

amendment to the Fertiliser Act in relation to conditions on maximum manure production in the 2022-2025 derogation decision (Act amending the Fertiliser Act in relation to maximum manure production)

BILL

(20 June 2024)

I, 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 the following. Be it known:

Whereas we have taken into consideration that it is necessary to amend the Fertiliser Act to regulate the production ceilings for animal fertilisers in view of Commission Implementing Decision (EU) 2022/2069 of 30 September 2022 granting a derogation requested by the Netherlands under Council Directive 91/676/EEC concerning the protection of waters against pollution caused by nitrates from agricultural sources (OJEU 2022, L 277) and to prevent those ceilings from being exceeded;

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

Article I

The Fertiliser Act shall be amended as follows:

A

Article 18a shall be amended as follows:

1. In the first paragraph, “172.9 million” and “504.4 million” shall be replaced by “135.0 million” and “440.0 million” respectively.

2. In the second paragraph, “84.9 million” and “281.8 million” shall be replaced by “65.9 million” and “257.6 million” respectively.

3. In the third paragraph, “39.7 million” and “99.1 million” shall be replaced by “32.9 million” and “82.5 million” respectively.

4. In the fourth paragraph, “27.4 million” and “60.3 million” shall be replaced by “21.6 million” and “49.2 million” respectively.

B

Article 32 reads as follows:

Article 32

1. In deviation from Article 28(2), the increase of the pig law, respectively the poultry law, shall be limited to 70 percent of the number of pig units, respectively poultry units, to which the notification referred to in Article 27(1) refers.

2. The restriction referred to in the first paragraph shall not apply to transfers of the pig law or poultry law, respectively:

a. by inheritance;

b. to a spouse or registered partner, or a person with whom there is relationship by blood or marriage in the first, second or third degree; or

c. to a holding from which such a pig law or a poultry law, respectively, was received earlier during the calendar year.

3. If the exception referred to in paragraph 2(c) has been applied for the transfer of a pig law or a poultry law, respectively, the limitation referred to in paragraph 1 shall not apply to any subsequent transfer as referred to in that paragraph, if the transfer takes place between the same holdings, for no more than the pig law or poultry law, respectively, transferred to the holding from which it had previously been received.
4. Conditions or restrictions may be imposed by ministerial regulation on a notification, as referred to in Article 27(1), of a transfer of the pig law or poultry law, as referred to in paragraph 2, opening words and point c, respectively.
5. The third paragraph shall expire from 1 January 2030.

C

Article 32a shall be amended as follows:

1. In the first paragraph, “90 per cent” shall be replaced by “70 per cent”.
2. In paragraph 2(b), the words “a spouse or registered partner, or” shall be inserted after the word “to”.

D

Article 33 shall read as follows:

Article 33

1. In case of a transfer of the holding, the production right on the holding will be reduced by 30 per cent at the time of the transfer of the holding.
2. A transfer of the holding, as referred to in paragraph 1, means a change of the farmer who runs the holding or part of the holding, including at least:
 - A. the transfer of the holding, or part of the holding, from a natural or legal person to another natural or legal person;
 - b. a change in the legal form that runs the holding, or part of the holding;
 - c. a change in the composition of the partnership conducting the holding, or part of the holding, or in the legal form of any part of that partnership;
 - d. a change in the direct or indirect controlling interest in a legal person running the holding, or part of the holding, or being part of the partnership running the holding, or part of the holding.
3. The interested party running the holding before the transfer of the holding and the interested party running the holding after the transfer of the holding notify Our Minister of the transfer of the holding.
4. A claim to the production right incumbent on the farm can only be made with effect from the time of registration of the notification by Our Minister. The legal effects of the registration date back to the time of transfer of the holding.
5. The first paragraph does not apply to:
 - a. a transfer of a holding to a spouse or registered partner or a person with whom there is relationship by blood or marriage in the first, second or third degree;
 - b. a change of farmer, by entering into or dissolving a marriage or entering into or ending a registered partnership;
 - c. the change of the farmer by inheritance from a person referred to in (a);
 - d. the contribution of a holding to a partnership, general partnership or limited partnership, where a partner is a person referred to in (a), provided that such person is a general partner in the case of contribution to a limited partnership; or
 - e. the contribution of a holding to a partnership, general partnership or limited partnership, where the contributor becomes a partner himself, except that the contributor becomes a general partner in the case of contribution to a limited partnership.
6. Rules on how the notification referred to in paragraph 3 shall be made are laid down by ministerial regulation.
7. Further rules may be laid down by ministerial regulation to implement the first, second and fifth paragraphs.

E

Article 75a shall be amended as follows:

1. The designation "1." shall be inserted before the text.

1. In the first paragraph (new), "Article 32a, first paragraph, as it read" shall be replaced by "Articles 32 and 32a as they read", "the present article, shall remain" shall be replaced by "Article I, parts B and C, of the amendment to the Fertiliser Act in connection with the maximum manure production Act, shall remain" and "phosphate right" shall be replaced by "production right".

2. A paragraph shall be added with the following text:

2. Deduction as referred to in Article 33, first paragraph, shall not take place if the transfer of the holding, as referred to in that paragraph, took place before the time of entry into force of Article I, part D, of the Act amending the Fertiliser Act in connection with the maximum manure production, and within 30 days of that transfer of the holding, it was notified in accordance with Article 33, third paragraph.

F

Article 77b shall be deleted.

Article II

The Fertiliser Act shall be amended as follows:

A

Article 18a shall be amended as follows:

1. The second to fourth paragraphs shall read:

2. By general order in council, the maximum volume of the production of animal fertilisers from dairy cattle per calendar year is determined, expressed in kilograms of phosphate and kilograms of nitrogen.

3. By general order in council, the maximum volume of the production of animal fertilisers from pigs per calendar year is determined, expressed in kilograms of phosphate and kilograms of nitrogen.

4. By general order in council, the maximum volume of the production of animal fertilisers from poultry per calendar year is determined, expressed in kilograms of phosphate and kilograms of nitrogen.

B

Article 32 shall be amended as follows:

1. In Article 32 the first paragraph, "70 per cent" shall be replaced by "a percentage to be determined by order in council" and ", being at least 70 per cent" shall be added at the end of the sentence.

2. A paragraph shall be added with the following text:

4. For different groups of cases, the percentage referred to in the first paragraph may be set differently.

C

In Article 32a(1), “70 per cent” is replaced by “a percentage to be determined by order in council” and “, being at least 70 per cent and at most 90 per cent” shall be added at the end of the sentence.

D

Article 33 shall be amended as follows:

1. In the first paragraph, “30 per cent” shall be replaced by “a percentage to be determined by order in council, not exceeding 30 per cent”.

2. A paragraph shall be added with the following text:

8. For different groups of cases, the percentage referred to in the first paragraph may be set differently.

Article III

This Act shall be cited as: Act amending the Fertilisers Act in relation to maximum manure production.

Article IV

This Act shall enter into force at a time to be determined by Royal Decree, which may be set differently for the various articles or parts thereof, with the exception of Article I, Part A, which shall enter into force with effect from 1 January 2025.

I hereby order that this Act be published in the Bulletin of Acts and Decrees and that all Ministries, authorities, commissions and officials concerned ensure its proper implementation.

Issued by

The Minister of Agriculture, Nature and Food Quality,

The Minister of Agriculture, Nature and Food Quality,