



Human Environment and Transport  
Inspectorate  
*Ministry of Infrastructure  
and Water Management*

# **Working conditions decree (English, uncontrolled version)**

Versie 1

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Geldend vanaf: 19-04-2002 tot en met 01-07-2015.

# Documentgegevens

Dit document is een afdruk van een originele publicatie op PUC Open Data.

## Originele versie:

Citeertitel: Working conditions decree (English, uncontrolled version)

Permalink: [https://puc.overheid.nl/doc/PUC\\_1174\\_14](https://puc.overheid.nl/doc/PUC_1174_14)

## Soort document:

Type: Informatie voor uitvoering - Oude wet- en regelgeving, niet in wetten.nl

Bron: Inspectie Leefomgeving en Transport

## Versie en datums:

Versie: 1

Geldend vanaf: 19-04-2002 tot en met 01-07-2015

Laatste wijziging: 01-06-2021

## Publicatiegegevens:

Uitgever: Inspectie Leefomgeving en Transport

Kanaal: ILT

Vorm: origineel PUC document

Referentienummer: PUC\_1174\_14

Toegankelijkheid: Intern

Publicatiedatum: 26-03-2010

Taal: en

## Verrijking gepubliceerd bij document:

Thema: Decrees / Besluiten (AMvB)

Hoofdtak: Koopvaardij / Merchant Shipping

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## **Working conditions decree (English, uncontrolled version)**

# Chapter 01 Definitions and scope

[onderdeel]

## Section 01 Definitions and scope

[onderdeel]

### Art. 01.1 Definitions general

#### Art. 1.1 Definitions general

1. In this Decree and the provisions based on it, 'Act' means: Working Conditions Act.
2. In this Decree and the provisions based on it, the following terms shall have the following meanings:
  - a. *building site*: any temporary or mobile workplace where civil engineering works or buildings are accomplished, of which a noncomprehensive list has been included in Annex I to the Directive, as referred to in Article 2.23, under a;
  - b. *building*: a civil engineering work or building as referred to under a;
  - c. *principal*: the person on whose account a building is accomplished;
  - d. *principal-consumer*: the natural person who does not act in performance of a profession or business, on whose account a building is accomplished;
  - e. *designing party*: the person who has committed himself towards the principal or the principal-consumer to fulfill the designing function in the building process;
  - f. *executive party*: the person who has committed himself towards the principal or the principal-consumer to fulfill the executive function in the building process.
3. In this Decree and the provisions based on it, the following terms shall have the following meanings:
  - a. *workplace in the extractive industry*: any workplace which is directly or indirectly related to the extractive industry in opencast mining, the underground extractive industry or the extractive industry which extracts minerals by means of drillings;
  - b. *minerals*: a natural concentration or deposit of ores, minerals or substances of organic nature in or on the ground, in solid, liquid or gaseous state, including shells, gravel, sand and clay which are on the ground or immediately under its surface;
  - c. *extractive industry in opencast mining*: each industry which:
    1. extracts minerals in the open air;
    2. performs prospecting activities in view of the extraction of minerals in the open air, or
    3. prepares minerals for sale, with the exception of activities in connection with the processing of these minerals;

d. underground extractive industry: each industry which:

1. extracts underground minerals other than by means of drilling holes;
2. performs prospecting activities in view of this extraction;
3. prepares minerals for sale, with the exception of activities in connection with the processing of these minerals, or
4. stores substances as referred to in Article 1, under i, of the Mining Act.

e. extractive industry which extracts minerals by means of drillings: any industry which:

1. extracts minerals by means of drilling holes;
2. performs prospecting activities in view of this extraction;
3. prepares minerals for sale, with the exception of activities in connection with the processing of these minerals;
4. stores substances as referred to in Article 1, under i, of the Mining Act, or
5. searches or extracts geothermal heat as referred to in Article 1, under g and h, of the Mining Act.

f. mining installation: an installation as referred to in Article 1, under o, of the Mining Act.

4. In this Decree and the provisions based on it, the following terms shall have the following meanings:

- a. *physical load*: the work posture to be adopted by an employee in connection with the work, the motions to be performed or the forces to be executed, among others consisting of lifting, putting down, pushing, pulling, wearing or in another manner removing or supporting of one or more loads;
- b. *personal protective device*: any equipment intended to be worn or held by the employee in order to protect him against one or more dangers which may threaten his safety or health at work as well as all supplements or accessories which can contribute to that, with the exception of:
  1. regular and uniform work clothing which is not specifically intended to protect the safety and the health of the employee;
  2. sports equipment;

3. self-defence or deterrence material, and
  4. portable apparatus for searching and signalling of dangers and load factors;
  - c. safety or health signalling: a signalling which, applied to a specific object, a specific activity or a specific situation by means of a signpost, a colour, a light signal, an acoustic signal, an oral notification or a hand or arm signal, provides an indication or a requirement given with regard to the safety or health at work.
5. In this Decree and the provisions based on it, the following terms shall have the following meanings:
- a. *young employee*: an employee younger than 18 years;
  - b. *pregnant employee*: the employee who is pregnant and has informed the employer of this;
  - c. *employee during the lactation*: the employee who breast-feed her child and has informed her employer of this;
  - d. *home-employer*:
    1. the employer, as referred to in Article 1, first paragraph, under a, and second paragraph, item a, under 1°, of the Act, insofar as he lets another person work in a house;
    2. the employer, as referred to in Article 1, second paragraph, item a, under 2°, of the Act, insofar as he lets another person work within the framework of the performance of a profession or business pursuant to a contract to make up work or pursuant to a commission contract in a house, unless that other person performs a profession or business autonomously in which he normally commits himself also towards third parties to do such work;
  - e. *homeworker*: the other person, as referred to under d;
  - f. *homework*: the work, as referred to under d, with the exception of:
    1. work done at or for the benefit of the production, change, repair, decoration, finishing or in another manner making fit for use or making more fit or keeping fit of the house;
    2. work of nursing, caring or household nature, offered to persons in connection with disease, recovery, old age, being handicapped, death, psycho-social and relational problems.
6. In this Decree and the provisions based on it, 'certificating institute' means: an institute designated by Our Minister pursuant to Article 20, second paragraph, of the Act, which decides on the issue of a certificate as referred to in Article 20, first paragraph, of the Act.

## **Art. 01.2 (Cancelled.)**

(Cancelled.)

## **Art. 01.3 Definitions education**

### **Art. 01.3 Definitions education**



1. In this Decree and the provisions based on it, 'educational establishment' means: a funded or a designated educational establishment.
2. In this Decree and the provisions based on it, 'funded educational establishment' means:
  - a. a public or an independent school which is entirely or partly funded from the public cash as referred to in the Primary Education Act;
  - b. a public or an independent school which is entirely or partly funded from the public cash as referred to in the Expertise Centre Act;
  - c. a public or an independent school, course or institution which is entirely or partly funded from the public cash as referred to in and covered by the Secondary Education Act;
  - d. a public or an independent institution which is entirely or partly funded from the public cash, mentioned in the Annex belonging to the Higher Education and Research Act, under a and b;
  - e. a public or an independent institution which is entirely or partly funded from the public cash, mentioned in the Annex belonging to the Higher Education and Research Act, under c through g;
  - f. the Open University in Heerlen, mentioned in the Annex belonging to the Higher Education and Research Act, under h;
  - g. a school as referred to in the Educational Experiments Act;
  - h. a public or an independent institution which is entirely or partly funded from the public cash, for education and vocational education as referred to in the Education and Vocational Education Act.
3. In this Decree and the provisions based on it, 'designated educational establishment' means:
  - a. a school as referred to in Article 56 of the Secondary Education Act;
  - b. an institution as referred to in Article 6.9 of the Higher Education and Research Act;
  - c. an institution as referred to in Article 1.4.1 of the Education and Vocational Education Act.
4. In this Decree and the provisions based on it, 'participation council' means:
  - a. a participation council as referred to in the Educational Participation Act 1992 or in Article 10.17 of the Higher Education and Research Act;
  - b. the student council of the Open University, as referred to in Article 11.13 of the Higher Education and Research Act.

## **Art. 01.4 Definitions correctional institutions**

### **Art. 1.4 Definitions correctional institutions**

1. In this Decree and the provisions based on it, the following terms shall have the following meanings:

a. *judicial personnel*:

1. the persons, who pursuant to a public law appointment in civilian public service have committed themselves towards the State to work in correctional institutions;
2. the persons who work under the authority of the State in a correctional institution, with the exception of prisoners, patients and young people;

b. *prisoners, patients and young people*: the persons, who pursuant to a judicial judgment or order or by the public authorities have been deprived of their freedom by law and are staying in a correctional institution with the exception of the military detained in the Military Prison Stroe;

c. *correctional institution*: a prison or remand centre as referred to in the Custodial Institutions Act, a correctional institution for nursing of people under a hospital order as referred to in the Hospital Orders (Framework) Act or an institution as referred to in the Correctional Youth Institutions (Framework) Act.

2. Correctional institution also means: the transport of prisoners, patients and young people from and to the correctional institution as well as all other work done by judicial personnel with prisoners, patients and young people outside the correctional institution.

## **Art. 01.5 Definitions defence**

### **Art. 1.5 Definitions defence**

In this Decree and the provisions based on it the following terms shall have the following meanings:

a. *military personnel*:

1. the military officials in actual service within the meaning of Article 1, first and second paragraphs, of the Military Personnel Act 1931;
2. the conscripts in actual service within the meaning of the Articles 18, 19 and 21 of the Military Service Framework Act;

b. *civilian staff with the Ministry of Defence*:

1. the persons who pursuant to a public law appointment in civilian public service have committed themselves towards the State, represented by the Minister of Defence, to work, except when the persons involved are put at the disposal of a third party for doing work which that third party usually has done;
2. the persons who work under the authority of the State, represented by the Minister of Defence;

c. *defence personnel*: military personnel and civilian personnel at the Ministry of Defence;

- d. *exercise*: any implementation of theoretically educated skills by defence personnel under war-imitating circumstances in order to acquire, increase or maintain the proficiency in the execution of war tasks;
- e. *military vessel*: a Dutch warship, marine auxiliary vessel or another ship which is used for the implementation of the military task;
- f. *military aircraft*: an aircraft under administration of the Ministry of Defence;
- g. *manned weapon system*: any, whether or not propelled, weapon system, that is manned or operated during the use with the exception of a light personal weapon;
- h. *standby unity*: unity which, appointed to that end, is engaged or is ready or must keep itself ready for engagement in the armed forces.

## Section 01A Certification

### [onderdeel]

#### § 1 Designation certifying institutes

### [onderdeel]

#### Art. 01.5a Criteria for designation

#### Art. 1.5a Criteria for designation

1. As certifying institute can be designated an institution which:
  - a. has legal personality;
  - b. has its seat or an establishment in the Netherlands;
  - c. is independent;
  - d. disposes of sufficient expertise and equipment to properly fulfill the performance of the tasks for which it has been designated;
  - e. disposes of a registration system in which the information corresponding and relating to the performance of its tasks, has been laid down systematically. By means of this information, the certificated product or quality system or the certificated person is adequately identifiable;
  - f. functions properly.
2. More detailed rules as regards the first paragraph can be laid down by Ministerial Regulation.

## **Art. 01.5b Supply of information**

### **Art. 1.5b Supply of information**

1. The certifying institute annually draws up a report before 1 March of its activities in connection with its task and the lawfulness and effectiveness of its activities and method of operation in the past calendar year. The report is sent to Our Minister. By Ministerial Regulation, more detailed rules are laid down as regards the subjects which are anyhow discussed in the annual report.
2. The certifying institute annually provides Our Minister with a copy of the policy of the insurance taken out on civil liability against all risks resulting from the performance of the tasks for which it has been designated.
3. The certifying institute provides the supervisor with all necessary information if it knows or can know that the safety or health of employees or third parties is or can be endangered by activities which are regulated by a certificate issued by itself as referred to in Article 20, first paragraph, of the Act.
4. Our Minister provides the certifying institute with all necessary information, if the safety or health of employees or third parties is or can be endangered by activities which are regulated by a certificate issued by the certifying institute as referred to in Article 20, first paragraph, of the Act.

## **Art. 01.5c Change, termination activities**

### **Art. 1.5c Change, termination activities**

1. If a change occurs to the information on the basis of which the certifying institute has been designated, the institution immediately notifies Our Minister of this.
2. If a certifying institute intends to terminate one or more of the tasks for which it has been designated, the institution immediately notifies Our Minister and the holders of certificates of this. In that case, the information as referred to in Article 1.5a, first paragraph, under e, is transferred by the certifying institute to Our Minister or, after permission of Our Minister and the holders of certificates, another certifying institute which has been designated for the same tasks.

## **Art. 01.5d Application for designation**

### **Art. 1.5d Application for designation**

1. An application for designation is accompanied by the evidence that has been complied with the criteria, as referred to in Article 1.5a, or a declaration from which appears the willingness to be subjected on one's own account to an investigation into the compliance with these criteria.
2. A designation can be refused or withdrawn if not or not completely has been complied with the requirements by the Act or by or pursuant to this section.

## **§ 2 Certificates**

[onderdeel]

## **Art. 01.5e General provisions on the issue of certificates**

### **Art. 1.5e General provisions on the issue of certificates**

1. A certificate as referred to in Article 20, first paragraph, of the Act is issued upon request by Our Minister or, if Our Minister has designated a certifying institute, the certifying institute, if it complies with the requirements as regards the certificate which have been laid down by or pursuant to the Act.
2. By Ministerial Regulation, rules are laid down as regards the information which is at least provided with an application.
3. By Ministerial Regulation, rules are laid down as regards the maximum allowance due for the issue of a certificate.
4. A certificate can be refused or can be issued conditionally or suspended or withdrawn, if it has been shown that not or not entirely has been complied with the requirements as regards the certificate by or pursuant to the Act
5. Furthermore, a certificate can be refused or suspended or withdrawn if the safety or health of employees or third parties is or can be endangered by activities which are regulated by the certificate.

#### **Art. 01.5f Foreign certificates and qualifications**

##### **Art. 1.5f Foreign certificates and qualifications of professional competence**

1. Our Minister or, if Our Minister has designated a certifying institute, the certifying institute, issues upon request a certificate of professional competence to a person who is national of a state involved, as referred to in Article 1 of the Recognition of EC Professional Qualifications Act, if, on the basis of Article 6 of the Recognition of EC Professional Qualifications Act, there is evidence that this person disposes of qualifications which are equivalent to those of the holder of a certificate of professional competence issued pursuant to this Decree.
2. The holder of a certificate of professional competence, as referred to in the first paragraph, is proficient in the Dutch language at such a level that directions and instructions on labels of substances, work equipment and personal protective devices which are required by or pursuant to this Decree, as well as other rules laid down by or pursuant to this Decree for the application and the handling of substances, work equipment and personal protective devices, can be understood and carried out.
3. Article 1.5e, second through fifth paragraphs, is equally binding.

## **Section 02 Cooperation, consultation and protection against dismissal and damage**

### **[onderdeel]**

#### **Art. 01.6 Definitions cooperation and consultation**

##### **Art. 1.6 Definitions cooperation and consultation**

1. Contrary to the Act, this Decree and the provisions based on it, for the purpose of it as regards work done in funded education establishments as referred to in Article 1.3, second paragraph, under d and f, insofar as the Works Councils Act is not applicable, is read for 'the works council' and the 'staff representation': 'the university council', 'the staff council' or the 'participation council', and, as regards work done by defence personnel, insofar as the Participation Council Act is not applicable, is

read for 'the participation council' and the 'staff representation': 'the participation committee' or 'the consultative body'.

2. In this Decree and the provisions based on it, the following terms shall have the following meanings:
  - a. university council: a university council as referred to in Article 9.31 of the Higher Education and Research Act;
  - b. staff council: a staff council as referred to in Article 9.50 of the Higher Education and Research Act;
  - c. participation committee: a participation committee as referred to in Article 3 of the Defence Participation Decree;
  - d. consultative body: a consultative body established pursuant to Article 23 of the Military Service Framework Act.

## **Art. 01.7 Nature and contents of the consultation**

### **Art. 1.7 Nature and contents of the consultation**

1. As regards the nature and the contents of the consultation and the manner in which the consultation is held with a university council, a staff council or a participation council respectively a participation committee or a consultative body and as regards the competences of a university council, a staff council or a participation council respectively a participation committee or a consultative body is applicable:
  - a. the Higher Education and Research Act, or
  - b. the Defence Participation Decree or rules to be laid down by Our Minister of Defence pursuant to Article 23 of the Military Service Framework Act.
2. Insofar as the Act contains provisions on rights of the works council or the staff representation or members of it, about which the regulations, as referred to in the first paragraph, contain no provisions, the Act is applicable.

## **Art. 01.8 Nature and contents of the consultation**

### **Art. 1.8 Protection against dismissal**

1. As regards the person to whom the General Civil Service Regulations respectively the Defence Civilian Officials Regulations are applicable and who is working as an expert employee as referred to in Article 13, first paragraph and second paragraph, or as an expert person as referred to in Article 14, first paragraph, of the Act, is Article 95, seventh paragraph, of the General Civil Service Regulations respectively Article 115, sixth paragraph, of the Defence Civilian Officials Regulations equally binding.
2. As regards the persons, as referred to in the first paragraph, to whom a similar regulation as the General Civil Service Regulations applies, is insofar as necessary the first paragraph equally binding.

## **Art. 01.9 Protection against loss**

### **Art. 1.9 Protection against loss**

Contrary to Article 13, fifth paragraph, second and third sentences, of the Act is as regards the person to whom the Higher Education and Research Act applies and who works as an expert employee as referred to in Article 13, first paragraph and second paragraph, or as an expert person as referred to in Article 14, first paragraph, of the Act, Article 9.32, eighth paragraph, of the Higher Education and Research Act equally binding. As regards the person to whom the General Civil Service Regulations or the Defence Civilian Officials Regulations applies and who works as an expert employee or person as referred to in the previous sentence, is Article 20 of the Defence Participation Decree equally binding.

## Section 03 Education

### [onderdeel]

#### **Art. 01.10 Applicability**

##### **Art. 1.10 Applicability**

Unless hereinafter is determined otherwise, the Act and this Decree are applicable to employees in educational establishments and equally binding to pupils and students in educational establishments who perform acts which are comparable to work in the professional practice.

#### **Art. 01.11 Cooperation and consultation**

##### **Art. 1.11 Cooperation and consultation; educational establishments with a participation council**

1. For funded educational establishments as referred to in Article 1.3, second paragraph, under a through c, and under g and h, the rights, as referred to in Article 12, fourth paragraph, of the Act, as applicable, belong to the members of the participation council.
2. For the funded educational establishments mentioned in the first paragraph, the participation council replaces the works council or the staff representation for the purpose of Article 12, fifth and sixth paragraphs, of the Act.
3. For the funded educational establishments mentioned in the first paragraph, the rights and competences of the Act and this Decree, with due regard for Article 1.13, are executed by the members of the participation council or, if it concerns matters of general interest for the special legal status of the personnel, by the consultative body of the decentralized organized body respectively of the institution.

#### **Art. 01.12 Cooperation and consultation; universities and polytechnics**

##### **Art. 1.12 Cooperation and consultation; universities and polytechnics**

For the funded educational establishment mentioned in Article 1.3, second paragraph, under d through f, are the rights and competences of the Act and this Decree, with due regard for Article 1.13, are executed by the university council, the staff council, the participation council or the student council, as referred to in the Higher Education and Research Act or, if it concerns matters of general interest for the special legal status of the personnel, by the consultative body of the locally organized consultation respectively of the institution.

#### **Art. 01.13 Exceptions safety, health and welfare policy and hearing**

##### **Art. 1.13 Exceptions safety, health and welfare policy and hearing**

1. Article 3, first paragraph, under c, of the Act with the exception of the ergonomic aspects of work, and d, insofar as not related to the safety and the health, is not applicable to pupils respectively students in educational establishments.

2. Section 4.1.2 of the General Administrative Law Act does not apply with regard to pupils respectively students in educational establishments.

## **Art. 01.14 Exception obligations of employees**

### **Art. 1.14 Exception obligations of employees**

Where specific obligations are imposed to employees in the Act, these provisions are not applicable to pupils respectively students in educational establishments.

## **Art. 01.15 Exception occupational health examination**

### **Art. 1.15 Exception occupational health examination**

Art. 18 of the Act is not applicable to pupils respectively students in educational establishments.

# **Section 04 Public service**

## **[onderdeel]**

## **Art. 01.16 Applicability**

### **Art. 1.16 Applicability**

This section is applicable to work done in the public service with the exception of work:

- a. done in educational establishments;
- b. done in correctional institutions;
- c. done by civilian personnel, working with the Ministry of Defence, including the departments and institutions coming under it.

## **Art. 01.17 Police and fire services**

### **Art. 1.17 Police and fire services**

To work done in the public service, which is aimed at the actual performance of the tasks, as referred to in Article 2 of the Police Act 1993, Article 141 or 142 of the Code of Criminal Procedure, or Article 1, sixth paragraph, of the Fire Services Act 1985, insofar as this task is related to the repressive action in case of fire, accidents and disasters, the Articles 10, 27, 28, 28a and 29 of the Act are applicable insofar as a proper task performance is not impeded by the application of these Articles.

## **Art. 01.18 Safety of the state**

### **Art. 1.18 Safety of the state**

1. As regards work done in the public service, which is aimed at the actual performance of the tasks, as referred to in Article 6, second paragraph, under a, of the Intelligence and Security Services Act 2002, the Articles 27, 28, 28a and 29 of the Act are applicable insofar as a proper task performance is not impeded by the application of these Articles.
2. To work done in civil service, the implementation of the Act takes place with due regard for the national and international requirements which apply to the civil service, for the security of the information, the secrecy of which is required by the interest of the state or its allies.



3. To work done in the civilian public service or for the benefit of the intelligence and security services, the implementation of the Act, moreover, takes place with due regard for the responsibility for secrecy, given to the heads of these services, of the information obtained by them and of the sources where it comes from and for properly guaranteeing the safety of the persons whose services are used for gathering information.

## Section 05 Transport

### [onderdeel]

#### **Art. 01.19 Applicability**

##### **Art. 1.19 Applicability**

1. The Act is not applicable to work done in respectively on a seagoing vessel which is not entitled on the basis of Dutch regulations to fly the Dutch flag and which is in the exclusive economic zone, in the territorial sea, on one of the shipping routes as referred to in Article 10, first paragraph, of the Shipping Traffic Act, on the Western Scheldt, its estuaries or on the part of the Channel from Ghent to Terneuzen which is situated in the Netherlands, or in the port of Scheveningen.
2. The first paragraph does not apply as regards construction, rebuilding, repair or scrapping or maintenance or cleaning activities and related other activities at the ships as referred to in the first paragraph which are in the Netherlands as well as regarding loading and unloading, unless this work is done by an employee who belongs to the crew of a seagoing vessel as referred to in the first paragraph.
3. The Act is not applicable to work done in respectively on an aircraft as referred to in Article 1, heading and under e, of the Aviation Act, which has been put at the disposal of an employer not established in the Netherlands, unless:
  - a. this employer has employees working in or on it, who are mostly living in the Netherlands;
  - b. it concerns loading and unloading, construction, rebuilding, repair or scrapping or maintenance or cleaning activities and related other activities at aircraft as referred to which are in the Netherlands.
4. The Act is not applicable to work done in respectively on an aircraft as referred to in Article 1, heading and under f, of the Aviation Act.
5. The fourth paragraph does not apply as regards loading and unloading, construction, rebuilding, repair or scrapping or maintenance or cleaning activities and related activities at the aircraft, as referred to in the fourth paragraph, which are in the Netherlands.

#### **Art. 01.20 Limitation right to work interruption**

##### **Art. 1.20 Limitation right to work interruption**

1. Article 29 of the Act is not applicable to work done in respectively on a seagoing vessel or an aircraft, insofar as the application of that Article will be contrary to the obligations resulting from the performance of the competences of the master respectively the captain, as referred to in Article 341

of the Commercial Code respectively Article 95, first paragraph, of the Civil Aviation (Supervision) Regulations.

2. To work done by the master respectively the captain, as referred to in the first paragraph, in respectively on a seagoing vessel or an aircraft, Article 29 of the Act is not applicable insofar as the application of that Article will be contrary to the obligations resulting from the Commercial Code respectively the Civil Aviation (Supervision) Regulations.

## **Art. 01.21 (Cancelled.)**

### **Art. 1.21**

(Cancelled.)

## **Section 06 Correctional institutions**

### **[onderdeel]**

## **Art. 01.22 Safety in correctional institutions**

### **Art. 1.22 Safety in correctional institutions**

1. The Articles 10, 27, 28, 28a and 29 of the Act are applicable to the work done in the correctional institutions by the judicial personnel insofar as there is no infringement on the order, the safety or the right course of events in the institution or on the undisturbed progress of the enforcement of the detention and other restrictions which have been imposed pursuant to any legal provision by the competent authorities.
2. The first paragraph is equally binding to prisoners, patients and young people, provided that instead of the Articles 10, 27, 28 and 29 of the Act is read the Articles 24, seventh paragraph, 27, 28, 28a and 29 of the Act.

## **Art. 01.23 Safety of the state**

### **Art. 1.23 Safety of the state**

As regards work done by the judicial personnel in the correctional institutions, the implementation of the Act takes place with due regard for the national and international requirements applying to the civil service for the security of information, the secrecy of which is required by the interest of the state or its allies.

## **Art. 01.24 (Cancelled)**

### **Art. 1.24**

(Cancelled)

## **Art. 01.25 Cooperation**

### **Art. 1.25 Cooperation**

Contrary to Article 12, first paragraph, of the Act, the director of the institution and the prisoners, patients or young people cooperate as much as possible at the implementation of the working conditions policy of prisoners, patients and young people within the correctional institution.

## Section 07 Defence

[onderdeel]

### **Art. 01.26 Applicability**

#### **Art. 1.26 Applicability**

Unless this section determines otherwise, the Act is applicable to work done by defence personnel.

### **Art. 01.27 Safety of the State**

#### **Art. 1.27 Safety of the State**

1. The application of the Act as regards work done by defence personnel happens with due regard for the national and international requirements applying to the Ministry of Defence for the security of information, the secrecy of which is required by the interest of the state or of its allies.
2. The application of the Act regarding work done in the public service by or for the benefit of the military intelligence and security services, furthermore, takes place with due regard for the responsibility for secrecy, given to the heads of these services, of the information obtained by them and of the sources where it comes from and for properly guaranteeing the safety of the persons whose services are used for gathering information.

### **Art. 01.28 International obligations**

#### **Art. 1.28 International obligations**

The application of the Act as regards work done by defence personnel happens with due regard for international obligations.

### **Art. 01.29 General exception**

#### **Art. 1.29 General exception**

The Act is not applicable to work done by defence personnel:

- a. at the time of war, war danger or other similar or related exceptional circumstances, including the cases as listed in Article 71 of the Military Penal Code;
- b. in other cases to be determined by Our Minister of Defence in which the armed forces are put into action, including the assistance on the basis of the Articles 58, 59 or 60 of the Police Act 1993 or on the basis of Article 146, second paragraph, of the Code of Criminal Procedure and support in the public interest.

### **Art. 01.30 Partial exception Articles 3 and 16 of the Act**

#### **Art. 1.30 Partial exception Articles 3 and 16 of the Act**

Art. 3, first paragraph, of the Act and the Articles 1.37 and 1.41 based on Article 16 of the Act, the sections 5, 6, 6A and 8 of Chapter 2, and the chapters 3 through 8 of this Decree are not applicable:

- a. during, directly before and directly after exercises;
- b. as regards military vessels, military aircraft, manned weapon systems and standby units;

1. Insofar as deviation from these Articles, chapters or sections is necessary, in the opinion of Our Minister of Defence, in connection with the construction, the design or the equipment of these vessels and weapon systems;
2. if warships are sailing and if military aircraft and manned weapon systems are used as such;
3. insofar as the operational task performance of these vessels and weapon systems or of the standby unities, in the opinion of Our Minister of Defence, are impeded by the application of these Articles, chapters or sections.

### **Art. 01.31 Partial exception Article 10 of the Act**

#### **Art. 1.31 Partial exception Article 10 of the Act**

Insofar as the Act is applicable to work done by defence personnel, Article 10 of that Act to work done by defence personnel:

- a. entrusted with any police task or with surveillance or security tasks, or
- b. on guard duty, or
- c. which is put into action to render the assistance, as referred to in Article 1.29, under b, to the police, is applicable, insofar as a proper performance of tasks is not impeded by the application of the mentioned Article.

### **Art. 01.32 Partial exception Article 12 of the Act**

#### **Art. 1.32 Partial exception Article 12 of the Act**

Art. 12 of the Act is applicable, except for:

- a. during exercises;
- b. to affairs which are directly related to the exercises;
- c. to affairs which are directly related to the work, as referred to in Article 1.29.

### **Art. 01.33 Partial exception Articles 27, 28 and 28a of the Act**

#### **Art. 1.33 Partial exception Articles 27, 28 and 28a of the Act**

1. The Articles 27, 28 and 28a of the Act are not applicable:
  - a. during, directly before and directly after exercises;
  - b. on standby unities.
2. The Articles 27, 28 and 28a of the Act are not applicable to military vessels, military aircraft and manned weapon systems:
  - a. if warships are sailing and if military aircraft and manned weapon systems are used as such;
  - b. in the cases, as referred to in Article 1.30, under b, sub 3°.

3. The Articles 27, 28 and 28a of the Act are applicable to the personnel of the Royal Military Police, except for when this personnel is actually busy with the performance of the specific tasks, entrusted to the Royal Military Police in Article 6, first paragraph, of the Police Act 1993.
4. In addition to the third paragraph, the Articles 27, 28 and 28a of the Act are applicable to work done by personnel of the Royal Military Police in case of the assistance, as referred to in Article 1.29, under b, insofar as a proper execution of that assistance is not impeded by the application of those Articles.

### **Art. 01.34 Exception Article 29 of the Act**

#### **Art. 1.34 Exception Article 29 of the Act**

Art. 29 of the Act is not applicable to military personnel.

## **Section 08 Young people**

### **[onderdeel]**

### **Art. 01.35 Definition**

#### **Art. 1.35 Definition**

In this section 'Directive' means: Directive no. 94/33/EEC of the Council of the European Union of 22 June 1994 regarding the protection of young people at work (PbEG L 216).

### **Art. 01.36 More detailed requirements**

#### **Art. 1.36 More detailed requirements risk inventory and evaluation of risks**

1. If one or more young employees are working or are usually working in a business or institution, special attention is paid in the risk inventory and evaluation of risks, as referred to in Article 5 of the Act, to:
  - a. the specific dangers in the field of working conditions as a result of a lack of work experience, not being able to properly assess dangers and the non-completion of the mental or physical development of the young employee;
  - b. the equipment and arrangement of the workplace;
  - c. the nature, the extent and the duration of the exposure to substances, agents and physical factors;
  - d. the choice and the use of work equipment and personal protective devices;
  - e. the entity of activities in the business or the institution and its organization, and
  - f. the level of education of the young employees and information to be given to them.
2. Furthermore, special attention is paid in the risk inventory and evaluation of risks to the incomplete list of agents, processes and activities, included in the Annex to the Directive.

### **Art. 01.37 Expert supervisions**

#### **Art. 1.37 Expert supervision**

1. If young employees are working in a business or institution, there must be adequate expert supervision over that work. The contents and the extent of the supervision depends on the risk

inventory and evaluation of risks, as referred to in Article 5 of the Act, found dangers which may arise if there is no expert supervision.

2. If it appears from the risk inventory and evaluation of risks, as referred to in Article 1.36, that young employees must do work to which specific dangers are attached, particularly for occupational accidents as a result of lack of work experience, not being able to properly assess dangers and the non-completion of the mental or physical development of the young employee, that work may only be done, if the expert supervision has been organized such that those dangers are prevented. If that is not possible, that work may not be done by young employees.

## **Art. 01.38 Occupational health examination**

### **Art. 1.38 Occupational health examination**

In addition to Article 18 of the Act, young employees are enabled to be subjected to an occupational health examination, as soon as appears from the risk inventory and evaluation of risks, as referred to in Article 1.36, that young employees must do work to which specific dangers are attached, particularly for occupational accidents as a result of lack of work experience, not being able to properly assess dangers and the non-completion of the mental or physical development of the young employee.

## **Art. 01.39 Exceptions pupils and students**

### **Art. 1.39 Exceptions pupils and students in educational establishments**

This section and paragraph 4 of section 5 of Chapter 3, paragraph 2 of section 10 of Chapter 4, paragraph 3 of section 6 of Chapter 6 and paragraph 2 of section 6 of Chapter 7, are not applicable to pupils and students in educational establishments.

