

TRANSLATION OF THE OFFICIAL PUBLICATION OF SINT MAARTEN (AB 2010, GT no. 25)

National ordinance substantive civil servants law¹

Chapter I

General provisions

Article 1

1. A civil servant as referred to in this national ordinance and rules laid down pursuant to it is a person nominated or appointed by the competent authority to work in public service, with the exception of persons with whom an employment contract under civil law has been contracted.
2. Public service includes all services and companies managed by the Country and the public authorities, including public education provided by the government.
3. By national decree, containing general measures, positions or offices may be designated to which this national ordinance is likewise applicable.

Article 2

1. Unless provided otherwise in this national ordinance, the following are not deemed to be civil servants for the purposes of this national ordinance and rules laid down pursuant to it:
 - a. the members and associate members of the Council of Advice;
 - b. the Ministers;
 - c. the officials appointed for life pursuant to the Constitution or other legal regulations;
 - d. the Chief Prosecutor;
 - e. the secretary of the General Audit Chamber;
 - f. the director and deputy director of the Social Insurance Bank;
 - g. the director of the National lottery;
 - h. unpaid officials.
2. Chapters IV, V and VI do not apply to civil servants who do not serve on a regular basis. With regard to such civil servants, matters regulated in the said Chapters may be regulated by national decree, containing general measures, to the extent that this proves necessary in relation to each service or company in which they are deployed.

Article 3

The provisions of this national ordinance and rules laid down pursuant to it apply only to the extent that rules laid down by or pursuant to a national ordinance do not or shall not provide otherwise.

Article 4

The following definitions apply for the purposes of this national ordinance and the rules laid down pursuant to it:

- a. government: the Country of St. Maarten, if the civil servant is or shall be appointed as such in the service of this legal entity;
- b. the competent authority:
 - i. the Governor, with regard to civil servants in the service of the Country, in observance of the following provisions of sub-paragraph b;
 - ii. the administrative authority referred to in Article 35 of the National ordinance concerning primary education (PB 2008, No. 84), Article 40a of the National ordinance concerning secondary education (PB 1979, No. 29) and Article 44 of the National ordinance concerning secondary vocational training and education (PB 2008, No. 37) if the civil servant has been or will be appointed as such in the service of that legal entity.

CHAPTER II

Appointment and promotion

Article 5

1. Appointments shall be made for permanent or fixed-term employment.

¹ This issuance takes place on the basis of the additional Article II of the Constitution.

2. As a rule, permanent appointments are preceded by appointments in fixed-term employment.
3. Appointments in fixed-term employment may be made only:
 - a. if it can be assumed that the work for which the civil servant will be responsible is of a non-permanent nature. If work, as referred to in the preceding sentence, is performed in a consecutive series, the appointment in fixed-term employment of the civil servant responsible for that work shall be replaced by a permanent appointment after five years, if it can be assumed that the work will continue for at least a further five years. An appointment in fixed-term employment shall in any event be replaced by a permanent appointment after 10 years of service as such;
 - b. if a change in the tasks of the service in question is planned;
 - c. of persons employed to replace personnel who are temporarily absent;
 - d. of persons in training;
 - e. of persons as referred to in Article 2(2);
 - f. for a trial period of no more than one year, which may be extended by a maximum of one further year. In exceptional cases, the trial period may be extended after two years by no more than one further year, at the request of the civil servant;
 - g. of persons with whom it is agreed before the appointment that they will enter the service for a fixed term.
4. An appointment in fixed-term employment as referred to in paragraph 3(b), 3(c) and 3(d), shall not last for more than five years.
5. The appointment of the civil servant may take place subject to the condition of dismissal if a particular diploma or particular diplomas are not obtained within a term to be fixed for that purpose.

Article 6

1. In observance of provisions to be laid down for the holding of the office, only the following persons qualify for appointment as a civil servant:
 - a. persons of good moral conduct, which must be shown by a declaration issued by the competent institution for that purpose;
 - b. persons who hold Dutch nationality, unless derogation from the provision that no aliens may be appointed for a particular office is laid down by national ordinance;
 - c. persons who are declared suitable to hold the office pursuant to the outcome of a medical examination conducted by one or more physicians designated by the competent authority;
 - d. persons who have undergone a security investigation, where applicable, and who have been found to be suitable on that basis.
2. In urgent cases, a medical examination need not be conducted in advance if the civil servant is appointed in fixed-term employment and it can be assumed that the appointment will not last more than six months.

Article 7

1. The interested party shall be notified of the outcome of the medical examination, referred to in Article 6 at the earliest opportunity.
2. The costs of the medical examination and any travel and accommodation expenses relating to that examination of the interested party shall be borne by the government.
3. The interested party may appeal against the outcome of the medical examination, referred to in paragraph 1, in accordance with rules to be laid down by the competent authority.

Article 8

In exceptional cases, a person who is not found to be suitable in the medical examination may nevertheless be appointed as a civil servant in fixed-term employment, in the interests of the service, provided that the physician(s), referred to in Article 6 declare(s) that there is no objection from a medical point of view to an appointment in fixed-term employment. Before being appointed, the person concerned shall be notified of the content and purport of Article 6(1) of the National ordinance concerning civil service pensions.

Article 9

1. On transfer to a different office, civil servants will not be re-examined unless examination requirements have been laid down for that office, or can reasonably be deemed to apply, that are more stringent than those laid down, or that can reasonably be deemed to apply for the office held previously.

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2. Articles 7 and 8 are likewise applicable in the cases referred to in paragraph 1.

Article 10

In cases of illness and if the competent authority considers this necessary in connection with his state of health, a civil servant is required to undergo an examination by one or more physicians, to be designated for that purpose by the competent authority.

Article 11

1. The civil servant shall receive a written notice of appointment, stating the office and his surname, first names and date of birth, at the earliest opportunity.
2. The appointment notice shall also state:
 - a. whether the civil servant is appointed in permanent or fixed-term employment. In the latter case, the notice shall also state whether the appointment is made for a fixed term, for a trial period or indefinitely;
 - b. the commencement date of the appointment, if possible;
 - c. the remuneration and other financial benefits awarded to the civil servant;
 - d. in cases arising, the fact that Article 6(1) of the National ordinance concerning civil service pensions applies to him, as well as the ground(s) for this.
3. The civil servant shall be notified in writing of all amendments of the points referred to in paragraph 2.

Article 12

1. A copy of this national ordinance, the Civil service holidays and leave regulation, the Regulation concerning treatment and nursing allowances for civil servants, the National ordinance concerning age limits for civil servants, the Lump sum regulation for civil servants, the National ordinance concerning civil service pensions, the 1951 Civil service procedure regulation and other national ordinances that prove to be of direct importance for the legal position of civil servants, if possible in a form processed in accordance with later amendments or otherwise with the addition of the national ordinances in which such amendments are laid down, as well as the rules issued pursuant to one or more of the aforementioned national ordinances, shall be available for inspection by civil servants at the

service in which they are employed, at times and locations to be determined by the head of the service.

2. Paragraph 1 is likewise applicable in relation to final court decisions in civil service cases.

Article 13

To the extent that rules are laid down regarding this, appointments and promotions shall take place in accordance with those rules. If development and other requirements must be laid down with regard to the appointment and promotion, this shall take place by national decree, containing general measures.

Article 14

Civil servants must master written and spoken English and Dutch, on the understanding that positions for which this requirement does not apply may be designated by national decree, containing general measures.

CHAPTER III

Assessment and ranking

Article 15

1. Regular attention shall be devoted by or on behalf of the competent authority to the manner in which a civil servant performs his duties, through the conduct of assessment interviews and the preparation of performance assessments.
2. An assessment shall in any event be drawn up if the party designated by the competent authority as the assessment authority considers this desirable or the civil servant concerned requests this on reasonable grounds.
3. Before an assessment is finalised, it shall be discussed with the civil servant concerned; the civil servant shall be given an opportunity to express his opinion on this.

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4. By national decree, containing general measures, further rules shall be laid down concerning the assessment of civil servants.
5. If rules differing from the rules referred to in the preceding paragraph, or that serve to supplement or develop those rules, are required in relation to civil servants employed in a particular field of service or who belong to a particular group of civil servants, such rules shall be laid down in a separate national decree, containing general measures.
6. By ministerial regulation a guide to the conduct of assessment interviews shall be laid down.

