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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

THE NETHERLANDS

THE JUDICIARY ORGANISATION ACT

Judiciary Organisation Act

Act on the composition of the judiciary and the organisation of the justice system

Chapter 1 General provisions

Article 1 Definitions

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

a) courts: the courts referred to in Article 2;

b) judicial officers:

1°. the president of the Supreme Court;

2°. the coordinating vice-presidents, vice-presidents, justices, justices extraordinary, deputy justices, judges and deputy judges of the courts;

3°. the procurator general at the Supreme Court and the deputy procurator general, the advocates general and the advocates general extraordinary;

4°. the procurators general who constitute the Board of Procurators General referred to in Article 130;

5°. the advocates general and the deputy advocates general at the offices of the public prosecution service at the courts of appeal;

6°. the public prosecutors and deputy public prosecutors at the offices of the public prosecution service at the district courts, the national public prosecutors' office and the national office of the public prosecution service for financial, economic and environmental offences;

7°. the court legal assistants at the courts;

8°. the clerk/registrar and deputy clerks/registrars of the Supreme Court;

c) judicial officers responsible for the administration of justice: the judicial officers referred to in part **(b)** (1°) and (2°);

d) court officials: central government civil servants appointed to work at a court;

e) Supreme Court: the Supreme Court of the Netherlands;

f) Our Minister: Our Minister of Justice;

g) the Council: the Council for the Judiciary as referred to in Article 84.

Article 2 Type of courts

The courts belonging to the judiciary are:

a) the district courts,

b) the courts of appeal, and

c) the Supreme Court.

Article 3 Applicability regulation to the Supreme Court

Parts 2 and 6 do not apply to the Supreme Court.

Article 3a *[repealed on 20-3-1947]*

Article 4 Hearing in public

- 1. Unless provided otherwise by law, hearings must be public, on penalty of nullity.
- 2. The examination during the hearing may, for compelling reasons, be conducted wholly or partly in private. The reasons must be stated in the official record of the hearing.

Article 5 Judgments pronounced in public

- 1. On penalty of nullity, judgments in civil and criminal cases must be pronounced in public and must contain the grounds on which they are based.
- 2. On penalty of nullity, orders and judgments in civil and criminal cases and rulings in administrative cases are given by the number of judicial officers responsible for the administration of justice determined in this Act.
- 3. If it is provided by statute that persons other than judicial officers also form part of a full-bench chamber, the decisions of the full-bench chamber concerned are also null and void if they have not been taken by the number of non-judicial members specified in this Act.

Article 5a *[repealed on 1-1-2002]*

Article 6 Single-judge and full-bench chambers

- 1. The management board of a court must set up single-judge and full-bench chambers to hear and decide cases and swear in the officials designated for this purpose by statute and must determine their composition.
- 2. Unless provided otherwise in this Act, the full-bench chambers must consist of three judicial officers responsible for the administration of justice, one of whom acts as presiding judge. If persons other than judicial officers also form part of a full-bench chamber, a judicial officer responsible for the administration of justice must act as presiding judge.
- 3. The management board may decide that, in the interests of the safety of persons or if the hearing will last more than one day, one or more judicial officers responsible for the administration of justice should be ready to replace one of the members of a full-bench chamber in a case. These judicial officers are present when the case is heard in court, but do not take part in the examination in court or in the deliberations and decision on the case, unless they deputise for one of the absent members at the request of the presiding judge of the full-bench chamber.
- 4. This Article does not apply to the Supreme Court.

Article 6a *[repealed on 1-6-1999]*

Article 6b *[repealed on 1-6-1999]*

Article 6c *[repealed on 1-6-1999]*

Article 6d *[repealed on 1-1-2002]*

Article 7 Decision-making in chambers

- 1. In chambers the presiding judge of the full-bench chamber must ask the members individually for their opinion. The presiding judge must give his opinion last.
- 2. Each member must participate in the decision-making.
- 3. Judicial officers responsible for the administration of justice, court legal assistants, trainee judicial officers, clerk/registrar and deputy and acting clerks/registerars of the Supreme Court, court officials and external clerks of the court/registerars as referred to in Article 14, paragraph 4 may not divulge matters discussed in chambers concerning pending cases.

Article 7a *[repealed on 1-1-2002]*

Article 7b *[repealed on 1-1-1997]*

Article 7c *[repealed on 1-1-1997]*

Article 8 Deputy justices and deputy judges

Deputy justices and deputy judges may be called upon by the management board to hear and decide cases.

Article 8a *[repealed on 1-1-1997]*

Article 9 Judge may deputise for a colleague at another court

The Council may require a member of a court of appeal or district court to deputise for the holder of another judicial office at a different court of appeal or district court, as the case may be, with the agreement of the member concerned and the management board of the court where he is employed.

Article 10 Registry of the court (clerk of the court)

- 1. The registry must be open at least six hours a day on all working days in the court's principal seat and its subsidiary seat.
- 2. The registry is not open on all working days, or is open for less than six hours a day, in the court's subsidiary place of sitting.

Article 11 Rules for the administration of the courts by Order in Council

Rules for the administration of the courts must be laid down by Order in Council.

Article 11a *[repealed on 15-5-2002]*

Article 11b *[repealed on 1-1-2002]*

Article 11c *[repealed on 1-1-2002]*

Article 12 Confidentiality and secrecy about trials

The judicial officers responsible for the administration of justice, the court legal assistants, the trainee judicial officers and the clerk/registrar and deputy clerks/registrars of the Supreme Court may not in any way discuss with parties or their lawyers, local counsel or representatives any disputes which are pending before them or which they know or believe will become pending before them.

Article 12a *[repealed on 1-1-2002]*

Article 13 Confidentiality about other information

Judicial officers responsible for the administration of justice, court legal assistants, trainee judicial officers, clerk/registrar and deputy and acting clerks/registrars of the Supreme Court, court officials and external clerks of the court/registrars as referred to in Article 14, paragraph 4 may not divulge information which comes to their attention in the course of their work and which they know – or can reasonably be expected to know – to be of a confidential nature, except in so far as they are legally obliged to communicate it or their position makes it necessary for them to communicate it.

Article 13a *[repealed on 1-1-2002]*

Article 13b *[repealed on 1-1-2002]*

Chapter 2 Administration of justice**Part 2 The organisation of the courts****Division 1 Structure****Article 14 Staff of the court**

- 1. A court is staffed by:
 - a) judicial officers responsible for the administration of justice, and
 - b) court officials.
- 2. Court legal assistants and trainee judicial officers may work at a court.
- 3. The court officials, trainee judicial officers and court legal assistants designated for this purpose by the management board of a court perform the duties with which the clerk of the court is charged by or pursuant to statute. They are competent to perform these duties for other courts as well. The designation is made in writing.
- 4. The management board of a court may appoint as an external clerk of the court/registrar persons other than judicial officers responsible for the administration of justice, court officials, trainee judicial officers and court legal assistants. They may be called upon in this capacity by the management board to perform duties with which the clerk of the

court/registrars are charged by or pursuant to statute. Paragraph 3, second sentence, applies *mutatis mutandis*. Before being called upon for the first time they must take an oath or make an affirmation in the presence of the management board. The wording of the oath or affirmation must be adopted – and further rules about their swearing-in may be laid down – by or pursuant to order in council. They receive a fee set in accordance with rules to be laid down by or pursuant to order in council.

- 5. The appointment of an external clerk of the court/registrars is terminated at his request by the management board of the court.

- 6. The management board of the court may terminate the employment of an external clerk of the court/registrars:

a) if he has not performed the duties of a clerk of the court/registrars for a period of at least three years,

b) on the ground of unsuitability, other than for reasons of ill-health, or

c) for an act or omission that should not be committed by a person working for a court.

- 7. If a court official, trainee judicial officer, court legal assistant or external clerk of the court/registrars performs duties of the clerk of the court/registrars in support of a judicial officer responsible for the administration of justice or an expert member, he must comply with the directions given by judicial officer or expert member concerned. Article 14a [repealed on 1/1/2002]

Article 14b [repealed on 1-1-2002]

Article 14c [repealed on 1-1-2002]

Article 14d [repealed on 1-1-2002]

Article 14e [repealed on 1-1-2002]

Article 15 Management board of the court (chairperson, council and members)

- 1. Each court has a management board consisting of a chairperson, the sector chairpersons and a non-judicial member.

- 2. The chairperson of the management board is a judicial officer responsible for the administration of justice and has the title of president.

- 3. The sector chairperson is a judicial officer responsible for the administration of justice.

- 4. The non-judicial member is a court official and has the title of director of operations.

- 5. The management board members are appointed by Royal Decree on the recommendation of Our Minister for a term of six years. They may be reappointed.

- 6. The Council nominates three people for appointment as a management board member. Before making a nomination, the Council must hear the management board of the relevant court. The management board also informs the Council of the views of the works council.

- 7. A member of the management board may not also be a member of the Council or a member of the management board of another court.

- 8. A member of the management board may not also be:

a) a member of the States General;

b) a government minister;

c) a state secretary;

d) vice-president or member of the Council of State;

e) president or member of the Court of Audit;

f) national ombudsman or deputy ombudsman;

g) a lawyer, local counsel or notary or otherwise be involved professionally in providing legal advice and assistance;

h) a civil servant at a ministry or at the institutions, agencies and businesses that come under a ministry.

- 9. The chairperson and the sector chairpersons are judicial officers responsible for the administration of justice, who are appointed in accordance with Article 2, paragraph 1, of the Judicial Officers (Legal Status) Act. They may not also be a judicial officer as referred to in Article 1 (b) 1° and 3° to 8°, vice-president of the Supreme Court, justice of the Supreme

Court or justice extraordinary of the Supreme Court.

- 10. The director of operations may not also be a judicial officer.

Article 16 Appointment and dismissal of the chairperson and members of the management board

- 1. The chairperson or sector chairperson receives an allowance as a supplement to his salary as judicial officer for the work he performs as chairperson or sector chairperson, as the case may be. The amount of the allowance is equal to the difference between this salary and the salary level fixed by order in council for the position of chairperson or sector chairperson, as the case may be.
- 2. The appointment of a member of the management board is terminated by Royal Decree on the recommendation of Our Minister if the member accepts an office or position which is incompatible under Article 15 with membership of the management board of the court.
- 3. The management board membership of the chairperson and sector chairperson is terminated or suspended by Royal Decree on the recommendation of Our Minister if the member's appointment as a judicial officer responsible for the administration of justice is terminated or suspended, unless such termination or suspension relates only to a judicial office to which they were not appointed in accordance with Article 2, paragraph 1, of the Judicial Officers (Legal Status) Act.
- 4. The appointment of the chairperson or sector chairperson is terminated at his own request by Royal Decree on the recommendation of Our Minister.
- 5. The director of operations is subjected to a disciplinary punishment or his appointment is suspended or terminated by Royal Decree on the recommendation of Our Minister. Our Minister makes his recommendation on the proposal of the Council.
- 6. Further rules on the legal status of the management board members, including in any event rules concerning the allowance of the chairperson and sector chairperson as referred to in paragraph 1 and the remuneration of the director of operations, are to be laid down by order in council.

