

Answers to the seven questions in the Integrated Assessment Framework for Policy and Regulation (IAK)

Version for internet consultation

The Integrated Assessment Framework for Policy and Regulation lays down standards that good policy and good regulations must satisfy. Detailed information (in Dutch) is available at www.naarhetiak.nl (click "Naar het IAK" in the left-hand column).

Amendment of the Electricity and Drinking Water (Bonaire, St Eustatius and Saba) Act), the Environment and Spatial Planning (Bonaire, St Eustatius and Saba) Act and the Public Bodies (Bonaire, St Eustatius and Saba) Finances Act (extending the duty of care for wastewater and widening the levy base) and the Commodities (Bonaire, St Eustatius and Saba) Act (alignment regarding drinking water).

1. Reason for the amendments

Reason for the proposed amendments:

Amendment of the Electricity and Drinking Water (BES) Act

One of the act's principles is that drinking water must be affordable, reliable and sustainable. Since the introduction of the Act, it has become apparent that several technical improvements are necessary to improve the implementation of the Act. The amendment also includes the authorization of the Minister to provide instructions on the tariffs, which better aligns with the Minister of Infrastructure and Water Management's statutory responsibilities and tasks. Furthermore, it is proposed that both the Electricity and Drinking Water (BES) Act and the Commodities (BES) Act be amended in order to improve their alignment with respect to packaged drinking water. Technical improvements that have proved necessary in practice will also be made.

Amendment of the Environment and Spatial Planning (BES) Act and the Public Bodies (BES) Finances Act

A sewer system and a sewage treatment plant have been built on Bonaire with the aid of a grant from the European Commission. By purifying wastewater, the sewage treatment plant will significantly reduce the volume of untreated wastewater discharged into the sea and thus protect the coral. The Commission has set a condition that Bonaire must introduce a wastewater charge to cover the plant's operating costs. Amendment of the Environment and Spatial Planning (BES) Act widens the island authority's duty of care. Amendment of the Public Bodies (BES) Finances Act provides the basis for the introduction of a wastewater charge.

Reason for the renewed internet consultation:

Consultation on many of the amendments proposed above was held in summer 2019. A major revision of the capacity tariff for drinking water was an important aspect of the proposal to amend the Electricity and Drinking Water (BES) Act. It emerged from the previous consultation that the amendment would probably not achieve its aim of ensuring that tariffs remain affordable. A frequent comment was that reintroduction of the capacity tariff would increase the cost of drinking water. It was therefore agreed to scrap the proposed amendment of the tariff structure and to release the scaled-back amendment proposals for consultation again.

In comparison with the version previously released for consultation, only a handful of new amendments are proposed for the Electricity and Drinking Water (BES) Act. No substantive amendments are proposed for the Commodities (BES) Act, the Environment and Spatial Planning

(BES) Act or the Public Bodies (BES) Finances Act. The proposed amendment of the Environment and Spatial Planning (BES) Act, however, differs from the proposal previously released for consultation in that some of the amendments, namely the amendments to chapters 5 and 10, have been included in a separate legislative procedure.

2. Who are the parties concerned?

The parties concerned in the amendment of the acts currently in force are:

- the public bodies of Bonaire, Saba and St Eustatius;
- households, businesses and institutions on Bonaire, Saba and St Eustatius;
- the Ministry of the Interior and Kingdom Relations, Ministry of Infrastructure and Water Management, Ministry of Economic Affairs and Climate Policy, Ministry of Finance, Ministry of Health, Welfare and Sport, as co-drafters of the legislation and in a supervisory capacity;
- the Netherlands Authority for Consumers and Markets, as tariff setter and supervisor of the financial provisions of the Electricity and Drinking Water (BES) Act. The Human Environment and Transport Inspectorate, as supervisor of the technical provisions and health, drinking water and electricity provisions.

3. What is the problem?

Amendment of the Electricity and Drinking Water (BES) Act and Commodities (BES) Act

It is proposed to insert several technical improvements in the Electricity and Drinking Water (BES) Act in order to improve the implementation of the Act and to include the authorization of the Minister to control the tariffs. This enables her, like for the European part of the Netherlands, to intervene if the implementation of the tariffs do not meet the legal requirements and leads to outcomes that are contrary to legal purposes. This also prevents that tariffs become too high or too low.

Amendment of the Environment and Spatial Planning (BES) Act and the Public Bodies (BES) Finances Act

Under the current Environment and Spatial Planning (BES) Act and the Public Bodies (BES) Finances Act, there is no basis for the introduction of a wastewater charge. Bonaire therefore cannot meet the European Commission's conditions.

4. What is the objective?

Amendment of the Electricity and Drinking Water (BES) Act and Commodities (BES) Act

The amendments improve the implementation of the Act and ensures the reliability of the drinking water supply. The amendments also improve alignment with the Commodities (BES) Act.

Amendment of the Environment and Spatial Planning (BES) Act and the Public Bodies (BES) Finances Act

The objective is to widen the legislation currently in force so that the sewage treatment plant's operating costs are covered by the wastewater charge in combination with a subsidy on the wastewater charge.

