



## **(Unofficial) Translation of the Key Registry of the Subsurface Act**

### **Introduction**

The Key Register of the Subsurface (Basisregistratie Ondergrond, BRO) is to become the central database containing all public data on the Dutch subsoil. The BRO Act, which came into effect on 1 January 2018, requires that source data owners provide and use soil and underground data in a digital form. The requirements will be expanded step by step, by which more and more data of multiple subsurface domains will be recorded and made publicly accessible as part of our open data policy.

Our data-driven policy making, forms the basis for our national spatial planning policy (NOVI) and the choices made by our decisionmakers in order to create a long-term sustainable use of our living environment. Therefore, accurate data and information is required about the subsurface - at national, regional and local level.

The data in this key register have been validated and are of importance for activities like fresh water procurement, underground transport, and mineral mining, but also for activities on the surface, like energy transition, housing construction, and infrastructural projects.

### **Disclaimer**

**This unofficial translation is prepared for the English version of the website Key Registry of the Subsurface (BRO).**

This translation includes the text of the original Key Registry of the Subsurface Act 2018 and its amendments up to and including 1 July 2020.

#### **Notes for guidance:**

1. The attached translation aims to assist professionals that are not familiar with the Netherlands language in understanding the contents of the Netherlands BRO legislation. It should be emphasized that a number of subjects covered by this Act may be, or is to be, laid down in further decrees and regulations that may not have been issued or, when issued, translated (yet);
2. The undersigned can – in spite of efforts to provide a translation that is as closely as possible a reflection of the original (and amended) text of the BRO Act in the Netherlands language - accept any responsibility or liability in, or for incorrections and/or interpretations based on this translation: the Netherlands text is and remains guiding and decisive.
3. The translation is based on the text of the Key Registry of the Subsurface Act as published by the Ministry of the Interior and Kingdom Relations.

**Official Dutch text available at:**

<https://wetten.overheid.nl/BWBR0037095/2020-01-01>



# National Key Registry of the Subsurface Act (Basisregistratie Ondergrond BRO)

Law of 30 September 2015, containing rules concerning the key register of the subsurface (National Keyregistry of the Subsurface Act)

We Willem-Alexander, by the grace of God, King of the Netherlands, Prince of Orange-Nassau, etc. etc. etc.

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

We have considered it desirable in promoting the correct fulfilment of certain tasks pursuant to public law, and the effective use of information available about the subsurface, to establish a key register of the subsurface;

We, therefore, having heard the Advice division of the Council of State, and in consultation with the States General, have approved and decreed as We hereby approve and decree:

## Chapter 1 General Provisions

### Article 1

In this Act and the provisions based upon it, the following expressions shall have the following meanings:

*authentic data item*: an item of data contained in the key register that is characterised as authentic in or according to the law;

*authentic model*: diagrammatic representation of the reality in two or three dimensions, that is authentic;

*key register*: collection of data which as determined by law form a key registry;

*source document*: document in which legal facts or other facts relevant for the key register of the subsurface are recorded;

*source data owner*: Our Minister concerned, in as much as relating to a source document as intended in Article 7(2), and an administrative body as intended in Article 9(1);

*construction*: work in the subsurface for production or utilisation of natural resources present in the subsurface, for the storage of substances in the subsurface or for the measurement of a parameter related to the subsurface;

*continental shelf*: continental shelf as intended in Article 1(c) of the Mining Act;

*user right*: licence issued by an administrative body or notice issued to an administrative body for the production or utilisation of natural resources present in the subsurface or for the storage of substances in the subsurface, and the installation of a construction necessary for that purpose;

*maker of the authentic models and maps*: party as intended in Article 7(1), which produces the authentic model on behalf of Our Minister concerned;

*subsurface*: fixed part of the Earth with the liquids and gases it contains, including the hollow spaces contained therein;

*enterprise*: enterprise as intended in Article 5 of the Trade Registers Act 2007;

*Our Minister*: Our Minister of the Interior and Kingdom Relations;

*legal person*: legal person as intended in Article 6 of the Trade Registers Act 2007;



*register of source documents for the subsurface*: automated register that contains source documents relating to licences, user rights, constructions and authentic models.

