

## **GOVERNMENT ACCOUNTS ACT 2001**

as amended by the Acts of:

- 23 April 2003, Bulletin of Acts and Decrees 214
- 4 September 2003, Bulletin of Acts and Decrees 372
- xxx xxxxx 2005, Bulletin of Acts and Decrees xxx (AR, section 74)
- xxx xxxxx 2005, Bulletin of Acts and Decrees xxx (DNB/PVK, section 91)
- xxx xxxxx 2005, Bulletin of Acts and Decrees xxx (2e amendment)

*English translation of the Dutch Comptabiliteitswet 2001*

Ministry of Finance  
Directorate of Budget Affairs  
PO Box 20201  
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Netherlands  
October 2004

**ACT of 13 July 2002 to adopt the Act regulating the management of central government finances (Government Accounts Act 2001)**

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

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

Whereas We have considered that it is desirable to replace the Government Accounts Act by new statutory provisions for the management of central government finances, partly to implement articles 78 and 105 of the Constitution;

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. THE CENTRAL GOVERNMENT BUDGET**

***Division 1. The structure of the budget and the budget system***

**Section 1**

1. The central government budget shall comprise:
  - a. the budgets for the various ministries (hereinafter referred to as 'the ministry budgets');
  - b. the budget for the National Debt;
  - c. the budget for Kingdom Relations, unless the obligations, expenditures and receipts associated with Kingdom Relations are included in the budget for the Ministry of the Interior and Kingdom Relations;
  - d. the budget for the Royal Household;
  - e. the budget for the King's Secretariat;
  - f. the budget for the States General;
  - g. the budget for the Council of State, the Netherlands Court of Audit, the National Ombudsman, the Chancery of the Netherlands Orders of Knighthood, the Office of the Governor of the Netherlands Antilles and the Office of the Governor of Aruba;
  - h. the budget for the supervisory committee for the intelligence and security services;
  - i. the budgets for the various budget funds referred to in section 9.
2. Budgets shall comprise a budget statement as referred to in section 4 (1), including the budget articles, and a set of explanatory notes.
3. Each individual budget statement shall require adoption by Act of Parliament.

4. Notwithstanding subsection 3, the budget statements for the King's Office and for the supervisory committee for the intelligence and security services shall be adopted by the Act of Parliament with which the ministerial budget statement of the Ministry of General Affairs is adopted.
5. Notwithstanding subsection 3, Our Minister concerned may decide to adopt by a single Act of Parliament the budget statement for the ministry budget and the budget statement for a budget fund which he manages.

## **Section 2**

1. The budget year shall coincide with the calendar year.
2. There are two types of budget article: policy articles and non-policy articles.
3. The budgets shall include estimates of obligations, expenditures and receipts, in so far as the funds involved do not belong to third parties.
4. Notwithstanding subsection 3, the budgets shall not include estimates of obligations, expenditures and receipts that are not to be included in the budget framework pursuant to section 28 (2).

## **Section 3**

1. The receipts and expenditures of a budget year shall be understood to mean:
  - a. the monetary payments and receipts taking place in that year;
  - b. the non-monetary payments and receipts referred to in section 30 (1) taking place in that year;
  - c. settlements as referred to in section 31 (1) taking place in that year;
  - d. transfers to and withdrawals from a budget reserve as referred to in section 5 (4).
2. The obligations of a budget year shall comprise the estimated amounts of obligations arising directly in that year on the basis of a treaty, an Act of Parliament, a Royal Decree, a Ministerial Order, a decision, an undertaking or a verifiable arrangement between departments which will or may lead to expenditures either in that year or in a subsequent year.
3. Notwithstanding subsection 2, the obligations of a budget year may include the estimated expenditures in that year relating to:
  - a. salaries, redundancy payments and other such periodic obligations;
  - b. expenditures included in the budget for the National Debt;
  - c. rent, leases and other such periodic obligations;
  - e. other categories of obligation to be designated by Our Minister of Finance.
4. Our Minister of Finance shall notify the Court of Audit in writing of the designated categories of obligations.

## **Section 4**

1. Each budget article in the budget statement shall in any event contain the following data:
  - a. the article number;
  - b. a description of the subject to which the article relates;

- c. the maximum gross amount for which obligations may be assumed during the budget year;
  - d. the maximum gross amount available for spending during the budget year;
  - e. an estimate of the gross value of receipts during the budget year.
2. A budget article shall be the smallest unit in a budget statement.
  3. Subsection 1 (d and e) shall not apply to expenditures and receipts deducted pursuant to section 28 (4) from receipts and expenditures respectively.

## Section 5

1. The explanatory notes accompanying a budget statement shall in any event provide, in respect of each budget article, information on the following aspects of policy:
  - a. the general and, where appropriate, the specific operational objectives being pursued;
  - b. the policy instruments to be deployed for achieving these objectives;
  - c. the multiyear funds available for assuming obligations;
  - d. the multiyear funds available for programme expenditure;
  - e. the multiyear funds available for administrative expenditure;
  - f. multiyear estimates of receipts.
2. Assuming that t is the budget year, the multiyear information shall relate to years t-2 to t+4, i.e. to the period from two years prior to the budget year to four years after it.
3. The explanatory notes accompanying the budget statement shall provide the following information on each budget article:
  - a. effectiveness information on the general and/or specific operational objectives referred to in subsection 1, and information on the efficiency of policy, the information possibly being obtained from policy evaluations;
  - b. if possible, information on the efficiency of the administrative expenditure referred to in subsection 1, the information possibly being obtained from policy evaluations;
  - c. information on the extent to which the multiyear funds available for central government expenditure have been ring-fenced by statutory regulation or are tied in any other way;
  - d. information on the assumptions underlying the impact, efficiency and estimates.
4. With the approval of Our Minister of Finance, a multiyear budget reserve may be maintained and charged to a budget article.
5. The explanatory notes accompanying a budget article to which a budget reserve has been charged shall explain why the reserve is being maintained and shall give information on the size of the reserve and also, if possible, on the amounts that are likely to be transferred to and/or withdrawn from the reserve during the budget year.

## Section 6

1. A budget may contain three non-policy articles, viz.:
  - a. an article headed *General* for those obligations, expenditures and receipts that are not attributed to a specific policy article;
  - b. an article headed *Secret* for those obligations, expenditures and receipts which it would not be in the interests of the State to disclose by attributing them to a specific policy article;

- c. an administrative article headed *Nominal and unforeseen*.
2. The amounts stated for obligations and expenditures under the administrative article headed *Nominal and unforeseen* may be either positive or negative.
3. No expenditures or obligations may be charged to the budget article headed *Nominal and unforeseen*; if the budget is amended, the amounts in question shall be attributed to another budget article such that the actual amounts of the budget article headed *Nominal and unforeseen* as stated in the annual report are zero.
4. The explanatory notes accompanying the budget statement shall in any event present multiyear information on the following aspects of each non-policy article:
  - a. the funds available for assuming obligations;
  - b. the funds available for programme expenditure;
  - c. the funds available for administrative expenditure;
  - d. the estimated receipts.Section 5 (2) shall apply.
5. Notwithstanding subsection 1 and with the agreement of Our Minister of Finance, a budget may include other non-policy articles.

## **Section 7**

1. The budget for the National Debt shall contain estimates for:
  - a. expenditures and receipts arising from transactions on the financial markets, in so far as the original term of such transactions is more than one year;
  - b. the change, as at 31 December of the budget year relative to 31 December of the previous budget year, in the balance of expenditures and receipts arising from transactions on the financial markets, in so far as the original term of such transactions is no more than one year;
  - c. expenditures and receipts arising from loans arranged by Our Minister of Finance with third parties or with departmental agencies, in so far as Our Minister of Finance does not include estimates of such transactions in the ministry budget of the Ministry of Finance;
  - d. the change, as at 31 December of the budget year relative to 31 December of the previous budget year, in the aggregate balance of the current accounts, including the time deposits linked to such accounts, that third parties and departmental agencies hold with the National Treasury;
  - e. the amounts spent and received in the form of interest, penalties, charges and commission arising from the transactions referred to under b and from the current accounts referred to under d;
  - f. other expenditures and receipts designated by Our Minister of Finance such as arise from capital market transactions or loans;
  - g. expenditures and receipts arising from payments made to and from the central cash reserves referred to in section 24 (2);
  - h. expenditures on and receipts for staff and equipment in relation to the said budget.
2. The changes referred to in subsection 1 (b and d) shall be included as expenditures or receipts in the Final Budget Act for the budget for the National Debt.

3. Notwithstanding section 3 (1), chapeau and under a, interest expenditures and interest receipts in a given year in the budget for the National Debt shall be taken to mean the interest charges and interest revenues attributed to a given year on a transactions basis, and not the monetary value of the payments made and received in that year.

### **Section 8**

1. The budget for the Royal Household shall include the payments to the members thereof. The budget articles containing these payments shall be deemed to be of the nature of non-policy articles.
2. Provided that the consent of Our Minister of Finance has been obtained, it may be decided that some or all of the provisions of section 5 shall not apply to one or more of the budgets for the bodies referred to in section 1 (1) (e to h), in the light of the latter's constitutional status.

