

TRANSLATION OF THE OFFICIAL PUBLICATION OF SINT MAARTEN (AB 2010, GT no. 4)

NATIONAL ORDINANCE SECURITY SERVICE

Chapter 1

General provisions

Article 1

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

- a. minister: the Prime Minister, Minister of General Affairs;
- b. service: the Security Service of Sint Maarten, as referred to in Article 2;
- c. head: the head of the service;
- d. personnel: the officials employed by the service;
- e. data: personal data and other information;
- f. personal data: data relating to an identifiable or identified individual natural person;
- g. data processing: every action or every set of actions relating to data, including in any event the collection, recording, ordering, saving, updating, alteration, retrieval, viewing, use, provision by transmission, circulation or any other form of provision, combination, relating, as well as the protection, deletion or destruction of data;
- h. security investigation: the conduct of an investigation relating to the performance of a position involving confidentiality;
1. positions involving confidentiality: positions with the Country or elsewhere in Sint Maarten that entail a possibility of harming national security;
- j. Committee: the Supervisory Committee referred to in Article 51.

Chapter 2

The service and its tasks

Article 2

1. There shall be a Security Service. The service shall perform its duties in compliance with the law and under the responsibility of the minister.

Article 3

1. The tasks of the service, in the interests of national security, are:
 - a. To conduct investigations, including the collection of data concerning organisations which and persons who, through the objectives that they aim for or through their activities, give rise to serious suspicions that they pose a risk to the continuation of the democratic legal order or the integrity of public administration, or to the security or other serious interests of Sint Maarten or the Kingdom of the Netherlands;
 - b. the performance of security investigations;
 - c. the promotion of measures to protect the interests referred to in sub-paragraph a, including measures to protect data, the confidentiality of which is required in the interests of the national security of Sint Maarten or of the Kingdom of the Netherlands and of those parts of the government service and the private sector that, in the view of the minister, are of vital importance for the preservation of societal life.
2. The head shall continually inform the minister of the outcomes of the work of the service and notify him of all matters that may be of importance for him in the performance of his duties.

Article 4

1. The head shall be appointed by national decree on the joint nomination of the minister and the Minister of Justice, and is a civil servant within the meaning of the National Ordinance Substantive Civil Servants Law.
2. The head has no investigative powers.
3. The appointment as head requires at least:
 - a. a certificate of no objection by the service, following the performance of a security investigation;
 - b. the possession of Dutch nationality.
4. Further requirements concerning the appointment of the head may be laid down by national decree.

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Article 5

The head shall provide for:

- a. the confidentiality of data qualifying for this;
- b. the confidentiality of sources of data qualifying for this;
- c. the security of persons with the assistance of whom data is gathered.

Article 6

The head shall provide for:

- a. the necessary provisions to promote the accuracy and completeness of the data being processed;
- b. the necessary provisions of a technical and organisational nature to secure data processing against the loss of or damage to data and against unauthorised data processing;
- c. the designation of persons who hold sole authorisation to perform the work relating to the data processing described in the designation.

Article 7

1. The personnel are civil servants within the meaning of the National Ordinance Substantive Civil Servants Law. Personnel shall be appointed, promoted and dismissed on the nomination of the minister.
2. The requirements for appointment to the service are:
 - a. a certificate of no objection by the service, following the conduct of a security investigation;
 - b. the possession of Dutch nationality.
3. The personnel shall hold no investigative powers.
4. No work shall be assigned to the personnel that conflicts with the tasks of the service, nor shall the personnel perform such actions.

Article 8

The minister may impose further rules concerning the organisation, the working methods and the management of the service.

Chapter 3**General provisions concerning data processing****Article 9**

1. The service is authorised to process data in observance of the requirements imposed for this by or pursuant to an ordinance.
2. Data processing shall take place only for a specific objective and only to the extent necessary for proper implementation of this ordinance.
3. Data processing shall take place in accordance with the law and in a correct manner with due care.
4. Data processed as part of the performance of the tasks of the service shall be provided with an indication concerning the degree of reliability or a reference to the document or source from which the data have been derived.

Article 10

- a. The service shall process personal data concerning only those persons:
 - b. whose activities give rise to serious suspicions that they form a risk to the continuity of the democratic legal order or the integrity of public administration, or to the security or other serious interests of Sint Maarten or the Kingdom of the Netherlands;
 - c. who have granted written consent for the institution of a security investigation;
 - d. concerning whom information has been requested by another information or security service within or beyond the Kingdom of the Netherlands;
 - e. whose data are necessary to support the proper performance of the tasks of the service;
 - f. who are or have been employed by the service.
- b. The service shall not gather data concerning a person's religion or faith, race, health or sexual life unless this takes place to supplement other information and is unavoidable for the purpose of the aforementioned gathering of data.

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Article 11

1. The head shall ensure that data processed by the service concerning a person that prove, after the event, to be incorrect or to have been processed improperly shall be corrected or deleted without delay. The head, or the minister, if Article 28(2) applies, shall immediately notify the correction to the person to whom the relevant data was provided.
2. The head shall ensure that data that have lost their significance in relation to the purpose for which they were processed are deleted.
3. The deleted data shall be destroyed unless this is prevented by legal rules concerning the keeping of data.
4. If a request within the meaning of Articles 34 or 36 is made in relation to data qualifying for destruction, the destruction of the relevant data shall be suspended at least until the time on which a final decision is made on the request. To the extent that the request to view the data is granted, the relevant data shall not be destroyed before the person concerned has been able to access the relevant data in accordance with Article 34(2).
5. By national decree containing general measures, rules shall be imposed regarding the method of deletion and destruction of data, within the meaning of paragraphs 2 and 3.

