The Architectural Profession in the Netherlands
INTRODUCTION

The object of the architect’s involvement, architecture, may enjoy a growing appreciation by the public at large. About the standing and position of the architect, however, there still remain too many gaps and misunderstandings in our own society. Among our foreign colleagues there will not be many misunderstandings about the art of building, but the position of the architect as a professional shows such marked differences in various countries, that some information in this respect about the Dutch situation seems desirable. The purpose of this leaflet is to give such information. The ongoing integration process within the European Union is obviously instrumental in the wish to know and tell more about each other across the crumbling frontiers of our continent.

A comparison between the numbers of registered architects per million inhabitants in a number of countries of the European Union shows that there are significant differences in the architects’ volume per country. Distinctions in cultural patterns, in the standing of the profession, in building practice and in legislation are accountable to such differences; differences in the quality of the built environment, however, are certainly less sharp than the disparities in the architects’ volume would suggest.

In the Netherlands the title of architect has gained legal protection in 1988, but the profession has no such official status. The legally registered architects comply with requirements concerning their educational training and may exercise their profession as private architect or as salaried architect in an architects’ office, in the public service, in professional bodies such as housing corporations or pension funds and in the building industry.

Before probing any further into professional practice in the Netherlands, some general facts about our country are following here.

The Netherlands have a population of roughly 16 million inhabitants on a territory of approximately 35,000 km². The volume of the construction sector amounts approximately € 49 thousand million per year (2005). Government in our constitutional monarchy (since 1814) is exercised on three levels:
- on a local level in about 458 municipalities – ranging from the smallest village communities to large urban agglomerations – by chosen councils from which councils of Burgomaster and Aldermen are formed, presided by an appointed burgomaster;
- on a regional level in 12 provinces by chosen county councils, from which are formed Executive Councils presided by a Royal Commissioner;
- on a national level by a chosen parliament, consisting of two houses, with a cabinet presided by the Prime-Minister; Queen Beatrix is the Head of State.

Apart from local, regional or national competences, some powers are delegated to special bodies such as the Water Boards which are very important as almost 50% of the land area is below sea level. Jurisdiction is of course independent.

Municipal selfgovernment has always been a strong point in Dutch politics, though the ever growing post-war legislation from The Hague (seat of the government and royal residence, while Amsterdam is the capital of the country) constituted a serious threat to local autonomy, which in turn generated a reaction in the form of a deregulation policy by the central government (see further on the so-called Building Decree which is the most important example of this development). Provinces have rather limited prerogatives, mostly of a controlling and coordinating nature. Some national resolutions and decrees must be carried out by the province; in the field of environmental planning, municipal zoning schemes must be approved by the province.

National policy is naturally outlined by Government that is responsible to Parliament which carries ultimate responsibility.

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1 THE ARCHITECTURAL PROFESSION

1.1 TRAINING
According to the EU Bologna Accord concluded by the European Ministers of Education in 1999, the BSc- and MSc-system was introduced in the Dutch higher and scientific educational system per September 2002. Training for the architectural profession can be obtained in two ways:

1. By following fulltime education in a five years' course at the Technological Universities of Delft and Eindhoven. Graduates bear the Dutch academic title of 'bouwkundig ingenieur', abbreviated as 'ir' or in English MSc. Practical training is recommended but not compulsory. A further two year international design course for the most talented may be followed at the Berlage Institute in Rotterdam.

2. By following part-time education at an Academy of Architecture. A degree from a Technical College is required, while the students must also be employed in an architect's office or similar practice during daytime. Graduates bear the title Architect AvB or in English March.

Education is regulated by law and subsidized by the State.

1.2 REGISTRATION
By virtue of the Law on the Title of Architect (1988) only architects, whether Dutch or foreign, registered in the legal register may call themselves architects. This also applies for the title of interior designer, landscape architect and town planner. The Minister of Housing, Spatial Planning and Environment (VROM) has charged the Architects' Register (Stichting Bureau Architecnenregister, SBA) with the execution of the Law on the Title of Architect. The SBA has also been accredited as 'competent authority' and authorized to receive and issue various documents as mentioned in the EC Architects' Directive 85/384.