Article 17 Decision-taking by the management board

- 1. The management board may take decisions only if at least half of the members are present.
- 2. The management board takes decisions by a majority of votes.
- 3. In the event of a tied vote, the president has the casting vote.

Article 18 Delegation of powers by the management board

The management board may authorise one or more of its members to exercise one or more of its powers. Part 10.1.1 of the General Administrative Law Act applies *mutatis mutandis*.

Article 19 Regulations of the management board for procedural rules

- 1. The management board must in any event draw up rules in the form of regulations governing its procedure, decision-making and division of responsibilities, organisational structure, authorisation as referred to in Article 18, the replacement of its members in the event of sickness or other inability to act, the division into chambers as referred to in Article 6, paragraph 1, the allocation of cases between the sectors as referred to in Article 20, paragraph 2, and the distribution of cases between the principal seat, subsidiary seat and subsidiary places of sitting.
- 2. The regulations require the consent of the Council. Articles 10:28 to 10:31 of the General Administrative Law Act apply *mutatis mutandis*.
- 3. Consent may be withheld only if the regulations are contrary to the law or prejudicial to the proper operation of the court.
- 4. The regulations must be published in the Government Gazette.

Article 20 Establishment of sectors within the court

- 1. The management board must establish within the court no more than four organisational units bearing the name sector.
- 2. Within a sector as referred to in paragraph 1, single-judge and full-bench chambers must

hear and decide cases of the types assigned by the management board to the sector concerned.

- 3. With the exception of the deputy justices and deputy judges who have not been designated to perform a full or partial role, the judicial officers, trainee judicial officers and court officials working within a sector together constitute the sector meeting.
- 4. The deputy justices and deputy judges who are not part of the sector meeting pursuant to paragraph 3 may take part in it if invited.
- 5. Court officials are not eligible to vote on matters relating to legal quality and the uniform application of law as referred to in Article 23, paragraph 3.

Article 21 Sector chairperson

- 1. The sector chairperson is responsible for the day-to-day management of the sector.
- 2. The sector chairperson chairs the sector meeting.

Article 22 Court meeting

- 1. With the exception of the deputy justices and deputy judges who have not been designated to perform a full or partial role, the judicial officers responsible for the administration of justice, the court legal assistants who are also deputy justice or deputy judge, and trainee judicial officers together constitute the court meeting.
- 2. The president chairs the court meeting.
- 3. The court officials employed at the court, the court legal assistants who are not also deputy justice or deputy judge, and the deputy justices and deputy judges who have not been designated to perform a full or partial role may take part in the court meeting if invited.

Division 2 Duties and powers

Article 23 Daily management and operational control of the court

- 1. The management board is responsible for the day-to-day management, organisation and operational control of the court. The management board is responsible in particular for:
 - a) information systems and the provision of management information;
 - b) the preparation, adoption and implementation of the budget;
 - c) accommodation and security;
 - d) the quality of the administrative and organisational procedure of the court;
 - e) personnel matters;
 - f) other facilities.
- 2. In performing the duties referred to in paragraph 1, the management board may not involve itself in the procedural aspects or substantive assessment of or the decision in a specific case or category of case.
- 3. The management board is also responsible for promoting legal quality and the uniform application of the law. It consults on this subject with a sector meeting or the court meeting. In performing this duty, the management board may not involve itself in the procedural aspects or substantive assessment of or the decision in a specific case.
- 4. The management board members must provide each other with information necessary for the performance of the duties referred to in paragraphs 1 and 3.

Article 24 Right to give directions

- 1. In performing its duties referred to in Article 23, paragraph 1, the management board may issue general and specific directions to all officers and officials employed at the court.
- 2. When issuing directions the management board may not involve itself in the procedural aspects or substantive assessment of or decision in a specific case or category of case.

Article 25 Disciplinary measures and suspension or termination of the employment of court officials

- 1. The imposition of disciplinary punishment on – or the suspension or termination of the employment of – court officials, with the exception of the director of operations, is carried out by the management board.
- 2. The powers conferred on the competent authority by the Central and Local Government

Personnel Act are exercised in relation to the court officials by the management board, subject to the proviso that these powers are exercised in relation to the director of operations by the management board without the participation of the director of operations.

- **3.** Further rules are to be laid down by or pursuant to order in council concerning the exercise of powers relating to the legal status of court officials by the management board or the management board without the participation of the director of operations, as the case may be, and by the Council for the Judiciary.

- **4.** The management board is the superior, as referred to in the Judicial Officers (Legal Status) Act and the provisions based upon it, of the judicial officers employed at the court and the trainee judicial officers, in so far as they are receiving their training at the court. Notwithstanding the above, the powers conferred on the management board by and pursuant to statute as the superior of a judicial officer responsible for the administration of justice who is also a member of the management board must be exercised by the management board without the participation of the judicial officer concerned.

Article 26 Complaint procedure

- **1.** The management board must adopt a procedure for dealing with complaints.

- **2.** The procedure or any change to it requires the consent of the Council. Articles 10:28 to 10.31 of the General Administrative Law Act apply mutatis mutandis.

- **3.** Consent may be withheld only if the procedure is contrary to the law or prejudicial to the proper operation of the court.

- **4.** Complaints may not be made concerning actions in respect of which proceedings are pending before a judicial authority under a statutory remedy or in respect of which appeal lies against a judgment given in such proceedings. Nor may complaints concern a judicial decision.

- **5.** The procedure must be published in the Government Gazette.

- **6.** Part 9.1.2 of the General Administrative Law Act applies mutatis mutandis.

Article 27 Representation of the court by its president

The president represents the court.

Article 28 Solicited or unsolicited advice to the management board

A sector meeting or the court meeting may provide the management board with solicited or unsolicited advice on the performance of the duty referred to in Article 23, paragraph 3.

Article 28a *[repealed on 1-1-2002]*

Division 3 Planning and funding

Article 29 Budget for the courts

- **1.** Subject to the rules referred to in Article 97, paragraph 1, the Council must allocate a general budget to each court from the central government budget. The Council may attach rules to the allocation of the budget.

- **2.** In addition to the general budget the Council may provide a court with financial resources for specifically defined activities intended to improve the organisation or procedure of the court or the courts in general. Paragraph 1, second sentence applies mutatis mutandis.

Article 29a *[repealed on 1-6-1999]*

Article 29b *[repealed on 1-6-1999]*

Article 30 Information of the courts about the to be expected budget

As quickly as possible after the communication referred to in Article 101, the Council must inform each court what budget it can provisionally expect for the next budget year, including any rules attached to the budget. It must also state how the budget estimate has been calculated.

Article 31 Annual plan for the courts

- 1. The management board must adopt an annual plan for the court. The plan must contain:
 - a) a description of the proposed activities for performance of the duties referred to in Article 23, paragraph 1 for the year following that in which the plan is adopted;
 - b) a budget for the next budget year;
 - c) a multi-year estimate for at least four years following the budget year.
- 2. Notwithstanding Article 17, paragraph 2, the management board must adopt the annual plan by a majority of votes, including the vote of the president.
- 3. The Council may issue general directions about the structure of the plan.
- 4. The management board sends the plan to the Council by a date fixed by the Council.
- 5. Within the management board the president supervises the implementation of the annual plan.

Article 32 Budget of the courts as part of the annual plan

- 1. The management board must adopt the budget of the court as part of the annual plan in accordance with the budget estimated by the Council as referred to in Article 30.
- 2. The budget of the court requires the consent of the Council. Articles 10:28 to 10.30 of the General Administrative Law Act apply mutatis mutandis.
- 3. Consent may be withheld only if the procedure is contrary to the law or prejudicial to the proper operation of the court.
- 4. The Council must decide within eight weeks of receipt of the court's budget. Consent is deemed to have been given if no decision has been received from the Council within this time limit.
- 5. In cases of urgency the management board may incur expenditure before the consent of the Council has been obtained for the relevant budget. The Council must be immediately notified of this.

Article 33 Information of the courts about the allocated budget

- 1. As quickly as possible after the adoption of the budget of the Ministry of Justice, the Council must inform each court what budget it is allocating to it. If the budget differs from the budget estimate referred to in Article 30, the second sentence of that Article applies mutatis mutandis.
- 2. If the budget differs from the budget estimate referred to in Article 30, the management board will amend the court's budget.
- 3. Decisions to make other amendments to the budget may be made until no later than the end of the budget year concerned.
- 4. The Council must be immediately informed of the amendments referred to in paragraphs 2 and 3.
- 5. The necessary expenditure by the management board must be within the limits of the adopted or amended budget.

Article 34 Consent of the Council for the Judiciary

- 1. If the consent of the Council has not been obtained for the budget, the management board always requires the Council's consent for expenditure.
- 2. A request of the management board for consent may be refused by the Council only if the expenditure is contrary to the law or prejudicial to the proper operation of the court. Articles 10:28 to 10.30 of the General Administrative Law Act apply mutatis mutandis.
- 3. The Council must decide on a request within eight weeks of its receipt. Consent is deemed to have been given if no decision has been received from the Council within this time limit.
- 4. The Council may attach rules to the consent.
- 5. The Council may determine for what items and up to what amount the management board does not require consent.

Article 35 Report of the management board to be submitted to the Council for the Judiciary

- 1. The management board must submit a report to the Council every year by a date set by the Council.
- 2. The report must consist of the financial statements with accompanying budget, the amendments made to them, the annual report and other financial particulars.
- 3. In the financial statements the management board must account for its financial management of the court in the preceding budget year.
- 4. The financial statements require the consent of the Council. Consent may be withheld only if they are contrary to the law. Articles 10:28 to 10:31 of the General Administrative Law Act apply mutatis mutandis.
- 5. The annual report must describe how the work for which the budget was allocated from the central government budget has been carried out. It must indicate how this work relates to the plan adopted in accordance with Article 31 for the year concerned and to the funding rules as referred to in Article 97, paragraph 1 applicable in the year concerned.
- 6. The report includes an opinion on the accuracy and regularity of the accounts, given by an auditor, as referred to in article 393, paragraph 1, of Book 2 of the Civil Code, engaged by the management board. The auditor must append to the opinion a report on the audit of the financial management. When engaging an auditor, the management board must stipulate that the Council is to be allowed, on request, to inspect the auditor's audit reports.
- 7. The Council may issue a direction concerning the scope and frequency of the audits. This direction must be in conformity with the direction referred to in Article 104, paragraph 6.
- 8. Notwithstanding Article 17, paragraph 2, the management board must adopt the annual report by a majority of votes, including the vote of the president.
- 9. The Council may issue general directions about the structure of the report.

