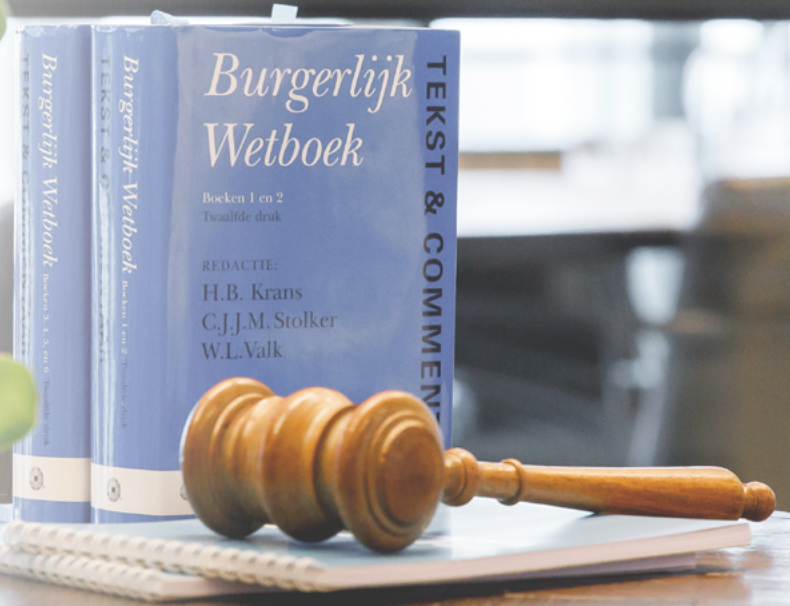


COEO



WHITEPAPER

# The Quality in Debt Collection Services Act

Everything you need to know about the Act and the impact on your debtor management and your collaboration with coeo

# The Quality in Debt Collection Services Act

– Everything you need to know.



## FOREWORD BY LL. RENÉ DOORNHEIM

On October 10<sup>th</sup> 2017, the coalition agreement of the new Rutte III government was presented, which contained the following sentence:

*There will be a debt collection register that will include debt collection agencies that meet requirements on incorporation, business operations and training.*

This intention of the Dutch government led to the Quality in Debt Collection Services Act (Wki). This law sets out the rules collection agencies and creditors will have to adhere to in their communication with customers with payment arrears. Key components of this law are the setting of quality requirements for debt collection services, reducing the stacking up of collection costs and strengthening the position of debtors during collection procedures.

As a holder of the Incassokeurmerk (Debt Collection Quality mark), coeo welcomes the arrival of the Wki and the registration of debt collectors. Indeed, the rules of the Wki are largely shaped by the same rules as those applicable under the Debt Collection Quality mark. That being said, there are some developments arising from the Wki that we would

like to inform you about.

With the impending entry into force of the Wki on April 1<sup>st</sup> 2024, we would like to inform you, as a valued relation of coeo, about all the changes the Wki will cause to your business and to your collaboration with coeo!

I wish you much inspiration and reading pleasure!

*LL. René Doornheim*

Legal & Compliance Officer at coeo



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## Wat will change on April 1<sup>st</sup> 2024?

On April 1<sup>st</sup> 2024, the Wki will officially come into force. The Wki was created to improve the positions of individuals and small business owners in debt-collection procedures and to keep out debt-collection 'cowboys' by setting quality requirements for debt-collection services. These two elements will therefore be recognisable in almost every aspect of the Wki.

### To whom do the obligations of the Wki apply?

The Wki will apply to companies providing debt collection services in the exercise of a targeted profession or business, for a third party or after buying the receivable yourself, aimed at natural

persons residing in the Netherlands. Due to a fairly broad definition for the phrase 'targeted', almost any collection agency, bailiff, factoring company or lawyer falls under the requirements of the Wki.

