

Kingdom Act, 2 December 2004

Instituting a Safety Investigation Board (Kingdom Act concerning Safety Investigation Board)

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

Greetings to all those who shall see or hear these presents! Be it known: Having taken into consideration that it is desirable to institute an independent board for the investigation of calamities, accidents and incidents so as to ascertain the causes or probable causes of the incident or the category of incidents and of the extent of their consequences and to make recommendations accordingly;

After hearing the advice of the Council of State of the Kingdom of the Netherlands and in consultation with the States General and having complied with the provisions of the Charter for the Kingdom of the Netherlands, We have therefore approved and decreed, as We hereby approve and decree:

CHAPTER 1, DEFINITIONS

Article 1

1. In this Kingdom Act and the provisions based on it the following words shall have the following meanings:

- a. Our Minister: Our Minister of the Interior and Kingdom Relations;
- b. Our Minister of Justice: Our Minister of Justice of the Netherlands, unless otherwise provided;
- c. the Board: the Safety Investigation Board, referred to in Article 2, first paragraph;
- d. the members of the Board: both the members of the Board referred to in Article 6, first paragraph, and the associate members of the Board referred to in Article 6, second paragraph;
- e. the Office: the Office referred to in Article 11, second paragraph;
- f. incident: incident causing a person's death or injury, or causing damage to an object or to the environment, as well as an incident giving rise to the risk of such a consequence;
- g. ship: an object, not being an aircraft, by its construction evidently intended to float and floating or having floated;
- h. sea-going vessel: ship, by its construction evidently exclusively or chiefly intended to float in the sea;

- i. Dutch sea-going vessel: sea-going vessel which by virtue of the legal rules applying to the Netherlands is entitled to sail under the flag of the Kingdom of the Netherlands;
 - j. Netherlands-Antillean sea-going vessel: sea-going vessel which by virtue of the legal rules applying to the Netherlands Antilles is entitled to sail under the flag of the Kingdom of the Netherlands;
 - k. Aruban sea-going vessel: sea-going vessel which by virtue of the legal rules applying to Aruba is entitled to sail under the flag of the Kingdom of the Netherlands;
 - l. ro-ro ferry boat: roll-on-roll-off ferryboats as defined in Article 2, section a, of Directive no. 1999/35 EC of the Council of the European Union of 29 April 1999 concerning a system of obligatory investigations for the safe exploitation of regular ferry lines with ro-ro ferryboats and high-speed passenger vessels (PbEC L 138);
 - m. high-speed passenger vessel: high-speed passenger vessel as defined in Article 2 section b, of Directive no. 1999/35 EC of the Council of the European Union of 29 April 1999 concerning a system of obligatory investigations for the safe exploitation of regular ferry lines with ro-ro ferryboats and high-speed passenger vessels (PbEC L 138);
 - n. aircraft: aircraft that can be held in the atmosphere as a result of powers exercised on it by the air, other than the powers of the air against the surface of the earth;
 - o. Dutch aircraft: an aircraft registered in the Netherlands;
 - p. causes: acts, omissions, occurrences, circumstances or a combination thereof which have led to the incident;
 - q. recommendation: proposal of the Board on the basis of information resulting from investigation by the Board with a view to preventing future incidents or limiting the consequences thereof;
 - r. flight recorder: any kind of recording device installed in the aircraft in order to facilitate investigations into accidents and incidents;
2. An incident as referred to in the first paragraph, section f, shall not be understood to mean:
- a. a disturbance of the public order as referred to in Article 172, third paragraph, of the Municipalities Act, a riotous action or another serious disorderliness as referred to in Article 175, first paragraph, of the Municipalities Act, or a situation of which it is seriously feared that any of such incidents may arise;
 - b. an action of the competent authorities for the purpose of law enforcement;
 - c. an action of the armed forces or a military unit:
 - 1°. in a situation of war or armed conflict;
 - 2°. during an operation for maintenance or advancement of international law and order;
 - 3°. by virtue of the Police Act 1993;
 - 4°. within the scope of rendering assistance in pursuance of the Instructions on deploying the armed forces in the Netherlands Antilles and Aruba;
3. An aircraft in use with a natural person established in the Netherlands, a legal person with or without profit motive, or a

government body with or without legal personality is considered equivalent to a Dutch aircraft;

CHAPTER 2, THE BOARD

§1. Institution and task

Article 2

1. There is a Safety Investigation Board.
2. The Board is established in The Hague.
3. The Board possesses legal personality.

Article 3

With the exclusive aim of preventing future incidents or limiting the consequences thereof, the Board has the task to investigate and establish the causes or probable causes of individual incidents or categories of incidents and of the extent of the consequences thereof and, if necessary, to make recommendations accordingly.

Article 4

The Board is authorised to conduct an investigation into:

- a. incidents on, above or under the territory of the Netherlands, including the European waters under Dutch jurisdiction;
- b. incidents on, above or under the territory of the Netherlands Antilles or Aruba, including the waters under Netherlands-Antillean or Aruban jurisdiction respectively, if the government of the Netherlands Antilles or Aruba respectively should request the Board to conduct such an investigation;
- c. incidents in which a Dutch sea-going vessel is involved on the open sea or in waters under other than Dutch jurisdiction;
- d. incidents in which a ro-ro ferryboat or a high-speed passenger vessel on the open sea is involved, which last put in at a port in the Netherlands;
- e. incidents in which a Dutch aircraft is involved above the open sea or abroad;
- f. incidents in which a Netherlands-Antillean or an Aruban sea-going vessel is involved on the open sea or in waters under other than Netherlands-Antillean or Aruban jurisdiction respectively, if the government of the Netherlands Antilles or Aruba respectively should request the Board to conduct such an investigation;
- g. incidents in which a Netherlands-Antillean or an Aruban aircraft is involved above the open sea or abroad, if the government of the Netherlands Antilles or Aruba respectively should request the Board to conduct such an investigation;

2. The authority to conduct an investigation shall also extend to:

- a. the way in which the consequences of incidents abroad have been dealt with in the Netherlands of which the consequences extend to the

territory of the Netherlands, including the European waters under Dutch jurisdiction;

b. the way in which the consequences of incidents abroad have been dealt with in the Netherlands Antilles or Aruba of which the consequences extend to the territory of the Netherlands Antilles or Aruba, including the waters under Netherlands-Antillean or Aruban jurisdiction respectively, if the government of the Netherlands Antilles or Aruba respectively should request the Board to conduct such an investigation;

c. dealing with the consequences of the incidents referred to in the first paragraph, sections a, c, d and e;

d. dealing with the consequences of the incidents referred to in the first paragraph, sections b, f and g, if the government of the Netherlands Antilles or Aruba respectively should request the Board to conduct such an investigation.

3. The Board is furthermore authorised to conduct an investigation into incidents and to deal with the consequences of incidents, in so far as it concerns incidents relating to an object or a person used for or in the course of exercising a function respectively, on behalf of:

a. Our Minister of Defence;

b. a foreign army, if the incident took place on or above the territory of the Kingdom of the Netherlands, including the territorial waters and the continental shelf belonging to the territory, as well as in so far as it concerns an incident with an aircraft, if the incident took place within the flight information area of Curaçao, in so far as this flight information area does not comprise areas or waters falling under the jurisdiction of another state.