Article 35a Power of representation of the management board

- 1. Notwithstanding Article 32, paragraph 1 of the Government Accounts Act 2001, the management board may perform juristic acts under private law on behalf of the State in so far as such acts result from the part of the budget of the Ministry of Justice managed by the board, unless it has been provided by or pursuant to statute that a minister other than Our Minister should perform the juristic act.
- 2. Article 32, paragraph 4 and Article 39 of the Government Accounts Act 2001 apply mutatis mutandis.

Division 4 Supervision**Article 36 Information duty of the management board**

- 1. The management board must provide the Council, on request, with the information necessary for the performance of its duties.
- 2. The Council may issue general directions concerning the provision of information in so far as the requested information relates to decisions and acts in the course of the duties referred to in Article 23, paragraph 1.

Article 36a *[repealed on 1-1-2002]***Article 37 Decisions of the management board to be set aside by the Council for the Judiciary**

A decision of the management board in the course of its duties as referred to in Article 23, paragraph 1, may be set aside by the Council if the decision is manifestly contrary to the law or prejudicial to the proper operation of the court. Articles 10:36, 10:37 and 10:38 to 10:45 of the General Administrative Law Act apply mutatis mutandis.

Article 38 Proposal for the dismissal of a member of the management board

- 1. The Council may propose to Our Minister that he recommend dismissal of one or more members of the management board on the grounds of their unsuitability, other than for

reasons of ill-health. The Council may propose to Our Minister that he recommend suspension of one or more members of the management board if it has good reason to suspect their unsuitability, other than for reasons of ill-health.

- 2. The dismissal or suspension is effected by Royal Decree on the recommendation of Our Minister.

- 3. If all members of the management board have been suspended or dismissed, the Council may appoint one or more temporary administrators to manage the court concerned. Article 15, paragraphs 7 to 10 apply mutatis mutandis. A term must be fixed for the administration when the appointment is made.

Article 39 Appeal against a decree to dismiss someone as a member of the management board

- 1. An interested party may appeal to the Supreme Court against a decree made on the basis of Article 38, paragraphs 1 and 2.

- 2. The Supreme Court must assess whether the Crown could reasonably have concluded that there was unsuitability, other than for reasons of ill-health, or that there was good reason to suspect unsuitability, as the case may be, and whether Our Minister acted in breach of Article 109 in making his recommendation.

- 3. Chapter 8 of the General Administrative Law Act, with the exception of part 8.1.1 and Articles 8:10, 8:11, 8:13 and 8:86, applies mutatis mutandis to an appeal.

Part 3 The District Courts

Division 1 General provisions

Article 40 Judicial officers responsible for the administration of justice at a District Court

- 1. The judicial officers responsible for the administration of justice who are employed at the district courts are:

a) coordinating vice-presidents;

b) vice-presidents;

c) judges;

d) deputy judges.

- 2. The judicial officers responsible for the administration of justice in one district court are, by law, deputy judges in the other district courts.

Article 41 Principal seat District Court and subsidiary seats

- 1. The district court is located in the principal seat of the district.

- 2. The subsidiary seats of the district courts are listed in the annexe to this Act. Subsidiary places of sitting may be designated by order in council. Rules may also be laid down by order in council for the allocation of cases between the principal seat and the subsidiary seats and subsidiary places of sitting.

- 3. The proposal for an order in council to be adopted pursuant to paragraph 2 may be made no earlier than four weeks after the draft has been submitted to both Houses of the States General.

- 4. The management board allocates the cases between the principal seat and the subsidiary seats and subsidiary places of sitting subject to the rules referred to in paragraph 2.

- 5. The judicial officers responsible for the administration of justice, the non-judicial members of a full-bench chamber, the court officials, the trainee judicial officers, the court legal assistants and the external clerks of the court/registrars may perform all activities in the subsidiary seats and subsidiary places of sitting, even outside the trial, which they are competent to perform in the principal seat of the district court.

- 6. The registry of the principal seat is deemed to be established in the subsidiary seats and subsidiary places of sitting too for cases heard there.

- 7. Documents and cases may be lodged and filed at the registry in the place where the case is heard, subject to the proviso that no cases may be filed in subsidiary places of

sitting. The management board may provide in its regulations that no documents can be lodged in a subsidiary place of sitting.

- 8. Our Minister may, after consultation with the management board of the district court, decide that the hearing in a case will be held at a location to be designated by him in the principal seat of the district, outside the principal seat of the district or outside the district if this is necessary for the safety of persons.

Article 42 Jurisdiction of the district courts regarding civil (private) law

The district courts have jurisdiction at first instance to hear all civil cases, save for any statutory exceptions.

Article 43 Competence district courts regarding administrative law

The district courts are competent at first instance to hear the administrative cases in respect of which they are assigned jurisdiction by law.

Article 43a [repealed on 1-1-2002]

Article 44 Competence district courts regarding tax law

The district courts are competent at first instance to hear the tax cases in respect of which they are assigned jurisdiction by law.

Article 45 Jurisdiction district courts regarding criminal law

- 1. The district courts have jurisdiction at first instance to hear all criminal cases, save for any statutory exceptions.

- 2. The district courts also have jurisdiction to hear claims for costs and damages for an injured party in criminal cases.

Article 46 Designation of examining magistrates in criminal cases

The management board of the district court must designate examining magistrates to hear criminal cases from among the judicial officers responsible for the administration of justice who are employed at the court.

Division 2 Sector for Subdistrict Courts (Limited jurisdiction sector)

Article 47 Limited jurisdiction sector (sector for Subdistrict Court) within each District Court

- 1. There is a limited jurisdiction sector (sector for Subdistrict Court) in which limited jurisdiction cases are heard and decided in single-judge chambers.

- 2. The limited jurisdiction sector performs its duties in the principal seat of the district court and in the subsidiary seats listed in the annexe, as referred to in Article 41, paragraph 2 and in the subsidiary places of sitting which have been designated pursuant to Article 41, paragraph 2.

- 3. The management board must hear the sector meeting of the limited jurisdiction sector about:

a) the preparation of a list of nominations for a vacancy in the limited jurisdiction sector as referred to in Article 1e, paragraph 1 of the Judicial Officers (Legal Status) Act;

b) the holding of hearings by the limited jurisdiction sector in subsidiary places of sitting;

c) the allocation of limited jurisdiction cases between the principal seat and subsidiary seats and subsidiary places of sitting.

Article 47a [repealed on 1-1-2002]

Article 48 Composition of a Subdistrict Court

- 1. The management board of the district court must set up single-judge chambers within the limited jurisdiction sector and decide their composition. The person who sits in a singlejudge chamber bears the title of limited jurisdiction judge or deputy limited jurisdiction judge.

- 2. Notwithstanding Article 47, paragraph 1, the management board of the district court must set up full-bench chambers, known as agricultural tenancy chambers, within the limited jurisdiction sector and decide their composition.
- 3. An agricultural tenancy chamber must consist of two lay members who are not judicial officers as expert members, and a limited jurisdiction judge. Article 7, paragraph 3 and Articles 12 and 13 apply mutatis mutandis to the expert members.

Article 48a Agricultural tenancy chambers (Court for farm lease agreements)

- 1. The expert members of the agricultural tenancy chambers of the district courts referred to in Article 48, paragraph 3 of this Act and their deputies are appointed by Royal Decree on the recommendation of Our Minister of Justice, after the Provincial Executive has been heard. They are appointed as member or deputy member, as the case may be, of the agricultural tenancy chamber.
- 2. Only Dutch nationals are eligible for appointment as member or deputy member of an agricultural tenancy chamber.
- 3. The expert members and deputy members of the agricultural tenancy chambers are appointed for a term of five years. They are eligible for reappointment when they retire. Their appointment is terminated at their own request by Royal Decree.
- 4. We ensure that when expert members and deputy members are appointed neither the interests of tenants nor those of landlords predominate in the agricultural tenancy chamber.
- 5. Before taking up their duties, the expert members and their deputies must take an oath or make an affirmation using the wording recorded in annexe 2 to the Judicial Officers (Legal Status) Act.
- 6. The appointment of an expert member or deputy member of the agricultural tenancy chamber is terminated by Royal Decree from the first day of the month following that in which he reaches the age of seventy.

Article 48b Application of statutory provisions to the Agricultural tenancy chamber

- 1. The provisions of Articles 46c, 46d, 46e, 46f, 46g, paragraphs 1 and 2, 46i, with the exception of paragraph 1 (c), 46j, 46l, paragraphs 1 and 3, 46m, 46o and 46p, paragraphs 1 to 5, of the Judicial Officers (Legal Status) Act apply mutatis mutandis to the expert members of the agricultural tenancy chambers and their deputies.
- 2. They are reimbursed for their travel and accommodation expenses and receive additional remuneration in accordance with rules laid down by order in council.
- 3. Rules for the implementation of this Article and Article 48a must be laid down by order in council.

Article 49 Special court for military cases

The management board of the district court in Arnhem must set up a single-judge chamber within the limited jurisdiction sector to hear and decide military cases at limited jurisdiction level and must decide its composition. The person sitting in this chamber to hear cases bears the title of military limited jurisdiction judge.

Division 3 Formation and composition of chambers

Article 50 Summary procedures (provisional relief judge)

- 1. The management board must set up single-judge chambers to hear and decide cases in which relief is sought as a matter of urgency and must decide their composition. These chambers may also hear and decide other cases assigned to them by statute.
- 2. The person sitting in a single-judge chamber as referred to in paragraph 1 bears the title of provisional relief judge.
- 3. The provisional relief judge must be addressed by the title of 'president' in interim injunction proceedings as referred to in the Code of Civil Procedure.

Article 51 Single-judge chambers for criminal cases other than Subdistrict Courts

- 1. The management board must set up single-judge chambers to hear and decide criminal cases at first instance, other than limited jurisdiction cases as referred in Article 47,

paragraph 1. The management board must decide the composition of these chambers.

- 2. The person sitting in a single-judge chamber as referred to in paragraph 1 bears the title of police court judge.

Article 52 Economic offences chambers

- 1. The management board must set up single-judge and full-bench chambers, known as 'economic offences chambers', to hear and decide cases concerning economic offences. The management board must decide the composition of these chambers.

- 2. The person sitting in a single-judge chamber to hear cases involving economic offences as referred to in paragraph 1 bears the title of police court judge for economic offences.

Article 53 Juvenile Court

- 1. The management board must set up single-judge chambers to hear and decide cases concerning children.

- 2. The person sitting in a single-judge chamber to hear children's cases bears the title of children's judge.

Article 54 Court for civil servants belonging to the military

- 1. The management board of the district court in The Hague must set up single-judge and full-bench chambers to hear and decide cases under the Military Personnel Act 1931 and must decide their composition.

- 2. The person sitting in a single-judge chamber as referred to in paragraph 1 bears the title of military personnel judge.

- 3. A full-bench chamber must consist of two judicial officers responsible for the administration of justice and one military member, preferably from the branch of the armed forces to which the appellant belongs or belonged. Article 7, paragraph 3 and Articles 12 and 13 apply mutatis mutandis to the military member.