The term *natural persons living in the Netherlands* refers not only to consumers, but also small business owners such as owners of a sole proprietorship or the partners of a general partnership. So this means that it is important for your enterprise to know what type of business your business customer has before you hire a debt collection agency. This means that it is possible that your business invoices will also fall within the scope of the Wki.

Under the Wki, the penalty for using the wrong collection agency may include that your customer does not have to pay the collection agency and does not have to pay the collection costs of the next collection agency. In any case, as a customer of coeo, you can contact us with all your customers with payment arrears.

### The debt collection register

On April 2<sup>nd</sup> 2024, the register of debt collection services of the screening authority Justis will open for registration by debt collection agencies. This register is intended to enable the monitoring of debt collection agencies, and will be made public via the internet. The public aspect of the register means that anyone contacted by a debt collection agency can verify whether it is registered.

Existing debt collection agencies such as coeo will be given one year - until April 1<sup>st</sup> 2025 - to register and may remain active during this year as if they had already registered. From the entry into force



of the Wki, all other parties<sup>1</sup> will be prohibited from performing or offering extrajudicial debt collection activities in relation to natural persons, unless that party is registered.

### Quality requirements for the debt collection agency and its staff

As explained above, ensuring quality is one of the main pillars of the Wki.

The quality of debt collection services is guaranteed by the requirement, among other things, that debt collection agencies keep proper records, that employees of debt collection agencies are - and continue to be - properly trained and are only allowed to work if a Certificate of Good Conduct (VOG) can be presented. These requirements have been adopted from the Debt Collection Quality mark and various training courses will therefore be provided by the Quality mark holder, the NVI<sup>2</sup>, in line with the Wki.

<sup>1</sup> | Excluding lawyers and bailiffs, which professions have their own registers.

<sup>2</sup> | De Nederlandse Vereniging van gecertificeerde Incasso-ondernemingen

Under the Wki, customers must also be treated politely, addressed properly and be provided with clear information about the debt, both by the collection agency and the (original) creditor. **The Wki therefore also contains obligations that you as a creditor must take into account. More on this later.**

### Complaints and disputes

Under the Wki, debt collection agencies must have a complaints procedure in place and have signed up to a dispute resolution scheme. As a Quality mark holder, coeo already has a complaints procedure that meets the requirements of the Wki. For dispute resolution, coeo will work together with the Financial Services Complaints Institute, the Kifid.

Kifid is a complaint resolution body that offers an expert and accessible solution to anyone with a complaint about a financial service or service provider, as an alternative to taking the matter through court. Kifid staff and members of the Disputes Committee and Appeals Committee are impartial. The Kifid takes into account the knowledge gap of consumers and small business owners, who generally litigate without a lawyer.

## What does this mean for you as a coeo customer?

As explained above, the Wki applies not only to collection agencies, lawyers and bailiffs, but in some cases also to you yourself as a creditor. The **two main obligations for you** as a creditor are in the provision of information to your customer and limiting the stacking of collection costs..

### *Information provision*

Under the Wki, once we take on a receivable for you, coeo is obliged to have evidence of your receivable in its possession. Evidence can include a copy of the invoice, for example, and a detailed description of the product or service purchased. This means that as a client of coeo, you will therefore be obliged to make this information available to us when submitting your receivable.

Although coeo, as a Quality mark holder, was already obliged to have this information available for your customer, under the *Incassokeurmerk* it was sufficient for us to request this information from you after the fact, for example if the customer asked for it or if you wished to initiate legal proceedings. So the Wki is going to make this obligation more burdensome.

### *Stacking up of collection costs*

In the next chapter, we explain what is laid down in the Wki to avoid the stacking up of collection costs and what you and coeo need to do in this context.