Specific:

Amendment of the Electricity and Drinking Water (BES) Act and Commodities (BES) Act

To enable the minister to better fulfil her system responsibility and overall responsibility for drinking water supply in the Caribbean Netherlands, the amendment allows the minister, if the tariff regulations are incorrectly implemented or observed, to issue binding instructions (analogously with section 13 (2) of the Drinking Water Act for the European Netherlands). **Several (technical) amendments also improve the implementation of the Act.** Furthermore, the amendment better aligns the Electricity and Drinking Water (BES) Act and the Commodities (BES) Act so that bottled water on Saba is not subject to the Commodities (BES) Act.

Amendment of the Environment and Spatial Planning (BES) Act and the Public Bodies (BES) Finances Act

The levy base(s) in the current legislation will be widened so that a wastewater charge can be charged for the collection, transport and treatment of domestic and commercial wastewater.

Measurable:

Amendment of the Electricity and Drinking Water (BES) Act and Commodities (BES) Act

Whether the proposed provisions actually improve the implementation of the Act and contribute to a reliable drinking water supply will be monitored.

Amendment of the Environment and Spatial Planning (BES) Act and the Public Bodies (BES) Finances Act

The intention is to evaluate the funding system and its implementation two years after introduction.

Acceptable:

Amendment of the Electricity and Drinking Water (BES) Act and Commodities (BES) Act

The proposed amendments are acceptable because they meet the wishes of the public bodies (scrapping the reintroduction of a capacity tariff, alignment regarding bottled water), are proportional, provide greater clarity and allow drinking water companies to fulfil the supply security obligation as they see fit.

The compulsory seven-day supply of drinking water will be abolished and the water companies will be obliged to supply, each day and within 24 hours, at least 75% of the maximum amount of water supplied on a peak day.

Amendment of the Environment and Spatial Planning (BES) Act and the Public Bodies (BES) Finances Act

The Bonaire public body is aware of the importance of the sewer system to the island and that the European Commission provided a grant for the sewage treatment plant on condition that a wastewater charge would be introduced. To prevent the wastewater charge leading to excessive costs for the public, the Minister of Infrastructure and the Environment will provide a subsidy. For the least wealthy households, moreover, there will be an option to have tax debts forgiven.

Realistic:

Amendment of the Electricity and Drinking Water (BES) Act and Commodities (BES) Act

Certain points of the proposed amendments still need to be worked out in delegated legislation. They will be worked out by the same parties.

Amendment of the Environment and Spatial Planning (BES) Act and the Public Bodies (BES) Finances Act

The proposed amendments apply to Bonaire, St Eustatius and Saba. As the island council decides where the duty of care for wastewater management lies and whether and how the wastewater charge is levied, the proposal has no direct consequences for St Eustatius or Saba.

Time-bound:

Amendment of the Electricity and Drinking Water (BES) Act

The intention is to have the new legislation come into force in 2022.

Amendment of the Environment and Spatial Planning (BES) Act and the Public Bodies (BES) Finances Act

The intention is to have the new legislation come into force in 2022.

5. What justifies government intervention?

Amendment of the Electricity and Drinking Water (BES) Act and Commodities (BES) Act

A bill is necessary to amend the act in such a way that it is better aligned with its purposes and implementation, with a view to secure a reliable and hence accessible drinking water supply in the

Caribbean Netherlands.

Amendment of the Environment and Spatial Planning (BES) Act and the Public Bodies (BES) Finances Act

Public interest

Introduction of a financial obligation in the form of a charge requires a statutory basis.

Zero option

If the legislation is not amended and a wastewater charge is not introduced, the sewage treatment plant will not cover its operating costs and the plant might not be viable, with inevitable consequences for water quality. Furthermore, there is a risk that the European Commission will demand repayment of the grant if the grant conditions are not met.

6. What is the best instrument?

Amendment of the Electricity and Drinking Water (BES) Act

Amendment of the current Electricity and Drinking Water (BES) Act.

Amendment of the Environment and Spatial Planning (BES) Act and the Public Bodies (BES) Finances Act

Amendment of the current Environment and Spatial Planning (BES) Act and the Public Bodies (BES) Finances Act.

7. What are the consequences for the public, businesses, authorities and the environment?

Amendment of the Electricity and Drinking Water (BES) Act and Commodities (BES) Act

The amendment will not affect the administrative burden, compliance costs, governance burden, implementation or enforcement. Scrapping the requirement to hold a supply of water could reduce the burden on drinking water companies.

Amendment of the Environment and Spatial Planning (BES) Act and the Public Bodies (BES) Finances Act

Introduction of a wastewater charge on Bonaire will increase the regulatory burden on the public and businesses. They will have to meet new obligations, chiefly in the form of making payments. As the charge will be linked to drinking water consumption, the additional administrative burden will be limited. The impact of the obligation will also be limited by using the existing payment system.