Article 55 Military chambers

- 1. The management board of the district court in Arnhem must set up single-judge and full-bench chambers, known as military chambers, to hear and decide cases as referred to in Article 2 of the Administration of Military Criminal Justice Act. The management board must decide the composition of these chambers.

- 2. A full-bench chamber must consist of two judicial officers responsible for the administration of justice and one military member, preferably from the branch of the armed forces to which the defendant belongs or belonged. When a case is heard against defendants from different branches of the armed forces the presiding judge of the chamber decides from which branch of the armed forces the military member should come. Article 7, paragraph 3, and Articles 12 and 13 apply mutatis mutandis to the military member.

- 3. The person sitting in a single-judge military chamber bears the title of police court judge for military offences.

Article 55a Plant breeders' rights chambers

- 1. The management board of the district court in The Hague must set up chambers, known as plant breeders' rights chambers, to hear and decide cases as referred to in Article 78, paragraphs 1 and 2 of the Seed and Planting Materials Act 200- 5. The management board must decide the composition of these chambers.

- 2. A plant breeders' rights chamber must consist of two judicial officers responsible for the administration of justice and one lay person who is not a judicial officer as expert member. Article 7, paragraph 3 and Articles 12 and 13 apply mutatis mutandis to the expert member.

Article 55b *[repealed on 1-1-2002]*

Article 55c *[repealed on 1-1-2002]*

Article 56 Customs chambers

The management board of the district court in Haarlem must set up single-judge and full-

bench chambers, known as customs chambers, to hear and decide cases as referred to in Article 27, paragraph 2 of the States Taxes Act. The management board must decide the composition of these chambers.

Article 57 *[repealed on 1-1-2002]*

Part 4 The Courts of Appeal

Division 1 General provisions

Article 58 Judicial officers responsible for the administration of justice at a Court of Appeal

- 1. The judicial officers responsible for the administration of justice who are employed at the courts of appeal are:

- a) coordinating vice-presidents;
- b) vice-presidents;
- c) justices;
- d) deputy justices.

- 2. The judicial officers responsible for the administration of justice in one court of appeal are, by law, deputy justices in the other courts of appeal.

Article 58a *[repealed on 1-1-2002]*

Article 59 Seat of a Court of Appeal

- 1. The court of appeal is located in the principal seat of the region.

- 2. Subsidiary places of sitting may be designated by order in council. Rules may also be laid down by order in council for the allocation of cases between the principal seat and the subsidiary places of sitting.

- 3. The proposal for an order in council to be adopted pursuant to paragraph 2 may be made no earlier than four weeks after the draft has been submitted to both Houses of the States General.

- 4. The management board must allocate the cases between the principal seat and the subsidiary places of sitting, subject to the rules referred to in paragraph 2.

- 5. The judicial officers responsible for the administration of justice, the non-judicial members of a full-bench chamber, the court officials, the court legal assistants and the external clerks of the court/registrars may perform all activities in the subsidiary places of sitting, even outside a hearing, which they are competent to perform in the principal seat.

- 6. The registry of the principal seat is deemed to be established in the subsidiary places of sitting too for cases heard there.

- 7. Documents and cases may be lodged and filed at the registry in the place where the case is heard, subject to the proviso that no cases may be filed in subsidiary places of sitting. The management board may decide in its regulations that no documents can be lodged in a subsidiary place of sitting.

- 8. Our Minister may, after consultation with the management board of the court of appeal, decide that the hearing in a case will be held at a location to be designated by him in the principal seat of the region, outside the principal seat of the region or outside the region if this is necessary for the safety of persons.

Article 59a *[repealed on 1-6-1999]*

Article 59b *[repealed on 1-6-1999]*

Article 59c *[repealed on 1-6-1999]*

Article 59d *[repealed on 1-6-1999]*

Article 59e *[repealed on 1-6-1999]*

Article 59f *[repealed on 1-6-1999]*

Article 59g *[repealed on 1-6-1999]*

Article 59h *[repealed on 1-6-1999]*

Article 59i *[repealed on 1-6-1999]*

Article 60 Jurisdiction and competence of the Courts of Appeal

- 1. The courts of appeal rule on appeal on the judgments, orders and rulings in civil, criminal and tax cases against which appeal lies from the district courts in their region.
- 2. Paragraph 1 applies mutatis mutandis to the appealable part of the judgment of a district court in a criminal case that relates to the claim of the injured party if the claim exceeds € 1,750.
- 3. The management board of the court of appeal must designate examining justices to hear criminal cases from among the judicial officers responsible for the administration of justice who are employed at the court of appeal.

Article 60a *[repealed on 1-1-2002]*

Article 61 Competence in the event of jurisdictional disputes between district courts

The courts of appeal take cognizance at both first and last instance of jurisdictional disputes between district courts within their region, with the exception of disputes as referred to in Article 8:9 of the General Administrative Law Act.

Article 61a *[repealed on 1-1-2002]*

Article 61b *[repealed on 1-1-2002]*

Article 62 Competence in the event that parties have agreed so by way of prorogation

- 1. The courts of appeal take cognizance at both first and last instance of appealable civil cases in which the parties have agreed by way of prorogation at the outset of the dispute that they should be instituted before the court of appeal that would have jurisdiction on appeal.
- 2. Paragraph 1 does not apply to cases in which the parties do not have freedom of decision.

Division 2 Formation and composition of chambers

Article 63 Appeal within a Summary procedure

- 1. The management board must set up single-judge divisions to hear and decide cases in which relief is sought as a matter of urgency and must determine their composition. These divisions may also hear and decide other cases assigned to them by statute.
- 2. The person sitting in a single-judge division as referred to in paragraph 1 bears the title of provisional relief judge.

Article 64 Appeal in relation to economic offences

The management board must set up single-judge and full-bench divisions, known as economic offences divisions, to hear and decide cases in which a judgment has been given, warrant issued or order made by the economic offences chambers of the district courts. The management board must determine the composition of these divisions.

Article 65 Appeal in relation to customs cases

The management board of the court of appeal in Amsterdam must set up single-judge and

full-bench divisions, known as customs divisions, to hear and decide on appeal cases in which a judgment has been given by the customs chambers of the district court in Haarlem. The management board must determine the composition of these divisions.

Article 66 Enterprise Chamber Amsterdam

- **1.** The management board of the court of appeal in Amsterdam must set up a full-bench division, known as the enterprise division, to hear and decide cases as referred to in Book 2 of the Civil Code, Articles 173, 217 and 218 of the Pensions Act, Article 5 of the European Works Councils Act, Article 26 of the Works Councils Act, Article 36 of the Participation in School Decision-making Act and articles 997 and 1000 of the Code of Civil Procedure, and must determine the composition of this division.
- **2.** The enterprise division must consist of two judicial officers responsible for the administration of justice and two lay persons who are not judicial officers as expert members. Article 7, paragraph 3, and Articles 12 and 13 of this Act and Articles 46c, 46d, 46f, 46g, paragraphs 1 and 2, 46i, with the exception of paragraph 1 (c), 46j, 46l, paragraphs 1 and 3, 46m, 46o and 46p of the Judicial Officers (Legal Status) Act apply mutatis mutandis to the expert members.
- **3.** The management board of the court of appeal in The Hague must set up a full-bench division to hear and decide cases as referred to in Article 46d (i) of the Works Councils Act, and must determine its composition. Paragraph 2 applies mutatis mutandis.
- **4.** The expert members are appointed by Royal Decree for a term of five years. Deputies may also be appointed.
- **5.** Before taking up their duties, the expert members must take an oath or make an affirmation in the presence of a single-judge or full-bench division of the court to which they are appointed.
- **6.** Rules are to be laid down by order in council concerning the oath-taking procedure, court dress, absence and alternation of expert members and their deputies and concerning the reimbursement of their travel and accommodation expenses and further remuneration.

Article 67 Specific applications within criminal law

- **1.** The management board of the court of appeal in Arnhem must set up a full-bench division to hear and decide applications as referred to in articles 15a and 15c of the Criminal Code and to hear and decide cases on appeal as referred to in articles 502, 509v and 509ff of the Code of Criminal Procedure. The management board must determine the composition of this division.
- **2.** This division is also responsible for the submission of advisory opinions pursuant to Article 43, paragraph 3 of the Enforcement of Criminal Judgments (Transfer) Act.
- **3.** The composition of the division must be increased to include two lay persons who are not judicial officers as expert members in order to hear applications under article 15a, paragraph 1 (1) of the Criminal Code and to decide cases on appeal as referred to in articles 502, 509v and 509ff of the Code of Criminal Procedure. The presiding justice of the division may add these members in other cases. Article 7, paragraph 3, and Articles 12 and 13 of this Act and Articles 46c, 46d, 46f, 46g, paragraphs 1 and 2, 46i, with the exception of paragraph 1 (c), 46j, 46l, paragraphs 1 and 3, 46m, 46o and 46p of the Judicial Officers (Legal Status) Act apply mutatis mutandis to the expert members.
- **4.** The expert members are appointed by Royal Decree for a term of five years. Deputies may also be appointed.
- **5.** Before taking up their duties, the expert members must take an oath or make an affirmation in the presence of a single-judge or full-bench division of the court to which they are appointed.
- **6.** Rules are to be laid down by order in council concerning the oath-taking procedure, court dress, absence and alternation of expert members and their deputies and concerning the reimbursement of their travel and accommodation expenses and further remuneration.

Article 68 Appeal in relation to military cases

- **1.** The management board of the court of appeal in Arnhem must set up a full-bench division, known as the military division, to hear and decide cases in which the military

chamber of the district court in Arnhem has given judgment. The management board must determine the composition of this division.

- 2. The military division must consist of two judicial officers responsible for the administration of justice and one military member, preferably from the branch of the armed forces to which the defendant belongs or belonged. When a case is heard against defendants from different branches of the armed forces the presiding justice of the division decides from which branch of the armed forces the military member should come. Article 7, paragraph 3, and Articles 12 and 13 apply mutatis mutandis to the military member.
- 3. The military division also rules on complaints about non-prosecution in military cases as referred to in article 12 of the Code of Civil Procedure.

Article 69 Appeal in relation to agricultural tenancy cases (farm lease cases)

- 1. The management board of the court of appeal in Arnhem must set up a full-bench division, known as the agricultural tenancy division, to hear and decide cases as referred to in Article 132 of the Agricultural Tenancies Act. The management board must determine the composition of this division.
- 2. The agricultural tenancy division must consist of three judicial officers responsible for the administration of justice and two lay persons who are not judicial officers as expert AVT08/JU89998 28 members. Article 7, paragraph 3 and Articles 12 and 13 apply mutatis mutandis to the expert members.

Article 69a Appointment of members of the agricultural tenancy division of the court of appeal

- 1. The expert members of the agricultural tenancy division of the court of appeal and their deputies are appointed by Royal Decree on the recommendation of Our Minister of Justice. They are referred to as counsellor or deputy counsellor, as the case may be, in the agricultural tenancy division of the court of appeal.
- 2. The provisions of Article 48a, paragraphs 2, 3, 4, 5 and 4, and Article 48b also apply to these members and their deputies.

