

## **TRANSLATION OF THE OFFICIAL PUBLICATION OF SINT MAARTEN (AB 2010, GT no. 18 )**

### **National ordinance General Audit Chamber<sup>1</sup>**

#### **Chapter 1. General provisions**

##### **Article 1**

Control of the financial and material management of the country in the broadest sense, regardless of the form given to that management, is performed by the General Audit Chamber.

#### **Chapter 2. Structure and composition**

##### **Article 2**

1. The General Audit Chamber consists of three members, including the chairman. There is a maximum of three deputy members to replace the members.
2. The chairman, the members and the deputy members are appointed by national decree for a term of seven years. Parliament nominates two persons to the Governor for the appointment of each member. If necessary, Parliament will consider the information received in accordance with paragraphs 3 and 4 in its nominations, if this appears useful to it.
3. The General Audit Chamber shall notify the Governor and Parliament of vacancies for the posts of the chairman, the members or the deputy members at the earliest opportunity.
4. The notification of Parliament shall be accompanied by a list of three candidates for each vacancy, drawn up by the General Audit Chamber by a majority of the votes cast. Parliament will nominate two candidates on this list to the Governor.
5. The nomination, referred to in paragraph 4 is of a binding nature.

##### **Article 3**

1. In order to qualify for appointment as a member of the General Audit Chamber, candidates must:
  - a. hold Dutch nationality;
  - b. be residents of Sint Maarten.
2. In order to qualify for appointment as a deputy member, candidates must hold Dutch nationality.

##### **Article 4**

1. A secretary shall be added to the General Audit Chamber, who will be appointed, suspended and dismissed by national decree on the proposal of the General Audit Chamber.
2. The terms of employment of the secretary shall be laid down in regulations that shall be adopted by the General Audit Chamber following approval by national decree.

##### **Article 5**

1. The members, deputy members and the secretary of the General Audit Chamber may not be related to each other by blood or affinity to the second degree.
2. In the event of forthcoming kinship, a person whose marriage gives rise to the kinship shall resign his appointment unless consent is granted for continuation of the appointment by national decree, following consultation of the General Audit Chamber and Parliament.
3. Spouses may not simultaneously hold the offices, referred to in the first paragraph. In the event of a forthcoming marriage, the future spouse who was appointed last shall step down.

##### **Article 6**

1. The offices of member, deputy member or secretary of the General Audit Chamber are incompatible with every other public office associated with fixed remuneration, an allowance or an attendance fee charged to the country or to an institution formed pursuant to a statutory regulation.
2. Furthermore, the members, deputy members and the secretary of the General Audit

---

<sup>1</sup> This issuance takes place on the basis of the additional Article II of the Constitution.

Chamber shall hold no other positions or offices, the performance of which is undesirable in view of the proper performance of their office at the General Audit Chamber or the preservation of their impartiality and independence, or of confidence therein.

3. If incompatibility as referred to in paragraph 1 arises, the person concerned shall cease to be a member, deputy member or secretary. He shall notify the General Audit Chamber of this, stating the reasons. If such notification is not provided but the General Audit Chamber nevertheless takes the view that one of the cases referred to in the first paragraph has arisen, it shall propose the dismissal of the person concerned to the Governor.

#### **Article 7**

Before accepting their appointment, members, deputy members and the secretary of the General Audit Chamber shall take the following oath of office (declaration or solemn affirmation) before the Governor:

I swear (declare) that I have not given or accepted anything of any description or pretext whatsoever, from or to any person whatsoever, directly or indirectly, in order to be appointed to my position, and shall not do so. I swear (declare or affirm) that I shall not accept any pledge or gift of any description from any person whatsoever, directly or indirectly, in order to take or refrain from any action of any description in this position. I swear (affirm) my loyalty to the Monarch, that I shall always (help to) uphold and enforce the Constitution of Sint Maarten and shall represent my office with honesty, diligence and impartiality.

So help me God Almighty  
(This I declare and affirm)!