Article 12

Unless otherwise provided in this ordinance, the National personal data protection ordinance does not apply.

Chapter 4

General data gathering powers

Article 13

The service shall gather the data necessary for the proper performance of its duties, as referred to in Article 3(1), from public sources.

Article 14

1. The head and the personnel authorised by the head to that end are authorised to address the following for the gathering of data in the performance of their tasks or to support the proper performance of their tasks:
 - a. administrative bodies, officials and all other persons that can be deemed able to provide the necessary data;
 - b. the persons responsible for processing of data.
2. In the case referred to in the first sentence and sub-paragraph b of paragraph 1, the official charged with this by the head is required to provide proof of identity to the person responsible for data processing on the basis of proof of identity issued for that purpose by the head on behalf of the minister.
3. At the request of the head, the person responsible for the management of a government service shall provide the head with the requested information. If that service is subject to special confidentiality requirements, the request shall be granted only to the extent that the minister has established in writing in advance that the interests represented by the service outweigh the interests represented by the relevant government service. In that case, any special regulations laid down by ordinance in relation to the aforementioned provision do not apply.
4. The regulations applying by or pursuant to national ordinance for the person responsible for data processing with regard to the provision of such data do not apply to provision in response to a request as referred to in paragraph 1.

Chapter 5

Special data gathering powers

Article 15

Without prejudice to the data gathering powers referred to in Articles 13 and 14, the service is authorised to exercise the powers referred to in this chapter, to the extent necessary for proper performance of the task described in Article 3(1)(a).

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Article 16

1. The exercising of the powers described in this chapter by the service is permitted only if, and to the extent that this national ordinance does not provide otherwise, the minister, or the head acting on behalf of the minister, has issued prior written consent for this.
2. The head may, by written order, designate civil servants subordinated to him to grant the consent referred to in paragraph 1 on his behalf. The minister shall receive a copy of the order without delay.

Article 17

1. The service is authorised to apply the following special powers:
 - a. the observation of natural persons or goods and the recording of data in that regard, with or without the aid of observation and recording tools;
 - b. the following of natural persons or goods and the recording of data in that regard, with or without the aid of tracking devices, locating equipment and recording tools;
 - c. the entry to and searching of enclosed locations;
 - d. opening and inspection of closed objects;
 - e. tapping, recording and monitoring of conversations, telecommunications or automated data transfers by technical means;
 - f. the incorporation and deployment of legal entities to prepare and support operational activities;
 - g. the deployment of natural persons, not being personnel, who are mandated, with or without the use of an assumed identity or capacity, occasionally or for a specific term, under the responsibility and on the instruction of the service, to:
 - 1° gather specific data concerning organisations or persons which may be of importance for the performance of the service's tasks,
 - 2° the promotion or taking of measures and the performance of actions as referred to in Article 23(3) to protect the interests to be represented by the service.
2. The opening of a closed object as referred to in paragraph 1(d) includes the opening of letters and other addressed dispatches as well as the hacking of electronic files.
3. The special powers described in paragraph 1(c), 1(d) and 1(e) shall be exercised only if the minister, on the written proposal of the head, has issued prior written consent for this in each concrete case. Unless otherwise provided by this national ordinance, such consent is granted for a maximum of three months and may be extended by the same period on each occasion, in response to a written request to that effect by the head. The special powers described in paragraph 1 shall be exercised only if the head has established that the envisaged data gathering cannot take place in the manner described in Articles 13 and 14.

Article 18

1. If, in the exercise of the special powers described in Article 17(1)(c), it is necessary to enter residential premises without the consent of the occupant, the authorisation of the personnel by the minister is required. The regulations laid down in Article 7(2) of the Constitution do not apply.
2. The persons authorised to enter the residential property shall be designated by the minister in the authorisation referred to in paragraph 1.

Article 19

1. The exercise of the power to open letters, as referred to in Article 17(1)(d) in conjunction with Article 17(2), and to make copies of these without the consent of the addressee, is permitted only if an order for this has been issued for each individual sender or addressee by a judge of the Court of First Instance sitting in Sint Maarten, on the request of the head.
2. The request for an order as referred to in paragraph 1 shall at least contain: the name and the address of the person of whom or institution of which the letters or other dispatches addressed to him/it or those sent by him/it are to be opened.
3. An order shall be issued only if this is necessary for the proper performance of the task assigned to the service.
4. An order, as referred to in paragraph 1, shall be issued:
 - a. by letter or other addressed dispatch, if this is already in the possession of the service;
 - b. for a period of no more than three months, to be fixed in the order, if this concerns the opening of letters or other addressed dispatches entrusted or to be entrusted to a postal or transport institution referred to in the order.

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Article 20

1. The postal or transport institution referred to in Article 19(4)(b) is required to deliver the letters and other addressed dispatches to which the order relates, for receipt, to a member of the personnel designated for that purpose by the head.
2. Personnel are required to show the postal or transport institution proof of identity on the basis of proof of identity issued by the head.
3. The head shall ensure that a letter or other addressed dispatch provided by a postal or transport institution is returned to the relevant institution for dispatch immediately after its investigation.