# **Section 09 Pregnant employees and employees during the lactation**

## **[onderdeel]**

## **Art. 01.40 Definition**

### **Art. 1.40 Definition**

In this section 'Directive' means: Directive no. 92/85/EEC of the Council of the European Communities of 19 October 1992 regarding measures for the promotion of the improvement of the safety and the health of female employees during the pregnancy, after the delivery and during the lactation (PbEG L 348).

## **Art. 01.41 Risk inventory and evaluation of risks**

### **Art. 1.41 Risk inventory and evaluation of risks**

If a pregnant employee or a employee during the lactation is working or is usually working in a business or institution, special attention is paid in the risk inventory and evaluation of risks, as referred to in Article 5 of the Act, to the non-limitative list of agents, processes and working conditions, included in Annex I to the Directive.

## **Art. 01.42 Organization of the work**

### **Art. 1.42 Organization of the work**

1. Without prejudice to Article 4:5 of the Working Hours Act, the employer organizes the work of a pregnant employee and an employee during the lactation in such a manner, designs the workplace such, applies such a production and work method and lets use such work equipment, that the work for that employee can bring along no dangers for her safety and health and can cause no backlash on the pregnancy or lactation.
2. If compliance with the first paragraph is reasonably not possible, it is prevented by a temporary adjustment of the work or by a temporary adjustment of the working hours and breaks that danger will arise for the safety and health of the pregnant employee and the employee during the lactation, and is prevented that a backlash can be caused on the pregnancy or lactation.
3. If compliance with the second paragraph is reasonably not possible, other work is temporarily given to the pregnant employee and the employee during the lactation.
4. If compliance with the third paragraph is reasonably not possible, the pregnant employee and the employee during the lactation are temporarily exempted from doing work.

## Section 10 Homeworkers

### [onderdeel]

#### **Art. 01.43 Applicability**

##### **Art. 1.43 Applicability**

1. This Decree is not applicable to homework, unless rules for homework have expressly been laid down. In that latter case, 'employer' also means home employer and 'employee' also means homeworker.
2. If a homeworker is also a young employee, only the provisions laid down for the homeworker are applicable.

#### **Art. 01.44 Availability of information**

##### **Art. 1.44 Availability of information**

Information of the homeworkers is available about name, address and domicile as well as the activities performed by the relevant homeworkers and of the substances, auxiliaries and tools which are used for those activities.

#### **Art. 01.45 Stock**

##### **Art. 1.45 Stock**

It is not allowed to give the homeworker a larger amount of raw material, semi-finished products and finished products in stock or to keep it in stock than is strictly necessary for the work.

#### **Art. 01.46 Notification of occupational accidents**

##### **Art. 1.46 Notification of occupational accidents**

If an occupational accident as referred to in Article 9, first paragraph, of the Act occurs to a homeworker in connection with the performance of work, the homeworker immediately notifies the home employer of this.



## **Chapter 02 Safety, health and welfare care and organization of work**

[onderdeel]

### **Section 01 Notification occupational diseases**

[onderdeel]

#### **Art. 02.1 Information occupational diseases**

##### **Art. 2.1 Information occupational diseases**

By Ministerial Regulation, rules are laid down as regards the information supplied at the notification of an occupational disease, as referred to in Article 9, third paragraph, of the Act.

### **Section 02 Additional requirements risk inventory and evaluation**

[onderdeel]

**Additional requirements risk inventory and evaluation of risks for the prevention and limitation of major accidents with dangerous goods**

#### **Art. 02.2-Art. 02.5h (...)**

##### **Art. 2.2-Art. 02.5h**

(...)

#### **Art. 02.6 (Cancelled)**

##### **Art. 2.6**

(Cancelled)

### **Section 03 Safety, health and welfare services and experts**

[onderdeel]

#### **§ 1 Definitions**

[onderdeel]

##### **Art. 02.6a Definitions**

##### **Art. 2.6a Definitions**

1. In this section and the provisions based on it, the following terms shall have the following meanings:

- a. internal expert: expert person as referred to in Article 14, first paragraph, heading, of the Act and who is working within the business or the institution pursuant to an employment contract or public law appointment;
  - b. external expert: expert person as referred to in Article 14, first paragraph, heading, of the Act and who is not working within the business or the institution in a manner as referred to in item a;
  - c. internal safety, health and welfare service: a service as referred to in Article 14a, second paragraph, of the Act;
  - d. external safety, health and welfare service: a service as referred to in Article 14a, third paragraph, of the Act.
2. An internal safety, health and welfare service also means a cooperation between at least an internal expert and external experts who jointly perform the tasks, as referred to in Article 14, first paragraph, of the Act.

## **§ 2 Safety, health and welfare services and experts**

[onderdeel]

### **Art. 02.07 Expertise requirements**

#### **Art. 2.7 Expertise requirements**

- 1. Within a safety, health and welfare service, experts are working in the field of the medical services in the industry, the industrial hygiene, the safety knowledge and the ergonomics and organizational science.
- 2. An expert disposes of sufficient expertise and experience in a province as referred to in the first paragraph, with the exception of the field of the medical services in the industry, if he is in possession of a certificate of professional competence industrial hygiene, safety knowledge or ergonomics and organizational science, which has been issued by Our Minister or a certifying institute.

### **Art. 02.08 EC declaration regarding expertise**

#### **Art. 2.8 EC declaration regarding expertise**

(Cancelled)

### **Art. 02.09 Performance requirements**

#### **Art. 2.9 Performance requirements**

- 1. A safety, health and welfare service:
  - a. fulfills its tasks with due regard for the state of the art and of the professional supply of services;
  - b. advises as regards the conducting of a structured, systematical and adequate working conditions and sickness absence policy in a manner which contributes most to its effectuation, where special groups of employees are particularly taken into account and where events which have occurred within the business or the institution are involved;
  - c. recognizes and assesses the dangers, of the technical system as well as of the organization and human behavior, and where events which have occurred within the business or the institution are involved;

- d. evaluates the supply of services;
- e. ensures the continuity of the supply of services, and
- f. handles complaints on the supply of services.

2. By Ministerial Regulation, more detailed rules may be laid down regarding the functioning of the safety, health and welfare service.

## **Art. 02.10 Organization requirements safety, health and welfare service**

### **Art. 2.10 Organization requirements safety, health and welfare service**

1. An external safety, health and welfare service has legal personality.
2. Except for as regards the cooperation, as referred to in Article 2.6a, second paragraph, at least one expert is working on each of the provinces mentioned in Article 2.7, first paragraph, pursuant to an employment contract or open-ended public law appointment.

## **Art. 02.11 Equipment requirements**

### **Art. 2.11 Equipment requirements**

A safety, health and welfare services disposes of such housing and equipment that the protection of the privacy of the employees of the associated businesses has been guaranteed.

## **Art. 02.12 Supply of information**

### **Art. 2.12 Supply of information**

1. The external safety, health and welfare service or the employer of the internal safety, health and welfare service provides Our Minister upon request with statistical information as regards the performance of the tasks.
2. By Ministerial Regulation, rules can be laid down as regards the nature of the information as referred to in the first paragraph and the form in which as well as the frequency with which this information is sent.

## **Art. 02.13 Cooperation**

### **Art. 2.13 Cooperation**

1. The cooperation, as referred to in Article 2.6a, second paragraph, is laid down in a written agreement between the employer and the external experts or the employer of these experts. The distribution of tasks between the internal expert and the external experts is laid down in this agreement anyway.
2. The cooperation is entered into for a period which is in any case as long as the period of validity of the certificate safety, health and welfare service, as referred to in Article 2.14, second paragraph, which is issued for the benefit of that cooperation.

## **Art. 02.14 Certificate safety, health and welfare service**

### **Art. 2.14 Certificate safety, health and welfare service**

1. An external safety, health and welfare service is in possession of a certificate safety, health and welfare service issued by Our Minister or a certifying institute.

2. The employer of an internal safety, health and welfare service is, for the benefit of his internal safety, health and welfare service, in possession of a certificate safety, health and welfare service issued by Our Minister or a certifying institute.
3. If a certificate safety, health and welfare service, issued to an external safety, health and welfare service, is withdrawn, is not extended or if conditions are attached to its extension, the service immediately notifies the employer, for whose benefit the tasks are performed, of this and to the works council or the staff representation. In case of absence of a works council or staff representation, the employer ensures that the interested employees are informed as soon as possible about this notification.
4. If a certificate safety, health and welfare service, issued to an internal safety, health and welfare service, is withdrawn, is not extended or if conditions are attached to its extension, the employer immediately notifies the works council or the staff representation or, in case of absence thereof, the interested employees as well as, in case of a cooperation, the external experts involved.

#### **Art. 2.14a Tasks experts**

1. With the task, as referred to in Article 14, first paragraph, item a, of the Act is given assistance by an expert who is in possession of at least one of the certificates, as referred to in Article 2.7, second paragraph, or by a company doctor as referred to in Article 14, first paragraph, heading, of the Act.
2. With the tasks, as referred to in Article 14, first paragraph, items b and c, of the Act is given assistance by a company doctor as referred to in Article 14, first paragraph, heading, of the Act.
3. As regards the experts and company doctors, the Articles 2.9, 2.11 and 2.12 are equally binding.

### **§ 3 Exceptions**

[onderdeel]

#### **Art. 02.14b Exception assistance risk inventory and evaluation of risks**

##### **Art. 2.14b Exception assistance risk inventory and evaluation of risks**

1. At the application of Article 14, twelfth paragraph, of the Act, the time duration of work done by a director with a majority investment respectively the person of director with a majority investment as referred to in the Designation Director with a Majority Investment Regulation is not taken into consideration.
2. The model, as referred to in Article 14, twelfth paragraph, item b, of the Act complies with the following conditions:
  - a. the model is included in a collective employment contract or in a regulation by a competent administrative body and is not mandatory;
  - b. the model has been tested by at least one expert who is in possession of a certificate as referred to in Article 2.7, second paragraph, or by a company doctor as referred to in Article 14, first paragraph, heading, of the Act.

3. When using the model, the employer takes into account the specific circumstances in the business or the institution.

#### **Art. 2.14c Exception assistance sickness absence**

The obligation to involve an expert or a safety, health and welfare service in the task, as referred to in Article 14, first paragraph, item b, of the Act does not apply with regard to the employer who only:

- a. has persons working under his authority without an employment contract or public law appointment;
- b. has persons working on incidental demand, towards whom there is no sick pay obligation after the demand on the basis of Article 629 of Book 7 of the Civil Code.

## Section 04 Psychosocial work load

[onderdeel]

#### **Art. 02.15 Measures for the prevention**

##### **Art. 2.15 Measures for the prevention or limitation of psychosocial work load**

1. If employees are or can be exposed to psychosocial workload, the risks as regards psychosocial work load are assessed within the framework of the risk inventory and evaluation of risks, as referred to in Article 5 of the Act, and measures are laid down and carried out in the plan of action, as referred to in Article 5 of the Act, with due regard for the state of the art, to prevent psychosocial work load or if that is not possible, to reduce it.
2. To employees which are working where danger arises for exposure to psychosocial load, information and education are given about the risks for psychosocial work load as well as about the measures aimed at preventing or reducing that load.

#### **Art. 2.16-2.22 (Cancelled)**

##### **Art. 2.16-2.22**

(Cancelled)

## Section 05 Building process

[onderdeel]

#### **Art. 02.23-02.31 (...)**

##### **Art. 2.23-2.31**

(...)

#### **Art. 02.32 Additional obligations principal**

##### **Art. 2.32 Additional obligations principal**

1. The principal takes such measures that:
  - a. the coordinator can properly perform the tasks, as referred to in Article 2.30;
  - b. the coordinator properly performs the tasks, as referred to in Article 2.30;
  - c. the safety and health plan, as referred to in Article 2.28, is part of the specifications regarding the building and is available before the activities on the building site start.
2. The principal ensures that the obligations for the executive party, as referred to in the Articles 2.29 and 2.33, have been laid down in a written contract with the executive party.

### **Art. 02.33 Additional obligations executive partyl**

#### **Art. 2.33 Additional obligations executive party**

The executive party takes such measures that:

- a. the coordinator can properly perform the tasks, as referred to in Article 2.31;
- b. the coordinator properly performs the tasks, as referred to in Article 2.31.

### **Art. 02.34-02.35 (...)**

#### **Art. 02.34-02.35**

(...)

## **Section 06 Extractive industries in opencast mining,**

### **[onderdeel]**

**Extractive industries in opencast mining, underground of by means of drillings**

### **Art. 2.36-2.42c (...)**

#### **Art. 2.36-2.42c**

(...)

## **Section 06a Extractive industries by means of drillings**

### **[onderdeel]**

### **Art. 2.42d-2.42i (...)**

#### **Art. 2.42d-2.42i**

(...)

## Section 07 Night work

[onderdeel]

**Art. 2.43 (...)**

**Art. 2.43**

(...)

## Section 08 Special sectors and special categories of employees

[onderdeel]

**Art. 02.45 (...)**

**Art. 2.45**

(...)

### § 1 Transport

[onderdeel]

**Art. 02.44 Exceptions for means of transport**

**Art. 2.44 Exceptions for means of transport**

The sections 2 and 7 of this chapter are not applicable to work done in respectively on an aircraft, a seagoing vessel or a barge or a vehicle on a public road or a railroad.

### § 2 Homeworkers

(...)

## Chapter 03 Arrangement workplaces

[onderdeel]

### Section 01 General requirements

[onderdeel]

#### § 1 Definitions and applicability

[onderdeel]

##### **Art. 03.1 Concepts**

##### **Art. 3.1 Concepts**

In this chapter the following terms shall have the following meanings:

- a. electrical installation: a combination of electrical material, lines and accessories of lines;
- b. electrical material: components or parts of an electrical installation intended for the generation, the transport and the application of electrical energy;
- c. explosive atmosphere: a mixture of air and combustible substances in the form of gases, vapours, sprays or dust, under atmospheric conditions in which the combustion increases after the ignition to the entire non-combusted mixture;
- d. use of electricity: any activity as regards an electrical installation, in any case including the construction, placing into service or placing out of service, operation, repair, rebuilding, maintenance and inspection as well as working in the vicinity of an electrical installation;
- e. high voltage: a voltage of which the value in case of alternating voltage is higher than 1000 Volt effective between the phases or 600 Volt effective between a phase and earth and in case of direct voltage is higher than 1500 Volt between the poles or 900 Volt between one of the poles and earth;
- f. low voltage: a voltage with a value lower than high voltage.

##### **Art. 3.1a Applicability**

The Articles 3.3, first paragraph, 3.4, first paragraph, as regards the design and the layout of electrical installations belonging to a building as referred to in Article 1, first paragraph, under c, of the Housing Act, 3.6, second paragraph, 3.7, fifth paragraph, 3.11, first paragraph, as regards the requirement that floors of workplaces must be as much as possible free from dangerous heels and, furthermore, as much as possible fixed and stable, and third paragraph, 3.18, second paragraph, second sentence, and third paragraph, and 3.24, first paragraph, and second paragraph, first sentence, are not applicable to workplaces in a building as referred to in Article 1, first paragraph, under c, of the Housing Act.



## **§ 2 General obligations of the employer**

[onderdeel]

### **Art. 03.1b Operating instruction**

#### **Art. 3.1b Operating instruction**

A workplace in a building as referred to in Article 1, first paragraph, under c, of the Housing Act is only used if the building complies with the requirements given by or pursuant to the Buildings Decree 2003 with regard to the applicable operating function within the meaning of that Decree.

### **Art. 03.2 General requirements**

#### **Art. 3.2 General requirements**

1. Workplaces are safely accessible and can be left safely. They are designed, built, equipped, put into operation, used and maintained such that danger for the safety and the health of the employees has been prevented as much as possible. Furthermore, they are kept neat, as much as possible free from dust and insofar as the safety of the work place requires that, kept orderly.
2. Regularly is checked whether the available provisions and taken measures at the workplace for the protection of the employees still function adequately.
3. Found defects as regards the provisions and measures as referred to in the second paragraph which may affect the safety or the health, are repaired as soon as possible.

### **Art. 03.3 Stability and sturdiness**

#### **Art. 3.3 Stability and sturdiness**

1. Buildings and other erections consist of durable material, have a sound construction and are in such a condition, that there is no risk of entirely or partly collapsing or falling.
2. The workplace has been designed such, that the available objects or substances cause no danger for the safety or the health by collapsing, shifting, falling or turning over.

### **Art. 03.4 Electrical installations**

#### **Art. 3.4 Electrical installations**

1. Electrical installations have been designed, arranged, fitted, maintained and marked such, that a safe use of electricity has been guaranteed as well as possible. For this purpose, the required provisions and protective measures have been arranged for. Special requirements which may result from the manner of the use, the operating conditions, the external influences to be expected and maintenance, are taken into account thereby.
2. Effective measures have been made in an electrical installation against the risk of danger, explosion, direct and indirect contact and too close approach.
3. Clear, continually updated schedules of each electrical installation are always available, as well as all other information which is required for a safe use of the electrical installation.

4. The third paragraph is not applicable to electrical installations for low voltage of limited extent.

### **Art. 03.5 Electrotechnical, control**

#### **Art. 3.5 Electrotechnical, control and other operations with or near an electrical installation**

1. Electrotechnical operations and control operations which may cause danger, are performed by expert, adequately trained and qualified employees.
2. A space containing an electrical installation for high voltage, the parts of which are not or inadequately protected against direct or indirect contact or too close approach, is only entered in the presence of a second qualified person.
3. Operations with or in the vicinity of an electrical installation are only performed, if the installation or the part with which or in the vicinity whereof is worked, is dead.
4. The qualified employee takes efficient measures to guarantee a safe development of the operations.
5. The third paragraph is not applicable to operations which are performed with or in the vicinity of an electrical low-voltage installation, if:
  - a. the urgency of the live working has been proven;
  - b. the qualified employee has explicitly ordered the performance of those operations, and
  - c. the installation is also suitable for the live working and the qualified employee has taken efficient measures to prevent dangers related to those operations.
6. The third paragraph is not applicable to operations which are performed with or in the vicinity of an electrical installation for high voltage, consisting of:
  - a. taking and canceling of safety measures, including cutting or coiling of cables with suitable equipment;
  - b. carrying out measurements and tests, or
  - c. cleaning of electrical equipment.
7. Operations consisting of cleaning of electrical equipment in an electrical installation for high voltage as referred to in the sixth paragraph, under c, are only carried out, if:
  - a. the qualified employee has explicitly ordered the performance of those operations;
  - b. work equipment, cleaning products and personal protective devices are used which are suitable for these operations, and
  - c. the employees do not need to enter the danger zone of the installation or parts of it which are live with the work equipment with which they are physically in contact.

## **§ 2a Explosive atmospheres**

[onderdeel]

### **Art. 03.5a Applicability**

#### **Art. 3.5a Applicability**

This paragraph is not applicable to:

- a. areas which are directly used for and during the medical treatment of patients;
- b. the use of gas appliances which are covered by the Gas Appliances Decree;
- c. the production, the processing, the use, the storage and the transport of explosives or chemically instable substances;
- d. the extractive industry in opencast mining, the underground extractive industry and the extractive industry which extracts minerals by means of drillings;
- e. the use of means of transport over land, over water and through the air, with the exception of the vehicles meant for use on locations where an explosive atmosphere may occur.

### **Art. 03.5b Cooperation and coordination**

#### **Art. 3.5b Cooperation and coordination**

1. For the application of Article 19, second paragraph, of the Act are indicated the activities performed on workplaces where explosive atmospheres are or can occur.
2. In addition to Article 19, second paragraph, of the Act, the employer who is responsible for the workplace, as referred to in the first paragraph, coordinates the execution of all measures regarding safety and health.

### **Art. 03.5c More detailed requirements**

#### **Art. 3.5c More detailed requirements risk inventory and evaluation of risks; explosion safety document**

1. The risks in connection with explosive atmospheres and the special risks which may result from that, are, within the framework of the risk inventory and evaluation of risks, as referred to in Article 5 of the Act, before the work starts and at any important change, extension or rebuilding of the workplace, the work equipment or the work process, assessed as a whole and laid down in writing in an explosive safety document.
2. At the assessment, as referred to in the first paragraph, is taken into account in any case:
  - a. the probability of the occurrence and the continuation of explosive atmospheres;
  - b. the probability that ignition sources, including electrostatic discharges, are present, become active and actually ignite;
  - c. the available installations, the used substances, the processes and their possible interaction;
  - d. the extent of the consequences to be expected.
3. At the assessment, as referred to in the first paragraph, there is also due regard for spaces which are connected through openings or can be connected to spaces where explosive atmospheres may occur.

4. In the explosion safety document are at least mentioned:
- a. an identification and assessment of the risks of explosion;
  - b. the manner in which the workplaces and the work equipment, including the alarm systems, have been designed, are used or operated and maintained with the required attention for the safety;
  - c. which areas have been divided in zones as referred to in Article 3.5d, fifth paragraph;
  - d. the manner in which the measures, as referred to in the Articles 3.5d, 3.5e and 3.5f have been implemented;
  - e. if on workplaces as referred to in Article 3.5b, first paragraph, several employers are working, the manner in which is complied with Article 19, second paragraph, of the Act and the purpose, the measures and the manner of execution of the coordination, as referred to in Article 3.5b, second paragraph.

### **Art. 03.5d General preventive measures**

#### **Art. 3.5d General preventive measures**

1. Effective measures have been taken to prevent the origin of an explosive atmosphere on the workplace.
2. If the prevention of the origin of an explosive atmosphere, in view of the nature of the work, is not possible, the following measures are taken in the order indicated below:
  - a. the ignition of explosive atmospheres is prevented, taking into account the electrostatic discharges which may emanate from employees or the workplace as a carrier or producer of charge;
  - b. the harmful effects of an explosion are limited.
3. In addition to the measures, as referred to in the first and second paragraphs, the possibility of extension of an explosion is reduced.
4. If there may be risks for employees or other persons due to explosive atmospheres, the workplace is designed such, in addition to the first through third paragraphs, that safely can be worked and there is adequate supervision over the work, including the use of appropriate technical devices. The contents and the extent of the supervision depends on the dangers which appear from the assessment, as referred to in Article 3.5c, first paragraph.
5. If it has appeared from the assessment, as referred to in Article 3.5c, first paragraph, that explosive atmospheres may occur, areas where these atmospheres can be, are subdivided in danger zones as referred to in Annex I to Directive no. 1999/92/EC of the European Parliament and the Council of the European Union of 16 December 1999 (PbEG 2000, L 23) regarding minimum requirements for the improvement of the health protection and of the safety of employees who may be in danger due to explosive atmospheres (fifteenth special Directive within the meaning of Article 16, first paragraph, of Directive no. 89/391/EEC).

6. Danger zones are marked by means of warning notices which comply with the provisions, laid down by or pursuant to section 2 of Chapter 8.

### **Art. 03.5e Measures in danger zones**

#### **Art. 3.5e Measures in danger zones**

In the danger zones, as referred to in Article 3.5d, fifth paragraph, and regarding the installations in areas without danger of explosion which are required for or contribute to the explosion-proof use of installations which are on locations with danger of explosion, the following measures are taken anyway:

- a. released gases, vapours, sprays or combustible substances which may cause danger of explosion, are appropriately discharged and deactivated;
- b. if an explosive atmosphere contains several types of inflammable or combustible gases, vapours, sprays or substances, the safety measures are based on the largest possible risk on the basis of the assessment, as referred to in Article 3.5c, first paragraph;
- c. installations, apparatus, security systems and the installation material, are, having regard to item e, only taken into use if it has appeared from the explosion safety document on the basis of the assessment, as referred to in Article 3.5c, first paragraph, that no danger of explosion is attached to its use;
- d. item c is equally binding to work equipment and its fittings which are no apparatus and security systems as referred to in the Explosion-Proof Material (Commodities Act) Decree, if their insertion into the installations may give rise to danger of explosion;
- e. insofar as the explosion safety document has no other requirements on the basis of the assessment, as referred to in Article 3.5c, first paragraph, apparatus and security systems in the danger zones are used in accordance with the categories as referred to in the Explosion-Proof Material (Commodities Act) Decree, and applied according to the following principles:
  1. danger zone 0 or 20: category 1-apparatus;
  2. danger zone 1 or 21: category 1- or category 2-apparatus;
  3. danger zone 2 or 22: category 1-, category 2- or category 3-apparatus;
- f. the necessary measures are taken for the prevention of exchange of installation material;
- g. in areas where an explosive atmosphere may arise, work clothing is put at the disposal of employees which complies with section 1 of Chapter 8 and which is always worn by the employees during work;
- h. if a state arises in which an explosion can occur, employees, where necessary, are warned optically or acoustically and withdrawn;
- i. before the first entry into service of a workplace and at any important change, extension or rebuilding of the workplace, work equipment or the work process where explosive atmospheres may occur, the explosion safety of the entire installation is verified by a person who is expert to that end.

### **Art. 03.5f Special measures**

#### **Art. 3.5f Special measures**

Insofar as it has appeared necessary from the results of the assessment, as referred to in Article 3.5c, first paragraph, in addition to Article 3.5e, the following measures are taken:

- a. written instructions are provided with regard to the performance of the work;
- b. before the start of work which may cause danger, permission is given by a competent person to do this work;
- c. when power failure may cause extra dangers, apparatus and security systems are kept in a safe operating condition, independent of the rest of the installation;
- d. automatically driven apparatus and security systems which deviate from the expected operating conditions, are manually switched off without danger. These interventions are carried out by competent employees;
- e. if the emergency stopping devices are put into operation, the stored energy is discharged and isolated as quickly and safely as possible, so it is no longer a source of danger;
- f. escape means are kept available and ready for use so that employees can leave the dangerous areas quickly and safely.

## **§ 2b Atmospheres which are harmful to the health**

[onderdeel]

### **Art. 03.5g Danger of suffocation**

#### **Art. 3.5g Danger of suffocation, stupefaction, intoxication or fire (I)**

1. If it may be suspected that the atmosphere on a location or in a space contains substances to such an extent that this causes danger of suffocation, stupefaction, intoxication, fire or explosion, the employee does not enter that location or space before an investigation has shown that there is no such danger.
2. If it appears from the investigation, as referred to in the first paragraph, that the danger of suffocation, stupefaction, intoxication, fire or explosion, is present, effective measures are taken so that the employees can enter that location or that space without the dangers, as referred to in the first paragraph.
3. In any case it is a matter of:
  - a. danger of suffocation if the atmosphere contains less than 18 volume percent oxygen;
  - b. danger of stupefaction or intoxication if the concentration of the relevant substances in the atmosphere is higher than the limit values, as referred to in Article 4.3.
  - c. risk of fire or explosion if the concentration of oxygen in the atmosphere is higher than 21 volume percent or the concentration of combustible gases or vapours is higher than 10 volume percent of the lower explosive limit and
4. If it is not possible to take the measures, as referred to in the second paragraph, and it is necessary to enter the dangerous atmosphere, as referred to in the first paragraph, then the employee is permanently observed and effective measures are taken:
  - a. to protect this employee against the danger, as referred to in the second paragraph;

- b. to immediately help the employee in an effective manner in case of direct danger.

### **Art. 03.5h Safety at, on or in tankers**

#### **Art. 3.5h Safety at, on or in tankers**

1. Article 3.5g is not applicable as regards the following activities at, on or in tankers of a category indicated by Ministerial Regulation:
  - a. the cleaning;
  - b. the maintenance, repair or rebuilding;
  - c. the entirely or partly scrapping, with danger of fire, explosion, intoxication, suffocation or stupefaction.
2. The activities as referred to in the first paragraph are carried out in a safe manner by or under supervision of a person who has sufficient expertise.
3. By Ministerial Regulation, activities are indicated which are only carried out if a gas expert has previously assessed the dangers to the safety and health of the employees and has given a declaration which complies with a model to be laid down by Ministerial Regulation.
4. A gas expert as referred to in the third paragraph is in possession of a certificate of professional competence gas expert, which has been issued by Our Minister or a certifying institute.
5. The certificate of professional competence gas expert or a copy of it is present on the workplace and is shown, upon request, to the supervisor.
6. Regarding the activities, as referred to in the first paragraph, more detailed rules are laid down by Ministerial Regulation.

## **§ 3 Provisions in emergency situations**

[onderdeel]

### **Art. 03.06 Escape routes and emergency exits**

#### **Art. 3.6 Escape routes and emergency exits**

1. Effective measures are taken in order to make it possible that the employee, if a state arises in which there is direct danger to his safety or health, can secure himself through the shortest possible route.
2. The number, the location and the dimensions of the available escape routes and emergency exits depend on the use, the equipment and the dimensions of the workplaces as well as of the maximum number of employees and other persons that can be on these locations.

### **Art. 03.07 Safe use of escape routes and emergency exits**

#### **Art. 3.7 Safe use of escape routes and emergency exits**

1. Escape routes and emergency exits are free of obstacles.

2. Emergency exits can be opened at all times.
3. Doors of emergency exits and doors on the path of the escape routes can simply be opened from inside to the outside.
4. Sliding and revolving doors are not used as an emergency exit.
5. The escape routes and emergency exits which are poorly visible in case of failure of the lighting, have been provided with an adequate emergency lighting.
6. The escape routes, the doors and gates on the path of the escape routes as well as the emergency exits have been marked by signals which comply with the provisions of or pursuant to section 2 of Chapter 8.

### **Art. 03.08 Fire alarm and fire fighting**

#### **Art. 3.8 Fire alarm and fire fighting**

1. In addition to Article 15 of the Act, there are sufficient appropriate fire-fighting devices on workplaces, depending on the nature of the work done there, the corresponding dangers and the maximum number of employees and other persons present.
2. In addition to the first paragraph, fire detectors and alarm systems are present, if necessary.
3. Non-automatic fire-fighting devices are readily accessible and easily operated.
4. Non-automatic fire-fighting devices have been provided with a signalling which complies with the provisions of or pursuant to section 2 of Chapter 8. The signalling is durable and fitted on the right location.

### **Art. 03.09 Emergency lighting**

#### **Art. 3.9 Emergency lighting**

Workplaces where employees are exposed to special dangers in case of failure of the artificial light, have been provided with adequate emergency lighting. If emergency lighting is not possible, the employees dispose of individual lighting.

### **Art. 03.10 Rescue of drowning persons**

#### **Art. 3.10 Rescue of drowning persons**

On workplaces with danger of drowning, this danger is as much as possible prevented and efficient means for the rescue drowning persons are available on a properly visible location.

## **§ 4 Design requirements**

[onderdeel]

### **Art. 03.11 Floors, walls and ceilings of workplaces**

#### **Art. 3.11 Floors, walls and ceilings of workplaces**



1. Floors of workplaces are as much as possible free from unevenness and dangerous heels and they are, furthermore, as much as possible, fixed, stable and anti-slip.
2. The surface of floors, walls and ceilings of workplaces is such, that these can be cleaned and maintained for the benefit of the hygiene at the workplace.
3. Enclosed spaces where work is done, are, taking into account the nature of the activities and physical load to be delivered, sufficiently thermally isolated.
4. Transparent or illuminating walls of workplaces are, insofar as possible in connection with the nature of the workplace:
  - a. clearly marked and made of safety material, or
  - b. fitted or shielded in such a manner that the employees cannot get injured.

### **Art. 03.12 Windows and skylight provisions of the spaces**

#### **Art. 3.12 Windows and skylight provisions of the spaces**

1. If windows, skylight provisions and ventilation devices can be opened and closed,
  - a. this can take place in a safe manner,
  - b. they can also be arranged and fixed in a safe manner, and
  - c. they provide no danger when they are open.
2. Windows and skylight provisions can be cleaned without danger.

### **Art. 03.13 Doors, movable gates and other passages**

#### **Art. 3.13 Doors, movable gates and other passages**

1. The location, the number and the dimensions of the doors, movable gates and other passages as well as the materials of which they have been made, are geared to the nature and the use of the workplace.
2. A marking is fitted on transparent doors at eye level.
3. Depending on the nature of the workplace and the work which is done there, folding doors are transparent or provided with transparent panels.
4. If doors or other passages dispose of transparent or illuminating surfaces, effective measures have been taken in order to prevent that employees are injured by unwanted contact with those surfaces.
5. Doors and movable gates which can get out or off their conductors, are secured against unhinging or running off or against falling.
6. Automatic doors and gates function such that they cause no danger. They have been provided with readily recognizable safeguards which prevent that employees get injured.

7. Automatic doors and gates can be opened manually, unless they automatically open in case of a power failure.
8. In the immediate vicinity of doors, movable gates or other passages which are mainly intended for traffic of vehicles or means of transport, are, unless the passage is safe for pedestrians, separate passages for pedestrians.
9. The passages for pedestrians as referred to in the eighth paragraph are clearly visible marked and free of obstacles.
10. Chains or similar provisions which are used in order to prevent that a specific space is entered, are properly visible and effectively provided with prohibiting or warning signposts.

