

TRANSLATION OF THE OFFICIAL PUBLICATION OF SINT MAARTEN

EXPLANATORY MEMORANDUM, RULES OF ORDER FOR THE PARLIAMENT OF SINT MAARTEN

1. General

Sint Maarten is a democracy. The will of the people is the foundation of the government's authority. This will is expressed in the direct, regular, free and confidential election of a parliament. The meetings of Parliament and, as a rule, also those of its committees are public, including public and prompt written reporting.

The principle is the primacy of politics and the administration; the government determines government policy and is politically answerable to Parliament for the quality of the administration.

Assurances have been provided that Parliament can monitor the government and has the powers and instruments for this; the right to put questions, the right of interpellation, budget rights, the right of initiative, the right of inquiry and other investigative authorities. The important generally binding regulations may be established only with the cooperation of Parliament.

The people's representation, Parliament, operates entirely independently of the government and decides its method of operation for itself, in observance of the relevant provisions of the Constitution of Sint Maarten. Parliament has laid down its own Rules of Order for that purpose. These Rules order and regulate the operation of Parliament and its members, the meetings, the committees, the presidency and the application and use of its instruments and powers.

In drawing up the Rules of Order, the Rules of Order for the Parliament of the Netherlands Antilles and for the Parliament of Aruba have been taken into account. At the same time, a number of elements of the updated Rules of Order of the Second Chamber of the Dutch Parliament have been taken into consideration.

In comparison with the Rules of Order for the Parliament of the Netherlands Antilles, these Rules not only include changes in the use of style and language, but also a number of modern developments in the functioning of parliaments. For the rest, it can be said that in general, the framework of the Rules of Order for the Parliament of the Netherlands Antilles forms the core of the new Rules of Order for the Parliament of Sint Maarten.

Thus, probably anticipating the results of political negotiations on the design of cooperation between the new countries, the regulations concerning the method of handling and the establishment of uniform national ordinances as formulated in the Rules of Order for the Parliament of the Netherlands Antilles have been included in these Rules. Efforts have been made to simplify the procedure for realising uniform national ordinances/laws. As soon as there is greater clarity in that regard, the extent to which the simplification of the procedures affects the regulations relating to the uniform national ordinances/laws in these Rules of Order must be considered.

2. Specific adjustments and modernisations

More specific adjustments and modernisations, at least in comparison with the Rules of Order for the Parliament of the Netherlands Antilles, are discussed below in the sequence of the Articles of the Rules of Order.

The definition article refers in particular to the application of the internet.

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The Rules of Order open up the possibility of appointing deputy presidents, in addition to the president, such as one from each parliamentary party, in the order of the size of the parliamentary parties. The president and deputy presidents form the presidium. The presidium could simultaneously fulfil the roles of agenda committee, housekeeping committee and the group of parliamentary party leaders. This avoids the president finding himself, willingly or unwillingly, in the position of the sole controller. The presidium is supported by the Clerk to the Parliament.

In order to secure independence from the government, Parliament establishes its own estimate/budget on the proposal of the presidium and manages its own financial resources. The Clerk to the Parliament is responsible for the day-to-day management. Parliament sets its own rules for the allocation of financial resources to the parliamentary political parties.

In contrast to the older Rules, these Rules contain regulations concerning the formation, existence and functioning of parliamentary parties in Parliament.

In order to realise the constitutional right of petition, the Rules include the installation of a petitions committee. This committee acts in the same way as other committees and reports annually to Parliament with regard to the settlement of petitions addressed to Parliament.

According to the older Rules, in principle the committees meet in private. That principle appears to be counter to modern views on the functioning of parliaments. For that reason, these Rules regulate that in principle, committees meet in public unless Parliament decides that meetings of certain committees can be held in private. Committees are expected to conduct procedural meetings (in private) at which their own working methods, agendas and programming are discussed.

A number of adjustments and modernisations have also been included in the chapter concerning public meetings. For example, the regulation of activities prior to each public meeting has been regulated more clearly than in the past. Regulations that make urgent debates with the government possible have also been included. There will certainly be a need for this instrument.

