

TRANSLATION OF THE OFFICIAL PUBLICATION OF SINT MAARTEN (AB 2010, GT no. 30)

National ordinance transitional legal and administrative provisions¹

CHAPTER I TRANSFER OF LEGISLATION

§1 Alteration and repeal of legal regulations

Article 1

1. The national ordinances, national decrees containing general measures and ministerial administrative decisions with general effect of the Netherlands Antilles, referred to in additional Article I(1) of the Constitution, shall attain the status of national ordinances, national decrees containing general measures or ministerial regulations of Sint Maarten, respectively.
2. The island ordinances and island decrees, containing general measures, of the island territory of Sint Maarten, referred to in additional Article I(1) of the Constitution, shall attain the status of national ordinances or national decrees, containing general measures, of Sint Maarten.

Article 2

In accordance with additional Article I(1) and I(2) of the Constitution:

- a. the legal regulations contained in Appendix I of this national ordinance shall be altered as referred to therein;
- b. the legal regulations contained in Appendix II of this national ordinance shall be repealed.

§2 Publication of consolidated texts

Article 3

On the proposal of the Minister of General Affairs, the consolidated text of the legal regulations altered through the application of this national ordinance shall be laid down by national decree. The national decree shall be published in the Official Publication with the designation (GT).

Article 4

1. In drawing up the consolidated text of a legal regulation, the Minister of General Affairs applies the following instructions:
 - a. provisions that had already ceased to have effect when the Constitution entered into force or that involve changes of other regulations shall be scrapped;
 - b. references to other Articles, other regulations or other parts of these shall be adjusted where necessary;
 - c. designations and formulations that are no longer consistent with the current legal system shall be made consistent with this or scrapped;
 - d. the spelling of the Dutch language customary at that time shall be used;
 - e. if necessary, Articles shall be renumbered and paragraphs shall be numbered or renumbered.
2. A table of concordance may be added to the national decree, referred to in Article 3.

CHAPTER II TRANSFER OF ADMINISTRATION

Article 5

From the date on which the Constitution enters into force, all civil-law rights and obligations of the public legal entity of the island territory of Sint Maarten transfer to the public legal entity of the country of Sint Maarten.

Article 6

1. An administrative decision issued by:
 - a. the competent bodies of the Netherlands Antilles, concerning interests relating to Sint Maarten, or
 - b. by the competent bodies of the island territory of Sint Maarten,

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

retains the force of law unless, at the time when this national ordinance enters into force, the interested party in the administrative decision did not comply with the legal regulations on the basis of which the administrative decision was issued.

2. Paragraph 1 does not apply to appointments.
3. The competent administrative authority shall issue written proof of the continued validity of an administrative decision as referred to in paragraph 1, relating to activities in an international setting at the request of the interested party in that decision, stating the term of that validity.
4. Procedures for supervision of compliance with administrative decisions as referred to in paragraph 1 shall be continued by the competent administrative authorities, applying the current legal regulations.

Article 7

1. Administrative decisions as referred to in Article 6(1), the validity of which ends within two years of the Constitution entering into force, shall be renewed by a period equal to that for which the administrative decision was issued.
2. The term of validity of an administrative decision may be restricted by the competent minister if:
 - a. the restriction is in the general interest, and
 - b. the restriction does not give rise to disproportionate adverse effects for the interested party.

Article 8

1. The following applications in processing in the island territory of Sint Maarten at the time when the Constitution enters into force:
 - a. applications for administrative decisions, and
 - b. applications for the reconsideration of administrative decisions already taken,shall be processed further by the minister responsible, in their condition at that time, applying the current legal regulations.
3. The minister responsible shall replace the island council in administrative appeal proceedings pending before the island council, unless the party with a direct interest in the relevant administrative decision decides to file an appeal with the Court of First Instance.
4. This Article is likewise applicable to applications and proceedings as referred to in paragraph 1(a) and 1(b), which are in processing in the country of the Netherlands Antilles when the Constitution enters into force and concern interests relating to Sint Maarten.
5. This Article does not apply to the levy, recovery and collection of taxes.