### **Section 9**

1. Budget funds may be established for the purpose of the separate management of certain central government receipts and expenditures.
2. Budget funds shall be established by Act of Parliament.
3. The Act establishing a budget fund shall lay down the nature of its receipts and expenditures, the use to which a positive annual balance is to be put and the means whereby a negative annual balance is to be covered, and shall specify which of Our Ministers is to manage its budget.
4. Provided that the consent of Our Minister of Finance has been obtained, it may be decided that some or all of the provisions of sections 5 and 6 shall not apply to the budget of a budget fund. If section 5 is not applied, the budget articles of the budget fund concerned shall be deemed to be of the nature of a non-policy article.

## ***Division 2. The departmental agencies***

### **Section 10**

1. If different management rules are desirable for part of a ministry, Our Minister concerned and Our Minister of Finance may decide, notwithstanding section 2 (3), to permit that part, subject to certain conditions, to compile its budget and financial statements in accordance with the accrual method of accounting.
2. A decision such as that described above shall be taken with the agreement of the Cabinet.
3. Such a decision shall not be taken until at least 30 days after the House of Representatives of the States General has been notified in writing of this intention.
4. If, within this period, a request to receive further information on the proposed decision is made by or on behalf of the House of Representatives or by at least one fifth of the constitutionally established membership of the House, the decision shall not be taken until this information has been supplied.
5. If the House of Representatives declares, within 30 days of receiving the notification, or within 14 days of the information being supplied, that it opposes the proposed decision, no such decision shall be taken.

6. The written notification referred to in subsection 3 shall make clear whether the conditions referred to in subsection 1 have been met.
7. Our Minister concerned shall forward a copy of such a decision to the Court of Audit.

### **Section 11**

1. The ministry to which a departmental agency operating an accrual system of accounting (hereinafter referred to as 'a departmental agency') is accountable shall debit the payments made to the agency to one or more budget articles, and shall credit the payments made by the agency to the same ministry to one or more budget articles.
2. In addition to the budget statement referred to in section 4 (1), a budget shall comprise a separate statement with its own explanatory notes for the departmental agencies which are accountable to the ministry in question.
3. The separate statement shall specify for each departmental agency:
  - a. the total estimated income and expenses;
  - b. the estimate balance of income and expenses;
  - c. the total estimated capital expenditures and capital receipts.
4. Settlements between a departmental agency and the ministry to which it is accountable shall be included in the annual expenditures and receipts of the agency and the ministry, except those referred to in section 3 (1).
5. Notwithstanding section 14 (2), all changes in the amounts referred to in subsection 3 may be included as amendments to the Final Budget Act.

### ***Division 3. The timetable for the budget***

### **Section 12**

1. Each year, Our Ministers shall send our Minister of Finance, by a date to be determined by Our Minister of Finance, drafts for the coming year of the budgets for which they are responsible.
2. Our Minister of Finance shall object to a draft budget if:
  - a. he does not regard it as acceptable in the light of general financial policy or the efficient management of central government funds;
  - b. the amounts included in the draft budget are not reasonably commensurate with the policy objectives which the budget is intended to achieve.
3. If Our Minister of Finance has no objection to a draft budget, he shall present Us with the Bill to adopt the budget based on the draft budget in question, for tabling before the House of Representatives.
4. We shall send all the Bills to the House of Representatives on the third Tuesday in September in the year preceding that to which they relate.
5. Notwithstanding subsection 4, we may authorise Our Minister of Finance to submit the Bills to the House of Representatives.

### **Section 13**

Our Minister of Finance shall submit the Budget Memorandum to the States General on the date referred to in section 12 (4). The Budget Memorandum shall in any event include:

- a. a consideration of the budgetary implications of the proposed policies for central government and for other parts of the public sector that are regarded as being subject to the central government's budget discipline;
- b. a consideration of the budgetary implications of the proposed policies for the national economy;
- c. estimates for the budget year and the four years following the budget year, combined in a manner to be determined by him;
- d. the summary referred to in section 15 (2).

### ***Division 4. Amendments to the budget***

### **Section 14**

1. Our Ministers, each with respect to the budgets for which he is responsible, shall submit draft budget amendments to Our Minister of Finance. Section 12 (2, 3 and 5) shall apply *mutatis mutandis*.
2. Draft budget amendments shall in any event be submitted in respect of:
  - a. the changes connected with those referred to in the Spring Memorandum, at the same time as the relevant Spring Memorandum;
  - b. further changes, unless of a bookkeeping nature or arising from audit findings, including in any event the changes connected with those referred to in the Budget Memorandum and the Autumn Memorandum, at the same time as the relevant Autumn Memorandum;
  - c. the changes contained in a Final Budget Act, these being, for each budget article, the changes that lead to the elimination of the remaining discrepancy between the budget estimate, including earlier changes thereto, and the actual amount, by the third Wednesday in May of the year following the budget year. Section 63 (2) shall apply *mutatis mutandis*.
3. The explanatory notes accompanying a draft budget amendment as referred to in subsection 2, chapeau and under a or b, shall be compiled in the same way as and shall be in keeping with the explanatory notes provided with the relevant draft budget in accordance with sections 5 and 6.

### **Section 15**

1. By 1 June every year, Our Minister of Finance shall submit to the States General a Spring Memorandum summarising the changes considered necessary in the estimates of expenditures and receipts included in the draft budgets for the current year and the following four years.
2. On the third Tuesday in September every year, Our Minister of Finance shall submit to the States General a summary of the further changes in the estimates for the current year which are considered necessary in addition to the changes referred to in subsection 1.
3. By 1 December every year, Our Minister of Finance shall submit to the States General an Autumn Memorandum summarising the further changes in the estimates for the current year which are considered necessary in connection with the changes referred to in subsection 2.

## ***Division 5. Policy proposals with financial implications***

### **Section 16**

1. Proposals other than Bills to adopt or amend a budget statement, and intentions and pledges with financial implications for central government, shall not be submitted, notified or made to the Cabinet or to the States General before Our Minister of Finance has given his views thereon.
2. Section 12 (2) shall apply *mutatis mutandis* to such proposals, intentions and pledges.
3. Subsection 1 shall also apply to proposals, intentions and pledges with implications for the rules laid down by or pursuant to this Act.

### **Section 17**

1. Written proposals, intentions and pledges as referred to in section 16 (1) shall include in their explanatory notes a separate section detailing:
  - a. the objectives they seek to achieve;
  - b. the instruments the government intends to use in order to achieve these objectives;
  - c. the financial implications for central government and, where possible, the financial implications for other sections of society.
2. The separate section in the explanatory notes shall also indicate the extent to which the financial implications for central government are included in the multiyear estimates in the most recently submitted budget.
3. Where possible, the objectives and financial implications shall be illustrated with performance data as referred to in section 5 (3).

## ***Division 6. Further regulations***

### **Section 18**

1. Our Minister of Finance may lay down rules relating to:
  - a. the preparation, amendment and structure of the budgets, and the manner in which budget forecasts are prepared;
  - b. the structure of the separate section of the explanatory notes accompanying the proposals, intentions and pledges referred to in section 17 (1).
2. Our Minister of Finance shall lay down the criteria on the basis of which a budget reserve as referred to in section 5 (4) may be formed, and shall set the conditions applying to the transfer of funds to, and the withdrawal of funds from, the reserve.
3. If necessary, Our Minister of Finance shall lay down further rules relating to departmental agencies in general or one or more departmental agencies in particular.
4. Our Minister of Finance may lay down rules for the information to be included in the budget on the autonomous administrative authorities referred to in subsection 5 and on the corporate bodies referred to in section 91 (1) (d) of this Act.
5. For the purposes of subsection 4, 'autonomous administrative authorities' shall mean: administrative authorities of central government which are invested with public authority by Act

of Parliament, by order in council pursuant to an Act of Parliament or by Ministerial Order pursuant to an Act of Parliament, and which are not hierarchically subordinate to a minister.

## **CHAPTER II. CENTRAL GOVERNMENT BUDGET MANAGEMENT AND OPERATIONAL MANAGEMENT**

### ***Division 1. Central government budget management***

#### **Section 19**

1. Our Ministers, each in respect of the ministry which he heads, shall be responsible for the management of the budgets for the ministry concerned.
2. Our Minister of Finance shall be responsible for the management of the budget for the National Debt.
3. Our Minister of the Interior and Kingdom Relations shall be responsible for the management of the budget for Kingdom Relations.
4. Our Prime Minister, the Minister of General Affairs, shall be responsible for the management of the budget for the Royal Household, the budget for the King's Office and the budget for the supervisory committee for the intelligence and security services.
5. Our Minister of the Interior and Kingdom Relations shall be responsible for the management of the budget for the States General and the budget for the bodies referred to in section 1 (1) (g).
6. The bodies referred to in section 1 (1) (e to h) shall manage their own budget or their own part of the budget.
7. Our Minister concerned shall make agreements with the various bodies on the management activities to be performed, with due account being taken of their constitutional position.

### ***Division 2. Policy***

#### **Section 20**

1. Our Ministers shall be responsible for the effectiveness and efficiency of the policy underlying their budgets.
2. Our Ministers shall also be responsible for conducting regular audits of the effectiveness and efficiency of the policy.
3. Our Ministers shall inform the Court of Audit in good time of the audits they order, as referred to in subsection 2, and of their findings.