The general requirement for registration is the possession of a recognized certificate, or the successful taking of an examination. (In very special cases at the discretion of the Minister of VROM exemption thereof on the basis of proved exceptional competence.) Recognized certificates are certificates issued by the previously mentioned universities or academies and the foreign diplomas as stated in the chapters II and III of the relevant EC Directive. Registered architects are not subjected to a code of conduct, nor is any practical experience required.

Although as mentioned above, title protection has been introduced, the Netherlands do not protect the architects' profession. It must therefore be noted that the Register offers the client less uncertainties than might be expected. It can only guarantee that a registered architect has followed the required professional education. The demands of a competent professional practice, however, are more exacting and include, among others, practical experience, adherence to the Code of Conduct, enhancing skills by following CPD-courses and a Liability Insurance. Only membership of the BNA guarantees all these skills.

With the exception of Sole Practitioners and Partnerships every new business entity must be entered in the Commercial or Trade Register. In the Netherlands the architect is a really liberal professional: he does not need to apply for a settlement license. The firm, however, must administer its activities in such a way that at any time all rights and duties can be clearly shown.

When a foreign architect has been commissioned by a Dutch client, it is thought best to seek a temporary cooperation with a Dutch colleague for the duration of this commission. An outline for such a single cooperation contract is available in English at the BNA.

1.3 THE BNA

1.3.1 History
The Royal Institute of Dutch Architects, in short BNA, is the sole general professional association of Dutch architects.

The 'Society for the Advancement of Architecture'
The Architectural Profession in the Netherlands

was founded in 1842. Membership was open to everybody. Around the turn of the century, the wish of some architects who exercised their profession independently from commercial relations with the building industry, to unite on the basis of social standing and occupation, led in 1908 to the foundation of the 'Association of Dutch Architects'. Driving force of the new association was H.P. Berlage. Members were subjected to a code of conduct, which excluded the combination of the professions of architect and contractor.

After the 'Society for the Advancement of Architecture' had modified its structure in 1915 in such a way that only private and official architects could become members, the members of the 'Association' joined the 'Society' in 1919, and in so doing gave birth to the institute with the long name 'Koninklijke Maatschappij tot Bevordering der Bouwkunst Bond van Nederlandse Architecten', which received royal patronage in 1957.

1.3.2 Objective
The aims of the BNA are the development of architecture and the advancement of the professional practice of its members. The means to achieve these goals are, among others:
- drawing up general conditions for the legal relationship between client and architect, engineer and consultant;
- providing for correct labour relationships between architect-employers and architect-employees and optimal work conditions for salaried architects;
- representing the architect-employers in negotiations with the trade unions for settling collective labour agreements;
- stimulating deliberations on the nature of the profession between members on a national and regional level;
- creating opportunities for the advancement, testing and adaptation of professional practice to social developments;
- setting up, maintaining, checking and adjusting of rules of conduct for the members;
- stimulating a high level of education and training both for architects and their staff;
- consultations with the public authorities and other participants in the building industry;
- issuing publications;
- cooperation with other professional organizations at home and abroad.

1.3.3 Membership
BNA membership is open to all appropriately qualified architects, on an individual basis. This includes architects in professional private practice, whether as a practitioner or a salaried architect, and architects in the public sector. Appropriately qualified architects are those who have been registered in the legal Register and who can show proof of having gained sufficient qualified practical experience. In all cases the Board decides about admittance to membership.

Next to the ordinary members, the BNA offers students the possibility of becoming student members. After approval by the General Assembly, associate and honourable members can also be appointed. Associate membership is conferred to those persons who, without being architects, have nevertheless contributed in a substantial way to the advancement of the profession in the fields of education and research or in architectural practice. Honourable membership may be conferred to those architects having made exceptional contributions to the architects' discipline in the Netherlands or abroad or to the Institute's objectives. Membership of the BNA is not compulsory in order to practice the profession.

1.3.4 Rules of conduct
All members of the BNA have to observe the rules of conduct as specified by the General Assembly. These rules have a bearing on competence, independence, responsibility and loyalty of the architect as an adviser and agent of his client, without disregard, however, of his responsibility to society as a whole and of his collegiality towards his fellow professionals.