Article 16

1. By national decree, containing general measures, the competent authority may lay down rules concerning the design and updating of a ranking list.
2. The rules as referred to in paragraph 1 shall provide that consecutive years of service in an equivalent rank of the former Country of the Netherlands Antilles or of an island territory forming part of that Country prior to the appointment concerning which the ranking list is drawn up shall be counted in full for the determination of the relevant civil servant's rank on that list.

Article 17

1. Objections may be submitted to the competent authority against administrative decisions as referred to in Article 3(1) of the 1951 Civil service procedure regulation.
2. By national decree, containing general measures, rules shall be laid down concerning the submission, handling and assessment of notices of objections.

CHAPTER IV

Remuneration, benefits and allowances

§ 1. Remuneration, personal allowance and overtime pay

Article 18

To the extent not provided otherwise by or pursuant to the Charter for the Kingdom of the Netherlands or by or pursuant to the Constitution, the remuneration of civil servants shall take place in accordance with rules laid down by national decree, containing general measures.

Article 19

If remuneration takes place in accordance with a scale with differing remuneration grades in terms of increasing amounts, the rules, referred to in the preceding Article may provide that the award of increases in remuneration be made partially or entirely dependent on the content of an assessment as referred to in Article 15, and may contain further rules in that regard.

Article 20

Apart from the allowances and reimbursements, referred to in Articles 25(2), 25(3) and 26(5), special individual reimbursements and increases or personal allowances of a regular nature may be added to the regular remuneration applying for civil servants. The grounds on which such increases or allowances are awarded shall be laid down in the rules, referred to in Article 18(1); Article 19 is likewise applicable.

Article 21

The lowest remuneration that may be fixed pursuant to any regulation applying for civil servants shall not be less than the amount of the minimum wage laid down pursuant to the National ordinance concerning minimum wages for work performed in paid employment in similar cases and for similar periods.

Article 22

The remuneration of a civil servant whose working hours are less than the usual full working hours for his position shall be equal to the remuneration that the civil servant would have enjoyed in that position if the working hours applying for him were the same as the customary full working hours for his position, multiplied by a fraction in which the numerator consists of the working hours applying for that civil servant and the denominator consists of the customary full working hours for his position.

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Article 23

In the case, referred to in Article 22, the remuneration of that civil servant for the purpose of the application of Articles 17, 18, 19, 25(2) and 25(4) is the remuneration that he would have enjoyed in that position if the working hours applying for him had been equal to the usual full working hours for his position.

Article 24

A civil servant shall receive no remuneration or any allowances and reimbursements associated with that remuneration for the time in which he deliberately fails to perform his duties, in contravention of his obligations, unless, having been given an opportunity to do so by the head of the service, he can provide reasons that justify his default.

Article 25

1. If a legal regulation assumes continuity in the filling of an office and no additional civil servants have been designated who can deputise for that office, partially or in full, or if this is required in the interests of the service, the civil servants who qualify for this shall be assigned by or on behalf of the competent authority to deputise for that office temporarily, with or without release from their own positions.
2. The civil servant who is assigned, in accordance with the provisions of the preceding paragraph, to temporarily deputise for an office that significantly exceeds his own office in terms of importance and responsibility may claim the award by the competent authority of an allowance for the term of the deputisation in excess of his own remuneration, in the amount of the difference between the remuneration that he would enjoy if he were finally appointed to the position for which he is deputising, and his own remuneration, in observance of the provisions concerning personal allowances, if the deputisation:
 - a. has lasted for 30 or more consecutive days;
 - b. has lasted for a total of 30 days or more in a period of six months;
 - c. has lasted for a total of 60 days or more in a period of 12 months.
3. In the event of temporary deputisation pursuant to designation of a position other than that referred to in paragraph 1, without release from his own position, in exceptional cases to be determined at the discretion of or on behalf of the competent authority, a temporary allowance may be awarded in addition to the allowance referred to in the preceding paragraph.
4. If the civil servant qualifies for an increase in remuneration during the deputisation period, this shall be awarded to him in his scale. The allowance, referred to in paragraph 2 shall then be determined on the basis of the difference between the remuneration grade that he attains through this allowance and the remuneration grade that he would have attained in the office for which he is deputising if he had been awarded the increase in that position. The assessment of the relevant civil servant during the deputisation shall take place in relation to the manner of his performance in the office for which he is deputising.
5. If damages that are directly verifiable and can be valued in money arise for the civil servant through the deputisation referred to in paragraph 1, the competent authority shall reimburse him for the damages suffered.

Article 26

1. If, in the interests of the service, it is unavoidable to assign work to a civil servant outside the set working hours, he shall be awarded compensation by or on behalf of the competent authority for this, on the basis of the provisions of this Article, on the understanding that work taking less than 15 minutes, performed immediately after the normal working hours, shall not be deemed to be overtime.
2. On the assignment of overtime, the fact shall be taken into account that civil servants, except in the cases designated pursuant to Article 24 of the 2000 Employment Regulation, may perform work lasting longer than the number of hours and time periods laid down in Article 14 of the 2000 Employment Regulation in exceptional cases only.
3. The compensation for overtime shall be enjoyed in the form of free time, consisting of leave equal to the number of hours by which the working hours for a full-time employee were exceeded, per working period, multiplied by a factor of:
 - a. 2, for overtime performed on a free day, a public holiday as referred to in Article 38(4) and between 6.00 a.m. on Sunday morning and 6.00 a.m. on Monday morning;
 - b. 1 ½, for overtime performed at other times.

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4. The leave shall be granted at the earliest opportunity and as a rule, no later than in the calendar month following that in which the hours were exceeded, taking account of the civil servant's wishes as far as possible.
5. If, in the view of the competent authority, the full or partial award of the leave is counter to the interests of the service, compensation will be awarded in the form of a part in free time and a part in money, or entirely in money, rather than in the form of leave.
6. Compensation partly in the form of free time and partly in money, as referred to in paragraph 5, shall comprise:
 - a. leave equal to the number of hours by which the working hours fixed for full-time employment were exceeded; and
 - b. a sum of money for each excess hour, as referred to in sub-paragraph a, amounting to a percentage of the hourly income applying for the civil servant, as follows:
 1. 100%, for overtime performed on a free day, a public holiday as referred to in Article 38(4) and between 6.00 a.m. on Sunday morning and 6.00 a.m. on Monday morning;
 2. 50%, for overtime performed at other times.
7. Compensation paid entirely in money shall comprise a sum of money for each hour exceeding the working hours fixed for full-time employment per working period, amounting to a percentage of the hourly income applying for the civil servant, as follows:
 1. 100%, for overtime performed on a free day, a public holiday as referred to in Article 38(4) and between 6.00 a.m. on Sunday morning and 6.00 a.m. on Monday morning;
 2. 50%, for overtime performed at other times.
8. For work performed on a public holiday, as referred to in paragraph 3, in accordance with the timetable applying for him, a civil servant shall receive an allowance equal to 100% of his hourly wage for each hour that he worked according to the timetable.
9. No compensation for overtime, calculated per hour, and no allowance within the meaning of the preceding paragraph, shall be awarded to civil servants:
 - a. who hold a position with remuneration in excess of that according to scale 9 of the national decree, containing general measures, referred to in Article 18;
 - b. who are responsible for the management of a service field, or a part thereof, or who perform overtime independently;
 - c. who are responsible for the performance of duties that entail that they must regularly perform overtime work.

Once-only compensation for overtime may be awarded to the civil servants referred to in sub-paragraphs a. and b. in the form of free time, or, in highly exceptional cases, in the form of money or a bonus, and a fixed monthly allowance shall be awarded to the civil servants referred to in sub-paragraph c., to be determined by or on behalf of the competent authority, with regard to the maximum amount of such compensation in the form of free time or, in highly exceptional cases, in the form of money or a bonus, in observance of the provisions of or pursuant to Article 74.
10. 'Income', as referred to in paragraphs 6 and 7, is deemed to be the remuneration plus any child allowance, the special individual compensation and the increases and personal allowances with a regular character enjoyed pursuant to an organic regulation of the remuneration and pursuant to Articles 20 and 25, not including the continual allowance and reimbursement of expenses.