### ***Division 3. Operational management***

#### **Section 21**

1. Our Ministers shall be responsible for the efficiency of the operational management of their ministries.

2. The term 'operational management' shall be taken to include in any event financial management, material management, and the records held for management purposes.
3. Our Ministers shall also be responsible for conducting regular operational management.
4. Our Ministers shall inform the Court of Audit in good time of the audits they order, as referred to in subsection 3, and of their findings.
5. Our Prime Minister, the Minister of General Affairs, shall be responsible for the operational management of the King's Office and the supervisory committee for the intelligence and security services.
6. Our Minister of the Interior and Kingdom Relations shall be responsible for the operational management of the States General and the bodies referred to in section 1 (1) (g).
7. Each of the bodies referred to in section 1 (1) (e to h) shall in any event be responsible for financial management and material management in respect of its own budget or its own part of the budget, and for the records kept for that purpose. The provisions of section 19 (7) shall apply *mutatis mutandis*.

### **Division 3.1 Financial management**

#### **Section 22**

1. Financial management shall satisfy the requirements of regularity, orderliness and auditability and shall be pursued with maximum efficiency.
2. Our Ministers, each in respect of the budget for which he is responsible, shall have at his disposal, subject to section 40 (2), the amounts permitted in those budgets for assuming obligations and making payments.
3. Our Ministers may make use of the amounts permitted under a budget article headed *Nominal and unforeseen* only where such amounts, subject to section 14, have been added to the estimates for other budget articles.
4. Our Ministers shall designate who may use the permitted amounts on their behalf.
5. Notwithstanding subsection 4, the bodies referred to in section 1 (1) (e to h) shall designate, each in respect of its own budget or part of the budget, who may use the permitted amounts.
6. Our Ministers shall notify the Court of Audit in writing of such a designation.

#### **Section 23**

1. Where a Bill to adopt a budget has not entered into force by 1 January of the year to which it relates, Our responsible Minister may use, in the interests of central government:
  - a. for the assuming of obligations, no more than four twelfths of the amounts permitted under the corresponding budget articles for the preceding year;
  - b. for the making of payments, the amounts estimated for that purpose in the Bill to adopt the budget concerned.
2. In the interests of central government, Our Minister may, in agreement with Our Minister of Finance, depart from subsection 1, chapeau and under a, with respect to one or more budget articles.

3. Our Minister of Finance shall notify the States General and the Court of Audit in writing of any application of the provisions of subsection 2.

#### **Section 24**

1. The monies and securities belonging or entrusted to central government shall be deposited in the National Treasury.
2. Our Minister of Finance shall be responsible for managing the central funds of the National Treasury, and also for coordinating and supervising the ministries' management of the ministerial funds.
3. Our Ministers shall be responsible for managing the ministerial funds, each of them in so far as this follows from his management of the budgets and the accounts outside the budget framework for which he is responsible.
4. Notwithstanding subsection 3, Our Minister of Finance may decide that certain expenditures and receipts may not be debited or credited respectively to the ministerial funds, and should instead be debited or credited respectively to the central funds.
5. For each budget, Our Minister of Finance shall maintain one or more current accounts between the Ministry of Finance and the various ministries concerned.
6. In order to further the efficient and low-risk management of cash resources, Our Minister of Finance may permit third parties managing public funds to hold these funds in a current account with the Ministry of Finance.
7. Our Minister of Finance may set a rate of interest to be charged or paid on a debit or credit balance respectively on a current account.

#### ***Division 3.2 Material management***

#### **Section 25**

1. Material management shall satisfy the requirements of regularity, orderliness and auditability and shall be pursued with maximum efficiency.
2. Responsibility for material management shall, for each of Our Ministers, comprise both the equipment belonging to his ministry and the equipment entrusted to his ministry.
3. Responsibility for material management shall, for each of Our Ministers, extend only to management duties for which one or more of Our other Ministers are not responsible by or pursuant to an Act of Parliament.
4. Our Minister of Finance shall be responsible for the management of superfluous central government equipment.

#### ***Division 3.3 Central government records***

#### **Section 26**

1. The records which Our Ministers are responsible for maintaining shall provide evidence of the management actions taken and meet the requirements of efficiency, orderliness and auditability, and shall be designed to be as efficient as possible.

2. Our Minister of Finance shall be responsible for the central records of the National Treasury.  
Subsection 1 shall apply *mutatis mutandis*.

### **Section 27**

1. Our Ministers, each in respect of the budgets for which he is responsible, shall give the Central Financial and Economic Affairs Departments of their ministries responsibility for budgetary matters and the associated records.
2. Responsibility for budgetary matters shall include the assessment of Budget Bills submitted to Our Minister concerned and the supervision of budget implementation.
3. With the agreement of Our Minister of Finance, other arrangements may be made for the management of budgetary matters and the associated records.
4. Our Ministers, acting in agreement with Our Minister of Finance, shall designate the head of the Central Department referred to in subsection 1.
5. Our Ministers shall notify the Court of Audit in writing of:
  - a. any application of subsection 3;
  - b. a designation as referred to in subsection 4.

### ***Division 4. The recording of obligations, expenditures and receipts***

### **Section 28**

1. Every obligation and expenditure shall be recorded in a budget article under obligations and expenditures, and every receipt shall be recorded in a budget article under receipts.
2. Our Minister of Finance may designate categories of obligations, expenditures and receipts which may be recorded in accounts outside the budget framework if settlement takes place with another central government sector or with a third party.
3. Obligations, expenditures and receipts recorded in accounts outside the budget framework shall, if no settlement takes place, be debited or credited to budget articles for the year in which it emerges that no settlement will take place.
4. Notwithstanding subsection 1:
  - a. repayments to central government connected with expenditures incurred earlier in the same year may be credited to the expenditure articles concerned;
  - b. repayments by central government of receipts may be debited to the receipt articles concerned;
  - c. in the event that a loan is issued wholly or partly for the conversion of existing debt, the amount of debt repaid may be set against the receipt from the new loan and any difference recorded as a credit or debit to the budget.
5. Every obligation or expenditure under a budget article shall be recorded in any event so that the records show, *inter alia*:
  - a. the proportion of the estimate of the obligations to be assumed which has actually been assumed;
  - b. the proportion of the estimate of the expenditures which has actually led to an expenditure;

- c. for each individually assumed obligation, the proportion which has not yet led to an expenditure;
  - d. the proportion of the estimate of the expenditures for which no obligation has yet been assumed.
6. Our Minister of Finance shall notify the Court of Audit in writing of designated categories as referred to in subsection 2.

### **Section 29**

1. The provisions of section 3 (1 to 3) shall apply *mutatis mutandis* to the determination of the year to which an obligation, expenditure or receipt is to be attributed.
2. Obligations assumed in a given year which do not emerge until after the closure of the books for that year shall be recorded in the corresponding budget article for the current year.

### **Section 30**

1. Our Minister of Finance may designate categories of non-monetary payments and receipts which are to be recorded as monetary payments and receipts respectively.
2. Our Minister of Finance shall notify the Court of Audit in writing of designated categories.

### **Section 31**

1. Settlements between central government sectors which relate to budget articles not belonging to the same budget shall be recorded as monetary payments and receipts.
2. Subsection 1 may also be applied to settlements between parts of ministries which relate to budget articles belonging to the same budget, if it is manifestly efficient to record such settlements as monetary payments and receipts.

## ***Division 5. Juristic acts and management under private law***

### **Section 32**

1. Our Ministers, each in respect of the budgets for which he is responsible, shall perform on the State's behalf the juristic acts under private law arising from management tasks, unless it has been laid down by or pursuant to Act of Parliament that one of Our other Ministers should perform the juristic act in question.
2. Our Minister of Finance shall be responsible for the management under private law of movable and immovable property belonging or entrusted to the State, except in so far as one or more of Our other Ministers are entrusted with such management by or pursuant to Act of Parliament.
3. Notwithstanding subsection 1, juristic acts under private law, in so far as they arise from the management of the budget for the bodies referred to in section 1 (1) (e to h), may be performed by the bodies, each in respect of its own budget or part of the budget, unless it has been laid down by or pursuant to an Act of Parliament that a Minister other than Our Minister concerned should perform the juristic act in question.
4. Juristic acts under private law may be performed on behalf of Our Ministers or the bodies referred to in subsection 3 if they have been given a general or specific authorisation for that purpose.

### **Section 33**

Contracts for the raising of loans by the State shall be concluded by Our Minister of Finance.

### **Section 34**

1. The establishment or joint establishment, or the causing of the establishment, by the State of a legal person constituted under private law shall not take place until at least 30 days after Our Minister concerned has notified the States General of this intention in writing, in agreement with the views of the Cabinet.
2. Our Minister concerned shall not ask the Cabinet for its views until he has consulted the Court of Audit on the juristic act he intends to perform.
3. If, within the period referred to in subsection 1, a request is made by or on behalf of either House of the States General or by at least one fifth of the constitutionally established membership of either House for further information on the intended juristic act, the juristic act in question shall not take place until such information has been provided.
4. If, within 30 days of the written notification being given or within 14 days of the information being provided, either House expresses the view that the intended juristic act requires prior statutory authorisation, the juristic act in question may not take place until such authorisation has been given.
5. Where a financial interest is involved that is greater than an amount to be set by Our Minister of Finance, the acquisition by the State of shares in a public company or a private company with limited liability in which the State holds, or through such acquisition would hold, five per cent or more of the issued share capital shall not take place until at least 30 days have elapsed after written notice of such a proposal has been given to the States General. Subsections 3 and 4 shall apply *mutatis mutandis*.
6. Where a financial interest is involved that is greater than an amount to be set by Our Minister of Finance, subsection 5 shall also apply to the granting by the State of loans convertible into shares to a public company or a private company with limited liability in which the State holds, or, if conversion were take place immediately, through such granting would hold, five per cent or more of the issued share capital.
7. Subsections 5 and 6 shall not apply if the State does not intend through the acquisition of shares or the granting of a loan to increase, immediately or in the future, its relative interest in a company as referred to in those subsections.
8. After the juristic act has been performed, Our Minister concerned shall notify the States General in writing of any acquisition of shares other than as referred to in subsection 5, of any granting of loans other than as referred to in subsection 6, of any acquisition of shares and granting of loans as referred to in subsection 7 and of the full or partial disposal of shareholdings and of loans convertible into shares by the State.

