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DIENST VOOR HET KADASTER EN DE OPENBARE REGISTERSTERS¹
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CADASTER ORGANIZATION ACT

Text of the Articles as laid down in the
Cadaster Organization Act
(Bulletin of Acts and Decrees 1994, 125)
as amended by: the AWB² Alignment Act III
(Bulletin of Acts and Decrees 1993, 690), and
the Awb Deficiency Act
(Bulletin of Acts and Decrees 1995, 250)

Apeldoorn, 16 May 1995

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- 1.) Cadaster and Public Registers Agency
 - 2.) AWB and Awb stand for: General Administrative Law Act

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Text of the Articles as laid down in the Cadaster Organization Act

We, Beatrix, by the grace of God Queen of the Netherlands, Princess of Orange-Nassau, etc., etc., etc.,
To all whom these presents may come, We send greeting and make known:

That We have taken into consideration that it would be desirable to give more autonomy to the Cadaster and Public Registers Department;

So it is that We, by and with the advice of the Council of State and with the common consultation of the States General have approved and agreed, like We hereby approve and agree:

CHAPTER 1 - GENERAL

Article 1

For the purposes of this Act and the stipulations founded on it, the following definitions shall apply.

- a. Agency: the Cadaster and Public Registers Agency as referred to in Article 2;
- b. Our Minister: Our Minister of Housing, Spatial Planning and the Environment;
- c. Board: the Board as referred to in Article 3;
- d. Supervisory Board: the Supervisory Board as referred to in Article 3.

Article 2

1. There is a Cadaster and Public Registers Agency. It is a legal entity, established at Apeldoorn.
2. The Agency is charged with the duties entrusted to it under or by virtue of the Cadaster Act or of other acts.
3. The Agency may perform activities other than the ones resulting from the duties as referred to in the second paragraph, if these activities are conducive to:
 - a. the accessibility and exchangeability of the particulars which are registered while performing the duties referred to in the second paragraph, or
 - b. the efficiency of performing the duties referred to in the second paragraph or a better utilisation of the operating assets available at the Agency for performing these duties.

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CHAPTER 2 - THE BOARD AND THE SUPERVISION OVER THE BOARD

§ 1 - General

Article 3

The Agency has a Board and a Supervisory Board.

§ 2 - The Board

Article 4

1. Our Minister shall appoint the Board members.
2. The Supervisory Board shall submit to Our Minister a nomination of at least two persons. Our Minister shall not amend the nomination other than after consultation with the Supervisory Board.
3. In the event that the office of a Board member is vacated or if he is otherwise unavailable, the Supervisory Board may arrange for the office to be held temporarily.

Article 5

The salary of the Board members shall be fixed by the Supervisory Board and shall require the consent of Our Minister.

Article 6

1. Each Board member may at any time be suspended by the Supervisory Board or Our Minister. A suspension by the Supervisory Board may at any time be withdrawn by Our Minister.
2. Each Board member may at any time be removed from office by Our Minister by and with the consent of the Supervisory Board.

Article 7

1. Save for restrictions arising under or by virtue of the stipulations laid down in this Act, the Board is vested with the management of the Agency.
2. Further, the Board is in charge of establishing rules and taking the decisions it is obliged or authorized to take by virtue of the Cadaster Act.

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Article 8

1. Save for the provisions laid down in paragraph 2, the Board shall represent the Agency both at law and otherwise. This representative power is also vested in each individual Board member.
2. If the Agency has in any way an interest conflicting with the interest of one or more Board members, the Agency shall be represented by the Supervisory Board or by a member of the said Board designated for this purpose.

Article 9

Each Board member shall be obliged as against the Agency to properly perform the duties entrusted to him. If it concerns a matter which falls within the field of activity of two or more Board members, each of them shall be liable for the whole on account of a failure, unless this failure is not imputable to him and he has not been negligent in taking steps to avert the consequences of this failure.

§ 3 - The Supervisory Board

Article 10

1. The Supervisory Board shall consist of at least three and at most five members.
2. A person who is employed by the Agency cannot at the same time be a member of the Supervisory Board.

Article 11

1. Our Minister shall appoint, suspend and remove the chairman and the other members of the Supervisory Board.
2. The Supervisory Board shall submit to Our Minister a nomination of one person for each vacancy on the Supervisory Board to be filled. The nomination must state the reasons on which it is based. Our Minister shall not amend the nomination other than after consultation with the Supervisory Board.
3. The representative advisory body as referred to in Article 18(3), and the Board may suggest to the Supervisory Board persons for nomination. For this purpose, the Supervisory Board shall inform them in good time when and owing to what circumstance a vacancy on the Supervisory Board has to be filled.

