

Register of Court Experts in Criminal Cases Decree
Valid from 15 April 2017 to date.

Decree of 18 July 2009, establishing the Netherlands Register of Court Experts and containing quality requirements for experts in criminal cases (Register of Court Experts in Criminal Cases Decree)

We Beatrix, by the grace of God, Queen of the Netherlands, Princess of Orange-Nassau, etc., etc., etc.

On the recommendation of Our Minister of Justice of 28 November 2008, no. 5576404/08/6;

Having regard to Articles 51i, paragraph 4 and 51k, paragraph 1, of the Code of Criminal Procedure [*Wetboek van Strafvordering*],

Having heard the Council of State [*Raad van State*] (advice of 26 January 2009, no. W03.08.0519/II);

In view of the detailed report of Our Minister of Justice, also on behalf of Our Minister of the Interior and Kingdom Relations of 10 July 2009, no. 5606193/09/6;

Have approved and understood:

Article 1

For the purposes of this Decree, the following definitions shall apply:

- a. *Our Minister*: Our Minister of Justice;
- b. *Register*: the national public register, referred to in Article 51k of the Code of Criminal Procedure, and its name in full is the Netherlands Register of Court Experts [*Nederlands Register Gerechtelijk Deskundigen*];
- c. *Registered Expert*: the person who is registered as expert in the Register;
- d. *Board*: the Board, referred to in Article 3;
- e. *Secretary*: the Secretary of the Board, referred to in Article 10;
- f. *Bureau*: the Bureau for the support of the activities of the Board, referred to in Article 11;
- g. *Applicant*: the person who has submitted an application for registration to the Board.

Article 2

The object of the Register is to promote, in criminal trials, the use of experts who have been found, by the Board, to have met the quality requirements set forth in Article 12, paragraph 2, by collecting and publicising the personal data of these experts, to the extent that this data is relevant to potential commissioning parties.

Article 3

1. There shall be a Court Experts Board.
2. The Board shall have its principal office in Utrecht.

Article 4

The duties of the Board shall be:

- a. to decide, in accordance with the provisions of Articles 12 to 14 inclusive and 17 to 19 inclusive, on an application for registration or re-registration and, in accordance with the provisions of Article 18, on any removal from the Register, to have the Register, in which

the decisions are processed, established and maintained, and to give instructions in this respect to the Bureau;

- b. to ensure that specific requirements are drawn up for each area of expertise for the further expansion of the requirements referred to in Article 12, paragraph 2;
- c. to establish a Code of Conduct containing rules of conduct, to which the Registered Expert must adhere;
- d. to establish, in consultation with the Secretary, the activities to be carried out by the Bureau for the support of the activities of the Board.

Article 5

1. The members of the Board shall be appointed based on the expertise necessary for a competent fulfilment of the duties referred to in Article 4 as well as on the basis of their broad social knowledge and experience.
2. The Board shall consist of an odd number of members to be determined by Our Minister, which shall, in any case, be comprised of:
 - a. one member of the judiciary, entrusted with the administration of justice, who shall also act as Chair;
 - b. one member of the Public Prosecution Service;
 - c. one defence lawyer;
 - d. one police official and
 - e. three Court experts.

Article 6

1. The Board shall perform its duties in an impartial and independent manner.
2. Members of the Board may excuse themselves from participating in processing an application, if in their opinion there are facts or circumstances conflicting with their impartiality or independence.
3. If the provisions of paragraph 2 apply, the remaining Board, shall decide.

Article 7

1. The Board shall determine its own working procedure.
2. The Board shall draw up criteria to serve as a basis for the assessment as to whether the application fulfils the requirements, referred to in Article 12, paragraphs 1 and 2, for each field of expertise and shall publicise these criteria.
3. The Board shall appoint a Committee for Objections, a Committee for Standards and a Committee for Assessment, and may also elect committees from its members and charge these committees with the performance of specific duties.
4. The Board, and committees established by the Board, may be assisted by non-Board members, to the extent required for the performance of their duties. Such individuals may participate in these committees.
5. Members of one of the committees referred to in the third paragraph may excuse themselves from participating in processing an application if in their opinion there are facts or circumstances conflicting with their impartiality or independence.

Article 8

1. The Chair and the members, referred to in Article 5, paragraph 2 sub-paragraphs a to e inclusive, shall be appointed by Our Minister upon recommendation by the Board, except at the time of the establishment of the Board.
2. Our Minister may also appoint, upon recommendation of the Board, as many replacement members of the members specified in Article 5, paragraph 2, as required.

3. The members and replacement members of the Board shall be appointed for a period of four years, except for the possibility of earlier dismissal. They may be re-appointed once for an equal period. Board Membership will terminate upon attainment of the age of seventy years.
4. Our Minister will establish appropriate financial compensation for those who render assistance at the request of the Board, pursuant to Article 7, paragraph 4, to the extent they are not employed by the Government.