Correct observation of the rules of conduct is controlled by a Board of Supervision, which may handle complaints and can take appropriate measures against members who have trespassed the rules and have acted in a way that is derogatory to the architect's dignity in society. The Court of Appeal is concerned with giving a
1.3.5 Organization
The BNA has a dual structure: a functional one and a geographical one. The functional structure is characterized by the General Assembly being the most important body and the Executive Board consisting of a President, a Vice-President and 5-9 members. The geographical structure is characterized by the division of the country into 21 branches, each with its own executive committee. The branches are primarily concerned with the implementation of the general policy of the BNA on the one hand and with promoting the local interests of the built environment on the other hand; the branches fulfil an important function in consultations with local government authorities. All branches are grouped into five regions each with its own office. The objective of the regional offices is to enhance regional involvement with and in the BNA. Besides, the Board is assisted by a Members' Advisory Board and a number of committees.

With respect to the important task of supporting its members in the exercise of the profession, the sphere of activities is divided into a great number of projects that cover all aspects of the architect's profession and the objective of the BNA.

Promotion of Members' Interests
Within this scope of interest major issues like the role of the architect, his cultural, and social position, professional conditions, issues related to market and business; the position of the architect in economic life, development and stimulating of new services of the architect, quality concern, practice abroad, cooperation, strengthening entrepreneurship by reinforcing business planning, marketing and strategic staff policy. Also regulation of the profession and rules of conduct are dealt with.

Training, Education, Research and Development
This field focuses on the increasement of professionalism by setting up studies and consultations in the sphere of architectural training and experience and in studying actual developments in the building industry. Building regulation, technical developments, automation and sustainable design are major topics. CPD is a prominent theme next to stressing the importance of a smooth transition from the initial training to practicing the profession.

Furthermore three foundations operating under the auspices of the BNA are concerned with study and research in the following fields:
- public health buildings (STAGG);
- educational buildings (STARO);
- housing and environment (STAWON)

Services
This field of interest includes the running of the BNA Helpdesk where members and clients may ask for first aid legal advice and professional support. Networks of various selected consultants have been set up for second line consults and a list of preferred suppliers where members may get a rebate is managed.

Platform
This is about engagement and cooperation, memberships' commitment and recruitment. Special attention is given to young practitioners by organizing events for this group. Also the international relations are managed and the export of the architectural services by the members are supported and promoted.

Organization and Communication
This field is mainly concerned with information, public relations, publications, information, promotion of the architectural debates, the awarding of the BNA Cube and other prizes. Stimulating the public interest in architecture and raising understanding of its cultural significance and of the architect's role in society in particular by organizing the yearly Day of Architecture on July 1st, are also high on BNA's agenda.

The BNA is represented in many institutes, among others in STABU (Standard Specifications), SBR (Building Research), the SBK (Foundation for Building Quality), EU-Beraad voor de Bouw (EC Council for the Building Industry), etc.
Finally the BNA is a member of the ACE (Architects’ Council of Europe) and it forms the national section of the UIA (Union Internationale des Architectes).

For preparing and carrying out the policy, the BNA has at its disposal a professional bureau, headed by a Managing Director. The BNA issues a yearly directory both printed and on the internet and the monthly members’ magazine BNABLA D. The BNA website www.bna.nl allows access to the institute’s resources. Via their personal password members may consult all information; clients and the public may consult the members’ list and general information. The e-mail address is bna@bna.nl. Furthermore members, clients and the public may consult the BNA Helpdesk.

Once a year, the BNA Kubus (BNA Cube) is awarded to an architect for his work, whether realised or not, or to an architect or non-architect who has made a distinctive contribution to the qualitative level of the profession or to the manner in which the built environment is completed. As of 2006 the BNA Building of the Year is chosen. After a preselection of the best building in the five regions of the BNA, in the end the best building of a BNA-architect is selected.

1.4 SOCIAL AND FISCAL SITUATION
In our country the architects and their staff are, as all other citizens, subject to general laws in the social and fiscal fields. Besides, there are certain regulations more specific for their branch, although the spirit is much the same as in comparable regulations for other branches of industry or trade.

Natural persons are subjected to a progressive income tax, legal persons such as limited companies are subjected to corporation tax amounting 27% on the first € 22,689 of the taxable profit and 31,5% on the remainder of the profit, while all natural and legal persons carrying on a business are subjected to value added tax (at present 19% of the turnover).