### **Art. 03.14 Connecting roads**

#### **Art. 3.14 Connecting roads**

1. The connecting roads on the workplace are situated and arranged such that they can be used by pedestrians and vehicles or means of transport in a simple manner, safely and in accordance with their destination.
2. Prevented is that employees who are working in the vicinity of connecting roads, are in danger.
3. The dimensions of the connecting roads is geared at the number of users and the nature of the work done in the business or the institution.
4. If vehicles or means of transport are used on the connecting roads, insofar it does not concern the public road, the required traffic rules have been established.
5. In cases as referred to in the fourth paragraph, a safe space for the pedestrians has also been guaranteed or other effective measures for the protection of the pedestrians have been taken.
6. The connecting roads intended for vehicles or means of transport are located at sufficient distance from the other connecting roads on the workplace.
7. Insofar as the use or the design of the workplace requires so, the connecting roads are clearly beacons.

### **Art. 03.15 Marking dangerous locations**

#### **Art. 3.15 Marking dangerous locations**

1. The locations where, because of the nature of the work, danger occurs, including danger of falling or danger of falling objects or where obstacles, which cannot be removed, cause danger to the safety at the removal of vehicles or persons, are clearly marked by signals which comply with the provisions of or pursuant to section 2 of Chapter 8.

2. Only employees who must enter locations professionally or in the capacity of their functions must enter locations as referred to in the first paragraph, are admitted there.

### **Art. 03.16 Prevention danger of falling**

#### **Art. 3.16 Prevention danger of falling**

1. When doing work where danger of falling occurs, a safe scaffolding, landing or shop floor has been fitted, if possible, or the danger has been resisted by the arrangement of effective fencings, railings or other similar provisions.
2. In any case there is no danger of falling in the presence of risk-increasing circumstances, openings in floors, or when there is a danger of falling 2.5 metres or more.
3. The first paragraph is not applicable to work under circumstances in which the use of ladders and stairs is allowed as referred to in Article 7.23, second paragraph.
4. If the provisions mentioned in the first paragraph cannot or only partly be fitted or when the fitting or removing of it causes greater dangers than the work for the security of which they should serve, sufficient strong and sufficient large safety nets have been fitted for the prevention of the danger on efficient locations and in an efficient manner or adequate safety belts with life lines of sufficient strength are used or other technical means are applied, which provide a similar degree of safety of the work as referred to in the first paragraph. Measures aimed at collective protection have priority over measures aimed at individual protection.

### **Art. 03.17 Preventing dangers by objects, products, liquids or gases**

#### **Art. 3.17 Preventing dangers by objects, products, liquids or gases**

The danger to be hit or touched by objects, products or components thereof or liquids or gases, or the danger to get stuck between objects, products or components thereof, is prevented and if that is not possible, as much as possible reduced. Article 3.16, fourth paragraph, last sentence, is applicable.

### **Art. 03.18 Specific measures for escalators**

#### **Art. 3.18 Specific measures for escalators, moving walkways and loading platforms**

1. Escalators and moving walkways function safely and have been equipped with the necessary safety devices, including readily recognizable and accessible emergency stopping devices.
2. Loading platforms and loading ramps are geared at the dimensions of the loads to be carried. They dispose of at least one exit.

### **Art. 03.19 Dimensions and air volume of spaces**

#### **Art. 3.19 Dimensions and air volume of spaces; motion space on the workplace**

1. The dimensions and the air volume of the workplace are such that the employee can work without danger to the safety or the health.
2. The dimensions of the workplace are such that the employee disposes of sufficient motion space during his work.

3. If the second paragraph cannot be complied with in connection with the nature of the work, another open or enclosed space with sufficient motion space is available in the vicinity for the employees involved.

## **§ 5 Recreation rooms and other provisions**

[onderdeel]

### **Art. 03.20 Relaxation rooms**

#### **Art. 3.20 Relaxation rooms**

In the business or the institution or in the direct vicinity of it, a readily accessible room is available where the employees can spend the breaks. This room is fit for that as well as, depending on the number of employees, sufficiently large measured and equipped with sufficient tables and chairs.

### **Art. 03.21 Night's lodgings**

#### **Art. 3.21 Night's lodgings**

For employees who, during the time sited between the end and the beginning of the daily work time, are usually in the business or the institution where they are working, a night's lodging is available. A night's lodging has been adequately arranged and is only intended for persons of the same sex.

### **Art. 03.22 Dressing rooms**

#### **Art. 3.22 Dressing rooms**

1. Every employee disposes of a location to hang his clothing.
2. For employees who must wear special work clothing, efficient, sufficiently large dressing rooms, provided with chairs or sofas and distinguished according to sex, are available; these rooms are as much as possible located in the vicinity of the open or enclosed spaces where the work is usually done. Wet work clothing can be dried, if necessary.
3. The clothing which is not worn by the employees during work, can be kept in the dressing rooms in an effective manner and closed.
4. If the circumstances require so, the special work clothing and the personal clothing of the employees can be kept separately of each other, in an effective manner and closed.

### **Art. 03.23 Bathroom facilities and shower rooms**

#### **Art. 3.23 Bathroom facilities and shower rooms**

1. If employees are exposed to dirt or dust, there shall be a bathroom facility with a sufficient number of sinks. The sinks have been functionally positioned and distinguished according to sex; they dispose of cold and, if necessary, hot running water.
2. If employees are exposed to dirt, dust or high temperatures to such an extent that washing of the body is required, which implies more than washing hands and face or when such results from the nature of their work or the care for the health, there is also a shower room with a sufficient number of showers. The shower room is sufficiently large, efficiently arranged and distinguished according to sexes; the showers dispose of warm and hot running water.

3. If the shower or bathroom facilities and the dressing rooms are not in the same space, they are easily accessible with a short cut.

#### **Art. 03.24 Toilets and sinks**

##### **Art. 3.24 Toilets and sinks**

1. In a business or institution, a sufficient number of toilets is available in the vicinity of the spaces where the employees are working.
2. In or in the immediate vicinity of the spaces in which the toilets are, there are sufficient sinks.
3. The toilets or the use of the toilets has been distinguished according to sex.

#### **Art. 03.25 (...)**

(...)

## Section 02 Additional requirements building sites

### **[onderdeel]**

#### **Art. 03.26 (...)**

(...)

#### **Art. 03.27 (...)**

(...)

#### **Art. 03.28 (...)**

(...)

#### **Art. 03.29 (...)**

(...)

#### **Art. 03.30 (...)**

(...)

#### **Art. 03.31 (...)**

(...)

## Section 03 Additional requirements extractive industries in opencast mining, underground or by means of drillings

### **[onderdeel]**

#### **Art. 03.32 (...)**

(...)

#### **Art. 03.33 (...)**

(...)

## **Art. 03.34 Danger of explosion**

### **Art. 3.34 Danger of explosion**

The measures aimed at the prevention of danger of explosion, as referred to in Article 3.5g, second paragraph, are included in the safety and health plan, as referred to in Article 2.42, second paragraph.

### **Art. 03.35 (...)**

### **Art. 03.36 (Cancelled)**

(Cancelled)

## Section 03A Additional requirements extractive industries in opencast mining

### **[onderdeel]**

### **Art. 03.36a-03.37 (...)**

(...)

## Section 03B Additional requirements underground extractive industries

### **[onderdeel]**

### **Art. 03.37a-03.37i (...)**

(...)

## Section 03C Additional requirements extractive industries by means of drillings

### **[onderdeel]**

### **Art. 03.37j-03.37k (...)**

(...)

### **Art. 03.37l (Cancelled)**

(Cancelled)

### **Art. 03.37m-03.37w (...)**

(...)

### **Art. 03.37x (Cancelled)**

(Cancelled)

### **Art. 03.37y (...)**

(...)

## Section 04 (Cancelled)

**[onderdeel]**  
(Cancelled)

**Art. 03.38-03.40 (Cancelled)**  
(Cancelled)

## Section 05 Special sectors and special categories of employees

**[onderdeel]**

### **§ 1 Education**

**[onderdeel]**

**Art. 03.41 (...)**

### **§ 2 Transport**

**[onderdeel]**

**Art. 03.42 Exceptions for means of transport**

**Art. 3.42 Exceptions for means of transport**

1. The Articles 3.4, 3.5, 3.7, fifth paragraph, are not applicable to aircraft, for which a Dutch or equivalent certificate of flying proficiency has been issued before 1 January 1997, unless its compliance can reasonably be demanded.
2. The Articles 3.7, fifth paragraph, 3.20, 3.22, 3.23 and 3.24 are not applicable to seagoing vessels and barges, built before 1 January 1994, unless its compliance can reasonably be demanded.
3. The date of construction of a seagoing vessel is determined by means of the provisions to that end in Article 2 of the Ships Decree 2004 or, if it concerns a seagoing fishing vessel, in the Fishing Vessels Decree or the Fishing Vessels Decree 2002.
4. Article 3.7, fifth paragraph, is not applicable to vehicles on a public road or railroad, built before 1 January 1994, unless its compliance can reasonably be demanded.
5. The Articles 3.4, 3.5 and 3.7, fifth paragraph, are not applicable to rolling material of railway companies which is in businesses or institutions.
6. The Articles 3.20 through 3.25 are not applicable to aircraft.
7. The Articles 3.4, 3.5, 3.7, third and fourth paragraphs, 3.21, second sentence, and 3.25 are not applicable to seagoing vessels and barges.
8. The Articles 3.20 through 3.25 are not applicable to vehicles on a public road or a railroad.

9. Article 3.5h is not applicable to tankers outside the Netherlands.

### **§ 3 Correctional institutions**

[onderdeel]

**Art. 03.43-03.44 (...)**

(...)

### **§ 4 Young people**

[onderdeel]

**Art. 03.45 Chain provision**

**Art. 3.45 Chain provision**

In addition to the provisions of or pursuant to this chapter, the requirements and prohibitions mentioned in this paragraph also apply to young employees.

**Art. 03.46 Expert supervision**

**Art. 3.46 Expert supervision**

Art. 1.37, second paragraph, is equally binding to young employees who:

- a. do work with danger of collapsing;
- b. do work at, with or in the direct vicinity of high voltage installations, as referred to in Article 3.1.

### **§ 5 Pregnant employees and employees during the lactation**

[onderdeel]

**Art. 03.47 Chain provision**

**Art. 3.47 Chain provision**

In addition to the provisions of or pursuant to this chapter, the requirements mentioned in this paragraph also apply to pregnant employees and employees during the lactation.

**Art. 03.48 Places to rest**

**Art. 3.48 Places to rest**

For pregnant employees and employees during the lactation is a suitable, closable room available, which has facilities or can immediately be prepared for taking rest. An appropriate, whether or not folding, bed or an appropriate couch is available in such a room.



## Chapter 04 Dangerous goods and biological agents

[onderdeel]

Art. 4.25-4.35 (Cancelled)

(Cancelled)

Art. 4.36 (Cancelled)

(Cancelled)

### Section 01 Dangerous goods of employees

[onderdeel]

#### § 1 Definitions and applicability

[onderdeel]

##### **Art. 04.01 Definitions**

##### **Art. 4.1 Definitions**

In this chapter and the provisions based on it, the following terms shall have the following meanings:

- a. dangerous goods: substances, mixtures or solutions of substances to which employees are or can be exposed during work, which because of the properties of or the conditions under which those substances, mixtures or solutions occur, can cause danger to the safety or health;
- b. limit value:
  1. the limit of the concentration or of the time weighted average of the concentration for a dangerous good in the individual respiratory zone of an employee during a specified reference period;
  2. the limit of the concentration in the suitable biological medium of a dangerous good, its metabolites or an indicator of the effect of the relevant good during a specified reference period;
  3. unwanted event: a sudden situation, accident, incident or emergency situation which causes danger to safety and health of the employee or his environment, and which was not anticipated in view of the applied substances, processes and measures.

##### **Art. 04.01a Applicability**

##### **Art. 4.1a Applicability**

1. The Articles 4.1c, first paragraph, item h, 4.3, 4.4 and 4.10a, fifth paragraph, are not applicable to carcinogenic or mutagenic substances and carcinogenic processes as referred to in section 2 of this Chapter and to asbestos or products containing asbestos as referred to in section 5 of this chapter.

2. Article 4.7 is not applicable to businesses, institutions or parts thereof to which the Risks Major Accidents Decree 1999 or section 2 of Chapter 2 applies.
3. Article 4.4 is not applicable to white lead as referred to in Article 4.61b.
4. Article 4.10d is not applicable to asbestos or products containing asbestos as referred to in section 5 of this chapter.

## **§ 2 Duty of care, measures and more detailed requirements risk inventory and evaluation of risks**

[onderdeel]

### **Art. 04.1b Duty of care of the employer**

#### **Art. 4.1b Duty of care of the employer**

1. In all cases in which employees are or can be exposed to dangerous goods, the employer ensures an efficient protection of the health and safety of the employee.
2. The provisions in the first paragraph are complied with if:
  - a. within the framework of the risk inventory and evaluation of risks, as referred to in Article 5 of the Act, the nature, extent and duration of the exposure has been assessed in accordance with Article 4.2;
  - b. effective measures have been taken for the prevention or reduction of the exposure in accordance with the Articles 4.1c and 4.4 or in accordance with the Articles 4.17, 4.18 and 4.19;
  - c. preventive measures have been taken for the prevention of unwanted events in accordance with Article 4.6.

### **Art. 04.1c Reduction of exposure; general preventive measures**

#### **Art. 4.1c Reduction of exposure; general preventive measures**

1. In all cases in which work is done where employees are or can be exposed to dangerous goods, is, within the framework of Article 3 of the Act, the exposure of employees to dangerous goods prevented or minimized by:
  - a. the design and the organization of the work systems at the workplace;
  - b. using adequate work equipment;
  - c. using adequate provisions when carrying out repair or maintenance activities;
  - d. minimizing the number of employees, which is or can be exposed;
  - e. minimizing the extent and the duration of the exposure;
  - f. observing the utmost care, orderliness and cleanliness;

- g. reducing the amount of dangerous goods on the workplace as much as possible;
  - h. introducing suitable working methods, including arrangements for the safe handling, storage and transport on the workplace of dangerous goods and of wastes which contain dangerous goods;
  - i. noticeably and clearly legible mentioning the name of the substance on the packaging of a dangerous good and a specification of the nature of the danger or the dangers, related to that substance;
  - j. only having work done by persons who are in such a physical and mental condition and who dispose of such basic knowledge in the field of that work, that they are sufficiently able to recognize and prevent the dangers related thereto;
  - k. ensuring that there is no smoking, eating, drinking, sleeping or storage of food where dangerous goods are present.
- The measures, as referred to in the first paragraph, are in accordance with the state of the art and technology
  - The first paragraph, item i, is not applicable insofar as the Carriage of Dangerous Goods Act or the Plant Protection Products and Biocides Act is applicable.

#### **Art. 04.2 More detailed requirements risk inventory and evaluation of risks, assessment**

##### **Art. 4.2 More detailed requirements risk inventory and evaluation of risks, assessment**

1. If employees are or can be exposed to dangerous goods, irrespective whether actually is or will be worked with these substances, the nature, extent and duration of that exposure are, within the framework of the risk inventory and evaluation of risks, as referred to in Article 5 of the Act, assessed in order to determine the dangers for the employees.
2. In any case is established, with regard to the nature of the exposure, to which dangerous good employees are or can be exposed, what the dangers are which are related to those substances, in which situations exposure may occur and in which manner exposure can take place.
3. In any case is established, as regards the extent of exposure to dangerous goods, what the level of exposure is.
4. For the effective establishment of the level of exposure, appropriate, normalized measuring methods, or other appropriate measuring methods or quantitative evaluation methods are used.
5. At the assessment, as referred to in the first paragraph, the following aspects are involved anyway:
  - a. the information about the safety and health which must be provided by the supplier of a dangerous good by or pursuant to legal requirements, as well as the additional information of the supplier or from other readily accessible sources, which is necessary for the evaluation of risks;
  - b. the circumstances during activities where dangerous goods are involved, including the amount of dangerous goods to which employees are or can be exposed;
  - c. the reasonably foreseeable events which can lead to a considerable increase in the extent of exposure, also when preventive measures have been taken;
  - d. the effectiveness of the taken or to be taken preventive measures;

- e. insofar as applicable, the results of the occupational health examinations, as referred to in the Articles 4.10a and 4.10b.
- 6. If various dangerous goods are involved, the assessment, as referred to in the first paragraph, is based on the risk that those dangerous goods cause when they are combined.
- 7. The extent of exposure as referred to in the first paragraph is tested in accordance with the fourth paragraph against the limit value which has been established for the substance involved.
- 8. The assessment, as referred to in the first paragraph, is regularly revised, in any case when is started with new activities where dangerous goods are involved and, furthermore, when changed circumstances or the results of the occupational health examinations, as referred to in the Articles 4.10a and 4.10b, induce so.
- 9. By Ministerial Regulation, more detailed rules can be laid down as regards this Article.

#### **Art. 04.2a More detailed requirements risk inventory and evaluation of risks, additional registration**

##### **Art. 4.2a More detailed requirements risk inventory and evaluation of risks, additional registration**

If dangerous goods usually are on the workplace in connection with the nature of the activities which are performed there, which goods are classified by or pursuant to the Environmental Management Act in the category 'toxic for reproduction', as referred to in Article 9.2.3.1, second paragraph, under n, of that Act, as well as the substances as referred to in Directive no. 67/548/EEC of the Council of the European Economic Community of 27 June 1967 regarding the adaptation of the legal and administrative provisions as regards the classification, the packaging and the marking of dangerous goods (PbEG L 196) which are marked with the warning sentence R64 in accordance with the criteria in paragraph 3.2.8 of Annex VI to this Directive, the following information as regards those substances is mentioned in the risk inventory and evaluation of risks, as referred to in Article 5 of the Act, in addition to Article 4.2:

- a. the amount of the substance which is annually usually produced or used or is available in connection with storage;
- b. the number of employees which usually works on the workplace where the substance usually occurs;
- c. the form of the work which is usually done with the substance.

### **§ 3 Limit values, occupational hygienic strategy and ventilation**

[onderdeel]

#### **Art. 04.3 Limit values**

##### **Art. 4.3 Limit values**

- 1. By Ministerial Regulation, limit values are established as regards the dangerous goods appointed in that Regulation.
- 2. If no legal limit value has been established for a specific dangerous good, the employer establishes a limit value for that good. This limit value is determined at such a level, that no damage can be caused to the health of the employee.

3. When a limit value is exceeded, effective measures, with due regard for Article 4.4, are immediately taken to reduce the concentration to a value under that limit value.
4. As long as the measures, as referred to in the third paragraph, have not yet been completely implemented or do not lead to an effective protection, the work is only continued when effective measures have been taken to prevent damage to the health of the employees.

#### **Art. 04.4 Occupational hygienic strategy**

##### **Art. 4.4 Occupational hygienic strategy**

1. Insofar as it appears from the results of the assessment, as referred to in Article 4.2, that there is danger to the safety or the health of the employees, effective measures have been taken to prevent that the employees can be exposed to dangerous goods at their work to such an extent, that their safety can be endangered or that their health can be damaged.
2. Insofar as this is reasonably possible, at the application of the first paragraph dangerous goods are replaced by substances where the employees, considering the properties of those substances, the nature of the work, the working methods and the working conditions, are not or less exposed to danger to their safety or health.
3. If replacement is reasonably not possible or when there remains another danger to the safety or health of the employees, for the purpose of the first paragraph, such technical measures, work processes, equipments and materials are applied that the release of dangerous goods has been prevented or reduced such, that danger to the safety or the health of the employees has been prevented or as much as possible reduced.
4. Insofar as the measures, mentioned in the second and third paragraphs, are reasonably not possible or do not entirely remove the danger to the safety or the health, for the purpose of the first paragraph, collective protective measures at the source or organizational measures are taken such that danger to the safety or the health is prevented.
5. Insofar as the measures as mentioned in the second, third and fourth paragraphs, are reasonably not possible or do not entirely remove the danger to the safety or the health, for the purpose of the first paragraph, appropriate personal protective devices are made available.
6. The duration of the wearing of personal protective devices, as referred to in the fifth paragraph, is limited to the strictly necessary time for each of the employees.

#### **Art. 04.5 Ventilation**

##### **Art. 4.5 Ventilation**

1. If polluted air is discharged, sufficient supply of non-polluted air is guaranteed at the same time.
2. It is prohibited to circulate air, which contains a dangerous good, again to a workplace where the relevant substance is not present.
3. It is prohibited to circulate air, which contains a substance as referred to in the fourth paragraph, again at the same workplace, unless the employer proves that the concentration of a substance as referred to in the fourth paragraph in the air which is supplied to that workplace, is not more than a tenth part of the limit value which has been established for that substance.
4. This Article is applicable to the following substances:

- a. carcinogenic and mutagenic substances as referred to in Article 4.11, items b and d;
- b. a substance released at a carcinogenic process as referred to in Article 4.11, item c;
- c. substances which comply with the criteria, established on the basis of Article 9.2.3.1, third paragraph, of the Environmental Management Act for assignment of the R-sentence 'can cause hypersensitivity if inhaled (R42)'.

## **§ 4 Measures for specific circumstances**

[onderdeel]

### **Art. 04.6 Prevention of unwanted events**

#### **Art. 4.6 Prevention of unwanted events**

1. In all cases in which employees are or can be exposed to dangerous goods, such measures have been taken that the danger, that an unwanted event occurs with regard to those substances or with regard to the work with those substances, is avoided as much as possible. Measures are particularly taken to:
  - a. prevent the availability of dangerous concentrations of inflammable substances or dangerous amounts of chemically instable substances on the workplace or, when that is not possible considering the nature of the activities;
  - b. to ensure that there are no ignition sources available which can cause fire and explosions, or to avoid unfavourable circumstances which may result in chemically instable substances or mixtures of substances causing accidents with serious physical effects, and
  - c. to reduce the harmful effects for the health and the safety of the employees as a result of fire and explosions due to the ignition of inflammable substances, or serious physical effects as a result of accidents caused by chemically instable substances or mixtures of substances.
2. The measures, as referred to in the first paragraph, are geared at the nature of the activities, including storage, handling and separation of incompatible dangerous goods, and these measures protect the employees against the dangers of physical-chemical properties of dangerous goods.
3. The measures, as referred to in the first paragraph, are, insofar as applicable, in accordance with the Explosion-Proof Material (Commodities Act) Decree.

### **Art. 04.7 Measures in case of unwanted events**

#### **Art. 4.7 Measures in case of unwanted events**

1. Insofar as it appears from the results of the assessment, as referred to in Article 4.2, that there is danger to the safety or the health of the employees, in addition to Article 15 of the Act, effective procedures have been established which enter into force when an unwanted event occurs.
2. On the basis of the procedures, as referred to in the first paragraph, such technical or organizational measures have been taken, that when an unwanted event occurs, its effects are as much as possible reduced.

3. For the compliance of the second paragraph, the following measures are taken anyway:
  - a. effective measures are immediately taken to reduce the effects of an unwanted event as much as possible and the recovery of the safe situation is as soon as possible ensured;
  - b. the employees are immediately informed of the unwanted event and it is taken care of that they are leaving the affected zone;
  - c. only the employees or other persons, entrusted with the performance of the necessary repair activities, shall enter the affected zone, while using effective means and personal protective devices;
  - d. the employees and other persons, as referred to in item c, are not longer than strictly necessary for the repair of the safe situation in the affected zone;
  - e. in addition to Article 15 of the Act, effective warning and other communication systems are available for the benefit of the signalling of an increased risk to the safety and health and which comply with the provisions of or pursuant to section 2 of Chapter 8;
  - f. it is prevented that others than the employees and other persons, as referred to in item c, enter the affected zone.
4. The employer ensures that the in-house emergency officers, as referred to in Article 15 of the Act, and the external relief organizations, if desired, can take note of the measures, as referred to in the third paragraph.
5. The information about the measures, as referred to in the fourth paragraph, contains in any case:
  - a. a description of the dangers on the basis of the assessment, as referred to in Article 4.2;
  - b. a description of the reasonably foreseeable specific dangers on the basis of the assessment, as referred to in Article 4.2, which may arise at an unwanted event;
  - c. a description of the measures taken for compliance with Article 4.6, first and second paragraphs;
  - d. a description of the procedures, as referred to in the first paragraph.

#### **Art. 04.8-04.10 (...)**

#### **Art. 4.8-4.10**

(...)

### **§ 5 Occupational health examination**

**[onderdeel]**

#### **Art. 04.10a Examination**

#### **Art. 4.10a Examination**

1. Every employee who can be exposed for the first time to dangerous goods, is, in addition to Article 18 of the Act, enabled to be subjected to an occupational health examination before the start of the activities where exposure may arise.

2. If a harmful effect to the health of an employee or a demonstrable illness is found which could be the result of exposure to dangerous goods, employees who have been similarly exposed are prematurely enabled to be subjected to an occupational health examination.
3. Upon request of the employer or the employee involved, the occupational health examination is offered again, or carried out again. The results of the follow-up examination replace the previous results.
4. The employee is informed about the manner in which he is enabled to be subjected to an occupational health examination after the end of the exposure.
5. All data which are necessary to be able to assess the exposure of the employees to dangerous goods and to be able to advice on the periodicity and the contents of the occupational health examinations, and the preventive measures to be taken, are available for inspection by the expert person, as referred to in Article 2.14a, second paragraph, or the safety, health and welfare service.

#### **Art. 04.10b Examination and biological limit values**

##### **Art. 4.10b Examination and biological limit values**

1. Every employee who is or can be exposed to dangerous goods for which a biological limit value as referred to in Article 4.1, second paragraph, item b, has been established, is enabled to be subjected to an occupational health examination:
  - a. before the start of the exposure;
  - b. when the biological limit value is exceeded.
2. The examination, as referred to in the first paragraph, contains, among others, an investigation into the content of the relevant substance in the biological medium to be established at the biological limit value.
3. By Ministerial Regulation can be determined that the examination, as referred to in the second paragraph, is replaced in the cases determined in this Regulation by a measurement of other biological indicators.
4. By Ministerial Regulation, the methods are established, according to which the content of the relevant substance, as referred to in the second paragraph, is measured.
5. The frequency of the examination is established by Ministerial Regulation

#### **Art. 04.10c Files and registration**

##### **Art. 4.10c Files and registration**

1. The expert person, as referred to in Article 2.14a, second paragraph, or the safety, health and welfare service, keeps a personal medical file of every employee who has been subjected to an occupational health examination as referred to in the Articles 4.10a and 4.10b.
2. Every employee is entitled to inspect his own medical file.



3. The results of the occupational health examination, provided with an explanation, in a statistical form and not reducible to individuals, can be inspected by the works council or the staff representation or, in case of absence thereof, by the interested employees.
4. The results of the occupational health examination are registered in an appropriate form and kept for every employee until at least 40 years after the end of his exposure to dangerous goods, as well as the list of employees, as referred to in Article 4.15, and the register of exposed employees, as referred to in Article 4.53, first paragraph.
5. In case the activities in the business or the institution of the employer are stopped during the period of 40 years, as referred to in the fourth paragraph, the documents, as referred to in the fourth paragraph, are transferred to the supervisor.

## **§ 6 Special provisions regarding information and education**

### **[onderdeel]**

#### **Art. 04.10d Information and education**

##### **Art. 4.10d Information and education**

1. In all cases where work is done where employees are or can be exposed to dangerous goods, information and education is given in accordance with Article 8 of the Act, where attention is paid at least to:
  - a. the possible risks to the safety and the health related to working with dangerous goods on the basis of the results of the assessment, as referred to in Article 4.2;
  - b. the nature of the exposure, as referred to in Article 4.2, first paragraph;
  - c. the limit values;
  - d. the preventive measures to be taken to prevent exposure or to reduce it to the lowest possible level;
  - e. the preventive measures to be taken to prevent as much as possible that an unwanted event occurs with regard to dangerous goods;
  - f. the hygienic measures;
  - g. the wearing and using of personal protective devices;
  - h. the measures to be taken when an unwanted event occurs with dangerous goods.
2. The employer notifies the employees of the information on the safety and health which has been provided by the supplier of a dangerous good, including the mandatory information which is provided by or pursuant to legal requirements.
3. The manner of information and education is geared at the results of the assessment, as referred to in Article 4.2.
4. The information and the education are updated when changed circumstances induce so.

## Section 02 Additional requirements carcinogenic or mutagenic substances and carcinogenic

[onderdeel]

### § 1 Definitions and applicability

[onderdeel]

#### Art. 04.11 Definitions

#### Art. 4.11 Definitions

In this section and the provisions based on it, the following terms shall have the following meanings:

- a. *Directive*: Directive no. 2004/37/EC of the European Parliament and the Council of 29 April 2004 regarding the protection of the employees against the risks of exposure to carcinogenic or mutagenic agents at work (sixth special Directive within the meaning of Article 16, paragraph 1, of Directive 89/391/EEC of the Council)(codified version) (Pb EU L 158);
- b. *carcinogenic substance*:
  - 1. a single substance which must be classified as a category 1 or 2 carcinogen according to the criteria of Annex VI to Directive no. 67/548/EEC of the Council of the European Communities of 27 June 1967 regarding the mutual adaptation of the legal and administrative provisions as regards the classification, the packaging and the properties of dangerous goods (PbEG 196), as well as a substance as referred to in Annex I to the Directive;
  - 2. a multiple substance which consists of one or more substances as referred to under 1°, where the concentration limit has been laid down in Annex I to Directive no. 67/548/EEC of the Council of the European Communities of 27 June 1967 regarding the mutual adaptation of the legal and administrative provisions as regards the classification, the packaging and the properties of dangerous goods (PbEG 196) and, insofar as it concerns a substance which has not been included in the Annex as last referred to or has been included without concentration limit, a substance where the concentration limit has been laid down in Annex II, part B, to Directive no. 1999/45/EC of the European Parliament and the Council of the European Union of 31 May 1999 regarding the mutual adaptation of the legal and administrative provisions of the member states as regards the classification, the packaging and the properties of dangerous preparations (PbEG L 200) as well as a multiple substance as referred to in Annex I to the Directive;
- c. *carcinogenic process*:
  - 1. a process as referred to in Annex I to the Directive as well as a substance released at a process as referred to in Annex I to the Directive;
  - 2. a process to be designated by Ministerial Regulation where multiple substances are released which are classified in one of the categories mentioned in item b, under 1°, to which apply no concentration limits for the separate substances.

d. *mutagenic substance*:

1. a single substance which must be classified as a category 1 or 2 mutagen according to the criteria of Annex VI to Directive no. 67/548/EEC of the Council of the European Economic Community of 27 June 1967 regarding the mutual adaptation of the legal and administrative provisions as regards the classification, the packaging and the properties of dangerous goods (PbEG L 196);
2. a multiple substance which consists of one or more substances as referred to under 1°, where the concentration limit has been laid down in Annex I to Directive no. 67/548/EEC of the Council of the European Economic Community of 27 June 1967 regarding the mutual adaptation of the legal and administrative provisions as regards the classification, the packaging and the properties of dangerous goods (PbEG L 196) and, insofar as it concerns a substance which has not been included in the Annex last referred to or has been included without concentration limit, a substance where the concentration limit has been laid down in Annex II, part B, to Directive no. 1999/45/EC of the European Parliament and the Council of the European Union of 31 May 1999 regarding the mutual adaptation of the legal and administrative provisions of the member states as regards the classification, the packaging and the properties of dangerous preparations (PbEG L 200);

- e. *danger zone*: location within a business or institution where employees are or can be exposed to mutagenic or carcinogenic substances, or substances which are released at carcinogenic processes.

#### **Art. 04.12 Chain provision**

##### **Art. 4.12 Chain provision**

In all cases in which work is done where employees are or can be exposed to carcinogenic or mutagenic substances or to substances which are released at carcinogenic processes, besides section 1 of this chapter, with due regard for Article 4.1a, first paragraph, this section is also applicable.

## **§ 2 Written assessment and registration of information**

[onderdeel]

#### **Art. 04.13 More detailed requirements risk inventory and evaluation of risks**

##### **Art. 4.13 More detailed requirements risk inventory and evaluation of risks**

In all cases in which work is done where employees are or can be exposed to carcinogenic or mutagenic substances or to substances which are released at carcinogenic processes, the following information as regards these substances or processes is in any case included in the risk inventory and evaluation of risks, as referred to in Article 5 of the Act and in addition to Article 4.2:

- a. the reason why the use of a carcinogenic substance or the application of a carcinogenic process is strictly necessary for the performance of the work and replacement is technically not executable;
- b. the amount of the carcinogenic or mutagenic substance which is usually annually produced or used or is usually available in connection with the storage respectively the frequency with which a process is usually annually applied;

- c. the kind of work which is usually done with the carcinogenic or mutagenic substance or where the carcinogenic process is usually applied;
- d. the number of employees which usually is or can be exposed to a carcinogenic or mutagenic substance or a carcinogenic process;
- e. the preventive measures which have been taken to prevent or minimize the exposure of employees to carcinogenic or mutagenic substances or to substances which are released at carcinogenic processes;
- f. the personal protective devices which are used at work where employees are or can be exposed to carcinogenic or mutagenic substances or to substances which are released at carcinogenic processes;
- g. the cases in which carcinogenic or mutagenic substances or carcinogenic processes are replaced by substances or processes where the employees are not or less exposed to danger to their safety or health.