In contrast to the older Rules, these Rules include the possibility that the president will allow brief interruptions in a speaker's address, without an introduction. The president shall devote extra attention to steering such interruption debates on the right track.

The right of amendment is included in a separate chapter in order to emphasise the importance of this parliamentary power.

Article 89 contains a provision that was not included in the older Rules. The Article states that in the final instance, Parliament regulates its own working methods. If none of the members object, Parliament may always decide to derogate from the provisions of the Rules of Order, at least if the derogations do not conflict with the Charter, the Constitution, the Mutual arrangement or any other statutory provision.

ARTICLE-BY-ARTICLE SECTION

Article 1

In contrast to the Rules of Order for the Parliament of the Netherlands Antilles, a definition article is included in these Rules of Order. This assumes use of the internet.

Article 2 up to and including 5

The Articles concerning the investigation of the credentials are consistent with the regulations referred to in Chapter VIII of the Elections Act Article 3(2) refers to a public 'assembly' in order to show that a parliament that is resigning or has been dissolved cannot hold a meeting, within the meaning of the Rules of Order.

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Article 8

This Article describes the tasks of the president. The use of language has been modernised in comparison with the Rules of Order for the Parliament of the Netherlands Antilles and those of Aruba and the list of tasks is a compilation of the lists in the aforementioned Rules of Order. This Article authorises the president to attend sessions of any parliamentary committee.

Article 11

The inclusion of the functioning of a presidium in the Rules of Order is new. The presidium will act as an agenda committee, housekeeping committee or as the 'Seniorenconvent' (the committee of the leaders of the parliamentary parties). In substantive terms, the presidium also acts as the employer for the staff of the Department of the Clerk to the Parliament. The formalisation of a presidium avoids the president, willingly or unwillingly, playing an overly-emphatic and determining role in the operation of Parliament. The presidium is supported by the Clerk to the Parliament.

Article 12

In order to emphasise the independence of the position of Parliament in relation to the executive authority, the legal position, remuneration etc. of the Clerk to the Parliament and the staff of the Department of the Clerk to the Parliament are regulated by law, as laid down in Article 51 of the Constitution. The same type of regulation was recently proposed for the personnel of the Parliament of the Netherlands Antilles.

Article 14

In relation to the aforementioned necessary independent position of Parliament, the power of Parliament to draw up its own budget is self-evident. Until recently, this had not yet been regulated for the parliaments of the Netherlands Antilles and of Aruba. This Article develops this important principle for Parliament.

Article 15

The regulation of the functioning of the parliamentary parties in these Rules of Order is also not included in the Rules of Order of the parliaments of the Netherlands Antilles and of Aruba. The formal recognition that Members of Parliament elected from the same list of candidates form a parliamentary party is important for regulations in these Rules of Order and for a number of other regulations, including the regulation that facilitates the functioning of parliamentary parties through e.g. equipment and personnel.

Article 18 up to and including 22

In comparison with the regulation of the committees in the Rules of Order for the Parliament of the Netherlands Antilles, these Articles regulate a number of modernisations and expansions for the functioning of the committees. For example, the possibility of forming a special committee is regulated. Committees of this type may be mandated to conduct inquiries into special, unique, once-only, large-scale matters. At the same time, a petitions committee is instituted in order to handle applications and petitions submitted to Parliament. This is consistent with the constitutional right of petition regulated in Article 7 of the Constitution. These regulations assume that in principle, committee meetings are public, unless privacy is appropriate. The Rules of Order for the Parliament of the Netherlands Antilles are still based on the principle of private committee meetings.

Article 23 up to and including 26

The regulation of preliminary inquiries by committees, as included in these Articles, is largely related to the regulation in the Rules of Order for the Parliament of the Netherlands Antilles. The central committee reports on draft legislation directly to the government, not to the Governor. The other committees report at all times to Parliament, via the president; the central committee also does this on inquiries into matters other than draft legislation and Kingdom Acts.