Article 27

By national decree, containing general measures, further rules may be laid down concerning the implementation of the provisions of this section.

§ 2. Other allowances

Article 28

1. Over and above the fixed remuneration, civil servants enjoy a child allowance awarded by or on behalf of the competent authority for unmarried children aged less than 18 with which they have a relationship under family law or their unmarried step-children aged less than 18, the latter to the extent that the civil servant holds full financial responsibility for them.
2. Paragraph 1 is also applicable to children aged less than 18 who form part of the civil servant's family, who he maintains and raises entirely as his own children and who cannot be maintained and raised by their own parents, with each case to be assessed individually by the competent authority.

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3. For the purposes of the application of this Article, the following are equated with children aged less than 18:
 - a. children aged between 18 and 25 whose time, except in the case of illness or holidays, is largely taken up by or in connection with following a course of education;
 - b. children aged between 18 and 25 who, in the view of the competent authority, are permanently incapacitated, as a result of illness or disorders, to earn, through work appropriate to their capacities, one third of what physically and mentally able children of the same age are able to earn through work.

Article 29

A secondment allowance may be awarded to a civil servant.

Article 30

With regard to a civil servant whose working hours are less than the usual full-time working hours applying for his position, the remuneration determined in accordance with Article 22 will be taken into account in the implementing rules referred to in Article 31, if and to the extent that the remuneration forms the basis for the determination of the child, breadwinner's or secondment allowances.

Article 31

Further rules for the implementation of Articles 28, 29 and 30 shall be laid down by national decree, containing general measures.

§ 3. Remuneration in military service

Article 32

A civil servant in active military service shall be relieved of his duties in his civilian position.

Article 33

A civil servant performing his first training exercises as part of his mandatory military service shall enjoy the income associated with his office during the time fixed for this, less his military remuneration.

Article 34

A civil servant in active military service for repeat exercises shall enjoy the full income associated with his position for the duration of that service.

Article 35

1. A civil servant conscripted in connection with war, the risk of war or other exceptional circumstances shall enjoy the full income associated with his office for 30 days and thereafter the amount by which this exceeds his military remuneration.
2. Paragraph 1 does not apply until the military officer has completed the first exercise, either prior to or during the exceptional circumstances.
3. The provisions of paragraph 2 do not apply to special conscripts who need not enter active service until after the conscription year to which they belong or to which they can be deemed to belong on the basis of their age.

Article 36

1. Civil servants appointed in fixed-term employment are subject to the provisions of Articles 32 up to and including 35 only up to and including the day on which their civilian position would have been terminated if they had not been withdrawn from this for military service.
2. The provisions of this section are implemented by the Minister concerned.
3. For the purpose of the implementation of the provisions of this section, the remuneration determined in accordance with Article 22 shall be taken into account with regard to civil servants whose working hours are less than the usual full-time working hours applying for their positions.

§ 4. Benefits on decease

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Article 37

1. As soon as possible following the decease of a civil servant, a sum equal to three times the amount of the monthly income on the date of decease shall be paid to the longest-surviving spouse by or on behalf of the competent authority.
2. If the deceased civil servant was not in active service on the date of decease, a sum equal to three times the amount of income that he would have enjoyed if he had been in active service on the first day of the month of decease will be paid out.
3. If the deceased civil servant leaves no relation as referred to in paragraph 1, the benefits shall be paid for the children aged less than 21 with which the civil servant had a relationship under family law and who are not married and have not been married. If there are also no such children, the benefits shall be paid out to parents, brothers, sisters or other children for whom the deceased was the breadwinner.
4. If the deceased civil servant also leaves no relations as referred to in the preceding paragraph, the amount referred to in paragraph 1 may be paid in part or in full for the settlement of the costs of the last illness and the funeral, if the estate of the deceased civil servant is insufficient to cover such costs.

CHAPTER V

Service and working hours

Article 38

1. A regulation of working hours for each service or company shall, as far as possible, be laid down by national decree, containing general measures, and announced, in observance of the provisions by or pursuant to national ordinances containing provisions regulating working hours.
2. The regulation of working hours shall take account of the fact that these may not be disproportionate in relation to the nature of the work and must be properly interspaced with rest times, and that work on Sundays is required only if this is unavoidable.
3. The regulation of working hours and its application shall also ensure as far as possible that each civil servant may visit his church on Sundays and on the religious holidays that apply for him and that his Sunday rest is restricted as little as possible. The regulation shall aim to ensure that the civil servant is not required to work on at least 26 Sundays per year.
4. The provisions of this Article regarding the performance of work on Sundays also apply for the performance of work on:
New Year's Day;
Good Friday;
the Christian Easter Monday;
Ascension Day;
the day on which the Monarch's birthday is officially celebrated;
the day on which Labour Day (1 May) is officially celebrated;
the date of 15 December, being Kingdom Day;
Christmas Day and Boxing Day;
the date of 11 November, being Sint Maarten Day;
and any additional day designated by national decree.

CHAPTER VI

Leave, remuneration during leave and entitlements in the event of illness

Article 39

A civil servant shall be granted leave and remuneration during leave in accordance with the rules laid down by national ordinance.

Article 40

The entitlement of civil servants to free medical treatment and/or nursing and, in connection with this, free transfer, as well as the determination of the category or categories of civil servants to whom these entitlements accrue shall be regulated by or pursuant to national ordinance.

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Article 41

Compensation shall be paid to a civil servant who unavoidably incurs expenses for medical treatment or nursing for himself or for his family, in accordance with the regulations laid down by or pursuant to national ordinance.

Article 42

1. A former civil servant in permanent or fixed-term employment whose employment contract is terminated while he is unable to perform work due to illness, other than as referred to in the preceding paragraphs, but before the expiration of the term of 12 months from the commencement of the inability to work, shall be awarded benefits for the remaining term of the incapacity for work, until no later than the expiration date of the aforementioned 12-month term, consistent with the remuneration that he would have received during sick leave if his employment contract had not been terminated.
2. A former civil servant in permanent employment, whose employment contract is terminated while he is unable to perform work due to illness or disability arising in and through the performance of his duties, and which is not attributable to the fault or gross negligence of the civil servant concerned, but before the expiration of a term of 36 months following the commencement of the incapacity for work, shall be awarded benefits for the remaining term of the occupational disability, until no later than the expiration date of the aforementioned 36-month term, consistent with the remuneration that he would have received during sick leave if his employment contract had not been terminated.
3. A former civil servant in fixed-term employment, whose employment contract is terminated while he is unable to perform work due to illness or disability arising in and through the performance of his duties, and which is not attributable to the fault or gross negligence of the civil servant concerned, is entitled to monthly financial benefits for the remainder of the term of full or partial occupational disability, equal to the monthly financial benefits that he would have enjoyed pursuant to the National accident insurance ordinance if he had been subject to that national ordinance. However, wage limits referred to in the said national ordinance shall not be taken into account in the determination of the benefits, while in the event of full occupational disability during the term referred to in paragraph 1, the benefits may not be fixed at an amount less than that which would have been awarded pursuant to the provisions of that paragraph.
4. The disability referred to in paragraphs 1, 2 and 3 must be shown by a declaration of the medical committee or the physician referred to in Article 33 of the Civil service holidays and leave regulation, with the provisions laid down in paragraphs 4, 5 and 6 of this Article being likewise applicable
5. Any pension benefits charged to the General Pension Fund of the Netherlands Antilles or its legal successors, or paid pursuant to the National ordinance concerning the age limit for civil servants, plus the associated high-cost allowance, shall be deducted from the benefits enjoyed pursuant to the provisions of paragraphs 1 and 2.
6. During the period in which the benefits referred to in the preceding paragraphs are enjoyed, and in the event of an accident within the meaning of the National accident insurance ordinance, the provisions of the Regulation concerning treatment and nursing allowances for civil servants shall be likewise applicable to the aforementioned former civil servants for as long as this is necessitated by the consequences of the accident.
7. The financial benefits that would have been earned if the person concerned had been covered by the National accident insurance ordinance shall be awarded to the surviving dependents of the former civil servant referred to in paragraph 3, on the understanding that the wage limits referred to in the aforementioned national ordinance shall not be taken into account in the determination of the benefits.

