



ACT ON MANAGEMENT AND SUPERVISION OF LEGAL ENTITIES

JUNE 2021

BE UNSTOPPABLE

BUREN

LEGAL | TAX | NOTARY

On July 1st 2021, the Act on Management and Supervision of Legal entities ('WBTR') will enter into force. The purpose of the Act is to improve the governance and supervision of Dutch foundations/associations (*in Dutch: stichtingen/verenigingen*), whereby the board should focus on the interest of the foundation/association and its affiliated company or organization.

There are a number of relevant changes:

1. Supervision

It is established that a supervisory board shall have the task to supervise the policy of the management board and the business of the foundation/association and its affiliated company or organization. Further a legal basis for the one tier board is included.

2. Conflict of interest

A regulation is introduced for all associations, foundations, cooperatives and mutual societies regarding liability of managing directors and supervisory directors in case of bankruptcy in case of improper performance of duties.

3. The liability of managing directors and supervisory directors

The regulations for liability of managing directors and supervisory directors will (to a large extent) be aligned with the regulations for the B.V. and the N.V. New is that managing directors and supervisory directors can be liable for a deficit in bankruptcy of a legal person, in the event of improper performance of their duties and it is likely that this is a major cause of bankruptcy. In the event of improper performance of their duties this will also apply to managing directors of informal and non-commercial associations and non-commercial foundations.

4. Dismissal of managing directors of a foundation

The assessment criteria for dismissal of managing directors of a foundation by the Dutch court will be extended.

5. Limitation of multiple voting rights

There will be a limitation of the multiple voting rights of managing directors and supervisory directors. This means that a managing director or supervisory director can never cast more votes than the other managing directors or supervisory directors jointly. These limitations contribute to the quality of the management board of associations and foundations.

6. Absence or inability to act

The WBTR further states that the articles of association must include a regulation regarding absence or inability to act of the entire management board or supervisory board.

The WBTR will enter into force on July 1st 2021 with immediate effect. It is recommended to amend the articles of association to bring them in line with the WBTR. Provisions regarding a conflict of interest that are currently included in the articles of association, which are not in line with the WBTR, should be regarded as unwritten and replaced by the statutory rules. An amendment to the articles of association is not immediately necessary, but it is recommended to delete or amend any conflict of interest regulation included in the articles of association not in line with the WBTR. This in order to avoid any misunderstanding. If the articles of association currently do not include a regulation regarding absence or inability to act, such a regulation should be included at the first amendment to the articles of association. A regulation included in the articles of association regarding multiple voting rights whereby one managing director or supervisory director can cast more votes than the other managing directors or supervisory directors jointly is valid for another five years unless the articles of association are amended prior thereto, in which case this should be amended.

It is advisable to verify the current articles of association and the regulations included therein to make sure these are aligned with the WBTR. We would be happy to discuss to assist and advise you.

Key contacts



Tibert van Herk

Sr. Associate | Candidate civil law notary
E t.vanherk@burenlegal.com
T +31 (0)70 318 4814



Annelies Gorissen - van Sluijs

Candidate civil law notary
E a.gorissen@burenlegal.com
T +31 (0)70 311 4870