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4. The Supervisory Board shall notify the representative advisory body of an intended nomination. Within eight weeks following dispatch of such notification, the representative advisory body may raise objections against the appointment of the nominee based on the expectation that this person will be unsuitable for performing the duties of member of the Supervisory Board, or that the Supervisory Board, after such person is so appointed, will not be properly composed.

5. If the representative advisory body does not raise any objections within the time specified in paragraph 4, the Supervisory Board shall nominate the person concerned. The Supervisory Board shall not nominate a person against whose appointment the representative advisory body has raised objections other than until after it has consulted the representative advisory body. In case of such nomination, the Supervisory Board shall notify Our Minister of the objections and it shall give to Our Minister an account of the consultations with the representative advisory body.

6. The members of the Supervisory Board shall be appointed for a period not exceeding four years. They shall be eligible for reappointment once.

7. For as long as a vacancy on the Supervisory Board has not been filled, the remaining members shall constitute the Supervisory Board. If all the offices on the Supervisory Board are vacated, Our Minister shall forthwith appoint one or more persons who shall temporarily perform the duties of the Supervisory Board.

Article 12

1. The Supervisory Board shall supervise the Board's management and the general course of affairs in the Agency's organization. It shall advise the Board.

2. In the performance of its duties, the Supervisory Board shall let itself be guided by the interests of the Agency, which shall include the interest of the proper performance of the duties entrusted to the Agency under or by virtue of the law.

3. Respecting the performance of its duties by the Supervisory Board, Article 9 shall apply correspondingly.

4. The Board shall submit to the Supervisory Board in good time the particulars required for the proper performance of its duties. It shall ensure that the members of the Supervisory Board, if they so require, get access to the Agency's premises and be enabled to inspect and peruse the books and records of the Agency.

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Article 13

1. The Board shall require the consent of the Supervisory Board for management resolutions the subject matter whereof is:
 - a. the regulations as referred to in the Articles 16, 17, 18(2) and 20(2);
 - b. the budget as referred to in Article 21;
 - c. investments in excess of an amount to be determined by the Supervisory Board;
 - d. the lending of money or the securing of money loans in excess of an amount to be determined by the Supervisory Board;
 - e. the performance of activities as referred to in Article 2(3);
 - f. the entry into or discontinuance of the permanent cooperation with another legal entity, if this cooperation or its discontinuance should considerably affect the Agency;
 - g. the foundation or co-foundation of a private legal entity or the participation in a company or partnership;
 - h. substantial reorganizations;
 - i. regular reports to Our Minister as referred to in Article 31(2)
2. The Supervisory Board does not give its consent to decisions as referred to in the first paragraph until after Our Minister has stated not to have any objections.

Article 14

1. The Supervisory Board shall not be authorized to take any decisions, unless at least one-half of the number of members is present at the meeting.
2. The Supervisory Board shall draw up a code of rules relating to its procedures, which is to include at any rate that its meetings are public.

Article 15

1. Our Minister may grant a remuneration to the members of the Supervisory Board at the charge of the Agency.
2. The members of the Supervisory Board are entitled to be reimbursed by the Agency for their travelling and hotel expenses incurred in the performance of their duties.
3. The Supervisory Board shall have its own secretarial department.

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CHAPTER 3 - CONSULTATION WITH CLIENTS

Article 16

1. By code of rules the Board shall set up a Clients Council. In this code of rules, it shall lay down arrangements relating to the composition of this Council, as also relating to the manner in which the Board shall consult with this Council on the quality and the efficiency of the Agency's services, on the rates charged for these services, on the long-term policy plan, and on other matters of common interest.

The Clients Council may advise the Board on the matters referred to before at the latter's request or of its own accord.

2. The Board shall enable the organizations of clients using the Agency's services designated in the code of rules as referred to in the first paragraph to appoint a representative who will sit on the Clients Council on behalf of the organization concerned, and a deputy representative.

Clients shall at any rate include civil law notaries, real estate brokers, municipalities and water control corporations.

3. The Clients Council shall have its own secretarial department.

CHAPTER 4 - ORGANIZATION AND STAFF

§ 1 - The organization

Article 17

By code of rules the Board shall establish the main lines of the organizational structure of the Agency, with due observance of the provisions laid down in Article 4(1)(2) of the Cadaster Act.

