

**Preliminary draft Decree amending the Decree of 5 April 1995 laying down general provisions on environmental policy and the Decree of 23 December 2011 on the sustainable management of material cycles and waste, as regards the implementation of various European regulations and directives and the strengthening of the asbestos removal policy**

At the proposal of the Flemish Minister for the Environment and Agriculture;

After deliberations,

THE FLEMISH GOVERNMENT HEREBY DECREES THE FOLLOWING:

The Flemish Minister for the Environment and Agriculture is responsible, on behalf of the Flemish Government, for submitting to the Flemish Parliament the draft Decree, the text of which is as follows:

Chapter 1. Preliminary provision

**Article 1.** This Decree regulates a matter of regional jurisdiction.

Chapter 2. Amendment of the Decree of 5 April 1995 on general provisions on environmental policy

**Article 2.** The following amendments are made to Article 10.3.3 of the Decree of 5 April 1995 on general provisions on environmental policy, inserted by the Decree of 7 May 2004 and last amended by the Decree of 26 February 2021:

1 in Section 1, point 1 is replaced by the following:

“1 the development of instruments and developing measures for the promotion of the efficient use of materials, reducing the environmental impact through the use of materials and the closing of material cycles as far as possible;”;

2 a point 8 is added to Section 1, which reads as follows:

“8 the carrying out of tasks and providing support in the context of littering and illegal dumping policies.”;

3 in Section 2, points 23 to 26 are added, which read as follows:

“23 acting as the competent authority for the Flemish Region in the framework of the European legislation on the management of waste batteries as referred to in Chapter VIII of Regulation (EU) 2023/1542 of the European Parliament and of the Council of 12 July 2023 on batteries and waste batteries, amending Directive 2008/98/EC and Regulation (EU) 2019/1020 and repealing Directive 2006/66/EC;

24 to raise awareness and provide guidance to actors in the context of littering and illegal dumping policies;

25 the receipt and distribution between the various public authorities of the revenue from the levy referred to in Article 22(2) and Article 27 of the cooperation agreement of ### on the framework for extended producer responsibility for certain waste streams and for litter, and of the revenue from the levy referred to in Article 7(3) and Article 13(1)(14) of the cooperation agreement of 4 November 2008 on the prevention and management of packaging waste, and of the revenue from the administrative fine referred to in Article 27 (3) of the cooperation agreement of ### on the framework for extended producer responsibility for certain waste streams and for litter and Article 13(1)(14) of the cooperation agreement of 4 November 2008 on the prevention and management of packaging waste;

26 the receipt of the revenue from the levy referred to in Articles 8, 9, (10), 13 and 14 of the cooperation agreement of ### on the framework for extended producer responsibility for certain waste streams and litter and the revenue from the levy referred to in Article 7(4) and Article 14a(1), of the cooperation agreement of 4 November 2008 on the prevention and management of packaging waste;”;

4 in Section 2, points 27 to 31 are added, which read as follows:

“27 to develop calculation methods and instruments for measuring the environmental impact of construction works and materials throughout their life cycle, and to preserve, assess and adjust the results of those calculation methods and instruments;

28 to issue the material performance certificates or MPCs referred to in Article 33/22(3)(4) and in Article 33/22(4)(5) of the Materials Decree;

29 to manage the material performance database, referred to in Article 33/23(1) of the Materials Decree, as regards the assessment of the environmental impact of construction works;

30 to examine the applications and to grant, suspend or revoke the approval referred to in Article 33/24 of the Materials Decree;

31 to designate an organisation to take over the tasks of the certification body for MP experts, as referred to in Article 33/24 of the Materials Decree.

**Article 3.** In Annex IV to the same decree, inserted by the Decree of 21 December 2007 and amended by the Decrees of 15 July 2011, 23 December 2011, 27 March 2015 and 16 December 2016, in point 12, the phrase “Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste” is replaced by the phrase “Regulation (EU) 2024/1157 of the European Parliament and of the Council of 11 April 2024 on shipments of waste, amending Regulations (EU) No 1257/2013 and (EU) 2020/1056 and repealing Regulation (EC) No 1013/2006”.

Chapter 3. Amendments to the Decree of 23 December 2011 on sustainable management of material cycles and waste

**Article 4.** In Article 2 of the Decree of 23 December 2011 on the sustainable management of material cycles and waste, replaced by the Decree of 26 February 2021, a point 5 is added, which reads as follows:

“5 Directive (EU) 2024/1275 of the European Parliament and of the Council of 24 April 2024 on the energy performance of buildings.”.

**Article 5.** In Article 3 of the same decree, last amended by the Decree of 17 May 2024, the following amendments are made:

1 to Section 1(1)(1), the letters j) and k) are added, which read as follows:

“j) contaminated or uncontaminated water discharged into surface water or into the public water treatment structure. In that context, in situ treatment including the dewatering of the sludge produced on-site, which is intended to bring that water into line with the environmental conditions applicable to the discharge, shall not be considered as waste treatment;

k) the drainage water referred to in Article 1.1.2 of the Decree of the Flemish Government of 1 June 1995 laying down general and sectoral provisions on environmental hygiene, which is returned to the subsoil or put to good use in accordance with the provisions of Title II of the VLAREM (Flemish Regulation on Environmental Permits).”;

2 in Section 1(1), point 5/2, the words “assessment with the naked eye” are replaced by the words “auditory and/or visual examination”;