4. The Board is furthermore authorised to conduct an investigation into incidents and to deal with the consequences of incidents in so far as it concerns incidents relating to an object or a person used for or in the course of exercising a function respectively, for the benefit of an organisation of which the management has been assigned to Our Minister of Defence.

Article 5

1. The accidents with respect to which the Board is obliged to conduct an investigation will be decided by a Kingdom Order in Council or an Order in Council.

2. By or pursuant to a Kingdom Order in Council or an Order in Council rules shall be laid down with respect to incidents, to be further specified, in which another state or another country is also involved, concerning the way in which the investigation is to be organised, the co-operation with this other state or other country in the execution of the investigation and the role of the Board in such cases, as well as the international obligations to be complied with in the event of such an investigation.

§2. Organisation and composition

Article 6

1. The Board has five members, including the chairman.
2. In addition, associate members also participate in the Board.
3. The Board will have qualified associate members participate in its consultations on individual incidents or categories of incidents.
4. Associate members shall not participate in the consultations of the Board for the application of Articles 7, 16, 17, 20, first paragraph, 23, first paragraph, 25, 26, 65 and 71.

Article 7

1. The members of the Board referred to in Article 6, first paragraph, shall be appointed, suspended and dismissed by Royal Decree, after hearing the advice of the Board.
2. The members of the Board referred to in Article 6, second paragraph, shall be appointed, suspended and dismissed by Royal Decree on the recommendation of Our Minister, in agreement with Our Minister whom it also concerns in the Netherlands, after hearing the advice of the Board.
3. The selection of the members of the Board shall be made in such a way that all relevant expertise is present within the Board. The Board shall at any rate have expertise available in the field of defence and transport. Further rules on the matter may be laid down by a Kingdom Order in Council.
4. Membership of the Board is considered a confidential function as referred to in Article 1, first paragraph, section a of the Security Clearances Act.
5. The members of the Board are appointed for a term of four years. The term of the member who is appointed to a premature vacancy shall be equal to the remaining term of the member in whose place this member is appointed. The members of the Board can be reappointed once.
6. In agreement with Our Minister whom it also concerns in the Netherlands, Our Minister shall see to the publication of a vacancy in the Board. The Board may make a reasoned proposal to Our Minister before the vacancy is made public.
7. At their own request the members of the Board may submit their resignation, which will take effect not later than on the first day of the third calendar month after the day on which Our Minister received the letter of resignation.
8. Without prejudice to the seventh paragraph suspension and dismissal shall only be possible by reason of inaptness or incompetence for the function performed or because of other serious reasons connected with the person concerned.

Article 8

1. By Royal Decree one of the members of the Board referred to in Article 6, first paragraph, shall be appointed chairman of the Board.
2. By Royal Decree one of the members of the Board referred to in Article 6, first paragraph, shall be appointed deputy chairman of the Board.

Article 9

Rules shall be laid down by or pursuant to a Kingdom Order in Council concerning:

- a. the manner in which the members of the Board are to be sworn in;
- b. the remuneration, including the reimbursement of travel and accommodation expenses of the members of the Board.

Article 10

1. The Board may appoint committees.
2. A committee consists of one or more members of the Board as referred to in Article 6, first paragraph, and of one or more members as referred to in Article 6, second paragraph.
3. The Board shall appoint one of the members of the Board as referred to in Article 6, first paragraph, chairman of the committee.
4. The Board may grant a committee the power to take decisions on its behalf.

§3. The Office

Article 11

1. The Board has a general secretary.
2. The Board is supported by an Office.
3. The Office is led by the general secretary.
4. The selection of employees of the Office shall be made in such a way that all relevant expertise is present within the Office. The functions of the employees of the Office, including that of the general secretary, are considered confidential functions, as referred to in Article 1, first paragraph, section a of the Security Clearances Act.
5. Among the employees of the Office are soldiers appointed by Our Minister of Defence in agreement with the chairman of the Board there, who, while retaining their legal status, are deployed for the investigation into incidents as referred to in Article 4, third paragraph. The Board may also deploy them for other investigative tasks.

Article 12

Neither the general secretary nor any of the employees of the Office shall be members of the Board. The general secretary shall only be accountable to the Board.

Article 13

1. The rules applicable to civil servants appointed at the Ministries shall apply to the legal status of the secretary and the employees of the Office referred to in Article 11, second paragraph, provided that where in these rules authority is granted to another minister than Our Minister, this authority shall be exercised by the Board.
2. By an Order in Council the rules referred to in the first paragraph may be deviated from.

Article 14

1. At the request of the Board, Our Minister whom it concerns may appoint one or more experts coming under him, who with due observance of the directions given by or on behalf of the Board assist the Board in the execution of an investigation to be further specified.
2. For the investigation into an incident as referred to in Article 4, third paragraph, assistance shall only be rendered by experts appointed by virtue of the first paragraph, to whom pursuant to the Security Clearances Act a certificate has been issued that there are no objections against the performance of a confidential function for reasons of state security or other vital interests of the state, except for cases in which Our Minister of Defence should decide otherwise.
3. Our Minister or Our Minister of Justice respectively, may determine that assistance for the investigation into another incident than referred to in the second paragraph, shall only be rendered by experts, appointed by virtue of the first paragraph, to whom a certificate as referred to in the second paragraph has been issued.
4. The experts appointed by virtue of the first paragraph will be attached to the Office for the duration of the investigation.
5. The experts appointed by virtue of the first paragraph shall fall under the responsibility of the Board during the execution of the investigation in question.

§ 4. Working method

Article 15

1. The members sitting on the Board are not bound by a mandate.
2. A member of the Board shall refrain from participating in dealing with an investigation that:
 - a. concerns himself or one of his relatives by blood or affinity up to the fourth degree;
 - b. concerns an institution or legal person at which he is employed or in which he has an interest;
 - c. concerns an incident in which he has been involved in any manner whatsoever.

3. The members of the Board shall disclose any functions other than their membership of the Board by making a specification of these other functions, available for inspection by the Board and Our Minister.

Article 16

1. An employee of the Office, as well as an expert appointed by virtue of Article 14, first paragraph, shall inform the chairman without delay that the investigation:

- a. concerns himself or one of his relatives by blood or affinity up to the fourth degree;
- b. concerns an institution or legal person at which he is employed or in which he has an interest;
- c. concerns an incident in which he has been involved in any manner whatsoever.

The Board shall decide whether he will have to refrain from participation for that reason.

2. For the application of the first paragraph the general secretary is considered an employee of the Office.

3. If the Board should request it by virtue of the first paragraph, Our Minister whom it concerns will replace one or more of the experts in the investigation concerned, who have been appointed by virtue of Article 14, first paragraph.

Article 17

1. Within half a year after having been instituted the Board shall draw up management regulations, subject to the approval of Our Minister.

2. The approval may be withheld on the ground that in the opinion of Our Minister these management regulations could obstruct a proper performance of the tasks of the Board.

§5. Management

Article 18

The legal person Safety Investigation Board shall be represented in and out of court by the chairman of the Board and in his absence by the deputy chairman of the Board.

Article 19

1. The revenue of the legal person Safety Investigation Board consists of an annual contribution at the expense of the budget for the Ministry of the Interior and Kingdom Relations.