Article 9

The levy, recovery and collection of taxes applying in Sint Maarten when the Constitution enters into force shall be continued by the competent administrative authorities of the Country of Sint Maarten, applying the current legal regulations.

CHAPTER III FINAL AND TRANSITIONAL PROVISIONS

Article 10

Existing or stated rights based on the legal regulations, referred to in Article 1 at the time when the Constitution enters into force may also be made valid thereafter if this is required in the interests of reasonableness and fairness.

Article 11

By way of derogation from the relevant legal regulation, the financial year for public law entities, the institution and management of which is regulated by or pursuant to national ordinance, shall, on the occasion of the first financial accounts, be the period from the date on which the Constitution enters into force up to and including 31 December 2011.

Article 12

1. Identity cards and driving licences issued before the Constitution enters into force and that are valid at the time when it does so, shall retain their validity until they expire or are withdrawn in observance of the relevant legal regulations.
2. For a period of no more than one year after the Constitution enters into force, the competent authorities may make use of the blank documents that were in stock at that time for the issue of

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identity cards and driving licences. These identity cards and driving licences shall apply as documents of the Country of Sint Maarten.

Article 13

1. Rights and obligations arising from legal regulations of the Netherlands Antilles, concerning pension rights built up by retired, former and active civil servants of the Country of the Netherlands Antilles or the island territory of Sint Maarten, shall remain in effect and shall be implemented in accordance with the current legal regulations, in observance of the Mutual arrangement concerning the succession and partition of the property of the General Pension Fund of the Netherlands Antilles and succession of a few other related regulations.
2. Paragraph 1 is likewise applicable to the pensions and benefits of retired, former and active political authorities, within the meaning of the Pension regulation for political authorities.

Article 14

Rights and obligations arising from legal regulations of the Netherlands Antilles, concerning social insurance and the National ordinance general insurance of exceptional medical expenses shall remain in effect and shall be implemented by the Country or by an implementing organisation designated for that purpose, in observance of the Mutual arrangement concerning the partition of the property of the Social Insurance Bank of the Netherlands Antilles.

Article 15

1. Appendix I of this national ordinance may be altered by national decree, containing general measures, for a maximum period of two years, provided that the proposed amendment relates to the altered legal system.
2. Appendix II of this national ordinance may be altered by national decree, containing general measures, for a maximum period of two years following the date on which this national ordinance enters into force.

Article 16

This national ordinance shall be referred to as 'transitional legal and administrative provisions'.

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

APPENDIX I accompanying and forming part of Article 2(a) of the National ordinance transitional legal and administrative provisions

§1 General section

Article 1

1. The following general amendments shall be made in the legal regulations, referred to in Article 1(2) of the National ordinance:

- a. the terms 'the country of the Netherlands Antilles', 'Netherlands Antilles' and 'the island territory of Sint Maarten' shall be replaced by 'Sint Maarten';
- b. the term 'Netherlands Antillean' shall be replaced by 'of Sint Maarten';
- c. the term 'general ordinances' shall be replaced by 'national ordinances';
- d. the word 'Willemstad' shall be replaced by 'Philipsburg';
- e. provisions relating to the decentralised political organisation of the Netherlands Antilles shall be withdrawn, to the extent that this arises from the altered legal order and application in observance of this national ordinance is not consistent with the altered legal order;
- f. official positions, bodies, institutions, services or offices of the Netherlands Antilles or of the island territory of Sint Maarten shall be replaced by the equivalent official positions, bodies, institutions, services or offices installed for the country of Sint Maarten, in observance of the Constitution;
- g. where a regulation makes a distinction between procedures on the island of Curaçao and the other islands of the Netherlands Antilles, the procedure applying for Curaçao shall be followed;
- h. where provision is made for the assistance or intermediary of island bodies for the performance of the tasks of the country and where provision is made for the assistance or intermediary of national bodies for the performance of tasks by an island territory, the relevant Articles or parts of Articles are withdrawn unless the regulation of the implementation is consistent with the current legal system;
- i. where mention is made of implementation or further rules laid down by island ordinance, this shall be replaced by implementation or further rules laid down by national decree, containing general measures;
- j. where the lieutenant-governor is assigned to hear the taking of an oath, this shall be replaced by the Governor;
- k. where the lieutenant-governor is assigned to perform tasks, this shall be replaced by the minister whose tasks include the relevant matter;
- l. where the lieutenant-governor is assigned to perform tasks as the local chief of police, this shall be replaced by the Minister of Justice;
- m. where the lieutenant-governor or the local chief of police is assigned authorisation to issue a special charge to enter residential properties, that provision shall be withdrawn;
- n. where implementing tasks are assigned to the Governor, this shall be replaced by implementation by the minister responsible;
- o. where appeals to the Island Council are instituted, that provision shall be withdrawn.