Article 21

1. In the event of hacking of an electronic work, within the meaning of Article 17(1)(e) in conjunction with Article 17(2), this may take place with or without the use of technical tools and with the use of a false capacity. This power also includes the power:
 - a. to break through any security;
 - b. to apply technical facilities to undo encryption of data stored or processed in the electronic work;
 - c. to copy the data stored or processed in the electronic work.
2. The request for consent referred to in Article 17(3) shall be made by the head and shall at least include:
 - a. a designation of the power that the service wishes to exercise and where applicable, a number;
 - b. data concerning the identity of the person or organisation in respect of whom or which the exercise of the relevant power is required;
 - c. the reason why the exercise of the relevant power is required.
3. If the number referred to in paragraph 2(a) is not yet known when the request for consent is submitted, consent shall be granted only subject to the condition that the power may only be exercised as soon as the relevant number is known. The service is authorised to use technical tools with which the number referred to in the first sentence can be obtained.
4. If the data referred to in paragraph 2(b) are not yet known when the request for consent is submitted, consent shall be granted only subject to the condition that the data are supplemented at the earliest opportunity.
5. Paragraph 3 does not apply with regard to the directed receipt and recording of non-cable-bound telecommunications originating in or addressed to other countries on the basis of a technical distinguishing feature.
6. Anyone with knowledge of the removal of the encryption of data stored or processed in the electronic work referred to in paragraph 1 is required to provide the head with all necessary assistance, on his written request, for the removal of such encryption.

Article 22

1. To the extent that the exercise of the special power referred to in Article 17(e) concerns telecommunications, the prior written consent of the Minister of Telecommunication is also required for each specific case. The head shall send a copy of each notice of consent to the Supervisory Committee within 48 hours.
2. To enable the service to exercise the powers assigned to it in connection with the protection of the democratic legal order, as referred to in Article 17(1)(e), every holder of a concession within the meaning of Article 2 of the National ordinance telecommunication facilities shall take the technical measures in its business that the head considers desirable, without delay.

Article 23

1. The minister may order administrative bodies that qualify for this in writing to provide such assistance as is necessary in order to provide a natural person, as referred to in Article 17(1)(g) with an identity to be established. The legal regulations applying for the administrative body in relation to this required work shall not apply, to the extent that they prevent the performance of that work.
2. The deployment of natural persons, within the meaning of Article 17(1)(g) shall take place only with the special written authorisation of the head. If a person to be deployed has judicial antecedents, the prior written consent of the minister is required for such deployment and the Supervisory Committee shall be notified of the deployment.
3. On the instruction of the service, the natural person referred to in Article 17(1)(g) may also be ordered to perform actions that may result in assistance being provided for the committing of an offence or in the committing of an offence. Instructions within the meaning of the first paragraph shall be issued only if necessitated by the proper performance of the task of the service or in the interests of the safety of the natural person concerned.

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4. A natural person, as referred to in Article 17(1)(g), may not, in following the instruction, by his actions incite another person to take different action concerning the plotting or committing of offences than that to which that person's intent was already directed. In the instruction referred to in paragraph 3, the relevant natural person will be informed:
 - a. of the circumstances in which they may perform actions in order to carry out the instruction that may result in assistance being provided for the committing of an offence or in the committing of an offence;
 - b. of the way in which the instruction should be carried out, including the nature of the actions that may be performed by the relevant person in that regard, to the extent that these are foreseeable when the instruction are given.
5. The instruction of the natural person, as referred to in Article 17(1)(g), shall be recorded in writing.
6. By national decree containing general measures, the minister may impose further rules concerning:
 - a. The conditions and the cases in which a natural person, as referred to in Article 17(1)(g), may perform actions in order to carry out the instruction that may result in assistance being provided for the committing of an offence or in the committing of an offence;
 - b. The way in which the exercise of the relevant power will be monitored.

Article 24

1. Five years after the termination of the exercise of the special power referred to in Article 17(1)(c), to the extent that a residential property was entered without the consent of the occupant, and once a year thereafter, the minister shall investigate whether a report on this can be issued to the person in respect of whom the power was exercised. If this is possible, it shall take place at the earliest opportunity.
2. The report shall be issued in writing and shall contain only:
 - a. information concerning the identity of the person concerned;
 - b. the person or institution that granted consent or authorisation, or that ordered the exercise of the special power;
 - c. the date on which the consent, authorisation or order for the exercise of the power was issued;
 - d. the period during which the power was exercised and a specification of the residential property that was entered.
3. If it is not possible to issue the report referred to in paragraph 1, the Supervisory Committee shall be notified of this. The notice to the Committee shall state the reasons.
4. The obligation to issue a report, as referred to in paragraph 1, lapses on the date on which it is established that this is not reasonably possible.
5. The written report to the person shall be deferred if the special power was exercised as part of an investigation concerning which the provision of information to the person concerned would have to be refused pursuant to Article 39 if that person had submitted a request within the meaning of Article 34 at the time of the investigation.
6. The investigation obligation referred to in paragraph 1 lapses if the service informs the minister in writing that the issue of the report can reasonably be expected to lead to:
 - a. sources of the service, including intelligence and security services of other countries, being revealed;
 - b. serious damage to relations with other countries and with international organisations;
 - c. a specific application of a method of the service or the identity of persons who assisted the service in the application of the method being revealed.

Article 25

1. If the head considers action that cannot be attributed to a special power as described in Article 17(1) and that, on its performance, leads or could lead to a breach of the right to protection of the privacy of a citizen, he shall not take such action without the written consent of the minister for this. The Supervisory Committee shall be notified of the performance of the action.
2. Within six months of the consent to perform the action referred to in paragraph 1 being granted, the government shall submit a draft national ordinance regulating that action to Parliament.

Article 26

1. The exercise of the powers referred to in this chapter is warranted only if the collection of data envisaged thereby cannot take place, or cannot take place in time by consulting publicly accessible sources of information or information sources for which the service has been granted the right to view the information held there.