#### **Art. 04.14 (Cancelled)**

(Cancelled)

#### **Art. 04.15 List of employees**

##### **Art. 4.15 List of employees**

1. A list is kept of employees which are or can be exposed to carcinogenic or mutagenic substances or substances which are released at a carcinogenic process, while mentioning the exposure they have been subjected to.
2. Every employee is entitled to inspect the information with regard to himself which has been included in the list, as referred to in the first paragraph.

### **§ 3 Limit values and prevention or reduction of exposure**

[onderdeel]

#### **Art. 04.16 Limit values**

##### **Art. 4.16 Limit values**

1. Limit values are established by Ministerial Regulation as regards the carcinogenic or mutagenic substances designated in that Regulation or substances which are released at a carcinogenic process.
2. If no legal limit value for a specific carcinogenic or mutagenic substance or substance which is released at a carcinogenic process has been established, the employer establishes a limit value for that substance which is as low as possible.
3. When a limit value is exceeded, effective measures are immediately taken, with due regard for the Articles 4.17 and 4.18, to reduce the concentration till a value under that limit value.
4. As long as the measures, as referred to in the third paragraph, have not yet been implemented entirely or do not lead to an effective protection, the work is only continued when effective measures

have been taken to prevent damage to the health of the employees, or to reduce the level of exposure to the lowest possible level under the limit value.

#### **Art. 04.17 Prevention of exposure; replacement**

##### **Art. 4.17 Prevention of exposure; replacement**

Such technical and organizational measures have been taken that the chance of exposure of employees to carcinogenic or mutagenic substances or substances which are released at carcinogenic processes are as much as possible prevented at its source, in particular by replacing carcinogenic or mutagenic substances and carcinogenic processes, insofar as this is technically executable, by substances or processes where the employees, considering the properties of those substances or processes, the nature of the work, the working methods and the working conditions, are not or less exposed to danger to their safety or health.

#### **Art. 04.18 Prevention or reduction of exposure**

##### **Art. 4.18 Prevention or reduction of exposure**

1. Insofar as it appears from the results of the assessment, as referred to in Article 4.2, first paragraph, that there is danger to the health of the employees and that prevention of exposure in an efficient manner by taking measures as referred to in Article 4.17 is technically not feasible, the exposure, insofar as this is technically feasible, is prevented at the source or reduced to a level under the limit value which is as low as possible, in particular by letting the production and the use of carcinogenic or mutagenic substances or carcinogenic processes take place in an enclosed system.
2. If the prevention of exposure or the reduction of exposure to a level under the limit value which is at low as possible is technically not feasible, collective measures are taken to remove carcinogenic or mutagenic substances or substances which are released at carcinogenic processes at the source in an effective manner, among others by local discharge of the air, if necessary supplemented by general ventilation, where, with due regard for Article 4.5, at the same time sufficient supply of non-polluted air has been guaranteed without endangering the public health and the environment.
3. If it is technically not feasible to prevent the exposure of employees or to reduce it to a level under the limit value which is at low as possible by means of the measures, as referred to in the second paragraph, personal protective devices are put at the disposal of the employees who are or can be exposed.
4. If the activities are performed by means of personal protective devices in accordance with the third paragraph, the period during which it is worn is reduced for any of these employees to a strictly necessary period.

#### **Art. 04.19 Reduction of exposure**

##### **Art. 4.19 Reduction of exposure**

In all cases in which work is done where employees are or can be exposed to carcinogenic or mutagenic substances or substances released at carcinogenic processes, the following measures are taken in addition to Article 4.1c and Article 4.18, to prevent exposure of employees or to reduce it to a level under the limit value which is as low as possible:

- a. the employees are sufficiently familiar with the nature of their activities and they have sufficient knowledge of the dangers related to the exposure and of the provisions which have been or must be made by them to prevent or reduce those dangers;

- b. it is prevented that danger zones are entered by others than the employees or other persons who must enter the zones in connection with their work;
- c. danger zones are marked by means of warning and safety signals which comply with the provisions of or pursuant to section 2 of Chapter 8;
- d. effective devices are used for the safe storage, handling and transport of carcinogenic or mutagenic substances, where hermetically sealed and clearly visibly marked containers are used as much as possible, and
- e. effective devices are used for the safe collection, storage and removal of waste substances, where hermetically sealed and clearly visibly marked containers are used as much as possible.

#### **Art. 04.20 Hygienic protective measures**

##### **Art. 4.20 Hygienic protective measures**

1. Zones have been arranged where the employees can eat and drink without danger to exposure.
2. Effective work clothing is put at the disposal of employees who are or can be exposed to mutagenic or carcinogenic substances or substances released at carcinogenic processes, which complies with section 1 of Chapter 8 and which is always worn by the employees during work.
3. In addition to Article 3.22, the work clothing is stored at another location than the other clothing.
4. In addition to Article 3.23, efficient bathroom facilities and shower rooms are available for the employees.
5. Personal protective devices are stored according to the instructions on the appropriate location and are cleaned after each use and checked before each use.

#### **Art. 04.21 Irregular exposure level**

##### **Art. 4.21 Irregular exposure level**

If an irregular increase in the level of exposure, as referred to in Article 4.2, third paragraph, occurs, the works council or the staff representations or, in absence thereof, the interested employees, are immediately notified of the causes of the increase and of the measures which have been or are taken to eliminate the causes and to prevent or reduce exposure as much as possible.

## **§ 4 Occupational health examination**

[onderdeel]

#### **Art. 04.22 (Cancelled)**

(Cancelled)

#### **Art. 04.23 Performance and contents of examination**

##### **Art. 4.23 Performance and contents of examination**

1. The occupational health examination, as referred to in Article 4.10a, takes place with due regard for the practical recommendations, included in Annex II to the Directive.

2. The expert person, as referred to in Article 2.14a, second paragraph, or the safety, health and welfare service is entitled to inspect the list of exposed employees as referred to in Article 4.15. Furthermore, he disposes of all information which he needs to be able to assess the exposure of the employees to carcinogenic or mutagenic substances and substances released at carcinogenic processes and to be able to advice on the periodicity and contents of the occupational health examination, as referred to in the first paragraph, the preventive measures or personal protective measures to be taken.

#### **Art. 04.24 (Cancelled)**

(Cancelled)

### **Section 03 (Cancelled)**

(Cancelled)

### **Section 04 (Cancelled)**

(Cancelled)

## **Section 05 Additional requirements asbestos**

### **[onderdeel]**

#### **§ 1 Definitions and applicability**

### **[onderdeel]**

#### **Art. 04.37 Definition asbestos**

#### **Art. 4.37 Definition asbestos**

In this section and the provisions based on it, the following terms shall have the following meanings:

- a. asbestos: substances which contain one or more of the following fibrous silicates:
  1. actinolite (CAS-number 77536-66-4);
  2. amosite (CAS-number 12172-73-5);
  3. anthophyllite (CAS-number 77536-67-5);
  4. chrysotile (CAS-number 12001-29-5);
  5. tremolite (CAS-number 77536-68-6);
  6. crocidolite (CAS-number 12001-28-4);
- products containing asbestos: products which contain one or more of the fibrous silicates mentioned under a;
- fibre: a particle which is longer than 5 micrometer, has a width of less than 3 micrometer and a length/width ratio of more than 3/1;

- object: construction, installation, apparatus or means of transport, not being a building.

#### **Art. 04.37a Chain provision**

##### **Art. 4.37a Chain provision**

If work is done where employees are or can be exposed to asbestos or products containing asbestos, besides the sections 1 and 2 of this chapter, with due regard for the Articles 4.37b and 4.37c, this section is also applicable.

#### **Art. 04.37b Chain provision**

##### **Art. 4.37b Deviating provisions**

1. Contrary to Article 4.15, Article 4.53 is applied.
2. Contrary to Article 4.16, the Articles 4.46 and 4.47a are applied.
3. Contrary to Article 4.19, items d and e, Article 4.45, second paragraph, items c and d is applied.
4. Contrary to Article 4.20, fifth paragraph, Article 4.51, third paragraph, is applied.

#### **Art. 04.37c Applicability**

##### **Art. 4.37c Applicability**

This section is applicable to activities regarding asbestos or products containing asbestos if the concentration of asbestos is higher than one hundred milligrams per kilogram dry substance as referred to in Article 2, item b, of the Asbestos Products Decree.

## **§ 2 (Cancelled)**

### **[onderdeel]**

(Cancelled)

#### **Art. 04.38-04.42 (Cancelled)**

(Cancelled)

## **§ 3 Requirements for working with asbestos and products containing asbestos**

### **[onderdeel]**

#### **Art. 04.43 (Cancelled)**

#### **Art. 04.44 Risk class 1**

##### **Art. 4.44 Risk class 1**

This paragraph is applicable, if it appears from the assessment, as referred to in Article 4.2, first paragraph, that the concentration of asbestos dust in the air, to which employees are exposed in connection with the work, is lower than or equal to the limit value, as referred to in Article 4.46.

#### **Art. 04.45 Preventive measures**

##### **Art. 4.45 Preventive measures**



1. The concentration of asbestos dust in the air is kept as low as possible under the limit value, as referred to in Article 4.46.
2. In order to comply with the first paragraph, the following measures are taken:
  - a. the working methods have been arranged such that no asbestos dust is produced or when that is technically not possible, that no asbestos dust is released in the air;
  - b. buildings, installations and equipments which serve for the application or the processing of asbestos or of products containing asbestos, are effectively and regularly cleaned and maintained;
  - c. asbestos, a product containing asbestos and a product which releases asbestos dust are stored and carried in an appropriate and closed packaging;
  - d. waste substances, arisen due to the application or processing of asbestos or of products containing asbestos, are as soon as possible collected and removed in an appropriate and closed packaging, provided with a label with the clear and properly legible mention that its contents contain asbestos.
3. Article 4.20, fourth paragraph, insofar as it regards the availability of showers, is not applicable if the concentration of asbestos dust in the air has been classified in risk class 1.

#### **Art. 04.45a Information**

##### **Art. 4.45a Information**

Effective information is given to employees who are working where there is danger of exposure to asbestos dust about:

- a. possible risks to the health of exposure to asbestos dust;
- b. the necessity of the supervision over the content of asbestos in the air and the applicable limit values;
- c. the measures regarding the hygiene, as referred to in Article 4.51;
- d. measures to keep the exposure to asbestos dust as low as possible;
- e. the correct use of personal protective devices and clothing.

#### **Art. 04.45b Education**

##### **Art. 4.45b Education**

1. An appropriate education is arranged with regular intervals for all employees who carry out activities where they are or can be exposed to asbestos dust.
2. This education focuses on the level of knowledge and the experience of the employees and provides them with the necessary knowledge and skills regarding safety and prevention, in particular as regards:

- a. properties of asbestos and the effect of asbestos on the health, including the synergic effect of smoking;
- b. types of products and materials which can contain asbestos;
- c. actions which may lead to exposure to asbestos and the importance of preventive checks to minimize exposure;
- d. safe working methods, checks and protective devices;
- e. the choice and selection, the restrictions and the correct use of breathing apparatus;
- f. emergency procedures;
- g. decontamination processes;
- h. the manner in which the removal of waste substances can be carried out safely;
- i. the requirements as regards medical supervision.

#### **Art. 04.46 Limit value**

##### **Art. 4.46 Limit value**

The concentration of asbestos dust in the air does not exceed the limit value of 0.01 fibre per cubical centimeter, calculated over a reference period of eight hours.

#### **Art. 04.47 Measuring and sampling**

##### **Art. 4.47 Measuring and sampling**

1. In order to be able to guarantee the observance of the limit value, as referred to in Article 4.46, the concentration of asbestos dust in the air to which the employees in connection with the work are exposed, is measured within the framework of the risk assessment, as referred to in Article 4.2.
2. Measuring takes place on a regular basis, depending on the result of the first risk assessment, as referred to in Article 4.2.
3. The measurement is carried out in accordance with a method to be established by Ministerial Regulation or another method, if this gives equivalent results.
4. The works council or the staff representation or, in absence thereof, the interested employees are enabled to give their opinion on the manner of sampling.
5. The sampling is representative for the individual exposure of the employees to asbestos dust.

6. The sampling is carried out such that the exposure of employees to asbestos dust can be established by measurement, or by calculation of this measurement, weighted in time, which is representative for a reference period of 8 hours.
7. The sampling is carried out by a person who has the required expertise.
8. The sample analysis to be carried out after the sampling, is carried out in a laboratory which has been adequately equipped to that end and which has experience with the required identification techniques.
9. The works council or the staff representation or, in case of absence thereof, the interested employees, can inspect the results of the measurements and can get an explanation about the meaning of these results.

#### **Art. 04.47a Measures in case of exceeding the limit value**

##### **Art. 4.47a Measures in case of exceeding the limit value**

1. In case of exceeding of the limit value, as referred to in Article 4.46, the causes for the exceeding are detected and effective measures are taken as soon as possible to reduce the concentration under that value.
2. The works council or the staff representation or, in absence thereof, the interested employees are informed as soon as possible of the exceeding, of its cause and the measures to be taken. Besides, they are enabled to give their opinion on the measures, as referred to in the first paragraph, unless there are urgent reasons to take these measures without offering this opportunity. In that case, they are informed about the taken measures.
3. As long as the measures to reduce the concentration, as referred to in the first paragraph, have not yet been fully implemented, the work on the relevant workplace is only continued when the employees involved have been effectively protected against exposure to asbestos dust.
4. When in the situation, as referred to in the third paragraph, the exposure cannot be reduced with other means and the limit value requires the wearing of individual breathing apparatus, the period during which it must be worn is reduced for every employee to the period which is strictly necessary.
5. When the individual breathing apparatus is used, breaks are provided for.
6. The number of breaks, as referred to in the fifth paragraph, and its duration is determined by the physical and climatic load under which the employee must carry out the activities.
7. In case of absence of a works council or a staff representation, the breaks, as referred to in the fifth paragraph, are, if necessary, established in consultation with the interested employees.
8. After the measures, as referred to in the first paragraph, have been taken, the concentration of asbestos dust in the air is measured in accordance with Article 4.47 and the classification into a risk class as referred to in the Articles 4.44, 4.48 or 4.53a is determined again.

9. If it appears from the measurement, as referred to in the eighth paragraph, that the concentration has been classified in a higher risk class, paragraph 4 or 5 of this section is also applicable.

#### **Art. 04.47b Visual inspection**

##### **Art. 4.47b Visual inspection**

1. After activities with asbestos, before other activities are started, a final assessment is performed on the relevant workplace.
2. The final assessment, as referred to in the first paragraph, concerns a visual inspection where has been established that the presence of asbestos is no longer visually perceptible.

#### **Art. 04.47c Notification**

##### **Art. 4.47c Notification**

1. Before the activities start, the employer notifies a supervisor who has been appointed to that end in writing. This notification contains at least a brief description of:
  - a. the location where the activities are carried out;
  - b. the types and amounts of products containing asbestos;
  - c. the activities which are carried out with asbestos or products containing asbestos, the working methods as well as the classification of the concentration of asbestos dust in the air into a risk class;
  - d. the number of employees involved;
  - e. the date and the time on which the activities start, as well as its duration;
  - f. the measures which will be taken to reduce exposure of employees to asbestos.
2. Every time a change in the working conditions can lead to a considerable increase of the exposure to asbestos dust or products containing asbestos, a new notification will take place.
3. The information notified on the basis of the first and second paragraphs can be inspected by the works council or the staff representation or, in absence thereof, by the interested employees.
4. Article 4.54b, with the exception of item a, is equally binding.

## **§ 4 Additional requirements for working with asbestos and products containing asbestos**

[onderdeel]

#### **Art. 04.48 Additional requirements for working with asbestos and products containing asbestos**

##### **Art. 4.48 Risk class 2**

If it appears from the assessment, as referred to in Article 4.2, first paragraph, that the concentration of asbestos dust in the air, to which employees in connection with the work are exposed, is higher than the limit value, as referred to in Article 4.46, but lower than or equal to 1 fibre per cubical centimeter, departing from a reference period of eight hours, this paragraph is also applicable in addition to paragraph 3.

#### **Art. 04.48a Additional measures**

##### **Art. 4.48a Additional measures**

1. If, having regard to the nature of the activities, exceeding of the limit value, as referred to in Article 4.46, can be expected despite preventive technical measures for reducing the concentration of asbestos in the air, the employer takes effective measures for the protection of the employees involved.
2. To the measures, as referred to in the first paragraph, belong anyway:
  - a. the making available and the obliging to wear appropriate breathing apparatus and other personal protective devices;
  - b. the arrangement of warning notices which comply with the provisions of or pursuant to section 2 of Chapter 8, which indicate that exceeding of the limit value mentioned in Article 4.46 can be expected;
  - c. the prevention of the spreading of dust from asbestos or materials containing asbestos outside the spaces where the activities take place.
3. The works council or the staff representation or, in absence thereof, the interested employees are enabled to give their opinion on the measures, as referred to in the first paragraph.
4. Before the other activities are started, the available asbestos or the available products containing asbestos is respectively are removed, except when this would constitute a greater risk to the safety and health for the employees.

#### **Art. 04.49 (Cancelled)**

(Cancelled)

#### **Art. 04.50 Work plan**

##### **Art. 4.50 Work plan**

1. Before the activities are started, the employer of the business, as referred to in Article 4.54d, first paragraph, draws up a written work plan which contains effective measures for the protection of the safety and the health of the employees involved, which are concentrated on the specific situation of the relevant workplace.
2. If an inventory report as referred to in Article 4.54a, third paragraph, has been drawn up, the results of that report are incorporated in the work plan.
3. In the work plan is prescribed that the employer of the business, as referred to in Article 4.54d, first paragraph, makes certain that there are no longer risks of exposure to asbestos or products containing asbestos after the final assessment, as referred to in Article 4.51a.

4. The work plan contains the following information:
  - a. a description of the measures, as referred to in the Articles 4.1c, first paragraph, heading and items d and g, 4.7, third paragraph, items b, c and e, 4.18, 4.19, heading and items b and c, 4.20, first through fourth paragraphs, 4.45, first and second paragraphs, items a, b, and d, 4.48a, second and fourth paragraphs, and 4.51.
  - b. a description of the nature, duration and location of the activities as well as the working method;
  - c. a description of the gear, machines, apparatus and other auxiliaries which are used during the activities;
  - d. the names of the employees and persons, as referred to in Article 4.54d, fifth and seventh paragraphs.
5. The activities are carried out in accordance with the drawn-up work plan.
6. The work plan or a copy of it, is available on the workplace and is shown upon request to the supervisor.

#### **Art. 04.51 Hygienic protective measures**

##### **Art. 4.51 Hygienic protective measures**

1. The work clothing may only be brought outside the business or the institution if this happens for the purpose of cleaning it in adequately equipped laundries.
2. In cases as referred to in the first paragraph, the work clothing is carried in an appropriate and closed packaging.
3. When protective equipment is supplied, this is kept at a location appointed to that end and checked and cleaned after each use. Defect equipment may not be used.

#### **Art. 04.51a Final assessment**

##### **Art. 4.51a Final assessment**

1. After the activities and after cleaning of the workplace and before other activities are started, a final assessment is carried out on the relevant workplace in an internal space, where the sampling is carried out by a person as referred to in Article 4.47, seventh paragraph, and the sample analysis by a laboratory as referred to in Article 4.47, eighth paragraph.
2. The final assessment, as referred to in the first paragraph, concerns a visual inspection followed by a final measurement, in order to establish whether the concentration of asbestos dust in the air is lower than 0.01 fibre per cubical centimeter, departing from a reference period of two hours.
3. After the activities and after cleaning of the workplace and before other activities are started, a visual inspection is carried out on the relevant workplace in the open air by a business which has been

adequately equipped to that end, where has been established that the presence of asbestos is no longer visually observable.

4. If the activities in the open air are related to soil containing asbestos, a visual inspection on the presence of asbestos is carried out after the end of those activities by a business which has been adequately equipped to that end, in order to establish that the concentration of asbestos is not higher than one hundred milligrams per kilogram dry substance as referred to in Article 2, item b, of the Asbestos Products Decree.
5. By Ministerial Regulation, more detailed rules can be laid down as regards the sampling, as referred to in the first paragraph, the final measurement, as referred to in the second paragraph, and the visual inspection, as referred to in the second, third and fourth paragraphs.

#### **Art. 04.52 Occupational health examination**

##### **Art. 4.52 Occupational health examination**

1. As long as the exposure to asbestos dust takes, in addition to Article 4.10a, third paragraph, the employees involved are enabled again at least once every three years to be subjected to an occupational health examination as referred to in Article 4.10a.
2. The occupational health examination, as referred to in Article 4.10a, contains in any case a specific examination of the thorax.
3. If the result of the occupational health examination, as referred to in Article 4.10a, requires so, effective measures are taken to prevent damage to the health of the employee involved by exposure to asbestos dust.
4. In addition to Article 4.10a, fourth paragraph, an expert person, as referred to in Article 2.14a, second paragraph, or the safety, health and welfare service can declare that the medical supervision after the end of the exposure must be continued as long as considered necessary for the health of the person involved.

#### **Art. 04.53 Registration**

##### **Art. 4.53 Registration**

1. Every employee who is exposed to asbestos dust in connection with the work is recorded in a register, where the nature and the duration of the work as well as the extent of the exposure are mentioned.
2. The information mentioned in the register can be inspected by the expert person, as referred to in Article 2.14a, second paragraph, or the safety, health and welfare service.
3. Every employee can inspect his personal data in the register.
4. The data in the register, provided with an explanation, in a statistical form which is not reducible to individuals, can be inspected by the works council or the staff representation or, in absence thereof, by the interested employees.

## **§ 5 Certification**

[onderdeel]

### **Art. 04.53a Risk class 3**

#### **Art. 4.53a Risk class 3**

If it appears from the assessment, as referred to in Article 4.2, first paragraph, that the concentration of asbestos dust in the air to which employees in connection with the work are exposed, is higher than 1 fibre per cubical centimeter, departing from a reference period of eight hours, this paragraph is also applicable in addition to the paragraphs 3 and 4.

### **Art. 04.54 Aggravated final assessment**

#### **Art. 4.54 Aggravated final assessment**

In addition to Article 4.51a, first and second paragraphs, a final assessment is also carried out in the spaces adjacent to the workplace. Article 4.51a, first and second paragraphs, is equally binding.

### **Art. 04.54a Asbestos inventory**

#### **Art. 4.54a Asbestos inventory**

1. Within the framework of the assessment, as referred to in Article 4.2, the availability of asbestos or products containing asbestos is completely listed before is started with the following activities:
  - a. the entirely or partly demolishing or dislodgement of buildings, with the exception of earthworks, or objects in which asbestos or products containing asbestos is respectively are processed;
  - b. the removal of asbestos or products containing asbestos from the buildings or objects, as referred to in item a;
  - c. the clearance of asbestos or products containing asbestos which are released due to an incident.
2. On the basis of the inventory, as referred to in the first paragraph, is determined within the framework of the risk assessment, as referred to in Article 4.2, by the business, as referred to in the fourth paragraph, in which risk class as referred to in the Articles 4.44, 4.48 or 4.53a the activities are classified.
3. The results of the inventory, as referred to in the first paragraph, and the classification in a risk class, as referred to in the second paragraph, are incorporated in an inventory report.
4. The inventory, as referred to in the first paragraph, and the inventory report, as referred to in the third paragraph, are carried out, respectively drawn up, by a business which is in possession of a certificate asbestos inventory which has been issued by Our Minister or a certifying institute.
5. A copy of the inventory report is given to the business which removes asbestos.



6. the certificate asbestos inventory or a copy of it, is available on the workplace and is shown upon request to an official as referred to in Article 24 of the Act.

#### **Art. 04.54b Exceptions asbestos inventory**

##### **Art. 4.54b Exceptions asbestos inventory**

Art. 4.54a is not applicable if the activities, as referred to in Article 4.54a, first paragraph, relate to:

- a. actions which are carried out in or at buildings or objects which have been produced on or after 1 January 1994;
- b. the entire or partial removal of water pipes, gas pipes, sewers and cable pipes or parts of it, which contain asbestos cement, insofar as they are part of the underground public gas, water and sewer system;
- c. the entire or partial removal of brake and friction material containing asbestos;
- d. the entire or partial removal of clamped floor plates containing asbestos under heaters;
- e. the removal as a whole of heaters containing asbestos;
- f. the entire or partial removal of glazing kit containing asbestos which has been used in the construction of greenhouses;
- g. the entire or partial removal of gaskets containing asbestos from combustion engines;
- h. the entire or partial removal of gaskets containing asbestos or parts of it from process installations or heaters with a nominal power under 2250 kilowatt;
- i. the entire or partial removal of asbestos or products containing asbestos from roads as referred to in the Asbestos Roads Environmental Management Decree.

#### **Art. 04.54c (Cancelled)**

(Cancelled)

#### **Art. 04.54d Expertise for working with asbestos**

##### **Art. 4.54d Expertise for working with asbestos**

1. When the concentration of asbestos dust has been classified in risk class 2 or 3, the following activities are carried out by a business which is in possession of a certificate asbestos removal, which has been issued by Our Minister or a certifying institute:
  - a. the activities, as referred to in Article 4.54a, first paragraph;
  - b. the cleaning of the workplace after an action as referred to in Article 4.54a, first paragraph, item a of b, has been carried out.
2. Article 4.54b, with the exception of item a, is equally binding.

3. Before the removal of asbestos is started, the business, as referred to in Article 4.54a, fifth paragraph, is in possession of a copy of an inventory report as referred to in Article 4.54a, third paragraph, as applicable.
4. During the performance of the activities, as referred to in the first paragraph, the classification of the risk class in the inventory report is used as lower limit, within the framework of the risk assessment, as referred to in Article 4.2.
5. The activities, as referred to in the first paragraph, are carried out by or under continuous supervision of a person who is in possession of a certificate of professional competence for the supervision over working with asbestos, which has been issued by Our Minister or a certifying institute.
6. In a business as referred to in the first paragraph, at least one person as referred to in the fifth paragraph is working on the basis of an employment contract.
7. Insofar as the activities, as referred to in the first paragraph, are also carried out by another person than the person, as referred to in the fifth paragraph, this other person is in possession of a certificate of professional competence for removing asbestos, which has been issued by Our Minister or a certifying institute.
8. If the actions, as referred to in Article 5, items e and f, of the Asbestos Products Decree relate to activities with soil containing asbestos, these activities are supervised by a person who is in possession of a certificate of professional competence occupational hygiene or safety knowledge as referred to in Article 2.7, second paragraph.
9. The certificates, as referred to in the first, fifth and seventh paragraphs, or copies of them and a copy of the inventory report, as referred to in Article 4.54a, third paragraph, are available at the workplace and are shown upon request to the supervisor.

## **§ 6 Special provisions regarding crocidolite and products containing crocidolite**

**[onderdeel]**

### **Art. 04.55-04.56 (Cancelled)**

(Cancelled)

## **§ 7 Special provisions regarding information and education**

**[onderdeel]**

### **Art. 04.57 (Cancelled)**

(Cancelled)

## Section 06 Specific substances which are harmful to the health

### [onderdeel]

#### **Art. 04.58 Propanesultone prohibition**

##### **Art. 4.58 Propanesultone prohibition**

1. It is prohibited to produce or use propanesultone (CAS-number 1120-71-4).
2. It is prohibited to stock propanesultone, other than for the benefit of transit.

#### **Art. 04.59 Specific substances prohibition**

##### **Art. 4.59 Specific substances prohibition**

1. It is prohibited to produce or use the following substances:
  - a. 2-naphthylamine and its salts (CAS-number 91-59-8);
  - b. 4-aminodiphenyl and its salts (CAS-number 92-67-1);
  - c. benzidine and its salts (CAS-number 92-87-5);
  - d. 4-nitrodiphenyl (CAS-number 92-93-3).
2. It is prohibited to stock the substances mentioned in the first paragraph, other than for the benefit of transit.
3. The prohibitions contained in the first and second paragraphs are not applicable, if the substances are present in a mixture or solution in a concentration under 0.1 weight percent.

#### **Art. 04.60 Sandstone prohibition**

##### **Art. 4.60 Sandstone prohibition**

1. It is prohibited to tool or process sandstone.
2. The first paragraph is not applicable:
  - a. to the tooling or processing of sandstone if this is necessary for the preservation of monuments as referred to in the Monuments and Historic Buildings Act 1988;
  - b. to the dismantling of sandstone or sandstone parts from buildings, constructions or installations, and
  - c. to the performance of scientific research of sandstone.
3. It is prohibited to stock sandstone.
4. The third paragraph is not applicable with regard to:

- a. the stocking of sandstone for the benefit of the activities as referred to in the second paragraph, under a;
- b. the transit of sandstone;
- c. objects, which entirely or partly consist of sandstone and which have been completely finished and which are ready to use.

## **Art. 04.61 Sandblast prohibition**

### **Art. 4.61 Sandblast prohibition**

1. In this Article is meant by:
  - a. blasting: hitting an object with granules at great speed in order to clean or tool that object, with the exception of those toolings where a layer of material is applied to the object;
  - b. desanding: the blasting of a casting in order to remove appending moulding sand.
2. It is prohibited to blast with a substance which contains more than 1% of quartz or another form of free crystalline silicon dioxide.
3. The desanding may only take place in closed appliances or spaces which are intended for that purpose.
4. The dust arisen from the desanding must be effectively exhausted, separated from the air flow and collected.
5. The air which has been exhausted during the desanding may not be exhausted to a space in which persons must stay.

## **Art. 04.61a Prohibition of benzene and chlorinated hydrocarbons**

### **Art. 4.61a Prohibition of benzene and chlorinated hydrocarbons**

1. The use of benzene or of a product of which the content of benzene is more than 1 volume percent as a solvent, cleaner or thinner is not allowed, unless it is used in a closed system or in another manner through which the protection against exposure is at least equal.
2. If benzene or another product as referred to in the first paragraph is used other than solvent, cleaner or thinner, this is as much as possible carried out in a closed system.
3. The first and the second paragraphs are equally binding as regards carbon tetrachloride, pentachloroethane and 1,1,2,2,-tetrachloroethane as well as with regard to a product of which the content of one of the above-mentioned substances is more than 1 volume percent.

## **Art. 04.61b White lead prohibition**

### **Art. 4.61b White lead prohibition**

1. It is prohibited to use white lead, lead sulphate or products which contain one of these substances as component, when painting the interior of buildings or vessels.
2. As substance within the meaning of the first paragraph is not considered the lead sulphate, which has been coprecipitated at the production of chromate yellow.
3. The prohibition, as referred to in the first paragraph, is not applicable to paints of which the pigment in the dry substance contains not more than 2 weight percents lead.

## **Art. 04.62 Applicability**

### **Art. 4.62 Applicability**

Insofar as the activities, as referred to in the Articles 4.59, first and second paragraphs, and 4.60, first and third paragraphs, and the use of benzene, as referred to in Article 4.61a, are allowed, section 2 of this chapter, with due regard for Article 4.12, is applicable.

## **Section 07 Volatile organic substances**

### **[onderdeel]**

### **Art. 04.62a Definition**

#### **Art. 4.62a Definition**

For the purpose of this section, 'volatile organic substances' mean: organic compounds and mixtures of it, which have a vapour pressure of at least 0.01 kPa at 293.15 K or a corresponding volatility under the specific operating conditions.

### **Art. 04.62b Prevention of exposure; replacement**

#### **Art. 4.62b Prevention of exposure; replacement**

As regards the activities designated by Ministerial Regulation, the danger of exposure of employees to volatile organic compounds is as much as possible prevented by replacing volatile organic compounds by harmless or less harmful substances or by replacing products which contain volatile organic compounds by products which have been designated as regards those activities by Ministerial Regulation.