## What will change on October 1<sup>st</sup> 2024?

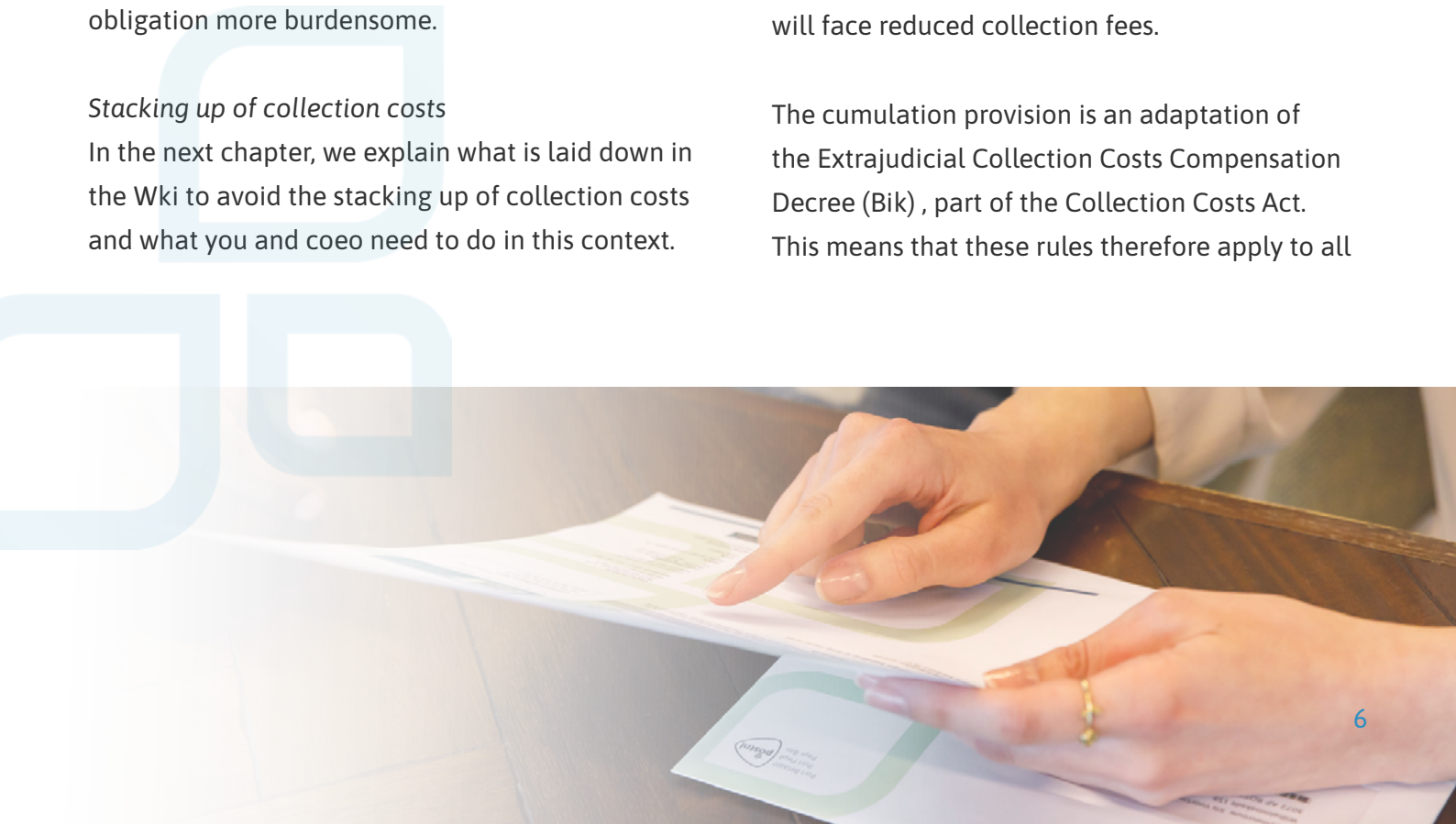
At the insistence of the NVI and others, part of the Wki has been postponed. This postponement was necessary because certain amendments to the law were quite complicated but had not yet been worked out in detail by the legislature.