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2. If a decision is made to exercise one or more of the powers referred to in this chapter, the only powers that shall be exercised are those that, in view of the circumstances of the case, including the seriousness of the threat to the interests to be protected by the service, are least detrimental to the person concerned, including in comparison with other available powers.
3. The exercise of a power, within the meaning of this chapter, shall be discontinued immediately if the purpose for which the power is exercised is achieved or if the exercise of a less extensive power will suffice.
4. The exercise of powers must be proportionate to the objective envisaged thereby.
5. A written report on the exercise of powers within the meaning of this chapter shall be drawn up in each concrete case.

Chapter 6

Internal and external provision of data

Article 27

The provision of data processed by or for the service to a civil servant employed in the service or employed by the service pursuant to any provision of or pursuant to a national ordinance shall take place only to the extent necessary for the proper performance of the task assigned to the relevant civil servant.

Article 28

1. The head, after being granted the general or special written consent of the minister for that purpose, is authorised to notify the following of certain data or categories of data in relation to the proper performance of the service's tasks:
 - a. another minister;
 - b. a government body concerned, in Sint Maarten;
 - c. a non-government body concerned, provided that the prior written special consent to that end of the minister has been granted;
 - d. intelligence and security services of other countries that qualify for this, as well as international security, signals intelligence and intelligence bodies qualifying for this.
2. If the nature of the notice referred to in paragraph 1 provides grounds for this, the head shall inform the minister, in which case the notice shall be issued by the minister.
3. Every four months, the head shall send the minister a written review of the notices issued pursuant to paragraph 1.
4. Within 30 days of a new minister taking office, the head shall send the minister a written review of the current general and special consents granted pursuant to paragraph 1.
5. The provision of data by the head, or by the minister in the cases referred to in paragraph 2, shall take place subject to the conditions that he imposes in each individual case:
 - a. that the data shall be used only for the purpose for which they are provided, and
 - b. that the recipient may not provide them to other parties without the prior written consent of the head. Conditions may be attached to such consent.
6. Without prejudice to the notice referred to in paragraph 1, notice of data processed by the service may be issued only in the cases for which provision is made in this national ordinance.
7. The service shall pass on data obtained from other intelligence and security services within or beyond the Kingdom of the Netherlands to other persons or institutions only after the head has been issued written consent for this by the issuing organisation.

Article 29

1. The notice referred to in Article 28(1) shall be issued in writing. The head shall keep a record of each notice.
2. In urgent cases, data may be provided orally, followed by written confirmation of the oral notice within 48 hours, with a description of the data provided.

Article 30

1. The head is authorised, if processing of data by or for the service reveals information that may be of importance for the detection or prosecution of offences, to issue written notice of this to the member of the Department of Public Prosecutions designated for that purpose, with the prior written consent of the minister for this in each concrete case.

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2. In urgent cases, the notice referred to in paragraph 1 may be given orally. The head will confirm the relevant notice in writing at the earliest opportunity.
3. Access will be provided to all the underlying data necessary to assess the accuracy of the notice, in response to a written request to that effect from the member of the Department of Public Prosecutions designated for that purpose. Articles 65 and 66 are likewise applicable.
4. If processing of data by or on behalf of the service reveals an urgent and serious reason, the minister, or the head after the minister has granted him written consent to that end for each concrete case, may issue written notice of data to persons or institutions, designated by or pursuant to national decree, which are involved in the execution of a public task, to the extent that these data may also be of importance for the protection of the interests assigned to them in that regard. Paragraph 3 is likewise applicable, on the understanding that access to the data may be granted.
5. The head shall maintain a note of each notice.

Article 31

1. Personal data of which the accuracy cannot reasonably be determined or which was processed more than 10 years ago and no new data concerning the relevant person have been processed since then, shall not be provided.
2. By way of derogation from paragraph 1, notices regarding personal data can be made only to:
 - a. a service or institution, within the meaning of Article 28(1)(d);
 - b. institutions that are responsible for the detection and prosecution of offences;
 - c. other institutions in exceptional cases to be determined by the minister.
3. With a notice as referred to in paragraph 2, the degree of reliability and the age of the underlying data shall be reported. If a declaration, within the meaning of Article 35(1), concerning the relevant data is available, this shall be provided at the same time.

Article 32

A note shall be kept of the provision of personal data.

Chapter 7

Right to access personal data and other information

Article 33

For the purposes of this chapter, the definitions of the terms 'document', 'administrative matter', 'internal consultations', 'personal policy views' and 'official or mixed advisory committee' in the National ordinance open government shall apply.

Article 34

1. The minister shall notify everyone on request, at the earliest opportunity and in any event within three months, whether and if so, which personal data concerning him or her have been processed by or for the service. The minister may defer his order for a maximum of four weeks. The applicant shall be notified of the deferral in writing, stating the reasons, before the end of the first term.
2. To the extent that the application referred to in paragraph 1 is granted, the minister shall give the applicant the opportunity to access his data as soon as possible, and in any event within four weeks of the announcement of his order.
3. The minister shall provide for proper verification of the identity of the applicant.

Article 35

1. A person who, pursuant to Article 34, has accessed data concerning him processed by or for the service, may issue a written declaration in that regard. That declaration shall be added to the relevant data.
2. On accessing of the data concerning him, the person concerned shall be referred to the provisions of paragraph 1.
3. The declaration shall be deleted and destroyed at the same time as the data to which it relates.

Article 36

1. Article 34 is likewise applicable to a request concerning personal data that are processed by or for the service in relation to a deceased spouse, registered partner, child or parent of the applicant.