2. The provisions of paragraph 1 are likewise applicable to the legal regulations, referred to in Article 1(1), of the National ordinance, on the understanding that:

- a. if the consequence is that the apparent objective of this provision is not achieved, the text shall be altered by the national decree referred to in Article 3 of the National ordinance in such a manner that this objective is realised as far as possible; and,
- b. outdated Dutch language shall be replaced by Dutch language use that is current at the time at which the provisions enter into force.

3. The powers of amendment as referred to in paragraph 2(a) shall lapse on April 10, 2013.

4. The proposal for a national decree as referred to in Article 3 of the National ordinance shall not be submitted less than 4 weeks after the draft has been handed to Parliament, if:

- a. the powers of amendment as referred to in Article 2(2)(a) has been used; and,
- b. the legal regulation to be altered concerns a national ordinance.

§2 Special section

Article 2

The **National ordinance Council of Advice** shall be altered as follows:

- A A new Article 12a shall be inserted after Article 12, reading:

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Article 12a

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

- B The first sentence of Article 3 shall be scrapped.
- C A new third paragraph shall be added to Article 6, reading as follows:
 - 3. Positions, the performance of which is undesirable in view of the good performance of the office or the maintenance of impartiality and independence or of the confidence in these are incompatible with the office of member of the Council of Advice.

Article 3

The **National ordinance General Audit Chamber** shall be altered as follows:

- A A new Article 12a shall be inserted after Article 12, reading:

Article 12a

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

- B The second Article 50 shall be numbered: 51 and the further Articles shall be renumbered in sequence.

Article 4

The **National ordinance Social-Economic Council** shall be altered as follows:

- A A new Article 11a shall be inserted after Article 11, reading as follows:

Article 11a

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

- B Article 23(2) shall read as follows:
 - 2. The chairman shall perform the management.

Article 5

The **Election Ordinance** National Election Ordinance shall be altered as follows:

- A In Article 1(2), the phrase 'in the absence of evidence to the contrary' shall be scrapped.
- B In Article 2, 'Article 13' shall be replaced by: 'Article 21'.
- C Article 12(2) and 12(3) shall read as follows:
 - 2. The central electoral committee consists of five members, including a chairman and a deputy chairman. There are also two deputy members.
 - 3. The chairman, the deputy chairman, the members and the deputy members are appointed by national decree on the basis of their expertise and experience, on the nomination of the appointments committee. They are appointed for a term of seven years and may be reappointed on one occasion.
- D In Article 22(2), 'the proof of registration with the Electoral Council' shall be replaced by: the proof of registration and of the specification of the political party at the Electoral Council.
- E In Article 23(1), 'main electoral committee' shall be replaced by: central electoral committee.