3 In Section 1(1), point 6 is replaced by the following:

“6 commercial waste: waste that is not household waste or waste that is considered equivalent to commercial waste by a decision of the Flemish Government;”;

4 in Section 1(1), a point 25/3 is inserted, which reads as follows:

“25/3 Regulation (EU) 2024/1157 of the European Parliament and of the Council of 11 April 2024 on shipments of waste, amending Regulations (EU) No 1257/2013 and (EU) 2020/1056 and repealing Regulation (EC) No 1013/2006;”;

5 in Section 2(1)(1), the following amendments are made:

- a) the words “wall plaster containing asbestos” are replaced by the words “plasterwork containing asbestos”;
- b) in point 3, the phrase “gutters, flue gas ducts and rainwater drainage channels” is replaced by the phrase “gutters, fireplace chimney caps, roof ventilation caps, flue gas ducts and rainwater drainage channels”;

6 in Section 2, a point 1/6 is inserted, which reads as follows:

“1/6 amended asbestos inventory certificate: certificate issued by OVAM (Public Waste Agency of Flanders) after preparation of an asbestos inventory as referred to in Article 33/10, for a public, technically accessible structure having a high-risk

year of construction or for an accessible structure with a high-risk year of construction of sensitive nature;”;

7 in Section 2, a point 2/1 is inserted, which reads as follows:

“2/1 accessible structure with a high-risk year of construction of sensitive nature: an accessible structure with a high-risk year of construction that is used for military, penitentiary or nuclear purposes;”;

8 in Section 2, point 3 is replaced by the following:

“3 easily accessible materials containing asbestos: those materials containing asbestos that can be identified and removed without affecting the structural integrity of a structure and, in the case of an industrial installation, within the normal management and maintenance cycles or a comparable downtime. Materials, which contain asbestos and are covered by another material, with the exception of a layer of paint, coating, wallpaper, plastic or textile, are not easily accessible unless the covering material can be removed without damaging the covering material;

9 in Section 2, a point 4/2 is inserted, which reads as follows:

“4/2 valid asbestos inventory certificate: the last asbestos inventory certificate issued by OVAM for an accessible structure, the period of validity of which has not expired;”;

10 in Section 2, point 7, the words “for humans” are deleted;

11 in Section 2, point 9 is replaced by the following:

“9 accessible construction with a high-risk year of construction: any construction with a high-risk year of construction that people can enter. A construction may be entered if it at least:

- a) consists of a roof and/or truss and/or ceiling, where it is sufficient to have at least one support element to support this roof and/or truss and/or ceiling,
- b) is 1.75 metres high;

12 in Section 2, 10/1, the words “which are waste” are replaced by the words “and for non-low-risk materials containing asbestos-containing materials”;

13 a new Section 3 is added, which reads as follows:

“(3). For the purposes of Part 7 of Chapter 3, the following definitions apply:  
1 person required to make a declaration: a natural person or legal entity that must comply with the material performance obligations;  
2 building: a construction that is connected to the ground either directly or indirectly at the place of destination, that is either directly or indirectly supported by the ground at the place of use, and intended to function at the site.  
3 material performance: the totality or a selection of the 19 environmental impact indicators from EN 15804+A2 or any later version of this standard, including GWP, calculated over the entire life cycle, and the weighted score of these indicators;

4 material performance declaration: the unique document in which the MP expert describes all the measures implemented to fulfil the material performance obligations. The final material performance calculation of a building is based on the material performance declaration. The material performance declaration shall form the basis for the material performance certificate;

5 material performance certificate or MPC: a certificate in which the result of the calculation of the material performance of a structure is stated, derived from the material performance declaration, expressed in one or more numerical indicators;

6 material performance database: a computerised database containing information on the material performance of construction works subject to material performance obligations, is included;

7 MP expert or MP expert: the natural person or legal entity that provides material advice to the person required to make a declaration within the framework of the material performance regulations and that is responsible for the mandatory reporting pursuant to the decree. The MP expert is an independent expert certified by a certification body for MP experts;

8 material performance start declaration: a written declaration indicating the start date of the works and the overview of the material performance sought for the construction work, based on a pre-calculation of the material performance of the construction work;

9 Global Warming Potential or GWP: the global warming potential during the life cycle, an indicator for quantifying the potential contribution of a building to global warming during the entire life cycle of the building, as included in EN 15804+A2 or any subsequent version of this standard;

10 promoter-client: a natural person or legal entity the normal activity of whom or which is to erect, have erected or renovate buildings in order to sell them for consideration;

11 technical material performance file: an overview of the materials used during the works with the corresponding supporting documents;

**Article 6.** In Article 7(2) of the same decree, as amended by Decree of 25 April 2014, the word “materials,” is inserted between the words “samples of” and the word “waste”.

**Article 7.** In Article 13 of the same decree, the following amendments are made:

1 Section 1 is replaced by the following:

“(1). Undertakings and establishments that collect or transport waste on a professional basis, waste brokers and traders must have themselves entered in a register.

The Flemish Government may determine that additional actors that manage waste or materials have themselves been included in a register.