CHAPTER VII

Different obligations and rights of civil servants

§ 1. Oath or solemn affirmation

Article 43

1. On acceptance of his appointment, on appointment to a different position or if he is mandated to temporarily deputise for an office, a civil servant is required to take an oath or pledge of exoneration and an oath of office or solemn affirmation.

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2. The oath or pledge or solemn affirmation shall be taken before the competent authority or a head of service designated by that authority.

§ 2. Performance of work

Article 44

1. A civil servant is required to fulfil the duties arising from his office accurately and conscientiously and to conduct himself as befits a good civil servant.
2. A civil servant must comply with rules laid down by or on behalf of the competent authority for his work or his conduct.
3. He must refrain from cursing and from the use of coarse or indecent language.

Article 45

1. A civil servant may be denied access to the service areas, service buildings or the work, or forbidden to remain there by or on behalf of the competent authority.
2. He is required to conduct himself in accordance with the rules of order laid down by or on behalf of the competent authority with regard to attendance there.

Article 46

1. A civil servant is required to devote all the working hours applying for him to government matters. During these working hours, he is not permitted to leave the place where the work must be performed without a valid reason.
2. During the working hours applying for him, a civil servant is not permitted to take action to represent his own private interests or those of third parties.
3. A civil servant is not permitted to order or request civil servants or other personnel in the service of the government to perform work other than for the government during the working hours that apply for them.
4. Civil servants are forbidden:
 - a. to consume or to have in their possession drinks containing alcohol during the working hours that apply for them;
 - b. to keep drinks containing alcohol in the offices, vehicles and vessels of the service.

Article 47

If a civil servant is prevented from performing his work through illness or for other reasons, he is required to notify the head of the service or another civil servant designated by the head of the service of this as promptly as possible, stating the reasons, in order to prevent delays or obstruction of the service as effectively as possible.

Article 48

1. If a person occupying the same premises as the civil servant, or who has occupied these no more than 14 days previously, suffers from cholera, diphtheria, yellow fever, plague, chicken pox (variola and varioloides), scarlet fever, febris typhoidis, paratyphoid, typhus or another disease designated by national decree, containing general measures, to which the general provisions of the ordinance containing provisions to control infectious diseases apply, the civil servant is forbidden to participate in the service. The civil servant is required to notify the head of the service as soon as possible on observation of a disease as referred to above in the premises.
2. In the event of diseases that create a risk for the environment, the head of the service may refuse to allow the civil servant to participate in the service.
3. The prohibition on participation in the service includes a prohibition on entry to the offices or locations of the service.
4. The civil servant shall receive his income for the time during which he is forbidden to take part in the service in accordance with the provisions of this Article.

Article 49

1. If necessary, a civil servant is required to perform official work other than that which he normally performs on a temporary basis.
2. However, if a strike has broken out at any private employer or a lock-out has taken place, he cannot be required to perform work to replace strikers or locked-out employees, or to assist employees in the performance of work, unless and to the extent that, in the view of the

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competent authority, this is necessary in the interests of public safety or health or for the regular operation of the government service.

3. The civil servant shall be instructed to perform the work referred to in paragraph 1 by or on behalf of the competent authority.

Article 50

1. Subject to the provisions of paragraph 3, the civil servant is required, if the interests of the service call for this, to accept another position or a new working environment, in his own field of service or otherwise and at the same location or otherwise, which can reasonably be assigned to him in connection with his personality, his circumstances and his existing prospects. This assignment shall be made by the competent authority.
2. Except in urgent cases, a new position or a different working environment will not be assigned to him until after his views have been heard.
3. A civil servant whose working hours are less than the usual full-time working hours applying for his position cannot be assigned a working location outside his island of residence or employment outside the working hours applying for him without his consent.

§ 3. Secondary activities

Article 51

Secondary activities involve work that the civil servant performs or will perform in addition to his official duties, on the grounds of employment, in relation to the operation of a business or trade or to fill a management, control or supervisory position.

Article 52

1. A civil servant shall not perform any secondary activities as a result of which good performance of the relevant position or good operations of the relevant service cannot or can no longer reasonably be assured.
2. The civil servant who performs or is to perform secondary activities shall notify the head of his service of this in writing.
3. The head of the service may attach conditions to the performance of secondary activities that assure the proper performance of the relevant duties or the proper operations of the relevant service.
4. Within four weeks of the notice, referred to in paragraph 2, the head of the service shall notify the relevant civil servant in writing, stating the reasons, of whether the secondary activities are prohibited or whether conditions shall be attached to the secondary activities.
5. The civil servant shall provide written notice without delay of changes in the circumstances that could lead to reconsideration of the notice, referred to in paragraph 4.
6. The head of the service shall record the notices referred to in paragraphs 2 and 5, the decision, referred to in paragraph 4 and the reasons for that decision.
7. Further rules shall be laid down with regard to the manner in which the written notices referred to in paragraphs 2 and 5 must be issued, the data that they must include, the use of those data and the records, referred to in paragraph 6. The Minister responsible for personnel affairs shall lay down those rules with regard to the civil servants in the service of the Country.

Article 53

Articles 51 and 52 are likewise applicable with regard to a head of service who performs or is to perform secondary activities, with the mediation of the minister concerned.

Article 54

Civil servants are not permitted to undertake work, deliveries or service provision borne directly or indirectly by the government, partially or in full, or to stand surety for or participate in these, directly or indirectly.

Article 55

Civil servants, or particular groups of civil servants of a particular service may be forbidden by the competent authority to act as supervisory directors, managers, partners, shareholders or member of companies, foundations or associations, to be designated by national decree, which regularly come into contact with, or could, by virtue of their structure, regularly come into contact with the relevant service.

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Article 56

1. A civil servant who holds a management, controlling or supervisory position in a legal entity and receives remuneration for the work performed or to be performed in that position, other than from the national treasury, is required to deposit that remuneration in the national treasury if the appointment to that position:
 - a. was made by or on behalf of the competent authority; or
 - b. arose from a statutory provision or pursuant to an agreement contracted with the consent of the competent authority.
2. Paragraph 1 is likewise applicable to civil servants who hold secondary positions relating to the office that they hold and that are assigned to them by the competent authority and who receive remuneration for the work performed or to be performed in that position, other than from the national treasury or the funds of a public-law institution.
3. The civil servant who holds a position as referred to in paragraphs 1 or 2 may be awarded reasonably determined remuneration charged to the National treasury.

§ 4. Use of government property

Article 57

1. Civil servants are not permitted to use government property to the benefit of their own private interests or those of third parties.
2. Civil servants may use means of transport assigned to them by the government for the service solely for the transportation required by the service.
3. Such transportation does not include the transportation of the civil servant from and to his home or to and from the location of his work.
4. In exceptional circumstances, temporary dispensation from the provisions of paragraph 3 may be granted by or on behalf of the competent authority.

§ 5. The acceptance of gifts

Article 58

1. The civil servants to whom fees, remuneration or gifts are offered in that capacity, or to whom promises are made, in any form whatsoever, may accept such fees, remuneration or gifts or promises only with the prior consent of the head of the service.
2. 'Gifts' are deemed to include remission of an obligation and compliance with a contract from which the civil servant apparently benefits.
3. 'Promises' are deemed to include obligations.
4. A gifts or promise to the civil servant's spouse, children or parents, as well as to other natural or legal persons, from which a direct financial benefit to the civil servant can be expected are equated with gifts or promises to the civil servant himself.
5. During an ordering phase, a civil servant shall accept no fee, remuneration, gift or promise from the contractor.
6. Civil servants are not permitted to accept fees, remuneration, gifts or promises or to provide for these to be delivered to a private address.
7. Civil servants shall not request or claim that fees, remuneration or gifts be offered or that promises be made.

Article 59

1. Civil servants who are offered fees, remuneration or gifts, or to whom promises are made, in that capacity, shall report this to their head of service without delay.
2. The head of the service shall decide as soon as possible after receiving the report, referred to in paragraph 1 whether or not the gift may be accepted.
3. The head of the service shall not grant the consent, referred to in paragraph 1 if:
 - a. the fee, remuneration, gift or promise represents a value of more than ANG 100; or
 - b. there is a reasonable suspicion that the fee, remuneration, gift or promise is made in order to motivate the civil servant to take or refrain from certain action in his service provision.
4. The amount referred to in paragraph 3(a) may be further laid down by national decree.
5. Fees, remuneration, gifts or promises accepted without consent shall be returned.
6. The head of the service shall record the report, referred to in paragraph 1, the decision referred to in paragraph 2 and the reasons for that decision.