### **Section 35**

Any juristic act under private law which involves a financial interest and is performed on behalf of the State shall be performed in a manner which:

- a. provides the State with a sufficiently clear and provable record of the rights and obligations of the parties involved;
- b. is verifiable;
- c. is in line with common practice.

### **Section 36**

Juristic acts under private law shall not be invalidated by non-compliance with rules laid down by or pursuant to this Act other than those concerning the authority of the transacting persons laid down by or pursuant to sections 32 and 33.

### ***Division 6. Further regulations***

### **Section 37**

Rules shall be laid down by or pursuant to order in council governing:

- a. the duties of the Central Financial and Economic Affairs Departments;
- b. cash management;
- c. the performance of juristic acts under private law; it may be stipulated that certain juristic acts under private law shall be performed contrary to the provisions of sections 32 and 33.

### **Section 38**

1. Our Minister of Finance shall lay down rules concerning financial management, material management and the records kept for the purposes of such management.
2. Our Minister of Finance may lay down rules concerning:
  - a. the duties and powers associated with the responsibilities referred to sections 20 and 21;
  - b. the power referred to in section 22 (2).

## **CHAPTER III. THE SUPERVISORY FUNCTION OF OUR MINISTERS**

### ***Division 1. Our Minister of Finance's supervision of budget implementation***

### **Section 39**

1. Our Minister of Finance shall exercise a supervisory function in respect of budget implementation.
2. This supervisory function shall include making assessments of the aspects referred to in section 12 (2).

### **Section 40**

1. Our Minister of Finance shall determine the information to be supplied to him for the purposes of the supervisory function referred to in section 39.
2. As part of his supervisory function as referred to in section 39, Our Minister of Finance may designate budget articles under which no obligations may be assumed without his prior consent.

#### **Section 41**

1. Our Minister of Finance shall exercise a supervisory function in respect of the structure of the records referred to in section 21 (2) and the manner in which they are kept.
2. Our Minister of Finance shall exercise a supervisory function in respect of the audit process involved in budget implementation.

#### **Section 42**

1. Our Ministers shall supply the information required by Our Minister of Finance for the exercise of the supervisory function referred to in sections 39 and 41.
2. Our Ministers shall at all times grant Our Minister of Finance access to or allow him to inspect all goods, records, documents and other information carriers.
3. Our Minister of Finance shall designate the officials who exercise the powers referred to in this section on his behalf.

#### ***Division 2. The supervision of third parties receiving and spending public funds***

#### **Section 43**

1. Without prejudice to other statutory provisions, Our responsible Minister shall have the powers referred to in the following subsections with respect to legal persons, limited partnerships, general partnerships and natural persons practising an occupation or operating a business to which or to whom the Council of the European Union, the European Parliament and the Council of the European Union jointly, or the Commission of the European Communities has awarded a grant, either directly or indirectly, on the basis of an established programme.
2. Our Minister may take note of annual accounts and associated auditor's reports.
3. If, in Our Minister's view, the documents referred to in subsection 2 give grounds for doing so or one or more such documents are unavailable, Our Minister is authorised to obtain further information from the relevant legal persons, limited partnerships, general partnerships or natural persons practising an occupation or carrying on a business or to require the surrender of documents and other information carriers, and also to institute an audit, partly on the basis of the records of the legal person, partnership or natural person concerned or of the third party which keeps the records for the legal person, partnership or natural person concerned. Section 87 (1) shall apply *mutatis mutandis*.
4. The powers referred to in the preceding subsections shall be intended to enforce the obligations imposed on the member state by or pursuant to the Treaties establishing the European Communities regarding management, control or supervision in respect of the regular and efficient application of the grants referred to in subsection 1.
5. Our Minister may exercise the powers referred to in this section for as long as and for the years that the State has an interest therein.

#### **Section 44**

1. To monitor the development of the EMU balance, Our Minister of Finance may lay down rules concerning the provision of information by the legal persons which are included in the public sector under the European System of Accounts (OJ L310).
2. If the government's EMU balance threatens to exceed the relevant norm as a result of an undesirable development in the EMU balance of the legal persons referred to in subsection 1, rules may be laid down by or pursuant to order in council to control the EMU balance of those legal persons.
3. An order in council adopted pursuant to subsection 2 shall enter into force no earlier than eight weeks after the date of publication of the Bulletin of Acts and Decrees in which it appears. Both houses of the States General shall be notified forthwith of its publication.
4. For the purpose of subsection 2, the legal persons referred to in subsection 1 shall not include the public bodies referred to in section 1 (a) of the Local Authorities (Financial Transactions) Act.

#### **Section 44a**

Autonomous administrative authorities as referred to in section 18 (5) and legal persons as referred to in section 91 (1) (d) of this Act shall provide Our Minister with regular information on past and intended future performance.

### **CHAPTER IV. LIQUID ASSETS MANAGEMENT AND THE FINANCING OF LEGAL PERSONS WHICH MANAGE PUBLIC FUNDS**

#### **Section 45**

1. The legal persons referred to in section 91 (1) (d) which, in the interests of efficient, low-risk cash management, hold their liquid assets with the National Treasury where they can earn interest shall be designated by order in council.
2. The legal persons referred to in section 91 (1) (d) which, in the interests of low-risk cash management, lend their liquid assets in the form of products that meet the requirements set by Our Minister of Finance, shall be designated by or pursuant to order in council.
3. Other legal persons with public tasks to which subsection 1 or 2 applies may be designated by order in council.
4. Subsections 1 to 3 shall not apply to liquid assets that may not be considered public funds, if the assets are entered separately in the annual accounts of the legal person in question in a proper manner.
5. At the request of a legal person designated in accordance with subsection 1 or 3, Our Minister of Finance may decide that certain liquid assets should be exempted from the obligation of being held with the National Treasury and earning interest, if the legal person provides sufficient evidence that this is necessary for the purpose of day-to-day operational management and, in the opinion of Our Minister of Finance, it does not undermine efficient, low-risk cash management.
6. The recommendation to adopt an order in council pursuant to subsection 1, 2 or 3 shall not be made earlier than four weeks after the draft has been presented to both houses of the States General.

7. Sections 45 to 49a shall not apply to the legal persons referred to in section 91 (16) of this Act.

#### **Section 46**

The legal persons referred to in section 45 shall be prohibited from raising funds with a view to lending them to acquire additional funds.

#### **Section 47**

1. Our Minister concerned shall be charged with the supervision of section 45 (2 and 4) and section 46.
2. Upon request, a legal person shall provide Our Minister with all the information required for supervision purposes. Our Minister may demand to inspect all commercial information and documents, if this is reasonably necessary for such purposes.
3. Our Minister may instruct a legal person which fails to observe section 45 (2 or 4) or section 46 to rectify the omission.

#### **Section 48**

1. For the purpose of financing investments, and without prejudice to the provisions laid down by or pursuant to other Acts of Parliament, the legal persons referred to in section 45 (1) may, with the agreement of Our Minister concerned, obtain loans from Our Minister of Finance, if the investments are required for the implementation of the tasks of the legal person laid down by or pursuant to the Act concerned.
2. Subsection 1 shall apply *mutatis mutandis* to the legal persons referred to in section 45 (3), if section 45 (1) applies to those legal persons.
3. If in any year a legal person to which Our Minister of Finance has issued a loan fails to fulfil the ensuing obligations in terms of interest and redemption payments, Our Minister of Finance may charge the amount of the unfulfilled obligations to the budget of Our Minister concerned and transfer it to the budget for the National Debt.

#### **Section 49**

1. Without prejudice to the provisions laid down by or pursuant to other Acts of Parliament, Our Minister of Finance, with the agreement of Our Minister concerned, may grant the legal persons referred to in section 45 (1) current account credit, to bridge temporary liquidity shortfalls.
2. Subsection 1 shall apply *mutatis mutandis* to the legal persons referred to in section 45 (3), if section 45 (1) applies to those legal persons.
3. If in any year a legal person to which Our Minister of Finance has granted current account credit fails to fulfil the ensuing obligations in terms of interest and redemption payments, Our Minister of Finance may charge the amount of the unfulfilled obligations to the budget of Our Minister concerned and transfer it to the budget for the National Debt.

#### **Section 49a**

Our Minister of Finance may lay down further rules concerning the provisions of sections 45 to 49.

## **CHAPTER V. CENTRAL GOVERNMENT FINANCIAL STATEMENTS**

### **Section 50**

By 1 March every year, Our Minister of Finance shall submit to the States General the provisional accounts for the preceding year, including a provisional summary of actual expenditures and receipts.