2. If special circumstances should require it, additional funds may be put at the disposal of the Board.

Article 20

1. Before 1 November the Board draws up a budget for the next financial year, as well as a financial multiannual policy plan.
2. The budget shall include an estimate of the revenues and charges, an estimate of the intended investment expenses and an estimate of income and expenditure.
3. Each of the budget headings shall be accompanied by a separate explanation.
4. Each explanation shall make clear whether the budget heading refers to the performance of the tasks assigned to the Board or to other activities.
5. Unless the activities to which the budget refers have not been performed before, the budget shall contain a comparison with the budget of the current year and the last adopted annual account.
6. The decision to adopt the budget and the financial multiannual policy plan require the approval of Our Minister.
7. The approval may be withheld on account of being in conflict with the law or the public interest.

Article 21

If in the course of the year considerable differences should arise or threaten to arise between the actual and the estimated revenues and charges or income and expenditure, the Board shall inform Our Minister of this fact without delay, stating the reasons of the differences.

Article 22

1. The Board forms an equalisation reserve.
2. The maximum amount of the equalisation reserve will be fixed by ministerial regulation.
3. The difference between the realised revenues of the Board and the realised charges of the activities shall be for the benefit or at the expense of respectively, of the equalisation reserve.
4. The interest received from the equalisation reserve shall be added to the equalisation reserve.

Article 23

1. Every year before 1 July the Board shall present the annual accounts to Our Minister.
2. The decision to adopt the annual accounts requires the approval of Our Minister.
3. The approval may be withheld on account of being in conflict with the law or the public interest.

Article 24

1. The annual accounts, in which the financial management and the performance during the expired financial year are accounted for, shall be drawn up as much as possible by application *mutatis mutandis* of the provisions in title 9 of Book 2 of the Netherlands Civil Code.
2. The annual accounts shall be accompanied by a certificate of truthfulness issued by an accountant as referred to in Article 393, first paragraph, Book 2 of the Netherlands Civil Code. In appointing the accountant the Board shall stipulate that, if requested, Our Minister will be allowed inspection of the auditing work executed by the accountant.
3. The certificate referred to in the second paragraph also refers to the lawful collection and spending of funds by the Board.
4. The accountant shall also add a report of his findings to the certificate referred to in the second paragraph, with respect to the question if the management and the organisation of the Board meet the requirements of efficiency.
5. The Board shall make the annual accounts and the certificate referred to in the second paragraph generally available.

Article 25

1. Annually before 1 July the Board shall draw up a report of its activities, the policy conducted during the past calendar year in general and the efficiency and expediency of its work in particular.
2. The annual report shall at any rate include a review of the incidents investigated, the conclusions concerning these incidents in the reports and, if necessary, the recommendations in connection with them. The annual report shall also include the investigation programme of the Board.
3. The annual report shall be sent to Our Ministers, to both Chambers of the States General, to the Parliament of the Netherlands Antilles and the Parliament of Aruba and be made generally available.

Article 26

1. If requested, the Board shall provide Our Minister with all the information required for his task. Our Minister may demand inspection of all the relevant data and documents, in so far as reasonably necessary for the performance of his task. The provisions in the preceding two sentences do not refer to information, relevant data and documents concerning the contents of and approach to concrete investigations of the Board.
2. Our Minister shall provide the Board with all the information required by it for the performance of its task.
3. Our Minister shall draw up an Information Charter. The Information Charter will contain regulations as regards contents and procedure with respect to the communication between Our Minister and the Board, which is necessary for a proper implementation of this Kingdom Act.

Article 27

By ministerial regulation further rules may be laid down concerning the organisation of the draft budget, the financial multiannual policy plan, the auditing and the annual report.

CHAPTER 3 REPORTING

Article 28

1. By a Kingdom Order in Council or an Order in Council persons or authorities may be appointed who/which are obliged to report incidents, to be further specified upon such appointment. In addition, further regulations may be laid down as regards the reporting.
2. It may be stipulated by a Kingdom Order in Council or an Order in Council that the Board shall pass such reports on to Our Minister whom it concerns.

Article 29

By ministerial regulation rules shall be laid down with respect to the reporting by the Netherlands of incidents, to be further specified, and the supply of other information to a foreign state or an international organisation.

CHAPTER 4. INFORMATION MATERIAL

Article 30

1. The mayor, the lieutenant governor of one of the island territories of the Netherlands Antilles, Our Minister who has the public order of Aruba in his portfolio, or, if it concerns a drilling platform, the Inspector General of Mining, will be authorised to take measures to the effect that the situation on the scene of an incident is not changed. As regards areas and ships under the management of Our Minister of Defence, Our Minister of Defence shall be entitled to this authority.
2. It may be stipulated by a Kingdom Order in Council or an Order in Council that, in the cases to be specified, measures as referred to in the first paragraph are taken.

Article 31

1. It may be stipulated by or pursuant to a Kingdom Order in Council or an Order in Council that, in the cases to be specified, the objects directly involved in an incident, apart from certain exceptions to be further specified, shall continue to be or be rendered available for the Board for the duration of the investigation or so much shorter or longer as the chairman of the Board considers necessary.
2. In the application of the first paragraph it may be stipulated that

no-one shall be allowed to remove or otherwise withdraw from the investigation any objects involved in the incident without being authorised to do so.

3. By or pursuant to a Kingdom Order in Council or an Order in Council further rules may be laid down with respect to the provisions in the first paragraph and with respect to returning the objects concerned.

4. By or pursuant to a Kingdom Order in Council or an Order in Council rules may be laid down with respect to assistance to be rendered by the authorities in making the objects referred to in the first paragraph available again.

CHAPTER 5. THE INVESTIGATION

§ 1. Powers of the investigators

Article 32

The stipulations with respect to the investigators in or pursuant to Articles 33 through 40 and Article 69, fourth paragraph, shall also apply to the members of the Board, the employees of the Office, in so far as they have been appointed investigators, and the experts appointed by virtue of Article 14, first paragraph.

Article 33

1. In the performance of his task an investigator shall carry an identity card, issued by the Board.
2. If requested, an investigator shall immediately produce his identity card.
3. The identity card shall include a photograph of the investigator and at any rate state his name and capacity.

Article 34

An investigator shall only avail himself of his powers in so far as this is reasonably required for the performance of his task.

Article 35

By ministerial regulation further rules may be laid down for the exercise of the powers that an investigator is entitled to.

Article 36

1. An investigator is authorised to enter any location and bring along the necessary equipment, including the living quarters of a ship. A dwelling that is not aboard a ship can only be entered with the consent of the resident.
2. If necessary, he may effect entry with the assistance of the police.

3. He is authorised to be accompanied by persons whom he has appointed for this purpose.
4. As regards areas and ships in use with Our Minister of Defence the powers referred to in the first and third paragraphs shall be exercised in agreement with Our Minister of Defence.

Article 37

An investigator is authorised to demand information.

Article 38

1. An investigator is authorised to demand inspection of relevant data and documents.
2. He is authorised to make copies of data and documents.
3. If the copies cannot be made *in loco*, he will be authorised to take the data and documents with him for that purpose for a short period of time against submission of written proof.

Article 39

1. An investigator is authorised to investigate objects, to inspect them and to take samples of them.
2. He is authorised to open packaging for that purpose.
3. If the investigation, inspection or the taking of samples cannot take place *in loco*, he will be authorised to take the objects with him for that purpose for a short period of time against submission of written proof.
4. The samples taken will be returned in so far as possible.