Regarding the conditions of work, architect-employers and their staff are subjected to the collective labour agreement (CAO) for employees of architects’ practices. These agreements are concluded and periodically reviewed by negotiations between the trade unions and the BNA. Salaried architects negotiate work conditions with architect-employers much on the same basis as the other staff, but with some clauses specific for the relation between professionals of the same discipline.

The architectural community (employers and employees) has at its disposal a Pension Fund for Architects’ Practices, for which both employers and employees pay a monthly premium to ensure an old age pension. The level of the pension depends on the height of the salary and the number of years of service. Architects who are the owners of their firms can in principle not participate in this fund and have to take other measures to ensure an old age income. This also goes for unemployment and incapacity for work.

As far as illness, disablement and unemployment are concerned, employees of architects’ practices fall under the general rules applicable to all residents in the Netherlands.

2 ARCHITECTURAL PROFESSIONAL PRACTICE

2.1 THE LEGAL RELATIONSHIP BETWEEN CLIENT AND ARCHITECT
The legal relationship between client, architect, engineer and consultant is regulated by standard conditions in De Nieuwe Regeling 2005 in short DNR 2005. These New Rules have been translated into English: Legal Relationship client-architect, engineer and consultant, in short DNR 2005.

The New Rules define the general provisions and the obligations of the parties with respect to the commission. The rules offer the possibility to bring together all the designing activities in one agreement, the integrated commission. The client can conclude agreements with the different consultants involved in the design process on the basis of the new rules, but he can also conclude one agreement with one consultant, who in turn can contract the various other consultants, all this
on the basis of the new rules.

The DNR 2005 state the various methods of determination of the consultancy costs i.e.:
- calculation as a percentage of the execution costs;
- calculation on the basis of spent time;
- determination of a fixed sum;
- consultancy costs in the case of adjustments and alterations.

Consultancy costs as a percentage of the execution costs are calculated on the basis of the percentage of the execution costs agreed upon between the parties prior to the coming about of the commission.

The DNR 2005 specify the liability of the consultant for culpable shortcomings made by him or his staff. This liability is limited to a period of 5 years after completion of the commission. Members of the BNA who operate as private architects have the obligation to insure themselves against such risks. A number of Dutch insurance companies have drawn up policies that are in keeping with the liability rules of the DNR 2005.

If the fulfilment of the commission is delayed or interrupted and this is not to be ascribed to the consultant, then the client is bound to refund to the consultant, according to his bill, calculated according to the state of the activities.

(PM: In the Netherlands, however, there is no statutory obligation of entering an insurance).

Explanatory notes for the DNR 2005 and a Standard Form of a Basic Contract have been developed and can be obtained separately.

2.2 STANDARD ADMINISTRATION
Both for the purpose of office management and project management, the architect must keep a sound administration. The BNA has developed a standard administration system (Standaard Architecten Administratie SAA) for its members, which helps them to control their own economic functioning and provides the necessary data for the justification of their costs towards the client.

2.3 DISPUTES
In the event of disputes in building affairs, differences of opinion between client and consultants are to be settled as much as possible amicably, under which is also to be understood mediation.

If the parties have agreed that the settlement will take place by means of arbitration, then all disputes shall be settled by arbitration, according to the regulations of the Court of Arbitration for the Building Industry. The claimant is also free to bring up a dispute which falls within the competence of a court of justice, section cantonal court, before this court. The architect, though not a party himself in the contract, may still be involved as a responsible and liable party in this kind of disputes. The Board of Arbitration in the Netherlands (Raad van Arbitrage voor de Bouw in Nederland) handles disputes that may arise between clients and contractors.

3 THE BUILDING INDUSTRY

3.1 REGULATIONS
Practically all building activities in the Netherlands are subject to one or more laws. Notably a building permit is necessary for the erection of almost all buildings.

The authorities deal with the built environment on the different levels of their competence: on a national, regional and local scale. Plans should fit in the overall policy outlined by the different authorities, as far as existing and relevant. In particular the zoning schemes drawn up by the local government and approved by the regional government provide the planning and legal framework for the nature and size of future building activities.