§ 2 - The staff

Article 18

1. The Agency's staff, which is to include the members of the Board, are civil servants within the meaning of the Central and Local Government Personnel Act, save for those with whom an employment contract has been concluded under civil law.

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2. In so far as these subject matters have not already been provided for under or by virtue of the law, the Board shall establish by code of rules, with regard to the civil servants who are employed by or on behalf of the Agency, regulations relating to:

- a. appointment, suspension and dismissal;
- b. an investigation into qualifications and capabilities;
- c. salary and retaining pay;
- d. working hours;
- e. leave and holidays;
- f. provisions in case of sickness;
- g. safety at the workplace;
- h. obligations relating to residence, accommodation and availability;
- i. employees' representation in management;
- j. other rights and obligations;
- k. disciplinary punishment;
- l. the manner in which consultations are held with the relevant unions representing persons employed in the public service about matters of common interest for the staff's legal status;
- m. the dealing with disputes relating to the subject matters laid down under the letters i and l.

3. The regulations as referred to in the second paragraph under i shall at least provide for the setting-up of a representative advisory body, which will exercise the powers granted to it under Article 11.

4. Article 126, first up to and including the third paragraph of the Central and Local Government Personnel Act shall apply correspondingly, with the proviso, however, that the Provincial Executive must be read as: the Supervisory Board.

CHAPTER 5 - FINANCIAL MANAGEMENT AND ACCOUNTING

§ 1 - Financial management

Article 19

The Agency's income shall consist of:

- a. revenues from cadastral fees, as referred to in Article 108 of the Cadaster Act;
- b. income from fees relating to other duties entrusted to the Agency under or by virtue of the law;
- c. income from other activities, from participations and from poolings of interests with third parties;
- d. other income howsoever named.

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Article 20

1. The Board shall keep such accounts of the Agency's financial position that its rights and obligations may be identified at any time.
2. The Board shall establish by code of rules the procedures for the financial management and the accounting system of the Agency.
3. The financial year of the Agency shall coincide with the calendar year.

Article 21

The Board shall draw up in good time before the close of the financial year a financial budget for the next financial year. The budget shall be in line with the long-term policy plan as referred to in Article 22.

Article 22

1. When drawing up the budget the Board shall at the same time draw up a long-term policy plan. The long-term policy plan shall be confirmed by the Supervisory Board.
2. Respecting the following five financial years, the long-term policy plan shall at any rate contain:
 - a. a survey of the activities to be carried out by the Agency when performing the duties entrusted to the Agency under or by virtue of the law, and an estimate of the resulting costs and income;
 - b. a survey of the intended other activities of the Agency as referred to in Article 2(3), and an estimate of the resulting costs and income.

Article 23

1. The Supervisory Board shall send the budget approved by it and the long-term policy plan confirmed by it to Our Minister prior to 1 October of the immediately preceding financial year.
2. When sending the documents as referred to in the first paragraph the Supervisory Board may submit to Our Minister a reasoned proposal to increase the cadastral fees as referred to in Article 108 of the Cadaster Act. The Supervisory Board shall add to this proposal a report from the consultations held about this subject matter with the Clients Council as referred to in Article 16.

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Article 24

1. The long-term policy plan requires the consent of Our Minister. Our Minister may approve of the long-term policy plan in part or subject the consent to conditions.
2. If Our Minister intends to refrain from consenting to the long-term policy plan in whole or in part, or to subject the consent to conditions, the Supervisory Board shall be notified and be enabled for a period of at most four weeks to amend the long-term policy plan.

§ 2 - The annual accounts and the annual report

Article 25

1. Each year the Board shall draw up the annual accounts. The annual accounts shall consist of a balance sheet and a profit and loss account with explanatory notes. The Articles 362 up to and including 390 and 405 up to and including 414 of the Second Book of the Netherlands Civil Code shall apply correspondingly, with the exception of the provisions contained therein, relating to the capital of a company being divided into shares.
2. Each year the Board shall draw up an annual report. The annual report shall be drawn up with corresponding applicability of Article 391 of the Second Book of the Netherlands Civil Code.

