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Act of May 17, 2010, providing rules with regard to the public entities Bonaire, St. Eustatius and Saba (The Public Entities Bonaire, St. Eustatius and Saba Act)

We Beatrix, by the Grace of God, Queen of the Netherlands, Princess of Orange-Nassau, etc.etc.etc.

Greetings to all who shall see or hear these presents! Be it known:

Whereas We have considered that, it has been agreed with the island territories of Bonaire, St. Eustatius and Saba that they will acquire a constitutional position within the Dutch polity and will be organized as public entities for the purposes of section 134 of the Constitution and that in this connection it is desirable to regulate the establishment and structure of these public entities, the composition and power of their administrations, public access to their meetings as well as the supervision of these administrations, whereas alignment with the municipal administrative model is sought as much as possible;

We, therefore, having heard the Council of State, and by common agreement with the States General, have approved and decreed as We hereby approve and decree:

Chapter I. General provisions

Section 1

1. In this Act and the provisions based on it, the following definitions will be applicable:

- a. *public entity*: public entity Bonaire, St. Eustatius or Saba;
- b. *island government*: any competent body of the public entity;
- c. *Our Minister*: Our Minister of the Interior and Kingdom Relations;
- d. *Kingdom Representative*: Kingdom Representative for the public entities Bonaire, St. Eustatius and Saba.

2. For the purposes of this Act the term public official includes the following meaning: the individual who works under an employment contract under civil law.

Chapter II The institution of the public bodies

Section 2

- 1. There is a public entity Bonaire.
- 2. The public entity Bonaire comprises the islands of Bonaire and Klein Bonaire.
- 3. The public entity Bonaire has legal personality.

Section 3

- 1. There is a public entity St. Eustatius.
- 2. The public entity St. Eustatius comprises the island of St. Eustatius.
- 3. The public entity St. Eustatius has legal personality.

Section 4

- 1. There is a public entity Saba.
- 2. The public entity Saba comprises the island of Saba.

3. The public entity Saba has legal personality.

Section 4a

The borders of the public entities are established by order in council.

Chapter III The structure and composition of the island government

PART I. General provision

Section 5

In each public entity there is an Island Legislative Council, an Island Executive Council and a Lieutenant Governor.

PART II. The Island Legislative Council

Section 6

The Island Legislative Council represents the entire population of the public entity.

Section 7

1. The members of the Island Legislative Council are elected on the basis of proportional representation within the limits to be set by law.

2. The elections are held by secret ballot.

Section 8

The term of the Island Legislative Council is four years.

Section 9

The number of members of the Island Legislative Council is:

a. nine in the public entity Bonaire;

b. five in the public entities St. Eustatius and Saba.

Section 10

The Lieutenant Governor is chairman of the Island Legislative Council.

Section 11

1. Requirements for membership of the Island Legislative Council are
having Dutch nationality and being a resident of the public entity,
having reached the age of eighteen and not having been excluded
from the right to vote.

2. A resident will be understood to be he who has his actual domicile in
the public entity.

3. He who is registered as a resident with an address in the population
records of a public entity, will be considered, subject to proof to the
contrary, to be actually domiciled in the public entity.

Section 12

He who, after the last held periodical election of the members of the Island Legislative Council, has been deprived of membership of the Island Legislative Council due to acting in contravention of Section 16, will be ineligible for membership to fill a premature vacancy.

Section 13

1. The members of the Island Legislative Council will disclose which positions they hold other than membership of the Island Legislative Council.

2. Disclosure will be made immediately upon appointment as a member of the Island Legislative Council or upon acceptance of another position, and will be effected by making a statement of the positions

available for public inspection at the administrative office of the public entity.

Section 14

1. A member of the Island Legislative Council will not simultaneously

be a:

- a. minister;
- b. junior minister;
- c. member of the Council of State;
- d. member of the Court of Audit;
- e. National Ombudsman;
- f. substitute ombudsman as referred to in Section 9, subsection 1, of the National Ombudsman Act;
- g. Kingdom Representative;
- h. Lieutenant Governor;
- i. Island Commissioner;
- j. member of the joint Court of Audit;
- k. common ombudsman or a member of the joint ombudsman committee;
- l. public official, appointed by or on behalf of the administration of the public entity or subordinated to it.