*register for the reporting of models*: automated register that contains reports relating to authentic models and authentic data about those models;

*register of the subsurface*: automated register of data about surveys, user rights and constructions and of authentic models and data about those models;

*survey*: observation of the structure of the subsurface at a point, along a line or in a plane.

## **Article 2**

1 There is a key register of the subsurface, consisting of data and models relating to the subsurface of the Netherlands and the continental shelf.

2 The key register of the subsurface is maintained with the aim of making available to all interested persons data and models about the subsurface as contained in the key register of the subsurface in or pursuant to the rules laid down in this Act, with the purpose of promoting:

a: the correct fulfilment of tasks pursuant to public law, in as much as these data and models are required for that purpose;

b. the efficient exchange and efficient use of geo information.

## **Article 3**

The key register of the subsurface consists of: the register of source documents for the subsurface, the register of the subsurface and the register for the reporting of models.

## **Article 4**

1 Our Minister is holder of the key register of the subsurface.

2 Our Minister will periodically consult with a representative body of source holders and users about the strategic management of the key register of the subsurface.

## **Article 5**

1 Our Minister will ensure that the key register of the subsurface is structured in such a way that its content is permanently preserved and can at all times be consulted, and made available, within a reasonable term.

2 By ministerial decree, further rules may be issued concerning the technical and administrative structure and the operation, updating and security of the key register of the subsurface.

## **Article 6**

1 By decree of Our Minister, a manager will be appointed who is responsible for the operational management of the key register of the subsurface.

2 Our Minister may grant a mandate to the manager of the key register of the subsurface for the authorities as intended in Articles 33(2) and (3), 34 and 35.



### **Article 7**

1 In consultation with Our Minister, Our Minister concerned may commission a party as designated by him, to produce or update an authentic model.

2 Without prejudice to Article 37(3), Our Minister will ensure that the maker of the authentic model submits a source document relating to an authentic model at such time that an authentic model is updated, at the latest on the first working day after the date on which the term of that authentic model ends.

3 By decree of Our Minister, further rules may be imposed concerning the making and updating of models.

### **Article 8**

1 At least every three years, Our Minister will inspect the operational management as intended in Article 6, and the implementation method as intended in Article 7(1) by the party designated in accordance with that paragraph.

2 Our Minister will publish the results of the inspection intended in paragraph one above.

3 By ministerial decree, rules may be issued regarding the elements and methods of implementing the inspection intended in paragraph one above.

## **Chapter 2 The register of source documents for the subsurface**

### **Article 9**

1 In the implementation of a statutory task or in undertaking its activities, an administrative body that receives a source document designated by Order in Council, that relates to the subsurface of the Netherlands or the continental shelf shall submit that source document to Our Minister via the source data owner portal, as intended in paragraph four.

2 Our Minister will ensure registration of a source document submitted pursuant to paragraph one, in the register of source documents for the subsurface.

3 The source data owner will submit the source document designated pursuant to paragraph one to Our Minister in electronic form, within twenty working days after:

- a. the date of the decision contained in the source document;
- b. the day on which the legal judgement contained in the source document has become irrevocable;
- c. if the source document contains no decision or legal judgement, the reporting date of the investigation or the establishment date or in the event of a series of surveys undertaken according to a single written order, the reporting date of the last survey.

4 Our Minister will provide a source data owner portal for the electronic submission of source documents. By ministerial decree, a manager of the source data owner portal will be appointed and further rules may be drawn up concerning the source data owner portal and the method of submitting source documents.



### **Article 9a**

- 1 The source data owner will check once a year the way in which Article 9(1) and (3) are implemented.
- 2 The source data owner will send to Our Minister a copy of the results of that inspection. Our Minister will publish these inspection results.
- 3 By ministerial decree, rules may be issued regarding the elements and methods of implementation of the inspection and the reporting.

### **Article 10**

- 1 A source document designated pursuant to Article 9(1) as submitted to Our Minister for entry in the register of source documents for the subsurface, will at least specify:
  - a. a designation of the legal ground on which it is based or, in the absence thereof, the activity in response to which it was drawn up;
  - b. the data as intended in Article 9(3)(a) or (c).
- 2 By Order in Council, in the interests of the sound functioning of the register of the subsurface, further rules may be issued in respect of the source documents designated pursuant to Article 9(1).

