

TRANSLATION OF THE OFFICIAL PUBLICATION OF SINT MAARTEN (AB 2010, GT no. 27)

National ordinance states of emergency¹

§ 1. Declaration and lifting of a state of emergency

Article 1

1. A state of emergency may be declared by national decree, on the proposal of the Prime Minister, if exceptional circumstances require this in order to protect external or internal security.
2. A state of emergency shall not commence earlier than the time at which it is declared by the national decree, referred to in paragraph 1, in the manner to be determined therein.
3. The national decree, referred to in paragraph 1 shall be published in the Official Publication.

Article 2

A national decree declaring a state of emergency shall be sent without delay to Parliament, the government of the Kingdom, the government of the Netherlands, the government of Aruba and the government of Curaçao.

Article 3

A state of emergency shall be lifted:

- a. by an order of Parliament, if it takes the view that the state of emergency may not continue, or may not do so for longer than a particular term;
- b. by national decree, on the proposal of the Prime Minister, as soon as circumstances permit, in the view of the government.

Article 4

1. The order, referred to in Article 3(a) shall be announced in the manner to be determined therein, on the instructions of the President of Parliament, and shall enter into force immediately.
2. The national decree, referred to in Article 3(b) shall be announced in the manner to be determined therein, and shall enter into force immediately.
3. The Minister of General Affairs shall provide for the publication of the orders, referred to in paragraphs 1 and 2, in any event in the Official Publication.

Article 5

Through the lifting of the state of emergency, the provisions that entered into force pursuant to Articles 7 up to and including 16 shall be automatically terminated by law.

§ 2 Powers of the civil authority during a state of emergency

Article 6

For the purposes of this national ordinance, the term 'protection of internal and external security' also refers to taking measures to end the situation that gave rise to the declaration of the state of emergency.

Article 7

1. During the period in which a state of emergency is in effect in order to protect internal and external security which has been disrupted by a disaster, accident or disruption of traffic or connections, the Minister of General Affairs is authorised, in observance of the current rules laid down by or pursuant to a Kingdom Act, to request the Governor of Curaçao or Aruba to make units of the armed forces stationed there available in order to uphold the state of emergency.
2. During the period of their deployment, the units of the armed forces made available are under the responsibility of the Governor.

Article 8

1. During the period in which a state of emergency is in force, the order declaring this may provide that investigating officers designated therein are authorised to require information of any person,

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

This is an English translation of the Dutch source text.

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

October 2013

- and to require access to documents and information carriers on which data are recorded, if knowledge thereof is necessary in order to uphold the state of emergency.
2. If access is required as referred to in paragraph 2 provision or written recording and issue thereof may be required for brief periods in order to make copies.
 3. All persons are required to provide the required information, in full and truthfully, and to grant the required access and the required provision or written record and issue. If necessary, a term may be set for compliance with these obligations.
 4. Persons who, on the basis of their position, occupation or office, are required to protect confidentiality may claim privilege, but only to the extent that this concerns what is entrusted to them in that capacity. They may also refuse to grant access to documents and data and to provide assistance, to the extent that their obligation to protect confidentiality extends to this.
 5. Further rules for the implementation of this Article may be imposed by the order, referred to in paragraph 1.

Article 9

During the period in which a state of emergency is in force, the order declaring this may provide that all persons are forbidden, individually or in the company of others, to practice a religion or faith outside buildings and enclosed spaces.

Article 10

1. During the period in which a state of emergency is in force, the order declaring this may provide that all persons are forbidden to express ideas or sentiments in public, to pass on, to gather or to receive information or to provide presentations, including those of films.
2. The public expression of sentiments and ideas as referred to in paragraph 1 in any event refers to the production, publication, possession, distribution, provision or trading of written documents, inscriptions, drawings or illustrations.
3. Further rules for the implementation of this Article may be imposed by the order, referred to in paragraph 1.

Article 11

1. During the period in which a state of emergency is in force, the order declaring this may provide that:
 - a. all persons are forbidden to demonstrate in public or to take part in gatherings or demonstrations;
 - b. all persons are forbidden to use public roads, stop on public roads, to enter designated buildings, accommodations or sites, or to stay in the open air.
2. During the period in which a state of emergency is in force, the order declaring this may provide that locations in use by the country or by a business of the country are designated as forbidden locations, for the protection of information, the confidentiality of which must be protected in the interests of state security.
3. During the period in which a state of emergency is in force, areas may be designated by national decree, on the proposal of the Prime Minister, which shall be partially or fully evacuated. The order shall provide for the designation of locations for the accommodation of persons who, as a result of the evacuation have no adequate temporary accommodation.
4. Further rules may be laid down by the order, referred to in paragraph 1 regarding access to, traffic within and departure from designated areas.