Article 40

1. Everyone shall be obliged to render an investigator all the assistance and information that he may reasonably demand in the exercise of his powers within the term he may reasonably stipulate.
2. When assistance is rendered by themselves or by persons coming under them, Our Minister, Our Minister of Defence and Our Minister of Justice may indicate that the information in question is supplied to the Board in strict confidence. The confidential supply of information to the Board shall take place by application *mutatis mutandis* of Article 57. The confidentially supplied information shall not be made public.
3. Those who on account of their office, profession or a statutory provision are obliged to observe confidentiality, may refuse to render assistance in so far as this arises from their obligation of confidentiality. Those to whom a statutory provision applies by which they are bound to confidentiality, except in so far as any other statutory provision obliges them to disclosure or co-operation, may also refuse their assistance if there are serious reasons for it.

§ 2. The investigation

Article 41

1. The Board decides whether an investigation is to be conducted, without prejudice to the provisions of Article 5.
2. The chairman of the Board may decide on conducting a provisional investigation in anticipation of the decision of the Board referred to in the first paragraph. The chairman of the Board may grant another member of the Board or the general secretary the authority to take this decision on his behalf.
3. The decision to conduct an investigation or a provisional investigation shall be taken within five days calculated from the day of the incident. This shall not apply:
 - a. if an incident is investigated in connection with other incidents;
 - b. if at a later date any facts or circumstances are found that justify an investigation after all.
 - c. if the investigation exclusively relates to dealing with the consequences of an incident.
4. The Board shall inform Our Minister whom it concerns, as well as the provincial or municipal administration, where appropriate, of the fact that an investigation is to be conducted.

Article 42

The Board shall not conduct an investigation if Our Minister decides so for serious reasons of security of the countries of the Kingdom of the Netherlands or for serious reasons connected with maintaining or advancing international law and order.

Article 43

1. Our Minister whom it concerns in the Netherlands, the Queen's Commissioner or the mayor may submit a written request to the Board for conducting an investigation.
2. The Board shall decide upon such a request as soon as possible, but not later than within four weeks after receipt and shall inform the petitioner of its decision. The Board may extend this term once by four weeks. The Board shall inform the petitioner of the extension. Article 41, third paragraph, shall not be applicable.
3. If the decision of the Board upon a request is negative, the reasons of this decision shall be given.

Article 44

Rules shall be laid down by ministerial regulation with respect to notifying the fact that an investigation is instituted and sending a provisional message to a foreign state or an international organisation, in the cases to be further specified.

Article 45

1. The Board may allow that at the request of a state one or more representatives of that state participate in the investigation. Our Minister whom it concerns may also address such a request to another state through the intervention of Our Minister of Foreign Affairs.
2. In the event of an investigation into military incidents in which, apart from ordnance, personnel or facilities of the Dutch armed forces, also ordnance, personnel or facilities of one or more other states belonging to the North Atlantic Treaty Organisation are involved, the Board shall give the representatives of that state or those states the opportunity to participate in the investigation.
3. In the event of an investigation into incidents in which the Netherlands Antilles or Aruba are involved, the Board may permit that, at the request of the government of the Netherlands Antilles or Aruba respectively, one or more representatives of the Netherlands Antilles or Aruba respectively participate in the investigation.
4. The representatives may call in the assistance of experts.
5. The representatives and experts shall have access to the data and information collected during the investigation, provided that they are obliged to observe confidentiality and that in the states or countries represented by them they are not obliged to give wider publicity to such data than possible in pursuance of this Kingdom Act.
6. It will be determined by ministerial regulation in what cases, in connection with international agreements, the Board is bound to apply the first paragraph. Furthermore, it will also be determined by ministerial regulation in what cases Our Minister whom it concerns in the Netherlands is obliged to submit a request as referred to in the first paragraph.
7. By or pursuant to a Kingdom Order in Council or an Order in Council further rules shall be laid down concerning the powers of the representatives, to be further specified, and the experts who render them assistance.

Article 46

In the cases to be further specified particular rights, to be further specified, may be assigned by ministerial regulation in connection with an investigation, to a state whose citizens have suffered injuries to be further specified.

Article 47

For the purpose of an investigation into an incident with an aircraft, not being an aircraft in use with Our Minister of Defence or a foreign army, the Board is authorised to call in the assistance of authorities or organisations from the other member states of the European Union or any of the other states that are party to the Agreement concerning the European Economic Area in order to make the following available:

- a. installations, facilities and equipment for:

- 1°. the technical investigation of wreckage, onboard equipment and other objects important for the investigation;
 - 2°. the processing of information from flight recorders and
 - 3°. the electronic filing and processing of data on air accidents;
- b. experts specialised in investigating accidents or incidents, in order to entrust them with well-defined tasks, and this exclusively in an investigation in connection with a major air accident.

Article 48

1. The Board can hold sessions.
2. The Board shall send written notification of the place, date and hour of the session to:
 - a. the natural persons, legal persons or administrative bodies whose acts or omissions according to the provisional judgement of the Board have contributed to the incident arisen, or the surviving relatives of a natural person as referred to above;
 - b. the representatives referred to in Article 45 who participate in the investigation;
 - c. Our Minister of Defence, if it concerns an investigation into an incident as referred to in Article 4, third or fourth paragraph;
 - d. Our Minister or Our Minister of Justice respectively, after a request to that effect.
3. Place, day and hour of the session shall also be announced in the Netherlands Government Gazette.

Article 49

If the Board decides upon holding a session, it may determine that those referred to in Article 48, second paragraph, section a, will be allowed to inspect the documents relating to the incident, if in its opinion this is necessary in the interest of arriving at the truth. As opposed to contacts for the preparation of the items to be dealt with at the session, those who inspect the documents shall be obliged to observe secrecy.

Article 50

1. The sessions of the Board shall be public.
2. For serious reasons the Board may decide that the issue dealt with or part of it will not be discussed in public. The Board is obliged to take such a decision if this is the express wish of the person who is being heard, if this person thinks that by a public hearing he or one of his relatives by blood or affinity in the direct ascending or descending line or in the collateral line to the second or third degree or his spouse or former spouse or registered partner or former registered partner may be exposed to the risk of a criminal or disciplinary sentence or an adverse judgement. The Board shall inform the person who is to be heard of this possibility.

3. By a Kingdom Order in Council or an Order in Council further rules shall be laid down concerning the proceedings during the sessions of the Board.

Article 51

1. The chairman of the Board will call the persons it wishes to hear as witnesses or experts. If necessary, the chairman of the Board may have a summons served by means of a bailiff's notification. At least two weeks shall lapse between the day on which the summons is served and the day of the session.

2. Every person who has been called as a witness or an expert will be obliged to appear.

3. If the witness or expert upon whom the summons has been served fails to appear, this shall be recorded in an official report, including an accurate description of the summons and signed by the chairman of the Board.

4. Unless there is proof to the contrary, the official report of non-appearance shall constitute full proof of what is recorded there.

5. The chairman of the Board may request the public prosecutor at the district court within whose jurisdiction the Board meets, to serve a summons upon the witness or expert in the event of his non-appearance at the session of the Board and to add a warrant to bring the latter before the court.