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2. The request referred to in paragraph 1 shall at least contain the following information:
 - a. the surname and initials of the deceased;
 - b. the date and place of birth of the deceased;
 - c. the date and place of decease;
 - d. the capacity of the deceased in relation to the applicant.
3. If the request referred to in paragraph 1 proves to concern data relating to a person who is not yet deceased or to a deceased person who was not related to the applicant as a spouse, registered partner, child or parent, the request shall be declared inadmissible.

Article 37

1. The minister shall notify anyone on request, at the earliest opportunity and in any event within three months, of whether they may access data, other than personal data concerning the administrative matter recorded in the application. The minister may defer his order for a maximum of four weeks. The applicant shall be notified of the deferral in writing, stating the reasons, before the end of the first term.
2. To the extent that the application referred to in paragraph 1 is granted, the minister shall notify the applicant of the relevant data as soon as possible, and in any event within four weeks of the announcement of his order.

Article 38

1. The minister shall notify the applicant of the relevant data by:
 - a. providing a copy of the document in which the relevant data are recorded, or by providing the literal content of that document in another form,
 - b. permitting access to the contents of the relevant document,
 - c. providing an extract from or summary of the contents of the relevant document, or
 - d. providing information from the relevant document.
2. In selecting between the different forms of notification, the minister shall take account of the preferences of the person concerned and the interest of the service.

Article 39

1. The request referred to in Article 34 shall in any event be rejected if:
 - a. data concerning the applicant have been processed in relation to any investigation, unless:
 - 1° the relevant data were processed more than five years ago,
 - 2° no new data concerning the applicant have been processed since then in connection with the investigation as part of which the relevant data were processed,
 - 3° the data in question are not relevant to any current investigation;
 - b. no data concerning the applicant have been processed.
2. If a request pursuant to paragraph 1 is rejected, the reasons for the rejection shall refer only in general terms to all grounds for rejection described in that paragraph.
3. Paragraphs 1 and 2 are likewise applicable to a request, within the meaning of Article 36, where 'applicant' should read 'the deceased'.

Article 40

1. The request referred to in Article 37 shall be rejected to the extent that the data to which the request relates:
 - a. could jeopardise the integrity of the Government;
 - b. could harm national security.
 - c. concerns business or production information that was provided to the government by natural persons or legal entities in confidence.
2. A request shall also be rejected to the extent that the interest of providing the data to which the request relates is outweighed by the following interests:
 - a. the relations of Sint Maarten with other countries and with international organisations;
 - b. the economic or financial interests of the state, the other public-law bodies, bodies or administrative authorities;
 - c. the detection and prosecution of offences;
 - d. inspection, control and supervision by or on behalf of administrative authorities;
 - e. respect for personal privacy;
 - f. the interest of the person or organisation to which the data relate in being the first to be able to view the data;

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- g. the prevention of disproportionate benefits or disadvantage to natural persons, legal entities or third parties involved in the matter.
3. If a request to access data is rejected, the Supervisory Committee shall be notified of this. The notification of the committee shall be accompanied by the reasons for the rejection of the request.
4. The preceding paragraphs are likewise applicable to a request as referred to in Articles 34 and 36, to the extent that such a request is not rejected pursuant to Article 39.

Article 41

1. If the request relates to data contained in documents drawn up for the purpose of internal consultations, no data shall be provided regarding personal policy views contained in these.
2. With a view to good and democratic administration, information on personal policy views may be provided in a form that cannot be traced to persons. If the person who has expressed these views or has supported these consents to this, the data may be provided in a form that can be traced to persons.
3. With regard to advice of an official or mixed advisory committee, data concerning personal policy views contained in the document may be provided if the administrative authority directly concerned has informed the members of the advisory committee of the intention to do so before the commencement of their work.

Article 42

1. By way of derogation from Article 34, the head shall give a person employed or formerly employed by or for a service an opportunity to access his or her data in the personnel and payroll administration at his or her written request, at the earliest opportunity and in any event within four weeks of the receipt of the request.
2. Data that could provide insight into the sources that must be kept confidential shall be excluded from access.
3. The head may determine that viewing of the data is reserved for the person concerned, in person.
4. Persons who have viewed the data that concern them may request the head to improve, supplement or delete these, in writing, if they are factually incorrect, are incomplete or irrelevant for the purpose of the processing or have been processed in contravention of a statutory provision. The request shall contain the changes to be made.
5. The head shall notify the applicant of whether he will meet the request referred to in paragraph 4, or to what extent he will do so, within six weeks of its receipt.

Chapter 8

Security investigations

Article 43

The positions involving confidentiality shall be designated by national decree, containing general measures.

Article 44

1. A person may not be assigned a position involving confidentiality unless the minister has declared in advance, on the grounds of a security investigation instituted by the service, that there is no objection to the person concerned holding that position, from the point of view of the continuation of the democratic legal order, the integrity of public administration or the security of other serious interests of Sint Maarten.
2. The security investigation shall be performed only with the prior written consent of the person concerned.
3. By national decree containing general measures, rules shall be laid down regarding the way in which security investigations are conducted. Rules concerning the way in which the data gathered as part of a security investigation are recorded and how the person concerned, by way of derogation from Article 34, may access the data recorded with regard to him, may also be laid down by national decree, containing general measures.

Article 45

1. The minister shall provide for a new security investigation regarding persons holding a position involving confidentiality every five years and, if proven facts or circumstances give him cause to do so, shall provide for the conduct of incidental new security investigations. The consent of the person concerned is not required for the institution of a new security investigation.