The Flemish Government may lay down further rules for the registration requirement and the layout of the registers referred to in the first and second paragraphs.”;

2 to Section 2(1), points 3 and 4 are added, which read as follows:

“3 the undertaking or establishment which stores, processes or otherwise manages waste;

4 the actors that, within the framework of quality assurance, carry out checks on other actors that manage waste or materials;”;

3 in Section 2(2), the phrase “and transport.” is replaced by the phrase “, transport, processing and the way in which quality assurance systems are complied with, including obligations relating to internal and external audits, inspections, certifications, approvals and accreditations.”;

4 a new Section 3 is added, which reads as follows:

The Flemish Government may lay down further rules for the designation, recognition, sanctioning or suspension of the actors referred to in Section 2(4).

**Article 8.** In Article 14 of the same decree, as amended by the Decree of 18 December 2015, the following amendments are made:

1 in the second paragraph, the words “Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste,” are replaced by the words “Regulation (EU) 2024/1157,”;

2 in the second paragraph (1), the words “Regulation (EC) No 1013/2006” are replaced in each case by the words “Regulation (EU) 2024/1157” and the words “Article 6 of the said” are replaced by the words “Article 7 of”;

3 in the second paragraph, point 2 is replaced by the following:

“2 lay down further rules for the approval as a pre-approved facility for the recovery of waste as referred to in Article 14 of Regulation (EU) 2024/1157.”;

4 paragraph 4 is deleted.

**Article 9.** In the Article 15(1) of the same decree, as amended by the Decree of 29 March 2019, a point 7 is added, which reads as follows:

“7 local authorities, educational institutions and youth work organisations that implement measures to prevent, reduce or manage litter and waste on and around educational and youth work infrastructure.”.

**Article 10.** In Article 17 of the same decree, as amended by the Decree of 26 February 2021, the following amendments are made:

1 in Section 1(1), the word “appoints” is replaced by the word “may” and the word “to” is replaced by the word “appoint”;

2 Section 3 is replaced by the following:

“(3). The draft prevention programmes or draft amendments to prevention programmes shall be published in extract form in the Belgian Official Gazette and made available for inspection at OVAM for a period of two months. During that period, any person may submit objections or comments in writing to OVAM. OVAM

publishes the drafts on its website and informs the local authorities about this publication and the manner in which objections or comments may be formulated.”;

3 Section 5 is replaced by the following:

“(5). The Flemish Government shall adopt the prevention programmes or amendments thereto, taking into account the advice given and the objections or comments submitted. The Flemish Government shall explain how the objections and comments submitted were taken into account in a report attached to the publication referred to in Section 6.”;

4 in Section 6, the sentence “They are available for inspection at OVAM, the provinces and the municipalities and are posted on the OVAM website.” is replaced by the sentence “They are published on the OVAM website.”;

5 in Section 9, the word “regional” is replaced by the words “approved by the Flemish Government” and the word “binding” is replaced by the word “binding”.

**Article 11.** In Article 18 of the same decree, as amended by the Decree of 26 February 2021, the following amendments are made:

1 in Section 6, the phrase “In particular, the implementation plans shall contain at least the following elements:” is replaced by the phrase “OVAM shall include the following elements in the implementation plans:”;

2 Section 7 is replaced by the following:

“(7). The draft implementation plans or the draft amendments to the implementation plans shall be published in extract form in the Belgian Official Gazette and made available for inspection at OVAM for a period of two months. During that period, any person may submit objections or comments in writing to OVAM. OVAM publishes the drafts on its website and informs the local authorities about this publication and the manner in which objections or comments may be formulated.”;

3 in Section 9, the sentence “If the Flemish Government does not follow the opinions issued or does not address the objections or comments submitted, either in full or in part, it shall justify this in a report attached to the publication referred to in Section 10.” is replaced by the sentence “The Flemish Government shall explain how the objections and comments submitted have been taken into account in a report attached to the publication referred to in Section 10.”;

4 in Section 10, the sentence “They are available for inspection at OVAM, the provinces and the municipalities and are posted on the OVAM website.” is replaced by the sentence “They are published on the OVAM website.”;

5 in Section 12, the word “regional” is replaced by the words “approved by the Flemish Government” and the word “binding” is replaced by the word “binding”.

**Article 12.** In Article 30(2)(1) of the same decree, the sentence “Every time hazardous waste is transported, an identification form must be attached, whether or not in electronic form, containing the relevant information listed in Annex IB to

Regulation (EC) No 1013/2006 of the European Parliament and of the Council of 14 June 2006 on shipments of waste.” is replaced by the sentence “If hazardous waste is transported, an identification form must be attached containing the relevant information listed in Annex IB to Regulation (EU) 2024/1157.”.

**Article 13.** In Article 33/5(1) of the same decree, inserted by the Decree of 29 March 2019, the following amendments are made:

1 point 2 is replaced by the following:

“2 all roof and façade cladding, gutters, roof ventilation caps, fireplace chimney caps, flue gas ducts and rainwater drainage ducts consisting of asbestos cement when located on the outside”;

2 A new paragraph is inserted between the first and second paragraphs, which reads as follows:

“The obligations referred to in the first paragraph do not apply to materials in or on a protected property that may not be removed in accordance with Article 6.4.4 of the Immoveable Heritage Decree of 12 July 2013.”;

3 in the existing second paragraph, which now becomes the third paragraph, the following amendments are made:

a) the phrase “asbestos inventory certificate” is replaced by the phrase “asbestos inventory certificate, an asbestos inventory certificate common parts, an asbestos inventory certificate commonly used parts or a modified asbestos inventory certificate”;

b) the sentence "For other structures with a high-risk year of construction, the Flemish Government may determine how compliance with this obligation can be demonstrated" is repealed;

4 to the existing third paragraph, which now becomes the fourth paragraph, the following phrase is added “if it is not reasonable or proportionate, on the basis of their structural characteristics or for reasons of social impact, to comply with that obligation by the date referred to in the first paragraph”.