Actual realization of buildings is always subjected to the Building Decree of 1992 which legal basis can be found in the Revised Housing Act of 1991. If a plan complies with the technical building regulations of the Building Decree as well as with the local building by-laws, then the Municipal Executive must issue the building permit. Before doing so, the Municipal Executive will ask advice...
from the Building Inspectorate (which in turn will seek advice from the fire department among others) and from the 'Welstandscommissie'. The latter committee has the task of checking plans on their visual merits, both on their own and in relation with their present or future surroundings. The Municipal Executive usually follows the committee's advice but is not obliged to do so. The decision about an application for building permission should be taken within three months of receipt, while there is a possibility of extending this period once for another three months. The local Building Inspectorate sees to it that construction takes place according to the regulations and to specific conditions, if any, laid down in the building permit. Both the Building Decree and the Housing Act have undergone a drastic revision implemented into law as per 2003. The website to apply for further information is www.minvrom.nl.

If a building for which an application has been submitted is part of a so-called protected townscape or village view, or is a protected monument itself, then approval of the plan should first be gained from the Minister of Cultural Affairs (OC&W) before a building permit can be granted.

Dutch implementation of the EC Directive 92/57 concerning Health and Safety on temporary and mobile construction sites took place in the latter half 1994; the rules and regulations of the respective Dutch law have been called Bouwprocesbesluit Arbeidsomstandighedenwet. It goes without saying that these rules must be respected.

Apart from the Housing Act mentioned earlier, there are various other laws dealing with the protection of our built heritage and the protection or improvement of our physical environment, such as the Historic Buildings and Ancient Monuments Act, the Nuisance Act and the Noise Pollution Act. The Town and Physical Planning Act puts down the framework for future long term developments, and various special laws apply to more specific aspects of the built environment.

Rights of ownership and copyrights of the architects have also been provided for in chapter 11 of the DNR 2005. Among other things this chapter mentions that 'the consultant, or his assignee(s), has the exclusive right of publication, realization and multiplication of his designs, drawings, sketches, photographs and all other representations of his design, of his models, as well as of all other objects or information carriers, which give a picture or a representation of his design, or which are referred to the Copyright Act 1912 or the Benelux Law with respect to Drawings and Models.

3.2 CONTRACTING THE ARCHITECT
The Dutch situation will not differ very much, basically, from the situation in the surrounding countries. There are many kinds of clients who, depending on the circumstances for a particular project, will give an architect a full-scale commission or will only ask him to provide for partial services. To assist in architect selection, a client advisory service is provided for. On request, a small number of practices fit for any given project, based on track record and location is recommended. Assistance is also given to clients who wish to interview practices.

There are numerous selection procedures with their own, often hardly described, rules, for instance vision presentations, pre-selection, direct architects' appointment, and indirect procedures among which we mention multiple commissions and design competitions.
- In the traditional situation a client engages an architect for design, building preparation and supervision of a project and a contractor for the realization of that project. In a so-called building team one contractor is invited in an early stage to participate in the development of the project, and in turnkey-projects design and realization of the building are laid down in the hands of one and the same party.
- Also multiple commissions (or limited competitions) for a project can be given either to a number of architects, or to a number of teams in which architects participate.
- Design Competitions on a local, regional, national or international scale are another way of selecting an architect for a project. According to BNA's Code of Conduct
members are only entitled to participate in those competitions of which the programmes have been composed in conformity with either national or international rules. The national rules have been laid down in a document called Kompass. Various Dutch state and private parties signed a convenant (gentlemen’s agreement) in which they declared to stick to the rules laid down in the so-called Kompass, Handbook for Launching Design Competitions. The international rules have been laid down in the UNESCO Revised Recommendation concerning international competitions in architecture and town planning. The UIA controls whether the programmes of international competitions have been orderly composed.

Consultants in a specialized field can be directly appointed by the client, preferably in consultation with the architect. They can also be engaged by the architect who accordingly increases his responsibility for the whole project and thus keeps coordination in his own hands.

Though many architects generally prefer to receive full-scale commissions, professional clients often have their own technical staff and therefore only ask for partial services from an architect. Obviously the responsibility of the architect will accordingly decrease.

Directive 2004/18/EC of the European parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts This EC Directive 2004/18 also organizes the procurement of service contracts (including architectural services) by public and various semi-public authorities. Per January 2006 its application is mandatory for public service contracts. The Directive also acknowledges procurements by means of architectural competitions. Minor assignments are not subject to these EC regulations.