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Article 27

This Article includes the possibility to send members notices convening meetings in ways other than in writing, such as via the internet, if written notification is not possible.

Article 28(2)

This Article assumes a Parliament consisting of 15 members.

Article 29

The requirement still included in the Rules of Order for the Parliament of the Netherlands Antilles that meetings should be convened within twice times 24 hours if no quorum was present is no longer included in these Rules of Order. The president or the presidium determine the new time for the convention of the meeting.

Article 31

This Article grants the president the possibility of suspending or closing a meeting if he regards this as desirable in view of the course of the work or in order to maintain public order. This regulation is not included so explicitly in the Rules of Order for the Parliament of the Netherlands Antilles.

Article 33

The requirement laid down in the Rules of Order for the Parliament of the Netherlands Antilles that the minutes of the next meeting must be approved has not been included in these Rules of Order. Naturally, the term Governor has been replaced by government.

Article 34

This Article provides that on the opening of a session, a 'regulation of activities' may take place. This regulation replaces the older provision in the Rules of Order for the Parliament of the Netherlands Antilles.

Article 35

This Article explicitly regulates the possibility of holding an 'urgent debate'. The Rules of Order for the Parliament of the Netherlands Antilles did not provide for this possibility so explicitly. It is assumed that the political desire to conduct an urgent debate will arise occasionally.

Article 37

The Article authorises the president to permit interruptions. The interruption of speakers, to be regulated by the president, is common practice in the functioning of parliaments. The Rules of Order for the Parliament of the Netherlands Antilles and those of Aruba do not provide for the phenomenon of interruption. On the contrary, these Rules of Order explicitly regulate that a speaker may not be interrupted.

Article 39

This Article provides, among other things, that motions to be submitted must be 'concisely and clearly formulated'. The Rules of Order for the Parliament of the Netherlands Antilles do not include this requirement.

Article 41

The provision in these Rules of Order that the president may remind the speaker to comply with the Rules of Order was not included in the old Rules of Order. This general provision is developed in the following Articles, which were included in the old Rules of Order.

Article 43 et seq.

The 'order provisions' are formulated more concisely in these Rules of Order than in the Rules of Order for the Parliament of the Netherlands Antilles. Substantively, there is no difference. The formulation of this Article is based on the Rules of Order for the Parliament of Aruba.

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Article 52 et seq.

In view of its importance, a separate chapter is devoted to the right of amendment in these Rules of Order. The Rules of Order for the Parliament of the Netherlands Antilles did not have this separation.

Article 53

The explicit regulation of the possibility of withdrawing an amendment, in paragraph 4, was not included in the Rules of Order for the Parliament of the Netherlands Antilles.

Article 62

The right of interpellation regulated in this Article is regulated more concisely than in the corresponding Article of the Rules of Order for the Parliament of the Netherlands Antilles. The procedure concerning the interpellation is regulated more implicitly in the formulation of Article 62, which is the same as that of the corresponding text in the Rules of Order for the Parliament of Aruba.

Article 63

A number of editorial changes have been made to the regulation of the right to put questions in comparison with the corresponding regulation in the Rules of Order for the Parliament of the Netherlands Antilles

Article 64

The procedure that is substantively the same as the one laid down in the corresponding Article of the Rules of Order for the Parliament of the Netherlands Antilles has been formulated more concisely in this Article.

Article 71

This Article states when a decision to conduct a meeting in private is possible. The Rules of Order for the Parliament of the Netherlands Antilles do not contain an Article with this content. The Rules of Order for the Parliament of Aruba do.

Article 88

This Article regulates who can submit proposals to amend the Rules of Order in more detail than the corresponding Article of the Rules of Order for the Parliament of the Netherlands Antilles.

Article 89

The content of this Article is not found in the Rules of Order for the Parliament of the Netherlands Antilles. It emphasises the principle that Parliament regulates its own operations and is not dependent for this on other administrative bodies or officials.

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