section 2.2, subsection 1.
4. Our Minister, in agreement with Our Minister of Education, Culture and Science, supplements the multiannual plan by adding the necessary measures until digital government information is permanently accessible to a sufficient extent.

## **Chapter 7. The Advisory Board on Public Access and Information Management**

### **Section 7.1. Advisory Board on Public Access and Information Management**

1. An Advisory Board on Public Access and Information Management is established.
2. The board consists of a chairperson and a maximum of four other members.
3. The appointment of members by royal decree takes place on the recommendation of Our Minister, with the agreement of Our Minister of Education, Culture and Science.
4. Sections 13, 16 and 19 of the Autonomous Administrative Authorities Framework Act apply *mutatis mutandis*.

## **Section 7.2. Tasks**

1. The board advises the government and both houses of the States General upon request and at its own initiative about the implementation of the rules on the disclosure of public information.
2. The board advises Our Minister periodically about amendments to the multiannual plan. The board will report in its advisory opinions in any case on the status of information management in public administration, progress on implementation of the multiannual plan, and access to public information.
3. The board will be asked to advise on bills and draft orders in council which entirely or to an important extent relate to the disclosure and accessibility of public information.
4. The board advises the administrative authority concerned in response to complaints submitted to the board by journalists, researchers/scientists or other groups which, in the board's opinion, are eligible and have a professional interest in the use of public information, concerning the manner in which that administrative authority discloses public information.
5. The board promotes the application of this Act, *inter alia* by:
  - a. providing information to administrative authorities and others;
  - b. training persons employed by bodies responsible for implementing the disclosure of public information;
  - c. monitoring, studying and reporting on the disclosure of public information generally or by specific bodies in particular;
  - d. publishing guidelines to promote the proactive disclosure of information and the accessibility of information.

## **Section 7.3. Mediation**

1. Before issuing an advisory opinion as referred to in section 7.2, subsection 4, the board mediates between the administrative authority and the complainant. The administrative authority must cooperate with the mediation.
2. If the complaint partly relates to a decision on the basis of this Act which is open to objection, the time limit for lodging an objection as referred to in section 6:7 of the General Administrative Law Act will be suspended until the board has issued its advisory opinion or has notified the complainant and the administrative authority that no advisory opinion will be issued. The suspension of the time limit commences on the day after the complainant has submitted the complaint to the board.
3. If the complainant lodges an objection to the decision, as referred to in subsection 2, the administrative authority will, notwithstanding section 7:10, subsection 1 of the General Administrative Law Act, take its decision within two weeks after the board has issued its advisory opinion or has notified the complainant and the administrative authority that no advisory opinion will be issued.
4. Further rules may be laid down by order in council concerning the manner in which complaints are to be submitted and in which the board mediates between the administrative authority and

complainant as referred to in subsection 1.

#### **Section 7.4. Duty to provide information**

An administrative authority must upon request provide the board with all information that it needs to perform its task.

#### **Section 7.5. Confidentiality**

1. The members of the board as well as the public servants in its office are bound by a duty of confidentiality in so far as, pursuant to this Act, they have access to documents that have not been disclosed by the administrative authority from which they originated.
2. In so far as an application made to the board under this Act relates to information provided to the board by an administrative authority, the board must forward the application to the administrative authority for processing.

### **Chapter 8. Other provisions**

#### **Section 8.1. Penalties**

1. A breach of a condition attached to the provision of information on the basis of section 5.5, subsection 4, section 5.6, subsection 3 or section 5.7, subsection 2 or 3, is punishable by a term of imprisonment not exceeding one year or a fourth-category fine.
2. The offence punishable under subsection 1 is deemed a serious offence.

#### **Section 8.2. No penalty payment for failure to take a decision within the prescribed time limit**

Division 4.1.3.2 of the General Administrative Law Act does not apply to decisions under this Act or to decisions on objections against such decisions.

#### **Section 8.4. Application for review in event of failure to take a decision within the prescribed time limit**

1. In the event of a well-founded application for review against the failure to take a decision under this Act or a decision on an objection against such a decision within the time prescribed limit, where no decision has yet been published, the administrative court determines, if the scope of the application gives cause to do so, notwithstanding section 8:55d, subsection 1 of the General Administrative Law Act, the time limit within which the administrative authority must as yet publish a decision.
2. If the administrative court finds that the failure to take a decision within the prescribed time limit is manifestly the consequence of the manner in which the application was submitted and no decision has yet been published, the administrative court determines, if the application gives cause to do so, notwithstanding section 8:55d, subsection 1 of the General Administrative Law Act, a longer time limit within which the administrative authority must as yet publish a decision.
3. The administrative court may decide not to apply section 8:74, subsection 1 of the General Administrative Law Act and refrain from making an order for the costs of the proceedings under section 8:75, subsection 1 of the General Administrative Law Act if the party that submitted the application for review, in view of the scope of the application for information, did not cooperate sufficiently in reaching agreement on:
  - a. a suspension of the time limit for taking a decision as referred to in section 4:15, subsection 2 (a) of the General Administrative Law Act; or
  - b. a further postponement of the time limit for taking a decision, within the meaning of section 7:10, subsection 4 (a) or (b) of the General Administrative Law Act.