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7. The minister responsible for personnel matters shall impose further rules concerning the way in which the report, referred to in paragraph 1 must be made, the data that must be reported with this, the use of those data and the records, referred to in paragraph 6.

Article 60

1. Articles 58 and 59 do not apply to fees, remuneration, gifts or promises representing a small value, which the provider of these generally offers his relations.
2. The provisions of this paragraph are likewise applicable with the mediation of the minister concerned, with regard to a head of service who is offered fees, remuneration or gifts, or to whom a promise is made, in that capacity.

§ 6. Confidentiality

Article 61

1. Civil servants are required to protect the confidentiality of all information of which they become aware in the course of their official duties, to the extent that this obligation follows from the nature of the matter or is explicitly imposed on them.
2. The obligation referred to in paragraph 1 does not exist in relation to parties to which the civil servant is directly or indirectly subordinate, nor to the extent that he is relieved of the confidentiality obligation by a superior.

Article 62

Civil servants are forbidden to abuse information that they acquire in the course of their official duties.

§ 7. Service attire

Article 63

1. Civil servants are required to wear the service attire and distinguishing marks, if and to the extent that this is prescribed for them by the competent authority.
2. Civil servants may wear their uniform when off duty, except during demonstrations, marches and public political meetings, unless a special licence is granted for this by or on behalf of the competent authority. Furthermore, the wearing of uniforms off duty may be prohibited for certain categories of civil servants by or on behalf of the competent authority if terms for this are deemed to exist.
3. Wearing of service attire or distinguishing marks differing from the model is prohibited without dispensation to be granted by or on behalf of the competent authority.
4. The provision of service attire or an allowance for this shall take place in accordance with rules laid down by national decree, containing general measures.

Article 64

Civil servants are not permitted to wear insignias or other distinguishing marks when in uniform, or to wear items of uniform when on duty other than those provided or prescribed by the government, or to wear insignias or other distinguishing marks, the wearing of which is prohibited. This prohibition is not applicable with regard to foreign decorations for the acceptance or wearing of which the lawful authority has granted leave or consent.

§ 8. Official and service housing

Article 65

1. Civil servants are required, if they are assigned an official or service residence to live in by or on behalf of the competent authority, to occupy this and to conduct themselves in accordance with the regulations imposed with regard to its occupation and use.
2. They shall bear the maintenance costs usually born by the tenant in accordance with legal regulations and local custom and practice, unless a different regulation is laid down in that regard by or on behalf of the competent authority.
3. A civil servant who occupies an official or service residence shall refrain from displaying or raising flags other than national or orange flags. The external appearance of the official or service residence or the accompanying site may not show the political views of the civil servant or his fellow occupants.

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§ 9. Liability and accountability

Article 66

Obligations to provide surety shall not be imposed on civil servants.

Article 67

1. Civil servants who cause damage to the government in that capacity, directly or indirectly, without being accountable in that regard through unlawful action or through failure to exercise due care, are required to pay compensation for that damage.
2. The prosecution of and recourse against civil servants, their heirs or successors in title shall take place in accordance with rules to be laid down by national ordinance.

Article 68

1. An accountable civil servant shall be relieved, partially or in full, of the obligation to settle a deficit to the extent that he has performed the management accurately and has taken the necessary precautions for the custody of funds and securities with financial value.
2. If the obligation to settle a deficit arises from liability for subordinates, the extent to which he maintained proper supervision of the actions of the personnel shall also be taken into account.

Article 69

An accountable civil servant is relieved of his responsibility during the time that he did not personally perform his management due to illness or legal absence, if his position was delegated during that period pursuant to a designation by the competent authority.

Article 70

The Articles of this section apply only to the extent that the National accountability ordinance and the National ordinance concerning the General Audit Chamber do not provide otherwise.

§ 10. Indemnification

Article 71

A civil servant who is transferred to a different location by the competent authority or is required to move home at his location for the service shall be granted an allowance, in observance of the

rules imposed in that regard, which shall be laid down by national decree, containing general measures.

Article 72

1. Civil servants are entitled to compensation for travel and accommodation expenses and to insurance against the risks of flying when travelling on official business. The travel allowance shall not be enjoyed if free transportation is provided.
2. Rules concerning the award of the allowance for accommodation expenses referred to in paragraph 2, and concerning the aforementioned insurance, shall be laid down by national decree, containing general measures.
3. The order for the business trip shall be issued by the competent authority or by the competent officials. The civil servant is required to accept a business trip assigned to him.

Article 73

The competent authority may determine the cases in which indemnification and compensation is granted for costs for which no other provision is made.

§ 11. Rewards and other special once-only allowances

Article 74

1. A civil servant may be rewarded by the competent authority for exceptional dedication to duty or exceptional commendable service provision.
2. The rewards are:
 - a. certificate of satisfaction;
 - b. bonus;

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- c. promotion;
 - d. once-only financial reward.
 - e. The bonus in any one calendar year shall not exceed an amount to be laid down by national decree, containing general measures.
3. The once-only financial reward shall not exceed a sum equal to ten per cent (10%) of the initial remuneration for scale 1, as laid down in the national decree, containing general measures, referred to in Article 18 and may be awarded to the same civil servant no more than twice per calendar year.
 4. For the implementation of the provisions of this Article with regard to a civil servant whose assigned working hours are less than the customary full-time working hours for his position, the reward shall be based on the remuneration that he would have enjoyed in that position if his working hours had been equal to the customary full-time working hours for his position.

Article 75

1. If, in the view of the competent authority, there is a substantial general interest in filling a particular vacancy without delay, or in ensuring that the civil servant holding a position does not leave that position, a once-only payment may be granted to the person who is willing to hold the said position, or not to resign from that position, for a particular period, to be specified in the administrative decision in which the payment is awarded as a condition for the award. The award may also be made subject to other conditions relating to the relevant position and the way in which it is performed.
2. Further rules concerning the amount of the payment, the conditions under which it may be awarded and the cases in which it will not be paid out or will be reclaimed, in part or in full, shall be laid down by national decree, containing general measures.

§ 12. Study assignment

Article 76

1. A civil servant may be issued a foreign study assignment by the competent authority. A civil servant who is in full-time employment in his position is required to accept a study assignment for a period of no more than six months. Such a study assignment may not be issued to a civil servant whose assigned working hours are less than the customary full-time working hours for his position without his consent, and no civil servant may be issued a study assignment for a period exceeding six months without his consent.
2. During a study assignment, the civil servant will be placed on leave of absence. He shall be awarded income such that he will be able to provide for his own costs of living and those of his family during the study assignment in the same manner as if he had remained in active service; furthermore, such provision shall be made as ensures that the civil servant suffers no disadvantage from the aforementioned assignment. A civil servant whose assigned working hours are less than the customary full-time working hours for his position, but who has consented to the issue of a study assignment, shall be appointed on a full-time basis for the duration of that assignment; the award of income as referred to in this paragraph shall be based on employment in a full-time position.
3. The administrative decision in which a study assignment is issued shall determine whether or not the time in which that assignment is completed:
 - a. shall qualify as service time in full, for the purposes of both the assessment of the pension rights and for the regulation of the pension;
 - b. shall qualify as time during which no actual service is provided as referred to in Article 10(1), of the Civil service holidays and leave regulation;
 - c. shall qualify as service time for the purpose of the award of regular increases in remuneration.

§ 13. Other obligations and rights

Article 77

No benefits shall be withheld from, or disadvantages imposed on a civil servant with regard to non-compliance with provisions of which the civil servant cannot reasonably be deemed to have been aware.

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Article 78

If the competent authority or the head of the service receive written complaints concerning a civil servant, the civil servant shall be given an opportunity to view this as soon as possible and is required, on request, to sign the relevant documents as seen. He has the right to present his views on the contents, both orally and in writing.

Article 79

1. No benefits shall be withheld from, or disadvantages imposed on a civil servant in contravention of a regulation laid down by the competent authority.
2. The competent authority that established a general regulation is not authorised to derogate from this in a particular case to the detriment of the civil servant unless the regulation reserves the right for such derogation.