#### **Article 8**

1. The members and deputy members shall enjoy annual remuneration.
2. Deputy members shall also receive an attendance fee for each meeting that they attend as such.
3. If the chairman or a member of the General Audit Chamber is absent for more than a month, their deputy shall enjoy remuneration based on that awarded to the chairman or member that they replace.
4. The amount of the remuneration and the attendance fee shall be laid down by national decree, containing general measures, on the proposal of the General Audit Chamber.

#### **Article 9**

1. Members and deputy members shall be dismissed by the Common Court of Justice:
  - a. at their own request;
  - b. on reaching the age of 70;
  - c. if they are convicted of a criminal offence by a judicial decision that has become final, or if a measure resulting in the deprivation of their liberty is imposed by such a decision;
  - d. if they are placed in receivership, declared bankrupt, are granted a moratorium on payments or are committed in relation to debt by a final judicial decision;
  - e. if their dismissal is proposed by the General Audit Chamber in the event that no consent is granted as referred to in Article 5(2) or the provisions of the second sentence of Article 5(3) are not followed;
  - f. if their dismissal is proposed by the General Audit Chamber pursuant to the provisions of Article 6(3);
  - g. on the loss of Dutch nationality;
  - h. on the loss of domicile in Sint Maarten.
2. Members and deputy members may be dismissed by the Common Court of Justice:
  - a. if they become unable to perform their official duties properly due to a persistent illness or a disorder;
  - b. if circumstances arise as referred to in Article 6(2);
  - c. if circumstances arise as referred to in Article 12.

#### **Article 10**

1. Members and deputy members shall be suspended by the Common Court of Justice:
  - a. if they are held in pre-trial detention;

---

*This is an English translation of the Dutch source text.*

*In the event of any discrepancy between the Dutch language version and the translation, and in case of any disputes, the Dutch version prevails. No rights can be derived from the English translation.*

*October 2013*

- b. if a preliminary inquiry is opened against them in relation to a criminal offence;
  - c. if they are convicted of a criminal offence in a court decision that has not become final, or if measures are imposed on them by such a decision, leading to the deprivation of their liberty;
  - d. if they are placed in receivership, are declared bankrupt, are granted a moratorium on payments or are detained due to debts by a court decision that has not become final.
2. A member or deputy member may be suspended by the Common Court if there are serious suspicions of the existence of facts or circumstances that could lead to dismissal, other than in the cases as referred to in Article 9(1)(a) and 9(1)(b) or Article 9(2)(..).
  3. The suspension, referred to in the preceding paragraphs shall end after three months. The Common Court of Justice may renew the measure for three months on each occasion.

#### **Article 11**

1. If there is an intention to suspend or dismiss one of the members of the General Audit Chamber other than in the cases as referred to in Article 9(1)(a) or 9(1)(b), the person concerned shall be given an opportunity to present his views on this.
2. The Common Court of Justice shall hand down the decisions referred to in this Chapter at the request of the Attorney-General. The Attorney-General's petition shall be filed officially or in response to a request from the chairman of the General Audit Chamber, stating the reasons.
3. Articles 32 and 33 of the Kingdom Act concerning the Common Court of Justice are likewise applicable to dismissal and suspension.

#### **Article 12**

The members, the secretary and the staff of the General Audit Chamber shall not participate in, directly or indirectly, or stand surety for any business based on agreement contracted for profit or benefit with the country or any part thereof.

#### **Article 12a**

The structure and organisation of the secretariat of the General Audit Chamber shall be laid down by national decree, containing general measures.

#### **Article 13**

1. The General Audit Chamber is authorised to employ staff under civil-law employment contracts.
2. The terms of employment of the staff shall be laid down in regulations that shall be adopted by the General Audit Chamber following its approval by national decree.
3. By way of derogation from paragraph 2 and Article 4(2), the National ordinance pensions of government civil servants (P.B. 1997, No. 312) shall be likewise applicable to the secretary and the staff.

#### **Article 14**

The General Audit Chamber shall establish rules of order for its work. The rules of order shall be announced through publication in the Official Gazette.