**Article 14.** In Article 33/6 of the same decree, inserted by the Decree of 29 March 2019 and as amended by the Decree of 20 May 2022, the following amendments are made:

1 a new paragraph is inserted between the first and second paragraphs, which reads as follows:

“The obligations referred to in the first paragraph do not apply to materials in or on a protected property that may not be removed in accordance with Article 6.4.4 of the Immoveable Heritage Decree of 12 July 2013.”;

2 in the existing second paragraph, which now becomes the third paragraph, the words “formulate opinions for a” is inserted between the words “and the” and the words “safe management”;

3 the existing third paragraph, that now becomes the fourth paragraph, is replaced by the following:

“For public structures with a high-risk year of construction for which the owner in accordance with Article 33/9 must have an asbestos inventory certificate, an asbestos inventory certificate for common parts, an asbestos inventory certificate for commonly used parts or a modified asbestos inventory certificate in accordance, this certificate proves whether or not the obligation referred to in the first paragraph, (1), has been fulfilled.”.

**Article 15.** In the same decree, last amended by the Decree of 20 December 2024, an Article 33/6/1 is inserted, which reads as follows:

“Article 33/6/1. Without prejudice to the application of Article 33/5(1)(2), every owner of a structure with a high-risk year of construction shall, by 1 January 2034, remove all roof and façade cladding on the exterior of the structure consisting of asbestos cement with a roof and façade surface area equal to or greater than 500 square metres.

The obligation referred to in the first paragraph does not apply to materials in or on a protected building that may not be removed in accordance with Article 6.4.4 of the Immoveable Heritage Decree of 12 July 2013.

The Flemish Government may lay down further rules for the obligation referred to in the first paragraph. The Flemish Government may grant a delay of a maximum of two years as regards the obligation referred to in the first paragraph, both for certain target groups and for certain categories of structures with a high-risk year of construction.

**Article 16.** In Article 33/7 of the same decree, inserted by the Decree of 29 March 2019 and as amended by the Decree of 20 May 2022, the words “and 33/6” are replaced by the words “, 33/6 and 33/6/1”.

**Article 17.** In Article 33/9 of the same decree, inserted by the Decree of 29 March 2019 and as amended by the Decree of 26 February 2021, 20 May 2022 and 17 May 2024 the following amendments are made:

1 in Section 1, two paragraphs are inserted between the first and second paragraphs, which read as follows:

“Notwithstanding the first paragraph and without prejudice to the application of Article 33/14, the owner of a structure with a high-risk year of construction shall have an asbestos inventory certificate and, where applicable, an asbestos inventory certificate for commonly used parts by 31 December 2029 at the latest, if that structure:

- 1 is used by an employer who employs workers there;
- 2 is used as an educational establishment;
- 3 is mainly used for recreational activities for young people and young adults up to twenty-five years of age.

Notwithstanding the first and second paragraphs, the owner of the following structures shall have a modified updated asbestos inventory certificate

and, where applicable, an asbestos inventory certificate for commonly used areas by 31 December 2031 at the latest:

- 1 a public, technically accessible structure with a high-risk year of construction;
- 2 an accessible structure with a high-risk year of construction of sensitive nature.”;

2 in Section 1, the existing second paragraph, which becomes the fourth paragraph, is replaced by the following:

“Notwithstanding the first to third paragraphs and without prejudice to the application of Article 33/14, the association of co-owners of an accessible structure with a high-risk year of construction under the co-ownership system shall have a separate asbestos inventory certificate for the common parts by 31 December 2026 at the latest.”;

3 the Section 1, third paragraph, which becomes the fifth paragraph, is replaced by the following:

“The Flemish Government may exclude certain categories or components of accessible structures with a high-risk year of construction from the obligations referred to in the first to fourth paragraphs if, based on their structural characteristics, it is not reasonable or proportionate to comply with those obligations. The Flemish Government may determine detailed rules for this.

The Flemish Government may grant a postponement of up to four years for the obligation referred to in the third paragraph, both for certain target groups and for certain categories of buildings with a high-risk year of construction, if, on the basis of their structural characteristics or because of their social impact, it is not reasonable or proportionate to comply with that obligation by the date referred to in the third paragraph.

The Flemish Government may grant a delay for a maximum period of two years as regards the obligation to have a separate asbestos inventory certificate for the common parts under the co-ownership system, referred to in the fourth paragraph, for accessible structures with high-risk year of construction in which fewer than fifteen residential units are present.