2. Notwithstanding subsection 1, opening words and under i, a member of the Island Legislative Council can also be an Island

Commissioner of the public entity where he is a member of the

Island Legislative Council during the period:

- a. commencing on the day of the vote for the election of the members of the Island Legislative Council and ending at the time when the Island Commissioners resign pursuant to Section 54, subsection 1, or
- b. commencing at the time of his appointment as an Island

Commissioner and ending at the time when the credentials of his successor as a member of the Island Legislative Council are approved or the central electoral committee decides that no successor can be appointed.

3. The member of the Island Legislative Council, referred to in the subsection 2, under b, will be expected to resign as a member of the Island Legislative Council as of the time when he accepts his appointment as an Island Commissioner. Section X 6 of the Elections Act will be equally applicable.

4. Notwithstanding subsection 1, opening words and under l, a member of the Island Legislative Council may simultaneously be:

- a. a public official of the registry of births, deaths, marriages and registered partnerships;
- b. a volunteer or another person who, by virtue of a legal obligation not by virtue of his profession, performs emergency services;
- c. a public official working for a school for public education;
- d. a public official working in a position to be designated by island ordinance of the Island Legislative Council of the public entity St. Eustatius or Saba, that does not entail such powers or responsibilities, that entanglement of interests should be feared.

5. An island ordinance as referred to in subsection 4, under d, will be enacted at least four months before the day of nomination of

candidates for the election of the members of the
Island
Legislative Council and will require the approval of
the Kingdom
Representative.

Section 15

1. Prior to being able to perform their duties, the members of the Island Legislative Council will take the following oath (affirmation and promise) at the meeting, before the chairman:

«Ik zweer (verklaar) dat ik, om tot lid van de eilandsraad benoemd te worden, rechtstreeks noch middellijk, onder welke naam of welk voorwendsel ook, enige gift of gunst heb gegeven of beloofd.

Ik zweer (verklaar en beloof) dat ik, om iets in dit ambt te doen of te laten, rechtstreeks noch middellijk enig geschenk of enige belofte heb aangenomen of zal aannemen.

Ik zweer (beloof) dat ik getrouw zal zijn aan de Grondwet, dat ik de wetten zal nakomen en dat ik mijn plichten als lid van de eilandsraad naar eer en geweten zal vervullen.

Zo waarlijk helpe mij God Almachtig!»(Dat verklaar en beloof ik!»)

2. Instead of in Dutch the oath (affirmation and promise) may be taken in Papiamentu or English.

3. When the oath (affirmation and promise) is taken in Papiamentu, the text of the oath (affirmation and promise) reads as follows:

«Mi ta hura (deklará) ku pa mi nombramentu den e kargo o funshon di miembro di konseho insular mi no a duna ni primintí, ni direkta- ni indirektamente, bou di ningun nòmber ni denominashon ni preteksto, ningun regalo ni fabor.

Mi ta hura (deklará i primintí) ku mi no a risibí ni mi no a aseptá, ni lo mi no aseptá, ni direkta- ni indirektamente, ningun regalo ni ningun promesa di hasi algu o laga di hasi algu den e kargo o funshon en kuestion.

Mi ta hura (primintí) ku lo mi ta fiel na Konstitushon, ku lo mi kumpli ku lei i ku lo mi kumpli ku mi obligashonnan komo miembro di konseho insular segun mi konsenshi i honor.

Ku Dios Todopoderoso yudami!»

(Esei mi ta deklará i primintí!»)

4. When the oath (affirmation and promise) is taken in English, the text of the oath (affirmation and promise) reads as follows:

«I swear (affirm) that I neither gave nor promised any gift or favour, either directly or indirectly, under any name or pretext whatsoever, in order to be appointed member of the Island Legislative Council.

I swear (affirm and promise) that I have made no gift or promise, and shall accept no gift or promise, either directly or indirectly, in order to do or to omit to do anything in the course of my duties.

I swear (promise) that I will bear allegiance to the Constitution, that I will observe the laws and that I will perform my duties as a member of the Island Legislative Council in good faith.