Article 70 Appeal in relation to plant breeders' rights cases

- 1. The management board of the court of appeal in The Hague must set up a full-bench division, known as the plant breeders' rights division, to hear and decide cases as referred to in Article 78, paragraph 3 of the Seed and Planting Materials Act 200- 5. The management board must determine the composition of this division.
- 2. The plant breeders' rights division must consist of three judicial officers responsible for the administration of justice and two lay persons who are not judicial officers as expert members. Article 7, paragraph 3 and Articles 12 and 13 apply mutatis mutandis to the expert members.

Article 71 Trial of cases under the Traffic Regulations (Administrative Enforcement) Act

The management board of the court of appeal in Leeuwarden must set up single-judge and full-bench divisions to hear and decide cases under the Traffic Regulations (Administrative Enforcement) Act. The management board must determine the composition of these divisions.

Part 5 The Supreme Court

Article 72 Composition of the Supreme Court

- 1. The Supreme Court must consist of a president, a maximum of seven vice-presidents, a maximum of thirty justices and a maximum of fifteen justices extraordinary.
- 2. The justices extraordinary serve as justices if called upon to do so by the president.
- 3. A clerk of the court/registrar must be appointed at the Supreme Court.
- 4. Court legal assistants may be appointed at the Supreme Court.
- 5. For the purposes of paragraph 1 the president, vice-presidents and justices of the Supreme Court who have been granted special unpaid leave must be disregarded for the

term of that leave and for a maximum of one year thereafter.

- 6. For the purposes of paragraph 1, judicial officers who have been appointed on a part-time basis are counted on the basis of the fraction represented by their working hours.

Article 73 Replacement in the absence of the president

- 1. A vice-president will deputise for the president if he is sick or otherwise unable to attend.
- 2. In the absence of a deputy clerk of the court/registrar, an acting clerk of the court/registrar will deputise for the clerk of the court/registrar if he is sick or otherwise unable to attend.
- 3. The acting clerks of the court/registrars are appointed by Our Minister on the recommendation of the Supreme Court. Before taking up their appointment, they take an oath or make an affirmation in the presence of the president of the Supreme Court. The wording of the oath or affirmation is adopted – and further rules about their swearing-in may be laid down – by or pursuant to order in council. They receive a fee set in accordance with rules to be laid down by or pursuant to order in council.
- 4. The appointment of an acting clerk of the court/registrar is terminated at his request by Our Minister. Our Minister must give notice of this to the president of the Supreme Court.
- 5. Our Minister may terminate the employment of an acting clerk of the court/registrar:
 - a) if he has not performed the duties of a clerk of the court/registrar for a period of at least three years
 - b) on the ground of unsuitability, other than on account of ill-health, or
 - c) for an act or omission that should not be committed by a person working for the Supreme Court.

Article 74 Duty to inform the Government

The Supreme Court must give an opinion or provide information if requested by the government.

Article 75 Set up of full-bench and single-judge divisions

- 1. The Supreme Court must set up, on the proposal of the president, one or more full-bench divisions and, in the cases prescribed by law, one or more single-judge divisions and must determine their composition.
- 2. Save for the exceptions provided for by law, cases are decided in the Supreme Court by five members of a full-bench division, one of whom acts as presiding justice.
- 3. The presiding justice of a full-bench division may provide that a case that he deems suitable for this purpose is heard and decided by three members of that division. If the case is deemed by one of these members to be unsuitable for hearing and decision by three members, the hearing must be continued by five members.
- 4. The Supreme Court must, on the proposal of the president, adopt a set of regulations, laying down the organisation into divisions.
- 5. The regulations must be published in the Government Gazette.

Article 76 Competence to rule on offences committed by Ministers, State Secretaries and Members of Parliament

- 1. The Supreme Court takes cognizance at both first and last instance of serious and minor public office offences committed by members of the States General, ministers and state secretaries.
- 2. Serious and minor public office offences include criminal offences committed in one of the aggravating circumstances referred to in article 44 of the Criminal Code.
- 3. In the cases referred to in paragraphs 1 and 2, the Supreme Court also has jurisdiction to hear claims by an injured party for costs and damages.
- 4. The cases referred to in paragraphs 1 and 2 are heard by ten justices of the Supreme Court. In the event of a tied vote, judgment must be given in favour of the defendant.

Article 77 Competence in case of disputes between district courts and/or courts of appeal

- 1. The Supreme Court takes cognizance at both first and last instance of jurisdictional

disputes between:

- a) district courts, unless Article 61 is applicable;
 - b) courts of appeal;
 - c) a court of appeal and a district court;
 - d) a court belonging to the judiciary and a court not belonging to the judiciary;
 - e) administrative courts, unless another administrative court has jurisdiction in this matter.
- 2. If a jurisdictional dispute has arisen between the Supreme Court and another court referred to in paragraph 1, the division of the Supreme Court that decides the case must be composed as far as possible of justices who have no prior knowledge of the case.

Article 78 Appeal in cassation

- 1. The Supreme Court takes cognizance of appeals in cassation against the acts, judgments and orders of the courts of appeal and the district courts instituted either by a party or, in the interests of the uniform application of the law, by the procurator general at the Supreme Court.
- 2. Paragraph 1 does not apply to the acts and rulings of the district courts in cases of which they take cognizance as administrative courts.
- 3. Paragraph 1 does not apply to acts and decisions either of the district courts or of the court of appeal in Leeuwarden in cases concerning the Traffic Regulations (Administrative Enforcement) Act, subject to the proviso that the Supreme Court will take cognizance of an application by the procurator general for cassation in the interests of the uniform application of the law.
- 4. The Supreme Court takes cognizance of appeals in cassation against rulings of the administrative courts in so far as this is provided for by statute.
- 5. A party may not institute an appeal in cassation if another ordinary legal remedy is or was available to him.
- 6. Appeal in cassation may not be instituted in the interests of the uniform application of the law if an ordinary legal remedy is available to the parties. Such appeal does not prejudice the rights obtained by the parties.

Article 79 Grounds for cassation: defiance of procedural rules or infringement of national law

- 1. The Supreme Court sets aside acts, judgments and orders:
 - a) on account of a procedural defect in so far as nullity is the express consequence of such defect or such nullity results from the nature of the procedural defect;
 - b) on account of an infringement of the law, with the exception of the law of foreign states.
- 2. Facts from which the applicability or otherwise of a rule of customary law is inferred are assumed, in so far as they require proof, to have been established only on the basis of the disputed decision.

Article 80 Immediate appeal in cassation against a judgement of the Subdistrict Court

- 1. A judgment or an order of a limited jurisdiction judge (Subdistrict Court) in a civil case against which no appeal lies or lay may be the subject of an appeal in cassation by a party only on one of the following grounds:
 - a) the judgment or order does not include the grounds for the decision;
 - b) the judgment or, in so far as required by law, the order was not given in public;
 - c) the judge lacked jurisdiction; or
 - d) the judge exceeded his powers.
- 2. Save for cassation allowed in the interest of the uniform application of the law, a judgment of a limited jurisdiction judge in a criminal case may not be set aside for a procedural defect other than that:
 - a) the judgment does not contain the charge or, in the case of a judicial finding of fact, the charge and the grounds on which the judgment is based;
 - b) the decision was not made on the basis of the charge;
 - c) a decision as referred to in article 358, paragraph 3, of the Code of Criminal Procedure was not given or the reasons for this decision were not given; or
 - d) the judgment was not given in public.

Article 81 Sometimes no duty to substantiate a rejecting decision

If the Supreme Court considers that a complaint that has been filed cannot result in cassation and does not warrant the answering of questions of law in the interests of the uniform application of the law or the development of the law, it may confine itself to this consideration when stating the grounds for its decision.

Article 82 Swearing in of officials

- 1. The Supreme Court is responsible for swearing in officials who have to be sworn in by or pursuant to statute.
- 2. The function referred in paragraph 1 is performed by the president of the Supreme Court. The swearing in occurs on the application of the procurator general.

Article 83 Duty of the lower courts to provide the Supreme Court with information

The district courts, courts of appeal and presidents must provide information when this is considered necessary by the Supreme Court for the consideration of a case.

Article 83a *[repealed on 1-1-2002]*

Part 6 Council for the judiciary

Division 1 Structure

Article 84 Composition of the Council for the Judiciary

- 1. There is a Council for the Judiciary.
- 2. The Council must consist of five members.
- 3. The members of the Council are appointed by Royal Decree on the recommendation of Our Minister for a term of six years. They may be reappointed once for a term of three years.
- 4. Of the five members of the Council, three are judicial officers responsible for the administration of justice or members of the Central Appeals Court for Public Service and Social Security Matters or the Administrative Court for Trade and Industry. The other two members of the Council are not judicial officers responsible for the administration of justice or members of the Central Appeals Court for Public Services and Social Security Matters or the Administrative Court for Trade and Industry who are responsible for the administration of justice.
- 5. One of the judicial members is appointed as chairperson of the Council by Royal Decree on the nomination of Our Minister.
- 6. The judicial members are judicial officers responsible for the administration of justice or members of the Central Appeals Court for Public Service and Social Security Matters or the Administrative Court for Trade and Industry who are responsible for the administration of justice and who have been appointed in accordance with Article 2, paragraph 1, of the Judicial Officers (Legal Status) Act.
- 7. The members may not also be:
 - a) a member of the States General;
 - b) a minister;
 - c) a state secretary;
 - d) vice-president or member of the Council of State;
 - e) president or member of the Court of Audit;
 - f) national ombudsman or deputy ombudsman;
 - g) a civil servant at a ministry or at the institutions, agencies and businesses that come under a ministry;
 - h) a judicial officer as referred to in Article 1 (b) (1°) and (3°) to (8°);
 - i) vice-president, justice or justice extraordinary at the Supreme Court;
 - j) member of the Board of Delegates referred to in Article 90.

Article 84a *[repealed on 1-1-2002]*

Article 85 Filling up of vacancies

- 1. Before making the recommendation referred to in Article 84, paragraph 3, Our Minister must draw up, in agreement with the Council, a list of not more than six persons who appear eligible to fill the relevant vacancy.
- 2. The list must be made available to a committee of recommendation. This must consist of a president of a court, a representative of the Dutch Association for the Judiciary, a member of the Board of Delegates, a director of operations of a court and a person designated by Our Minister. The committee is chaired by the president.
- 3. The committee must recommend not more than three persons from the list. It must send this recommendation to Our Minister no later than eight weeks after adoption of the list.
- 4. Rules concerning the procedure referred to in this Article may be laid down by order in council.