Article 80

The award of transportation at the expense of the government or the award of an allowance for transportation costs shall take place in accordance with the regulations for this laid down by national ordinance.

Article 81

Regulations concerning the other rights and obligations of the civil servant shall be laid down by national decree, containing general measures.

§ 14 Integrity counsellor

Article 82

1. The Minister of General Affairs shall appoint a civil servant as an integrity counsellor for each ministry. Integrity counsellors may be appointed for individual organisational units or for groups of organisational units, as required.
2. A civil servant appointed as an integrity counsellor shall operate in that capacity outside and alongside the hierarchical and functional organisation.
3. A civil servant appointed as an integrity counsellor shall suffer no disadvantage whatsoever as a result of performing the tasks of the reporting centre.
4. An appointment as an integrity counsellor applies for a term of no more than two years.

Article 83

1. An integrity counsellor advises civil servants on request on integrity issues and on the manner in which they may or must treat knowledge of potential breaches of integrity in the organisation.
2. An integrity counsellor shall treat the information received in that capacity in confidence and shall protect the identity of persons from whom the information is obtained from disclosure to third parties. Article 61(2) does not apply to the knowledge that the integrity counsellor acquires in that capacity.
3. Article 200 of the Code of Criminal Procedure does not apply to the integrity counsellor to the extent that this concerns criminal offences of which he became aware in the performance of that task.
4. The integrity counsellor shall issue a confidential, anonymised report to the Minister of General Affairs twice a year, before 1 March and before 1 September, on the number of times that his advice was requested in the preceding period and the topics of the advice, stating the form of breach of integrity of which he may have become aware.
5. Further rules concerning the recording and use of the information included in the report as referred to in paragraph 4 shall be laid down by the Minister of General Affairs.

§ 15 Suspicion of a breach of integrity

Article 84

1. Civil servants shall notify the head of the service of suspicions of a breach of integrity based on reasonable grounds. If the civil servant does not regard notification of the head of the service as desirable, the civil servant shall notify the manager next highest in rank of the suspicion.
2. The notification may be made in writing or orally.

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3. The head of the service to whom the notice is issued shall send written confirmation of its receipt to the civil servant concerned immediately after its receipt, stating the notified suspicion of a breach of integrity and the date of the notification.
4. The head of the service to whom the notice is issued shall draw up a report without delay, stating the service unit and the head of service to which the notice relates, the person who issued the notice, the date of the notice and the facts, circumstances and persons playing a role in the notified suspicion of a breach of integrity.
5. The head of service shall send the report on the notification of the suspected breach to a minister concerned with the notification without delay.
6. Within eight weeks of the notification, the minister to whom the report on the notification was sent shall form a substantive position on the suspected breach of integrity reported and the civil servant who issued the notice shall be informed of that view in writing.
7. In the event that the notice of the suspected breach of integrity proves to be based on fact, the necessary measures shall be taken.
8. The Minister of General Affairs shall establish further rules concerning the recording and use of the data included in a substantive position as referred to in paragraph 6.

Article 85

A civil servant who has notified a suspected breach of integrity in observance of the provisions of or pursuant to this national ordinance shall not suffer any disadvantage in his position as a result of the notification, to the extent that he acted in good faith and had no personal benefit from the breach or from its notification.

CHAPTER VIII

Disciplinary sanctions

Article 86

1. The competent authority may impose disciplinary sanctions on a civil servant who fails to comply with the obligations imposed on him or neglects his duties in other ways.
2. Neglect of duty covers both the infringement of any rules and action or omissions that a good civil servant should not take or make in similar circumstances.
3. Criminal prosecution for an offence that includes neglect of duty shall not rule out disciplinary sanctions for the same offence.

Article 87

1. The disciplinary sanctions that can be applied are:
 - a. a written rebuke;
 - b. special service on days other than Sundays and the religious holidays applying for the civil servant, without the award of the remuneration for overtime pursuant to Article 26 or for lower remuneration than this;
 - c. financial penalty;
 - d. full or partial deduction of income;
 - e. classification in a lower remuneration grade;
 - f. exclusion from promotion;
 - g. a reduction in rank, for a specified period or otherwise, with or without a reduction in remuneration;
 - h. suspension for a specified period, with full or partial deduction of income;
 - i. dismissal.
2. By national decree, containing general measures, the authorisation to impose the sanctions referred to in paragraph 1(a) up to and including 1(g) may be transferred to officials designated in that national decree.
3. The application of the sanctions referred to in paragraph 1(b), 1(c), 1(d), 1(e), 1(f) and 1(g) shall take place in observance of the following:
 - 1°. special service shall be imposed for a maximum of six hours, with a maximum of three hours per day, immediately following the normal working hours or otherwise;
 - 2°. the financial penalty shall amount to at least five per cent (5%) and no more than (50%) of the initial remuneration for scale 1, as laid down in the national decree, containing general measures, referred to in 18, rounded up to the nearest amount in full guilders;
 - 3°. deduction of income shall take place up to a maximum amount of one month's income;

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- 4°. a reduction in remuneration shall take place by a maximum of two remuneration grades;
 - 5°. exclusion from promotion shall take place for no more than four years;
 - 6°. a reduction in rank involves the transfer of the civil servant subject to the sanction to the rank immediately below the current rank, with or without a reduction in his remuneration to that associated with that lower rank;
 - 7°. suspension shall be imposed for no more than six months.
4. On the imposition of a sanction, it may be determined that this will not be enforced if the person concerned does not commit any similar neglect of duty as that for which the sanction is imposed, for a term to be fixed when the sanction is imposed, which may not exceed two years, nor any other serious neglect of duty, and complies with any special conditions to be set when the sanction is imposed. The conditions may not restrict religious or political freedoms.
 5. For the purpose of the implementation of the provisions of this Article, for a civil servant whose assigned working hours are less than the customary full-time working hours for his position, the remuneration that he would have enjoyed in that position if the working hours applying for him had been equal to the customary full-time working hours for his position shall be taken into account.

Article 88

1. If possible, the notification, referred to in Article 95(1) of the 1951 Civil service procedure regulation shall be delivered to the civil servant in the service building or workplace in which the civil servant performs his work against confirmation of receipt dated and signed by him.
2. If the civil servant is not present in the service building or workplace, the notification shall be delivered at his home or place of residence and issued to the person concerned or to one of his fellow occupants against confirmation of receipt dated and signed by the recipient. If the person responsible for the delivery does not find the civil servant or any of his fellow occupants at home, or if the person that he finds refuses to accept receipt of the document or to sign the confirmation of receipt, it shall be sent to his home or place of residence by registered mail.
3. In the cases, referred to in paragraph 2, the civil servant concerned is deemed to have become aware of the notification on the date of delivery to his home or place of residence or on the date on which it is delivered to, or presented at his home or place of residence by the postal service.

Article 89

1. The sanction shall not be imposed until after the civil servant has been given an opportunity, to account for his actions to the parties authorised to impose the sanction, orally or in writing, at their discretion, within seven days. The civil servant may avail himself of the support of other parties in accounting for his actions.
2. If the account is delivered orally, a record of this shall be drawn up immediately and, after being read out, shall be signed by the party to whom the account was delivered and by the civil servant. If the civil servant refuses to sign, this shall be reported in the record, stating the reasons if possible.
3. If the civil servant so requires, he and the person whose support he enlists in accounting for his actions shall be given an opportunity to view the official reports or other documents which relate to the charges made against him, with the exception of documents, viewing of which would decidedly be counter to the public interest.
4. The imposition of the sanction must be recorded in writing, stating the reasons.
5. The parties authorised to impose sanctions shall notify the sanctioned person of the imposition of the sanction without delay, by sending a copy of the relevant order. Article 88(2) and 88(3) are likewise applicable.
6. If the sanction is imposed by a party designated pursuant to Article 87(2), the order to impose the sanction shall also state that the person concerned may appeal in writing to the competent authority, stating the grounds, within 14 days of its receipt.
7. The competent authority is required to send the civil servant a decision, stating its reasons, within three months of the date on which the civil servant appeals.