So help me God Almighty! (This I affirm and promise!)

Section 16

1. A member of the Island Legislative Council will not be permitted to:

- a. act as an attorney, procurator or advisor in disputes, for the public entity or the island government or for the opposing party of the public entity or island government;
- b. act as the authorized representative in disputes, for the opposing party of the public entity or the island government;
- c. act as a representative or advisor in behalf of third parties to conclude, with the public entity:
 - 1°. agreements as referred to under d;
 - 2°. agreements for the transfer of real property to the public entity;
- d. directly or indirectly enter into an agreement regarding:
 - 1°. contracting for work on behalf of the public entity;
 - 2°. performing work against payment outside the scope of employment, on behalf of the public entity;
 - 3°. transferring movable goods otherwise than for no consideration to the public entity;
 - 4°. renting out movable goods to the public entity;
 - 5°. acquiring disputed debts for the account of the public entity;
 - 6°. privately acquiring from the public entity, real property or limited rights to which such property is subject;
 - 7°. privately renting or leasing from the public entity.

2. The Kingdom Representative may grant exemption from subsection 1, opening words and under d.

3. The Island Legislative Council will adopt a code of conduct for its

members.

Section 17

The Island Legislative Council will adopt standing orders for its meetings and other activities.

Section 18

1. The Island Legislative Council will meet as often as it decides to.

2. Furthermore, the Island Legislative Council will meet if the Lieutenant Governor deems it necessary or if at least one fifth of the number of members constituting the Island Legislative Council makes a request to such effect in writing, stating the grounds.

Section 19

The Island Legislative Council will meet after the periodical election of its members for the first time in its new constellation on the day as of which the members in the previous constellation resign.

Section 20

1. The Lieutenant Governor will convene the members to the meeting

by notice in writing.

2. Simultaneously with the convening notice the Lieutenant Governor

will make public the day, time and place of the meeting. The agenda

and the corresponding proposals with the exception of the

documents referred to in Section 26, subsection 2, will be made

available for inspection simultaneously with the convening notice

and in a manner to be indicated by the public notice.

Section 21

1. The Island Legislative Council meeting will not be opened before the attendance list shows that more than half the number of sitting members is present.
2. If, pursuant to subsection 1, the meeting cannot be opened, the Lieutenant Governor, with reference to this Section, will call another meeting at a time that is at least twenty four hours after the delivery of the convening notice.
3. Subsection 1 will not be applicable to the meeting referred to in subsection 2. However, the Island Legislative Council can only deliberate or decide on other matters than those for which the meeting unopened pursuant to subsection 1, was called, if the attendance list shows that more than half the number of sitting members is present.

Section 22

1. The Lieutenant Governor will have a right to participate in the deliberation at the meeting.
2. An Island Commissioner will have access to the meetings and may participate in the deliberation.
3. An Island Commissioner may be invited by the Island Legislative Council to be present at the meeting.

Section 23

The members of the island government and other individuals who participate in the deliberation cannot be prosecuted or otherwise be held liable in law for or be

obliged to testify in court as contemplated in Section 144, subsection 1, of the BES Code of Civil Procedure about statements made by them at the Island Legislative Council meeting or submitted by them in writing to the Island Legislative Council.

Section 24

1. The meeting of the Island Legislative Council will be public.

2. The doors will be closed when at least one fifth of the number of members that has signed the attendance list so requests or if the chairman deems this necessary.

3. Subsequently, the Island Legislative Council decides if the meeting will be held behind closed doors.

4. The chairman may subsequently still decide to hold the meeting in public if he deems this necessary within the context of the public interest.

5. A separate report is made of a meeting behind closed doors, which will not be made public, unless the Island Legislative Council decides otherwise.

6. Immediately after the adoption of the list of decisions of its meetings, the Island Legislative Council will disclose such list in the manner that is usual in the public entity. The Island Legislative Council will omit public disclosure insofar as matters are concerned for which secrecy is enjoined on the ground of Section 26 or regarding which public disclosure would be in contravention of the public interest.