### **Art. 04.63-04.81 (Cancelled)**

(Cancelled)

## **Section 08**

### **[onderdeel]**

### **Art. 04.82-04.83 (Cancelled)**

(Cancelled)

## Section 09 Biological agents

[onderdeel]

### § 1 Definitions and applicability

[onderdeel]

#### **Art. 04.84 Biological agents, cell cultures and micro-organisms**

##### **Art. 4.84 Biological agents, cell cultures and micro-organisms**

1. The sections 1 through 8 of this chapter are not applicable to biological agents.
2. In this section is meant by:
  - a. biological agents: micro-organisms which have been genetically modified or not, cell cultures and human endoparasites which can cause an infection, allergy or toxicity;
  - b. cell culture: the artificial breeding of cells of multicellular organisms;
  - c. micro-organism: a cellular or non-cellular microbiological entity with the power of propagation or of transfer of genetic material;
  - d. Directive: Directive no. 2000/54/EC of the European Parliament and the Council of the European Union of 18 September 2000 (Pb EG L 262) regarding the protection of the employees against the risks of exposure to biological agents at work (seventh special Directive within the meaning of Article 16, paragraph 1, of Directive no. 89/391/EEC).
3. For the purpose of this section, biological agents are distinguished in the following categories:
  - a. category 1: an agent of which it is unlikely that it can cause an illness for human beings;
  - b. category 2: an agent which can cause an illness with humans and can provide danger to the safety and the health of the employees, but of which it is unlikely that it will spread among the population, while there is normally an effective prophylaxis or treatment;
  - c. category 3: an agent which can cause a serious illness with humans and may provide a great danger to the safety and the health of the employees and of which there is a chance that it will spread among the population, while there is normally an effective prophylaxis or treatment;
  - d. category 4: an agent which causes a serious illness with humans and provides great danger to the safety and the health of the employees and of which it is very likely that it will spread among the population, while there is normally no effective prophylaxis or treatment.

4. In this section is departed from the category classification of biological agents as established in Annex III to the Directive.

## **§ 2 Risk inventory and evaluation of risks and effects category classification**

[onderdeel]

### **Art. 04.85 More detailed requirements risk inventory and evaluation of risks**

#### **Art. 4.85 More detailed requirements risk inventory and evaluation of risks**

1. If an employee is or can be exposed to one or more specific agents which occur or are expected to occur at his work, the nature, extent and the duration of the exposure are assessed within the framework of the risk inventory and evaluation of risks as referred to in Article 5 of the Act, in order to determine the danger for the employee. This assessment happens with due regard for:
  - a. the category or categories, in which the biological agents to which employees can be exposed, have been classified;
  - b. information about diseases which employees can contract or have already contracted as a result of exposure to biological agents;
  - c. possible allergic or intoxication effects which the employees experience or can experience as a result of exposure to biological agents;
  - d. the results of the occupational health examinations, as referred to in Article 4.91, as well as the diseases of which is known that an employee suffers from them and the drugs of which is known that they are used by an employee, all this in a statistical form which is not reducible to individuals;
  - e. the recommendations which have been provided by a competent body to keep the biological agent under control in order to protect the health of the employees when the employees are or can be exposed to such an agent as a result of their work.
2. If various biological agents are involved, the assessment, as referred to in the first paragraph, is based on the risk which those biological agents provide when they are combined.
3. The assessment, as referred to in the first paragraph, is regularly revised, in any case always when there is a change in the conditions which may affect the exposure of employees to biological agents.

### **Art. 04.86 Effects category classification**

#### **Art. 4.86 Effects category classification**

1. If the work focuses on working with biological agents belonging to category 2, 3 or 4, the Articles 4.87 through 4.102 are applicable.
2. If it appears from the results of the risk inventory and evaluation of risks, as referred to in Article 4.85, that there is a reasonable chance that employees are exposed to biological agents of category 2, 3 or 4 when doing other work than that, as referred to in the first paragraph, including the activities mentioned in Annex I to the Directive, the Articles 4.87, 4.87a, 4.87b, 4.89, 4.91, 4.93, 4.95, 4.97, 4.98, 4.99, second paragraph, and 4.102 are applicable.

3. In all cases, not as referred to in the first and second paragraphs, the greatest possible care, orderliness and cleanliness is exercised during the work and the necessary hygienic facilities are provided.

## **§ 3 Measures as regards the exposure**

[onderdeel]

### **Art. 04.87 Prevention of exposure; replacement**

#### **Art. 4.87 Prevention of exposure; replacement**

If the nature of the work allows it, harmful biological agents are replaced by biological agents which, in view of the state of the art and technology and the working conditions, are not or less dangerous to the safety or health of the employees.

### **Art. 04.87a Prevention or reduction of exposure**

#### **Art. 4.87a Prevention or reduction of exposure**

1. Insofar as it appears from the results of the assessment, as referred to in Article 4.85, that there is a risk to the safety or health of the employees and that it is not feasible, in connection with the nature of the work, to replace biological agents by biological agents which are not dangerous, such measures are taken, insofar as technically feasible, that the exposure of employees to biological agents is prevented and the risks are limited.
2. Insofar as the measures, as referred to in the first paragraph, are technically not feasible, exposure of employees to biological agents is reduced to such a low level as is necessary for an adequate protection of the safety and the health of the employees.
3. For the purpose of the second paragraph, at least the following measures are taken:
  - a. the chance of exposure is as much as possible reduced;
  - b. the number of employees which is in danger of being exposed to one or more biological agents is not greater than is strictly necessary for the performance of the work;
  - c. collective protective measures are taken and, when this gives not or no sufficient protection, personal protective devices are made available;
  - d. the greatest possible orderliness and neatness is observed during the work in order to prevent or the reduce the chance that one or more biological agents turn up outside the workplace;
  - e. biological agents are kept and carried such and waste substances are collected, stored and removed in such a manner, if necessary after appropriate treatment and marked with a proper notice, that the chance of exposure is prevented as much as possible and that is also prevented that they can attain in the hands of unauthorized persons;
  - f. if necessary and technically possible, an investigation is conducted into the presence of biological agents on the workplace, outside the first physical enclosure;
  - g. an effective written work instruction is available at the workplace for the employees, which at least includes the procedures to be observed at the work, including a regulation for the safe



handling and carriage of biological agents inside the business or the institution as well as an effective emergency plan for the case that accidents or incidents occur with biological agents.

#### **Art. 04.87b Measures for the prevention**

##### **Art. 4.87b Measures for the prevention or reduction of exposure to legionella bacteria at the putting and keeping into operation of an air humidification installation and a water installation**

1. At the putting and keeping into operation of:
  - a. an air humidification installation other than a steam humidifier;
  - b. a water installation which can put water in the form of aerosol in the air, not being a collective water supply as referred to in Article 1, first paragraph, under j, or a collective pipeline network as referred to in Article 1, first paragraph, under k, of the Water Supply Act; the measures, as referred to in Article 4.87a, first and second paragraphs, for the prevention or reduction of the exposure to legionella bacteria, are effective, if the water in these installations contains less than 100 colony forming units legionella bacteria per litre.
2. The taking and analysing of samples for the verification of the presence of legionella bacteria happens in accordance with a suitable normalized method.
3. This Article is not applicable to cooling columns.

#### **Art. 04.88 Safety signalling**

##### **Art. 4.88 Safety signalling**

The locations where is worked with biological agents are clearly beaconed and are marked with a safety signalling which complies with the provisions of or pursuant to section 2 of Chapter 8.

#### **Art. 04.89 Hygienic protective measures**

##### **Art. 4.89 Hygienic protective measures**

1. On locations with danger of exposure to biological agents is not smoked nor are food or drinks consumed there.
2. Work clothing which complies with section 1 of Chapter 8 is put at the disposal of the employees and is worn during work.
3. In addition to Article 3.23, adequate sanitary facilities are available for the employees including, insofar as necessary, showers, eye showers and skin antiseptics.
4. If personal protective devices are given to the employee, these are kept at a location which has been appointed to that end and cleaned after each use and checked before any use.
5. In addition to Article 3.22, the work clothing and other personal protective devices in which or on which biological agents are or can be, are taken off when leaving the workplace and stored on another location than the other clothing.

6. The work clothing and other personal protective devices, as referred to in the fifth paragraph, are disinfected, cleaned or, if necessary, destroyed.
7. The work clothing and other personal protective devices, as referred to in the fifth paragraph, are brought outside the business or institution in an appropriate and closed packaging and only for the purpose of having it cleaned, disinfected or destroyed.

#### **Art. 04.90 Registration**

##### **Art. 4.90 Registration**

1. In a register is kept which employees are or can be exposed to biological agents of categories 3 and 4.
2. In this register is also registered per employee which activities he has performed and, insofar as this can be determined, to which biological agent or which biological agents he has possibly been exposed as a result of these activities or as a result of an incident or accident.
3. The register as referred to in the first paragraph is kept at least ten years after the last exposure or possible exposure.
4. In case an employee has been exposed or has possibly been exposed to a biological agent which may result in infections which:
  - a. are known to be persistent or latent;
  - b. on the basis of the actual state of the art, according to the expectations, can only be recognized after many years;
  - c. have a long incubation period;
  - d. despite treatment, always come back, or
  - e. have long-term serious complications, when the register as referred to in the first paragraph is kept during a correspondingly longer period but not longer than forty years after the last exposure.
5. Every employee is entitled to inspect his own data from the register.
6. The register, mentioned in the first paragraph, is, upon request, available for inspection by the company doctor, as referred to in Article 14, first paragraph, heading, of the Act, or the safety, health and welfare service.

## **§ 4 Occupational health examination**

[onderdeel]

#### **Art. 04.91 Examination and vaccines**

##### **Art. 4.91 Examination and vaccines**

1. Every employee who has been or can be exposed to biological agents is, in addition to Article 18 of the Act, enabled to be subjected to an occupational health examination when the work starts.

2. Every employee who has contracted an infection or illness as a result of exposure to a biological agent, is, in addition to the first paragraph, prematurely enabled to be subjected to an occupational health examination.
3. Every employee who has been exposed to the same biological agent as a result of which another employee has contracted an infection or illness, is, in addition to the first paragraph, prematurely enabled to be subjected to an occupational health examination.
4. The occupational health examination takes place with due regard for the practical recommendations, included in Annex IV to the Directive.
5. If the result of the occupational health examination gives rise to that, effective measures are taken to prevent danger to the health of the employee involved by exposure to biological agents.
6. Insofar as possible, effective vaccines are put at the disposal of any employee who is not yet immune to the biological agents to which he has been or can be exposed. Attention is paid to Annex VII to the Directive then.
7. At the employer's request or of the employee involved, the examination as referred to in this Article is performed again. The result of the renewed examination replaces the previous one.
8. Every employee is entitled to inspect his own medical file.
9. The results of the occupational health examination as referred to in this Article are registered appropriately and kept at least ten years after the last exposure or possible exposure. In cases as referred to in Article 4.90, fourth paragraph, the results are kept during a correspondingly longer period but not longer than forty years.
10. Every employee is informed on the manner in which he will be enabled to be subjected to an occupational health examination after the exposure has ended.

## **§ 5 The works council**

**[onderdeel]**

### **Art. 04.92 Information in connection with accident or incident**

#### **Art. 4.92 Information in connection with accident or incident**

The works council or the staff representation or, in absence thereof, the interested employees is respectively are informed of any accident or incident which has occurred, has almost occurred or has possibly occurred with biological agents and which has resulted in the release, near-release or possible release of an agent or agents of category 2, 3 or 4. The causes of the accident or incident are also notified then, as well as the measures which have been taken or will be taken to rectify the effects and to prevent further accidents or incidents.

### **Art. 04.93 Other information**

#### **Art. 4.93 Other information**

1. If requested, the works council or the staff representation, or in absence thereof, the interested employees are informed about:
  - a. the manner in which the risk inventory and evaluation of risks, as referred to in Article 4.85, has been established and on its result;
  - b. the activities where the employees are or can be exposed to biological agents;
  - c. the number of employees which is or can be exposed to biological agents;
  - d. the name and the function of the person who is responsible for the safety and the health at work;
  - e. the taken preventive and protective measures, including the work instruction, as referred to in Article 4.87, fourth paragraph, the applied work processes and working methods.
- The works council or the staff representation or, in absence thereof, the interested employees, are entitled to inspect information as referred to in this Article, which has a statistical form and is not reducible to individuals.

## **§ 6 Supervision**

### **[onderdeel]**

#### **Art. 04.94 Notification**

##### **Art. 4.94 Notification**

1. At least 30 days before is worked with one or more biological agents of category 2, 3 or 4 for the first time, a written notification of this is sent to a supervisor who has been appointed to that end.
2. This notification contains at least the following information:
  - a. the name and the address of the employer;
  - b. the name and the function of the person who is responsible for the safety and the health at work;
  - c. the results of the risk inventory and evaluation of risks as referred to in Article 4.85;
  - d. the category or categories and type or types to which the biological agent or the biological agents belongs respectively belong;
  - e. the intended protective and preventive measures.
3. Having regard to the first paragraph, work with any subsequent biological agent of category 4 and, when this agent has temporarily been classified by the employer himself, work with any subsequent new biological agent of category 3 is also notified.
4. When only diagnostic work is done, contrary to the third paragraph, the supervisor as referred to in the first paragraph is only notified of this if this work is done for the first time.

5. The notification as referred to in this Article is repeated, when essential changes have occurred in the processes or procedures which can have effects on the safety and the health of the employees, as a result of which previous notifications have been superseded.

#### **Art. 04.95 Accidents or incidents**

##### **Art. 4.95 Accidents or incidents**

The supervisor or another body to be designated by Our Minister, is as soon as possible informed in writing of any accident or incident which has occurred and has led or has possibly led to the release of one or more biological agents of category 3 or 4 and which can cause contagion of employees by these agents.

#### **Art. 04.96 Transfer information**

##### **Art. 4.96 Transfer information**

When the employer ends the activities, the register as referred to in Article 4.90 and the results of the occupational health examination as referred to in Article 4.91, when they are kept by the employer, are transferred to a supervisor who has been appointed to that end.

### **§ 7 Special provisions**

[onderdeel]

**Special provisions in connection with other than microbiological diagnostic work in the health care and in the veterinary medicine**

#### **Art. 04.97-04.98 (...)**

(...)

### **§ 8 Special measures in laboratories, rooms for test animals and industrial processes**

[onderdeel]

#### **Art. 04.100**

##### **Art. 4.100**

1. When biological agents of the category 2, 3 or 4 are used in industrial processes, are, depending on the results of the risk inventory and evaluation of risks, as referred to in Article 4.85, and in compliance with Article 16, second paragraph, of the Directive, at least respectively the control levels 2, 3 and 4 of Annex VI to the Directive observed.

#### **Art. 04.101 (...)**

(...)

#### **Art. 04.99 Control level laboratories and spaces for laboratory animals**

##### **Art. 04.99 Control level laboratories and spaces for laboratory animals**

1. In laboratories and in spaces containing animal which have been deliberately infected with biological agents of category 2, 3 or 4 or animals which are or possibly could be carriers of biological agents of one of these categories, are, depending on the results of the risk inventory and evaluation of risks, as referred to in Article 4.85, and in compliance with Article 16, first paragraph, of the Directive, at least respectively the control levels 2, 3 and 4 of Annex V to the Directive observed.

2. If one works in the laboratories as referred to in the first paragraph with material while there is no certainty whether it contains biological agents of category 2, 3 or 4 and the work is not aimed at working with biological agents, is, in compliance with Article 16, first paragraph, of the Directive, at least control level 2 of Annex V to the Directive observed.

## **§ 9 Special provisions as regards information and education**

[onderdeel]

### **Art. 04.102 Information and education**

#### **Art. 4.102 Information and education**

1. In addition to Article 8 of the Act, information and education are given to employees who do work as referred to in Article 4.86, first and second paragraphs, where is paid attention to at least:
  - a. the possible dangers for the health which are related to working with biological agents;
  - b. the preventive measures to be taken in order to prevent exposure;
  - c. the action to be taken when an accident occurs with biological agents;
  - d. the existing hygienic requirements;
  - e. wearing and using of work clothing and personal protective devices.
2. The information and the education are updated when changed circumstances require so.

## **Section 10 Special sectors and special categories of employees**

[onderdeel]

### **§ 1 Transport**

[onderdeel]

#### **Art. 04.103 Exceptions for means of transport**

##### **Art. 4.103 Exceptions for means of transport**

Art. 4.54b, heading and item a, is not applicable to seagoing vessels.

### **§ 2 Young people**

[onderdeel]

#### **Art. 04.104 Chain provision**

##### **Art. 4.104 Chain provision**

In addition to the provisions of or pursuant to this chapter, the requirements and prohibitions mentioned in this paragraph are also applicable to young employees.

## **Art. 04.105 Work prohibitions for dangerous goods and biological agents**

### **Art. 4.105 Work prohibitions for dangerous goods and biological agents**

1. Young employees shall not work with or are not exposed to substances which comply with the criteria established pursuant to Article 9.2.3.1 of the Environmental Management Act for classification in one or more of the categories 'very toxic', 'toxic', 'sensitizing', 'carcinogenic', 'mutagenic' 'toxic to reproduction', as well as substances complying with the criteria for allocation of the R-sentences 33 and 48 which have been established by or pursuant to that Act.
2. Young employees shall not work with or are not exposed to biological agents of category 3 or 4, as referred to in section 9 of this chapter.
3. Furthermore, young employees shall no work at or with vats, basins, pipelines or reservoirs in which one or more of the substances or biological agents as referred to in the first or second paragraph are.

## **Art. 04.106 Expert supervision over work with dangerous goods**

### **Art. 4.106 Expert supervision over work with dangerous goods**

Art. 1.37, second paragraph, is equally binding to young employees who:

- a. are working with substances which comply with classification criteria which have been established pursuant to Article 9.2.3.1 of the Environmental Management Act:
  1. in one or more of the categories, 'explosive', 'corrosive' and 'irritating';
  2. in the category 'harmful', if these substances also comply with the criteria for allocation of the R-sentence 40 which has been established by or pursuant to the Environmental Management Act;
- are working with compressed gases, gases which have been liquefied under pressure, gases which have been liquefied by a substantial reduction of the temperature and diluted gases;
- are working at or with vats, basins, pipelines or reservoirs in which one or more of the substances or gases as referred to under a or b are;
- produce or handle articles which contain explosive substances, as referred to in Article 2.2, item e.

## **§ 3 Pregnant employees and employees during the lactation**

[onderdeel]

### **Art. 04.107 Chain provision**

#### **Art. 4.107 Chain provision**

In addition to the provisions of or pursuant to this chapter, the requirements mentioned in this paragraph also apply to pregnant employees and employees during the lactation.

#### **Art. 04.108 Work prohibitions lead and lead compounds**

##### **Art. 4.108 Work prohibitions lead and lead compounds**

It is prohibited for a pregnant employee and an employee during the lactation to work where they can be exposed to metallic lead and its compounds.

#### **Art. 04.109 Work prohibitions some biological agents**

##### **Art. 4.109 Work prohibitions some biological agents**

It is prohibited for a pregnant employee to work where she can be exposed to the biological agents Toxoplasma and Rubella virus, as referred to in section 9 of this chapter, unless it has appeared that she is immune to this.

### **§ 4 Homeworkers**

[onderdeel]

#### **Art. 04.110 Dangerous goods**

##### **Art. 4.110 Dangerous goods**

Homework with dangerous goods is only allowed with one or more of the following substances:

- a. substances which exclusively comply with the criteria for classification in the categories 'harmful', 'irritating', 'inflammable' and 'environmentally hazardous' which have been established pursuant to Article 9.2.3.1 of the Environmental Management Act, unless these substances comply with the criteria for allocation of the R-sentences 1, 4, 5, 6, 14, 19, 29, 30, 31, 32, 33, 40, 44, 48, 64 or 68 which have been established by or pursuant to that Act.
- b. substances which comply with none of the criteria for classification which have been established pursuant to Article 9.2.3.1 of the Environmental Management Act, unless these substances contain the special danger specifications, mentioned in Annex V, part B, item 2 or 6 to Directive no. 1999/45/EC of the European Parliament and the Council of the European Union of 31 May 1999 regarding the mutual adaptation of the legal and administrative law provisions of the member states as regards the classification, the packaging and the marking of dangerous preparations (PbEG L 200).

#### **Art. 04.111 More detailed requirements risk inventory and evaluation of risks**

##### **Art. 4.111 More detailed requirements risk inventory and evaluation of risks**

As regards the substances mentioned in Article 4.110, under a, with the exception of substances which only comply with the criteria for classification in the category 'environmentally hazardous' which have been established pursuant to Article 9.2.3.1 of the Environmental Management Act, within the framework of the risk inventory and evaluation of risks, as referred to in Article 5 of the Act, is in any case established to which substances homeworkers are or can be exposed and which dangers are related to those substances.

#### **Art. 04.112 Packaging and labelling**

##### **Art. 4.112 Packaging and labelling**

1. As regards the packaging of a substance which may cause danger to the safety and health as well as with regard to the fastening of that packaging, Article 9.2.3.3, first through third paragraphs, of the Environmental Management Act is equally binding.



2. On the packaging of a substance, as referred to in the first paragraph, the specifications which have been prescribed for that substance on the basis of the compliance with the criteria for classification in the categories, mentioned in Article 4.110, under a, for the benefit of the delivery of that substance by or pursuant to the Environmental Management Act, are stated conspicuously and well legible, with the exception of the specifications related to the category 'environmentally hazardous'.

#### **Art. 04.113 Measures**

##### **Art. 4.113 Measures**

Effective measures have been taken to prevent that homeworkers can be exposed at their work to substances to such an extent, that it can damage their health.

#### **Art. 04.114 Fire-fighting devices**

##### **Art. 4.114 Fire-fighting devices**

If is worked with inflammable substances, in addition to Article 15 of the Act, adequate and effective devices for extinguishing or smothering a fire are put at the disposal of the homeworker.

#### **Art. 04.115 Prevention, reduction of unwanted events**

##### **Art. 4.115 Prevention, reduction of unwanted events**

1. If substances are available which can cause danger to the safety and health of homeworkers, such measures have been taken that the danger, that an unwanted event occurs as regards those substances, has been avoided as much as possible.
2. When working with substances as referred to in the first paragraph, such measures have been taken, that the danger, that an unwanted event occurs at that work, has been avoided as much as possible.
3. Furthermore, in addition to Article 15 of the Act, such measures have been taken that, in case an unwanted event as referred to in the first respectively the second paragraph occurs, its effects are reduced as much as possible.

#### **Art. 04.116 Information**

##### **Art. 4.116 Information**

In all cases in which work is done where homeworkers are or can be exposed to dangerous goods, information and education are given, in accordance with Article 8 of the Act, where is at least paid attention to:

- a. the results of the risk inventory and evaluation of risks, as referred to in Article 4.111;
- b. the measures which have been taken on the basis of Article 4.113;
- c. the measures which have been taken for the prevention or reduction of unwanted events in accordance with Article 4.115.

# Chapter 05 Physical load

[onderdeel]

## Section 01 Physical load

[onderdeel]

### **Art. 05.1 Definition Directive**

#### **Art. 5.1 Definition Directive**

In this section is meant by Directive: Directive no. 90/269/EEC of the Council of the European Communities of 29 May 1990 regarding the minimum safety and health requirements for the manual handling of loads with risk of, in particular, back injury for the employees (PbEG L 156).

### **Art. 05.2 Prevention dangers**

#### **Art. 05.2 Prevention dangers**

The work has been organized such, the workplace is arranged such, such a production and working method is applied or such auxiliaries and personal protective devices are used, that the physical load can cause no dangers for the safety and the health of the employee.

### **Art. 05.3 Reduction dangers and risk inventory and evaluation of risks**

#### **Art. 5.3 Reduction dangers and risk inventory and evaluation of risks**

Insofar as the dangers, as referred to in Article 5.2, cannot reasonably be prevented:

- a. with due regard for Annex I to the Directive, the work is organized such, the workplace is arranged such, such a production and working method is applied or such auxiliaries and personal protective devices are used that those dangers are reduced as much as reasonably possible;
- b. in the risk inventory and evaluation of risks, as referred to in Article 5 of the Act, with due regard for Annex I to the Directive, the safety and health aspects of the physical load are assessed, where in particular is paid attention to the features of the load, the required physical effort, the features of the working environment and the requirements of the task.

### **Art. 05.4 Ergonomic design workplaces**

#### **Art. 5.4 Ergonomic design workplaces**

Unless this can reasonably not be demanded, workplaces are designed according to the ergonomic principles.

### **Art. 05.5 Information**

#### **Art. 5.5 Information**

1. Having regard to the Annexes I and II to the Directive, effective information and effective education is given to employees who are doing work where loads are handled manually, about:
  - a. the manner in which loads are handled;

- b. the dangers for their safety and health related to the manual handling of loads and the measures to be taken to reduce these dangers as much as possible.
2. Adequate information is given to the employees involved on the weight of the load to be handled and, when the weight of the load has not been distributed evenly, on the center of gravity or the heaviest side of that load.

## **Art. 05.6 Annexes Directive**

### **Art. 5.6 Annexes Directive**

As regards physical load, the Annexes I and II to the Directive are observed.

## Section 02 Screen work

[onderdeel]

### **Art. 5.7-5.12 (...)**

#### **Art. 5.7-5.12**

(...)

## Section 03 Special sectors and special categories of employees

[onderdeel]

### **§ 1 Transport**

[onderdeel]

#### **Art. 05.13 Applicability**

##### **Art. 5.13 Applicability**

Section 2 of this chapter is not applicable to:

- a. driver's seats on a vehicle on a public road or railroad;
- b. computer systems in an aircraft, a seagoing vessel or a barge or a vehicle on a public road or railroad.

### **§ 2 Homeworkers**

[onderdeel]

#### **Art. 05.14 (...)**

##### **Art. 5.14**

(...)

**Art. 05.15 Workplace****Art. 5.15 Workplace**

If the homeworker already disposes on his own account of a workplace as referred to in the Articles 5.4 and 5.12, this need not be put at his disposal.

## **Chapter 06 Physical factors**

[onderdeel]

### **Section 01 Temperature and ventilation**

[onderdeel]

#### **Art. 06.1 Temperature**

##### **Art. 6.1 Temperature**

1. Taking into account the nature of the activities carried out by the employees and the physical load resulting from it, the temperature at the workplace causes no damage to the health of the employees.
2. If there still can be caused damage to the health of the employees, due to the temperature at the workplace or due to unfavourable weather conditions, personal protective devices are made available. If the personal protective devices which have been made available, cannot prevent damage to the health, the duration of the work is reduced to such an extent or the work is alternated by a temporary stay at a location with a temperature as referred to in the first paragraph, at such a frequency that no damage is caused to the health.

#### **Art. 06.2 Ventilation**

##### **Art. 6.2 Ventilation**

1. On the workplace is sufficient non-polluted air available.
2. Ventilation machinery is always ready for operation.
3. Ventilation machinery functions such that employees are not exposed to nuisance draught.
4. Ventilation machinery has been provided with a control system which signals failures in the machinery, insofar that is necessary for the health of the employees.
5. The first paragraph is not applicable to workplaces in a building as referred to in Article 1, first paragraph, under c, of the Housing Act.
6. A workplace in a building as referred to in Article 1, first paragraph, under c, of the Housing Act is only used if the building complies with the requirements of or pursuant to the Buildings Decree 2003 regarding the applicable user's function within the meaning of that Decree.

### **Section 02 Lighting**

[onderdeel]

#### **Art. 06.3 Daylight and artificial light**

##### **Art. 6.3 Daylight and artificial light**

1. Workplaces and connecting roads have been lighted such that the available light causes no risks to the safety and health of employees.

2. Sufficient daylight can enter workplaces, insofar as possible, and adequate facilities for artificial lighting are available.
3. The facilities for artificial lighting have been fitted such, that danger for accidents has been prevented.
4. The colour used for artificial light may not change or affect the observation of the safety and health signalling, determined by or pursuant to section 2 of Chapter 8.

## **Art. 06.4 Protection from sunlight**

### **Art. 6.4 Protection from sunlight**

Directly incident sunlight can be kept away from an enclosed space where people are working.

## Section 03 Noise

### **[onderdeel]**

### **§ 1 General**

#### **[onderdeel]**

### **Art. 06.6 Definitions**

#### **Art. 6.6 Definitions**

In this section is meant by:

- a. peak acoustic pressure (P<sub>peak</sub>): maximum value of the 'C'-frequency-weighted instantaneous noise pressure;
- b. daily exposure to noise (LEX,8h) (dB(A) re. 20 µPa): time-weighted average of the levels of exposure to noise on a nominal working day of eight hours, as defined in the international standard ISO 1999:1990, item 3.6. This contains all sounds available at work, including impulsive noises;
- c. weekly exposure to noise (LEX,8h): time-weighted average of the daily levels of exposure to noise in a nominal week of five working days of eight hours, as defined in the international standard ISO 1999:1990, item 3.6 (note 2).

### **§ 2 Requirements as regards noise**

#### **[onderdeel]**

### **Art. 06.07 More detailed requirements risk inventory and evaluation of risks, assessment and measurement**

#### **Art. 6.7 More detailed requirements risk inventory and evaluation of risks, assessment and measurement**

1. Within the framework of the risk inventory and evaluation of risks, as referred to in Article 5 of the Act, the noise levels to which the employees have been exposed, are assessed and, if necessary, measured in order to determine where and to which extent employees can be exposed to the levels of harmful noise which have been established in Article 6.8.
  2. In addition to Article 5 of the Act, the assessment and the measurement are periodically carried out according to a written time schedule by the experts, mentioned in Article 13 of the Act, or the experts or safety, health and welfare services, mentioned in the Articles 14 and 14a of the Act, and they are carried out again anyhow, if the circumstances have changed drastically, there are reasons to assume that the carried out assessment or measurement is incorrect or when the results of the occupational health examination, as referred to in Article 6.10, first through third paragraphs, require so. The measurement uncertainties, which have been established according to the good practice in measuring, are taken into account at the assessment of the measurement results.
  3. The methods and apparatus used at the measurement are geared to the relevant circumstances. Especially the features of the noise to be measured, the duration of the exposure, the environmental factors and the features of the measuring devices are paid attention to. The used methods and apparatus are suitable to determine whether or not the levels of harmful noise, as established in Article 6.8, third, fourth, seventh, ninth and tenth paragraphs, are exceeded. When random checks are used, these are representative for the personal exposure of an employee.
- 
1. Within the framework of the risk inventory and evaluation of risks, as referred to in Article 5 of the Act, the noise levels to which the employees have been exposed, are assessed and, if necessary, measured in order to determine where and to which extent employees can be exposed to the levels of harmful noise which have been established in Article 6.8.
  2. In addition to Article 5 of the Act, the assessment and the measurement are periodically carried out according to a written time schedule by the experts, mentioned in Article 13 of the Act, or the experts or safety, health and welfare services, mentioned in the Articles 14 and 14a of the Act, and they are carried out again anyhow, if the circumstances have changed drastically, there are reasons to assume that the carried out assessment or measurement is incorrect or when the results of the occupational health examination, as referred to in Article 6.10, first through third paragraphs, require so. The measurement uncertainties, which have been established according to the good practice in measuring, are taken into account at the assessment of the measurement results.
  3. The methods and apparatus used at the measurement are geared to the relevant circumstances. Especially the features of the noise to be measured, the duration of the exposure, the environmental factors and the features of the measuring devices are paid attention to. The used methods and apparatus are suitable to determine whether or not the levels of harmful noise, as established in Article 6.8, third, fourth, seventh, ninth and tenth paragraphs, are exceeded. When random checks are used, these are representative for the personal exposure of an employee.
  4. At the assessment, as referred to in the first paragraph, is in any case paid attention to:
    - a. the level, the nature and the duration of the exposure, including eventual exposure to impulsive noise;
    - b. the action values established in Article 6.8, third, fourth, seventh and ninth paragraphs and the limit values established in Article 6.8, tenth paragraph, for the exposure;

- c. the possible effects to the health and safety of employees which belong to especially sensitive risk groups;
  - d. insofar as this is technically feasible, the possible effects on the safety and the health of employees of the interaction between noise and work-related ototoxic substances and between noise and vibrations;
  - e. the possible indirect effects on the safety and the health of employees of the interaction between noise and warning signals or other sounds which have to be noticed in order to reduce the risk of accidents;
  - f. the information on the noise emission provided by the manufacturers of the work equipment;
  - g. the existence of alternative work equipment which has been designed to reduce the noise emission;
  - h. the continuation of the exposure to noise beyond usual working hours under responsibility of the employer;
  - i. relevant information obtained from an occupational health examination as referred to in Article 6.10, first through third paragraphs, including published information, insofar as that is possible;
  - j. the availability of individual hearing protection with sufficient muffling effect.
5. The works council or the staff representation or, in absence thereof, the interested employees are enabled to give their opinion on the manner of assessing and measuring.
  6. The results of the assessments and measurements carried out on the basis of this Article are registered and kept in an appropriate form, so they can be consulted later on.
  7. The results, as referred to in the sixth paragraph, provided with an explanation, are notified to the works council or the staff representation or, in absence thereof, to the interested employees.
  8. The risk inventory and evaluation of risks, as referred to in the first paragraph, is adequately documented and mentions the measures taken under the Articles 6.8, 6.9 and 6.11.