Article 9

1. The Board shall establish management regulations, which shall contain rules on the working methods and procedures with a view to a competent and diligent performance of the duties of the Board, Chair, Secretary and Bureau.
2. Each year the Board will draw up an annual plan before 1 April, which will be sent to Our Minister.

Article 10

1. The Board will have a Secretary and a Bureau, whose civil servants will be appointed, suspended and dismissed by Our Minister upon recommendation of the Chair. The Secretary will not be a member of the Board.
2. The Chair manages the activities of the Secretary and the Bureau.

Article 11

1. A Bureau will be established to support the activities of the Board. Our Minister, after consultation with the Board, shall be responsible for providing the necessary facilities for the activities of the Bureau and the Board. Our Minister may designate an agency for the management of the Bureau. Our Minister may, upon recommendation of the Board, designate a different organisation as processing agency for the Register.
2. The duties of the Bureau shall be:
 - a. to support the Board in its activities;
 - b. to prepare and carry out the activities established by the Board in accordance with the provisions of Article 4;
 - c. to maintain the Register and process the decisions of the Board in respect of registration, removal and re-registration in the Register in accordance with the instructions of the Board and to destroy personal data processed by the Board and the Bureau in accordance with the provisions of the Personal Data Protection Act;
 - d. to provide, when requested, the information included in the Register and to act as inquiry desk for experts and commissioning parties;
 - e. to publish and continue to make available the policies adopted by the Board on the website of the Netherlands Register of Court Experts in addition to keeping the register accessible to all concerned.

Article 12

1. In accordance with the requirements referred to in paragraph 2, an application for registration will only be eligible for assessment if the application relates to a well-defined field of expertise where, in the opinion of the Board, meaningful, objective and reliable information can be produced and which is developed to the extent that the findings within this field can be assessed and justified on the basis of shared standards.
2. Upon submission of the application an expert will be registered as an expert in criminal cases if, in the opinion of the Board, he or she:

- a. has sufficient knowledge and experience in the field of expertise to which the application relates;
- b. has sufficient knowledge and experience in the field of law concerned, and is sufficiently familiar with the position and role of the expert in this field;
- c. is able to inform the commissioning party whether, and if so, to what extent the commissioning party's question at issue is sufficiently clear and capable of investigation in order to be able to answer it based on their specific expertise;
- d. is able, based on the question at issue, to prepare and carry out an investigation plan in accordance with the applicable standards;
- e. is able to collect, document, interpret and assess investigative materials and data in a forensic context, in accordance with the applicable standards;
- f. is able to apply current investigative methods in a forensic context in accordance with the applicable standards;
- g. is able to give, both orally and in writing, a verifiable and well-reasoned report on the assignment and any other relevant aspects of their expertise in terms which are comprehensible to the commissioning party;
- h. is able to complete an assignment within the stipulated or agreed period;
- i. is able to carry out the activities as an expert: independently, impartially, conscientiously, competently and in a trustworthy manner.

Article 13

1. The application for registration shall be made in writing in accordance with a model approved by the Board.
2. The expert shall submit together with the application for registration the following documents:
 - a. A Certificate of Good Conduct issued three months earlier at the most;
 - b. - the expert who has resided for less than four years in the Netherlands and before that has resided for more than one year in another country, in addition to the Certificate of Good Conduct, is required to submit, if possible, a Certificate of Integrity issued by a relevant competent authority in the country where the applicant has resided for a period of minimally one year, before taking up residence in the Netherlands;
- the expert who does not reside in the Netherlands shall submit, if possible, instead of the Certificate of Good Conduct, a Certificate of Integrity issued by a relevant competent authority in the country where the applicant resides;
- if the expert is unable to submit a Certificate of Integrity or submits a Certificate of Integrity from a country outside the European Union, and the Board is not convinced that the submitted Certificate of Integrity provides sufficient guarantee of the expert's integrity, the Board may refuse registration or require a declaration in which the expert agrees to disclosure of the fact that his or her integrity cannot be objectively established;
 - c. evidence of the qualifications to the extent relevant to the registration;
 - d. a declaration to the effect that the application for registration has been prepared according to the truth;
 - e. a declaration to the effect that the applicant agrees to disclosure of his or her personal data in accordance with the provisions of Article 16;
 - f. a signed declaration to the effect that the applicant has read the Code of Conduct established by the Board and agrees to adhere to the rules of conduct included in this code during the period of registration in the Register;
3. The application for registration, referred to in paragraph one, shall contain the following information:

- a. applicant's name and a specification of the way in which the applicant wishes to have his or her contact details to be included in the Register;
- b. the field of expertise to which the application for registration relates;
- c. names and positions of referees whom the Board may consult and a specification of their contact details;
- d. a description of qualifications relevant to the assessment of the application;
- e. sources of publication relevant to the application;
- f. a list of cases in which the applicant previously appeared as an expert.

