

(Text in force on: 09/01/2014)

Decree of 17 June 1971 implementing Section 68 of the Nuclear Energy Act

We JULIANA, by the grace of God Queen of the Netherlands, Princess of Orange-Nassau, etc., etc., etc.

On the proposal of Our Ministers for Economic Affairs and of Defence of 28 April 1971, no. 671/222 W.J.A., made in agreement with Our Ministers of Foreign Affairs, the Interior, Transport, Public Works & Water Management and Justice, having heard the Central Council for Nuclear Energy; Having regard to Sections 68 and 76 of the Nuclear Energy Act (*Bulletin of Acts and Decrees* 1963, 82);

Having heard the Council of State (Recommendation of 26 May 1971, no. 14);

In view of the further report of Our Ministers of Economic Affairs and of Defence of 11 June 1971, no. 671/326 W.J.A., made in agreement with Our Ministers of Foreign Affairs, the Interior, Transport, Public Works & Water Management and Justice;

Have approved and decreed:

Article 1

1. This Decree applies to:

a. data, aids and materials for:

1° the release of nuclear energy,

2° the storage, production, treatment or processing of fissile materials and

3° the protection of the fissile materials and ores referred to in Article 22 of the Nuclear Facilities, Fissile Materials and Ores Decree, and the radioactive materials and plants as referred to in Section 15 (b) of the Nuclear Energy Act,

insofar as these data, aids and materials have been obtained either directly from Our Ministers referred to at (2), or with the consent of those Ministers, subject to a requirement of confidentiality, or have been designated by Our Ministers referred to at (2);

b. investigations carried out and procedures applied with the aid of such data, aids and materials, insofar as these investigations and procedures have been designated by Our Ministers referred to at (2).

2. Our Ministers referred to at (1) shall be:

a. in all cases where the imposition of a requirement of confidentiality has consequences outside the area of national defence: Our Minister of Economic Affairs;

b. in cases where confidentiality is required in the interests of national defence: Our Minister of Defence;

c. in cases where confidentiality is required in the interests of international law and order or in order to comply with international agreements or decisions of international-law organizations; Our Minister of Foreign Affairs;

d. in cases where confidentiality is required in the interests of the security of the state and it is a civil matter: Our Minister of the Interior and Kingdom Relations;

e. in cases where confidentiality is required in the interests of, or the imposition of the requirement of confidentiality has consequences for, the development and application of techniques or methods that relate to or affect transport, public works & water management, meteorology, oceanography or some other area of geophysics: Our Minister of Infrastructure and Environment;

f. in cases where the imposition of the requirement of confidentiality has consequences for research at scientific institutions, insofar as these do not fall under Our Minister of Economic Affairs, Our Minister of Education, Culture and Science;

g. in cases where the imposition of the requirement of confidentiality has consequences for

- research at scientific institutions, insofar as these fall under Our Minister of Economic Affairs:
Our Minister of Economic Affairs;
- h. in cases where the imposition of the requirement of confidentiality has consequences for the enforcement of statutory provisions for the protection of humans, animals, plants or property: Our Ministers of Economic Affairs, Social Affairs & Employment and Health, Welfare & Sport;
 - i. in cases where confidentiality is required in the interests of, or the imposition of the requirement of confidentiality has consequences for, the development and application of techniques or methods that relate to or affect telecommunications: Our Minister of Economic Affairs.
3. A requirement of confidentiality as referred to at (1) *a.* may only be imposed and data, aids, materials, investigations and procedures may only be designated in accordance with (1) *a.* or *b.* if this is required in the interests of the state.
 4. If a designation under (1) *a.* or *b.* is not expressly directed at one or more particular persons it shall be published in the Government Gazette.

Article 2

1. Any person who has data, aids or materials, or carries out investigations or applies procedures, to which this Decree applies shall ensure that such measures are taken as are reasonably necessary to ensure the confidentiality of the data, aids, materials, investigations or procedures concerned.
2. These measures shall include ensuring that:
 - a. sites, buildings and spaces where the data, aids or materials concerned are stored or used or where the investigations concerned are carried out or the procedures concerned are applied are effectively protected;
 - b. activities using the data, aids or materials concerned or applying the procedures concerned, or activities involved in carrying out the investigations concerned, are carried out solely by persons who in the opinion of Our Minister of the Interior and Kingdom Relations can be expected to comply with the requirement of confidentiality satisfactorily;
 - c. cognizance of data belonging to or derived from the data, aids, materials, investigations or procedures concerned is taken solely by persons directly involved in the activities as referred to at *b.* and solely to the extent necessary for the proper execution of those activities;
 - d. insofar as Our Ministers so require, records are kept of the aids or materials concerned and data belonging to or derived from the data, aids, materials, investigations or procedures concerned, showing at all times when and to whom particular data, aids or materials were furnished and during what period a particular person had those data, aids or materials in his possession.
3. Any person having data, aids or materials, or carrying out investigations or applying procedures, to which this Decree applies shall also ensure that:
 - a. Our Ministers are furnished with information as designated by them concerning the data, aids, materials, investigations or procedures concerned;
 - b. Our Ministers, and if not included in accordance with (4) Our Minister of the Interior and Kingdom Relations, are immediately informed if serious violations of the measures taken to ensure confidentiality or espionage is/are suspected or discovered;
 - c. an official of the enterprise or institution concerned is designated with special responsibility for taking measures to ensure and enforce confidentiality.
4. 'Our Ministers' in (2) and (3) means Our Ministers from whom or with whose consent the data, aids or materials concerned have been obtained subject to a requirement of confidentiality, or Our Ministers who have designated the data, aids, materials, investigations or procedures pursuant to Article 1 (1) *a.* or *b.*

Article 3

1. This Decree may be cited as the 'Nuclear Energy Act (Confidentiality) Decree'.

2. It shall enter into force on the second day after the date of publication of the *Bulletin of Acts and Decrees* in which it is published.

Our Ministers of Economic Affairs and Defence shall be responsible for the implementation of this Decree, which shall be published with its Explanatory Memorandum in the *Bulletin of Acts and Decrees* and a copy of which shall be sent to the Council of State.

Soestdijk, 17 June 1971

JULIANA.

The Minister of Economic Affairs,
R. J. NELISSEN.
The Minister of Defence,
W. DEN TOOM.

Issued this first day of July 1971.

The Minister of Justice,
C. H. F. POLAK.