6. The natural persons referred to in Article 48, second paragraph, section a, as well as representatives of the legal persons or administrative bodies referred to there, will be entitled to be heard as witnesses at the session at their own request, if they have not been called by the Board.

Article 52

1. Provided that he has reached the age of sixteen, a witness can only be heard by the Board at a session after having taken the oath or made a solemn affirmation in the presence of the chairman that he will tell the whole truth and nothing but the truth. If in the opinion of the Board a witness does not sufficiently understand the significance of the oath or the solemn affirmation due to mental disorder or limited development of his mental faculties, he shall not be put under oath or be asked to make a solemn affirmation, under penalty of nullity, but he will be demanded to tell the whole truth and nothing but the truth.

2. An expert can only be heard by the Board at a session after first having taken the oath or made a solemn affirmation in the presence of the chairman that he will report to the best of his knowledge.

3. If requested by the chairman of the Board, witnesses and experts are obliged to take the oath or make a solemn affirmation, to give testimony or to render their services as experts, all this except for exemption on account of official or professional secrecy.

4. An official report shall be drawn up of the hearing of witnesses and experts, to be signed by the chairman of the Board and the general secretary.

Article 53

The Board may pay the witnesses and experts called by the chairman and the interpreters appointed by the chairman a compensation, to be fixed by ministerial regulation.

Article 54

By or pursuant to a Kingdom Order in Council further rules shall be laid down concerning the investigation of the Board.

Article 55

1. The Board shall draw up a report in completion of its investigation.
2. In so far as the investigation extends to it, the report shall at any rate include:
 - a. an analysis of the facts of the incident and the way in which the consequences are being dealt with, as well as the data on which this analysis is based;
 - b. establishing the causes or probable causes of the incident and the extent of its consequences;
 - c. if there is reason to believe so, the detection of structural safety defects and the recommendations connected with them.
3. Data taken from documents and other data carriers as referred to in Article 69, first paragraph, section a through e, shall only be included in the report in so far as they are essential for the analysis of the facts of the incident or for the foundations of the conclusions. The names, addresses or identification data of a similar nature with respect to the persons involved in an accident or incident shall not be included in the report.
4. The Board may issue a report in two parts if it conducts an investigation into both an incident and the consequences thereof. If the report is issued in two parts, the regulations concerning the report shall apply to either part.
5. By ministerial regulation further rules may be laid down with respect to the report.

Article 56

1. The Board shall send the draft report to the parties referred to in Article 48, second paragraph, section a. They may comment in writing for a term of four weeks, taking effect from the day on which the draft report has been sent. They are obliged to observe secrecy with respect to the draft report. The Board may decide not to include the part of the report referred to in Article 55, second paragraph, section c, in the draft report sent.

2. By or pursuant to a Kingdom Order in Council rules shall be laid down with respect to sending the draft report to other states, or the Netherlands Antilles and Aruba respectively for comment, as well as with respect to the term during which comments can be made.
3. If the comments made should give rise to it, the Board may adjust the report. If the report is not adjusted in conformity with the essence of the comments, the Board shall indicate the reasons for this in its report.

Article 57

1. The Board shall not include the information collected by it in its report in so far as this:
 - a. might endanger the unity of the Crown;
 - b. might harm the security of the Kingdom of the Netherlands;
 - c. concerns company and manufacturing data provided confidentially by natural persons or legal persons;
 - d. concerns personal data as referred to in paragraph 2 of chapter 2 of the Personal Data Protection Act, unless the data provided are evidently not an intrusion on a person's privacy.
2. Nor shall the Board include the information collected by it in its report in so far as the importance thereof does not counterbalance the following interests:
 - a. the relations of the Kingdom of the Netherlands or the countries of the Kingdom of the Netherlands with other states or international organisations;
 - b. the economic or financial interests of the Kingdom of the Netherlands, of the public-law corporations of the countries of the Kingdom of the Netherlands, or of the administrative bodies referred to in Article 1a, sections c and d of the Government Information Public Access Act;
 - c. the detection and prosecution of offences;
 - d. inspection, monitoring and supervision by administrative bodies of the countries of the Kingdom of the Netherlands;
 - e. respect for privacy;
 - f. the prevention of disproportionate preference of or damage to natural persons or legal persons or third parties involved in the case.
3. The first paragraph, first sentence and section c are not applicable in so far as it concerns environmental information, as referred to in Article 19.1a of the Environmental Management Act, which relates to emissions in the environment. Furthermore, in derogation of the provision referred to, environmental information shall only be left out of the report in so far as the importance of including it in the report does not counterbalance the interest stated there.
4. The second paragraph, first sentence and section b are not applicable to including environmental information in the report, as referred to in Article 19.1a of the Environmental Management Act, in so far as it concerns acts of a confidential nature.
5. The second paragraph, first sentence and section e are not applicable in so far as the person concerned has consented to including the information in the report.

6. The second paragraph, first sentence and section f are not applicable to including environmental information in the report, as referred to in Article 19.1a of the Environmental Management Act.

7. Nor shall environmental information as referred to in Article 19.1a of the Environmental Management Act be included in the report in so far as the importance thereof does not counterbalance the following interests:

- a. the protection of the environment to which this information refers;
- b. the security of companies and prevention of sabotage.

8. In applying the first, second and seventh paragraphs to environmental information, it will be taken into account whether this information refers to emissions in the environment.

9. The third through eighth paragraphs are not applicable to environmental information referring to the Netherlands Antilles and Aruba.

Article 58

1. The Board shall see to it that the investigation is carried out as efficiently as possible and within as short a period of time as possible.

2. In so far as it concerns an investigation into an individual incident, the Board shall aim at issuing the report as soon as possible but at any rate within twelve months after the date of the incident.

Article 59

1. The Board shall publish the report.

2. The Board shall at any rate send the report to Our Minister whom it concerns, and to the natural person, the company involved, the national aviation authority involved, the legal person or the administrative body for whom/which a recommendation is intended. In addition, the Board shall at any rate send copies of the report to Our Minister, an administrative body involved, and the parties referred to in Article 48, second paragraph, section a.

3. By or pursuant to an Order in Council rules shall be laid down with respect to sending the report, in the cases to be specified, to a foreign state, the Commission of the European Community or an international organisation.

4. Everyone can obtain copies of the report. The Board may charge the costs of a copy. The costs are calculated in compliance with the provisions in Article 12 of the Government Information Public Access Act.

5. Drafts of the report, information collected by the Board for the purpose of an investigation, as well as information that the Board has supplied to other parties by or pursuant to the provisions of this Act, shall not be public.

Article 60

1. If in consequence of the application of Article 57 certain information cannot be included in the report, which in the opinion of the Board is essential for the analysis of the facts of the incident or the foundations of the conclusions, the Board may decide to send the information and the conclusions and recommendations based on it to the natural person, the legal person or the administrative body for whom/which the recommendation is intended and to whom/which respectively the information is already known.
2. In the case referred to in the first paragraph the Board may decide not to issue a public report.
3. If the Board applies the second paragraph, it shall inform Our Minister whom it concerns, as well as the provincial or municipal administration, where appropriate, of this fact.

Article 61

A conclusion or recommendation shall not constitute a suspicion of guilt or liability for an incident.