Article 12

During the period in which a state of emergency is in force, the order declaring this may provide that, if this is necessary in order to uphold the state of emergency, investigating officers designated for that purpose:

- a. have access to every location and are authorised to conduct investigations or house searches there;
- b. may enter homes without authorisation;
- c. are not required to provide proof of identity on entering premises;
- d. are not required to notify the occupant of the location or home of the purpose of entry.

Article 13

1. During the period in which a state of emergency is in force, the order declaring this may provide that investigating officers designated for that purpose are authorised to view the contents of

This is an English translation of the Dutch source text.

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

October 2013

correspondence, including electronic correspondence, without the consent of the sender or the addressee, or to monitor conversations conducted with the aid of telecommunication facilities without the prior authorisation of the courts, if this is necessary in order to uphold the state of emergency.

2. As soon as the need no longer applies, interested parties shall be notified of the use of these powers in writing, unless this is permanently counter to the interests of the country.

Article 14

1. During the period in which a state of emergency is in force, the order declaring this may provide that the minister responsible for telecommunications is authorised to issue binding instructions and orders to holders of licences pursuant to the National ordinance telecommunication facilities with regard to the maintenance, operation, provision, use and security of public telecommunications networks, facilities, installations, transmission equipment or frequencies and the data or information dispatched, received or to be dispatched or received with this.
2. If the holders of licences suffer unreasonable financial disadvantages as a result of instructions issued pursuant to the first paragraph, they may be assigned fairly determined compensation.
3. If an instruction or order is not followed, the minister or persons whom he designates for that purpose is/are authorised to use goods or to requisition these and to take other measures to ensure that the instructions or orders are carried out.
4. Further rules for the implementation of this Article may be imposed by the order, referred to in paragraph 1.

Article 15

1. During the period in which a state of emergency is in force, the order declaring this may provide that the Minister of Justice, or investigating officers designated for that purpose, are authorised to use immovable property and moveable assets, or to requisition these, providing written evidence thereof at the earliest opportunity.
2. As soon as possible, in the opinion of the Minister of Justice, the requisitioned property or asset shall be made available to the right-holder again by or on behalf of the minister. The right-holder shall be notified of this or it shall be publicised if property of more than one person has been used or requisitioned.
3. The competent authority is authorised to make changes to or on property that is used or requisitioned pursuant to paragraph 1.

Article 16

1. During the period in which a state of emergency is in force, the order declaring this may provide that the investigating officers designated for that purpose are authorised to investigate or confiscate all objects regarding which there are serious suspicions that they will be used to threaten external or internal security or which are of importance for determining the truth concerning a potential security threat.
2. An official record shall be drawn up of each confiscation. A copy of this record, which shall include the reasons for the confiscation, shall be sent to the interested party within twice times 24 hours, to the extent that notification of the interested party is not deemed to be counter to national security.

Article 17

1. Persons who fail to follow instructions, directions or orders issued by the competent authority for the purpose of the implementation of this national ordinance may be taken to a location designated for that purpose and temporarily detained by or on behalf of the Minister of Justice.
2. The detention decision shall be recorded in writing and shall include the instructions that were not followed and the circumstances in which this took place.
3. The authorisation to detain persons shall be used only if necessary to prevent continuation or repetition of the non-compliance and compliance cannot reasonably be assured by other appropriate means.

Article 18

1. As far as possible, the Minister of Justice shall ensure that detained persons are given an opportunity to have their details recorded by an official that he designates for that purpose, in evidence that they have been detained.

This is an English translation of the Dutch source text.

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

October 2013

2. The detention may not last for longer than the time necessary to prevent continuation or repetition of the non-compliance, with a maximum of 12 hours.
3. The place of detention must be suitable for the reception of the persons to be detained.
4. In the order declaring the state of emergency, one or more places shall be designated for potential use for the detention of persons.

Article 19

1. A person who intentionally acts in contravention of the prohibitions laid down by Article 9, Article 10(1) or Article 11(1) is committing a criminal offence and will be penalised with a custodial sentence of a maximum of four years or a financial penalty in the fourth category.
2. A person who intentionally acts in contravention of the rules laid down pursuant to Article 8(5), Article 10(3), Article 11(4) or Article 14(4) is committing a criminal offence and shall be penalised with a custodial sentence of a maximum of two years or a financial penalty in the fourth category.
3. Actions as referred to in paragraphs 1 or 2, to the extent that they are not committed intentionally, constitute a violation and shall be penalised with detention for a maximum of one year or a financial penalty in the third category.

Article 20

This national ordinance shall be referred to as the 'National ordinance states of emergency'.

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

This is an English translation of the Dutch source text.

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

October 2013