The Flemish Government may further elaborate on the obligation to draw up an asbestos inventory or an adapted asbestos inventory in order to obtain an asbestos inventory certificate, an asbestos inventory certificate for common parts, an asbestos inventory certificate for commonly used parts or a modified asbestos inventory certificate, as referred to in the first to fourth paragraphs. The Flemish Government may lay down guidelines for buildings and building units when drawing up an asbestos inventory or a modified asbestos inventory.”;

4 Section 2 is replaced by the following:

“Every landlord of an accessible building constructed in a high-risk year of construction shall provide the tenant with a copy of the asbestos inventory certificate, the modified asbestos inventory certificate and, where applicable, the asbestos inventory certificate for commonly used parts or the asbestos inventory certificate for shared areas:

1 before concluding a lease agreement, if the owner currently has an asbestos inventory certificate, a modified asbestos inventory certificate, an asbestos inventory certificate for common parts or an asbestos inventory certificate for commonly used parts for the accessible structure with a high-risk year of construction;

2 within one month of the date of issue stated on the asbestos inventory certificate, the modified asbestos inventory certificate, the asbestos inventory certificate for common parts or the asbestos inventory certificate for commonly used areas if that certificate was issued during a current tenancy period.

Without prejudice to the application of Article 33/14, the owner of an accessible structure with a high-risk year of construction shall from 1 January 2030 onwards provide the tenant with an asbestos inventory certificate and, if applicable, an asbestos inventory certificate for commonly used parts before concluding a tenancy agreement for a dwelling intended as the tenant's main residence”.

**Article 18.** In Article 33/10 of the same decree, inserted by the Decree of 29 March 2019 and as amended by the Decree of 26 February 2021, 20 May 2022 and 17 May 2024, the following amendments are made:

1 to Section 1, a second and a third paragraphs are added, which read as follows:

“A modified asbestos inventory certificate is obtained after a modified asbestos inventory has been drawn up.

The owner of the structure with a high-risk year of construction commissions an asbestos inventory expert to draw up an asbestos inventory or modified asbestos inventory in a service contract. The Flemish Government may determine the further content of said service contract.”;

2 in Section 2, the words “or modified asbestos inventory” are inserted between the word “asbestos inventory” and the word “contain”;

3 in Section 2, point 5, the phrase “the safe disposal and safe management of materials containing asbestos, with particular reference to the” is inserted between the word “advice” and the word “urgent”;

4 in Section 3, first paragraph, the words “or modified asbestos inventory” are inserted between the word “asbestos inventory” and the word “is”;

5 In Section 3, second paragraph, the following amendments are made:

a) in the first sentence, the words “enclosed or covered” are deleted;

b) a sentence is added, which reads as follows: ““The owner shall provide the asbestos inventory expert with the available information and documents that the asbestos expert requests in order to carry out an asbestos inventory or a modified asbestos inventory.”;

6 In Section 3, a paragraph is inserted between the second and third paragraphs, which reads as follows:

“The owner may have additional research carried out by the asbestos inventory expert when drawing up an asbestos inventory or a modified asbestos inventory. The owner shall give the instruction for this by way of the service contract.”;

7 in Section 3, the existing paragraph 3, which becomes the fourth paragraph, is replaced by the following:

“The Flemish Government shall determine how the asbestos inventory inspection protocol is to be established. The Flemish Government may determine the further content of the asbestos inventory inspection protocol. The asbestos inventory inspection protocol may define the modalities for the following elements:

- 1 the service contract;
- 2 The provision of documents and information to the asbestos inventory expert by the owner;
- 3 the structures and materials that must be part of the asbestos inventory and modified asbestos inventory;
- 4 the structures or materials that are excluded from the asbestos inventory and the modified asbestos inventory;
- 5 the drawing up and amending of an asbestos inventory and modified asbestos inventory for a building, building unit, residential unit, common parts and commonly used parts;
- 6 the carrying out of the additional investigation;
- 7 the assessment of documentary evidence by the asbestos inventory expert;
- 8 the sampling by the asbestos inventory expert;
- 9 the analysis of the samples by a laboratory and the report of the analysis;
- 10 the uploading of documents and entering data into the asbestos inventory database;
- 11 the rules on risk assessment;
- 12 The formulation of advisory opinions on the safe management and method of disposal of materials containing asbestos;
- 13 the shortening of the period of validity of the asbestos inventory certificate, the modified asbestos inventory certificate, the asbestos inventory certificate for common parts and the asbestos inventory certificate for commonly used parts;
- 14 the further contents of the asbestos inventory certificate, the modified asbestos inventory certificate, the asbestos inventory certificate for common parts and the asbestos inventory certificate for commonly used parts.
- 15 the delivery and consultation of the asbestos inventory certificate, the amended asbestos inventory certificate, the asbestos inventory certificate for common areas and the asbestos inventory certificate for commonly used parts via the asbestos inventory database”;

8 in Section 3, in the existing fourth paragraph, which becomes the fifth paragraph, the words “or modified asbestos inventory” are inserted between the words “asbestos inventory” and the phrase “may be drawn up”;

9 in Section 3, in the existing fifth paragraph, which becomes the sixth paragraph, the words “or modified asbestos inventory” are inserted between the word “asbestos inventory” and the phrase “to be drawn up”;

10 in Section 4(1), the words “or modified asbestos inventory” are inserted between the word “asbestos inventory” and the word “in”.

**Article 19.** In Article 33/11 of the same decree, inserted by the Decree of 29 March 2019 and as amended by the Decree of 17 May 2024, the following amendments are made:

1 the word “asbestos inventory” is replaced by the words “asbestos inventory or modified asbestos inventory”;

2 each occurrence of the phrase “asbestos inventory certificate,” shall be replaced with the phrase “asbestos inventory certificate, modified asbestos inventory certificate,”.

**Article 20.** In Article 33/12 of the same decree, inserted by the Decree of 29 March 2019, the word “asbestos inventory” are replaced by the words “asbestos inventory or modified asbestos inventory”.