### **Article 11**

- 1 The entry of a source document designated pursuant to Article 9(1) in the register of source documents for the subsurface shall take place within one working day following receipt of the source document by Our Minister.
- 2 Contrary to paragraph one, a source document that contains an authentic model will be entered in the register of source documents for the subsurface, after Our Minister concerned has determined that the model offers sufficient quality to permit it to be used in practice.

### **Article 12**

- 1 Contrary to Article 11, Our Minister shall return to the source data owner a source document that is not drawn up or submitted in accordance with the requirements imposed on or pursuant to Article 9(4) or Article 10, stating reasons.
- 2 The source data owner to whom a source document is returned according to paragraph one shall resubmit that source document to Our Minister within four working days following receipt of that source document, according to the requirements imposed in or pursuant to Article 9(4) and Article 10.

### **Article 13**

- 1 A source document designated pursuant to Article 9(1) that is entered in the register of source documents for the subsurface will not be removed from that register.



## **Chapter 3 The register of the subsurface**

### **§ 1. General**

#### **Article 14**

1 Our Minister will ensure the processing in the register of the subsurface of the data and models contained in a source document entered in the register of source documents for the subsurface.

2 The processing as intended in paragraph one takes place within one working day after a source document has been entered in the register of source documents for the subsurface.

#### **Article 15**

1 In the register of the subsurface, an item of data that is characterised as an authentic data item pursuant to this Act is distinguished by means of a characteristic from another item of data contained in that register.

2 In the register of the subsurface, an authentic data item that is borrowed from another key register is distinguished by means of a characteristic from items of data that are authentic on the basis of this Act.

#### **Article 16**

1 Our Minister will ensure that the reproduction of an authentic data item or an authentic model contained in the register of the subsurface pursuant to this Act matches that data item or model contained in the relevant source document in the register of source documents for the subsurface or, if an authentic data item or authentic model as intended hereinabove is derived from a source document, that that data item or model is correctly and fully derived therefrom.

2 Our Minister will ensure that in as much as an authentic data item in the register of the subsurface is borrowed from another key register, the reproduction of that data item in the register of the subsurface matches that data item contained in that other key register.

#### **Article 17**

1 By ministerial decree, a catalogue of the register of the subsurface will be drawn up.

2 The catalogue of the register of the subsurface as intended in paragraph one defines the data about surveys, user rights and constructions and the authentic models and data about authentic models that are contained in the register of the subsurface in accordance with this Act.

#### **Article 18**

An authentic data item or authentic model contained in the register of the subsurface will not be removed from the register of the subsurface.

### **§ 2. Content of the register of the register of the subsurface**

#### **Article 19**

1 The register of the subsurface contains the following data about a survey:

a. de identifier for the survey;



- b. the survey type;
  - c. the survey location;
  - d. the date of the survey;
  - e. the source data owner of the survey;
  - f. the substantive observations and measurement results obtained by means of the survey;
  - g. the start date and as the case arises end date of the validity of a specific combination of data about the survey, and
  - h. the date and registration number of the source document underlying the survey, or an amendment to the data about that survey.
- 2 The data as intended in the paragraph one (a through to f) are authentic data items.

### **Article 20**

[to come into effect at a time still to be determined]

This part has not (yet) come into effect; see the overview of amendments

### **Article 21**

- 1 The register of the subsurface contains the following data about a construction:
- a. the identifier for the construction;
  - b. the type of construction;
  - c. the location of the construction;
  - d. the owner of the construction by means of a reference to the unique number contained in the trade register in as much as the owner of the construction is an enterprise or legal person;
  - e. the characteristics of the various components of the construction;
  - f. in as much as applicable, the measurement results obtained in the framework of the use of the construction;
  - g. the start date and as the case arises the end date of the validity of a specific combination of data about the construction, and
  - h. the date and registration number of the source document underlying the construction, or an amendment to the data of that construction.
- 2 The data as intended in the paragraph one (a through to f) are authentic data items.