Article 14

1. The application will not be processed if, despite a reminder notice, the applicant has failed to submit the data and documents referred to in Article 13.
2. The application for registration will be rejected if:
 - a. the applicant, in the opinion of the Board, does not fulfil the quality requirements stated in Article 12, paragraph 2, unless the provisions of Article 19 apply;
 - b. it is revealed the applicant failed to prepare the application in accordance with the truth;
 - c. pursuant to a final court decision, the applicant has been placed under guardianship due to a mental disorder;
 - d. a decision to remove the expert's registration from the Register which has been taken under this Decree does not permit re-registration.In other cases, the application shall be granted.
3. The Board will decide within three months of receipt of the application as described in Article 12, paragraph 1.

Article 15

The Registered Expert will receive a certificate of registration.

Article 16

The Register shall contain the following information which will be available for public inspection:

- a. name of the expert and a specification of the way in which the expert wishes to have his or her contact details to be included in the Register;
- b. the field of expert for which the expert is registered;
- c. the fact that the expert's integrity could not be objectively established by the Board if Article 13, paragraph 2 sub-paragraph b, third bullet point applies.

Article 17

1. With the exception of a provisional registration under Article 19 or removal, in accordance with Article 18, registration in the Register will be for a period of five years.
2. Not later than six months before expiration of the period referred to in paragraph 1, the Bureau will contact the expert to inquire regarding possible re-registration.
3. The provisions of Articles 12 to 16 inclusive and article 19 shall apply *mutatis mutandis* to re-registration.

Article 18

1. A registration will be removed when:
 - a. the expert no longer wishes to be registered or to be re-registered;
 - b. the expert is deceased;
 - c. the application in accordance with Article 14, paragraph 2 is rejected;

- d. in the opinion of the Board, the relevant expert no longer fulfils the requirements specified in Article 12, paragraph 2, or fails to comply with the conditions stipulated by the Board, as referred to in Article 19, paragraph 2.
2. If the expert is registered for more than one field of expertise, the removal can be confined to one or more of the fields of expertise.
3. A decision to remove the registration as described in the first paragraph, sub-paragraph d, will be announced via the website of the Netherlands Register of Court Experts and in the Dutch Government Gazette [Staatscourant].
4. The decision to remove the registration as referred to in the first paragraph, sub-paragraph d, will stipulate within what period no fresh application for registration in the Register can be made. This period will not exceed ten years.
5. Without prejudice to the provisions of the first paragraph, sub-paragraph d, the removal will not come into force until the Board has decided on an application for re-registration.
6. In accordance with the provisions of the first paragraph, sub-paragraph d, the Board can carry out an investigation. For reasons of urgency, the Board can temporarily remove the registration during the investigation.
7. The Board will delete the data which it has processed with regard to an expert in connection with the performance of its task described in Article 4, paragraph a,
 - a. five years after the decision to reject the application for registration has become final;
 - b. two years after the decision to remove the registration has become final;
 - c. two years after the end of the period described in Article 17, paragraph 1, if the Registered Expert has indicated that he does not wish to be considered for re-registration;
 - d. one month after notification that the Registered Expert no longer wishes to be registered in the Register;
 - e. one month after notification that the Registered Expert has died.

Article 19

1. An expert who does not fulfil all the requirements of Article 12, paragraph 2, can, pursuant to a request as described in article 12, paragraph 1, on each occasion be provisionally registered each time unless the registration is removed in accordance with the provisions of Article 18. The Board will stipulate the terms and conditions which the expert must meet.
2. A provisional registration in the Register will only be made if, in the Board's view, there is a reasonable expectation that the expert will satisfy all the conditions as referred to in article 12, paragraph 2, within the periods stipulated for this.
3. In the event of repeated application of the provisions of the first paragraph, the conditions to be stipulated by the Board cannot successively be the same, unless exceptional circumstances have made impossible for the expert to meet the conditions previously stipulated by the Board.
4. Articles 13 to 16 inclusive and 17, paragraphs 2 and 3, shall apply mutatis mutandis.

Article 20

Before appointing an expert who is not included in the Register, in a criminal case, the judge will assess suitability to appear as court expert as much as possible on the basis of the quality requirements stated in Article 12, paragraph 2.

Article 21

This Decree shall come into force simultaneously with the Expert in Criminal Cases Act [*Wet Deskundige in Strafzaken*].

Article 22

This Decree may be referred to as: The Register of Court Experts in Criminal Cases Decree.

Direct and order that this Decree and the accompanying Explanatory Memorandum be placed in the Bulletin of Acts, Orders and Decrees.

Tavarnelle, 18 July 2009

Beatrix

The Minister of Justice,

E.M.H. Hirsch Ballin

The Minister of the Interior and Kingdom Relations (ad interim),

E.M.H. Hirsch Ballin

Issued on the 30th day of July 2009

The Minister of Justice,

E.M.H. Hirsch Ballin