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- F In Article 24(5), 'the specification of the party registered with the central electoral committee' shall be replaced by: the specification of the party, as registered with the Electoral Council as referred to in Article 4(1) of the National ordinance registration and finances of political parties.
- G In Article 25(2)(a), 'Article 31(2)' shall be replaced by: Article 39(2).
- H In Article 25(2)(b), 'Article 26(2)' shall be replaced by: Article 26(1).
- I Article 26(4) shall read: The form and content of the receipt referred to in paragraph 1 shall be laid down by national decree, containing general measures.
- J In Article 27(1), 'Article 105,' shall be replaced by: Article 102.
- K In Article 30, 'Article 20(3)' shall be replaced by: Article 28(3).
- L In Article 31(c), 'decree, containing general measures' shall be replaced by: national decree, containing general measures.
- M In Article 31(f), 'Article 26' shall be replaced by: Article 26(1).
- N In Article 36(1), 'the case' shall be replaced by: one of the cases.
- O In Article 36(2), the phrase 'for the colour print referred to in Article 48(2),' shall be scrapped.
- P In Article 39(2) , 'Article 10(2) shall be replaced by: Article 11(2).
- Q A new fifth paragraph shall be added to Article 42, reading:
5. The financial provisions for the members and deputy members of the electoral committee shall be regulated by national decree, containing general measures.
- R In Article 43(5), 'Our Minister' shall be replaced by: the minister and 'the contents of Article 134' shall be replaced by: the contents of Articles 131, 132, 133, 134 and 135.
- S In Article 67(2), the words 'names of the candidates' shall be replaced by: the names of the candidates.
- T In Article 77(1), 'Article 75' shall be replaced by: Article 76.
- U In Article 86(1), 'Article 84' shall be replaced by: Article 83.
- V In Article 91(4), 'Article 91' shall be replaced by: the.
- W In Article 93(1), 'main electoral committee' shall be replaced by 'central electoral committee'.
- X In Article 115: Article 92 shall be replaced by 'Article 100'.
- Y In Article 119(1), between 'months' and 'outside' the term: continuous shall be inserted.
- Z In Article 124, 'use' shall be replaced by: uses.
- ZA In Article 135, '91' shall be replaced by: 94.
- ZB Article 137 shall read: This national ordinance shall be referred to as the Ordinance on elections.

Article 6

The **National ordinance parliamentary inquiries** shall be altered as follows: In Articles 24(1), 24(4), 24(5) and 24(6), Article 25, Article 26 and Article 27(1), 27(2), 27(3), 27(4), 27(5), 27(6) and 27(8), 'provisional relief section' shall be replaced by: judge in interim injunction proceedings.

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Article 7

The **National ordinance registration and finances of political parties** shall be altered as follows:

Article 5(1), 5(2) and 5(3) shall read:

1. The Electoral Council comprises three members, including a chairman and a deputy chairman. In addition, there are two deputy members.
2. The chairman, the deputy chairman, the members and the deputy members are appointed by national decree on the nomination of the appointments committee, on the basis of expertise and experience.
3. They shall be appointed for a term of seven years and may be reappointed on one occasion.

Article 8

The **National ordinance Constitutional Court** shall be altered as follows:

- A In Article 2(2), after 'Bachelor's, the words: or Master's shall be added.
B In Article 3, 'associate' shall be replaced by: deputy.

Article 9

The **National ordinance security service** shall be altered as follows:

- A In Article (j), 'Article 50' shall be replaced by: Article 51.
B In Article 9(1) and 9(2), the term 'ordinance' shall be replaced by: national ordinance.
C In Article 11(1), a comma shall be inserted after: Article 28(2).
D In Article 12, Article 14(3) and 14(4), Article 16(1) and Article 17(3), the term 'ordinance' shall be replaced by: national ordinance.
E In Article 23(6), the phrase 'by ministerial decision' shall be replaced by: By or pursuant to national decree, containing general measures.
F In Article 25(2), the term 'draft national ordinance' shall be replaced by: a draft of a national ordinance.
G In Article 27 and Article 28(6), the term 'ordinance' shall be replaced by: national ordinance.
H In Article 38(1)(c), the term 'extract' shall be replaced by: extract.
I In Article 40(2)(b), the term: or the country shall be inserted after 'the state'.
J In Article 46(2)(a), the term 'island ordinance' shall be replaced by: national ordinance.
K In Article 49(1), the phrase 'of Sint Maarten' shall be deleted.
L In Article 49(4), Article 52(7) and 52(8): , containing general measures, shall be inserted after the term 'national decree'.
M In Article 56(1), the term 'Article 51(1)' shall be replaced by: Article 51(2), and 'ordinance' shall be replaced by: national ordinance.
N In Article 57(1), a semicolon shall be inserted after 'documents'.
O In Article 57(2), a semicolon shall be inserted after 'days'.
P In Article 58(4): or the country shall be inserted after the term 'state'.
Q In Article 59(1) and Article 63(1), the term 'ordinance' shall be replaced by: national ordinance.