**Article 21.** Article 33/13 of the same decree, inserted by the Decree of 29 March 2019, is repealed.

**Article 22.** In Article 33/14(1) of the same decree, added by the Decree of 29 March 2019 and as amended by the Decree of 17 May 2024, the following amendments are made:

1 in the first paragraph, the words “parts used when concluding the agreement” shall be replaced with the words “parts used”;

2 the second paragraph is deleted;

3 the phrase “in the second paragraph of Article 33/9(1)” is replaced in each case by the phrase “in the fourth paragraph of Article 33/9(1)”.

**Article 23.** In Article 33/15 of the same decree, inserted by the Decree of 29 March 2019, the words “and the construction of a high-risk year of construction of sensitive nature” are added.

**Article 24.** In Article 33/16 of the same decree, inserted by the Decree of 29 March 2019 and as amended by the Decree of 26 February 2021, the following amendments are made:

1 the words “certification body” are replaced each time by the words “asbestos certification body”;

2 the second and third paragraphs are replaced by the following:

The Flemish Government determines the conditions for the certification of an asbestos inventory export, the detailed rules for quality assurance and sanctioning, the conditions for the use of the certificate and the conditions and procedure for sanctions, suspension, lifting the suspension and revocation of the certificate.

Asbestos certification bodies for certification of asbestos inventory experts and quality assurance are accredited for same. The Flemish Government determines the conditions and procedure for the accreditation, the conditions and procedure for the sanctioning, suspension, lifting of the suspension and lifting of the accreditation, and the conditions for the use of the accreditation. The Flemish

Government also lays down the tasks and quality requirements of the asbestos certification body, determines the rules governing the supervision of the functioning of the asbestos certification body and may designate a body responsible for monitoring and sanctioning the accreditation of asbestos certification bodies.”;

3 a paragraph is inserted between the fourth and fifth paragraphs, which reads as follows:

“The asbestos certification body provides the data for the certification of asbestos inventory experts and the quality assurance and sanctioning in a certification platform. The asbestos inventory experts are uniquely identified for this purpose in the certification platform managed by OVAM.”;

4 in the existing fifth paragraph, which becomes the sixth paragraph, the following sentence is added:

“The Flemish Government may establish further rules for the use of the certification platform.”.

5 a seventh paragraph is added, which reads as follows: :

“A certification regulation may be drawn up for the certification, quality assurance and sanctioning of an asbestos inventory expert as referred to in this article, the accreditation of an asbestos certification body as referred to in the third paragraph and the use of the certification platform as referred to in the fifth paragraph. The Flemish Government may determine how this certification regulation is to be adopted and may determine its content.”.

**Article 25.** In Article 33/17 of the same decree, inserted by the Decree of 20 May 2022, the following amendments are made:

1 the words “Asbestos sectoral council” are replaced each time by the words “asbestos sectoral council”;

2 the words “Asbestos certification body” are replaced each time by the words “asbestos certification body”;

3 in the second paragraph, (1), the word “internal” is deleted;

4 in the second paragraph, (2), the phrase “, suspension or cancellation files” is replaced by the phrase “of or on certificate holders, or on suspension or cancellation files”.

**Article 26.** In Chapter 3 of the same decree, inserted by the Decree of 29 March 2019 and as amended by the Decree of 26 February 2021, an Article 33/18 is inserted, which reads as follows:

“Article 33/18. An asbestos incident asbestos expert can assist a local authority after an asbestos incident in demarcating the contamination caused by the asbestos waste residues and supervising its clean-up.

The Flemish Government may determine the conditions that an asbestos incident asbestos expert must meet in order to be appointed by a municipality and may determine the modalities for the supervision, demarcation and remediation of asbestos waste residues.

**Article 27.** In Chapter 3 of the same decree, last amended by the Decree of 17 May 2024, a Part 7 is added, which reads as follows:

“Part 7. Circular construction and renovation”.

**Article 28.** In the same decree, a subsection 7.1 is added to the same Part 7, which reads as follows:

“Subsection 7.1. Material performance of building works”.

**Article 29.** In the same decree, in subsection 7.1, as added by Article 27, an Article 33/19 is added, which reads as follows:

“Article 33/19. The Flemish Government shall determine for which construction works a calculation of the material performance is mandatory. The Flemish Government shall lay down the scope and content of the calculation method for the material performance of a structure. The Flemish Government shall determine the calculation tool to be used for the calculation of material performance.

The Flemish Government may impose quality requirements and quality checks on contractors of works and services in the context of the application of the calculation method for the material performance of construction works. The Flemish Government may lay down detailed rules on how those requirements and checks are carried out.

The Flemish Government may lay down requirements to be met by the persons or organisations that check the content of the material performance calculation. The Flemish government may impose requirements on the GWP of buildings. The Flemish Government may grant exemptions or derogations from the material performance calculations it has established.

**Article 30.** In the same decree, Article 33/20 is added to the same subsection 7.1, which reads as follows:

“Article 33/20. (1). If a material performance calculation is required for a building as referred to in Article 33/19, the holder of the environmental permit for urban planning acts or the reporter of the urban planning acts shall be the person required to make a declaration.