### **Article 22**

- 1 The register of the subsurface contains the following authentic models about the subsurface:
- a. geomorphological models;
  - b. soil models;
  - c. geological models;



d. hydrogeological models;

2 The register of the subsurface contains the following data about each authentic model:

a. the identifier of a survey contained in the register of the subsurface, in as much as the authentic model is produced on the basis of the results of that survey;

g. the start date and as the case arises the end date of the validity of a specific combination of data about the authentic model, and

h. the date and registration number of the source document underlying the authentic model, or an amendment to that model.

3 The data as intended in the paragraph two (a) are authentic data items.

### **Article 23**

1 By Order in Council, it is possible that:

a. other data items than those referred to in Articles 19(1), 20(1), 21(1) and 22(2) will be designated, which are contained as non-authentic data item in the register of the subsurface;

a. other authentic data items than those contained in Articles 19(1), 20(1), 21(1) and 22(2) will be designated, which are contained as authentic data item in the register of the subsurface;

2. An Order in Council on the basis of paragraph one (a) will only be adopted if:

a. the known nature of the data item in question is relevant with a view to the correct implementation of the register of the subsurface, and

b. there are no compelling reasons for not doing so.

3. An Order in Council on the basis of paragraph one (b) will only be adopted if:

a. the known nature of the data item in question proves relevant for the purpose of the key register of the subsurface, as intended in Article 2(2), and

b. there are no compelling reasons for not doing so.

## **Chapter 4 Examination, issuing and use of data**

### **§ 1. Examination and issuing of data**

#### **Article 24**

1 Our Minister will grant the right to all persons to examine the register of the subsurface, the register of source documents for the subsurface and the register for the reporting of models, and on request, will issue to all persons the data and authentic models contained in the register of the subsurface.

2 Article 10 of the Government Information (Public Access) Act applies *mutatis mutandis* to the examination and issuing of data or authentic models as intended in paragraph one, subject to the proviso that:



a. in as much as the right of examination is granted to an administrative body or other customer through the assistance of search services, only the grounds as intended in Article 10(1)(b), (2)(b) and (7)(b) of the Government Information (Public Access) Act shall apply *mutatis mutandis*;

b. in as much as the right of examination of inspection is granted to an administrative body with the purpose of fulfilling a task pursuant to public law that could influence the environment, through the assistance of consultation services, or data or a model are issued to an administrative body with a view to fulfilling that task, only those grounds as intended in Article 10(1)(b), (2)(a and b) and (7)(b) of the Government Information (Public Access) Act shall apply *mutatis mutandis*;

3 By ministerial decree, further rules may be issued concerning the examination and issuing of data or authentic models as intended in paragraph one, and the application of paragraph two.

### **Article 25**

1 The examination and issuing of data or authentic models as intended in Article 24(1) will take place via the Internet. This method of examination and issuing is free of charge.

2 Contrary to paragraph one, the issuing of data or authentic models as intended in Article 24(1) can on request take place in some other way in return for payment of the duly incurred costs. Charges for that service may be determined by ministerial decree.

### **Article 26**

1 In respect of the processing of personal data in implementation of this Act, Our Minister is the controller.

2 Data from the key register of the subsurface that can be derived to an identified or identifiable natural person shall not be issued if the customer is processing those data on the ground referred to in Article 6(1)(b) of the General Data Protection Regulations.

## **§ 2. Use of data**

### **Article 27**

1 An administrative body that in fulfilling its task pursuant to public law requires an item of data which according to this Act is available as an authentic data item in the register of the subsurface shall use that authentic data item.

2 An administrative body can use another item of data than an authentic data item in accordance with this act, if:

a. the comment «under investigation» has been placed by the authentic data item in question;



- b. in respect of the authentic data item, a comment as intended in Article 30(1) has been issued;
- c. through application of paragraph one, its task pursuant to public law cannot be correctly fulfilled;
- d. it has been specified otherwise than in paragraph one, by statutory regulation.

### **Article 28**

An administrative body that in fulfilling its task pursuant to public law requires a model or an item of data from a model, which according to this Act is available as an authentic model in the register of the subsurface shall use that authentic model. Article 27(2) shall apply *mutatis mutandis* subject to the proviso that in Article 27(2)(b) instead of «a notice as intended in Article 30(1)», a notice as intended in article 30(2) is read.