#### **Article 15**

The chairman shall supervise the work of the General Audit Chamber and the correct application of the regulations laid down by or pursuant to this national ordinance and the rules of order referred to in Article 14.

#### **Article 16**

1. If the chairman is unable to attend or in absence, he shall be replaced by one of the members, in order of appointment. If members were appointed simultaneously, the chairman shall be replaced by the oldest member in age.
2. If a member is unable to attend or in absence, one of the deputy members shall act in his place.
3. In the absence of the secretary, he shall be replaced by a member of the chamber's staff, to

---

*This is an English translation of the Dutch source text.*

*In the event of any discrepancy between the Dutch language version and the translation, and in case of any disputes, the Dutch version prevails. No rights can be derived from the English translation.*

*October 2013*

be designated by the General Audit Chamber.

#### **Article 17**

1. No orders may be carried at meetings of the General Audit Chamber unless at least the majority of the members are in attendance.
2. Resolutions shall be carried by a majority of the votes cast.
3. If the votes are tied, the chairman holds the casting vote.

#### **Article 18**

1. The members, the deputy members and the secretary shall not attend the discussions and decision-making on any matter concerning them, their spouses, their partners with whom they permanently cohabit or their relations by blood or affinity to the third degree.
2. They shall not take part in examinations of and decisions regarding accounts that they have rendered.

#### **Article 19**

1. The chairman of the chamber shall hear the oath, either the declaration or solemn affirmation of personnel employed by the General Audit Chamber under civil-law employment contracts.
2. The chairman of the chamber may delegate the hearing of the oath, referred to in paragraph 1 to the secretary.

### **Chapter 3. Legitimacy inquiry**

#### **Article 20**

All persons in possession of funds, securities or goods belonging to the country, or funds deposited in the national treasury or who manage funds belonging to the national treasury are accountable to the General Audit Chamber.

#### **Article 21**

The accountable persons shall present the copies and other documents concerning their accounting for their financial and material management to the General Audit Chamber.

#### **Article 22**

1. The Minister of Finance shall provide for the statements from the financial administration of the country required by the General Audit Chamber to be sent to it at such times and in such a manner as it determines.
2. All ministries shall provide the General Audit Chamber with such statements as it considers necessary for the performance of its task.
3. The General Audit Chamber shall determine the form in which, and the times at which the statements referred to in paragraph 2 must be sent in, after consulting the Minister of Finance.

#### **Article 23**

1. The General Audit Chamber shall examine:
  - a. the financial management conducted by the ministers and the annual financial statements concerning this, as well as the management of the parliamentary budget conducted by the Clerk to the Parliament on behalf of the Presidium of Parliament;
  - b. the administration kept for the purpose of that management and that accounting.
2. With regard to the financial management performed, the General Audit Chamber shall examine whether the revenue, costs and balance sheet transactions arose in accordance with the national budget adopted and with other statutory regulations and whether care was taken for orderly and verifiable financial management.
3. With regard to the financial statements, the General Audit Chamber shall examine whether these are correctly presented and are drawn up in accordance with the regulations prescribed for these.
4. The General Audit Chamber shall record its findings and its opinion on the financial

---

*This is an English translation of the Dutch source text.*

*In the event of any discrepancy between the Dutch language version and the translation, and in case of any disputes, the Dutch version prevails. No rights can be derived from the English translation.*

*October 2013*

management conducted and accounts in reports.

#### **Article 24**

The General Audit Chamber shall ensure as far as possible that the country's receivables and liabilities are settled with the required momentum.

#### **Article 25**

1. In performing its task, the General Audit Chamber may make use of the audits conducted by the designated auditors and other parties, without prejudice to its authorisation to conduct its own audit.
2. The work schedules of the institutions, referred to in paragraph 1 shall be placed at the disposal of the General Audit Chamber at its earliest request. It shall be fully informed of their findings through the submission of audit reports and all other relevant documents.