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2. The minister shall withdraw the declaration referred to in Article 44(1) for a person concerning whom he has established that there are insufficient assurances that the person concerned will faithfully comply with the obligations arising from the position involving confidentiality in all circumstances.
3. In the event of a case as referred to in paragraph 2 with regard to a civil servant, the minister responsible for the person concerned shall immediately relieve him of his obligation to perform the work related to the position involving confidentiality and shall dismiss him from the relevant position as soon as possible. If a non-civil servant is involved, the minister concerned shall promote the early dismissal of the person concerned from the position involving confidentiality.
4. A person may not continue to be assigned a position involving confidentiality after the minister has withdrawn a declaration, as referred to in the Article 44(1), concerning that person.

Article 46

1. The 1952 Civil Servants Justice Regulation does not apply to objections and appeals against the failure to issue declarations as referred to in Article 44(1) and against a withdrawal, as referred to in Article 45(2).
2. By way of derogation from Article 7(2)(c) of the National ordinance administrative justice, appeals are possible against administrative decisions, as referred to in Article 44(1) and in Article 45(2), on the understanding that:
 - a. in the processing of a notice of objection concerning that non-issue or withdrawal, the Supervisory Committee shall perform the tasks assigned to the Advisory committee on notices of objection in the aforementioned national ordinance;
 - b. the hearing takes place in private;
 - c. the defence statement is not made available for inspection and the Supervisory Committee is authorised to withhold parts of the defence statement from the person who filed the objection, with a written reference to the grounds laid down in Article 40(1) and 40(2).

Chapter 9

Cooperation between services

Article 47

1. The head shall provide for the maintenance of connections with the intelligence and security services within the Kingdom and of states and international organisations qualifying for this.
2. As part of the maintenance of connections as referred to in paragraph 1, data may be provided to these institutions for interests to be protected by those institutions, to the extent that:
 - a. these interests are not inconsistent with the interests that the service is required to protect, and
 - b. the proper performance of the tasks of the service does not prevent such provision.
3. Articles 28, 29 and 31 are likewise applicable to the provision of data within the meaning of paragraph 2.

Article 48

1. As part of the maintenance of connections as referred to in Article 47(1), the head may provide those institutions with technical and other forms of support for the interests to be protected by those institutions, in response to a written request to that effect, to the extent that:
 - a. these interests are not incompatible with the interests that the service is required to protect, and
 - b. the proper performance of the tasks of the service does not prevent such provision.
2. A request for support, within the meaning of paragraph 1, must be signed by the competent authority of that institution and must contain a detailed description of the form of support required and the reasons why the support is considered desirable. The requested support shall be provided only with the consent of the minister.
3. The minister may mandate the authority to grant the consent referred to in paragraph 2 to the head only to the extent that requests of an urgent nature are involved. The minister shall be notified of consent issued by the head without delay.

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Chapter 10

Cooperation with other institutions

Article 49

1. The head and the attorney general of the Department of Public Prosecutions shall conduct regular talks in the interest of proper and coordinated performance of tasks by the service and the Department of Public Prosecutions.
2. The head shall also conduct regular talks with the commissioner of the Sint Maarten Police Force, the chief public prosecutor, the inspector of import and excise duties and the director of the service responsible for the implementation of the National Admission and Deportation Ordinance, concerning matters of common interest.
3. The police and customs officers and the officers of the Immigration and Naturalisation service shall notify the commissioner of the Sint Maarten Police Force or the inspector of import and excise duties without delay of information that comes to their knowledge that may be of importance to the service. This information shall immediately be passed on to the head by the relevant head of the service or shall be raised in the talks referred to in paragraphs 1 and 2.
4. By way of derogation from paragraph 3, the provision of information may also take place in a direct electronic manner. By or pursuant to national decree containing general measures, further rules shall be laid down concerning the technical and organisational measures to be taken.

Article 50

1. On the written request of the Minister of Justice, the service is authorised to provide technical support for institutions responsible for the detection of offences.
2. The minister is authorised to address the Minister of Justice with the written request for the provision of technical support to the service in the performance of its tasks by the Sint Maarten Police Force.
3. A request for assistance within the meaning of paragraphs 1 and 2 shall be signed by the Minister of Justice or the minister, respectively, and shall contain a detailed description of the required work. The minister who requests the support is responsible for the actual execution of the work to be performed.

Chapter 11

Supervision of the service

Article 51

1. There shall be a Supervisory Committee concerning the Sint Maarten Security Service.
2. The Committee is responsible for:
 - a. supervision of the legitimacy of the implementation of the matters laid down by or pursuant to this ordinance;
 - b. the provision of information and advice to the minister, on request or otherwise, concerning the findings of the Committee. If required, the Committee may request the minister to notify Parliament of this information and advice, in which case the working method described in Article 56, paragraphs 3 to 7, is likewise applicable.
 - c. the investigation and assessment of complaints regarding the actions of the service.

Article 52

1. The Committee consists of three members:
 - a. one member of the Common Court of Justice of Aruba, Curaçao, Sint Maarten, Bonaire, Saba and Sint Eustatius, nominated by the president of this Court as the chairman. The president of the Court also nominates a member of the Court who acts as a member of the Committee and deputy chairman in the absence of the chairman;
 - b. the vice chairman of the Council of Advice;
 - c. the President of Parliament.
3. The members of the Committee must hold Dutch nationality.
4. The members shall hold no positions of which the performance is undesirable in the interests of the proper performance of their office or the preservation of their impartiality and independence, or of confidence therein.
5. The positions of the members shall be disclosed by the chairman.