Article 62

1. The Board may decide to terminate the investigation prematurely, if in its opinion the investigation will not result in any meaningful recommendations, without prejudice to the provisions by virtue of Article 5.
2. If the Board applies the first paragraph, it shall inform Our Minister whom it concerns, as well as the provincial or municipal administration, where appropriate, of this fact.

Article 63

If necessary for immediate action in order to prevent accidents, the Board shall already make its recommendations for preventive measures while the investigation is still in progress.

Article 64

1. If new facts are discovered after the investigation has been closed, which in the opinion of the Board are of essential importance for the conclusions or recommendations recorded in the report, the Board shall decide to reopen the investigation.
2. The Board shall inform Our Minister and Our Minister whom it concerns of its decision to reopen the investigation.

Article 65

The Board shall draw up an investigative protocol with respect to the investigative methods to be adopted by it. The Board shall publish this protocol.

§3. Identification

Article 66

If the police in the Netherlands, the Netherlands Antilles or Aruba conducts an investigation into the identity of the victims of an incident, the results of this investigation shall be put at the disposal of the Board if requested.

§ 4. Relation to investigation with a view to imposing sanctions

Article 67

By or pursuant to a Kingdom Order in Council or an Order in Council rules may be laid down:

- a. with respect to the consultations and co-ordination between the Board, the Public Prosecutions Department in the Netherlands, the Royal Netherlands Military Constabulary, the National Police Agency and the regional police forces, if in connection with an incident imposing a penal sanction is also considered;
- b. with respect to the co-operation between the Board, the Public Prosecution Department in the Netherlands Antilles or Aruba respectively, and the Netherlands-Antillean police force or the Aruban police force respectively, if in connection with an incident imposing a penal sanction is also considered;
- c. with respect to both parties making objects available within this context.

Article 68

By or pursuant to a Kingdom Order in Council or an Order in Council rules may be laid down:

- a. with respect to the consultations and co-ordination between the Board and Our Minister whom it concerns, if in connection with an incident imposing an administrative sanction is also considered and
- b. with respect to making objects available to Our Minister whom it concerns within this context.

§ 5. Relation to other proceedings

Article 69

1. In criminal, disciplinary or civil proceedings the following cannot be used as evidence nor can a disciplinary measure, an administrative sanction or an administrative measure be based on :

- a. statements of persons made within the context of the investigation of the Board, unless the person who made the statement has given his explicit consent to it;
- b. communication recorded by means of a technical device among persons who were involved in the operation of a means of transport;
- c. medical or private information recorded within the context of the investigation of the Board concerning persons who were involved in an incident investigated by the Board, unless the person in question has given his explicit consent to it;
- d. data from a flight recorder, a cockpit-voice recorder or a travelling-data recorder used in shipping and copies thereof;
- e. opinions expressed within the scope of analysing the investigation material;
- f. documents drawn up by the Board.

2. for the purpose of a criminal or disciplinary investigation or proceedings for imposing a disciplinary measure, an administrative sanction or an administrative measure, data carriers as referred to in the first paragraph, sections a, b, c, d and f, with the exception of the report referred to in Article 55, first paragraph, cannot be demanded for inspection or be seized. However upon request, statements such as referred to in the first paragraph, section a may be submitted for inspection, if the person who has made the statement has given his explicit consent to it, and information such as referred to in section c may be made available, if the person to whom the information refers has given his explicit consent to it.

3. In derogation of the first and second paragraphs data carriers such as referred to in the first paragraph, sections b and d, may be used as evidence and be demanded for inspection or be seized, if it concerns a criminal investigation into a hostage-taking, murder, manslaughter or an offence with the intention of frightening the population or part of the population of a country, or forcing a government or an international organisation to do, omit or tolerate something, or seriously destabilising or destroying the fundamental political, constitutional, economic or social structures of a country or an international organisation.

4. An investigator shall not be called as a witness or an expert in connection with an investigation in which he is or was involved.

5. The first paragraph, first sentence and section a, and the second paragraph in so far as it concerns a data carrier as referred to in the first paragraph section a, shall not apply in the event of prosecution of a witness or an expert on account of perjury in connection with a statement made by him before the Board.

Article 70

The Board, the employees of the Office, the general secretary and the other investigators shall not report offences that have come to their notice in the performance of their duties at the Board, to an investigating officer, with the exception of the cases referred to in Articles 160 and 162 of the Netherlands Code of Criminal Procedure, perjury, the offences made punishable under Article 81, as well as the offences made punishable under Articles 179 through 182 and 184 of the Netherlands Penal Code, Articles 185 through 188 and 190 of the Netherlands-Antillean Penal Code and Articles 185 through 188 and 190 of the Aruban Penal Code in so far as these offences relate to Article 40, first paragraph.

§ 6. Confidentiality

Article 71

On the basis of the regulations applying to Government Service Agencies the Board shall provide the required technical and organisational facilities for the protection of its data against loss or impairment and against unauthorised inspection, alterations in and supply of these data.

Article 72

Everyone who is involved in the implementation of this Kingdom Act and who thereby obtains data of which he knows or reasonably should assume the confidential character, and who is not already obliged to observe confidentiality with respect to these data on account of his office, profession or a statutory provision, is obliged to observe confidentiality with respect to these data, except in so far as he is obliged to disclose information under a statutory provision or in so far as the necessity of disclosure results from his duties in the implementation of this Kingdom Act.

CHAPTER 6, FOLLOW-UP ON RECOMMENDATIONS

Article 73

1. If the Board has made a recommendation to an administrative body, the administrative body at which the recommendation is directed shall define its position in this respect within half a year after the day on which the report in question has been drawn up. The administrative body may extend this term twice by three months at most, supported by reasons. If the administrative body is not Our Minister whom it concerns, the administrative body shall notify Our Minister whom it concerns of its position in writing.

2. The administrative body shall send a copy of this notification to the Board. If the recommendation is directed at Our Minister whom it concerns, the latter shall notify the Board of his position in writing.

Article 74

1. If the Board has made a recommendation to a party other than an administrative body, the latter shall notify Our Minister whom it concerns of the way in which he/it intends to comply with the recommendation and send a copy of this notification to the Board within one year after the date on which the report in question has been drawn up.

2. Within one year after receipt of the notification referred to in the first paragraph Our Minister whom it concerns shall consider if further measures are necessary. Our Minister whom it concerns shall inform the Board and the natural person or the legal person to whom/which the recommendation is directed, of the outcome of his consideration.

Article 75

Annually, after consultation with Our Ministers whom it concerns Our Minister shall send the States General a survey of the recommendations of the Board, the positions defined with respect to them and the way in which the recommendations have been acted on.

Article 76

The Board is authorised to conduct an investigation into the state of affairs with respect to the implementation of recommendations made by the Board in previous investigations.

CHAPTER 7. INVESTIGATION BY ANOTHER COUNTRY

Article 77

1. By or pursuant to an Order in Council rules may be laid down with respect to participation of the Board or a representative of the Board, in the cases to be specified, in an investigation conducted by another state.

2. By or pursuant to an Order in Council it may be determined that, in the cases to be specified, Our Minister whom it concerns in the Netherlands may order the Board or a representative appointed by Our Minister whom it concerns in the Netherlands to participate or render assistance in an investigation conducted by another state, or render assistance in an investigation conducted by the Netherlands Antilles or Aruba.