## **Art. 06.08 Measures for the prevention or reduction of the exposure**

### **Art. 6.8 Measures for the prevention or reduction of the exposure**

1. For the prevention or reduction of the exposure to noise, such technical or organizational measures are taken that the risks of exposure are removed at the source or are minimized, taking into account the technical progress and the availability of measures.
2. When preventing or reducing the exposure, as referred to in the first paragraph, is taken into account anyway:
  - a. alternative working methods which lead to less exposure to noise;
  - b. the choice of the right work equipment, taking into account the work to be done, which makes as less noise as possible, including the possibility to let the employees have the disposal of work equipment which aims at or results in a reduction of the exposure to noise;
  - c. the design and the subdivision of the workplace;



- d. effective information and education to teach the employees to use the work equipment properly in order to minimize the exposure to noise;
- e. technical measures for the reduction of noise:
  - 1. reduction of the airborne noise, for example by shielding, encasing or covering with noise absorbing material;
  - 2. reduction of the construction noise, for example, by muffling or isolation;
- f. adequate maintenance programs for the work equipment, the workplace and the systems on the workplace;
- g. the organization of the activities, in view of a reduction of the noise:
  - 1. reduction of the duration and intensity of the exposure;
  - 2. adequate work schedules with sufficient breaks.

When the daily exposure to noise is higher than 85 dB(A) or the peak acoustic pressure is higher than 140 Pa, technical or organizational measures are established and carried out to minimize the exposure on the basis of the assessment and measurement, as referred to in Article 6.7, first paragraph, having due regard to the measures, as referred to in the second paragraph, within the framework of the action plan, as referred to in Article 5 of the Act.

Workplaces where the daily exposure to noise can be higher than 85 dB(A) or the peak acoustic pressure can be higher than 140 Pa, are clearly indicated by means of adequate signalings and effectively beacons. If this is technically feasible and the risk of exposure justifies this, its access is restricted.

The exposure to noise in relaxation rooms as referred to in Article 3.20 and night's lodgings as referred to in Article 3.21, is reduced to a level which is compatible with the function of the spaces and the circumstances in which they are used.

The measures, as referred to in the first through fifth paragraphs, are geared at the needs of employees who belong to especially sensitive risk groups.

In cases in which the daily exposure to noise is higher than 80 dB(A) or the peak acoustic pressure is higher than 112 Pa, adequate, properly made-to-measure hearing protection is put at the disposal of the employees. The individual hearing protection prevents the risk of hearing impairment or minimizes this risk.

The works council or the staff representation or, in absence thereof, the interested employees are enabled to give their opinion on the measures, as referred to in the first through fifth paragraphs and on the choice of the individual hearing protection, as referred to in the seventh paragraph, which has to be made available.

When the daily exposure to noise is 85 dB(A) or higher, or the peak acoustic pressure is 140 Pa or higher, the individual hearing protection is used by the employees.

The daily exposure to noise, taking into account the muffling effect of the individual hearing protection worn by the employee, may never be higher than 87 dB(A) or the peak acoustic pressure may not be higher than 200 Pa anyway.

When despite the measures, as referred to in the first through seventh and ninth paragraphs, is found that the daily exposure to noise, taking into account the muffling effect of the individual hearing protection worn by the employee, is higher than the limit values established in the tenth paragraph:

- a. measures are taken immediately to reduce the exposure to a level under those limit values;
- b. the causes of the excessive exposure are established and
- c. the measures, as referred to in the first through seventh and ninth paragraphs, are adjusted to prevent recurrence.

## **Art. 06.09 Weekly average**

### **Art. 6.9 Weekly average**

In cases in which employees in connection with the performance of special tasks must stay on a workplace where the daily exposure to noise per working day considerably differs and observance of the obligations, mentioned in Article 6.8, third, fourth, seventh, ninth, tenth and eleventh paragraphs, cannot reasonably be demanded, in the mentioned paragraphs is read instead of 'the daily exposure to noise': 'the weekly exposure to noise'. In that case the weekly exposure, taking into account the muffling effect of the individual hearing protection worn by the employee, is not more than 87 dB(A) and effective measures are taken to minimize the risk related to these activities.

## **Art. 06.10 Audiometric examination**

### **Art. 6.10 Audiometric examination**

1. If it appears from the results of the assessment and measurement, as referred to in Article 6.7, first paragraph, that there is a risk to the health of an employee, this employee, in addition to Article 18 of the Act, is enabled to be subjected to an occupational health examination in the form of an audiometric examination.
2. Every employee where the daily exposure to noise is higher than 85 dB(A) or the peak acoustic pressure is higher than 140 Pa, is enabled to be periodically subjected to an occupational health examination in the form of an audiometric examination.
3. Every employee where the daily exposure to noise is higher than 80 dB(A) or the peak acoustic pressure is higher than 112 Pa, is enabled to be periodically subjected to an occupational health examination in the form of an audiometric examination, if it appears from the assessment and measurement, as referred to in Article 6.7, first paragraph, that there is a risk to the health.
4. The audiometric examination, as referred to in the first through third paragraphs, is focused on an early diagnosis of an eventual deterioration of the hearing as a result of noise and on preservation of hearing.
5. The expert person, as referred to in Article 2.14a, second paragraph, or the safety, health and welfare service keeps a personal medical file of every employee who has been subjected to an audiometric examination as referred to in the first through third paragraphs, which contains a summary of the results of the audiometric examination, as referred to in the first through third paragraphs.
6. The personal medical files are kept in such a form that they can be consulted later on, with due regard for the medical confidentiality.
7. Any employee is entitled to inspect his own medical file.

8. A supervisor who has been appointed to that end receives, upon request, a copy of the medical files, as referred to in the fifth paragraph.

#### **Art. 06.10a Measures in case of hearing impairment**

##### **Art. 6.10a Measures in case of hearing impairment**

1. If a demonstrable hearing impairment is found with an employee at an audiometric examination as referred to in Article 6.10, first through third paragraphs, the expert person, as referred to in Article 2.14a, second paragraph, or a specialist, when the expert person considers that necessary, assesses whether the impairment is probably the result of exposure to noise at work.
2. When is established that the hearing impairment has been caused by exposure to noise at work, then:
  - a. the assessment and the measurement, as referred to in Article 6.7, first paragraph, are performed again;
  - b. the measures for the prevention or reduction of the exposure, as referred to in Article 6.8, are revised;
  - c. at the measures to be taken for the prevention or reduction of the exposure as referred to in Article 6.8, including the allocation of other work without exposure risk, the advice of the expert person, as referred to in Article 2.14a, second paragraph, or the supervisor who has been appointed to that end is taken into account, and
  - d. any employee who has been exposed in a similar matter is enabled to be prematurely subjected to an occupational health examination again, in the form of an audiometric examination.

#### **Art. 06.11 Information and education**

##### **Art. 6.11 Information and education**

To employees who are exposed to a daily exposure of noise of 80 dB(A) or higher and a peak acoustic pressure of 112 Pa or higher, effective information and education are given about:

- a. the nature of the risks resulting from exposure to noise;
- b. the taken measures, as referred to in Article 6.8, to prevent or minimize the risks, as referred to under a;
- c. the action values, as referred to in Article 6.8, third, fourth, seventh and ninth paragraphs, and the limit values, as referred to in Article 6.8, tenth paragraph;
- d. the results of the assessment and measurement of the noise levels to which the employees have been exposed, as referred to in Article 6.7, first and second paragraphs, and an explanation of the meaning and possibly related risks;
- e. the correct use of individual hearing protection;
- f. how signals of hearing impairment can be detected and reported;
- g. the circumstances in which employees are entitled to an occupational health examination and the purpose of this examination and
- h. safe working methods to minimize the exposure to noise.

## Section 03A Vibrations

[onderdeel]

### § 1 General

[onderdeel]

#### **Art. 06.11a Definitions, limit values and action values**

##### **Art. 6.11a Definitions, limit values and action values**

1. In this section is meant by:
  - a. Directive: Directive no. 2002/44/EC of the European Parliament and the Council of the European Union of 25 June 2002 regarding the minimum requirements as regards health and safety regarding the exposure of employees to the risks of physical agents (vibrations) (PbEG L 177);
  - b. hand-arm vibrations: mechanical vibrations which, when they are transferred to the hand-arm system of human beings, include risks to the health and safety of the employees, in particular vascular, bone or joint, neural or muscle disorders;
  - c. body vibrations: mechanical vibrations which, when transferred to the body as a whole, include risks to the safety and health of the employees, in particular disorders of the lower back and lesions of the spinal column.
2. For the hand-arm vibrations is:
  - a. the limit value for daily exposure reduced to a standard reference period of eight hours, established at  $5\text{m/s}^2$ ;
  - b. the action value for daily exposure reduced to a standard reference period of eight hours, established at  $2.5\text{m/s}^2$ .
3. For body vibrations is:
  - a. the limit value for daily exposure reduced to a standard reference period of eight hours, established at  $1.15\text{ m/s}^2$ ;
  - b. the action value for daily exposure reduced to a standard reference period of eight hours, established at  $0.5\text{ m/s}^2$ .

### § 2 Requirements with regard to vibrations

[onderdeel]

#### **Art. 06.11b More detailed requirements**

##### **Art. 6.11b More detailed requirements risk inventory and evaluation of risks, assessment and measurement**

1. Within the framework of the risk inventory and evaluation of risks, as referred to in Article 5 of the Act, the levels of the mechanical vibrations to which the employee is exposed, are assessed and, if necessary, measured.
2. The assessment and the measurement are carefully planned and carried out with adequate intervals.
3. The assessment and the measurement for hand-arm vibrations take place in accordance with the items 1 and 2 of part A and for body vibrations in accordance with the items 1 and 2 of part B of the Annex to the Directive.
4. The results of the measurement are kept in an appropriate form so they can be consulted later on.
5. The following aspects are in any case involved in the assessment:
  - a. the level, the nature and the duration of the exposure, including eventual exposure to periodical vibrations or repeated shocks;
  - b. the laid-down limit values and action values for the exposure, as referred to in Article 6.11a, second and third paragraphs;
  - c. possible effects on the health and safety of employees with an increased risk;
  - d. possible indirect effects on the safety of employees which are caused by the interaction between mechanical vibrations and the workplace or other work equipment;
  - e. the information provided by the manufacturers of the work equipment;
  - f. the existence of replacing material which has been designed to reduce the levels of exposure to mechanical vibrations;
  - g. continuation of the exposure to body vibrations beyond usual working hours under responsibility of the employer;
  - h. special working conditions, like working at low temperatures;
  - i. relevant information provided by the occupational health examinations, as referred to in Article 6.11e, including published information, insofar as that is possible
6. The assessment is regularly revised, in any case when changed circumstances or results of the occupational health examination, as referred to in Article 6.11e, require so.

#### **Art. 06.11c Prevention or reduction of harmful vibrations**

##### **Art. 6.11c Prevention or reduction of harmful vibrations**

1. If the action values, as referred to in Article 6.11a, second paragraph, item b, and third paragraph, item b, are or can be exceeded, attention is paid, with due regard for Article 3, first paragraph, item b, of the Act, in the risk inventory and evaluation of risks, as referred to in Article 5 of the Act, and in the corresponding action plan, to:
  - a. alternative working methods which reduce the necessity for exposure to mechanical vibrations;
  - b. the choice of the right work equipment, ergonomically well designed and causing as little vibrations as possible, taking into account the work to be performed;
  - c. the supply of auxiliaries to prevent the risk of health damage due to vibrations;

- d. appropriate maintenance programs for the work equipment, the workplace and the systems on the workplace;
  - e. the design and the subdivision of the workplace;
  - f. adequate information and education of the employees, so they can use the work equipment safely and correctly, such that the exposure to mechanical vibrations is as little as possible;
  - g. reduction of the duration and intensity of the exposure;
  - h. appropriate work schedules with sufficient breaks;
  - i. the provision of clothing which protects the exposed employees against cold and moisture.
2. Employees shall not be exposed to vibrations above the limit value for exposure, as referred to in Article 6.11a, second paragraph, item a, and third paragraph, item a.
3. If the limit value is nevertheless exceeded:
- a. measures are taken immediately to reduce the exposure till beneath the limit value for exposure;
  - b. the cause of the exceeding of the limit value is investigated;
  - c. the protective and preventive measures are adapted to prevent that the limit value is exceeded again.
4. The employer gears the measures at the needs of employees with an increased risk.

#### **Art. 06.11d Information and education**

##### **Art. 6.11d Information and education**

To employees who are exposed to risks in connection with mechanical vibrations at work, is given effective information and education about:

- a. measures which have been taken to remove or minimize the risks in connection with mechanical vibrations;
- b. the limit values and action values for exposure;
- c. the results of the performed assessments and measurements of mechanical vibrations and the health damage which the used work equipment can cause, in accordance with Article 6.11b;
- d. the benefit of and the method for searching and reporting symptoms of health damage;
- e. the circumstances in which employees are entitled to an occupational health examination;
- f. safe working methods to minimize the exposure to mechanical vibrations.

#### **Art. 06.11e Occupational health examination as regards vibrations**

##### **Art. 6.11e Occupational health examination as regards vibrations**

- 1. Every employee who is entrusted with activities which according to the assessment, as referred to in Article 6.11b, first paragraph, can cause danger to the safety or health, for the first time, is, in addition to Article 18 of the Act, enabled to be subjected to an occupational health examination before the start of the activities.

2. If a disorder is found with an employee which could be the result of an exposure to mechanical vibrations, the employees, who have been exposed in a similar manner to mechanical vibrations, are prematurely enabled to be subjected to an occupational health examination.
3. At the request of the employer or the employee involved, the occupational health examination is performed again. The results of the renewed examination replace those of the previous one.
4. When a demonstrable disease or a harmful effect to the health has been established with an employee as a result of exposure to mechanical vibrations, he is informed by the expert person, as referred to in Article 2.14a, second paragraph, or the safety, health and welfare service, about the manner in which he will be enabled to be subjected to an occupational health examination after the exposure has ended.

## Section 04 Radiation

### [onderdeel]

#### **Art. 06.12 Appliances**

##### **Art. 6.12 Appliances**

1. Appliances which can emit harmful, non-ionising electromagnetic radiation, consist of reliable material, have a sound construction and are in good condition.
2. The appliances as referred to in the first paragraph are in such a space and have, furthermore, been designed, positioned or shielded such, that when they are operating health damage is prevented as much as possible.
3. When at the operation of an appliance as referred to in the first paragraph, the danger of health damage despite the compliance with the requirements, as referred to in the first and second paragraphs, cannot or not entirely be prevented, such measures are taken that health damage is prevented as much as possible.
4. When the measures as referred to in the third paragraph cannot or not entirely prevent health damage, personal protective devices are made available.
5. The personal protective devices are used by the employees during work.
6. Levels can be established by Ministerial Regulation, above which, for the purpose of this Article, that radiation is considered to be harmful.

## Section 05 Working under increased atmospheric pressure

### [onderdeel]

#### **Art. 06.13-06.14a (...)**

(...)

#### **Art. 06.14b Diver's doctor**

##### **Art. 6.14b Diver's doctor**

As regards the conduct of occupational health examinations as referred to in Article 6.14a, first and second paragraphs, for the issue of the certificate diver's doctor, as referred to in Article 6.14a, third paragraph, various requirements regarding professional competence, education or registration can be laid down by Ministerial Regulation.

#### **Art. 06.15-06.20 (...)**

##### **Art. 6.15-6.20**

(...)

## Section 05A Additional requirements underground extractive industries

### **[onderdeel]**

#### **Art. 06.20a-06.20c (...)**

(...)

## Section 05B Additional requirements extractive industries by means of drillings

### **[onderdeel]**

#### **Art. 06.20d-06.20e (...)**

(...)

## Section 06 Special sectors and special categories of employees

### **[onderdeel]**

## **§ 1 Transport**

### **[onderdeel]**

#### **Art. 06.21-06.23 (...)**

(...)

#### **Art. 06.24 Other exceptions for means of transport**

##### **Art. 6.24 Other exceptions for means of transport**

1. The Articles 6.3 and 6.4 are not applicable to aircraft for which a Dutch or equivalent certificate of air proficiency has been issued before 1 January 1997, unless its observance can reasonably be demanded.
2. The Articles 6.3 and 6.4 are not applicable to seagoing vessels which have been built before 1 January 1994, unless its observance can reasonably be demanded.
3. The date of construction of a seagoing vessel is determined by means of the provisions to that end in Article 2 of the Ships Decree 2004 or, if it concerns a seagoing fishing vessel, in the Fishing Vessels Decree or the Fishing Vessels Decree 2002.



4. To vehicles on a public road or railroad which have been built before 1 January 1994, the Articles 6.3, 6.4 and 6.5 are not applicable, unless its observance can reasonably be demanded.

## **§ 2 Correctional institutions**

[onderdeel]

### **Art. 06.25 Climate, daylight and artificial light and ventilation**

#### **Art. 6.25 Climate, daylight and artificial light and ventilation**

The Articles 6.1, 6.2 and 6.3 are not applicable to workplaces in correctional institutions which were used as such before 1 September 1990, insofar as its observance cannot reasonably be demanded.

## **§ 3 Young people**

[onderdeel]

### **Art. 06.26 Chain provision**

#### **Art. 6.26 Chain provision**

In addition to the provisions of or pursuant to this chapter, the requirements and prohibitions mentioned in this paragraph are applicable to young employees.

### **Art. 06.27 Work prohibitions young employees**

#### **Art. 6.27 Work prohibitions young employees**

1. Young employees may do no diving work, caisson work and other work under increased atmospheric pressure, as referred to in Article 6.13.
2. Young employees may not work with appliances which can emit harmful non-ionising electromagnetic radiation.
3. Young employees may not work on a workplace where the daily exposure to noise is 85 dB(A) or higher or the peak acoustic pressure is 140 Pa or higher.
4. Young employees may not be exposed to harmful vibrations.

## **§ 4 Pregnant employees**

[onderdeel]

### **Art. 06.28 Chain provision**

#### **Art. 6.28 Chain provision**

In addition to the provisions of or pursuant to this chapter, the requirements mentioned in this paragraph also apply to pregnant employees.

## **Art. 06.29 Work prohibitions working under increased atmospheric pressure**

### **Art. 6.29 Work prohibitions working under increased atmospheric pressure**

It is prohibited for a pregnant employee to do diving work, caisson work and other work under increased atmospheric pressure as referred to in Article 6.13.

## **Art. 06.29a Working in underground extractive industry**

### **Art. 6.29a Working in underground extractive industry**

It is prohibited for a pregnant employee and an employee during the lactation to work in the underground extractive industry.

## **§ 5 Homeworkers**

[onderdeel]

### **Art. 06.30 Daylight and artificial light**

#### **Art. 6.30 Daylight and artificial light**

If the homeworker already disposes on his own account of provisions for artificial lighting as referred to in Article 6.3, second paragraph, the home-employer does not need to make these available.

## **§ 6 Education**

[onderdeel]

### **Art. 06.31 Diving work pupils and students**

#### **Art. 6.31 Diving work pupils and students**

1. Article 6.16, sixth paragraph, is not applicable to pupils respectively students in educational establishments if these pupils respectively students perform diving activities which:
  - a. are within the framework of scientific research;
  - b. are light duties, and
  - c. are performed by a diving team as referred to in Article 6.16, first paragraph, where the pupil respectively student functions as additional member of this diving team.
2. During the diving activities, as referred to in the first paragraph, the pupils respectively students are in possession of a sports diving certificate, to be appointed by Ministerial Regulation.
3. By Ministerial Regulation, more detailed rules can be established as regards the first paragraph.

## **Chapter 07 Work equipment and specific activities**

[onderdeel]

### **Section 01 Applicability and definition**

[onderdeel]

#### **Art. 07.01 Work equipment out of use**

##### **Art. 7.1 Work equipment out of use**

This chapter is not applicable to work equipment which has been demounted or scrapped such that it cannot be simply put back into use.

#### **Art. 07.02 Work equipment with a CE-marking**

##### **Art. 7.2 Work equipment with a CE-marking**

1. Work equipment which has been put at the disposal of the employee by the employer, complies with the (Commodities Act) Decrees which are applicable to that work equipment.
2. Work equipment is assumed to comply with the Articles 7.4, first and second paragraphs, 7.7, 7.10, 7.13, 7.14, 7.15, 7.16, 7.17a, 7.17b, with the exception of the fourth paragraph, and 7.18b, first paragraph, under a, if it, in accordance with the applicable (Commodities Act) Decrees, has been provided with a CE-marking, accompanied by an EC declaration of conformity, and the work equipment is used in accordance with the corresponding operating instructions.
3. If only one or more components of the work equipment have been provided with a CE marking, accompanied by an EC declaration of conformity, then only with regard to that item respectively those items is assumed that the work equipment complies with the Articles mentioned in the second paragraph.

#### **Art. 07.02a Definition examination**

##### **Art. 7.2a Definition examination**

In this chapter is meant by examination: an investigation or a testing.

### **Section 02 General requirements**

[onderdeel]

#### **Art. 07.03 Suitability work equipment**

##### **Art. 7.3 Suitability work equipment**

1. At the choice of the work equipment which the employer makes available, are taken into account the specific features of the work which appeared from the risk inventory and evaluation of risks, as referred to in Article 5 of the Act, with the circumstances in which it is performed, with the dangers which are already at the workplace and with the dangers which could be added by the use of the relevant work equipment.

2. In order to prevent that the use of work equipment can cause dangers to the safety and health of the employees, the work equipment which is put at the disposal of the employees at the workplace, is only used for the purpose, in the manner and on the location for which it has been designed and intended.
3. Work equipment is, furthermore, suitable for the work to be performed or has considerably been adapted.
4. Insofar as it is reasonably not possible to prevent the dangers during the use of the work equipment, such measures are taken that the dangers are as much as possible reduced.

## **Art. 07.04 Reliability work equipment and unwanted events**

### **Art. 7.4 Reliability work equipment and unwanted events**

1. Work equipment consists of reliable material.
2. Work equipment has a reliable construction.
3. Work equipment has been positioned, fitted or arranged such and is used such that the danger that an unwanted event occurs like shifting, falling, turning over, being hit by the work equipment or its components, overheating, fire, explosion, lightning strike and direct or indirect contact with electricity, has been prevented as much as possible.
4. Article 3.17 is equally binding.

## **Art. 07.04a Examinations**

### **Art. 7.4a Examinations**

1. Work equipment of which the safety depends on the manner of installation, is examined after the installation and before it is put into use for the first time for the right manner of installation and proper and safe functioning.
2. Work equipment as referred to in the first paragraph, is, furthermore, examined after each erection on a new location or a new place for the right manner of installation and proper and safe functioning.
3. Work equipment subjected to influences which lead to deteriorations which can induce the origin of dangerous situations, is examined as often as necessary for guaranteeing a good condition, while it is tested, if necessary.
4. Work equipment as referred to in the third paragraph is also examined, while it is tested, if necessary, each time when exceptional events have occurred which can have harmful effects on the safety of the work equipment. As exceptional events are in any case regarded: natural phenomena, changes to the work equipment, accidents with the work equipment and lengthy decommissioning of the work equipment.
5. Examinations are performed by an expert natural person, legal person or institute.

6. Written evidence of the performed examinations are available at the workplace and are shown, upon request, to the supervisor.
7. This Article is not applicable to amusement and playground equipment to which the Amusement and Playground Equipment (Commodities Act) Decree applies.
8. The first through fifth paragraphs are not applicable to scaffolding to which Article 7.34 applies.
9. The first through third paragraphs are not applicable to:
  - a. lifting and hoisting gear and lifting and hoisting tools on board of ships to which Article 7.29 applies;
  - b. lifts to which the Lifts (Commodities Act) Decree applies.
10. The first and second paragraphs are not applicable to pressure equipment, components and pressure systems to which Article 12b of the Pressure Equipment Decree applies.<sup>1</sup>
11. The first and second paragraphs are not applicable to pressure equipment to which Article 12b of the Pressure Equipment (Commodities Act) Decree applies.
12. The third paragraph is not applicable to:
  - a. lifting and hoisting tools to which Article 7.20 applies;
  - b. containers to which the Containers (Commodities Act) Decree applies;
  - c. cranes to which the Articles 6d through 6f of the Machinery (Commodities Act) Decree apply;
  - d. transport scaffolding to which the Lifts (Commodities Act) Decree applies;
  - e. pressure equipment to which Article 12c of the Pressure Equipment (Commodities Act) Decree applies.
13. As regards changes or repairs, the fourth paragraph is not applicable to pressure equipment to which Article 12c of the Pressure Equipment (Commodities Act) Decree applies.
14. The first and third paragraphs are not applicable to builder's hoists for transport of persons to which the Lifts (Commodities Act) Decree applies.

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<sup>1</sup> This paragraph has not yet entered into force.

## **Art. 07.05 Assembly, disassembly, maintenance, repair and cleaning of work equipment**

### **Art. 7.5 Assembly, disassembly, maintenance, repair and cleaning of work equipment**

1. The necessary measures are taken to ensure that the work equipment, during the entire period of operation, is kept in such a state by adequate maintenance that danger to the safety and health of the employees is prevented as much as possible.

2. Maintenance, repair and cleaning activities to work equipment are only performed if the work equipment has been switched off and has been made pressureless or dead. If this is not possible, effective measures are taken to be able to perform those activities safely.
3. The second paragraph is equally binding to production and adjusting activities with or to work equipment.
4. A maintenance book belonging to work equipment is properly kept up to date.
5. Assembly and disassembly of work equipment takes place safely, with due regard for the eventual instructions of the manufacturer.

## **Art. 07.06 Expertise employees**

### **Art. 7.6 Expertise employees**

1. As regards work equipment, the use of which can cause a specific danger to the safety of the employees, the use remains reserved for employees who have been entrusted with the use.
2. Employees entrusted with the conversion, maintenance, repair or cleaning of work equipment as referred to in the first paragraph, have a specific expertise and experience to that end.

## **Art. 07.07 Safety equipment in connection with moving parts of work equipment**

### **Art. 7.7 Safety equipment in connection with moving parts of work equipment**

1. If moving parts of work equipment cause danger, they have been provided with such screens or security devices that the danger is prevented as much as possible.
2. The screens or security devices have been solidly constructed.
3. The screens or security devices cause no special dangers.
4. The screens or security devices cannot simply be neglected or put out of operation.
5. The screens or security devices are fitted at sufficient distance from the dangerous zone of the work equipment.
6. The screens or security devices obstruct the view of the work as less as possible.
7. The screens or security devices have been fitted such that the necessary maintenance and repair activities can be performed safely. It is prevented as much as possible that the screens or security devices must be disassembled.

## **Art. 07.08 Lighting**

### **Art. 7.8 Lighting**

In addition to Article 6.3, work and maintenance points of work equipment have been sufficiently and adequately lighted.

## **Art. 07.09 High and low temperature**

### **Art. 7.9 High and low temperature**

It is prevented as much as possible that employees are in the immediate vicinity of work equipment or a component of it with a very high or very low temperature. If that is not possible, effective measures have been taken to prevent contact with that work equipment or that component of it.

## **Art. 07.10 Alarm signals**

### **Art. 7.10 Alarm signals**

Alarm signals of work equipment are easily and clearly observable and well recognizable as such. They comply with the provisions of or pursuant to section 2 of Chapter 8.

## **Art. 07.11 Detaching work equipment**

### **Art. 7.11 Detaching work equipment**

1. Work equipment disposes of clearly recognizable facilities with which it can be detached from its power sources.
2. The renewed attachment of work equipment to its power source after detachment causes no danger to the employees.

## **Art. 07.11a Information**

### **Art. 7.11a Information**

1. Directions belonging to work equipment are notified in a comprehensible form to the employees involved.
2. If the use or the presence of work equipment in the immediate working environment can cause dangers for the employees, they are informed of this, also when the employees do not directly use this equipment.

## **Section 03 Work equipment with a control system**

### **[onderdeel]**

## **Art. 07.12 Chain provision**

### **Art. 7.12 Chain provision**

Besides the requirements of sections 1 and 2 of this chapter, the requirements of this section are also applicable to work equipment with a control system.

## **Art. 07.13 Control systems**

### **Art. 7.13 Control systems**

1. A control system of work equipment is safe.
2. A control system provides no danger for the employees, also in case of unintentional actions.

3. At the choice of a control system are taken into account defects, failures and loads which can be expected at the use of the control system.
4. A control system is clearly visible and recognizable and has been appropriately provided to that end, where necessary, with functional specifications.
5. A control system is as much as possible outside the dangerous zone of the work equipment.
6. The location of the control system causes no additional dangers for the employees.
7. If work equipment can be put into operation or can be stopped on a location from where that work equipment cannot be seen completely, always in due time before that work equipment is put into operation or stopped, a signal is given which complies with the provisions of or pursuant to section 2 of Chapter 8, in order to protect the employees involved.

## **Art. 07.14 Putting into operation of work equipment**

### **Art. 7.14 Putting into operation of work equipment**

1. Work equipment can only be put into operation by an intentionally performed action with a control system intended for that purpose.
2. The first paragraph is equally binding to the renewed putting into operation after shut down, irrespective of its cause, as well as to the realization of an important change in the operation of the work equipment, unless the renewed putting into operation or this change can cause no dangers for persons.
3. The second paragraph is not applicable, if the putting into operation or change of the operation of work equipment belongs to the usual program of an automatic cycle.

## **Art. 07.15 Switching off work equipment**

### **Art. 7.15 Switching off work equipment**

1. Work equipment can be safely switched off with an appropriate control system. A control system stops when the danger concerns the entire equipment or its components, such that the work equipment is in a safe condition.
2. When the work equipment or its components have been switched off, the power supply to the work equipment or its components which cause the danger, has been interrupted.
3. The order to switch off work equipment or a component of it cannot be cancelled by an order to start that work equipment or a component of it.

## **Art. 07.16 Emergency stopping device**

### **Art. 7.16 Emergency stopping device**

Work equipment disposes of an emergency stopping device, if this is necessary, in view of the dangers of that work equipment and the usual time required to stop that work equipment.



## Section 04 Additional requirements specific work equipment and activities

[onderdeel]

### § 1 Matching

[onderdeel]

**Art. 07.17 Chain provision**

**Art. 7.17 Chain provision**

Besides the requirements of sections 1 through 3 of this chapter, the requirements of this section are also applicable to the specific work equipment and activities mentioned in this section.

### § 2 Requirements for mobile work equipment

[onderdeel]

**Art. 07.17a Equipment mobile work equipment**

**Art. 7.17a Equipment mobile work equipment**

1. Mobile work equipment on which one or more persons can be carried, have been equipped such that the danger for these persons during the transport is as much as possible reduced.
2. Mobile work equipment, with the exception of lift trucks, with which one or more persons can be carried, have been equipped such that, under the actual operational conditions, the dangers due to the turning over or falling of the mobile work equipment are as much as possible reduced by:
  - a. a protective construction which avoids that the mobile work equipment turns over more than a quarter turn;
  - b. a construction which ensures that there is sufficient free space around the persons to be carried when the mobile work equipment can move more than a quarter turn, or
  - c. other facilities with an equal safety level.
3. The second paragraph is not applicable if the mobile work equipment is stabilized during the use or if the mobile work equipment has been designed such that it cannot turn over or fall.
4. If there is danger that the persons to be carried can be trapped between the parts of the mobile work equipment and the ground in case of turning over or falling, a system has been installed with which they can be stopped.
5. Lift trucks with which one or more persons can be carried, have been equipped such that the danger of turning over or its effects are as much as possible reduced by:
  - a. an operator cabin;

- b. a device which avoids that the lift truck turns over;
  - c. a device which ensures that, if the lift truck turns over, there is sufficient free space for the persons to be carried between the ground and specific parts of the lift truck;
  - d. a device on each seat of the lift truck, with which the persons on the truck can be secured on the seat, or
  - e. other facilities with an equal level of safety.
6. If the sudden blockade of components for the energy transfer between the mobile work equipment and its fittings or appendants can provide specific dangers, this work equipment has been equipped with a facility which impedes this blockade. If such a blockade cannot be impeded, such measures have been taken that the dangers are as much as possible reduced.
7. Mobile work equipment has been provided with means for the attachment of components for the energy transfer, when these components can become polluted or damaged because they are dragged over the ground.

#### **Art. 07.17b Equipment self-propelled mobile work equipment**

##### **Art. 7.17b Equipment self-propelled mobile work equipment**

1. In addition to Article 7.17a, this Article is applicable to self-propelled mobile work equipment, the movement of which can cause dangers for the employees.
2. Mobile work equipment is equipped with:
  - a. devices to avoid that they can be put into operation by unauthorized persons;
  - b. effective provisions for the reduction of the effects of an eventual collision, if different work equipment riding on rails is moved at the same time;
  - c. a brake and stopping device;
  - d. an emergency device, insofar as it is necessary for the sake of safety, which device can slow down and halt the mobile work equipment in case of failure of the main system of the brake and stopping device by means of easily accessible control gear or by automatic systems;
  - e. effective aids which enable an adequate visibility for the operator if his direct visual field is inadequate to guarantee the safety of persons.
3. If mobile work equipment is used at night or on dark places, it has been provided with a lighting installation which has been adapted to the work to be performed and which provides the employees sufficient safety.
4. If mobile work equipment, their appendants, or cargoes, can cause danger of fire for persons, it has been provided with effective fire-fighting material, unless the workplace has been equipped with this at sufficient short distance from this work equipment, their appendants or cargoes.
5. If mobile work equipment is controlled at a short distance, it automatically comes to a standstill when it leaves the control area.

