

## **TRANSLATION OF THE OFFICIAL PUBLICATION OF SINT MAARTEN (AB 2010, GT no. 26)**

### **National ordinance open government<sup>1</sup>**

#### **Chapter 1. Definitions**

##### **Article 1**

The following definitions apply for the purposes of this national ordinance and the provisions based on it:

- a. administrative body: the government or the minister directly concerned;
- b. document: a written document or other material containing data held by an administrative body;
- c. administrative matter: a matter relating to the policy of an administrative body, including its preparation and implementation;
- d. non-official advisory committee: a committee appointed by the government with the task of advising one or more administrative bodies, of which no civil servants are members; for the purposes of the application of this provision, civil servants who are secretaries or advisory members of an advisory committee shall not be regarded as members thereof.

#### **Chapter 2. Openness**

##### **Article 2**

An administrative body aims for openness in the performance of its duties and provides information for that purpose.

#### **Chapter 3. Information on request**

##### **Article 3**

1. Anyone may address a request for information recorded in documents on administrative matters to the administrative body or to the departments, services, agencies or institutions working under the responsibility of an administrative body.
2. The applicant shall state the administrative matter or the document relating to this concerning which he wishes to receive information.
3. An information centre within the administrative body to which requests should be submitted may be designated by decree, containing general measures.
4. Requests shall be granted, in observance of Articles 11, 12 and 13.

##### **Article 4**

If a request concerns information in documents held by an administrative body other than the one to which the request is submitted, the applicant will be referred to that body if necessary. If the request is made in writing, it will be sent on, notifying the applicant of this.

##### **Article 5**

1. A decision on a request shall be taken by or on behalf of the administrative body.
2. The applicant will be notified of a full or partial rejection of a written request, stating the reasons. In the case of an oral request, such a rejection shall be issued in writing, stating the reasons, if the applicant so requests. The applicant shall be informed of this possibility.
3. If information requested as referred to in paragraph 1 relates to a third party, that third party shall be notified of this and decisions and the information, to the extent that this concerns that party, shall be sent to that party in writing, on request.

##### **Article 6**

The administrative body shall take a decision on the request as soon as possible, at the latest within three weeks of the date on which the request is received. The administrative body may postpone a decision for no more than three weeks. Of this the applicant will be notified of this in writing before the expiration of the first term, stating the reasons.

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

#### **Article 7**

1. The administrative body shall provide the required information relating to documents by:
  - a. providing a copy thereof or issuing the literal content thereof in another form;
  - b. providing;
  - c. permitting access to the contents;
  - d. providing a written extract from or summary of the contents; or
  - e. providing information on this, orally or in writing.
2. In its choice between the forms of information referred to in paragraph 1, the administrative body shall take account of the applicant's preferences and the interests of smooth progress of the work.

#### **Chapter. Information on own initiative**

#### **Article 8**

The administrative body shall regularly provide information on its own initiative on the policy regarding administrative matters that concern it.

#### **Article 9**

1. The administrative body shall provide for the publication, if possible with explanatory notes, of advisory reports issued to the body by non-official advisory committees with a view to the policy to be formed, together with the requests for advice and proposals presented by the body to the committees.
2. The documents referred to in paragraph 1 may be disclosed by:
  - a. including these in a generally available publication;
  - b. publishing these separately and making them generally available; or
  - c. making these available for inspection, issuing copies or lending them.
3. Disclosure shall take place as soon as possible after the advisory reports have been received, and in any case within six weeks thereof. Notice of this, and of the place where they are available for inspection shall be announced in the National Gazette of Sint Maarten, the official website of the country or in a local generally available daily or weekly newspaper.

#### **Chapter 5. Publication of advisory reports of the Council of Advice and the Social-Economic Council**

#### **Article 10**

1. The Minister of General Affairs shall provide for the publication of the advisory reports of the Council of Advice.
2. Publication shall take place to the extent that this concerns:
  - a. advisory reports on draft national ordinances: at the same time of the presentation of the draft to Parliament by the government or the initiators;
  - b. advisory reports on all other drafts other than draft national ordinances for which publication in the Official Publication is required: at the same time as the publication;
  - c. advisory reports on matters other than those referred to in sub-paragraphs a. and b.: within six weeks of the issue of the advisory report.
3. Article 9(2) and Article 9(3) are likewise applicable.
4. This Article is likewise applicable to the advisory reports of the Social-Economic Council.

#### **Chapter 6. Exceptions and restrictions**

#### **Article 11**

1. Information shall not be provided pursuant to this national ordinance, to the extent that this:
  - a. could jeopardise the unity of the government;
  - b. could harm the security of the country;
  - c. concerns business or production data that have been submitted to the government by natural or legal persons in confidence.
2. Furthermore, information shall not be provided pursuant to this national ordinance to the extent that the interest in this is outweighed by the following interests:

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- a. the economic or financial interests of the country;
- b. the detection and prosecution of criminal offences;
- c. inspection, control or supervision by or on behalf of administrative bodies;
- d. respect for personal privacy;
- e. the interest of an addressee in being the first to be able to take cognizance of the information;
- f. the prevention of disproportionate benefits or disadvantages for natural or legal persons or third parties involved in the matter.
- g. the relations of the country or the Kingdom with other states and with international organisations.

#### **Article 12**

1. In the event of a request for information in documents drawn up for the purpose of internal consultations, no information shall be provided on policy views that can be traced to persons.
2. 'Internal consultations', within the meaning of paragraph 1, refers to consultations on an administrative matter within an administrative body or a circle of administrative bodies in relation to a joint responsibility for that administrative matter.
3. 'Policy views that can be traced to persons' refers to views, proposals, recommendations or conclusions of one or more persons concerning an administrative matter and the arguments they presented for that purpose.

#### **Article 13**

1. Article 12 is likewise applicable to the advice of an official or mixed-membership advisory committee.
2. An 'official or mixed-membership advisory committee' as referred to in paragraph 1 refers to a committee with the task of advising one or more administrative bodies, consisting fully or partially of officials whose duties include advising the administrative body to which they are accountable to on matters that are presented to the committee.

#### **Chapter. Other provisions**

#### **Article 14**

Further rules concerning the implementation of this national ordinance may be laid down by national decree, containing general measures.

#### **Article 15**

Rules concerning charges for the production of copies of documents and of extracts from or summaries of the contents of documents may be laid down by national decree, containing general measures.

#### **Article 16**

This national ordinance may be declared likewise applicable to independent administrative bodies by national decree, containing general measures.

#### **Article 17**

Each year, before 1 July, the Minister of General Affairs shall send Parliament a report on the way in which this national ordinance was applied in the preceding year.

#### **Article 18**

The Court of First Instance is responsible for settlement of disputes arising from this national ordinance.

#### **Article 19**

This national ordinance may be referred to as 'the National ordinance open government'.

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*October 2013*

The Minister of General Affairs,  
S.A. Wescot-Williams

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