#### **Article 26**

1. To the extent that it considers this necessary for the performance of its task, the General Audit Chamber is authorised to require information by one or more of its members or deputy members, by its secretary or its personnel, with assistance from experts that it designates if so required, from all ministries, in the manner that it states. This authorisation includes monitoring cash and stocks. It is also authorised to require additional information.
2. The authorisation referred to in the first paragraph applies with regard to all accountable persons as referred to in Article 20, and to the institutions and legal persons, referred to in Article 42.
3. All persons employed in public service offices, all accountable persons and all persons employed for the management and administration of the institutions and legal persons as referred to in Article 42 shall provide the information that the persons referred to in paragraph 1 regard as necessary for the inquiries they are instructed to conduct, within the term to be set by the General Audit Chamber.
4. All ministers shall provide copies of all documents and all information that the General Audit Chamber considers necessary for its task, free of charge, on request.
5. Persons who possess the books, accounts, reports, evidence and other documents as referred to in paragraph 1 are required to hand these to the members or deputy members, the secretary, the staff or the experts designated by the General Audit Chamber to claim information as referred to in paragraph 1.

#### **Article 27**

The General Audit Chamber shall immediately inform Parliament of all revenues, costs or balance sheet transactions that are not consistent with the adopted national budget or that have been realised in contravention of any other statutory regulation, if consultations with the relevant minister and the Minister of Finance do not lead to a result that satisfies the Audit Chamber.

#### **Article 28**

1. If, on the basis of its examinations, referred to in Article 23, the General Audit Chamber has objections regarding the financial management performed or the accounting for this, it shall notify the minister concerned of these objections.
2. Within two months of the receipt of this notice, the minister concerned shall inform the General Audit Chamber of what could lead to the elimination of its objections.
3. Following the end of this term, the General Audit Chamber shall take its final decision, of which it shall notify the minister concerned. If it upholds its objection, it shall also notify Parliament of this.

#### **Article 29**

1. If the General Audit Chamber upholds its objections and these objections mean that certain revenues, costs or balance sheet transactions were not realised in accordance with the national budget or any other statutory regulations, then within three months, a draft national ordinance for elimination of the objections will be sent to Parliament unless a regulation to the satisfaction of the Audit Chamber is made in the meantime.
2. If, at the end of the term referred to in paragraph 1, the General Audit Chamber has seen

---

*This is an English translation of the Dutch source text.*

*In the event of any discrepancy between the Dutch language version and the translation, and in case of any disputes, the Dutch version prevails. No rights can be derived from the English translation.*

*October 2013*

- no such submission, it shall notify Parliament of this.
3. If the General Audit Chamber upholds its objections in its final decision and this concerns objections other than those referred to in the first paragraph, it shall record this in the report, referred to in Article 38. It may also include a note in that regard in the financial statements of the country.
  4. The minister concerned shall present his position concerning the objections referred to in paragraph 3 to Parliament in additional notes accompanying the financial statements.

#### **Chapter 4. Effectiveness inquiries**

##### **Article 30**

1. The General Audit Chamber shall devote attention to the effectiveness of the management of the funds and goods, the organisation and the functioning of the country's services.
2. The ministers shall notify the General Audit Chamber in good time of the effectiveness inquiries that they shall provide for, and the outcomes of these.
3. Articles 25 and 26 are likewise applicable

#### **Chapter 5. Other tasks and powers**

##### Section 1. General

##### **Article 31**

1. Parliament may request the General Audit Chamber to conduct certain inquiries, to the extent that the nature of the work permits this.
2. If the General Audit Chamber complies with the request, referred to in paragraph 1, it shall present its findings and its opinion as a result of the inquiries in a report, as well as in the report, referred to in Article 38.

##### **Article 32**

The General Audit Chamber may undertake other work at its own request, as approved by Parliament.

##### **Article 33**

1. The General Audit Chamber may conduct inquiries into the administrative integrity of politicians or officials in the performance of their duties and the exercise of their powers, at its own initiative or at the request of Parliament.
2. The General Audit Chamber shall record the findings of its inquiry, referred to in paragraph 1 in a report.
3. The General Audit Chamber shall record the results of the inquiries in the report, referred to in Article 38.