### **Section 51**

1. At the end of a budget year, Our Ministers shall report on the policy they have pursued and their management on the basis of:
  - a. the ministries' annual reports, i.e. the annual reports compiled in accordance with the budgets referred to in section 1 (1) (a);
  - b. the non-ministerial annual reports, i.e. the annual reports compiled in accordance with the budgets referred to in section 1 (1) (b to i).
2. Our Ministers, each in respect of the budget for which he is responsible, shall draw up an annual report for each year. Our Ministers shall also compile the ministerial trial balance for each year.

### **Section 52**

1. An annual report as referred to in section 51 shall comprise a financial statement accompanied by explanatory notes.
2. A ministerial annual report shall comprise, in addition to the financial statement referred to in subsection 1, a separate statement accompanied by explanatory notes for the departmental agencies for which the ministry in question is responsible.
3. The separate statement for each departmental agency shall state:
  - a. the total actual income and the total actual expenses;
  - b. the actual balance of income and expenses;
  - c. the total actual capital expenditures and the total actual capital receipts.

### **Section 53**

1. The financial statement shall in any event contain the following data on each budget article, which shall be presented in the sequence of the budget articles of the corresponding budget statement:
  - a. the article number;
  - b. a description of the subject to which the article relates;
  - c. the gross amount stated as being available for obligations in the budget statement pertaining to the original Budget Act, with the corresponding actual amount stated next to it;
  - d. the gross amount stated as being available for expenditures in the budget statement pertaining to the original Budget Act, with the corresponding actual amount stated next to it;
  - e. the estimate of the gross value of receipts in the budget statement pertaining to the original Budget Act, with the corresponding actual amount stated next to it.

2. Subsection 1, chapeau and under d and e, shall not apply to expenditures and receipts set off against receipts and expenditures pursuant to section 28 (4).

#### **Section 54**

1. The explanatory notes accompanying the financial statement shall in any event provide, in respect of each policy article, information on the following aspects of policy:
  - a. the general and, where appropriate, the specific operational objectives that were pursued, and the extent to which these were achieved;
  - b. the policy instruments deployed for achieving these objectives;
  - c. the multiyear figures for obligations assumed;
  - d. the multiyear figures for programme expenditure;
  - e. the multiyear figures for administrative expenditure;
  - f. the multiyear figures for actual receipts.

In order to facilitate comparison, points c to f for financial year t shall be accompanied by the corresponding estimates included in the draft budget. An explanation shall be provided of any material discrepancies.

2. If t is the year under review, the multiyear data shall relate to years t-4 to t, i.e. to the period from four years prior to the year under review up to and including the year under review.
3. In accordance with section 5 (3), an annual report shall state, for each policy article, the actual effectiveness figures, information on the efficiency of policy (both of which may or may not be obtained from policy evaluations), and efficiency information on administrative expenditure. All this information shall be presented together with the estimates included in the draft budget, and an explanation given of any material discrepancies.
4. Where, subject to section 5 (4), a budget contains a policy article to which a multiyear budget reserve has been charged, the annual report shall give information, in respect of the policy article in question, on the actual size of the reserve and also on the amounts transferred to and/or withdrawn from the reserve during the year under review.

#### **Section 55**

The explanatory notes accompanying the financial statement shall in any event provide, in respect of each non-policy article, multiyear data on:

- a. the figures for obligations assumed;
- b. the figures for programme expenditure;
- c. the figures for administrative expenditure;
- d. the figures for actual receipts.

In order to facilitate comparison, the figures for financial year t shall be accompanied by the corresponding estimates included in the draft budget. An explanation shall be provided of any material discrepancies. Section 54 (2) shall apply.

#### **Section 56**

1. A ministerial annual report shall contain, in the explanatory notes accompanying the financial statement, information on the operational management pursued by the ministry in question during the financial year.
2. Subsection 1 shall apply as far as possible *mutatis mutandis* to the non-ministerial annual reports. The agreement of Our Minister of Finance shall be required in any cases in which subsection 1 is not applied.

### **Section 57**

1. The annual report on the budget for the Royal Household shall contain, in accordance with section 8 (1), the figures for the actual payments made to the members thereof.
2. Our Minister responsible for managing a budget fund may decide to append the annual report on the budget fund to the ministerial annual report for which he is responsible.

### **Section 58**

1. An annual report shall comply with the following requirements:
  - a. the financial information included in it should be clearly displayed and should have been obtained in a lawful manner;
  - b. the information included in it on the policy and operational management pursued should have been obtained in a sound manner;
  - c. the information included in it on the policy and operational management pursued should meet the relevant quality standards.
2. The financial information shall include information on obligations, expenditures, receipts, income, expenses, capital expenditures, capital receipts and balance sheet items, as these appear in the records, as well as explanatory notes thereon.
3. The financial information shall be presented in the annual report in such a way that it is clearly distinguishable from the non-financial information.

### **Section 59**

A ministerial trial balance shall comply with the following requirements:

- a. the information included in it should clearly state the items outstanding at the end of the year, as these appear in the records;
- b. the balance sheet items included in it should have been obtained in a lawful manner.

### **Section 60**

1. Our Ministers shall forward the annual report and the ministerial trial balance for which they are responsible, together with the Final Budget Bill and the summary report referred to in section 66 (5) to Our Minister of Finance by no later than a date set by him in the month of March in the year after the budget year.
2. Our Minister of Finance shall forward these documents, if possible within 14 days of receipt, to the Court of Audit, together with any comments that the documents may prompt him to make. Our Minister of Finance shall also notify Our Ministers concerned of his comments.

3. Within 14 days of the date referred to in subsection 1, Our Ministers shall forward to the Court of Audit and Our Minister of Finance a list of the findings of the internal auditors on each of the budget articles.

### **Section 61**

1. Our Minister of Finance shall compile the central government annual financial report and the central government trial balance for each year.
2. The central government annual financial report shall in any event comprise:
  - a. a consideration of the budgetary implications of the policy pursued for central government and for other parts of the public sector that are regarded as being subject to the central government's budget discipline;
  - b. a consideration of the operational management pursued by central government;
  - c. a statement of central government expenditures and receipts, accompanied by explanatory notes;
  - d. a balance sheet showing the State's assets, receivables and debts as at 31 December of the year under review, accompanied by explanatory notes explaining, *inter alia*, the accounting principles applied.
3. The statement of expenditures and receipts included in the central government annual financial report shall match the financial statements included in the ministerial and non-ministerial annual reports.
4. The central government trial balance shall match the ministerial trial balances.

### **Section 62**

Our Minister of Finance shall forward the central government annual financial report, the central government trial balance and the report referred to in section 67 (3) to the Court of Audit by 21 April of the year following the budget year.

### **Section 63**

1. To enable both Houses of the States General to grant discharge to Our Ministers concerned in respect of the financial management pursued in a financial year, Our Minister of Finance shall forward to the House of Representatives, on the third Wednesday in May of the year following the year under review, the ministerial and non-ministerial annual reports audited by the Court of Audit, as well as the central government annual financial report audited by the Court of Audit. The central government annual financial report shall also be forwarded to the Senate.
2. If the third Wednesday in May is in a period in which the House of Representatives of the States General is not due to convene, due to the election of the members of the House, the second Wednesday after the first meeting of the newly elected House of Representatives shall be taken as the date on which the documents referred to in subsection 1 are to be forwarded.
3. Our Minister of Finance shall forward to the House of Representatives at the same time as the documents referred to in subsection 1, where relevant, a summary of the annual reports, a summary of the Final Budget Bills, and a summary of the Indemnity Bills which were not

forwarded to the House of Representatives on the Wednesday referred to subsection 1 or 2, together with a statement of the reason therefor.

4. Where relevant, Our Minister concerned shall forward to the House of Representatives, as soon as possible and in any event prior to the date on which the House debates the annual report, as a supplement to the annual report concerned, a statement of his views on an objection raised by the Court of Audit as referred to in section 89 (3).

#### **Section 64**

1. Discharge shall be granted to Our Ministers, on the basis of the annual reports concerned, by a pronouncement to this effect made by each of the two Houses of the States General.  
Discharge shall not be granted until the statement of approval issued by the Court of Audit, as referred to in section 83 (3), has been received and the relevant Final Budget Bill and, where relevant, an Indemnity Bill have been adopted.
2. After the House of Representatives has granted discharge to Our Minister concerned, the President of the House shall append a note to the annual report in question stating that discharge has been granted and specifying the date on which this took place. The annual report shall then be forwarded to the President of the Senate for the latter's consideration.
3. After the Senate has granted discharge to Our Minister concerned, the President of the Senate shall append a note to the annual report in question stating that discharge has been granted and specifying the date on which this took place. The President of the Senate shall then forward the annual report to Our Minister of Finance.
4. Our Minister of Finance shall notify Our Ministers and the Court of Audit that discharge has been granted by both Houses of the States General.

#### **Section 65**

1. Our Minister of Finance may lay down rules for the preparation and structure of the annual reports and the ministerial trial balances.
2. Our Minister of Finance may lay down rules regarding the information to be included in the annual reports on autonomous administrative authorities as referred to in section 18 (5) and on legal persons as referred to in section 91 (1) (d) of this Act.