Article 90

1. The sanction, other than that of a written rebuke, shall not be implemented until it has become final unless, in the view of the parties authorised to impose the sanction, immediate enforcement is required in the interests of the service.
2. In the event of immediate enforcement of a sanction of special service, which sanction is not upheld on appeal, the time during which the special service was performed shall be deemed to be

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hours of service during which the work assigned was performed after the fixed working hours and remuneration for overtime shall be awarded on the basis of the relevant rules.

Article 91

1. Only a disciplinary sanction may be imposed in relation to conduct as referred to in Article 86.
2. Separate disciplinary sanctions may be imposed, without reduction, on a civil servant who commits the conduct as referred to in Article 86 on several separate occasions, for each incidence of such conduct.

CHAPTER IX

Suspension and dismissal

Article 92

Without prejudice to the provisions of Article 86, a civil servant may be suspended from his office by the competent authority:

- a. if criminal prosecution proceedings are opened against him in connection with a criminal offence;
- b. if he is notified by the competent authority of its intention to penalise him with unconditional dismissal or he is notified of the imposition of this sanction;
- c. in other cases in which, in the view of the relevant competent authority, suspension is called for in the interests of the service.

Article 93

1. The civil servant is dismissed from his office by law if he:
 - a. is placed in secure detention;
 - b. receives nursing in a psychiatric hospital.
2. Without prejudice to the provisions of paragraph 1, a civil servant who is nursed in a psychiatric hospital is granted sick leave pursuant to the relevant existing regulations.

Article 94

1. During a suspension pursuant to Article 92(a) or Article 93(1)(a), one third of the income shall be deducted; on the expiration of a term of six weeks, a further deduction, including of the full amount, may take place. The share of the income that is not deducted may be paid out to persons other than the civil servant.
2. During a suspension pursuant to Article 92(b), the income may be deducted, partially or in full, up to the commencement date laid down in the notification or imposition of the sanction; the income will be deducted in full from the said date of dismissal. The share of the income that is not deducted may be paid out to persons other than the civil servant.
3. The income deducted pursuant to paragraph 1 shall be paid out if the suspension is not followed by a penalty imposed by the criminal court or if and to the extent a decision is made to pay this after all on other grounds.
4. The income deducted pursuant to paragraph 2 shall be paid out if the suspension is not followed by penalisation of the civil servant with unconditional dismissal.

Article 95

1. Dismissal shall be imposed by the authority competent to make appointments to the office. It shall be imposed in writing. The administrative decision concerning dismissal shall state the date of dismissal or provide an indication of that date.
2. In the event of compulsory dismissal, the civil servant shall be notified of the reasons for the dismissal in writing, subject to the provisions of Article 97.

Article 96

1. A civil servant shall be granted an honourable discharge on request.
2. Except in accordance with the civil servant's own request or for urgent reasons of public interest, dismissal shall not be granted on a date less than one month or more than three months following the date on which the dismissal request is received.
3. If criminal prosecution of the civil servant is pending, or if he is under consideration for a disciplinary sanction, a decision on the request for dismissal may be postponed until the decision of the criminal court or the decision concerning the disciplinary sanction has become final.

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Article 97

1. In the absence of evidence to the contrary, a civil servant in fixed-term employment who, according to his appointment, was appointed for a fixed term or a trial period, shall be granted an honourable discharge on the expiration of that term.
2. A civil servant in fixed-term employment who is appointed on a permanent basis may be granted an honourable discharge, provided that a notice period is observed:
 - a. of three months, if the person concerned was employed for at least 12 consecutive months immediately prior to the start of the notice period;
 - b. of two months, if the person concerned was employed for at least six consecutive months, but less than 12 months immediately prior to the start of the notice period;
 - c. of one month, if the person concerned was employed for less than six consecutive months immediately prior to the start of the notice period.
3. The person concerned is entitled to continued payment of the income for the time which may be lacking in the notice period referred to in paragraph 2.
4. The entitlement to continued payment of the income no longer exists if the civil servant:
 - a. leaves active service on his own initiative during the notice period;
 - b. accepts another position without the required consent during the notice period.
5. An honourable discharge may be granted to a civil servant in fixed-term employment, as referred to in paragraph 1, from a date lying within the fixed term or the trial period. In that case the provisions of paragraphs 2, 3 and 4 are likewise applicable.

Article 98

A civil servant shall be granted an honourable discharge on reaching a specific age in accordance with the rules laid down by national ordinance.

Article 99

1. An honourable discharge may be granted to a civil servant due to the withdrawal of his position, due to changes in the organisation of the service or company where he is employed, either of two or more services or companies, or due to a reduced need for employees.
2. If one of the cases referred to in paragraph 1 arises, the civil servant in question shall be made available to the Mobility Centre referred to in paragraph 3 by an order of the competent authority, at the same time as the granting of the discharge.
3. There shall be a Mobility Centre. The Mobility Centre investigates and evaluates which of the civil servants made available to it qualifies for:
 - a. redeployment in public service without retraining or additional training;
 - b. retraining or additional training for redeployment in public service;
 - c. retraining or additional training in connection with potential placement in the private sector.By national decree, containing general measures, rules may be laid down concerning the management and organisation of a Mobility Centre and further rules may be laid down with regard to the assignment referred to in the preceding sentence.
4. To the extent that a civil servant qualifies for retraining or additional training, this shall take place under the supervision of the Mobility Centre. The civil servant is required to comply with the instructions issued to him by the Mobility Centre in that regard. The Mobility Centre shall notify the competent authority of the result of the investigations and evaluations that it conducts, within the notice period applying for the civil servant.
5. During the notice period applying for the civil servant, the legal regulations and rules applying and to be laid down for civil servants continue to apply to him in full. The provision to the Mobility Centre ends on the date following that on which the notice period applying for the civil servant expires, without prejudice to the provisions of Articles 10 up to and including 14 of the Retaining pay scheme for civil servants.
6. In the cases in which the competent authority applies paragraph 1, the dismissal of civil servants appointed under permanent contracts, with the exception of the dismissal due to the withdrawal of the position, shall take place in the following order, as far as possible:
 - a. those wishing to resign;
 - b. those with pension rights, with those who have not been the breadwinner of a family or of the relations referred to in the second sentence of Article 37(3) for six months or more preceding those who have been in that position, and within these two groups, elderly civil servants preceding young ones;
 - c. those who were posted on the basis of the provisions of the 1925 West Indian Posting Decree or the 1930 West Indian Secondment Decree;

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- d. those who are aged 30 or less and who have not been the breadwinner of a family or of the relations referred to in the second sentence of Article 37(3) for six months or more, starting with those with the fewest years of service;
 - e. those with the fewest years of service. 'Years of service' refers to the time spent in the service of the Country, the former Country of the Netherlands Antilles or an island territory of those countries, regardless of whether they held a position in full-time employment or a position with shorter working hours during that time.
7. If required in the interests of the service, derogation from the ranking order referred to in the preceding paragraph in the granting of dismissal is permitted, provided that, if the scale of the proposed redundancies gives cause for this, this takes place on the basis of a plan adopted by the competent authority, which is announced to the civil servants concerned.
 8. If a civil servant in fixed-term employment is granted dismissal pursuant to paragraph 1 and derives no entitlement to retaining pay from this, a notice period shall be observed as laid down in Article 97(2). Article 97(3) and 97(4) are then applicable. In all other cases in which dismissal is granted pursuant to paragraph 1, a notice period of three months shall be observed.

Article 100

1. A civil servant may be granted an honourable discharge on the grounds of proven revolutionary affinity.
2. Without prejudice to the provisions of paragraph 1, dismissal may also be granted to a civil servant who is a member of an association regarding which the Governor, having heard the Council of Advice, has declared that the objectives it pursues or the resources that it deploys could jeopardise or harm the proper performance of his duties as a civil servant, or who in any way assists or supports such an association or actions that it instigates.