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R In Article 69(1), 'Article 70(1)' shall be replaced by: Article 68(2).

S In Article 70(1), the word: a shall be inserted after 'to'.

Article 10

The **National ordinance promotion of the integrity of ministers** shall be altered as follows:

A A new paragraph 10 shall be inserted after Article 2(9), reading as follows:

10. If the minister neglects to submit a signed declaration, as referred to in paragraph 4, to the prime minister within 30 days of the acceptance of his appointment, the prime minister shall notify Parliament accordingly without delay.

B The final sentence of Article 4(2) shall read: Article 2(1) up to and including 2(8) and Article 2(10) shall be likewise applicable.

C In Article 7: Article 2(10), shall be inserted before 'Article 3(5)' .

Article 11

The **National ordinance personal data protection** shall be altered as follows:

In Article 2(2)(b) 'the National ordinance intelligence and security services' shall be replaced by: the National ordinance security service'.

Article 12

The **National ordinance establishing the framework for the central bank, monetary system, foreign exchange and exchange rates** shall be altered as follows:

A A new fifth paragraph shall be added to Article 1, reading as follows:

5. The common central bank, referred to in paragraph 1, is an independent administrative authority as referred to in Article 98 of the Constitution.

B A new Article 1a shall be inserted after Article 1, reading as follows:

Article 1a

The rules for the implementation of the tasks assigned to it by the Bank of the Netherlands Antilles before the Constitution entered into force shall attain the status of an ordinance, as referred to in Article 98 of the Constitution, issued by the bank referred to in Article 1(1).

Article 13

The **National trademarks ordinance** shall be altered as follows:

A Article 1 shall read as follows:

Article 1

1. There shall be an Intellectual Property Bureau.

2. By national decree containing general measures, the structure, management, powers and tasks of the Bureau shall be regulated.

B Article 48 shall read as follows:

Article 48

1. Article 1 shall not apply for five years following the entry into force of the Constitution of Sint Maarten.

2. In the period referred to in paragraph 1, the tasks laid down in the National trademarks ordinance and the Intellectual Property Bureau Regulation shall be performed by a legal entity designated for that purpose.

Article 14

In the **National ordinance accident insurance**, the **National ordinance general insurance for exceptional medical expenses**, the **National health insurance ordinance**, the **National ordinance general widows and orphans insurance**, the **National ordinance general old age**

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insurance, the **Cessantia national ordinance** and the **Regulation compensation for the medical expenses of civil service pensioners and their surviving dependents**, the term 'Social Insurance Bank' shall be replaced by: the Country of Sint Maarten or an implementing organisation designated by that country by national decree.

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APPENDIX II belonging to Article 2(b) of the National ordinance transitional legal and administrative provisions

COUNTRY OF THE NETHERLANDS ANTILLES

General Affairs and Foreign Relations

Official title or other description of the regulation	Reference in Official Gazette (PB)
1. Royal Decree of 4 Sept. 1868 No.18, establishing the General Legislative Provisions for the Netherlands Antilles	1868, 16
2. Administrative decision publicising the Rules of order for the Council of Advice	1949, 11
3.	
4. National decree, containing general measures, of 26 November 1970, regulating the institution of the Social-Economic Council	1970, 136
5. Publication decree	1987, 139
6. National ordinance open government	1995, 211
7. National ordinance the organisation of the National government	2001, 75
8. 2002 National ordinance General Audit Chamber of the Netherlands Antilles	2002, 135
9. National ordinance containing provisions exercise of the right of assembly	1933, 54