### **Article 29**

The party requested by an administrative body to issue a data item which in accordance with this Act is available as an authentic data item in the register of the subsurface is not required to issue that data item, except:

- a. in the event that the comment «under investigation» has been placed by the authentic data item in question;
- b. in the case of an investigation into compliance with a statutory regulation;
- c. in the event of threat or occurrence of a riotous movement, disorderliness, disruption of public order, disaster or major accident;
- d. if otherwise specified by statutory regulation;
- e. if the authentic data item in question is necessary for the identification of a person or an object.

## **Chapter 5 Amendment to the data contained in the register of the subsurface**

### **Article 30**

1 An administrative body that has obvious misgivings about the accuracy of an authentic data item contained in the register of the subsurface about a survey, user right or construction or the absence of such a data item in the register of the subsurface shall duly notify Our Minister, stating reasons.



2 An administrative body that has obvious misgivings about the diagrammatic representation of the subsurface at a specific place within an authentic model contained in the register of the subsurface or about an authentic data item about that model, shall duly notify Our Minister, stating reasons. In as much as the notice relates to an authentic model, the administrative body can submit a request to Our Minister to update the authentic model in the interim if there is an urgent need to do so.

3 By Order in Council, rules can be issued about:

a. the cases in which a notice as intended in paragraph one or paragraph two, first sentence, can be dispensed with, and

b. a restriction of the circle of administrative bodies that is required to apply paragraph one or two.

### **Article 31**

Article 30 (2) shall apply *mutatis mutandis* to the maker of the authentic models.

### **Article 32**

1 Anyone who has obvious misgivings about the accuracy of an authentic data item contained in the register of the subsurface about a survey, user right or construction or the absence of such a data item in the register of the subsurface can submit a request to Our Minister, stating reasons, to amend that data item or to include it in the register of the subsurface.

2 Anyone who has obvious misgivings about the diagrammatic representation of the subsurface at a specific place within an authentic model contained in the register of the subsurface or about an authentic data item about that model, can duly issue notice thereof to Our Minister, stating reasons.

### **Article 33**

1 Following receipt of a notice as intended in Article 30(1), Our Minister will investigate the authentic data item to which the notice relates, without delay.

2 Our Minister will take a decision on the notice within three working days following receipt of the notice, unless Our Minister considers further investigation by the source data owner of the authentic data item in question necessary. In that case, Our Minister will send a copy of the notice to the source data owner and will place the comment «under investigation» by the authentic data item in question in the register of the subsurface.

3 In as much as it is necessary according to paragraph two, the source data owner will investigate the authentic data item. The source data owner will issue the results of the further investigation to Our Minister as quickly as possible but not later than fourteen weeks following receipt of the notice. On the basis of the results of the further investigation by the source data owner, Our



Minister will reach a decision on the notice as quickly as possible but not later than sixteen weeks following receipt of the notice.

4 In as much as applicable, Our Minister will remove the comment «under investigation» by the authentic data item in question simultaneously with the processing or amendment or inclusion of that data item in the register of the subsurface or, if Our Minister reaches the decision not to amend or include the authentic data item in question, simultaneously with that decision.

5 Our Minister will immediately announce his decision on the amendment or inclusion of the authentic data item in question in the register of the subsurface, to the administrative body that issued the notice.

#### **Article 34**

Article 33 shall apply *mutatis mutandis* to any request as intended in Article 32(1), subject to the proviso that Our Minister announces the decision on the request to the party submitting the request, contrary to Article 33(5). If the party issuing the request is an interested party, a decision on such a request shall be a decree.

#### **Article 35**

Article 33 applies *mutatis mutandis* to the processing of a notice as intended in articles 30(2), 31 or 32(2) in as much as relating to an authentic data item or an authentic model, subject to the proviso that, contrary to Article 33(2)(second sentence), Our Minister enters the notice in the register for the reporting of models, and records the authentic data item in question in that register, together with the comment «under investigation» by that data item.

#### **Article 36**

1 Following receipt of a notice relating to an authentic model as intended in Articles 30(2), 31 or 32(2), Our Minister will enter the notice within one working day in the register for the reporting of models, and in that register, by the relevant part of the authentic model, will place the comment «under investigation». Within that term, Our Minister will send a copy of the notice to the maker of the authentic model, unless the notice originates from the maker of the authentic models itself.