Article 26

1. Our Minister shall give an assignment to audit the annual accounts to a public accountant, who will either be a chartered accountant or an Accounting-Consultant with regard to whom, on entry in the register as referred to in Article 36(1) of the Accountants-Consultants Act, a registration has been made as referred to in Article 36(3) of the said Act. The assignment may be given to an organization within which the accountants that qualify for the assignment cooperate. The assignment may at any time be withdrawn.
2. Article 393, third up to and including the seventh paragraph of the Second Book of the Netherlands Civil Code shall apply correspondingly to the audit to be performed.
3. The expenses of the audit shall be paid by the Agency.

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Article 27

The Board shall submit the annual accounts and the annual report to the Supervisory Board together with:

- a. the auditor's report on the annual accounts giving a true and fair view;
- b. a statement of events that took place after the balance sheet date, which could involve substantial financial consequences for the Agency, at the same time stating the extent of those consequences.

Article 28

1. The annual accounts shall be confirmed by the Supervisory Board. Article 25, first paragraph, second and third sentence shall apply.
2. The annual accounts shall require the consent of Our Minister.
3. The Supervisory Board shall send the annual accounts and the annual report within four months after the close of the financial year to Our Minister, together with the auditor's report and the statement as referred to in Article 27 under the letter b.
4. The annual accounts shall be signed by the members of the Board and by the members of the Supervisory Board. Should the signature of one of them fail, mention thereof shall be made and the reason therefor shall be given to Our Minister.
5. Our Minister may extend the period referred to in the third paragraph on account of circumstances of a special nature, but by at most six months.

Article 29

1. Within eight days after the Supervisory Board has been notified of the approval of the annual accounts, the Board shall make public the annual accounts, the annual report and the documents referred to in Article 27. This making public shall be effected by making them available for inspection at the Board's office. The fact that they have been made available for inspection will be published in the Netherlands Government Gazette.
2. The Board shall ensure that any person who shall so require, shall be allowed to inspect the documents referred to in the first paragraph, and be furnished with complete or partial copy thereof at a price not exceeding the cost price for making such copy.

Article 30

1. Should the annual accounts, the intermediate figures published by the Agency or the annual report, give a misrepresentation of the Agency's position, the Board members shall be severally liable as against third parties for the damage sustained by them on account thereof. The Board member who proves that it is not imputable to him, shall not be liable.

2. Should the annual accounts give a misrepresentation of the Agency's position, the members of the Supervisory Board shall, jointly with the Board members, be severally liable as against third parties for the damage sustained by them on account thereof. The member who proves that it is not imputable to any failure in his supervision, shall not be liable.

CHAPTER 6 - INQUIRIES AND EXAMINATION

Article 31

1. If so requested, the Board and the Supervisory Board shall furnish Our Minister with all particulars, he must, at his discretion, have at his disposal with a view to exercising his powers by virtue of this Act or by virtue of other acts; to the extent that under or by virtue of such acts, duties have been entrusted to the Agency. The Board shall notify the Supervisory Board of all particulars furnished to Our Minister.

2. Our Minister may determine that the Board shall furnish the particulars as indicated by him and referred to in the first paragraph, by way of regular reports.

3. Our Minister may give an assignment to the accountant referred to in Article 26(1) to examine the particulars as indicated by him and referred to in Article 26(1). The costs of such examination shall be paid by the Agency. The Board shall ensure that the accountant will get access to the Agency's premises and be allowed to inspect the books and records of the Agency, to the extent required at the accountant's discretion.

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CHAPTER 7 - CONFIDENTIALITY

Article 32

(deleted)

CHAPTER 8 - AMENDMENT OF THE CADASTER ACT AND OF THE DECREE IMPLEMENTING THE CADASTER ACT

Article 33

(amendment of the Cadaster Act; incorporated in the Cadaster Act)

Article 34

(amendment of chapter II of the Cadaster Act; incorporated in the Decree implementing the Cadaster Act)

CHAPTER 9 - AMENDMENT OF OTHER ACTS

Article 35

(amendment of Article 30 of the Third Book of the Netherlands Civil Code)

Article 36

(amendment of Article 505(3), of the Code of Civil Procedure)

Article 37

(amendment of Article 347(1) and Article 374(3) of the Commercial Code)

Article 38

(amendment of the Articles 4(3), 5, 7(2) and 8(7) of the Municipalities Pre-emption Rights Act)

Article 39

(amendment of the Articles 3(4), second sentence, 52(2), 58(1), 68, 73(4), 90(3)(4)(5), 113 and 117 of the Restoration Act Midden-Delfland)

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Article 40

(amendment of Article 270-1(1)(4), of the Soil Protection Act)