4. The administrative court may also decide not to apply section 8:74, subsection 1 of the General Administrative Law Act and refrain from making an order for the costs of the proceedings under section 8:75, subsection 1 of the General Administrative Law Act if it finds that the failure to take a decision on an application within the prescribed time limit was manifestly the consequence of the manner in which the application for information was submitted.

### **Section 8.5. Order subject to penalty payment**

The administrative authority is competent to impose an order subject to a penalty payment for the purpose of enforcing section 4.2, subsection 2.

### **Section 8.6. Costs**

1. The disclosure of information under this Act is free of charge.
2. An administrative authority may charge a reasonable fee for producing copies of documents that does not exceed the cost of the data carriers provided.
3. On the recommendation of Our Minister rules may be laid down by or pursuant to order in council concerning subsection 2.

### **Section 8.7. Implementation rules**

On the recommendation of Our Minister rules may be laid down by or pursuant to order in council concerning the way in which an administrative authority is to organise the implementation of this Act.

### **Section 8.8. Relationship with other Acts of Parliament**

Section 3.1, section 3.3, section 4.1, section 5.1, subsections 1, 2 and 5 and section 5.2 do not apply to information that is subject to a provision listed in the schedule to this Act.

### **Section 8.9. Evaluation provision**

1. Our Minister must send a report on the effectiveness and effects of this Act in practice to the States General within five years of the entry into force of this Act.
2. This evaluation will in any case consider the question of whether it is necessary to appoint an information commissioner.

## **Chapter 9. Amendments to certain Acts of Parliament**

[.....]

## **Chapter 10. Concluding provisions**

### **Section 10.1. Repeal of the Government Information (Public Access) Act**

The Government Information (Public Access) Act is repealed.

### **Section 10.2. Transitional provision on active disclosure**

1. A temporary order of Our Minister will state which points of section 3.3, subsections 1 and 2 do not apply to administrative authorities designated in that order for a period determined in that order.
2. It may be provided by temporary order of Our Minister that:
  - a. for administrative authorities designated in that order for a period determined in that order,

- notwithstanding section 3.3, subsection 4 or 5, a different time limit will apply to disclosure in relation to points of section 3.3, subsections 1 and 2 designated in that order, or
- b. for administrative authorities designated in that order for a period determined in that order, the duty of disclosure already applies or does not yet apply for the type of decision referred to in section 3.3, subsection 2 (k) designated in that order.

#### **Section 10.2a. Transitional provision on existing documents**

The duty of disclosure laid down in section 3.3, subsections 1 and 2 does not apply to documents that were adopted or received before this duty became applicable to the administrative authority that holds the documents.

#### **Section 10.2b. Transitional provision on advisory opinions of the Council of State**

1. As long as section 3.3, subsection 2 (e) has not entered into force, the Advisory Division of the Council of State is responsible for the disclosure of:
  - a. advisory opinions of the Advisory Division, requested by Us;
  - b. advisory opinions as referred to in section 21 of the Council of State Act;
  - c. information provided about matters of legislation and public administration within the meaning of section 21a of the Council of State Act.
2. Section 3.3, subsection 4 applies unless Our Minister directly concerned has requested that section 3.3, subsection 5 (a) be applied.

#### **Section 10.2c. Transitional provision on DNB and AFM**

For three years after the entry into force of section 9.74, article 1, opening words and (b) and (c) of the Administrative Authorities (National Ombudsman Act and Government Information (Public Access) Act) Decree, as it read at the time immediately preceding the entry into force of section 9.74, will continue to apply *mutatis mutandis* to applications for information held at that time by De Nederlandsche Bank N.V. (DNB) or the Dutch Authority for the Financial Markets (AFM).

#### **Section 10.2d. Concurrence between section 10.2b and the Kingdom Act on Disputes**

[Amends this Act.]

#### **Section 10.2f. Repeal of chapter 6**

1. Chapter 6 will be repealed by royal decree, on the understanding that the recommendation for that royal decree will be made no earlier than four weeks after the draft has been submitted to both houses of the States General.
2. With effect from the date on which chapter 6 is repealed, section 7.2, subsection 2 will read as follows:
2. The board advises Our Minister on the status of information management in public administration and access to public information.

#### **Section 10.2g. Repeal of section 10.2e**

[Amends this Act.]

#### **Section 10.3. Entry into force**

1. This Act, with the exception of section 3.3, subsections 1 and 2, enters into force on the first day of the seventh calendar month after the date of the Bulletin of Acts and Decrees in which it is published.

2. Section 3.3, subsections 1 and 2 enter into force on a date, which may differ for points thereof, to be determined by royal decree.

#### **Section 10.4. Short title**

This Act may be cited as the Open Government 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.

The Hague, 25 October 2021

Willem-Alexander

Minister of the Interior and Kingdom Relations  
K.H. Ollongren

Published on the twenty-seventh of October 2021

Minister of Justice and Security  
F.B.J. Grapperhaus