2 The maker of the authentic model will include the notice as intended in Articles 30(2), 31 or 32(2) in the regular updating of the model as intended in Article 7(3) unless together with the notice a request is made to update the model in the interim, and Article 37(3) applies.

3 Our Minister will remove the comment «under investigation» from the register for the reporting of models simultaneously with the inclusion of the updated authentic model in the register of the subsurface. If the notice originates from an administrative body, Our Minister will notify that administrative body about the way in which the maker of the authentic model has included the notice in the updating process.



### **Article 37**

1 If together with the notice as intended in Article 30(2) or 31, a request for interim updating of the authentic model is issued, the maker of the authentic models will immediately carry out a further investigation into the notice.

2 The maker of the authentic models will issue the results to Our Minister of the further investigation as intended in paragraph one, at the latest fourteen weeks following receipt of the request for interim updating. On the basis of the results of the further investigation, Our Minister will decide as quickly as possible on the request for interim updating, but not later than sixteen weeks following receipt of the request.

3 If Our Minister decides to comply with the request for interim updating, he will set a deadline for the updating process, on the maker of the authentic models.

4 Our Minister will immediately announce his decision on the request for interim updating as intended in paragraph two to the administrative body, or to the maker of the authentic model that issued the notice as intended in Article 30(2) or 31. The decision on such a request shall be a decree.

### **Article 38**

1 If an objection is issued or an appeal is instituted against a decree as intended in article 34, Our Minister will place a comment in the register of the subsurface «under investigation» by the authentic data item in question.

2 As soon as an irrevocable decision is reached on the objection or the appeal, if necessary, Our Minister will amend the authentic data item or will include that item, and remove his comment «under investigation».

## **Chapter 6 Transitional and concluding provisions**

### **Article 39**

1 At a time to be determined by Royal Decree, the manager of the Register of Data and Information of the Dutch Subsurface or the Dutch Soil Information System will supply the current data and models as intended in Articles 19 through to 22, that form part of said information system, as a source document to Our Minister, for entry in the register of source documents for the subsurface.

2 In respect of a source document as intended in the paragraph one, Article 10(1) shall not apply. Articles 11, 13 and 14 are applicable *mutatis mutandis* to any such source document.

3 From the moment of entry of the source document in the register of source documents for the subsurface, as intended in paragraph one, Our Minister will be source data owner of that source document.



#### **Article 40**

1 Pursuant to Article 9(1), a source data owner can submit a designated source document that predates the moment of coming into effect of chapters 2 and 3, and that forms the basis for an item of data current at that time concerning a survey, user right or construction as intended in Articles 19 through to 21, that prior to that date was not included in the information systems as intended in Article 39(1), to Our Minister for entry, at the latest up to five years after said date. Contrary to Article 11, entry of that source document will take place within two working days following receipt of the source document. Article 10(1) remains non applicable in respect of such as a source document.

2 Contrary to article 14(2), the processing in the register of the subsurface of an item of data as intended in paragraph one shall take place within two working days after the source document in question has been entered in the register of source documents for the subsurface.

#### **Article 41**

In as much as a source document designated pursuant to Article 9, that forms the basis for a data item about a survey as intended in Article 19 is created in the framework of the implementation or the design and the implementation of a work for which a source data owner has issued a written order prior to the date on which the provision for the designation of that document was issued pursuant to Article 9, the obligations as intended in Articles 9, 10 and 11 shall not apply until three years after that date.

#### **Article 42**

Four years after the date on which this Act enters into effect, Our Minister will send to the States General a report on the effectiveness and the effects of this Act, in practice.

#### **Article 43**

The Articles of this Act shall enter into effect on a date to be determined by Royal Decree, which may be set differently for the various articles and parts of articles.

#### **Article 44**

This Act may be cited as: National Keyregistry of the Subsurface Act

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



Done in

Wassenaar, 30 September 2015

Willem-Alexander

The Minister of Infrastructure and the Environment,

M.H. Schultz van Haegen-Maas Geesteranus

Issued on sixteen October 2015

The Minister of Security and Justice

G.A. van der Steur