Article 41

(amendment of the Articles 4(9), 53, 77(5)(a)(b), 97(3)(4)(5), 129, 132 and 137 of the Land Redevelopment Act Oost-Groningen and the Gronings-Drentse Veenkoloniën³)

Article 42

(amendment of the Articles 30(2), 138(5), 188, 208(4)(5), 222(1), 226(1) and 227 of the Land-Use Act)

Article 43

(amendment of Article 101 of the Land Consolidation Act Walcheren 1947)

Article 44

(amendment of the Articles 3(6) and 39(2) of the Agricultural Land Transactions Act)

Article 45

(amendment of the Articles 15(2)(b), 18(2)(3) and 21(1) of the Liability of Oil Tankers Act)

Article 46

(amendment of Article 6(1)(2) of the Certificates of Registry Act)

Article 47

(amendment of Article 6(3) of the Inland Vessels Scrapping Regulations Act)

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Article 48

(amendment of the Articles 6(2), 7(4) and 9(1) of the Monuments and Historic Buildings Act 1988)

Article 49

(amendment of Article 2(2) of the Nature Conservation Act 1928)

CHAPTER 10 - TRANSITORY AND FINAL PROVISIONS

Article 50

1. The civil servants who are, at the time this Act comes into force, on the staff of the Cadaster and Public Registers Department, shall from that moment onwards by operation of the law be in the employment of the Agency as civil servant on equal terms.
2. The persons who are, at the time this Act comes into force, on the staff of the Cadaster and Public Registers Department by virtue of an employment contract under civil law, shall from that moment onwards by operation of the law and with the same title be in the employment of the Agency.

Article 51

1. Our Minister shall on consultation with Our Minister of Finances determine which assets belonging to the State shall be allotted to the Agency.
2. The assets referred to in the first paragraph shall as from the moment the Act comes into force be transferred under general title to the Agency at a value to be determined by Our Minister on consultation with Our Minister of Finance.
3. In the event that registered property is transferred in pursuance of the provisions laid down in the first and second paragraph, Our Minister shall forthwith cause this transfer to be entered in the public registers, as referred to in Section 2 of Title 1 of the Third Book of the Netherlands Civil Code. Article 24(1) of the Third Book of the Netherlands Civil Code shall not apply.
4. On account of the acquisition of assets by the Agency as referred to in the second paragraph, transfer tax shall not be levied.

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Article 52

1. On the first appointment of the members of the Board, Article 4(2) shall not apply.
2. On the first appointment of the members of the Supervisory Board, Article 11, the second up to and including the fifth paragraph shall not apply.

Article 53

Until such time as the codes of rules referred to in the Articles 17, 18 and 20(2) come into force, the regulations that applied in such matters immediately preceding the time this Act comes into force, shall remain applicable.

Article 54

The provisions laid down in the Articles 11(7), second sentence, 84(4) and 117 of the Cadaster Act and 30(1)(2) of the Third Book of the Netherlands Civil Code, as they run prior to the time this Act comes into force, shall remain applicable with respect to liability and damages on account of the facts as referred to in these Articles, which have occurred prior to that time.

Article 55

In such cases in which, prior to the time this Act comes into force, the National Ombudsman was requested, on the grounds of Article 12 of the National Ombudsman Act, to do an investigation, or where the National Ombudsman on the grounds of Article 15 of the said Act, has already conducted an investigation, and in which the person to whose behaviour such investigation related, was employed prior to that time by the Cadaster and Public Registers Department of the Ministry of Housing, Spatial Planning and the Environment, the Board of the Agency shall, as from that time, take the place of the Minister of Housing, Spatial Planning and the Environment as administrative body within the meaning of the National Ombudsman Act.

Article 56

The text of the Cadaster Act shall be published in the Bulletin of Acts and Decrees of the Kingdom of the Netherlands.

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Article 57

This Act shall come into force on 1 May 1994 or on another date to be fixed by Royal Decree, which may fix a different date in respect of the various Articles or parts thereof.

Article 58

This Act may be cited as: Cadaster Organization Act.

Direct and ordain that the present will be published in the Bulletin of Acts and Decrees and that all Ministries, Authorities, Boards and Civil Servants whom it may concern shall enforce the accurate implementation hereof.

Given at Lech, 14 February 1994

Beatrix

The State Secretary of Housing, Spatial Planning and the Environment,

E. Heerma

Issued on the first day of March 1994

The Minister of Justice,

E.M.H. Hirsch Ballin