Domestic and Constitutional Affairs

Official title or other description of the regulation	Reference in Official
1. Ordinance dividing the island of Curaçao into districts	1932, 59
2. Administrative decision containing rules regarding custom for written Dutch, as described in the Act of 14 February 1947 (5. No. H 52)	1947, 120
3. 1948 inquiry regulation	1948, 158
4. Ordinance regulating the status and remuneration, travel and accommodation allowance, holiday entitlement, holiday extension, allowance for the costs of medical treatment and/or nursing, death benefits and pension of the clerk to the Parliament, as well as the pension of his surviving dependents	1949, 15
5. National ordinance approving rules of order for the Council of Ministers, together with the Rules of order for the Council of Ministers, adding the reference 1955, 99 in	1955, 99
6. 1944 Workers ordinance	1978, 376
7. Regulations concerning travel and accommodation expenses for Members of Parliament	1956, 103
8. Flag ordinance	1959, 162
9. National ordinance establishing the coat of arms of the Netherlands Antilles	1964, 161
10. Regulation concerning employee holidays and leave	1971, 85

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11. National ordinance substantive civil servants law	1964, 159
12. Netherlands Antillean Election Regulations	1973, 27
13. National ordinance expansion of the maximum number of ministers	1977, 258
14. National ordinance containing rules relating to the indemnification of Members of Parliament	1990, 55
15. Non-activity national ordinance	1990, 56
16. Pension regulations for Members of Parliament	1990, 80
17. National ordinance General Pension Fund of the Netherlands Antilles	1997,311
18. Uniform national ordinance Constitutional Court of the Netherlands Antilles and Aruba	1985, 173
19. National ordinance national anthem of the Netherlands Antilles	1997, 257
20. National ordinance Organised Consultation in Civil Service Affairs	2008, 70

Finance

Official title or other description of the regulation	Reference in Official Gazette
1. 1908 Distilleries ordinance	1908, 34
2. National ordinance the levy of special import duties on petrol	1932, 107
3. National ordinance distilleries	1948, 119
4. National accountability ordinance	1953, 1
5. Accountability regulations of the island territories	1953, 174
6. 1970 National ordinance duties on cigarettes	1970, 96
7. 1970 National ordinance duties on beer	1971, 36
8. 1989 Regulation monetary system of the Netherlands Antilles	1989, 70
9.	
10. Experimentation ordinance accountability regulations	1992, 99
11. Central Bank Charter 1985	1985, 183
12.	
13. National ordinance domainal land	1968, 135
14. 1999 National ordinance value added tax	1999, 43

Economic Affairs and Employment

Official title or other description of the regulation	Reference in Official Gazette

Public Health and Social Development

Official title or other description of the regulation	Reference in Official Gazette
National ordinance Social Insurance Bank	1960, 154

Traffic and Transport

Official title or other description of the regulation	Reference in Official Gazette

Education and Culture

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Official title or other description of the regulation	Reference in Official Gazette
National ordinance social education obligation	2005, 72

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ISLAND TERRITORY OF SINT MAARTEN

Public order and safety

Official title or other description of the regulation	Reference in Official Gazette

Public decency

Official title or other description of the regulation	Reference in Official Gazette

Public health

Official title or other description of the regulation	Reference in Official Gazette

Finance

Official title or other description of the regulation	Reference in Official Gazette

Social care. Religious affairs

Official title or other description of the regulation	Reference in Official Gazette

Traffic and transport

Official title or other description of the regulation	Reference in Official Journal

Economic Affairs

Official title or other description of the regulation	Reference in Official Gazette

Organism of the island territory

Official title or other description of the regulation	Reference in Official Gazette
Election regulations of the Island Council	1979, 2
Regulation concerning the standing council committees	1993, 112
Rules of Order of the Island Council	1994, 8
Organisation ordinance	2008, 19
Island ordinance the Social-Economic Advisory Council	1998, 35

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