

TRANSLATION OF THE OFFICIAL PUBLICATION OF SINT MAARTEN (AB 2010, GT no. 6)

EXPLANATORY MEMORANDUM

1. General section structure and organisation

Article 38 of the Constitution charges the legislators to enact a national ordinance concerning the institution of ministries operating under the responsibility of a minister. According to Article 39(2) of the Constitution, the Cabinet consists of seven ministers, unless a different number is determined by national ordinance. Although there need not necessarily be a causal link between the number of ministers and the number of Ministries, for the time being the number of ministers and ministries has been kept at the principle in the Constitution, i.e. seven.

The design matches that of the Organisation Ordinance for the Sint Maarten Island Territory, as amended by the Island Ordinance of 16 December 2009. This is related to the Internal Organisation Memorandum of Sint Maarten enacted by the Sint Maarten Island Territory with regard to the general tasks of the ministries, the overall structuring of the Ministries and their operation. With regard to the duties of the ministries distinguished and the structuring of the organisation of the ministries, attention has been devoted to the enacted Organisation plans of the Ministries of General Affairs, of Finance, of Justice, of Education, Culture, Youth and Sport, of Public Health, Social Development and Labour, of Tourism, Economic Affairs, Traffic and Telecommunication, and of Public Housing, Spatial Development, Environment and Infrastructure.

In drawing up a national ordinance that aims to provide a statutory basis for a government organisation, the question arises of whether the national ordinance should record only the main points and the main structures of the organisation, or whether it is desirable to record the organisation, its duties and structures in a more detailed form. The legislators of the Netherlands Antilles opted to include required manning for the different ministries in the national ordinance concerning the organisation of national government and to attach a maximum to these manning levels in the national ordinance. This ensures that a minister cannot expand the manning of his ministry and appoint extra staff without the consent of Parliament.

In this draft structure and organisation for the national government of Sint Maarten, a choice was made to include only the main points, the primary tasks, the main structures and the main elements of the operations of the different ministries in the national ordinance. The design does provide for the development of the details of the tasks of the organisational units of the ministries, more detailed structuring and the like, potential required manning and a maximum for this by national ordinance containing general measures or a ministerial regulation. The country of Sint Maarten will have a new national government organisation that has been designed around the integration of old island tasks and new national tasks. This means that in the early years of national status, the organisation will still have to be adjusted, adapted and changed on a regular basis. In order to ensure the necessary effectiveness in these organisational changes, no details have been included for the different main elements of the organisation (tasks, structures and operations) in the national ordinance. After all, if that were the case, as occurred in the Netherlands Antillean national ordinance on the organisation of national government, a legal amendment would have to be

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October 2013

attempted for every detailed change in the organisation or its manning. If necessary, a more detailed regulation can be introduced in due course by national ordinance.

2. Special section

Articles 1 up to and including 10

In the first paragraph of the national ordinance, the main structure of the official organisation of the government of the country is recorded. For the time being, the organisation still consists of seven ministries. A segregation of policymaking, policy formulation and policy adoption from the implementation of policy was assumed in the main structure of the ministries. At the same time, the ordinance is based on the formation of shared support services. This is a modern organisational principle with which fast and clear procedures are attained in the field of a number of services and products necessary for all ministries.

The main structure will be developed further by the different organisational units, of which the main points are to be identified and further developed. The responsibilities of the different key functions will also be recorded.

Articles 11 up to and including 20

In the second paragraph the main structure is developed further on the basis of the objectives of the ministries.

The Ministry of General Affairs is assigned special responsibility for the support of the other ministries in the field of shared services. Article 10 of this national ordinance provides for a delegation to the government in order to regulate the quality and quantity of the formation by national ordinance, containing general measures. This concerns the adoption of the performance manuals for each organisational unit.

After experience has been gained with the performance of the ministries and the tasks of the different organisational units have crystallised somewhat, it will be possible to reconsider whether the development of the tasks is satisfactory in all cases.

Articles 21 up to and including 23

The third paragraph sets out the working method of the organisational unit, in outline. The key issue here is the match between the planning of the organisation and the budget cycle. After all, without resources, no policy can be implemented and without planning and control, it is not possible to account reliably regarding the expenditure of the resources. With a view to this, explicit reference is made to Article 34 of the National Accountability Ordinance in which the time line is set out for the preparation of the budget.

Two instruments are included in order to promote the uniformity of policy. Firstly, there is the possibility, pursuant to Article 20(2), of regulating cooperation between ministries by ministerial regulation. This could take place on an ad hoc basis for a particular project or on a structural basis, in view of the affinities between two or more ministries. The second instrument, the structured talks with the Secretaries General, is laid down in Article 23. These talks are similar to the management team meetings within the island consultative structure. In order to support orderly progress of the meetings, the Secretariat has been positioned in the Ministry of General Affairs. This does not conflict with the rotating chairmanship of the meetings. At the same time, the consultative platform must establish a regulation to regulate the work. The Secretary General of the Ministry of General Affairs will present a proposal for that purpose.

An important provision is included in the final paragraph. Article 24 regulates the continuation of the organisational decisions issued on the basis of the Organisation Ordinance of the island

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territory, as amended by the Island Ordinance of 16 December 2009, in which the organisation was adapted for the receipt of the national tasks to be decentralised. These organisational decrees also serve to adopt the performance manuals in accordance with the new organisational structure for the country of Sint Maarten. In this way, a smooth transition from the administrative organisation of the structure of the island territory to the structure for the country is assured.

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