Article 101

1. In cases other than those regulated above or by other legal regulations, civil servants may only be dismissed on the grounds of:
 - a. loss of a requirement imposed on the nomination for appointment, unless the requirement applies only on acceptance of the office;
 - b. placement in receivership pursuant to a court decision that has become final;
 - c. the application of committal for failure to comply with a judicial order due to debts, pursuant to a judicial order that has become final;
 - d. a final custodial sentence for a criminal offence;
 - e. permanent incapacity to perform his official duties due to illness or disability;
 - f. incompetence or unsuitability for the office they hold, other than on the grounds of mental or physical disorders; failure to attain the diploma(s) referred to in Article 5(5), arbitrary discontinuation of the employment by the civil servant.
2. Except in the case referred to in paragraph 1(d), dismissal on the grounds of this Article shall be granted as an honourable discharge. It may not take place before the date following that on which the reason for the dismissal is first established and in the cases referred to in paragraph 1(a), 1(e), 1(f) and 1(g), has also been notified to the person concerned by or on behalf of the competent authority.
3. Dismissal on the grounds referred to in paragraph 1(e) shall not be granted until a medical examination in relation to the incapacity has been conducted.
4. The medical examination prescribed in the preceding paragraph shall be conducted in the Netherlands Antilles by the medical committee referred to in Article 14(3)(a) of the National ordinance concerning civil service pensions, and in other cases by one or more physicians to be designated by the Governor. The further rules referred to in Article 14(4) apply.

Article 102

Former civil servants granted an honourable discharge due to the withdrawal of their position or a change in the organisation of the service or company where they are employed, either of two or more services or companies, or due to a reduced need for employees, shall be assigned retaining pay in accordance with the provisions for this laid down by national ordinance. Civil servants who were qualified by the competent authority for another suitable position, partly in connection with their personality and circumstances, but refused to accept this or who proved impossible to place through their own fault or action, may be assigned no retaining pay or reduced retaining pay.

CHAPTER X

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Deduction, seizure and reduction

§ 1 General

Article 103

1. For the purposes of this Chapter, an 'emolument' is deemed to refer to the financial sum that a civil servant enjoys during his term in office as a reward for proven services of any description, following deductions of charges made for recovery of pension contributions.
2. For the purposes of this Chapter, 'emoluments' include retaining pay.

§ 2 Deduction

Article 104

1. Amounts owed to the government and public bodies by a civil servant may be deducted from the emoluments that they owe the civil servant.
2. In that regard, taxes and dues are also deemed to be owed to the body responsible for their collection.

§ 3 Seizure

Article 105

The provisions of general law apply to the seizure of an emolument.

§ 4 Reduction

Article 106

1. The government may apply reductions to the emoluments that it owes for the claims of creditors of the civil servant, provided that these are recognised by the civil servant in writing in response to the request to apply the reduction.
2. Receivables, the existence of which is shown by a final court decision or an authentic deed in enforceable form are also deemed to be recognised by the civil servant.

§ 5 Restrictions

Article 107

1. Emoluments are open to deduction, seizure or reduction for one third.
2. However, this restriction does not apply with regard to deductions, seizure or reductions:
 - a. for recovery of maintenance payments for which the payment obligation has been imposed by a court ruling;
 - b. with regard to the imposition of a disciplinary sanction;
 - c. for recovery of a penalty imposed by a criminal court or a special court;
 - d. for recovery of compensation for damages caused to the government by the civil servant, in connection with the performance of his duties, through unlawful action or through failure to exercise due care.
3. Up to half of an emolument is liable for deduction, seizure and reduction for recovery of what was paid in advance, advanced or overpaid for the emolument.

§ 6 Bankruptcy

Article 108

1. In the event of the bankruptcy of the civil servant, the part of the emoluments that need not be paid to the bankrupt pursuant to a decision of the examining judge shall be reduced for the receiver, to the extent that no deduction has been made from this.
2. In other respects, reductions are ruled out if the civil servant is declared bankrupt or is granted a moratorium on payments.

§ 7 Convergence

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Article 109

In the event of the convergence of deduction, seizure and reductions, regardless of the sequence in which they occurred in time, deductions shall be made first from the part of the emoluments qualifying for these; a maximum of one quarter of the remainder shall be deemed to have been seized and a reduction may be applied to a maximum of one quarter of the amount then remaining.

§ 8 Allocation

Article 110

1. If a deducted, seized or reduced amount must be divided among more than one creditor, the allocation takes place in proportion to the claims, to the extent that no creditor takes precedence over another.
2. If, in addition to claims for which the restrictions of Article 14(1) do not apply, other claims must also be included in the allocation, the share of this sum provided for in Article 14(1) shall first be divided among all creditors, without distinction.

§ 9 Transfer and pledging

Article 111

1. Transfers or pledging as a result of which a civil servant grants any right to emoluments to a third party are valid only if they take place with the approval of the government authority that awarded him the emolument.
2. These are valid only for a maximum of a one-third share of the emolument.
3. They may only take place either by authenticated deed or by a private deed drawn up in duplicate, provided that the latter is registered and is entirely handwritten by the civil servant, who has signed this himself or has written an approval below this, containing the amount of the transferred or pledged amount or part of his emolument, written out in letters in full.
4. A copy of an authenticated deed or one of the duplicates of the private deed must be submitted to the government authority referred to in paragraph 1.

§ 10 Time limitation of legal claims

Article 112

Unless otherwise provided in special legislation, legal claims relating to emoluments, pensions and other financial claims due pursuant to a legal relationship to which this chapter is applicable or is likewise applicable are limited to the passage of five years from the commencement of the date following that on which the receivable became due. Articles 316 up to and including 323 of Book 3 of the Civil Code apply.

CHAPTER XI

Special provisions

Article 113

The Governor shall grant an honourable discharge to civil servants being employed in public service in this country who pursuant to an appointment by the Governor are appointed to a public position in this country to be granted by the Monarch or by Parliament, from the date on which the new appointment is accepted.

Article 114

Articles 3, 4, 14, 18, 22, 23, 24, 28, 37, 39, 41, 48, 65, 71, 72, 73, 80 and 113 apply to civil servants appointed by the Monarch. Section 9 of Chapter VII and Chapters XI and XIII are also applicable to these civil servants. Articles 104(1), 106(1), 107(1) and 111(1) shall be applied by the Governor.

CHAPTER XII

Final and transitional provisions

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Article 115

1. All orders and administrative decisions containing generally binding regulations as referred to in Article 35(1) of the 1951 Civil service procedure regulation, existing at the time when this national ordinance enters into force, shall remain in effect, to the extent that they or provisions of these do not contravene this national ordinance, until they are replaced in accordance with the provisions of the Constitution and of this national ordinance.
2. The consents and permits for civil servants existing at the time when this national ordinance enters into force and the reductions granted shall remain in effect until they are withdrawn by the authority that may grant such consents, permits or reductions pursuant to this national ordinance and the rules issued pursuant to it.
3. The generally binding regulations in force at the time of conduct, as referred to Article 87, which took place before the date on which this national ordinance enters into force shall continue to be applicable to such conduct.

Article 116

The scope of the effect of the Royal Decree of 2 August 1915, No.74, prohibiting the seizure under public administration and reductions of stipends and pensions in the colony of Curaçao (PB 1915, No. 57) and of Article 48 of the 1938 Civil Service Pensions Ordinance (PB 1949, No.125) is restricted only to the extent necessary for the implementation of the rules concerning deduction, seizure and reduction, as referred to in Chapter X of this national ordinance.

Article 117

1. Articles 19, 21 and 74 of this national ordinance continue to apply to civil servants appointed by the Monarch in their form before the national ordinance of 23 December 1997 (PB 1997, No. 310), in which these Articles were amended or withdrawn, entered into force.
2. Without prejudice to the provisions of Article 114, Articles 22, 23, and 24 of this national ordinance also continue to be applicable to the civil servants referred to in the preceding sentence in their form before they were amended or withdrawn by the aforementioned national ordinance.
3. Article 24, which was withdrawn by the aforementioned national ordinance, also continues to apply to these civil servants, on the understanding that the order awarding the remuneration shall also state the date on which the first regular increase shall commence.

Article 118

1. From the date on which this national ordinance enters into force, the references to Articles of this national ordinance in other national ordinances, national decrees, and national decrees, containing general measures, ministerial orders and ministerial regulations shall be amended in accordance with the transposition table included as an annex in this national ordinance.
2. For one year after the Constitution enters into force, Article 2(1) may be amended by national decree, containing general measures.

Article 119

The implementing regulations laid down for the implementation of the National ordinance substantive civil servants law, in its form prior to the entry into force of the Constitution, shall apply for the implementation of this national ordinance.

Article 120

This national ordinance shall be referred to as 'the National ordinance substantive civil servants law'.

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

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