The Flemish Government may lay down further rules in the event that a structure that is to be built or is under construction is disposed of by the person required to submit a declaration before a material performance declaration has been submitted, or if the environmental permit for urban development activities is transferred by the person required to submit a declaration before a material performance declaration has been submitted.

(2). By way of derogation from Section 1, in the case of an agreement between a promoter-client and a natural person or a legal entity, the promoter-client is obliged to declare if the purpose of such an agreement is to sell, construct or renovate a building. The Flemish Government may grant exceptions to this rule.

**Article 31.** In the same decree, Article 33/21 is added to the same subsection 7.1, which reads as follows:

“Article 33/21. (1). For works and actions on construction works for which a mandatory material performance assessment applies in accordance with Article 33/19, the person required to submit a declaration shall appoint an MP expert before the start of the works and actions.

The Flemish Government may determine the conditions that an MP expert must meet.

(2). If the MP expert changes before the completion of the material performance declaration, the newly appointed expert or the person required to submit a declaration shall notify OVAM electronically. The Flemish Government may determine the deadline for submitting this electronic notification.

**Article 32.** In the same decree, Article 33/22 is added to the same subsection 7.1, which reads as follows:

“Article 33/22. (1). The MP expert shall draw up the technical material performance file, the material performance start declaration and the material performance declaration.

(2). The MP expert shall draw up a technical material performance file from the appointment until the submission of the material performance declaration. The technical material performance file gives an overview of the materials that are intended to be used or have been used during the works, with the corresponding supporting documents. The MP expert prepares the technical material performance file in electronic format.

(3). Prior to the start of the works and actions, the MP expert shall carry out a preliminary calculation of the material performance of the construction work. The MP expert shall make that preliminary calculation on the basis of the choices made for the materials.

The MP expert draws up the material performance start declaration on the basis of the preliminary calculation and the technical material performance file and submits this material performance start declaration to OVAM on behalf of the person required to submit a declaration before the start of the works or actions. The material performance start declaration is signed by the MP expert, the architect and the person required to submit a declaration. The works and actions shall not commence until a material performance start declaration with pre-calculation has been submitted.

The architect and the other designers of building work elements concerned make the necessary information available to the person required to submit a declaration and to the MP expert. The person required to submit a declaration or the architect shall provide the contracted contractors with the available data on the material performance of the construction work. OVAM may request the data underlying the choice of materials and measures in the material performance calculation.

OVAM shall provide an indicative MPC on the basis of the Material Performance Start Declaration.

(4). At the end of the works, the MP expert makes a final material performance calculation of the construction work. The material performance expert makes that final calculation on the basis of the actual state of the construction works.

The MP expert draws up the material performance declaration in accordance with the works already carried out, on the basis of the final material performance calculation and the technical material performance file, and submits it to OVAM on behalf of the person required to submit a declaration. The material performance declaration is signed by the MP expert and the person required to submit a declaration.

The material performance declaration describes the measures that determine the material performance of the building. This must be done on the basis of the supporting documents provided by the person required to submit a declaration and an on-the-spot check. The material performance declaration reports the actual condition of the construction work in the material performance calculation.

The architect or contractors shall, at the first request of the person required to submit a declaration, provide that person with the data and supporting documents relating to the materials and installations actually used in the construction work and necessary for the calculation of the performance of the materials. The person required to submit a declaration shall make this data and supporting documents available to the MP expert upon first request. OVAM may request the data underlying the choice of materials and measures in the material performance calculation.

OVAM issues a definitive MPC on the basis of the material performance declaration.

(5). The MP expert delivers the result of the material performance calculation, expressed in one or more numerical indicators, to the energy performance reporter.

(6). The MP expert shall keep the following documents for five years:

- 1 the material performance start declaration and the associated data. The documents are signed by the MP expert, the person required to submit a declaration and the architect;
- 2 the material performance declaration, the accompanying plans and annexes, and the final MPC. The documents are signed by the MP expert and the person required to submit a declaration;
- 3 the technical material performance file, the accompanying plans and annexes.

Upon simple request, the MP expert shall make the documents referred to in the first paragraph available to OVAM.

(7). The person required to submit a declaration shall keep the documents referred to in Section 6(1) for a period of ten years. The person required to submit a declaration shall make the documents available to OVAM upon simple request.

If the person required to submit the declaration is no longer the owner of the building to which the material performance declaration relates, said person is

obliged to pass this information on to the new owner. The new owner will, therefore, become the person required to submit a declaration and must comply with all related obligations.

(8). The Flemish Government shall determine:

- the method and deadline for submitting the material performance start declaration, the material performance declaration and the accompanying supporting documents, and any deviations therefrom;
- which results of the material performance calculation are transmitted to the energy performance reporter;
- the method and deadline for delivering the results of the material performance calculation to the energy performance reporter.

(9). The Flemish Government may:

- determine which supporting documents are collected and stored in the technical material performance file and which supporting documents are submitted to OVAM
- impose detailed rules on the splitting or aggregation of multiple material performance declarations into a single file;
- lay down detailed rules on the form and content of the pre-calculation, the final calculation, the technical material performance file, the material performance start declaration, the material performance declaration and the MPC.

**Article 33.** In the same decree, in Part 7, as added by Article 25, a Subsection 7.2 is added, which reads as follows:

“Subsection 7.2. Material performance database”.

**Article 34.** In the same decree, in Subsection 7.2, as added by Article 31, an Article 33/23 is added, which reads as follows:

“Article 33/23. (1). OVAM shall maintain and manage a material performance database.