### **CHAPTER VI. CENTRAL GOVERNMENT AUDITS**

#### **Section 66**

1. Our Ministers, each in respect of the budgets for which he is responsible, shall instruct their ministries' internal audit departments to audit:
  - a. the financial and material management pursued;
  - b. the records kept for the purpose of the above management;
  - c. the financial information in the annual reports, as referred to in section 51;
  - d. the ministerial trial balances;
  - e. the preparation of the information on the policy pursued and operational management.

2. The audit department shall verify whether financial management, material management and the records kept for these purposes meet the standards of regularity, orderliness, auditability and efficiency set out in section 22 (1), section 25 (1) and section 26 (1).
3. When auditing an annual report, the audit department shall seek to establish:
  - a. whether it has been compiled in accordance with the reporting requirements for financial information;
  - b. whether it meets the requirements laid down in section 58 (1) (a and b).
4. When auditing a trial balance, the audit department shall seek to establish:
  - a. whether it has been compiled in accordance with the reporting requirements;
  - b. whether it meets the requirements laid down in section 59.
5. The audit findings shall be recorded each year in reports addressed to Our Minister concerned. The summary report shall contain, apart from the main audit findings, an auditor's report on the financial information in the annual report and the trial balance.
6. The auditor's report referred to in subsection 5 shall relate to the requirements laid down in section 58 (1) (a) and section 59, and shall also state whether the reporting requirements for financial information have been observed.

#### **Section 67**

1. Our Minister of Finance shall instruct his ministry's internal audit department to audit:
  - a. the central records of the National Treasury;
  - b. the central government annual financial report;
  - c. the central government trial balance.
2. The audit department shall seek to establish:
  - a. whether the central records match the records referred to in section 21 (2);
  - b. whether the central records meet the requirements laid down in section 26 (2);
  - c. whether the statement of expenditures and receipts included in the central government annual financial report matches the financial statements included in the annual reports referred to in section 51;
  - d. whether the central government annual financial report and the central government trial balance have been prepared in accordance with the regulations;
  - e. whether the central government trial balance matches the ministerial trial balances.
3. The audit findings shall be recorded each year in a report addressed to Our Minister of Finance. In addition to the main audit findings, the report shall contain an announcement on the statement of the central records of the National Treasury, on the central government annual financial report and on the central government trial balance.

#### **Section 68**

1. In agreement with Our Minister of Finance and after consulting the Court of Audit, Our Ministers may arrange to have an audit performed in another manner instead of instructing their ministries' audit departments to perform an audit.
2. In agreement with Our Minister of Finance, Our Ministers shall designate the head of their ministries' audit departments.

3. Our Ministers shall notify the Court of Audit in writing of any designation.

#### **Section 69**

1. Rules shall be laid down by or pursuant to order in council governing the role and duties of the ministry audit departments.
2. Our Minister of Finance may lay down rules governing the auditor's report on the annual report and the trial balance.

### **CHAPTER VII. THE COURT OF AUDIT**

#### ***Division 1. Membership and internal procedures***

#### **Section 70**

1. The Court of Audit shall consist of three ordinary members who jointly form the Board, together with at most three extraordinary members. The President shall be appointed by Royal Decree from among the ordinary members, on the recommendation of Our Minister of the Interior and Kingdom Relations.
2. The Court of Audit shall at the earliest opportunity notify Us and the House of Representatives of any vacancy among its members.
3. The notification sent to the House of Representatives shall be accompanied by a list of six candidates recommended by a majority of the members of the Board, to which the House shall have such regard as it sees fit in making its recommendation.

#### **Section 71**

1. The extraordinary members may be called upon by the President to take part in certain activities; they shall then have the same powers as the ordinary members and shall form part of the Board.
2. If it is known in advance that an ordinary member will be unable to attend, his place shall be taken by an extraordinary member.

#### **Section 72**

A Secretary, appointed by Royal Decree on the recommendation of the Court of Audit, shall be attached to the Court of Audit. The dismissal of a Secretary shall also take place by Royal Decree; he may be suspended by the Court of Audit.

#### **Section 73**

1. Membership of the Court of Audit shall be restricted to persons of Dutch nationality.
2. The members and Secretary may not hold any other public office in respect of which a fixed remuneration or allowance is payable or belong to any public body whose members are chosen in elections prescribed by or pursuant to statutory regulation. Provided that the incompatibility in

question does not also arise from other statutory regulations, an exemption from this provision may be granted by Royal Decree following consultation with the Court of Audit.

3. The members and Secretary may not exercise any other functions if this may conflict with the proper performance of their duties relating to the Court of Audit or with the maintenance of their impartiality and independence or of confidence therein.
4. Any functions exercised by the members and Secretary of the Court of Audit in addition to their duties as such shall be made public by the President.

#### **Section 74**

1. A member may resign his office at any time and shall in any event be discharged on reaching the age of 70 years, such discharge to take effect on the first day of the following month.
2. A member may be dismissed or suspended by the Supreme Court of the Netherlands. Chapter 6A (excepting sections 46b, 46c (1 (b), 2 and 3), 46d, 46i (1) (c), 46k and 46q) of the Judiciary (Organisation) Act shall apply *mutatis mutandis*, except that:
  - the disciplinary sanction of a written warning shall be imposed by the President of the Court of Audit;
  - in section 46e, the words ‘the President of the Court of Audit’ shall be substituted for the words ‘the judicial officer, who shall also be the President of the Court of Appeal or the District Court, the President of the Supreme Court or the Procurator-General at the Supreme Court’;
  - the President of the Court Audit shall be regarded as possessing functional authority;
  - the words ‘Our Minister of the Interior and Kingdom Relations’ shall be substituted for the words ‘Our Minister’;
  - the recommendation referred to in sections 46i (4) and 46l (2) shall be made by the Court of Audit;
  - in section 46p (5 and 6), the words ‘the Court of Audit’ shall be substituted for the words ‘the court concerned or the public prosecutor’s office at the Supreme Court’.
3. A member may also be discharged on the grounds that he has acted in breach of section 73 (3).
4. Further rules may be laid down by or pursuant to order in council concerning redundancy payments and sickness and invalidity provision.

#### **Section 75**

1. The President, other ordinary members, extraordinary members and the Secretary shall, before taking up office, take the following oath (declaration and affirmation) in Our presence:  
‘I swear (declare) that I have not made any gift or promise under whatever name or pretext to any person, either directly or indirectly, with a view to obtaining my appointment;  
I swear (declare and affirm) that I have not accepted and will not accept from any person any gift or promise, directly or indirectly, as an inducement to do or refrain from doing anything in my office;  
I swear (affirm) that I shall be true to the King, at all times respect the Constitution and perform my duties honestly, conscientiously and impartially.’

So help me Almighty God. (This I do declare and affirm.)'

2. With Our authorisation, the President may, at a meeting of the Board, administer the oath or the affirmation to the other ordinary members, the extraordinary members and the Secretary.

#### **Section 76**

The Court of Audit shall adopt standing orders for its work, which shall be published in the Government Gazette.

#### **Section 77**

1. The President shall supervise the work of the Court of Audit, ensuring the proper application of the provisions laid down by or pursuant to this Chapter.
2. The President shall ensure that all documents sent to the Court of Audit or to him in his capacity as its President are considered by the Board in session unless they are excluded from such consideration by the standing orders.
3. In the President's absence, his duties and powers shall be exercised by the most senior ordinary member present.

#### **Section 78**

No decision may be taken at a meeting of the Board unless the majority of its members are present. Decisions shall be reached by a majority of votes; in the case of a tie, the President shall have the casting vote.

#### **Section 79**

1. The members and Secretary may not be present during the consideration or taking of decisions on any matter which concerns them, their spouse, their registered partner, the persons with whom they live or any person related to them by blood or marriage to the third degree.
2. They may take no part in the auditing of or decisions on accounts or financial statements which they have drawn up.

#### **Section 80**

1. The provisions laid down by or pursuant to the Central and Local Government Personnel Act regarding the appointment and dismissal of central government personnel shall apply *mutatis mutandis* to the officials of the Court of Audit, except that where such appointment or dismissal is by Royal Decree, the Court of Audit shall make a recommendation and in other cases shall itself appoint and dismiss its officials. The Court of Audit shall have the power of suspension.
2. The Court of Audit may entrust the Secretary with the appointment, suspension and dismissal of officials.

#### **Section 81**

1. The Court of Audit shall draw up instructions for the Secretary, for the other officials, and for staff working at the Court of Audit on the basis of a contract of employment under civil law.
2. The officials shall swear the oath or make the declaration and affirmation before the President. The Court of Audit may also require staff as referred to in subsection 1 to swear the oath or make the declaration and affirmation.

## ***Division 2. Regularity and performance audits***

### **Section 82**

1. The Court of Audit shall examine each year:
  - a. the financial and material management pursued;
  - b. the records kept for the purpose of pursuing the above management;
  - c. the financial information in the annual reports referred to in section 51;
  - d. the ministerial trial balances;
  - e. the preparation of the information on the policy pursued and operational management.
2. The Court of Audit shall verify whether financial management, material management and the records kept for these purposes meet the standards of regularity, orderliness and auditability set out in section 22 (1), section 25 (1) and section 26 (1).
3. When auditing an annual report, the Court of Audit shall seek to establish:
  - a. whether it has been compiled in accordance with the reporting requirements for financial information;
  - b. whether the requirements laid down in section 58 (1) have been met.
4. When auditing a trial balance, the Court of Audit shall seek to establish:
  - a. whether it has been compiled in accordance with the reporting requirements;
  - b. whether the requirements laid down in section 59 have been met.
5. The Court of Audit shall record its findings and opinion each year in reports.

