

Additional Regulations for *Statutory* Certification Schemes



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Additional Regulations for ***Statutory Certification Schemes***

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1. Introduction

1.1. Background

As a result of a withdrawing government, increasingly more tasks, including the accreditation and supervision of companies, institutions and individuals, are being delegated to Independent Administrative Bodies designated by the minister. The minister has designated Kiwa as an Independent Administrative Body for the implementation of various certification schemes. The provision of these services falls under administrative law. As a result of this, several different rules apply in relation to the Kiwa Regulations for attesting and certifying products, processes, systems and individuals. These different rules are laid down in these 'Additional Regulations for Statutory Certification Schemes'.

1.2. Scope

These additional regulations apply to the implementation of statutory certification schemes and must, depending on the object of certification, be read in conjunction with the applicable Kiwa Regulations for products, processes, systems and individuals or attestation. If there is any inconsistency with these Additional Regulations, the Additional Regulations for Statutory Certification Schemes will take precedence.

1.3. Definitions

- a. For the purpose of these regulations, a statutory certification scheme means the attesting and certification of products, processes, systems and individuals, which Kiwa does in its capacity as an independent administrative body, on the basis of a ministerial designation order.
- b. For the definition of general terms, reference is made to the terms and definitions stated in NEN-EN-ISO 9000: 2005, as well as the supplementary definitions given in the applicable standards.
- c. The following further terms have the stated meaning in these Regulations:
 - Awb: General Administrative Law Act
 - Decision: Letter in which the decision to grant or withdraw the certificate is documented;
 - Conformity Assessment Scheme: Set of requirements and methods for attesting and certifying individuals, products,
 - WOB: Government Information (Public Access) Act;
 - Minister: The minister on whose behalf the designation order is issued to Kiwa;

- ZBO: Independent Administrative Body: an organisation designated by the minister for the performance of statutory duties;
- Kiwa: Kiwa N.V.

2. Additional requirements

2.1. Processing of the application for certification

Kiwa informs potential for certification of the certification requirements, the certification procedure, the associated costs, the applicable regulations and the information to be provided.

If some of the necessary information is not provided with the application, Kiwa will give the applicant the opportunity to supplement this information within a reasonable period. The application is suspended from the date of the request to provide the missing information.

If the applicant fails to provide the requested information within the stipulated period, Kiwa may decide, within four weeks of the expiry of this period, not to process the application any further. The costs that have been incurred will be charged to the applicant.

After receipt of the order/application and information, Kiwa will commence the certification audit as soon as possible. If a certification audit and the decision on whether to grant the certificate cannot be completed within an eight-week period, the applicant will be notified of this fact in writing and a reasonable processing period will be agreed in consultation with the applicant.

Before a decision to certify/not to certify is made, the results of the certification audit are reported to the applicant. By doing this, Kiwa gives the applicant the opportunity to criticise the report and, after any changes incorporating the criticism, requests the applicant to agree to the report.

2.2. Decision on whether to grant certification and the decision

After the report is adopted, a qualified decision-maker, who was not involved in the certification audit, will make a decision. The decision is documented and substantiated. The applicant is then also informed of the objection and appeal options.

2.3. Objection and appeal procedure

For the purpose of its statutory assessment and certification activities, Kiwa applies the objection and appeal procedure for administrative bodies, as set out in Chapters 6 and 7 of the General Administrative Law Act.

a. Objection

Within six weeks of the dispatch of the decision, interested parties may file a substantiated objection against Kiwa's decision by means of a notice of objection. The interested party is requested to set out their arguments in the notice of objection and to attach a copy of the contested decision and all other documents that are relevant to the case to the notice of objection.

Kiwa then organises a hearing. This hearing is chaired by a Kiwa employee who has not been involved in the decision against which the objection has been made. During the hearing, the person who filed the objection and the person who made the contested decision have the opportunity to voice their opinion/views in each other's presence.

Within six weeks, or twelve weeks if an advisory committee has been established, of the expiry of the period for filing a notice of objection, Kiwa will make its decision. Kiwa may extend this period once by six weeks. These periods may be deviated from in consultation and with mutual consent.

Kiwa sends this decision by registered post to the person who filed the notice of objection.

b. Appeal

Within a period of six weeks of the dispatch of this decision, or of a refusal to make a decision, on a notice of objection, a notice of appeal may be filed with the administrative law sector of the district court where the applicant has their place of residence or business. A further appeal to the administrative jurisdiction division of the Council of State is possible.

The interested party has the option, either at the same time as filing the objection or the appeal or pending the objection or appeal procedure, to request provisional relief from the administrative law sector of the district court.

2.4. Complaints

In principle, complaints must be dealt with within a period of six weeks. A list of the written complaints that have been filed with the government institution that is involved with the statutory certification scheme is published each year.

2.5. Openness of administration

Under the Government Information (Public Access) Act, members of the public can request information concerning Kiwa's administrative actions as an Independent Administrative Body. Kiwa is obliged to provide this information, with the exception of:

- business secrets
- documents that can harm other parties

Kiwa only deals with written requests for information and will inform the certified client concerned about the request for information and whether or not this information will be provided.

3. Final provisions

- 3.1. These regulations replace the Additional Regulations for Statutory Certification Schemes: 2006
- 3.2. These regulations can be cited under the name 'Additional Regulations for Statutory Certification Schemes: 2010.'
- 3.3. Amendments to these regulations will take effect only after publication by Kiwa, stating the effective date.
- 3.4. These regulations have been declared binding by the Chief Operating Officer (COO) of Kiwa N.V., and will take effect on 1 June 2010.