6. If mobile work equipment is remotely controlled and is able to collide with or underrun employees under normal operating conditions, it has been provided with facilities which offer protection against these dangers, unless there other suitable facilities to reduce the danger of collisions.

#### **Art. 07.17c Use mobile work equipment**

##### **Art. 7.17c Use mobile work equipment**

1. Self-propelled mobile work equipment is operated by employees who have a specific expertise to that end.
2. The riding along of employees on self-propelled mobile work equipment is only allowed on safe places which have especially been arranged to that end.
3. If activities are performed during the movement of work equipment as referred to in the second paragraph, the speed of the work equipment is adjusted, if necessary.
4. If mobile work equipment moves within a working zone where employees can be, effective traffic rules are established.
5. Effective organizational measures are taken to prevent that employees are in the working zone of self-propelled mobile work equipment.
6. If the presence of employees in a working zone, as referred to in the fifth paragraph, is required for the correct performance of the activities, effective measures are taken to prevent that they get injured by the mobile work equipment.
7. Work equipment provided with a combustion engine is not used at the workplace, unless sufficient clean air has been ensured.
8. Mobile work equipment is only left by the driver after it has been brought to a stop and has been ascertained that it will not suddenly start moving after it has been left.

#### **Art. 07.17d Transport of persons over water**

##### **Art. 7.17d Transport of persons over water**

During transport of employees over water, effective measures are taken to guarantee the safety of these employees.

## **§ 2a Requirements for equipment for lifting and hoisting of loads or persons**

[onderdeel]

#### **Art. 07.18 Lifting and hoisting gear**

##### **Art. 7.18 Lifting and hoisting gear**

1. On or near the control position, a lifting or hoisting gear is provided with a well legible indication, which mentions the allowed working load for any usual configuration of that gear.
2. Except for the benefit of testing, lifting and hoisting gear has not been loaded more heavily than the allowed working load or working loads and not more heavily than a safe use permits.
3. Lifting and hoisting gear are operated by persons who have a specific expertise to that end.
4. With lifting or hoisting gear which has exclusively been intended and arranged for the carriage of goods, no persons are carried instead of or together with goods.
5. Lifting or hoisting gear which has not been intended or arranged for the lifting or hoisting of persons and where there is a chance of incorrect use, is provided with a well legible warning against transport of persons.
6. Lifting and hoisting gear is positioned such that the danger is reduced that the loads hit the employees, or unintentionally get off course or in a free fall and break free in a dangerous manner.
7. Effective measures are taken to ensure that employees do not stay under hanging loads.
8. Hanging loads are not displaced above unprotected workplaces where the employees usually are.
9. If the smooth operation of the activities at the application of the seventh and eighth paragraphs cannot be guaranteed, appropriate procedures are established and applied to guarantee the safety of the employees involved.

#### **Art. 07.18a Lifting and hoisting gear for unguided loads**

##### **Art. 7.18a Lifting and hoisting gear for unguided loads**

1. In addition to Article 7.18, this Article is applicable to the use of lifting and hoisting gear which are intended for the lifting or hoisting of unguided loads.
2. When two or more lifting or hoisting gear are installed or assembled on a workplace in such a manner that their working ranges overlap, effective measures are taken to prevent collisions between the loads or parts of this gear.
3. When mobile lifting or hoisting gear is used, effective measures are taken to prevent that the gear turns over, gets moving or slips away unintentionally.
4. It is taken care of that the measures, as referred to in the third paragraph, are properly performed.
5. When the operator of a lifting or hoisting gear, neither directly nor by means of aids providing information, can follow the entire track of the load, an employee is appointed who is in contact with the operator to guide him.
6. Moreover, further organizational measures are taken to prevent unwanted collisions of the load of the lifting or hoisting gear.

7. When the loads are manually secured or released, the activities have been organized in such a manner that the employee can perform these actions safely and directly or indirectly remains in control of it.
8. All actions for the lifting or hoisting are correctly planned in order to guarantee the safety of the employees.
9. The actions, as referred to in the eighth paragraph, are performed under effective supervision.
10. In particular, when a load is simultaneously lifted or hoisted by two or more lifting or hoisting gear, a procedure is established and applied to guarantee good coordination of the actions of the operators.
11. If lifting or hoisting gear can no longer hold the loads when the power supply entirely or partially breaks down, effective measures have been taken to avoid that employees are exposed to the related dangers.
12. There is continuous supervision over the loads, as referred to in the eleventh paragraph, unless the access to the danger zone is impeded and the loads have been secured and fastened in an entirely safe manner.
13. Lifting and hoisting gear which are used in the open air are put to a stop as soon as the weather conditions deteriorate such that the operational safety is endangered and the employees are exposed to dangers. In this case, effective protective measures are taken, particularly, in order to prevent that the lifting or hoisting gear turns over.

#### **Art. 07.18b Lifting and hoisting gear for persons**

##### **Art. 7.18b Lifting and hoisting gear for persons**

1. In addition to the Articles 7.18 and 18a, lifting and hoisting gear which is intended and designed for the lifting and hoisting of persons, has been equipped with such devices that as much as possible is prevented that:
  - a. the lifting or hoisting platform for persons tumbles down,
  - b. persons fall off this platform,
  - c. a person who uses the lifting or hoisting gear is crushed, gets jammed or is struck, especially due to unintentional contact with an object.
2. Lifting or hoisting gear as referred to in the first paragraph, moreover, has such a facility, that, in case of a defect of the gear, the safety of persons who are on the lifting or hoisting platform for persons, has been guaranteed as much as possible and that their rescue is possible.
3. If the danger, as referred to in the first paragraph, under a, for reasons in connection with the ground conditions and the difference in height, cannot be avoided by means of a security device, a suitable

cable, chain or other device with an increased safety coefficient is applied in the suspension of the lifting or hoisting platform.

4. In the case, as referred to in the third paragraph, the good condition of the cable, chain or other device applied in the suspension is checked every working day.

#### **Art. 07.19 (Cancelled)**

##### **Art. 7.19**

(Cancelled)

#### **Art. 07.20 Lifting and hoisting tools**

##### **Art. 7.20 Lifting and hoisting tools**

1. Lifting and hoisting tools are chosen on the basis of the loads to be handled, the locations for slinging, the hook device and the weather conditions, taking into account the manner of slinging of the load and the lifting or hoisting gear to be used.
2. Lifting and hoisting tools, other than ropes or steel cables, have been provided with a well legible specification which mentions the workload.
3. Composed lifting and hoisting gear has been clearly marked to enable the user to know its features.
4. Except for the benefit of testing, lifting and hoisting gear is not loaded more heavily than the workload nor more heavily than a safe use permits.
5. Lifting and hoisting tools are stored such that it cannot be damaged or affected.
6. Lifting and hoisting tools are examined for its good condition by an expert natural person, legal person or institute at least once a year, while it is tested, if necessary. This person or institute disposes of the required equipment.
7. Evidences of the examinations and testings, as referred to in the sixth paragraph, are available at the workplace and are shown, upon request, to the supervisor.

#### **Art. 07.21 Activities in lift shafts**

##### **Art. 7.21 Activities in lift shafts**

1. When there are two or more lifts in a shaft, adequate technical measures are taken in order to prevent that persons, in case of activities in the shaft at one of the lifts, are hit by components of an adjacent lift.
2. If taking the measures, as referred to in the first paragraph, is not possible, the danger as referred to in the first paragraph is prevented by halting the adjacent lift.

## **Art. 07.22 (Cancelled)**

### **Art. 7.22**

(Cancelled)

## **§ 2b Requirements as regards the use of work equipment**

[onderdeel]

**Requirements as regards the use of work equipment made available for temporary activities at altitude**

### **Art. 07.23 General**

#### **Art. 7.23 General**

1. If temporary activities at altitude cannot be performed safely and under suitable ergonomic conditions on an appropriate shopfloor, the most suitable work equipment is chosen to guarantee and maintain safe working conditions. To achieve this:
  - a. collective safety measures get priority over personal safety measures;
  - b. the dimensions of the work equipment are:
    1. geared at the nature of the activities to be performed;
    2. geared at the foreseeable loads, and
    3. such that passage is possible without danger;
  - c. the most suitable means of access for the temporary workplace at altitude are chosen dependent on the traffic, the altitude to be bridged and the operational life;
  - d. the chosen means of access offers the opportunity of evacuation in case of danger;
  - e. stepping over from a means of access to platforms, floors or gangways and the other way round, provides no additional risks of falling.
2. Having regard to the first paragraph, the use of ladders and stairs as workplaces at altitude, is limited to conditions in which the use of other, safer work equipment has not been justified in connection with the low risk, and
  - a. because of the short operational life, or
  - b. the present features of the locations which cannot be changed by the employer.
3. Access and positioning techniques with lines are only used under conditions in which it appears from the risk inventory and evaluation of risks, as referred to in Article 5 of the Act, that the work can be safely performed and in which the use of other, safer work equipment is reasonably not possible.

4. In the case, as referred to in the third paragraph, taking into account the risk inventory and evaluation of risks, as referred to in Article 5 of the Act, and the duration of the activities and the ergonomic requirements, a seat with appropriate accessories has been provided for.
5. Depending on the work equipment to be used, the necessary measures are taken for minimizing the risks related to this work equipment for the employees. Securities against falling are fitted, if necessary.
6. The securities against falling have such a configuration and strength that falling from altitude is prevented or that an eventual fall is stopped, such that injuries for the employees are prevented as much as possible.
7. The collective securities against falling are only interrupted there where an access is to a ladder or stairs.
8. When the performance of activities requires that a collective security against falling is temporarily removed, is taken care of effective, replacing security devices.
9. The activities, as referred to in the eighth paragraph, are not carried out as long as these replacing provisions have been arranged for.
10. After the definite or temporary end of the activities, as referred to in the eighth paragraph, the collective securities against falling are fitted again.
11. Temporary activities at altitude are only performed when the weather conditions do not endanger the safety and health of the employees.

#### **Art. 07.23a Specific provisions regarding the use of ladders and stairs**

##### **Art. 7.23a Specific provisions regarding the use of ladders and stairs**

1. Ladders and stairs are positioned such that their stability during the use has been guaranteed. The following measures are taken to that end anyway:
  - a. the supports of portable ladders and stairs rest on a stable, solid and unmoving base of sufficient size, so that the rungs remain horizontal;
  - b. hook ladders are securely fastened and, except for rope ladders, such that they cannot shift and that swinging to and fro is avoided.
2. During the use of ladders and stairs, the following measures are taken anyhow:
  - a. the gliding away of the bottom of portable ladders and stairs during the use is resisted by fixing the upper or underside of the stiles, or by means of an antislip device or another, equally effective solution;



- b. access ladders exceed at least 1 metre above the access level, unless other facilities enable a safe grip;
  - c. multipartite ladders and extension ladders are used such that the various parts cannot shift relative of each other;
  - d. mobile ladders and stairs are fastened before they are treaded on.
3. Ladders and stairs are used such that the employees always have safe support and grip. In any case, the carrying of loads with the hands on a ladder or a stair may not impede a safe grip.

#### **Art. 07.23b Specific provisions regarding scaffolding**

##### **Art. 7.23b Specific provisions regarding scaffolding**

1. When the strength or stability calculation for the chosen scaffolding is not available or the considered structural arrangements have not been included in the calculation, another strength and stability calculation is performed, unless the scaffolding is assembled according to a generally recognized standard configuration.
2. Depending on the complexity of the chosen scaffolding, an assembly, disassembly and conversion schedule is drawn up by a competent person. This schedule can have the form of a general realization schedule, which for specific scaffolding has been supplemented with detail drawings.
3. The supports of a scaffolding are secured against gliding away, either by attachment to the supporting surface, or by an antislip device or another, equally effective solution.
4. The bearing area of the supports has sufficient capacity.
5. The stability of the scaffolding has been guaranteed. Unwanted movements of moveable tower scaffolding during activities at latitude are prevented by an appropriate device.
6. The dimensions, the shape and the position of the floors of a scaffolding are adjusted to the nature of the activities to be performed and to the loads to be carried and they are such that safe traffic can take place and that can be worked safely.
7. The floors of scaffolding are assembled such that their components cannot move when they are used normally. Between the components of the floors and the vertical devices of the collective securities against falling are no dangerous openings.
8. If certain parts of a scaffolding are not ready-to-use, these parts, with due regard for section 2 of Chapter 8, are marked with warning signals and properly beacons by material elements which impede the access to the danger zone.
9. Scaffolding is only built, broken down or drastically changed under the command of a competent person and by employees who have had an adequate and specific training for the intended activities with regard to the specific risks, which especially focuses on:

- a. understanding the assembly, disassembly and conversion schedule of the relevant scaffolding;
- b. safety assembling, disassembling or converting of the relevant scaffolding;
- c. measures for the prevention of the risk that persons or objects fall;
- d. safety measures in case of changing weather conditions which may affect the safety of the scaffolding involved;
- e. the permissible load, and
- f. any other risk that the assembly, disassembly or conversion activities can bring along.

10. The person who leads the activities and the employees involved must dispose of the assembly, disassembly and conversion schedule, as referred to in the second paragraph, including possible corresponding instructions.

#### **Art. 07.23c Specific provisions regarding the use of access and positioning techniques with lines**

##### **Art. 7.23c Specific provisions regarding the use of access and positioning techniques with lines**

1. During the use of access and positioning techniques with lines as referred to in Article 7.23, third paragraph, the following conditions are complied with:
  - a. the system contains at least two separately anchored lines, namely:
    1. a work rope which serves for coming on or out of the workplace, and
    2. a life line which functions as a spare line;
  - b. the employees dispose and make use of an appropriate harness which complies with the provisions, established by or pursuant to section 1 of Chapter 8, by which they are connected to the life line;
  - c. the work rope has been provided with:
    1. a safe rising and descending mechanism, and
    2. a blocking mechanism through which the user cannot fall when he loses control over his movements;
  - d. the life line has been equipped with a moveable fall prevention system that follows the employee in his movements;
  - e. the tools and other aids used by the employee are connected with the harness or the seat of the employee, as referred to in Article 7.23, fourth paragraph, or attached in another, adequate manner;
  - f. the work is properly planned and there is supervision in order to assist the employee immediately, if necessary;

- g. the employees involved attend an adequate and specific training for the intended activities, especially regarding the rescue procedures.
2. In exceptional circumstances in which the use of two lines, in view of the risk inventory and evaluation of risks, as referred to in Article 5 of the Act, would make the work more dangerous, the use of one single line can be permitted, provided that adequate measures have been taken to guarantee the safety.

#### **Art. 07.23d Specific provisions regarding the use of repairing pontoons**

##### **Art. 7.23d Specific provisions regarding the use of repairing pontoons**

1. Article 7.18, fourth paragraph, is not applicable to the transport of employees by means of a repairing pontoon coupled to lifting or hoisting gear, if activities are performed from that repairing pontoon which occur not more than a few times per year and which do not take longer than four hours a time, on locations which are difficult to reach and, if application of other, more appropriate means to reach those locations, would bring along greater risks than the carriage of employees with a repairing pontoon as referred to above, or the application of such means reasonably cannot be demanded.
2. At the application of the first paragraph, only repairing pontoons are used where:
  - a. if the repairing pontoon has been attached to a lift truck or similar mobile lifting gear, the load of the fully-loaded repairing pontoon does not exceed the half of the maximally permitted load of the lifting gear in its most unfavourable position;
  - b. if the repairing pontoon has been attached to a crane, the load by the fully-loaded repairing pontoon and the corresponding hoisting tools does not exceed one quarter of the permissible workload of the crane. Contrary to this, in case of using a repairing pontoon which has been attached to a crane in a fixed position or to a crane positioned on a permanent craneway, the load does not exceed three quarters of the nominal load for which these cranes have been designed.
3. At application of the first paragraph, the operating position of the lifting or hoisting gear is permanently manned.
4. At application of the first paragraph, in case of usage of a lift truck or a similar mobile hoisting gear, the horizontal displacement of a repairing pontoon which has been hoisted more than 0.2 m, is only permitted if it is driven with a speed of maximally 2.5 km/hour for the benefit of the positioning of the repairing pontoon.
5. At application of the first paragraph, as regards the crane and the hoisting tools which are used in combination with a repairing pontoon, the following requirements apply:
  - a. it is not permitted to ride with a mobile crane, to which a manned repairing pontoon has been attached;

- b. with a crane with a manned repairing pontoon riding on a craneway, is only driven at a speed of maximally 2.5 km/hour.
- 6. At application of the first paragraph, the following requirements apply with regard to the employees involved:
  - a. the employees who are hoisted or lifted dispose of an effective means of communication, and
  - b. effective arrangements have been made to be able to evacuate the employees in case of danger.

## **§ 3 Requirements for loading and unloading of ships**

**[onderdeel]**

### **Art. 07.24 Access to the ship**

#### **Art. 7.24 Access to the ship**

1. In addition to Article 3.2, the access to a hold of a ship or deck is only allowed by a fixed stairway or, if this is not possible, a fixed ladder or clamps or feet openings with appropriate dimensions, of sufficient strength and with an adequate construction or other sound means of access.
2. The means of access mentioned in the first paragraph are, if this is reasonably possible, separated from the hatchways.

### **Art. 07.25 Hatches**

#### **Art. 7.25 Hatches**

1. Hatches which are placed or removed by means of lifting or hoisting gear, have been equipped with well accessible and suitable attachments for the securing of lifting tools.
2. If hatches are not interchangeable, they have been clearly marked to indicate to which hatchway as well at which location they belong.
3. Motor operated or hydraulically operated hatches and other motor or hydraulically driven ship's equipments are only placed or removed by a competent person.
4. The hatches and ship's equipment as referred to in the third paragraph, are only placed or removed when this can happen in a safe manner.
5. Hatchways which have been equipped with an efficient coaming are closed or otherwise secured as soon as the loading and unloading activities have ended.
6. Hatches are not placed or removed, if people are working in the hold under the hatchway.

7. Hatches which have not been adequately locked against displacement, are removed before the loading and unloading activities are started.

#### **Art. 07.26 Processing of goods or materials**

##### **Art. 7.26 Processing of goods or materials**

1. The storage or transshipment, loading or unloading, stowage or otherwise processing of goods or materials on the quay, in sheds or in the ship, happens in a safe and orderly manner, taking into account the nature of those goods or materials and its packaging.
2. Loads are not raised or lowered, unless they have been nailed in a safe manner to the lifting or hoisting gear or have been attached otherwise.

#### **Art. 07.27 Rigging plans and means for binding or lifting**

##### **Art. 7.27 Rigging plans and means for binding or lifting**

1. For the safe rigging of derricks and the corresponding utensils, rigging plans and all related information is available on board of the ship. The rigging plans are shown, upon request, to the supervisor.
2. Means for binding or lifting, intended for single use, are not used again.

#### **Art. 07.28 Containers**

##### **Art. 7.28 Containers**

During the loading and unloading of containers, adequate means are available which guarantee the safety of the employees when the lashings of the containers are attached or removed.

#### **Art. 07.29 Lifting and hoisting gear and lifting and hoisting tools on board of ships**

##### **Art. 7.29 Lifting and hoisting gear and lifting and hoisting tools on board of ships**

1. Contrary to Article 7.20, sixth and seventh paragraphs, the following provisions apply to lifting and hoisting gear as well as lifting and hoisting tools on board of ships, which are used for loading and unloading.
2. Lifting and hoisting gear including the corresponding fittings, components, points of attachment, anchorages and supports, and lifting and hoisting tools are effectively tested and examined for their good condition, before they are put into use for the first time.
3. Gear and tools as referred to in the second paragraph, are effectively tested and examined for their good condition after any important alteration or repair which may affect the safety.
4. Gear and tools as referred to in the second paragraph, are, depending on the actual load, regularly, but in any case at least once every five years, effectively tested and examined for their good condition,.

5. Lifting and hoisting gear and lifting and hoisting tools are, depending on the actual load, regularly, but in any case at least once a year, tested for their good condition.
6. Lifting and hoisting tools are, depending on the usage, regularly checked into their good condition.
7. Testings and examinations as referred to in the second through fourth paragraphs, are performed by Our Minister or a certifying institute.
8. Examinations and checks as referred to in the fifth and sixth paragraphs, are performed by an expert natural person, legal person or institute.
9. Certificates of the testings and examinations, as referred to in the second through fourth paragraphs, are issued by the certifying institute, as referred to in the seventh paragraph, according to a model established by Ministerial Regulation.
10. A register of lifting and hoisting gear and lifting and hoisting tools is kept on board of every ship according to a model established by Ministerial Regulation, in which the certificates as referred to in the ninth paragraph are incorporated. In the register are mentioned the operational load or operational loads of the lifting and hoisting gear, the workload of the lifting and hoisting tools as well as the times and the results of the testings and examinations as referred to in the second through fifth paragraphs. The times and the result of the checks as referred to in the sixth paragraph are mentioned, if a defect has been found at the relevant checks. The register is shown, upon request, to the supervisor.

#### **Art. 07.30 Indication of weight on heavy objects**

##### **Art. 7.30 Indication of weight on heavy objects**

1. Pieces or objects with a gross weight of at least 1000 kilograms and which are carried by a ship, have been provided at the outside, in a clear and durable manner, with an indication of the weight of those pieces or objects.
2. At the carriage of pieces or objects as referred to in the first paragraph, the approximate weight, instead of the weight, may be indicated as accurately as possible:
  - a. if the nature, composition or dimensions of the piece or the object impede measurement of the correct weight;
  - b. if the weight, as a result of climatic effects, is susceptible for considerable changes.

## Section 05 Additional requirements for building sites

[onderdeel]

### § 1 Matching

[onderdeel]

**Art. 07.31 Chain provision**

**Art. 7.31 Chain provision**

(...)

### § 2 Work equipment on the building site

[onderdeel]

**Art. 07.32-07.36 (...)**

**Art. 7.32-7.36**

(...)

## Section 05A Additional requirements extractive industries

[onderdeel]

**Additional requirements extractive industries in opencast mining, underground or by means of drillings**

**Art. 07.36a-07.36b (...)**

**Art. 7.36a-7.36b**

(...)

## Section 06 Special sectors and special categories of employees

[onderdeel]

### § 1 Transport

[onderdeel]

**Art. 07.37 Exceptions for means of transport**

**Art. 7.37 Exceptions for means of transport**

1. Chapter 7 is applicable to launching appliances for life-saving devices on seagoing vessels insofar the purpose of application of these appliances is not harmed.
2. Article 7.4a, first through third paragraphs, is, insofar it concerns launching appliances for life-saving devices and mechanical pilot ladders, not applicable to seagoing vessels.

3. Article 7.29 is not applicable to fishing vessels as referred to in Article 1 of the Ships Act.

## **§ 2 Young employees**

[onderdeel]

**Art. 07.38-07.39 (...)**

**Art. 7.38-7.39**

(...)

## **§ 3 Homeworkers**

[onderdeel]

**Art. 07.40 (...)**

**Art. 7.40**

(...)

**Art. 07.41 Work equipment**

**Art. 7.41 Work equipment**

1. Work equipment required for the work, insofar it does endanger persons, has been provided with an effective screen.
2. Work equipment with a control system required for the work, has been provided as close as possible to the position of the person who controls the work equipment, with such a device that this work equipment can be stopped separately, safely and with certainty and cannot, save intentionally, be started.
3. The required work equipment is maintained and, if necessary, repaired in the right manner.

**Art. 07.42 Electrical equipment**

**Art. 7.42 Electrical equipment**

1. Effective security devices have been attached to the work equipment with a control system, containing dangers with an electrical nature, which is required for the work, the operation of which is as much as possible independent of the person who controls that work equipment.
2. If it is necessary in connection with the activities that electrical equipment must be connected or otherwise lines or cables must be laid on, this happens in a correct manner so that it can be safely used by the homeworker.



# Chapter 08 Personal protective devices and safety and health signalling

[onderdeel]

## Section 01 Personal protective devices

[onderdeel]

### **Art. 08.1 General requirements personal protective device**

#### **Art. 8.1 General requirements personal protective device**

1. A personal protective device which has been put at the disposal of the employee by the employer is in accordance with the relevant provisions regarding design and construction in the field of safety and health, as referred to in the Personal Protective Devices (Commodities Act) Decree. The previous sentence is only applicable insofar the personal protective device as referred to is covered by the scope of the mentioned Decree.
2. In all cases a personal protective device must:
  - a. be suitable for the dangers to be avoided, without containing an increased danger itself;
  - b. meet the existing conditions on the workplace;
  - c. be geared at the ergonomic requirements and the requirements with regard to the health of the employees;
  - d. after the required adjustments, be fit for the bearer.
3. If different dangers require simultaneous wearing of more than one personal protective device, these personal protective devices have been geared to each other and they remain efficient against the relevant danger or the relevant dangers.
4. The choice of the personal protective device and the manner in which it must be used, in particular as regards the duration of the wearing, are determined independently of the seriousness of the danger, the frequency of the exposure to the danger and the features of the workplace of every employee separately as well as of the effectiveness of the personal protective device.
5. A personal protective device has basically been intended for use by one person. If the circumstances require that a personal protective device is used by more than one person, effective measures are taken, so that such usage causes no health or hygienic problems for the various users.
6. Adequate information about any personal protective device, necessary for the application of the first, second, third and fourth paragraphs, is available in the business or the institution and is passed on, if necessary.
7. Personal protective devices are only used for the intended purposes.
8. Personal protective devices are used in accordance with the instructions.

## **Art. 08.2 Choice personal protective devicee**

### **Art. 8.23 Availability and use of personal protective devices**

1. If there is danger for the safety or the health of an employee at the workplace or if it can be caused, personal protective devices are available in sufficient number for the employees who are or can be exposed to that danger.
2. In the cases, as referred to in the first paragraph, is ensured that the employees use the personal protective devices.
3. Personal protective devices are maintained, repaired and kept neat.
4. For the benefit of the properly functioning of personal protective devices, the necessary replacements of them take place.

## **Art. 08.3 Availability and use of personal protective devices**

### **Art. 8.3 Availability and use of personal protective devices**

1. If there is danger for the safety or the health of an employee at the workplace or if it can be caused, personal protective devices are available in sufficient number for the employees who are or can be exposed to that danger.
2. In the cases, as referred to in the first paragraph, is ensured that the employees use the personal protective devices.
3. Personal protective devices are maintained, repaired and kept neat.
4. For the benefit of the properly functioning of personal protective devices, the necessary replacements of them take place.

## **Section 02 Safety and health signalling**

### **[onderdeel]**

## **Art. 08.4 General requirements safety and health signalling**

### **Art. 8.4 General requirements safety and health signalling**

1. For the prevention or reduction of dangers to the safety and the health of employees, the employer ensures, if the dangers at the workplace or the dangers of work equipment induce so, that effective safety or health signalling is available.
2. By Ministerial Regulation, more detailed rules are established as regards the first paragraph.

## Section 03

[onderdeel]

### **Art. 08.5-08.12 (Cancelled)**

**Art. 08.5-08.12**

(Cancelled)

## Section 04 Special sectors and special categories of employees

[onderdeel]

### **§ 1**

[onderdeel]

### **Art. 08.13 (Cancelled)**

**Art. 8.13**

(Cancelled)

### **§ 2 Transport**

[onderdeel]

### **Art. 08.14 Safety and health signalling**

**Art. 8.14 Safety and health signalling**

1. Section 2 of this chapter is not applicable to the safety or health signalling used in or on an aircraft, a seagoing vessel or a barge or a vehicle on the public road, or railroad, insofar as this signalling has been prescribed on the basis of any other legal requirement.
2. The safety and health signalling as referred to in Article 8.4 is, if there is a reason for it, used in or on the means of transport, mentioned in the first paragraph, when they are on the terrain of the business or the institution.

### **§ 3 Homeworkers**

[onderdeel]

### **Art. 08.15 (...)**

**Art. 8.15**

(...)

# **Chapter 09 Obligations, punishable acts,**

[onderdeel]

Obligations, punishable acts, offences, administrative provisions and transitional and final provisions

## **Section 01 Indication of group**

[onderdeel]

Indication of group to which the obligations apply as laid down by or pursuant to this Decree

### **Art. 09.1 Obligations of the employer**

#### **Art. 9.1 Obligations of the employer**

The employer is obliged to comply with the requirements and prohibitions which have been established by or pursuant to this Decree, except for the Articles 1.25, 2.6, 2.26 through 2.29, 2.32 through 2.34 and 7.21.

### **Art. 09.2 Obligations of the home-employer**

#### **Art. 9.2 Obligations of the home-employer**

The home-employer is obliged to comply with the requirements and prohibitions included in the following Articles:

- a. of Chapter 1: the Articles 1.44 and 1.45;
- b. of Chapter 2: the Articles 2.14, first paragraph, and 2.15;
- c. of Chapter 4: the Articles 4.110 through 4.116;
- d. of Chapter 5: the Articles 5.1 through 5.12 and 5.15;
- e. of Chapter 6: Article 6.30;
- f. of Chapter 7: the Articles 7.1 through 7.16, except for 7.4a and 7.11a, 7.41 and 7.42;
- g. of Chapter 8: the Articles 8.1 through 8.3.

### **Art. 09.3 Obligations of the employee**

#### **Art. 9.3 Obligations of the employee**

1. If personal protective devices or aids are put at the disposal of the employee on the basis of the provisions of or pursuant to this Decree, the employee is obliged to use these personal protective devices and aids in accordance with the applicable requirements and to keep them neat. The previous sentence is not applicable to cases, as referred to in Article 6.8, seventh paragraph, first sentence.
2. Moreover, the employee is obliged to comply with the requirements and prohibitions which have been incorporated in the following Articles:
  - a. of Chapter 2: Article 2.42g;
  - b. of Chapter 3: the Articles 3.5, 3.5g, first paragraph, and 3.5h, second, fourth and fifth paragraphs;

- c. of Chapter 4: the Articles 4.1c, first paragraph, under f, j and k, 4.7, third paragraph, under c and d, 4.8, second, third and fourth paragraphs, 4.9, second and third paragraphs, 4.19, under a, 4.45, first paragraph, 4.47a, third paragraph, 4.48a, first and fourth paragraphs, 4.50, fifth and sixth paragraphs, 4.51, 4.54d, fourth, sixth and eighth paragraphs, insofar as it concerns the certificates from the fourth and sixth paragraphs, 4.58, first paragraph, 4.59, first paragraph, 4.60, first paragraph, 4.61, second through fifth paragraphs, 4.61a, first paragraph, 4.61b, first paragraph, 4.86, third paragraph, 4.87a, third paragraph, under d, 4.89, first and fourth paragraphs, 4.108 and 4.109, as well as with regard to work with asbestos or products containing asbestos, as referred to in Article 4.37, the Articles 4.19, heading and under a, and 4.20, third paragraph;
  - d. of Chapter 6: the Articles 6.14, 6.14a, fifth paragraph, 6.15, first paragraph, under c, 6.16, first through third paragraphs and fifth through eighth paragraphs, 6.18, fourth paragraph, 6.19, first paragraph, 6.20, fourth paragraph, and 6.29;
  - e. of Chapter 7: the Articles 7.5, second and third paragraphs, 7.13, seventh paragraph, 7.17c, second, third, seventh and eighth paragraphs, 7.18, second, fourth, sixth through eighth paragraphs, and ninth paragraph, and ninth paragraph, as regards the application of the established procedures, as referred to in this paragraph, 7.18a, second paragraph, third paragraph, tenth paragraph, as regards the application of the established procedure, as referred to in this paragraph, and thirteenth paragraph, 7.20, fourth paragraph, 7.21, second paragraph, 7.23c, first paragraph, item b, 7.23d, first, third and fifth paragraphs, 7.24, first paragraph, 7.25, sixth paragraph, and 7.32, first and second paragraphs.
3. The obligations for employees, mentioned in this Article, are not applicable to pupils and students in educational establishments.

## **Art. 09.4 Obligations of the homeworker**

### **Art. 9.4 Obligations of the homeworker**

The homeworker is obliged to comply with the requirements and prohibitions which have been incorporated in the following Articles:

- a. of Chapter 1: Article 1.46;
- b. of Chapter 4: Article 4.110.