### **Section 83**

1. The Court of Audit shall examine each year:
  - a. the central records of the National Treasury;
  - b. the central government annual financial report;
  - c. the central government trial balance;to establish whether they meet the requirements set out in section 67 (2).
2. The Court of Audit shall record its findings and its opinion each year in a report.
3. The Court of Audit shall issue a statement of approval regarding the statement of expenditures and receipts included in the central government annual financial report, and also regarding the central government trial balance.
4. The statement of approval shall be issued on condition that the Final Budget Bills and, where relevant, an Indemnity Bill are adopted.

### **Section 84**

1. On the third Wednesday in May, the Court of Audit shall send its reports and its statement of approval on the previous financial year to Us and the States General. Section 63 (2) shall apply *mutatis mutandis*.
2. If the Court of Audit has not completed an audit as referred to in section 82 (1) or section 83 (1) by the third Wednesday in May, it shall send a progress report on this date detailing the current state of the audit. In such an event, it shall send the final report, including the statement of approval, as soon as possible thereafter.

### **Section 85**

The Court of Audit shall examine the effectiveness and efficiency of the policy pursued, and the efficiency of financial and material management, of the records kept for this purpose and of the organisation of central government.

### **Section 86**

1. In performing its duties, the Court of Audit may, without prejudice to its right to conduct its own audits, make use of the findings of audits conducted by others.
2. At the Court of Audit's request, Our Ministers shall supply it with the audit programmes of those charged with the audit function and shall give it full information on audit findings by handing over reports or in such other manner as the Court of Audit may determine.

### **Section 87**

1. In all central government sectors, the Court of Audit may, in so far as it regards this as being necessary for the performance of its duties, inspect all goods, records, documents and other information carriers in such manner as it may determine.
2. Our Ministers shall upon request supply the Court of Audit with any information which it regards as being necessary for the performance of its duties.
3. In respect of secret budget articles, subsections 1 and 2 shall be implemented by, and the information shall be supplied to, the President of the Court of Audit in person. Section 77 (2 and 3) shall not apply.
4. The President of the Court of Audit shall maintain confidentiality in respect of information supplied to him in connection with secret budget articles.
5. He shall inform Our Minister concerned in person of his findings in so far as he considers this necessary.

### **Section 88**

1. If, following an audit as referred to in section 82, the Court of Audit has any objection to the financial or material management pursued, or to the associated statement, it shall notify Our Minister concerned of this objection.
2. Within one month of receiving such notification, Our Minister concerned shall inform the Court of Audit of the steps that may meet its objection.
3. Upon expiry of this period, the Court of Audit shall take its final decision and inform Our Minister concerned accordingly.

4. If the Court of Audit maintains its objection, it shall also inform Our Minister of Finance accordingly.

### **Section 89**

1. If, in its final decision, the Court of Audit maintains its objection and if the objection is to obligations, expenditures or receipts not being in accordance with budgetary legislation or other statutory provisions, a Bill to adopt an Indemnity Act shall be submitted to the House of Representatives within two months.
2. If the Court of Audit finds that no such Bill has been submitted upon expiry of the period referred to in subsection 1, it shall notify the House of Representatives accordingly.
3. If, in its final decision, the Court of Audit maintains its objection and the objection is not such as referred to in subsection 1, it shall record this fact in the report referred to in section 82 (5).
4. It may also add a note to this effect to its report on the central government annual financial report.

### **Division 3. Other duties and powers**

#### **Section 90**

The Court of Audit may institute certain audits at the request of either House of the States General.

#### **Section 91**

1. Without prejudice to other statutory provisions, the Court of Audit shall have the powers referred to in the remaining subsections of this section with respect to:
  - a. public companies and private companies with limited liability, all or virtually all of whose issued share capital is owned by the State;
  - b. public companies and private companies with limited liability other than those referred to under a where the State owns at least 5% of the issued share capital and a financial interest is involved that is greater than a sum to be fixed by Our Minister of Finance;
  - c. legal persons, limited partnerships and general partnerships to which the State, or a third party acting for the account and risk of the State, has given, directly or indirectly, a grant, loan or guarantee;
  - d. legal persons performing a function regulated by or pursuant to an Act of Parliament and to that end funded wholly or in part by receipts from levies instituted by or pursuant to an Act of Parliament.
2. Through files held by Our Minister concerned or by the institution referred to in subsection 8, the Court of Audit may take note of the annual accounts and associated auditor's reports and other documents and may obtain from Our Minister or the institution concerned further information in that connection.
3. If the documents referred to in subsection 2 give grounds for doing so or if one or more such documents are unavailable, the Court of Audit is entitled to obtain further information from the legal persons, limited partnerships and general partnerships concerned or to require the submission of such documents. The Court of Audit may also institute an audit, but not in the

case of companies as referred to in subsection 1 (b), or of De Nederlandsche Bank NV except with regard to its exercise of duties pursuant to the Insurance Supervision Act 1993, the Pension and Savings Funds Act, the Insurance Supervision (Benefits in Kind for Funerals) Act, the Occupational Pension Scheme (Obligatory Participation) Act, the Industrial Pension Fund (Obligatory Participation) Act 2000, the Notarial Profession Age Ceiling (Introduction) and Notarial Pension Fund (Establishment) Act, the Medical Insurance (Access) Act 1998 and the Pension Insurance Advance Payment Fund (FVP) Privatisation Act. Such an audit shall be partly on the basis of the records of the legal person or company concerned or of the third party which keeps the records for the legal person or company concerned. The Court of Audit shall inform Our Minister concerned of its intention to institute such an audit. Section 87 (1) shall apply *mutatis mutandis*.

4. In the case of companies as referred to in subsection 1 (b), and of De Nederlandsche Bank NV, the requisition of documents and obtaining of information as referred to in subsection 3 shall take place through the intermediary of Our Minister, and the only documents whose submission may be required shall be the annual accounts and reports referred to in subsection 2. The previous sentence shall not apply to the requisition of documents and obtaining of information relating to the duties exercised by De Nederlandsche Bank NV pursuant to the Insurance Supervision Act 1993, the Pension and Savings Funds Act, the Insurance Supervision (Benefits in Kind for Funerals) Act, the Occupational Pension Scheme (Obligatory Participation) Act, the Industrial Pension Fund (Obligatory Participation) Act 2000, the Notarial Profession Age Ceiling (Introduction) and Notarial Pension Fund (Establishment) Act, the Medical Insurance (Access) Act 1998 and the Pension Insurance Advance Payment Fund (FVP) Privatisation Act.
5. Without prejudice to subsection 2 and to its power to institute its own audits, the Court of Audit shall wherever possible make use of the findings of audits carried out by others. Section 86 (2) shall apply *mutatis mutandis*.
6. The Court of Audit may exercise its powers for as long as and for the years that the State's interest is involved or, in the case of legal persons, limited partnerships and general partnerships as referred to in subsection 1 (d) for as long as and for the years that the public interest so requires.
7. Sections 5:12, 5:13, 5:15 and 5:17 of the General Administrative Law Act shall apply *mutatis mutandis* to the exercise of the powers referred to in subsection 3.
8. Any institution charged by or pursuant to Act of Parliament with an audit function in respect of a legal person as referred to in subsection 1 (d) shall communicate its findings in full to the Court of Audit, in a manner to be determined by the Court of Audit, and shall on request make its audit programme available to the Court of Audit.
9. Legal persons, limited partnerships or general partnerships, or institutions as referred to in subsection 8, shall supply Our Minister concerned, at his request and at the earliest opportunity, with copies of letters to the Court of Audit.
10. The Court of Audit shall forward to Our Minister concerned copies of the letters that its sends to legal persons, limited partnerships or general partnerships, or institutions as referred to in subsection 8.

11. The Court of Audit shall communicate to Our Minister concerned and to the legal persons, limited partnerships or general partnerships concerned, and to the institutions as referred to in subsection 8, any comments or misgivings it may have which it considers important in relation to its findings. It may make proposals to Our Minister in that connection.
12. The Court of Audit shall send to Our Minister of Finance, Our Minister concerned and the States General such communications as it considers to be in the public interest.
13. Where it considers that the public interest so requires, the Court of Audit shall set out its findings in its report or in a report as referred to in section 95 (1 or 2).
14. Notwithstanding subsection 13, the Court of Audit shall not include in its report or in a report as referred to in section 95 (1 or 2) information and findings of a confidential nature. Communications to the States General as referred to in subsection 12 which contain such information or findings shall be sent for confidential information.
15. For the purposes of this section, the legal persons, limited partnerships and general partnerships referred to in subsection 1 (c) shall not include the credit institutions entered in the register pursuant to section 52 (2) (a) of the Credit System (Supervision) Act 1992.
16. This section shall not apply to provincial or municipal authorities, to corporate bodies with legal personality as referred to in section 8 (1) of the Joint Arrangements Act, in so far as these have not been established by Act of Parliament, to water boards, to public bodies for the professions and trades and to the Chambers of Commerce and Industry.