Article 86 Allowance for the members of the Council for the Judiciary

- 1. The judicial members of the Council must receive an allowance for the work they perform as members of the Council in addition to the salary they receive as judicial officers, members of the Central Appeals Court for Public Service and Social Security Matters or members of the Administrative Court for Trade and Industry. The amount of the allowance is equal to the difference between this salary and the salary level fixed by order in council for the position of judicial member of the Council.
- 2. If a member accepts an office or position that is incompatible under Article 84 with membership of the Council, such membership must be terminated by Royal Decree on the recommendation of Our Minister. If a non-judicial member of the Council is appointed as a judicial officer responsible for the administration of justice or as a member with responsibility for the administration of justice of the Central Appeals Court for Public Service and Social Security Matters or the Administrative Court for Trade and Industry, his membership of the Council must be terminated.
- 3. The membership of a judicial member of the Council is terminated or suspended by Royal Decree on the recommendation of Our Minister if the member's appointment as a judicial officer responsible for the administration of justice is terminated or suspended, unless such termination or suspension relates only to a judicial office to which he was not appointed in accordance with Article 2, paragraph 1, of the Judicial Officers (Legal Status) Act.
- 4. The appointment of a judicial member of the Council is terminated at his own request by Royal Decree on the recommendation of Our Minister.
- 5. A non-judicial member of the Council may be subjected to disciplinary punishment, suspended or dismissed by Royal Decree on the recommendation of Our Minister.
- 6. The powers conferred on the competent authority by the Central and Local Government Personnel Act in respect of a non-judicial member of the Council must be exercised by the Council, without the participation of the said non-judicial member. Further rules are to be laid down by order in council concerning the exercise of powers by the Council relating to the legal status of non-judicial members.
- 7. The powers conferred on the superior by Articles 21, 27a-30, 34, 35, 37-39, 45 and 46 of the Judicial Officers (Legal Status) Act must be exercised in relation to a judicial member by the Council, without the participation of the said judicial member. Further rules are to be laid down by order in council concerning the exercise of powers by the Council relating to the legal status of judicial members.
- 8. Further rules on the legal status of the members of the Council, including in any event rules concerning the allowance for the judicial members as referred to in paragraph 1 and the remuneration of non-judicial members, must be laid down by order in council.

Article 87 Decision-making by the Council for the Judiciary

- 1. The Council may make decisions only if at least three members are present.
- 2. The Council must decide by a majority of votes.
- 3. In the event of a tied vote, the chairperson has the casting vote.
- 4. The Council must draw up rules on its procedure and decision-making in the form of

regulations. The regulations must be sent to Our Minister and published in the Government Gazette.

Article 88 Delegation of powers by the Council for the Judiciary

The Council may authorise one or more of its members to exercise one or more of its powers. Part 10.1.1 of the General Administrative Law Act applies mutatis mutandis.

Article 89 Secretariat and civil staff

- 1. The Council has a secretariat for its support.
- 2. The civil service staff of the secretariat are appointed, subjected to disciplinary punishment, suspended and dismissed by the Council.
- 3. The powers conferred on the competent authority by the Central and Local Government Personnel Act must be exercised in respect of the civil service staff of the secretariat by the Council.
- 4. Rules are to be laid down by or pursuant to order in council concerning the exercise of powers by the Council relating to the legal status of civil service staff of the secretariat.

Article 90 Board of Delegates

- 1. There is a Board of Delegates.
- 2. The Board consists of representatives of the courts, the Central Appeals Court for Public Service and Social Security Matters and the Administrative Court for Trade and Industry. Rules are to be laid down by order in council concerning the composition and structure of the Board and the delegation of the members.
- 3. The Board is tasked with providing the Council with solicited or unsolicited advice on the performance of its duties.
- 4. The Council must provide the Board, on request, with the information it needs to perform its duties.

Division 2 Duties and powers

Article 91 Tasks and duties of the Council for the Judiciary

- 1. The Council is responsible for:
 - a) preparing the budget for the Council and the courts jointly;
 - b) allocating budgets from the central government budget to the courts;
 - c) supporting operations at the courts;
 - d) supervising the implementation of the budget by the courts;
 - e) supervising operations at the courts;
 - f) nationwide activities relating to the recruitment, selection, appointment and training of court staff.
- 2. In performing the duties referred to in paragraph 1 (c) and (e), the Council must concentrate in particular on:
 - a) information systems and the provision of management information;
 - b) accommodation and security;
 - c) the quality of the administrative and organisational procedure of the courts;
 - d) personnel matters;
 - e) other facilities.

Article 92 Right of the Council for the Judiciary to give directions

- 1. In performing the duties referred to in Article 91, the Council may issue general directions to the management boards of the courts in so far as this is necessary for the proper operation of the courts.
- 2. Before giving a direction the Council must give the Board of Delegates the opportunity to make known its views. In giving the reasons for a direction the Council must indicate how it has taken the views of the Board into account in its assessment.
- 3. A direction must be published in the Government Gazette.

Article 93 Right of the Minister to give instructions to the Council for the Judiciary

- 1. Our Minister may issue general directions concerning the performance by the Council of the duties referred to in Article 91, in so far as this is necessary with a view to the proper operation of the courts.
- 2. Before issuing a direction as referred to in paragraph 1, Our Minister must give the Council the opportunity to make known its views in writing.
- 3. Our Minister must give the Council written notice of the proposed direction and the reasons for it. Our Minister may set the Council a time limit for making known its opinion. The views of the Council must be given in writing and with reasons.
- 4. If the Council takes the view that the direction will infringe Article 109, it must not be issued.
- 5. A direction must be published in the Government Gazette.
- 6. Article 8:2 (a) and (b) of the General Administrative Law Act applies mutatis mutandis.

Article 94 Uniform application of the law and promoting legal quality

The Council is tasked with providing support for activities of the courts aimed at achieving uniform application of the law and promoting legal quality.

Article 95 Advisory task

- 1. The Council is tasked with advising the government and the States General on generally binding regulations and the policy to be pursued by central government in relation to the administration of justice. The opinions of the Council are adopted after consultation with the courts.
- 2. Chapter 4 of the Advisory Bodies Framework Act applies mutatis mutandis.

Article 96 Restrict involvement of the Council for the Judiciary in certain procedures

- 1. In performing the tasks referred to in Articles 94 and 95, the Council may not involve itself in the procedural aspects or substantive assessment of or the decision in a specific case.
- 2. Paragraph 1 applies mutatis mutandis to the performance and exercise of the other duties and powers allocated by or pursuant to this Act, subject to the proviso that the Council also does not involve itself in the procedural aspects or substantive assessment of or the decision in categories of case.

Division 3 Planning and funding**Article 97 Rules for the funding of the court sector by Order in Council**

- 1. Rules concerning the funding of the court sector are to be laid down by order in council. They must in any event include rules on:
 - a) objective measurement of the workload of the courts;
 - b) the reimbursement of the court costs;
 - c) the stipulations concerning the activities of the courts and the related workload that may be attached to funding;
 - d) how compliance with the stipulations referred to at (c) in the preceding period can be taken into account in relation to the funding;
 - e) the budget system to be applied by the Council and the courts.
- 2. Before making a proposal for an order in council to be adopted pursuant to paragraph 1 Our Minister must give the Council the opportunity to make known its views in writing. The explanatory notes to the order in council must indicate to what extent and on what grounds the order departs from the views of the Council.
- 3. The proposal for an order in council to be adopted pursuant to paragraph 1 may be made no earlier than four weeks after the draft has been submitted to both Houses of the States General.
- 4. The Council must explain in the report referred to in Article 104, paragraph 1 how the order in council has been applied. The Council must indicate in this connection how the application of the order relates to the quality of the task performance by the courts and, if

necessary, make proposals for changes.

Article 98 Proposal for a joint budget of the Council and the courts

- 1. Subject to the rules referred to in Article 97, paragraph 1, the Council must adopt a proposal each year, before the start of the budget year concerned, for a joint budget of the Council and the courts, including the rules to be attached to the budget to be awarded, and a multi-year estimate for at least four years following the budget year.
- 2. Before the Council adopts the budget proposal and the multi-year estimate, it must consult with the courts.
- 3. The Council must send the budget proposal and the multi-year estimate to Our Minister by a date to be determined by Our Minister.
- 4. Rules concerning the preparation and structure of the budget proposal and the multi-year estimate, including the relevant explanatory notes and schedules, may be laid down by or pursuant to order in council.

Article 99 Draft budget and consultation

- 1. The draft budget as referred to in Article 12, paragraph 1 of the Government Accounts Act 2001 must be drawn up by Our Minister in conformity with the budget proposal of the Council, unless the circumstance referred to in paragraph 3 occurs.
- 2. If, with a view to the regular and efficient management of central government funds, Our Minister cannot agree with the Council's budget proposal, or part of the proposal, he must inform the Council and hold consultations with the Council about this.
- 3. If the consultations referred to in paragraph 2 fail to produce agreement and Our Minister continues to have strong objections, the budget proposal of the Council, or the relevant part thereof, must be included in altered form in the draft budget, as referred to in Article 12, paragraph 1 of the Government Accounts Act 2001.
- 4. In the explanatory notes to the bill, Our Minister must indicate what rules he proposes to attach to the budget to be allocated pursuant to Article 100. Paragraphs 1 to 3 apply mutatis mutandis.

Article 100 Allocation of the budget for the activities of the Council by the Minister of Justice

Subject to the rules referred to in Article 97, paragraph 1 Our Minister must allocate a budget annually from the central government budget for the activities of the Council and the courts jointly. Our Minister may attach rules to the allocation.

Article 101 Notification of the budget the Council probably can expect

As soon as possible after the bill to adopt the budget of the Ministry of Justice has been submitted to the Council of State for consideration, Our Minister must notify the Council what budget, including any rules to be attached to the budget, it can provisionally expect to receive for the next budget year. He must also explain how the budget estimate has been calculated.

Article 101a *[repealed on 1-1- 2002]*

Article 102 Annual plan for the Council and courts together

- 1. Each year the Council must adopt an annual plan for the Council and the courts together. The plan must comprise:
 - a) a description of the proposed activities for performance of the duties referred to in Article 91 for the year following that in which the plan is adopted;
 - b) a budget for the next budget year.
- 2. The Council must adopt the budget in accordance with the estimated budget referred to in Article 101.
- 3. The Council must send the annual plan to Our Minister by a date to be determined by Our Minister. Our Minister must then send the plan forthwith to both Houses of the States General.
- 4. Rules concerning the structure of the annual plan may be laid down by or pursuant to

order in council.

Article 103 Notification of the allocated budget to the Council and the courts jointly

- 1. As quickly as possible after the adoption of the budget of the Ministry of Justice, Our Minister must notify the Council what budget he is allocating to the Council and the courts jointly. If the budget differs from the budget estimate referred to in Article 101, the second sentence of that Article applies mutatis mutandis.
- 2. If the budget differs from the budget estimate referred to in Article 101, the Council must amend the budget.
- 3. Decisions to make other amendments to the budget may be made until no later than the end of the budget year concerned.
- 4. Expenditure by the Council must be within the limits of the adopted or amended budget.