## **Art. 09.5 Obligations of self-employed persons and assisting employers**

### **Art. 9.5 Obligations of self-employed persons and assisting employers**

1. A self-employed person and an employer as referred to in Article 16, seventh paragraph, item b, of the Act are obliged to comply with the requirements and prohibitions which have been incorporated in the following Articles:
  - a. of Chapter 1: Article 1.42;
  - b. of Chapter 3: the Articles 3.2, first paragraph, 3.3, 3.4, 3.5, 3.5d, first and second paragraphs, 3.5e, 3.5g, 3.5h, 3.6, first paragraph, 3.7, first paragraph, 3.16, 3.17, 3.28, first paragraph, 3.29, second and fifth paragraphs, 3.30, 3.31, second paragraph, and 3.34, first paragraph;
  - c. of Chapter 4: the Articles 4.1c, 4.3, second, third and fourth paragraphs, 4.5, 4.8, 4.9, 4.10, second and third paragraphs, 4.16, second, third and fourth paragraphs, 4.17, 4.19, 4.45, 4.46, 4.47b, 4.47c, first paragraph, items a and e, 4.48a, second paragraph,

items b and c, and fourth paragraph, 4.51a, first and third through fifth paragraphs, 4.54, 4.54a, with due regard for Article 4.54b, 4.54d, 4.58, 4.59, 4.60, 4.61, 4.61a, 4.61b, 4.62b, 4.87, 4.87a, 4.87b, 4.89, 4.94, 4.95, 4.108, 4.109, and 9.15, under a, sub 1° through 4°, and under b;

- d. of Chapter 6: the Articles 6.8, ninth paragraph, 6.14a, 6.15a, 6.16, 6.17, 6.18, 6.19, first paragraph, 6.20, 6.29 and 6.29a;
- e. of Chapter 7: the Articles 7.3, fourth paragraph, 7.4, first and second paragraphs, insofar as it concerns agricultural tractors weighing 800 kg or more, third and fourth paragraphs, 7.5, second, third and fifth paragraphs, 7.7, first paragraph, 7.9, 7.11, second paragraph, 7.16, 7.17a, first, second and fifth paragraphs, 7.17b, second paragraph, 7.17c, second paragraph, 7.18, second, fourth, sixth and seventh paragraphs, 7.18a, third and thirteenth paragraph, 7.18b, first paragraph, 7.20, fourth paragraph, 7.21, 7.23, 7.23a through 7.23d, 7.25, first, sixth and seventh paragraphs, 7.27, second paragraph, 7.28, 7.32, first and second paragraphs, and 7.34, second and third paragraphs;
- f. of Chapter 8: Article 8.3, second, third and fourth paragraphs;
- g. of the Act: the Articles 10, 11 and 32.

- 2. In addition to the first paragraph, a self-employed person and an employer as referred to in Article 16, seventh paragraph, item b, of the Act, who exploit an institute to which Article 2.3 applies, are also obliged to comply with section 2 of Chapter 2 and Article 19, first paragraph, of the Act.
- 3. In addition to the first paragraph, a self-employed person and an employer as referred to in Article 16, seventh paragraph, item b, of the Act, who are working at a building site with regard to the realization of a building, are also obliged to comply with:
  - a. Article 19, first paragraph, of the Act;
  - b. Article 2.35;
  - c. the Articles of Chapter 7, insofar as not mentioned in the first paragraph, item e, and
  - d. the Articles 8.1, first through fifth and seventh paragraphs, 8.2 and 8.3, first paragraph.
- 4. In addition to the first paragraph, a self-employed person and an employer as referred to in Article 16, seventh paragraph, item b, of the Act, who are exposed to plant protection products or biocides as referred to in Article 1 of the Act at the activities, are also obliged to comply with the following Articles:
  - a. of Chapter 3: Article 3.23;
  - b. of Chapter 4: the Articles 4.6 and 4.7, provided that Article 4.7 is equally binding to a self-employed person;
  - c. of Chapter 8: the Articles 8.1, sixth paragraph, and 8.4.

## **Art. 09.5a Obligations of the persons who are working with volunteers**

### **Art. 9.5a Obligations of the persons who are working with volunteers**

- 1. The person who is working with volunteers, is obliged, as regards those volunteers, to comply with the requirements and prohibitions which have been incorporated in the following Articles:

- a. of the Act: the Articles 3, 4, 5 and 18, insofar it concerns work with dangerous goods and biological agents to which Chapter 4 of the Decree applies, 6 through 11, 16 through 44;
  - b. of Chapter 3: the Articles 3.2, first paragraph, 3.3, 3.4, 3.5, 3.5d, first paragraph, 3.5g, 3.5h, 3.6, first paragraph, 3.16 and 3.17;
  - c. of Chapter 4: the Articles 4.1b through 4.10d, 4.13 through 4.21, 4.23, 4.44 through 4.54d, 4.58 through 4.61, 4.61a, 4.61b, 4.62b, 4.84 through 4.102, 4.108 and 4.109;
  - d. of Chapter 5: the Articles 5.2 and 5.3, heading and under a;
  - e. of Chapter 6: the Articles 6.8, first through third, seventh, ninth, tenth and eleventh paragraphs, 6.11c, second paragraph, 6.12, first and second paragraphs, 6.13, 6.14, 6.14a, 6.14b, 6.15, 6.15a, 6.16, 6.17, 6.18, 6.19 and 6.20;
  - f. of Chapter 7: the Articles 7.3, second through fourth paragraphs, 7.4, 7.5, second, third and fifth paragraphs, 7.7, first paragraph, 7.9, 7.11, second paragraph, 7.16, 7.17a, first, second and fifth paragraphs, 7.17b, first and second paragraphs, 7.17c, first and second paragraphs, 7.18, second, third, fourth, sixth and seventh paragraphs, 7.18a, third and thirteenth paragraphs, 7.18b, first paragraph, 7.23, 7.23a through 7.23d, and 7.32 through 7.35;
  - g. of Chapter 8: the Articles 8.1, second, seventh and eighth paragraphs, and 8.4.
2. The person, as referred to in the first paragraph, is with regard to volunteers who are younger than 18 years, also obliged, as regards those volunteers, to comply with the requirements and prohibitions which have been incorporated in the Articles 1.37, first paragraph, first sentence, and second paragraph, 3.46, 6.27 and 7.39.
  3. he person, as referred to in the first paragraph, is, with regard to pregnant volunteers and volunteers during the lactation, also obliged, as regards those volunteers, to comply with the requirements and prohibitions which have been included in the Articles 1.42, 3.48, 6.29 and 6.29a.

## **Art. 09.5b Obligation of the person who performs work**

### **Art. 9.5b Obligation of the person who performs work or has it performed in the territorial sea or the exclusive economic zone**

1. The person who performs work or has it performed in the territorial sea or in the exclusive economic zone, is obliged to transport the supervisor during the performance of his competences to the locations, to be indicated by the supervisor, where this work is performed, provided that the transport takes place between 07.00 and 20.00 hours.
2. If it concerns occupational accidents which lead to death, a permanent injury or hospitalization or if serious danger to the safety or the health of employees can be caused during the performance of work, the transport takes place at the indication of the supervisor appointed to that end between 00.00 uur and 24.00 hours.

## **Art. 09.6 Obligations of the principal**

### **Art. 9.6 Obligations of the principal**

The principal is obliged to comply with the requirements which have been included in the Articles 2.26 through 2.29 and 2.32.

## **Art. 09.7 Obligations of the designing party**

### **Art. 9.7 Obligations of the designing party**

The designing party is obliged to comply with the requirements which have been included in Article 2.33.

## **Art. 09.8 Obligations of the executive party**

### **Art. 9.8 Obligations of the executive party**

The executive party is obliged to comply with the requirements which have been included in the Articles 2.29 and 2.33.

## **Art. 09.9 Obligations of the lift owner or manager**

### **Art. 9.9 Obligations of the lift owner or manager**

The owner or manager of a lift is obliged to comply with the requirements which have been incorporated in Article 7.21.

# **Section 02 Punishable acts and finable acts**

[onderdeel]

## **§ 1 Punishable acts**

[onderdeel]

### **Art. 09.9a Ofgates**

#### **Art. 9.9a Ofgates**

1. As a punishable act is regarded the act or the failure to act contrary to the requirements and prohibitions which have been incorporated in the following Articles:
  - a. of Chapter 2: the Articles 2.5a, first and second paragraphs, 2.5b, first through fourth paragraphs, 2.5c, first, third and fourth paragraphs, 2.5d, 2.5e, first paragraph, 2.5f, 2.5g, first and second paragraphs, 2.5h, 2.42e, first paragraph, and 2.42f, first and third paragraphs;
  - b. of Chapter 3: 3.5g, first and second paragraphs, and 3.37v, first, second and third paragraphs;
  - c. of Chapter 4: the Articles 4.5, second and third paragraphs, 4.58, 4.59, first and second paragraphs, 4.60, first and third paragraphs, 4.61, second paragraph, 4.61a, first and third paragraphs, 4.61b, first paragraph, 4.105, 4.108, 4.109 and 4.110;
  - d. of Chapter 6: the Articles 6.27, 6.29 and 6.29a;
  - e. the Articles of the Ministerial Regulation established on the basis of the Act and this Decree, insofar as and in the manner as determined by that Regulation.
2. Insofar as exemption has been granted from the Articles, as referred to in the first paragraph, the act or the failure to act contrary to those requirements is also regarded as a punishable act.



## § 2 Offences

[onderdeel]

### Art. 09.9b First category

#### Art. 9.9b First category

1. As an offence regarding which an administrative fine may be imposed of the first category, is regarded the act or the failure to act contrary to the provisions that have been included in the following Articles:
  - a. a. of Chapter 1: the Articles 1.36, 1.37, first paragraph, 1.38, 1.41, 1.42 and 1.44 through 1.46;
  - b. of Chapter 2: the Articles 2.13, 2.14a, first and second paragraphs, 2.15, 2.26 through 2.29, 2.32 through 2.35, 2.41, 2.42, second through fourth paragraphs, 2.42a, first and second paragraphs, 2.42b, 2.42c, first and second paragraphs, 2.42g, 2.42h and 2.43, second paragraph;
  - c. of Chapter 3: the Articles 3.2, 3.4, third paragraph, 3.5, first and second paragraphs, 3.5b, second paragraph, 3.5c, 3.5d, fourth, fifth and sixth paragraphs, 3.5e, under c, d, f, g and i, 3.5f, under a through e, 3.5h, second, fourth and fifth paragraphs, 3.7, third through sixth paragraphs, 3.8, 3.9, 3.11 through 3.15, 3.18, second paragraph, 3.19 through 3.25, 3.27, 3.28, second paragraph, 3.29, first and fourth paragraphs, 3.31, first paragraph, 3.33, 3.34, 3.35, third paragraph, 3.37, 3.37b, 3.37f, first paragraph, 3.37i, 3.37s, first, fifth and sixth paragraphs, 3.37w, first paragraph, third and fourth paragraphs, and 3.48;
  - d. of Chapter 4: the Articles 4.1b, 4.1c, first paragraph, under i, 4.2, first through eighth paragraph, 4.2a, 4.4, sixth paragraph, 4.7, first and third paragraphs, under b, d, e and f, fourth and fifth paragraphs, 4.8, first through fourth paragraphs, 4.9, second and third paragraphs, 4.10, second and third paragraphs, 4.10a, first, second, fourth and fifth paragraphs, 4.10b, first and second paragraphs, 4.10c, fourth and fifth, 4.10d, 4.13, 4.15, 4.18, fourth paragraph, 4.19, items a, b and c, 4.20, 4.23, second paragraph, 4.45a, 4.45b, 4.47, first, second and fifth through eighth paragraphs, 4.47a, fourth through sixth and eighth paragraphs, 4.47c, first and second paragraphs, 4.48a, second paragraph, 4.50, first through fourth and sixth paragraphs, 4.51, 4.51a, third paragraph, 4.52, first and fourth paragraphs, 4.53, first through third paragraphs, 4.54a, 4.54d, first and third through ninth paragraphs, 4.85, 4.86, third paragraph, 4.88 through 4.90, 4.91, first through third paragraphs, sixth and tenth paragraphs, 4.94, first, third and fifth paragraph, 4.95 through 4.97, 4.102, 4.111, 4.112, second paragraph, 4.114 and 4.116;
  - e. of Chapter 5: the Articles 5.3, heading and item b, 5.4, 5.5, 5.9, 5.10 and 5.11;
  - f. of Chapter 6: the Articles 6.1, 6.2, first through fourth paragraphs, 6.3, 6.4, 6.7, first through fourth paragraphs, sixth and eighth paragraphs, 6.8, first, fourth through seventh, and ninth paragraph, 6.10, 6.10a, 6.11, 6.11b, first through fourth and sixth paragraphs, 6.11c, first paragraph, 6.11d, 6.11e, first, second and fourth paragraphs, 6.12, fifth paragraph, 6.14, 6.14a, first through third and fifth paragraph, 6.15, first paragraph, items a and c, and second paragraph, 6.15a, second paragraph, 6.16, third, and fifth through eighth paragraphs, 6.17, first, second and third paragraphs, 6.19, second through fourth paragraphs, 6.20b, third paragraph, under b and fourth paragraph, and 6.30;
  - g. of Chapter 7: the Articles 7.3, 7.4a, first through sixth paragraphs, 7.5, fourth paragraph, 7.6, 7.8, 7.10, 7.11a, 7.13, 7.17a, seventh paragraph, 7.17b, second paragraph, item a, and third and fourth paragraphs, 7.17c, first, fourth, fifth, sixth and eighth paragraphs, 7.17d, 7.18, first, third, fifth and ninth paragraphs, 7.18a, fourth through tenth paragraphs, and twelfth paragraph, 7.18b, fourth paragraph, 7.20 second and third paragraphs, and fifth through seventh paragraphs, 7.23, first paragraph, items a, c, d and e, and second paragraph, 7.23b, first, second

and eighth through tenth paragraphs, 7.23c, first paragraph, items f and g, 7.24, 7.25, first through fifth and seventh paragraphs, 7.27, first paragraph, 7.28, 7.29, second through eighth paragraphs, and tenth paragraph, 7.30, first paragraph, 7.32, first and second paragraphs, 7.34, first paragraph, 7.35, 7.36b, fourth paragraph, 7.41, third paragraph, and 7.42;

- h. of Chapter 8: the Articles 8.1 through 8.3 and 8.4, first paragraph;
- i. of Chapter 9: Article 9.36, first paragraph;
- j. the Articles of the Ministerial Regulation established on the basis of this Act and this Decree, insofar and in the manner as determined by that Regulation.

- 2. Insofar as exemption has been conditionally granted from the Articles, as referred to in the first paragraph, the act or the failure to act contrary to those requirements is also regarded as an offence regarding which an administrative fine of the first category may be imposed.

### **Art. 09.9c Second category**

#### **Art. 9.9c Second category**

- 1. As an offence regarding which an administrative fine of the second category may be imposed, is regarded the act or the failure to act contrary to the provisions that have been included in the following Articles:
  - a. of Chapter 1: Article 1.37, second paragraph;
  - b. of Chapter 2: Article 2.42, sixth paragraph and 2.42f, second paragraph;
  - c. of Chapter 3: the Articles 3.1b, 3.3, 3.4, first and second paragraphs, 3.5, third, fourth and seventh paragraphs, 3.5d, first, second and third paragraphs, 3.5e, under a, b, e and h, 3.5f, under f, 3.5g, fourth paragraph, 3.5h, third paragraph, 3.6, 3.7, first and second paragraphs, 3.10, 3.16, first and fourth paragraphs, 3.17, 3.18, first paragraph, 3.28, first paragraph, 3.29, second, third and fifth paragraphs, 3.30, 3.31, second paragraph, 3.35, first and second paragraphs, 3.37c, 3.37d, 3.37e, 3.37f, second paragraph, 3.37g, 3.37h, 3.37k, 3.37m, 3.37n, 3.37p, 3.37q, first and third paragraphs, 3.37r, 3.37s, second through fourth paragraphs, 3.37t, 3.37u, 3.37w, second paragraph, and 3.37y and 3.46;
  - d. of Chapter 4: the Articles 4.1c, first paragraph, under a through h and j and k, and second paragraph, 4.3 second, third and fourth paragraphs, 4.4 first through fifth paragraphs, 4.5, first paragraph, 4.6, first and second paragraphs, 4.7, second and third paragraphs, under a and c, 4.9, first paragraph, 4.16, second, third and fourth paragraphs, 4.17, 4.18, first through third paragraphs, 4.19, items d and e, 4.45, first paragraph, 4.46, 4.47a, first and third paragraphs, 4.47b, 4.48a, first and fourth paragraphs, 4.50, fifth paragraph, 4.51a, first, second and fourth paragraphs, 4.52, third paragraph, 4.54, 4.61, third through fifth paragraphs, 4.62b, 4.87, 4.87a, first through third paragraphs, 4.87b, 4.91, fifth paragraph, 4.98, 4.99, 4.100, first paragraph, 4.101, 4.106, 4.113 and 4.115;
  - e. of Chapter 5: the Articles 5.2 and 5.3, heading and item a;
  - f. of Chapter 6: the Articles 6.2, sixth paragraph, 6.8, third, tenth and eleventh paragraphs, 6.9, 6.11c, second and third paragraphs, 6.12, first through fourth paragraphs, 6.15, first paragraph, items b and d, 6.15a, first paragraph, 6.16, first paragraph, 6.16, second paragraph, 6.18, 6.19, first paragraph, 6.20, 6.20b, first, second and third paragraphs, under a, and 6.20e;
  - g. of Chapter 7: the Articles 7.2, first paragraph, 7.4, 7.5, first through third paragraphs, and fifth paragraph, 7.7, 7.9, 7.11, 7.14, first paragraph, 7.15, 7.16, 7.17a, first and second paragraphs, and fourth through sixth paragraphs, 7.17b, second paragraph, items b, c, d and e, fifth and sixth paragraphs, 7.17c, second through third paragraphs, and seventh paragraph, 7.18, second and fourth paragraphs, and sixth through eighth paragraphs, 7.18a, second, third, eleventh and thirteenth paragraphs, 7.18b, first through third paragraphs, 7.20, first and fourth paragraphs, 7.21, 7.23, first paragraph, item b, and third through eleventh paragraphs, 7.23a, 7.23b, third

through seventh paragraphs, 7.23c, first paragraph, items a through e, and second paragraph, 7.25, sixth paragraph, 7.26, 7.27, second paragraph, 7.34, second and third paragraphs, 7.36b, first through third paragraphs, 7.39 and 7.41, first and second paragraphs;

- h. the Articles of the Ministerial Regulation established on the basis of this Act and this Decree, insofar and in the manner as determined by that Regulation.

- 2. Insofar as exemption has been conditionally granted from the Articles, as referred to in the first paragraph, the act or the failure to act contrary to those requirements is also regarded as an offence regarding which an administrative fine of the first category may be imposed.

## Section 03 Administrative law provisions

[onderdeel]

### § 1 Administrative coercion

[onderdeel]

**Art. 09.10**

**Art. 9.10**

As provisions regarding the compliance of which administrative coercion can be applied, are appointed the Articles 2.5b, 2.5h, 3.5c, 4.1c, 4.2, 4.4, 4.13, 4.17, 4.18, 4.19, 4.45, 4.50, 4.54, 4.62b, 4.85, 4.87, 4.87a, 4.87b, 4.111, 4.113, 5.3, item b, 6.7, 6.11b and 9.5b.

### § 2 Exemption or release

[onderdeel]

**Art. 09.11-09.13 Exemption or release (Cancelled)**

**Art. 9.11-9.13**

(Cancelled)

**Art. 09.14 Exemption or release specific substances prohibition**

**Art. 9.14 Exemption or release specific substances prohibition**

Exemption or release from the prohibition in Article 4.59, first paragraph, can only be granted for:

- a. the use of the substances for research and tests, including analysis;
- b. activities focused on the removal of the substances which are present in a mixture or solution in a concentration which is smaller than 0.1 weight percent;
- c. production processes where the substances are produced in a closed process installation and are converted there into other substances, without the substances being prematurely taken out of the

process installation, other than insofar that is necessary for the control over the production process and the maintenance of the process installation.

#### **Art. 09.15 Exemption specific substances prohibition**

##### **Art. 9.15 Exemption specific substances prohibition**

In cases in which exemption has been granted from the prohibitions in Article 4.59:

- a. if it is intended to produce, use or stock a substance mentioned in the exemption, the following information is mentioned in writing to a supervisor appointed to that end:
  1. the identity of the substance which will be produced, used or stocked;
  2. the amount of the substance which will annually be produced, used or stocked;
  3. the location where the substance will be produced, used or stocked;
  4. the kinds of work which will be performed with the substance;
  5. the number of employees which can be exposed to the substance during the work;
  6. the manner in which and the extent to which employees will be exposed to the substance during the work;
  7. the measures which have been taken to prevent that employees will be exposed to the substance during the work;
- if it is intended to drastically change the conditions which are the basis of the information which has been submitted on the basis of the requirement as referred to under a, the information as referred to there is reported in writing again to a supervisor who has been appointed to that end.

#### **Art. 09.16 Release specific substances prohibition**

##### **Art. 9.16 Release specific substances prohibition**

At a request for release from the prohibitions in Article 4.59, the reason of the request is given and the information as referred to in Article 9.15, under a, is submitted.

#### **Art. 09.16a Exemption or release obligation to replace volatile organic compounds**

##### **Art. 9.16a Exemption or release obligation to replace volatile organic compounds**

Exemption or release from Article 4.62b can only be granted in cases in which it is technically not feasible to use unarmful or less harmful substances or products than volatile organic compounds or products which contain these substances.

## **Art. 09.17 Exemption or release noise requirements**

### **Art. 9.17 Exemption or release noise requirements**

1. Exemption or release from Article 6.8, seventh paragraph, first sentence, ninth, tenth and eleventh paragraphs, is only granted when the complete and correct use of individual hearing protection in exceptional circumstances could lead to greater risks to the health or the safety than when this protection has not been used.
2. Taking into account the special conditions, requirements are attached to an exemption or release as referred to in the first paragraph, to guarantee that:
  - a. the risks to the safety and health which result from it are minimized and
  - b. the employees involved are under tightened medical supervision.
3. An exemption or release as referred to in the first paragraph is only granted for a period of not more than four years.

## **Art. 09.17a Exemption or release noise requirements**

### **Art. 9.17a Release requirements as regards vibrations**

Release from Article 6.11c, second paragraph, can only be granted if:

- a. the exposure remains usually under the action values, as referred to in Article 6.11a, second paragraph, item b, and third paragraph, item b;
- b. the exceeding has an incidental nature;
- c. the average exposure over a period of 40 hours remains under the limit value for exposure;
- d. there are evidences that the risks of the exposure pattern are smaller than the risks of exposure to the limit value for exposure;
- e. the resulting risks are minimized;
- f. the employees involved and the works council or staff representation or, in absence thereof, the interested employees have been consulted beforehand about the nature and contents of the application for release, and
- g. the employees involved are under tightened health supervision.

## **Art. 09.17b Exemption seagoing vessels and aircraft**

### **Art. 9.17b Exemption seagoing vessels and aircraft**

For seagoing vessels and aircraft, exemption can be granted from Article 6.11 c, second paragraph, insofar as it concerns the limit value, as referred to in Article 6.11 a, third paragraph, item a, if

- a. it, in view of the state of the art and the specific features of the workplace, despite the performance of technical and/or organizational measures, is not possible to comply with the limit value for exposure to body vibrations;
- b. the resulting risks are minimized, and
- c. the employees involved are under tightened health supervision.

#### **Art. 09.18 Exemption seagoing vessels and aircraft**

##### **Art. 9.18 Exemption or release loading and unloading of ships**

1. Exemption or release from the Articles 7.24 through 7.28 can only be granted:
  - a. as regards locations where traffic is irregular;
  - b. as regards barges with a length of less than 55 metres, seagoing vessels smaller than 500 GT or fishing vessels as referred to in Article 1 of the Ships Act.
2. Exemption or release from Article 7.29 can only be granted:
  - a. as regards locations where traffic is irregular;
  - b. as regards barges with a length of less than 55 metres or seagoing vessels smaller than 500 GT.

#### **Art. 09.19 Limitation exemption or release possibility**

##### **Art. 9.19 Limitation exemption or release possibility**

No exemption or release is granted from the requirements and prohibitions, as referred to in the following Articles and the provisions based on it:

- a. of Chapter 1: the Articles of the sections 8 and 9;
- b. of Chapter 2: the Articles of the sections 5, 6 and 6a;
- c. of CHAPTER 3: Article 3.1b, the Articles of paragraph 2a of section 1 and of the section 2, 3, 3a, 3b and 3c and the paragraphs 4 and 5 of section 5;
- d. of Chapter 4: the Articles of section 1, except for the Articles 4.8, 4.9 and 4.10, the Articles of sections 2, 5, 6, 7 and 9 and the Articles of the paragraphs 2, 3 and 4 of section 10;

- e. of Chapter 5: the Articles of the sections 1 and 2 and Article 5.14;
- f. of Chapter 6: the Articles of the sections 1 and 2, 3, except for Article 6.8, seventh paragraph, first sentence, ninth, tenth and eleventh paragraphs, section 3a, except for Article 6.11c, second paragraph, section 5a, and the Articles of the paragraphs 3 and 4 of section 6;
- g. of Chapter 7: the Articles of the sections 1, 2, 3 and 4, except for the Articles 7.20, sixth paragraph, and 7.21, and the Articles of the sections 5, except for Article 7.32, and 5a and paragraph 2 of section 6;
- h. of Chapter 8: the Articles of the sections 1 and 2;
- i. of Chapter 9: the Articles 9.15 and 9.16.

#### **Art. 09.20 Duration of exemption or release**

#### **Art. 9.20 Duration of exemption or release**

Exemptions or releases are only granted for a limited duration and are anyhow withdrawn when the reasons for which they have been granted, have been cancelled.

### **§ 3 Claim for observance**

[onderdeel]

#### **Art. 09.21 (Cancelled)**

#### **Art. 9.21**

(Cancelled)

#### **Art. 09.22 Claim for observance**

#### **Art. 9.22 Claim for observance**

1. Regarding the manner in which the requirements, established pursuant to the Articles 6, first paragraph, and 16 of the Act must be observed, a requirement can be developed in accordance with Article 27, first paragraph, of the Act.
2. The first paragraph does not apply in the cases, as referred to in Article 1.33.
3. Moreover, the first paragraph does not apply as regards the following Articles:
  - a. of Chapter 1: the Articles 1.26 through 1.32 and 1.34;
  - b. of Chapter 4: the Articles 4.1c, first paragraph, item k, 4.58, 4.59, 4.60, first and third paragraphs, 4.61, second paragraph, 4.61b, 4.105, 4.108, 4.109 and 4.110;
  - c. of Chapter 6: the Articles 6.27, 6.29 and 6.29a.

4. When developing requirements for an employer or employee, to which section 2 as well as section 4 or 6 of Chapter 1 apply, the provisions to that end in section 4 or 6 are observed.
5. A requirement to which section 2 of Chapter 2 applies, which has one or more common interests with a requirement, which is related to a licence granted on the basis of one of the laws for the protection of the environment for the foundation, putting or keeping into operation, extension, or alteration of a business or institution or for changing a working method which is used by it, which are such that it could be contrary to that requirement, is only developed by the supervisor appointed to that end after consultations with the authority which has granted the licence.
6. When developing requirements for an employer or employee, to which section 4 or 6 of Chapter 1 applies, the provisions to that end in that section are observed.
7. If with regard to one or more provisions of the Decree in accordance with Article 27, first paragraph, of the Act, a claim for observance has been dictated, no release can be granted anymore in that situation from the relevant requirement respectively the relevant requirements.

## Section 04 Transitional and final provisions

### [onderdeel]

### § 1 (Cancelled)

#### [onderdeel]

#### **Art. 9.23 (Cancelled)**

#### **Art. 9.23**

(Cancelled)

### § 2 (Cancelled)

#### [onderdeel]

(Cancelled)

#### **Art. 09.24-09.33 (Cancelled)**

#### **Art. 9.24-9.33**

(Cancelled)

### § 3 Transitional provisions

#### [onderdeel]

#### **Art. 09.34 Additional safety risk inventory and evaluation of safety risks**

#### **Art. 9.34 Additional safety risk inventory and evaluation of safety risks; occupational safety reporting**

1. Article I, items A through I, O, P, T and V of the Royal Decree of 7 February 2004 for amendment of the Working Conditions Decree for the replacement of the provisions as regards the occupational



safety reporting by additional requirements regarding the risk inventory and evaluation of risks and a few other amendments (Stb. 2004, 69) is not applicable till two years after the entry into force unless that Decree is applied before that time.

2. As regards businesses or institutions where, on the day of the entry into force of the Decree, as referred to in the first paragraph, is disposed of an occupational health report as referred to in Article 2.2b, as that Article read on the day before the entry into force of the above-mentioned Decree, is, contrary to the first paragraph, the above-mentioned Decree not applicable until the time on which the occupational health report ought to have been revised on the basis of Article 2.2b, second paragraph, as that Article read on the day before the entry into force of the above-mentioned Decree, but not later than five years after the time on which the occupational health report has been completely revised and has been sent wholly to the supervisor who has been appointed to that end, unless that Decree is applied before that time.
3. The notification, as referred to in Article 2.5g, first paragraph, as regards businesses or institutions who are in operation on the day on which the Decree, as referred to in the first paragraph, under the first or the second paragraph is applied, takes place within six weeks after the application of the aforementioned Decree.
4. The Working Conditions Decree as it read on the day before the entry into force of the Decree, as referred to in the first paragraph, is applicable till the time on which the last mentioned Decree is applied under the first or the second paragraph.

#### **Art. 09.35 Noise in the music and entertainment industry**

##### **Art. 9.35 Noise in the music and entertainment industry**

1. The Articles 6.6 through 6.11, 6.27, third paragraph, 9.3, second paragraph, item b, 9.9b, first paragraph, item f, 9.9c, first paragraph, item f, 9.17 and 9.19, item f, as they read as from 15 February 2006, are not applicable in the music and entertainment industry until a time to be established by Our Minister, which is in any case not later than 15 February 2008, unless those Articles are applied before that time.
2. The Articles 6.6 through 6.11, 6.27, third paragraph, 9.3, second paragraph, item b, 9.9b, first paragraph, item f, 9.9c, first paragraph, item f, 9.17 and 9.19, item f, as they read before 15 February 2006, are applicable until the time on which, pursuant to the first paragraph, the Articles 6.6 through 6.11 are applied.

#### **Art. 09.35a Noise on board of seagoing vessels and seagoing fishing vessels**

##### **Art. 9.35a Noise on board of seagoing vessels and seagoing fishing vessels**

Till 15 February 2011, Art. 6.8, tenth and eleventh paragraphs, is not applicable to employees on board of seagoing vessels and seagoing fishing vessels.

#### **Art. 09.36 Noise on board of seagoing vessels and seagoing fishing vessels**

##### **Art. 9.36**

1. If young employees perform work consisting of driving tractors on the public road and the directly related coupling or uncoupling of trailers or gear, in addition to Article 7.39, under a, they are in possession of a certificate of professional competence, which has been issued by an institution designated to that end by Our Minister.

2. This Article is cancelled on a time to be determined by Royal Decree.

#### **Art. 09.36a (Cancelled)**

##### **Art. 9.36a**

(Cancelled)

#### **Art. 09.37 Explosive atmospheres**

##### **Art. 9.37 Explosive atmospheres**

Art. 3.5e, under e, is not applicable to work equipment for use on locations where an explosive atmosphere can occur, which has been put into use before 30 June 2003.

#### **Art. 09.37a Vibrations**

##### **Art. 9.37a Vibrations**

1. Article 6.11c, second and third paragraphs is not applicable till 6 July 2010 when work equipment is used which has been put at the disposal of employees before 6 July 2007 and where the limit values for exposure in view of the latest technical developments and despite the performance of organizational measures cannot be observed.
2. Contrary to the first paragraph, Article 6.11c, second and third paragraphs, is not applicable till 6 July 2014 on work equipment as referred to in the first paragraph which is used in agriculture and forestry.
3. By Ministerial Regulation, more detailed rules can be laid down as regards the conditions, as referred to in the first paragraph.

#### **Art. 09.37b Certification**

##### **Art. 9.37b Certification**

Art. 4.54d, seventh paragraph, is not applicable till 1 January 2008.

#### **Art. 09.37c-09.37e (Cancelled)**

##### **Art. 9.37c-9.37e**

(Cancelled)

## **§ 4 Final provisions**

[onderdeel]

#### **Art. 09.38 (Cancelled)**

##### **Art. 9.38**

(Cancelled)

**Art. 09.39 Amendment Annexes to EC Directives****Art. 9.39 Amendment Annexes to EC Directives**

An amendment to one of the Annexes to an EC Directive to which is referred in this Decree, shall be effective for the application of this Decree and the provisions based on it as from the day on which the amendment Directive involved must have been implemented, unless another time is established by Ministerial Order, which is published in the Government Gazette.

**Art. 09.40 (Cancelled)****Art. 9.40**

(Cancelled)

**Art. 09.41 Official title****Art. 9.41 Official title**

This Decree is quoted as: Working Conditions Act.