3.3 CONTRACTING THE CONTRACTOR
In the same way that there are many possibilities to engage an architect, there are even more possibilities to engage a contractor, whereby the architect advises his client as to the best procedure.

The simplest form is the invitation to one contractor to submit a quote with open books. The most usual form is the invitation to a limited number of contractors to tender. Another form is 'the invitation to a number of contractors after having selected some invited contractors'. And finally we mention the form of public tendering where anyone can apply, and the public tendering with previous selection, where anyone can apply but only a selected number of contractors are invited to quote.

In this respect it should be noted that contracts for public works must be put out to tender according to the relevant EC Directive 2004/18 (former 93/37) and Dutch law. The conditions for contracting jointly with the project specification constitute the contract between a client and a contractor. The conditions of contract have been standardized in administrative clauses laid down in the Uniforme Administratieve Voorwaarden (UAV 1989). These may be used for all projects commissioned by public authorities or subsidized by these. The major part of the remaining contracts are also based on the UAV 1989. These tendering procedures for building works are regulated in the Dutch Public Procurement Decree (Besluit aanbesteding overheidsopdrachten, Bao). Tendering procedures for the award of public works with planned building costs above € 5.150.00 are subject to the Bao. For integrated forms of contract the UAVgc 2005 may be applied. Next to the national procurement rules laid down in the ARW 2005, which are in line with the EC Directive, also other regulations are applied by the Dutch ministries when acting as a principal for construction works.

3.4 STANDARDIZATION
Society's increased complexity is translated into the everyday work of the architect. Today architects must also cope with items like: environmental impact, safety and health requirements, accessibility, and so on. In order to be able to control these complex matters there is a general tendency towards the standardization.
of methods, specifications and procedures. With the improvement of the quality of products and processes as ultimate goal, many developments both national and international have taken place and are still proceeding in the fields of normalization, standardization, certification, and the like. In this respect we are referring to the following:

- The Dutch Institute for Normalization (NEN) is a member of the ISO-organization in Geneva and of the 'Centre Européen de Normalisation' (CEN) in Brussels.
- The Foundation for a National Standard Building Specification (STABU) has developed a standard specification for the building industry, with an automated version which has gained widespread application in architects' offices.
- The certifying of products and components is carried out by a number of competent institutes which have been recognized as such and are therefore authorized by a Board of Certification, which is itself affiliated to the 'Union Européenne pour l'Agrément technique dans la construction' (UEAtc).

3.5 BUILDING ACTIVITIES

Just as in other countries, building in the Netherlands is sensitive to economic fluctuations and is directly influenced by government, be it as principal, as subsidizer or as regulator of working conditions.

The last years the following tendencies become apparent in the Government's policy towards building and spatial planning:
- intensified attention for CO2 reduction in built areas and large investment in green projects;
- promotion of self built housing;
- diminished involvement of the State in building activities leading to a policy aimed at a few key issues with clear targets;
- increased attention and legislation with regard to problems of infrastructure and mobility;
- bigger investments in spatial planning and the improvement of urban centres.

CONCLUSION

In such a closely-knit society as the Dutch society, the architect has a major responsibility for his doings as to the quality of the built environment. Whether he likes it or not, he gets increasingly involved in economic, social, environmental and political matters. The largest part of the Dutch architectural community which is organized in the BNA, tries to endorse this responsibility by aiming at a high level of professional performance. Let's hope this leaflet has been able to clarify some of the patterns and relations in which the Dutch architect must operate to achieve his goals.
ADDRESSES

Educational institutes

Technische Universiteit Delft
Faculteit Bouwkunde
Postbus 5043
2600 GA Delft
The Netherlands
P: +31 15 278 41 84
F: +31 15 278 47 27
E: architectuur@bk.tudelft.nl
I: www.bk.tudelft.nl

Technische Universiteit Eindhoven
Faculteit Bouwkunde
Postbus 513
5600 MB Eindhoven
The Netherlands
P: +31 40 247 91 11
F: +31 40 245 24 32
E: stu@tue.nl
I: www.bwk.tue.nl

Amsterdamse Hogeschool voor de Kunsten
Academie van Bouwkunst
Waterlooplein 211
1011 PG Amsterdam
The Netherlands
P: +31 20 531 82 18
F: +31 20 623 25 19
E: info@bwk.ahk.nl
I: www.academievanbouwkunst.nl