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6. The clerk of the Court of First Instance sitting in Sint Maarten shall act as secretary of the Supervisory Committee.
7. If the chairman is not a civil servant, a fee shall be assigned to him by national decree containing general measures. His actual travel and accommodation expenses shall also be reimbursed, to the extent that he is not registered in the national population records database in Sint Maarten. If the chairman is absent, this remuneration shall be granted to the deputy chairman, for the deputisation period only.
8. By national decree containing general measures, other rights and obligation concerning the reimbursement of expenses and the legal position of the members of the Committee shall be regulated, to the extent that no provision is already made for this by ordinance.

Article 53

Members of the Committee shall be dismissed, on the joint recommendation of the minister and the Minister of Justice:

- a. at the request of the person concerned;
- b. if the person concerned is permanently unfit to perform his duties due to illness or disability;
- c. on acceptance of a position within the meaning of Article 52(4);
- d. on the loss of Dutch nationality;
- e. if the person concerned is convicted of an offence by a final court decision or if a measure is imposed on him by such a decision leading to the deprivation of his liberty;
- f. if the person concerned is placed in receivership, is declared bankrupt, is granted a moratorium on payments or is committed for debts pursuant to a final court decision;
- g. if, in the joint view of the minister and the Minister of Justice, having heard Parliament, the person concerned causes a serious breach of the trust placed in him through his actions or omissions.

Article 54

1. Committee members shall be suspended by the minister and the Minister of Justice, acting jointly, if the member:
 - a. is held in pre-trial detention;
 - b. is convicted of a criminal offence by a court decision that has not yet become final, or if a measure is imposed on him by such a decision leading to the deprivation of his liberty;
 - c. is placed in receivership, is declared bankrupt, is granted a moratorium on payments or is committed for debts pursuant to a court decision that has not yet become final.
2. A Committee member may be suspended by the minister and the Minister of Justice, acting jointly, if a preliminary court investigation is opened against that member with regard to a criminal offence or if there is another serious suspicion of the existence of facts or circumstances that could lead to dismissal, other than on the grounds referred to in Article 53(b).
3. In the case referred to in paragraph 2, the suspension shall end after three months. The minister and the Minister of Justice may jointly extend the suspension by a maximum of three months on each occasion. The minister and the Minister of Justice shall jointly end the suspension as soon as the grounds for suspension no longer apply.

Article 55

The Committee shall receive administrative support. The persons providing the administrative support shall be appointed, suspended and dismissed by the minister on the recommendation of the chairman of the Committee.

Article 56

1. As part of the supervisory task referred to in Article 51(2)(a), the Committee is authorised to conduct investigations into the way in which the provisions of or pursuant to this national ordinance have been implemented.
2. The Committee may also conduct an investigation within the meaning of paragraph 1 in response to a request to that effect from a majority of the Members of Parliament.
3. On the basis of the investigation referred to in paragraphs 1 and 2, the Committee shall draw up a supervisory report. The supervisory report is public, with the exception of the data referred to in Article 64(3).
4. Before establishing the supervisory report, the Committee shall give the minister an opportunity to respond to the findings included in the supervisory report within a term to be fixed by the Committee.

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5. Following the receipt of the minister's response, the Committee shall establish the supervisory report. On the basis of its findings, it may make recommendations to the minister concerning possible measures to be taken.
6. After establishment of the supervisory report by the Committee it shall be sent to the minister.
7. The minister shall send the supervisory report and his response to this to Parliament within six weeks. Any data as referred to in Article 64(3) shall be omitted. The minister may notify the party chairmen of all elected political parties in Parliament of these data in confidence.

Article 57

1. If the head receives an order that he considers to be contrary to the duties of the service, he shall send the Supervisory Committee a written document in which he explains the grounds for his view regarding that order. The written document shall be accompanied by any other documents relating to the order; the head shall send a copy of the written document to the minister.
2. The Supervisory Committee shall issue a decision within 14 days; until the date of the decision, the head's obligation to carry out the order is suspended.
3. The Committee shall record its decision in writing and shall send it to the head and to the minister without delay.
4. If the Committee takes the view that the order is contrary to the duties of the service, the head shall not carry out the order.

Article 58

1. All persons who take the view that the service has acted improperly with regard to them may submit a complaint in that regard to the Committee.
2. Complaints regarding the conduct of the service that are submitted to an administrative authority shall be transferred by that authority to the Committee for processing.
3. The Committee shall investigate a complaint, within the meaning of paragraph 1, and shall notify the complainant and the minister in writing of its view within 20 weeks of the receipt of the complaint, with analogous application of Article 64(3).
4. If the Committee finds a complaint to be justified, it shall advise the minister regarding the question of which consequences its view should have. The minister will deviate from the advice only if state or national security requires this.

Article 59

1. The minister, the head, the personnel and all other persons involved in the implementation of the provisions of or pursuant to this national ordinance are required, on request to provide the Committee with all information that it considers necessary for the proper performance of its task. The chairman of the Committee shall be granted direct access to the data gathered by or pursuant to this ordinance on his written request.
2. If the provision of the information referred to in paragraph 1 could breach the confidentiality of sources from which the requested data originates or could jeopardise the safety of persons who assisted in the gathering of the requested data, the information shall be provided solely by the head.
3. On the provision of the information as referred to in paragraph 1, it shall be reported which information should remain exclusively accessible to the Committee in the interest of national security, if there are grounds to do so.

Article 60

The Committee may request persons other than those referred to in Article 59(1) to provide information concerning the performance of the service's tasks.