## **Section 92**

1. Without prejudice to other statutory provisions, the Court of Audit shall have the powers referred to in the remaining subsections of this section with respect to legal persons, limited partnerships, general partnerships and natural persons practising an occupation or carrying on a business to which or to whom the Council of the European Union, the European Parliament and the Council of the European Union jointly, or the Commission of the European Communities has awarded a grant, either directly or indirectly, on the basis of an established programme.
2. Through files held by Our Minister concerned, the Court of Audit may take note of the annual accounts and associated auditor's reports and other documents and may obtain further information in that connection from Our Minister.
3. If the documents referred to in subsection 2 give grounds for doing so or if one or more such documents are unavailable, the Court of Audit is authorised to obtain further information from the relevant legal persons, limited partnerships, general partnerships or natural persons practising an occupation or carrying on a business, or to demand access to such documents and other information carriers. The Court of Audit is also authorised to institute an audit, partly on the basis of the accounts of the legal person, company or natural person concerned or of the third party which keeps the accounts on behalf of the legal person, company or natural person concerned. The Court of Audit shall inform Our Minister concerned of its intention to institute such an audit. Section 87 (1) shall apply *mutatis mutandis*.
4. The powers set out in the preceding subsections shall be intended to enable the Court of Audit to form an opinion on the policy pursued by Our Minister in fulfilling the obligations

imposed on the member state by or pursuant to the Treaties establishing the European Communities regarding management, control or supervision in respect of the lawful and efficient application of the grants referred to in subsection 1.

5. The Court of Audit may exercise the powers set out in this section for as long as and for the years that the State's interest is involved.
6. Section 91 (4, 5, 11, 12, 13, 14 and 15) shall apply *mutatis mutandis*.
7. The Court of Audit shall consult with the European Court of Auditors in order to make arrangements about the standards and criteria that are to be applied to the audit referred to in this section, and about the way in which the two courts should cooperate.
8. Sections 5:12, 5:13, 5:15 and 5:17 of the General Administrative Law Act shall apply *mutatis mutandis* to the exercise of the powers referred to in subsection 3.

### **Section 93**

If a record-keeping function is contracted out to a third party, the Court of Audit shall be authorised to institute an audit partly on the basis of the records of the third party concerned or of the person who keeps the records on behalf of the third party. Section 87 (1) shall apply *mutatis mutandis*.

### **Section 94**

1. The Court of Audit shall communicate to Our Ministers concerned any comments or misgivings which it considers important in relation to its work. It may make proposals in this respect.
2. The Court of Audit shall forward such communications to Our Ministers concerned, Our Minister of Finance and the States General as it may consider necessary. It may hold further consultations with them in connection with such communications.

### **Section 95**

1. The Court of Audit shall bring the reports it issues on its audit to Our attention and to that of the States General.
2. By 1 April every year, the Court of Audit shall submit to Us and to the States General a report on its activities in the preceding year.

### **Section 96**

1. Our Minister concerned shall consult with Our Minister of Finance and with the Court of Audit regarding the rules relating to the Court of Audit's duties and/or powers to be laid down by or pursuant to Act of Parliament.
2. Subsection 1 shall apply *mutatis mutandis* if, in the establishment of a legal person as referred to in section 34 (1), duties and/or powers arise for the Court of Audit with respect to this legal person.
3. Our Minister of Finance shall consult with the Court of Audit regarding the rules to be laid down by or pursuant to this Act, with the exception of those referred to in sections 18 (1) and 65.
4. Our Minister concerned shall notify the Court of Audit of the rules laid down.

## **CHAPTER VIII. EMERGENCY LEGISLATION**

### **Section 97**

1. Without prejudice to sections 7 (1) and 8 (1) of the National Emergencies (Coordination) Act, if this is necessitated by exceptional circumstances, Our Minister of Finance may be empowered by Royal Decree, on the recommendation of Our Prime Minister, to lay down rules which depart from the provisions of this Act and of the Acts referred to in section 9 (2).
2. Where a Decree is adopted as referred to in subsection 1, a Bill shall immediately be sent to the House of Representatives concerning the length of time that the provision contained in that Decree is to remain in force.
3. Should such a Bill be rejected by the States General, the provision that has entered into force under subsection 1 shall be declared inoperative forthwith by Royal Decree, on the recommendation of Our Prime Minister.
4. The provision that has entered into force under subsection 1 shall be declared inoperative by Royal Decree, on the recommendation of Our Prime Minister, as soon as We believe this is justified by the circumstances.
5. A Decree as referred to in subsections 1, 3 and 4 shall be published in the manner therein defined. It shall enter into force as soon as it has been published.
6. The Decree referred to in subsections 1, 3 and 4 shall in any event be published in the Bulletin of Acts and Decrees.

## **CHAPTER IX: TRANSITIONAL AND CONCLUDING PROVISIONS**

### **Section 98**

The National Emergencies (Coordination) Act shall be amended as follows:

- A. The words 'of section 74a of the Government Accounts Act' in list A accompanying the Act, as referred to in section 7 (1), shall be replaced by: of section 97 (1) of the Government Accounts Act 2001.
- B. The words 'of section 74a of the Government Accounts Act' in list B accompanying the Act, as referred to in section 8 (1), shall be replaced by: of section 97 (1) of the Government Accounts Act 2001.

### **Section 99**

The words 'section 2 (1) of the Government Accounts Act' in section 95a (2) of the Animal Health and Welfare Act shall be replaced by: section 9 (1) of the Government Accounts Act 2001.

### **Section 100**

The words 'Government Accounts Act' in section 27 of the Advisory Bodies Framework Act shall be replaced by: Government Accounts Act 2001.

### **Section 101**

The words 'sections 27 to 30 and section 34 of the Government Accounts Act (Bulletin of Acts and Decrees 1991, 752)' in section 8 (3) of the Prices Emergency Act shall be replaced by: sections 32 to 35 and section 39 of the Government Accounts Act 2001.

### **Section 102**

The words 'referred to in section 22 of the Government Accounts Act' in section 8e of the Remigration Act shall be replaced by: referred to in section 66 (1) of the Government Accounts Act 2001.

### **Section 103**

Section 31 of the National Insurance Financing Act shall be amended as follows:

- A. The words 'referred to in section 2 of the Government Accounts Act' in section 2 shall be replaced by: referred to in section 9 (1) of the Government Accounts Act 2001.
- B. The words 'Notwithstanding sections 4 (2) and 65 (2) (a) of the Government Accounts Act' in section 6 shall be replaced by: Notwithstanding sections 2 (3) and 52 (1) of the Government Accounts Act 2001.

### **Section 104**

The Economic Structure Enhancing Fund Act shall be amended as follows:

- A. The words 'as referred to in section 2 (1) of the Government Accounts Act' in section 1 (2) shall be replaced by: as referred to in section 9 (1) of the Government Accounts Act 2001.
- B. The words 'as referred to in section 1 of the Government Accounts Act' in section 3 (1) shall be replaced by: as referred to in section 1 (1) of the Government Accounts Act 2001.
- C. The words 'Notwithstanding sections 4 (2) and 65 (2), chapeau and under a, of the Government Accounts Act' in section 4 (1) shall be replaced by: Notwithstanding sections 2 (3) and 52 (1) of the Government Accounts Act 2001.

### **Section 105**

- A. The words 'as referred to in section 2 of the Government Accounts Act' in section 3 (1) of the Infrastructure Fund Act shall be replaced by: as referred to in section 9 (1) of the Government Accounts Act 2001.
- B. Section 3 (4) of the Infrastructure Fund Act shall be deleted.

### **Section 106**

The words 'referred to in section 9 of the Government Accounts Act' in section 114 (5) of the Expertise Centres Act shall be replaced by: referred to in section 13 of the Government Accounts Act 2001.

### **Section 107**

The Betting and Gaming Act shall be amended as follows:

- A. The words 'The provisions of sections 53, 54 (1 and 2), and 57 (1) of the Government Accounts Act' in section 12 (2) shall be replaced by: Sections 86, 87 (1 and 2) and 85 of the Government Accounts Act 2001.
- B. The words 'The provisions of sections 53, 54 (1 and 2), and 57 (1) of the Government Accounts Act' in section 271 (2) shall be replaced by: Sections 86, 87 (1 and 2) and 85 of the Government Accounts Act 2001.

### **Section 108**

The words 'the powers referred to in section 59 of the Government Accounts Act' in section 81 of the Public Servants (Cover under Employee Insurance Schemes) Act shall be replaced by: the powers referred to in section 91 of the Government Accounts Act 2001.

### **Section 109**

Section 12 of the Shipping Fund Act 1955 shall read as follows:

#### Section 12

In so far as this Act does not contain any provisions on the management of the 1955 Shipping Fund, the Government Accounts Act 2001 shall apply, on the understanding that derogation from the latter Act is possible with the consent of Our Minister of Finance.

### **Section 110**

This Act may be cited as the Government Accounts Act 2001.

### **Section 111**

1. This Act shall enter into force on a date to be determined by Royal Decree and shall apply for the first time to the 2002 budget year.
2. The Government Accounts Act is hereby repealed.
3. With regard to the budget years preceding the 2002 budget year, the sections of the Government Accounts Act as they read before this Act entered into force, shall continue to apply.
4. If the multiyear information as referred to in section 5 (1 in conjunction with 2) and section 54 (1 in conjunction with 2) for the years 2002 to 2006 is not immediately available, Our Minister of Finance may decide that other information is to be supplied.

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

Done at The Hague on 13 July 2002

Beatrix

G. Zalm  
Minister of Finance