3. By or pursuant to an Order in Council regulations may be laid down with respect to the appointment by Our Minister whom it concerns in the Netherlands of the representative referred to in the second paragraph.

Article 78

By or pursuant to an Order in Council rules may be laid down with respect to supplying information, providing facilities or services, or rendering assistance, in the cases to be specified, to the state that is authorised to conduct an investigation into an incident.

Article 79

Our Minister whom it concerns and the Board shall not disclose a draft report obtained by them during an investigation conducted by another state, by the Netherlands Antilles or by Aruba, unless they have been given the explicit consent thereto by the state or the country concerned respectively, or unless the document in question has already been published or released by that state or country.

Article 80

If recommendations or other proposals for preventive measures are made to the Netherlands by another state, Our Minister whom it concerns in the Netherlands shall inform the state in question of how the recommendations or the proposals are to be implemented, supported by reasons.

CHAPTER 8. PENAL AND INVESTIGATIVE PROVISIONS

Article 81

1. A fine of the second category, as referred to in Article 23 of the Netherlands Penal Code shall be imposed on those who act in conflict with the provisions in Articles 28, first paragraph, or 31, second paragraph, or in conflict with Article 49, 51, second paragraph, 72 or 74, first paragraph, or if the fine is imposed by the criminal judge in the Netherlands Antilles or Aruba, a fine of at most ANG 5000 and AWG 5000 respectively.
2. The offences made punishable under the first paragraph are summary offences.

Article 82

1. The officials appointed by Our Minister and Our Minister of Justice shall be charged with the investigation of the offences made punishable under Article 81, as well as the offences made punishable under Articles 179 through 182 and 184 of the Netherlands Penal Code, in so far as these offences relate to Article 40, first paragraph, without prejudice to the officials referred to in Article 141 of the Netherlands Code of Criminal Procedure.
2. Furthermore, the persons appointed for this purpose by the government in the Netherlands Antilles and by the government in Aruba respectively, shall be charged with the investigation of the

offences made punishable under Article 81, as well as the offences made punishable under Articles 185 through 188 and 190 of the Netherlands-Antillean Penal Code and Articles 185 through 188 and 190 of the Aruban Penal Code, in so far as these acts relate to Article 40, first paragraph.

3. A decision as referred to in the first paragraph shall be published in the Netherlands Government Gazette.

CHAPTER 9. EVALUATION

Article 83

1. Within three years after the entry into force of this Kingdom Act and subsequently after every five years Our Minister shall send the States General, the Parliament of the Netherlands Antilles and the Parliament of Aruba a report on the efficiency and expediency of the performance of the Board.

2. By ministerial regulation, as referred to in Article 26, third paragraph, rules shall be laid down concerning the realisation of the report and the involvement of the Board in this respect.

CHAPTER 10. NEGLECT OF DUTIES

Article 84

1. If in the opinion of Our Minister and Our Minister whom it also concerns the Board remains seriously in breach in the performance of its task with respect to the investigations referred to in the provisions by virtue of Article 5, Our Minister and Our Minister whom it also concerns may take the necessary measures. In that case Articles 32 through 40, 69 and 70 are applicable *mutatis mutandis* to persons to be appointed by Our Minister and Our Minister whom it also concerns. Investigations shall be conducted in compliance with Articles 44 through 65. Furthermore, Articles 31, 73 and 74 are applicable *mutatis mutandis*.

2. With the exception of urgent cases, such measures shall only be taken after the Board has been given the opportunity to perform its task properly after all within a term to be determined by Our Minister in agreement with Our Minister whom it also concerns.

3. Our Minister and Our Minister whom it concerns shall inform the Board, both Chambers of the States General, the Parliament of the Netherlands Antilles and the Parliament of Aruba without delay of the measures taken by them, as referred to in the first paragraph.

CHAPTER 11, TRANSITIONAL AND FINAL PROVISIONS

Article 85

1. As soon as the legislative proposal submitted by Royal Message of 27 September 2000 containing rules with respect to independent

administrative bodies (independent administrative bodies Framework Act) (parliamentary documents II, 2000-2001, 27 426), after having been passed, enters into force, or, if this should be later, as soon as this Kingdom Act has been entered in the Netherlands Bulletin of Acts and Decrees, this Kingdom Act will be amended as follows:

a. In chapter 2, paragraph 1, a new Article is to be inserted, reading:

Article 5a

In so far as not explicitly deviated from, the independent administrative bodies Framework Act shall be observed with respect to the Board. The independent administrative bodies Framework Act shall not apply to officials of the Board who are to be regarded as independent administrative bodies.

b. In Article 6, fourth paragraph, «23, first paragraph,» will be deleted.

c. Article 7, first paragraph, will read:

1. In derogation of Article 12, first paragraph, of the independent administrative bodies Framework Act the members of the Board referred to in Article 6, first paragraph, shall be appointed, suspended and dismissed by Royal Decree after hearing the advice of the Board.

d. Article 7, second paragraph, will read:

2. In derogation of Article 12, first paragraph, of the independent administrative bodies Framework Act the members of the Board referred to in Article 6, second paragraph shall be appointed, suspended and dismissed by Royal Decree on the recommendation of Our Minister, in agreement with Our Minister whom it also concerns in the Netherlands.

e. Article 9 will read:

Article 9

By or pursuant to a Kingdom Order in Council rules shall be laid down with respect to the manner in which the members of the Board are to be sworn in.

f. Article 15, third paragraph will be deleted.

g. Article 17 will read:

Article 17

Within half a year after having been instituted the Board shall draw up management regulations.

h. In chapter 2, paragraph 4, a new Article will be inserted, reading:

Article 17A

Article 21 of the independent administrative bodies Framework Act is not applicable.

i. Articles 20 through 24 will be replaced by:

Article 20

1. Before 1 November the Board draws up a budget for the next financial year, as well as a financial multiannual policy plan.
2. For the budget and the financial multiannual policy plan the approval of Our Minister shall be required.
3. The approval may be withheld on account of conflict with the law or the public interest.
4. The maximum amount of the equalisation reserve shall be fixed by ministerial regulation.

Article 21

1. The annual accounts, in which the financial management and the performance during the expired financial year are accounted for, shall be drawn up as much as possible by application *mutatis mutandis* of the provisions in title 9, Book 2 of the Netherlands Civil Code.
2. The annual accounts shall be accompanied by a certificate of truthfulness issued by an accountant as referred to in Article 393, first paragraph, Book 2 of the Netherlands Civil Code. When appointing the accountant the Board shall stipulate that, if requested, Our Minister will be allowed inspection of the auditing work executed by the accountant.
3. The certificate referred to in the second paragraph also refers to the lawful collection and spending of funds by the Board.
4. The accountant shall add a report of his findings to the certificate referred to in the second paragraph with respect to the question if the management and the organisation of the Board meet the requirements of efficiency.
5. The Board shall make the annual accounts and the certificate referred to in the second paragraph generally available.

j. Article 26, first paragraph, will read:

1. In derogation of Article 20, first paragraph of the independent administrative bodies Framework Act, the Board may refuse to provide Our Minister with information or to allow inspection in the data and documents with respect to the contents of and approach to current investigations of the Board.

k. Article 71 will be deleted.

l. Article 83, first paragraph, will read:

1. In derogation of Article 39, first paragraph of the independent administrative bodies Framework Act, within three years after the entry

into force of this Kingdom Act and subsequently after every five years Our Minister shall send the States General, the Parliament of the Netherlands Antilles and the Parliament of Aruba a report on the efficiency and expediency of the performance of the Board.

m. Article 84 will read:

Article 84

1. In derogation of Article 23, first paragraph, of the independent administrative bodies Framework Act, Our Minister and Our Minister whom it also concerns may take the necessary measures, if in the opinion of Our Minister and Our Minister whom it also concerns the Board remains seriously in breach in the performance of its task with respect to the investigations referred to in the provisions by virtue of Article 5. In that case Articles 32 through 40, 69 and 70 are applicable *mutatis mutandis* to the persons to be appointed by Our Minister and Our Minister whom it also concerns. Investigations shall be conducted in compliance with Articles 44 through 65. Furthermore, Articles 73 and 74 are applicable *mutatis mutandis*.