Article 61

1. Each year in the month of March, in observance of Article 64(3), the Committee shall draw up a public written report on its work in the preceding calendar year. The draft of that report shall then be submitted to the minister. The minister shall notify the Committee of his views on the draft within 30 days.
2. After receiving the minister's views, the Committee shall adopt the report referred to in paragraph 1 and send this to Parliament before 1 May. The report shall contain no data or formulations that can be traced to individual persons or institutions.
3. The public annual report shall be made generally available.

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Article 62

1. The Committee shall draw up rules of order for its work. These rules shall be published in the journal in which government announcements are made or, in the absence of this, in one or more local daily newspapers.
2. The meetings of the Committee are not public.

Article 63

1. Information provided to the Committee by the minister, the head and other civil servants involved in the implementation of the provisions of or pursuant to this national ordinance for the performance of its task, and that is held by the Committee is not public.
2. Requests for access to or disclosure of this information shall be rejected.

Chapter 12

Reporting concerning the performance of the tasks of the service

Article 64

1. Before 1 May of each year, the minister shall present a public written report to Parliament on the work of the service in the preceding calendar year.
2. The report shall in any event provide a full review of:
 - a. the priority areas on which the service focused its activities in the preceding calendar year;
 - b. the priority areas on which the service will in any event focus its activities in the current calendar year.
3. In any event, the public annual report shall not include data that provide a view of:
 - a. the resources deployed by the service in concrete cases;
 - b. confidential sources deployed by the service;
 - c. the current level of knowledge of the service.
4. The minister may inform all party chairmen of elected political parties in Parliament of the data referred to in paragraph 3 in confidence.
5. Without prejudice to the obligation referred to in paragraph 1, the minister shall inform Parliament on his own initiative if there is reason to do so. Paragraphs 3 and 4 apply are likewise applicable.

Chapter 13

Confidentiality

Article 65

1. Anyone involved in the implementation of this national ordinance, who gains access to data in that process that he knows is or should reasonably assume to be confidential is required to protect the confidentiality thereof, unless and to the extent that he is required to disclose it pursuant to any statutory provision. The confidentiality obligation continues after the termination of involvement in the implementation of this national ordinance.
2. Article 285(2) of the Criminal Code does not apply in the event of actions or omissions that contravene the obligation described in paragraph 1.

Article 66

1. The obligations of a civil servant involved in the implementation of this national ordinance do not apply in respect of parties to which the civil servant is directly or indirectly subordinate or to the extent that he is relieved of those obligations by a superior party.
2. A civil servant, as referred to in paragraph 1, who is required to act as a witness or expert pursuant to a statutory provision, shall, unless Article 59 applies, only make a statement regarding matters to which his confidentiality obligation extends only to the extent that the minister has relieved him of this obligation in writing.

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Chapter 14

Accountability

Article 67

1. The powers pursuant to the National ordinance General Audit Chamber shall be exercised in relation to the service solely by the secretary or chairman of the General Audit Chamber. For the audit of the service's accounts, the chairman or secretary may enlist the support only of the head of the country's central internal accountant's service.
2. Article 46(3) of the National accountability ordinance does not apply in respect of the incorporation of legal entities within the meaning of Article 17(1)(f).
3. The generally binding regulations laid down for the implementation of the National accountability ordinance apply to the service only if this is explicitly stated in those implementing regulations.

Chapter 15

Transitional and final provisions

Article 68

1. An *astreinte* may be imposed on persons regarding whom it has been observed by or on behalf of the minister that they have not complied with the obligations imposed on them pursuant to Articles 21(6), 22(2), 44(1) and 45(4). '*Astreinte*' refers to the redress sanction involving:
 - a. an order to correct the violation, partially or in full, and
 - b. the obligation to pay a sum of money if the order is not implemented, or is not implemented in time.
2. The order shall be imposed in writing, stating the reasons and the term for compliance; the penalty shall amount to at least ANG 1,000 and no more than ANG 500,000 for each violation found.
3. The *astreinte* is aimed at rectification of a violation and the prevention of further violations or repetitions thereof. The *astreinte* imposed shall be in reasonable proportion to the seriousness of the violated interest.
4. The imposition of an *astreinte* is open to appeal pursuant to the National ordinance Administrative Justice, in observance of Article 28(2) of that National ordinance.
5. At the written request of the offender, the minister may extend the term of an order if it is shown to his satisfaction that it is not possible for the offender to meet the relevant obligation in time.

Article 69

1. In the absence of compliance with the order within the term referred to in Article 68(2), the minister may order collection of the penalty, plus the costs relating to collection, by writ of execution, unless an objection to the imposition of the order has been filed in accordance with the National ordinance Administrative Justice.
2. A writ of execution, within the meaning of paragraph 1, shall be served by bailiff's writ at the expense of the offender and is enforceable within the meaning of the Code of Civil Procedure.
3. For six weeks following the date of service, the writ of execution may be contested by summoning the minister. Contesting of the writ suspends its execution. At the minister's request, the court may withdraw the suspension of execution.
4. The power to claim penalty amounts incurred is limited by a term of six months following the date on which they fall due. The limitation term is suspended through bankruptcy and through every other legal impediment to collection.

Article 70

1. If, due to any circumstances, the service cannot conduct security investigations, the minister may address a request for support in that regard to intelligence or security services within the Kingdom. If the requested support is provided, the work performed in that regard shall be performed under the responsibility of the minister, and in observance of the provisions of or pursuant to this national ordinance.
2. Personnel in the service of the Netherlands Antilles Security Service at the time of the transition of Sint Maarten from an island territory to a country, who are to be transferred to the Sint Maarten Security Service, are deemed to hold a certificate of no objection within the meaning of Article 7(2)(a).

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Article 71

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

Article 72

This national ordinance shall be referred to as the National Ordinance Security Service.

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