Article 104 Annual submission of a report by the Council for the Judiciary to the Minister of Justice

- 1. The Council must submit a report to Our Minister every year by a date to be determined by Our Minister. Our Minister must send the report forthwith to both Houses of the States General.
- 2. The report must consist of the financial statements with accompanying budget, the amendments made to them, the annual report and other financial particulars.
- 3. In the financial statements the Council renders account for the financial management of the Council and the courts jointly in the preceding budget year.
- 4. The annual report must describe how the work for which the budget was allocated from the central government budget has been carried out. It must also indicate how this work relates to the plan adopted in accordance with Article 102 for the year concerned, the plans referred to in Article 31, paragraph 1 and the reports referred to in Article 35, paragraph 1.
- 5. The report must include an opinion on the accuracy and regularity of the accounts, given by an auditor, as referred to in article 393, paragraph 1 of Book 2 of the Civil Code, designated by the Council. The auditor must append to the opinion a report on the audit of the financial management. When engaging an auditor, the Council must stipulate that Our Minister is to be allowed, on request, to inspect the auditor's audit reports.
- 6. Our Minister may issue a direction concerning the scope and frequency of the audits.
- 7. Rules concerning the structure of the report may be laid down by or pursuant to order in council.

Article 104a Power of representation of the Council for the Judiciary

- 1. Notwithstanding Article 32, paragraph 1 of the Government Accounts Act 2001, the Council may perform juristic acts under private law on behalf of the State in so far as such acts result from the part of the budget of the Ministry of Justice managed by it, unless it has been provided by or pursuant to statute that a minister other than Our Minister should perform the juristic act.
- 2. Article 32, paragraph 4 and Article 39 of the Government Accounts Act 2001 apply mutatis mutandis.

Division 4 Supervision

Article 105 Duty of the Council for the Judiciary to inform the Minister of Justice

The Council must provide Our Minister, on request, with the information he needs to perform his duties.

Article 106 Setting aside a decision of the Council for the Judiciary on proposal of the Minister of Justice

- 1. A decision of the Council in the course of its duties as referred to in Article 91 may be set aside by Royal Decree on the proposal of Our Minister if the decision is manifestly contrary to the law or prejudicial to the proper operation of the courts. Articles 10:36, 10:37 and 10:38 to 10:45 of the General Administrative Law Act apply mutatis mutandis.
- 2. Article 8:4 (a) of the General Administrative Law Act applies mutatis mutandis.

Article 107 Dismissal of the members of the Council for the Judiciary

- 1. Our Minister may recommend that one or more members of the Council be dismissed on account of their unsuitability, other than for reasons of ill-health. Our Minister may recommend that the membership of the Council of one or more members be suspended if he has good reason to suspect their unsuitability, other than for reasons of ill-health.
- 2. The suspension or dismissal is effected by Royal Decree.
- 3. If all members of the Council have been suspended or dismissed, Our Minister may appoint one or more temporary administrators to manage the Council. Article 84, paragraphs 6 and 7 applies mutatis mutandis. A term must be fixed for the administration when the appointment is made.

Article 108 Appeal against a decision to dismiss a member of the Council for the Judiciary

- 1. An interested party may appeal to the Supreme Court against a decree issued on the basis of Article 107, paragraphs 1 and 2.
- 2. The Supreme Court must assess whether the Crown could reasonably have concluded that there was unsuitability, other than for reasons of ill-health, or that there was a good reason to suspect unsuitability, as the case may be, and whether Our Minister acted in breach of Article 109 in making his recommendation.
- 3. Chapter 8 of the General Administrative Law Act, with the exception of part 8.1.1 and Articles 8:10, 8:11, 8:13 and 8:86, applies mutatis mutandis to an appeal.

Article 109 Minister of Justice may not be involved in certain procedures

In exercising the powers conferred by or pursuant to this Act, Our Minister may not involve himself in the procedural aspects or substantive assessment of or the decision in a specific case or category of case.

Article 110 [repealed on 1-1-2002]

Chapter 3 The Procurator General at the Supreme Court

Article 111 Procurator general at the Supreme Court

- 1. There is an office at the Supreme Court which is headed by the procurator general at the Supreme Court.
- 2. The procurator general at the Supreme Court is responsible for:
 - a) prosecuting serious and minor public office offences committed by members of the States General, ministers and state secretaries;
 - b) delivering opinions to be submitted to the Supreme Court in the cases determined by statute;
 - c) instituting appeals in cassation in the interests of the uniform application of the law;
 - d) applying for decisions to be taken by the Supreme Court as referred to in chapter 6A of the Judicial Officers (Legal Status) Act.
- 3. In cases in which the Supreme Court gives judgment on the merits of a case, the procurator general at the Supreme Court must assume the duties and powers of the public prosecution service referred to in Article 125.
- 4. The procurator general at the Supreme Court may also be charged with other duties by statute.
- 5. The powers of the procurator general may also be exercised by the deputy procurator general and by advocates general, unless this would be incompatible with the nature of the powers.

Article 112 [repealed on 1-1-2002]

Article 113 Procurator general's office (procurator general and advocates general)

- 1. The procurator general's office at the Supreme Court consists of a procurator general, a deputy procurator general, a maximum of twenty-two advocates general and a maximum of

eleven advocates general extraordinary.

- **2.** The advocates general extraordinary deliver opinions, in the capacity of advocate general, when called upon to do so by the procurator general. In cases in which the Supreme Court gives judgment on the merits of a case, they assume the duties and powers of the public prosecution service referred to in Article 125.
- **3.** For the purposes of paragraph 1 a procurator general, deputy procurator general or advocate general at the Supreme Court who has been granted special unpaid leave must be disregarded for the term of that leave and for a maximum of one year thereafter.
- **4.** For the purposes of paragraph 1, judicial officers who have been appointed on a part-time basis are counted on the basis of the fraction represented by their working hours.

Article 114 *[repealed on 1-1-2002]*

Article 115 *[repealed on 1-1-2002]*

Article 116 Management of the procurator general's office

The procurator general manages the procurator general's office at the Supreme Court.

Article 117 Replacement in the absence of the procurator general

If the procurator general is absent or unable to act or the position is vacant, he must be replaced by the deputy procurator general or, if he too is absent or unable to act or the position is vacant, by the most senior-ranking advocate general.

Article 118 Replacement of the procurator general by a deputy procurator general or an advocate general

Our Minister of Justice may require the deputy procurator general or an advocate general to deputise for the holder of the office of procurator general.

Article 119 Designation of judges of a District Court or Court of Appeal as advocate general

- **1.** Our Minister of Justice may, on the recommendation of the procurator general, designate a member of a district court or a court of appeal or a member of the public prosecution service as deputy advocate general at the Supreme Court. The designation must be for a term to be specified therein. Articles 46c, paragraph 1, 46d, paragraph 1 (d) and 46e of the Judicial Officers (Legal Status) Act are applicable mutatis mutandis to the deputy advocate general.
- **2.** A member of a district court or court of appeal may be designated as deputy advocate general only with his consent.
- **3.** Deputy advocates general deliver opinions, when acting as advocate general, when called upon to do so by the procurator general. In cases in which the Supreme Court gives judgment on the merits of a case, they assume the duties and powers of the public prosecution service referred to in Article 125.
- **4.** Article 12 of the Judicial Officers (Legal Status) Act does not apply to the deputy advocates general.
- **5.** The president of the Supreme Court may, on the recommendation of the procurator general, designate as acting advocate general at the Supreme Court a justice – or a justice extraordinary – of the Supreme Court who has agreed to this. An acting advocate general delivers opinions, in the capacity of advocate general, when called upon to do so by the procurator general. In such a case, when the Supreme Court gives judgment on the merits of a case, he assumes the duties and powers of the public prosecution service referred to in Article 125.

Article 120 Application of other Articles

- **1.** Articles 12, 13 and 74 apply mutatis mutandis to the judicial officers referred to in Article 111.
- **2.** Article 83 applies mutatis mutandis to the procurator general at the Supreme Court as regards the performance of the duties referred to in Article 111, paragraph 2.

Article 121 Duty of the procurator general

The procurator general at the Supreme Court is responsible for monitoring in particular the enforcement and implementation of statutory provisions at the Supreme Court, the courts of appeal and the district courts.

Article 122 Duty of the procurator general to warn the Minister of Justice

- 1. If the procurator general at the Supreme Court considers that the public prosecution service is not properly enforcing or implementing the statutory provisions in performing its duties, he may notify Our Minister of Justice.
- 2. The procurator general must, at his request, be provided by the Board of Procurators General with the information he considers necessary and with the relevant documents.

Article 123 Provision of assistance to the Supreme Court by the Board of Procurators General

The Board of Procurators General must provide the procurator general at the Supreme Court with whatever assistance he requires from the public prosecution service in order to perform the duties with which he is charged.

Chapter 4 The Public Prosecution Service

Division 1 Duties and powers

Article 124 Task and duties of the Public Prosecution Service

The public prosecution service is responsible for enforcing the legal order through the criminal law and for other statutory duties.

Article 125 Performance of the duties and powers of the Public Prosecution Service

The duties and powers of the public prosecution service must be performed and exercised in the manner provided by or pursuant to statute by:

- a) the Board of Procurators General;
- b) the public prosecutors, deputy public prosecutors, public prosecutors for single-judge cases and deputy public prosecutors for single-judge cases;
- c) the advocates general and deputy advocates general.

Article 126 Assignment of powers to other officials of the Public Prosecution Service

- 1. The exercise of one or more powers of a public prosecutor, a public prosecutor for single-judge cases or an advocate general may be assigned to another official working at the public prosecutor's office if the head of the public prosecutor's office has agreed to this.
- 2. The assigned power must be exercised in the name and under the responsibility of the public prosecutor, the public prosecutor for single-judge cases or the advocate general, as the case may be.
- 3. The exercise of a power as referred to in paragraph 1 may not be assigned to another official working at the public prosecutor's office if this would be incompatible with the provision on which the power is based or with the nature of the power. This is in any event deemed to be the case in respect of the appearance at the hearing in criminal cases and application of the coercive measures referred to in Title IV of Book 1 of the Code of Criminal Procedure.
- 4. Rules for the application of this Article are to be laid down by order in council.

Article 127 Right of the Minister of Justice to give instructions

Our Minister of Justice may issue general and specific directions concerning the performance of the duties and the exercise of the powers of the public prosecution service.

Article 128 Consultation over to be given instructions

- 1. Our Minister of Justice must give the Board of Procurators General the opportunity to make known its views before he issues a direction concerning the investigation or

prosecution of criminal offences in a specific case.