2. In derogation of Article 23, second paragraph, of the independent administrative bodies Framework Act, the term within which the Board is given the opportunity to perform its task properly after all shall be determined by Our Minister in agreement with Our Minister whom it also concerns.

3. In derogation of Article 23, third paragraph, of the independent administrative bodies Framework Act, Our Minister and Our Minister whom it also concerns shall also inform the Board, the Parliament of the Netherlands Antilles and the Parliament of Aruba without delay of the measures taken by them, as referred to in the first paragraph.

2. The text of this Kingdom Act as it reads after the amendments referred to in the first paragraph have been made, will be entered in the Netherlands Bulletin of Acts and Decrees, in the Official Journal of the Netherlands Antilles and in the Official Journal of Aruba. Before entry Our Minister shall rearrange the numbering of the Articles of this Kingdom Act and bring the Articles quoted in this Act in conformity with the new numbering.

Article 86

1. In derogation of Article 7, first and second paragraphs, the first appointment of the members of the Board referred to in Article 6 first paragraph, and the members of the Board referred to in Article 6 second paragraph, shall take place without hearing the advice of the Board.

2. In derogation of Article 7, fifth paragraph, the first appointment of two members of the Board, as referred to in Article 6 first paragraph, among whom the chairman, shall be for a term of two years.

Article 87

1. The Transport Safety Board Act will be repealed.
2. Investigations into incidents by virtue of the Transport Safety Board Act commenced before the date of the entry into force of the first paragraph, shall be concluded by the Board.

Article 88

1. As from the date of the entry into force of Article 2 the staff members of the Transport Safety Board, whose names and functions are stated in a list drawn up by the management of the Transport Safety Board, shall be dismissed by operation of law and appointed as civil servants in the employment of the legal person Safety Investigation Board.
2. The transition of the staff members referred to in the first paragraph shall take place with a legal status equal to the one that applied to each of them at the Transport Safety Board.
3. The persons who at the date of the entry into force of Article 2 belong to the personnel of the Transport Safety Board by virtue of an employment contract according to private law, whose names and functions are stated in a list drawn up by the Transport Safety Board, shall be dismissed by operation of law as from that date and appointed in the employment of the legal person Safety Investigation Board, with a legal status equal to the one that applied to each of them at the Transport Safety Board.

Article 89

1. The Transport Safety Board will be dissolved.
2. The assets of the Transport Safety Board shall be transferred to the legal person Safety Investigation Board under universal title.
3. If registered property is transferred, Our Minister of Finance shall enter the transfer of this registered property in the public registers referred to in section 2 of title 1 of Book 3 of the Netherlands Civil Code without delay. Article 24, first paragraph, Book 3 of the Netherlands Civil Code does not apply.

Article 90

Records of the Transport Safety Board shall be transferred to the legal person Safety Investigation Board, in so far as they have not been moved to a records depository in compliance with the Public Records Act 1995.

Article 91

The Naval Vessels Accidents Act 1935 (Netherlands Bulletin of Acts and Decrees 531) will be repealed. For the duration of the investigation the provisions in this Act will remain in force with respect to

investigations into accidents and incidents with military vessels as referred to in Article 93.

Article 92

Records of the Netherlands Naval Board concerning matters that have been concluded, will be transferred to the State, in so far as they have not been moved to a records depository in compliance with the Public Records Act 1995.

Article 93

Investigations into accidents or incidents with Dutch warships as referred to in the Naval Vessels Accidents Act 1935 (Netherlands Bulletin of Acts and Decrees 531) or military aircraft, which were started before the date of the entry into force of Article 2, will be concluded in conformity with the regulations applicable to these investigations before that date.

Article 94

The Merchant Shipping Act is amended as follows:

A

In Article 27, third paragraph, the sentence «unless the disaster falls under Article 1, fourth paragraph of the Naval Vessels Accidents Act 1928 (Netherlands Bulletin of Acts and Decrees n°. 69)» is to be replaced by: unless the disaster concerns a ship that is in use with Our Minister of Defence or a foreign army.

B

In Article 29 the following amendments are made:

1. The second paragraph will be deleted.
2. The third through fifth paragraphs are renumbered to second through fourth paragraphs.

Article 95

As soon as the legislative proposal submitted by Royal Message of 22 July 2002 for the amendment of the Netherlands Penal Code and the Road Traffic Act 1994, in connection with the reassessment of a number of legal staff maxima (parliamentary documents II, 2001-2002, 28 484, no. 1 and 2), after having been passed, enters into force, this Kingdom Act will be amended as follows:

In Article 81, first paragraph, «5000» will each time be replaced by: 7400.

Article 96

1. In connection with international treaties and resolutions of international institutions further rules may be laid down by or pursuant to a Kingdom Order in Council or an Order in Council with respect to the Board, its task and the performance thereof.

2. The rules referred to in the first paragraph, laid down by a Kingdom Order in Council or an Order in Council, may deviate from the regulations of the present Kingdom Act. If this is the case, a legislative proposal for the provision of the subject in question will be submitted to the States General as soon as possible. If the legislative proposal is withdrawn or if either of the Chambers of the States General decides not to pass the legislative proposal, the Order in Council or the Kingdom Order in Council shall be withdrawn without delay. If the legislative proposal is passed as a Kingdom Act, the Order in Council or the Kingdom Order in Council shall be cancelled on the date on which this Kingdom Act enters into force.

Article 97

1. This Kingdom Act shall enter into force on a date to be determined by Royal Decree. It may be determined by Royal Decree that this Kingdom Act is to enter into force on a later date with respect to the investigation into accidents and incidents with a sea-going vessel that is not in use with Our Minister of Defence or a foreign army.

2. If the legislative proposal submitted by Royal Decree of 4 April 2003 for amendment of the Environmental Management Act, the Government Information Public Access Act and some other Acts (Treaty of Aarhus Implementation Act, parliamentary documents II, 2002-2003, 28 835, no. 1 and 2), after having been passed, enters into force on a later date than this Kingdom Act, Article 57, third through ninth paragraphs will enter into force on the same date as that Act, in derogation of the first paragraph.

Article 98

This Kingdom Act is quoted as: Kingdom Act concerning Safety Investigation Board.

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

The Hague, 2. December 2004

Beatrix

The Minister of the Interior and Kingdom Relations,

The Minister of Justice