Because the work to implement these changes could only start at the end of February 2024 - just a few weeks before the effective date of the Wki - the government agreed to this postponement. This means that the rules on the piling up of collection costs - called the **cumulation provision** by the legislature - will therefore only take effect from 1 October 2024.

## What is the cumulation provision?

The cumulation provision is designed to protect debtors from high collection costs in relation to subscriptions and other ongoing agreements such as rent. This new rule will ensure that customers who pay late more than once within six months will face reduced collection fees.

The cumulation provision is an adaptation of the Extrajudicial Collection Costs Compensation Decree (Bik), part of the Collection Costs Act. This means that these rules therefore apply to all



creditors and not only when a collection agency is used. The cumulation provision is worded as follows:

#### Article 2a(1) of the Bik

The fee (...) shall be €40 for the first instalment to which the lowest fee applies in a six-month period and €20 for subsequent such instalments in this period.

#### Article 2a(2) of the Bik

If (...) is issued with a demand for multiple instalment payments, at least one of which instalment payments is subject to the lowest fee (i.e. €40), the fee will be the highest amount that can be charged for any of the instalments in question.

## How does the cumulation provision work?

### Paragraph 1

As explained, the cumulation provision applies only to subscriptions and other recurring debts such as rent. The cumulation provision means that the statutory minimum amount of extrajudicial collection costs, normally an amount of €40, is reduced to €20 in certain situations.

Although the cumulation provision applies to debts of any amount, the effect of the cumulation provision is only noticeable for debts up to €266.70. The reason is that from this amount the collection minimum (€40) no longer applies, but the collection costs become 15% of the amount claimed.

The example below shows the correct application of the cumulation provision, assuming 6 missed payments by your customer for their monthly payment obligation.

The table shows that - if a customer has to pay full collection costs for the January term of his or her agreement - he or she will only have to pay €20 instead of €40 for subsequent debts over the next six months. However, this does not apply if successive instalments are not subject to €40 collection costs, but a higher amount (€42 in the example). So the cost for March will be €20, but for April it will be €42 as normal, because the receivable for April is €280. December is also subject to an amount of €20, as in the period six months ago (specifically September) the customer has already been issued a demand for full collection costs of €42.

## Application of the cumulation provision

| Overdue Month day | Principal monthly instalment | Level of collection costs |
|-------------------|------------------------------|---------------------------|
| January           | € 100                        | € 40                      |
| March             | € 100                        | € 20                      |
| April             | € 280                        | € 42                      |
| May               | € 100                        | € 20                      |
| September         | € 280                        | € 42                      |
| December          | € 100                        | € 20                      |

## Paragraph 2

Based on the aforementioned table, if you, as a creditor, do not declare your debtor to be in default for all his or her debts until December, only €42 collection costs may be charged on your behalf. So it will pay to give your customers timely notice of default with an official demand letter - also known as the 14-day, precollection or WIK letter - and always to take into account the correct calculation of collection costs.

## What does the cumulation provision mean for your cooperation with coeo?

As the Collection Costs Act will continue to apply, you still have to correctly declare your customer with payment arrears to be in default with a Wik letter before you can transfer your receivable to a collection agency. This demand letter must also still mention the correct collection costs. The cumulation provision has thus made this obligation even more burdensome in certain cases.

As it is not possible for every business to meet these obligations independently, for example due to the limitations of the accounting package used, we have created the **precollection service**. The precollection service means that we declare your customers to be in default on your behalf, taking into account all applicable laws and regulations.

Our precollection service allows you to outsource part of your debtor management to coeo without any problems, relying on our technical and legal expertise.

*We understand that some parts of the Wki are complex. Do you have questions about the Wki and the cumulation scheme, about how coeo deals with it within our services or would you like to use our pre-collection services? You can contact us for further clarification. We will be happy to help you.*

## Do you have any questions following this white paper?

Our team is at your service.



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