- 2. Our Minister must give the Board written notice of the proposed direction and the reasons for it. Our Minister may set the Board a time limit for making known its views. The views of the Board must be given in writing and with reasons.
- 3. A direction as referred to in paragraph 1 must be given in writing and with reasons.
- 4. A direction may be given orally only if it cannot be given in writing because time is of the essence. In that case it must subsequently be recorded in writing as quickly as possible and in any event within one week. The above applies mutatis mutandis to the notification of a proposed direction by Our Minister and to the notification by the Board of its views.
- 5. The direction referred to in paragraph 1, together with the proposed direction and the views of the Board, must be added to the documents in the case. They need not be added to the documents in the case if this would, in the opinion of Our Minister, be incompatible with the interests of the State, provided that in that case a declaration showing that a direction has been given is added to the documents in the case.
- 6. If Our Minister issues a direction not to investigate or prosecute a case or to discontinue an investigation or prosecution, he must give notice of the direction, the proposed direction and the views of the Board to both Houses of the States General as quickly as possible, in so far as the provision of the relevant documents is not incompatible with the interests of the State.

Article 129 Duty of the Board of Procurators General to inform the Minister of Justice

- 1. The Board must provide Our Minister with the information he needs.
- 2. The members of the public prosecution service must provide the Board with the information needed by the Board.

Division 2 Structure

Article 130 Board of Procurators General

- 1. There is a Board of Procurators General.
- 2. The Board heads the public prosecution service.
- 3. The Board consists of such number of procurators general, not being less than three or more than five, as may be determined by order in council. One of the procurators general is appointed by Royal Decree as chairperson of the Board for a term of not more than three years. He may be reappointed once. For the work he performs as chairperson he receives an allowance, in accordance with rules to be prescribed by order in council, as a supplement to his salary as procurator general.
- 4. The Board may issue general and specific directions concerning the performance of the duties and the exercise of the powers of the public prosecution service.

Article 131 Decision-making by the Board of Procurators General

- 1. The Board of Procurators General may make decisions only if at least three members are present.
- 2. The Board takes decisions by a majority of votes.
- 3. In the event of a tied vote, the chairperson has the casting vote.
- 4. The Board must draw up rules on its procedure and decision-making in the form of regulations. The regulations and amendments to them require the approval of Our Minister of Justice. After approval, the regulations or an amendment to them must be published in the Government Gazette.
- 5. The regulations must in any event stipulate in what cases the chairperson should submit a proposed decision to Our Minister of Justice; these include in any event the decisions referred to in article 140a of the Code of Criminal Procedure.

Article 132 Division of duties among the procurators general

- 1. The Board of Procurators General must divide the duties among the procurators general.
- 2. Our Minister of Justice may allocate certain duties to the chairperson of the Board.

Article 133 Delegation of power by the Board of Procurators General

- 1. The Board of Procurators General may authorise a procurator general to exercise one or more of its powers, unless this would be incompatible with the provision on which the power is based or with the nature of the power.
- 2. The exercise of a power by a procurator general in accordance with paragraph 1 occurs in the name and under the responsibility of the Board.
- 3. The Board may issue general and specific directions concerning the exercise of the power.

Article 134 Offices of the Public Prosecution Service

- 1. The public prosecution service consists of:
 - a) the national office;
 - b) the public prosecutor's offices at the district courts;
 - c) the national public prosecutor's office;
 - d) the national public prosecutor's office for financial, economic and environmental offences;
 - e) the offices of the public prosecution service at the courts of appeal.
- 2. The public prosecutor's offices at the district courts and the offices of the public prosecution service at the courts of appeal are established in the principal seats of the district courts and courts of appeal.

Article 135 Positions at the notional office of the Public Prosecution Services

- 1. The following persons work at the national office of the public prosecution service:
 - a) the procurators general who constitute the Board;
 - b) other officials.
- 2. Officials in all the ranks referred to in Articles 136 to 138 may be employed at the national office of the public prosecution service.
- 3. The national office of the public prosecution service is headed by the Board.
- 4. The procurators general are, by law, deputy advocates general at the offices of the public prosecution service at the courts of appeal, deputy public prosecutors at the public prosecutor's offices at the district courts, deputy public prosecutors at the national public prosecutor's office and deputy public prosecutors at the national public prosecutor's office for financial, economic and environmental offences.

Article 136 Positions at a public prosecutor's office at a district court

- 1. A public prosecutor's office at a district court is staffed by:
 - a) public prosecutors;
 - b) deputy public prosecutors;
 - c) public prosecutors for single-judge cases;
 - d) deputy public prosecutors for single-judge cases;
 - e) other officials.
- 2. Trainee judicial officers may work at a public prosecutor's office at a district court.
- 3. A public prosecutor's office at a district court is headed by a public prosecutor with the rank of chief public prosecutor and the title of head of office. He may issue general and specific directions concerning the performance of the duties and the exercise of the powers of the public prosecutor's office.
- 4. At a public prosecutor's office at a district court, there is also a public prosecutor who holds either the rank of acting chief public prosecutor if two police regions are situated in the district or, where this is not the case, the rank of deputy chief public prosecutor. If the head of the public prosecutor's office at a district court is absent or unable to act or the position is vacant, the acting chief public prosecutor or the deputy chief public prosecutor, as the case may be, must deputise for him.
- 5. The other public prosecutors are appointed to the rank of public prosecutor first class, public prosecutor or junior deputy public prosecutor.
- 6. The public prosecutors and public prosecutors for single-judge cases at a public prosecutor's office at a district court are, by law, deputy public prosecutors or deputy public prosecutors for single-judge cases, as the case may be, at the other district courts, at the

national public prosecutor's office and at the national public prosecutor's office for financial, economic and environmental offences.

- 7. The Board of Procurators General may appoint a public prosecutor at a public prosecutor's office at a district court to be deputy advocate general.
- 8. The public prosecutors and deputy public prosecutors for single-judge cases have the powers and obligations conferred on public prosecutors by or pursuant to statute, with the exception of the power to appear at a hearing before a full-bench chamber of the district court.

Article 137 Positions at the national public prosecutor's office

- 1. The national public prosecutor's office is staffed by:
 - a) public prosecutors;
 - b) deputy public prosecutors;
 - c) public prosecutors for single-judge cases;
 - d) deputy public prosecutors for single-judge cases;
 - e) other officials.
- 2. The national public prosecutor's office is headed by a public prosecutor with the rank of chief public prosecutor and the title of head of the national public prosecutor's office. He may issue general and specific directions concerning the performance of the duties and the exercise of the powers of the national public prosecutor's office.
- 3. At the national public prosecutor's office, there is also a public prosecutor with the rank of deputy chief public prosecutor. If the head of the national public prosecutor's office is absent or unable to act or the position is vacant, the deputy chief public prosecutor must deputise for him.
- 4. The other public prosecutors are appointed to the rank of public prosecutor first class, public prosecutor or junior deputy public prosecutor.
- 5. The public prosecutors and public prosecutors for single-judge cases at the national public prosecutor's office are, by law, deputy public prosecutors or deputy public prosecutors for single-judge cases, as the case may be, at the public prosecutor's offices at the district courts and deputy public prosecutors at the national public prosecutor's office for financial, economic and environmental offences.
- 6. The Board of Procurators General may appoint a public prosecutor at the national public prosecutor's office to be deputy advocate general.
- 7. The public prosecutors and deputy public prosecutors for single-judge cases have the powers and obligations conferred on public prosecutors by or pursuant to statute, with the exception of the power to appear at a hearing before a full-bench chamber of the district court.

Article 137a Positions at the national public prosecutor's office for financial, economic and environmental offences

- 1. The national public prosecutor's office for financial, economic and environmental offences is staffed by:
 - a) public prosecutors;
 - b) deputy public prosecutors;
 - c) public prosecutors for single-judge cases;
 - d) deputy public prosecutors for single-judge cases;
 - e) other officials.
- 2. The national public prosecutor's office for financial, economic and environmental offences is headed by a public prosecutor with the rank of chief public prosecutor and the title of head of the national office for financial economic and environmental offences. He may issue general and special directions concerning the performance of the duties and the exercise of the powers of the national public prosecutor's office for financial, economic and environmental offences.
- 3. At the national public prosecutor's office for financial, economic and environmental offences, there is also a public prosecutor with the rank of deputy chief public prosecutor. If the head of the national public prosecutor's office for financial, economic and environmental offences is absent or unable to act or the position is vacant, the deputy chief public

prosecutor must deputise for him.

- 4. The other public prosecutors are appointed to the rank of public prosecutor first class, public prosecutor or junior public prosecutor.
- 5. The public prosecutors and public prosecutors for single-judge cases at the national public prosecutor's office for financial, economic and environmental offences are, by law, deputy public prosecutors or deputy public prosecutors for single-judge cases, as the case may be, at the public prosecutor's offices at the district courts and deputy public prosecutors at the national public prosecutor's office.
- 6. The Board of Procurators General may appoint a public prosecutor at the national public prosecutor's office for financial, economic and environmental offences to be deputy advocate general.
- 7. The public prosecutors and deputy public prosecutors for single-judge cases have the powers and obligations conferred on public prosecutors by or pursuant to statute, with the exception of the power to appear at a hearing before a full-bench chamber of the district court.

Article 138 Positions at an office of the public prosecution service at a court of appeal

- 1. An office of the public prosecution service at a court of appeal is staffed by:
 - a) advocates general;
 - b) deputy advocates general;
 - c) other officials.
- 2. An office of the public prosecution service at a court of appeal is headed by an advocate general with the rank of chief advocate general and the title of head of office. He may issue general and specific directions concerning the performance of the duties and the exercise of the powers of the office of the public prosecution service at a court of appeal.
- 3. At an office of the public prosecution service at a court of appeal, there is also an advocate general with the rank of deputy chief advocate general. If the head of the office of the public prosecution service at a court of appeal is absent or unable to act or the position is vacant, the deputy chief advocate general must deputise for him.
- 4. The other advocates general are appointed to the rank of advocate general at the office of the public prosecution service at a court of appeal.
- 5. The advocates general are, by law, deputy advocates general at the other offices of the public prosecution service at the courts of appeal.
- 6. The Board of Procurators General may appoint an advocate general to be deputy public prosecutor.

Article 139 Subordination

- 1. The heads of the public prosecutor's offices are subordinate to the Board in performing their duties.
- 2. The other officials working at a public prosecutor's office are subordinate to the head of office in performing their duties.
- 3. The officials working at the national office of the public prosecution service are subordinate to the Board in performing their duties.

Division 3 Other provisions

Article 140 *[repealed on 1-1-2002]*

Article 141 *[repealed on 1-1-2002]*

Article 142 Replacement of officials working at the Public Prosecution Service

Our Minister of Justice may require a judicial officer as referred to in Article 1 (b), (4°) to (6°), to deputise for the holder of another office at the public prosecution service.

Article 143 Duty of the judicial officers to provide the Supreme Court with information

The judicial officers referred to in Article 142 must provide information if requested by the procurator general at the Supreme Court on the basis of Article 122, paragraph 2.

Article 144 Applicability of Article 13 to judicial officers

Article 13 applies mutatis mutandis to the judicial officers referred to in Article 142.

Chapter 5 Trainee judicial officers

Article 145 Designation of en regulations for trainee judicial officer

- 1. Our Minister may designate trainee judicial officers.
- 2. Rules must be prescribed by order in council concerning the selection, appointment and training of trainee judicial officers and other matters concerning their legal status.