##### **Article 34**

1. The General Audit Chamber may make agreements with the General Audit Chambers of the Netherlands, Curaçao and Aruba on cooperation and support, to the extent that such cooperation, by its nature, should not be classed as cooperation between the countries of the Kingdom as referred to in Article 38(1) of the Charter for the Kingdom of the Netherlands.
2. The General Audit Chamber may also make agreements on cooperation with the General Audit Chambers of other countries.

##### **Article 35**

1. The General Audit Chamber may conduct audits together with, or at the request of the Audit Chamber of another country or international organisation.
2. Audits as referred to in paragraph 1, may take place if funds have been provided on behalf of another country or international organisation to an institution in Sint Maarten, the financial administration of which the General Audit Chamber is authorised to audit pursuant to this national ordinance.
3. The General Audit Chamber shall reach agreements with the Audit Chamber of the country or

---

*This is an English translation of the Dutch source text.*

*In the event of any discrepancy between the Dutch language version and the translation, and in case of any disputes, the Dutch version prevails. No rights can be derived from the English translation.*

*October 2013*

organisation that provided the financial resources with regard to the way in which, and the conditions on which the General Audit Chamber shall conduct the audit, in cooperation or otherwise with the Audit Chamber that requested the audit.

4. The provisions of this national ordinance are likewise applicable to audits as referred to in paragraph 1.

#### **Article 36**

If the provision for the administration has been outsourced to a third party, the General Audit Chamber is authorised to conduct an audit based partly on the administration of the third party concerned or at the party that conducts the administration on the instructions of that third party, in which case Article 26(1) and 26(5) are likewise applicable.

#### **Article 37**

1. In conducting audits, the General Audit Chamber may enlist the support of experts.
2. The provisions of this national ordinance are likewise applicable to the experts.

#### **Article 38**

1. Before 1 July of each year, the General Audit Chamber shall present a report on its work in the preceding year to the Governor and to Parliament.
2. In its report, the General Audit Chamber shall also report the information revealed in its audits that may be useful for Parliament's assessment of the policy pursued.

#### **Article 39**

1. The General Audit Chamber shall report to the ministers concerned all proposals, comments and considerations that it considers important in relation to the revenues and expenditure and for the improvement or simplification of the financial management of the country.
2. The General Audit Chamber is authorised to send such notices to the Governor and to Parliament as it considers necessary in the interests of the country, and to conduct further consultations with them on the basis of those notices.
3. The General Audit Chamber shall make no public announcements of information and findings that are confidential by their nature. The Audit Chamber shall issue notices containing such information or findings to the officials, referred to in paragraphs 1 and 2 for viewing in confidence.

#### **Article 40**

1. The General Audit Chamber shall provide the minister concerned with all information that the nature of its work permits.
2. The ministers shall provide the Audit Chamber with all information that the Audit Chamber considers necessary for the performance of its task.

#### **Article 41**

1. The Minister of Finance shall provide for the General Audit Chamber to be sent a copy of the national ordinances concerning the adoption or amendment of the national budget and the national ordinances concerning the adoption or amendment of the budgets of the service funds and branches, as well as copies of all orders and administrative decisions concerning the management of the budget, all agreements, orders, administrative decisions and court decisions resulting in revenues or expenditure, or that relate to or influence the financial or material management.
2. If required, it shall receive copies of other documents that it regards as desirable or necessary for the performance of its assigned task.

#### **Article 42**

1. All institutions and legal persons in receipt of subsidies charged to the country or which manage funds or goods issued on behalf of the country shall send the General Audit Chamber regular statements of the entire financial management and the capital position as soon as these become available. Other reports and memoranda issued with regard to the management of the organisation and any other documents of importance for the assessment of the functioning of the aforementioned bodies shall be submitted to the General Audit

---

*This is an English translation of the Dutch source text.*

*In the event of any discrepancy between the Dutch language version and the translation, and in case of any disputes, the Dutch version prevails. No rights can be derived from the English translation.*

*October 2013*

Chamber at its earliest request.