(2). The Flemish Government shall determine which data and documents from Article 33/22 are to be recorded and maintained electronically and in what form said data and documents are to be supplied and processed. The Flemish Government shall determine which actors provide the data. OVAM records said data in the material performance database.

(3). Every person required to submit a declaration or MP expert residing or established in Belgium is uniquely identified in the material performance database by means of the enterprise number, national registration number or alien registration number. The Flemish Government may determine an alternative identification method for persons required to submit a declaration or MP experts who do not reside or are not domiciled in Belgium. The Flemish Government determines how OVAM enters such data into the material performance database.

(4). The data in the material performance database shall be accessible only to the services of the Flemish Government, inspection services and the relevant licensing authority. The MP expert, the architect and the person required to submit a declaration have access only to the data in their own files. The

Flemish Government determines the parts of the material performance declaration to which the owner of the structure, who is not a person required to submit a declaration, has access.

Notwithstanding the first paragraph, OVAM may, for statistical and scientific research purposes, make anonymised data from the material performance database, whether or not linked to anonymised data from other government databases, available to interested parties. OVAM determines the conditions under which such data may be used.

In order to monitor the material performance of buildings, OVAM may link the data from the material performance database to the data available in other government databases. Once such data are linked, such data shall be anonymised. Under no circumstances shall they be traceable to an identifiable natural person.”.

**Article 35.** In the same decree, in Part 7, added by Article 25, a Subsection 7.3 is added, which reads as follows:

“Subsection 7.3. Accreditation of MP experts and certification bodies.

**Article 36.** In the same decree, in Subsection 7.3, added by Article 33, an Article 33/24 is added, which reads as follows:

“Article 33/24. The MP expert referred to in Article 33/22(1), first paragraph, is an independent expert certified by a certification body for MP experts.

The Flemish Government may determine the conditions and rules for the certification, quality assurance and sanctioning of MP experts, the conditions and rules for the use of the MP expert certificate and the conditions and procedure for sanctioning, suspending, lifting the suspension and revoking the MP expert certificate.

Certification bodies for the certification of MP experts and their quality assurance shall be accredited. The Flemish Government determines the conditions and procedure for the sanctioning, suspension, lifting of the suspension and the accreditation and the conditions for the use of the accreditation. The Flemish Government determines the tasks and the quality requirements of the certification body for the certification of MP experts, determines the rules as regards the supervision of the functioning of the certification body for the certification of MP experts and may designate a body which verifies and sanctions the accreditation of the certification bodies for the certification of MP experts.

OVAM is automatically certified as an MP expert.

A certification regulation may be drawn up for the certification of an MP expert as referred to in the first and second paragraphs, and the accreditation of a certification body for MP experts as referred to in the third paragraph. The Flemish Government may determine how said certification regulation is established and may determine the content thereof.

**Article 37.** Article 66(1) of the same decree, as amended by the Decrees of 29 March 2019 and 26 February 2021, is now amended as follows:

1 in the first paragraph, the word “materials,” is inserted between the words “samples of” and the word “waste”;

2 in the second paragraph, a new point 4 is added, which reads as follows:

“4 the appointment and monitoring of institutions for carrying out checks and inspections linked to the registration and, where appropriate, for the granting of certifications and accreditations in the context of quality assurance systems as referred to in Article 13(2).”;

3 the sixth paragraph is replaced by the following:

“The Flemish Government may charge third parties a fee for consulting data from the asbestos inventory database referred to in Article 33/10(4), first paragraph.”;

4 a ninth and tenth paragraphs are added, which read as follows:

“The Flemish Government may, in the case of the import, export or transit of waste, require the notifier and, where necessary, the client to pay a fee to cover the appropriate and proportionate administrative costs for implementing the notification and supervision procedures and the normal costs of appropriate analyses and inspections, as referred to in Article 30 of Regulation (EU) 2024/1157.

The Flemish Government may make the assessment of an application for the status of pre-approved facility for recovery in the context of cross-border shipments as referred to in Article 14 of Regulation (EU) 2024/1157 conditional upon the payment of a fee.”;

5 a tenth paragraph is added, which reads as follows:

“The Flemish Government may charge third parties a fee for using the exchange platform that regulates the exchange of identification forms in accordance with Article 6(2), second paragraph.”;

6 an eleventh, twelfth and thirteenth paragraphs are added, which read as follows:

“The Flemish Government may make the delivery of an MPC as referred to in Article 33/22 subject to the payment of a fee.

The Flemish Government may charge a fee to third parties to consult, dispose of and use the material performance database referred to in Article 33/23(1).

The Flemish Government may charge a fee for assessing an application for accreditation as a certification body for MP experts, as referred to in Article 33/24, third paragraph.

Chapter 4. Provisions on the entry into force

**Article 38.** Article 3, Article 5(4), Article 8(12) and Article 37(3) shall enter into force on 21 May 2026.

**Article 39.** Article 2(4), Article 4, Article 5(13), Articles 27 to 36 and Article 37(6) shall enter into force on a date to be determined by the Flemish Government and no later than 1 January 2030.

**Article 40.** Article 15 shall enter into force on the date to be determined by Flemish Government.

Brussels, ... (date).

The Minister-President of the Flemish Government,

Matthias DIEPENDAELE

The Flemish Minister for Environment and Agriculture,

Jo BROUNS