Hogeschool Rotterdam & omstreken
Academie van Bouwkunst
G.J. de Jonghweg 4-6
3015 CG Rotterdam
The Netherlands
P: +31 10 421 48 55
F: +31 10 421 48 56
E: info@avbr.nl
I: www.avbr.nl

Fontys Academie voor Architectuur en Stedebouw
Bisschop Zwijnenstraat 5
5038 VA Tilburg
The Netherlands
P: +31 877 87 49 22
F: +31 877 87 35 22
E: aas@fontys.nl
I: www.fontys.nl/abv

Academie van Bouwkunst Groningen
Zuiderkuijpen 19
9711 HR Groningen
The Netherlands
P: +31 50 313 80 47
F: +31 50 313 01 06
E: avbg@org.hanze.nl
I: www.hanze.nl/bouwkunst

Academie van Bouwkunst Arnhem
Onderlangs 9
6812 CE Arnhem
The Netherlands
P: +31 26 353 56 06
F: +31 26 353 56 77
E: info@avb-arnhem.nl
I: www.avb-arnhem.nl

Academie van Bouwkunst Maastricht
Tongersestraat 49a
6211 LM Maastricht
The Netherlands
P: +31 43 321 96 45
F: +31 43 325 24 93
E: info@academievanbouwkunst.com
I: www.academievanbouwkunst.com

Registration

Stichting Bureau Architectenregister
Nassauplein 24
2585 EC Den Haag
The Netherlands
P: +31 70 346 70 20
F: +31 70 360 30 28
E: info@architectenregister.nl
I: www.architectenregister.nl

Ministries

Ministry of Housing: Ministerie Volkshuisvesting, Ruimtelijke Ordening en Milieubeheer
Postbus 20951
2500 EZ Den Haag
The Netherlands
P: +31 70 339 39 39
E: use the appropriate form on www.minvrom.nl
I: www.minvrom.nl

Ministry of Health: Ministerie Volksgezondheid, Welzijn en Sport
Postbus 20350
2500 EJ Den Haag
The Netherlands
P: +31 70 340 79 11
E: use the appropriate form on www.minvws.nl
I: www.minvws.nl

Ministry of Education and Culture: Ministerie van Onderwijs, Cultuur en Wetenschappen
Postbus 25000
2700 LZ Zoetermeer
The Netherlands
P: +31 79 323 23 23
E: webmaster@minocw.nl
I: www.minocw.nl

Institutes

Arcam, Stichting Architectuur centrum Amsterdam
Prins Hendrikkade 600
1011 VX Amsterdam
P: +31 20 620 48 78
F: +31 20 638 85 98
E: arcam@arcam.nl
I: www.arcam.nl

Architectuur Lokaal
Tussen de Bogen 18
1013 JB Amsterdam
P: +31 20 530 40 00
F: +31 20 530 40 04
E: arch.lokaal@wxs.nl
I: www.arch-lokaal.nl

Berlage Institute
Botersloot 25
3011 HE Rotterdam
P: +31 10 403 03 99
F: +31 10 403 03 90
E: info@berlage-institute.nl
I: www.berlage-institute.nl

Nederlands Architectuurninstituut NAi
Museumpark 25
3015 CB Rotterdam
P: +31 10 440 12 00
F: +31 10 436 69 75
E: info@nai.nl
I: www.nai.nl
COLOPHON

JUSTIFICATION
The information in this pamphlet has been entered with the greatest care, but doesn't pretend to be complete. It is advisable to always examine the regulations and publications that are referred to. The information is based on the situation of July 2006. It is highly acknowledged if possible deficiencies would be reported at the BNA international secretariat.

PUBLISHER
Royal Institute of Dutch Architects, BNA
Joelmannhof 14
1019 GW Amsterdam
The Netherlands
P.O. Box 19606
1000 GP Amsterdam
The Netherlands
P +31 20 555 36 66
F +31 20 555 36 99
E bna@bna.nl
I www.bna.nl

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EDITORS
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LITERATURE
The DNR 2005 and the Model for a Single Cooperation Contract between two architects have been translated into English. The English versions may be ordered at the BNA.