2. The same obligation exists for institutions and legal persons involved directly or indirectly in the management of the country's financial interests.
3. The General Audit Chamber may also require the submission of reports from parties who, on the instructions of the institutions or legal persons, referred to in paragraphs 1 and 2, audited these statements or of relevant reports of the control services of the implementing bodies.

#### **Article 43**

1. The Minister of Finance shall notify the General Audit Chamber of all financial loans contracted at the expense of or subject to the guarantee of the country.
2. The documents drawn up in evidence of the country's obligations, referred to in paragraph 1 shall be provided with evidence of registration to be applied by or on behalf of the General Audit Chamber, on pain of nullification.

#### Section 9 2. Confidential expenditure

#### **Article 44**

To the extent that he considers this necessary for the performance of his task, the secretary of the General Audit Chamber is authorised to require information from all national units regarding payments charged to the articles for confidential expenditure or other information subject to confidentiality provisions.

#### **Article 45**

Evidence of payments charged to articles for confidential expenditure shall be submitted to the secretary of the General Audit Chamber.

#### **Article 46**

The secretary of the General Audit Chamber shall provide the information, referred to in Article 45 only to the chairman of the General Audit Chamber in person. The chairman of the Audit Chamber may, to the extent that he considers this important, notify the Prime Minister and the minister concerned regarding data provided to him in relation to the confidential expenditure or data to which the confidentiality provisions apply.

#### Section 9 3. Confidentiality obligation

#### **Article 47**

1. The members, deputy members, the secretary and the staff of the General Audit Chamber, the persons referred to in Article 26 and the experts, referred to in Article 37 are required to protect the confidentiality of all information of which they become aware during an audit, except to the extent that this information must be used in order to prepare a report.
2. If persons who conduct an audit gain access to information in the course of the audit that could give rise to suspicions of a criminal offence, the confidentiality obligation, referred to in paragraph 1 does not apply in relation to the persons responsible for investigating such criminal offences.
3. Equally, the confidentiality obligation does not apply if the persons who conduct the audit are required to assist in the investigation of the relevant criminal offences.

#### **Article 48**

1. Persons to whom the General Audit Chamber presents draft reports for comment are required to protect their confidentiality. They shall not disclose the draft reports in any way, directly or indirectly.
2. The reports of the General Audit Chamber are public as soon as they are received by Parliament.

---

*This is an English translation of the Dutch source text.*

*In the event of any discrepancy between the Dutch language version and the translation, and in case of any disputes, the Dutch version prevails. No rights can be derived from the English translation.*

*October 2013*

## **Chapter 6. Management**

### **Article 49**

1. By agreement with the General Audit Chamber and the minister concerned, Parliament shall provide the General Audit Chamber with all facilities necessary for the proper and independent performance of its task.
2. The chairman shall manage the budget.

## **Chapter 7. Supervision**

### **Article 50**

1. The General Audit Chamber is authorised to instruct one or more of its members or deputy members, its secretary or its personnel to enter all locations, not being residential properties if, in its opinion, entry is necessary for the performance of its task.
2. If necessary, access to a location as referred to in paragraph 1 shall be obtained with the aid of the police.

## **Chapter 8. Penal provisions**

### **Article 51**

Violation of the prohibition contained in Article 12 is a criminal offence and shall be penalised with a custodial sentence of no more than six months or a financial penalty of no more than ANG 6,000.

## **Chapter 9. Transitional and final provisions**

### **Article 52**

The initial appointment of the members, deputy members and secretary of the General Audit Chamber shall take place in the manner laid down in the Island ordinance establishment of the draft National ordinance General Audit Chamber.

### **Article 53**

This national ordinance shall be referred to as the National ordinance General Audit Chamber.

Issued on the *twentieth* of December 2010  
The Minister of General Affairs,  
S.A. Wescot-Williams

---

*This is an English translation of the Dutch source text.*

*In the event of any discrepancy between the Dutch language version and the translation, and in case of any disputes, the Dutch version prevails. No rights can be derived from the English translation.*

*October 2013*