Section 25

1. At a closed meeting it will not be possible to deliberate or decide on:

- a. the admission of newly appointed members;
- b. the adoption and amendment of the budget and the adoption of the financial statements;

- c. the introduction, change and abolition of island taxes, and
- d. the appointment and relief of Island Commissioners.

2. At a closed meeting it will not be possible to decide on:

- a. drafts of island ordinances;
- b. making expenses, not appearing on the budget or exceeding the items reserved on the budget;
- c. allocating resources to cover such expenses;
- d. fully or partially alienating and encumbering the properties of the public entity;
- e. privately renting out, leasing or giving out in use of properties of the public entity;
- f. privately awarding or tendering works or deliveries.

Section 26

1. The Island Legislative Council may enjoin secrecy on the basis of an interest, referred to in Section 11 of the BES Government Information Act regarding what has been discussed at a closed meeting and regarding the content of the documents that are submitted to the Island Legislative Council. Secrecy regarding what was discussed at a closed meeting will be enjoined during that meeting. Secrecy will be observed by all those who were present at the discussion and all those who have knowledge of the matters discussed or the documents, until the Island Legislative Council lifts it.

2. On the basis of an interest, referred to in Section 11 of the BES Government Information Act, secrecy can also be enjoined by the Executive Council, the Lieutenant Governor and a committee, each regarding the documents they submit to the Island Legislative Council or to members of the Island Legislative Council. This will be mentioned on the documents.

3. With regard to documents submitted to the Island Legislative Council, the obligation of secrecy enjoined in pursuance of subsection 2, will cease to be effective, if

the imposition is not ratified by the Island Legislative Council at its next meeting which, as evidenced by the attendance list, is attended by more than half of the number of sitting members. The Island Legislative Council can lift the obligation of secrecy afterwards at a meeting which, as evidenced by the attendance list, is attended by more than half the number of sitting members.

4. Regarding documents submitted to the members of the Island Legislative Council, the obligation of secrecy enjoined in pursuance of subsection 2, will be observed until the body that enjoined the obligation, lifts it.

Section 27

1. The chairman will be responsible for maintaining the order at the meeting and will be authorized, when such order is disrupted in any way by observers, to make them and, if necessary, other observers leave.

2. He will be authorized to deny access to the meeting for three months at the most to observers who repeatedly disturb the order at the meeting.

3. He can propose to the Island Legislative Council to deny further stay at the meeting to a member who, due to his conduct, hinders the regular course of business. There will be no deliberation on the proposal. After adoption thereof, the member will leave the meeting immediately. If necessary, the chairman will have him relieved. Moreover, upon repetition of his conduct, the member can be denied access to the meeting for up to three months.

Section 28

The members of the Island Legislative Council will not be bound by any mandate when casting their vote.

Section 29

1. A member of the Island Legislative Council will not participate in the vote on:

- a. a matter that, directly or indirectly, concerns him personally, or in which he is involved as a representative;
- b. the adoption or approval of the accounts of a body to which he is accountable or on the board of which he serves.

2. In case of a ballot vote, participation in the vote will be understood to be submitting a ballot;

3. An appointment concerns someone personally, if he belongs to the individuals to whom the choice has been limited by nomination or by second vote.

4. Subsection 1 will not be applicable to the decision regarding the admission of the members appointed after regular election.

Section 30

1. A vote will only be valid, if more than half the number of the sitting members who do not have to abstain from participation in the vote, has participated in it.

2. Subsection 1 will not be applicable:

- a. in case a second vote is taken on a proposal or on an appointment,
nomination or recommendation of one or more individuals
regarding whom a vote taken at a previous meeting on the ground
of that subsection was not valid;
- b. at a meeting as referred to in Section 21, subsection 2, to the extent
that it concerns subject matters that were brought up for discussion
at the preceding meeting, unopened pursuant to Section 1,
subsection 1.

Section 31

1. For a decision to be made by vote, the absolute majority of those

who have cast a vote, will be required.

2. In case of a ballot vote, casting a vote will be understood to be submitting a duly filled ballot.

Section 32

1. Votes on individuals to make appointments, nominations or recommendations will be secret.

2. If the votes are equally divided over individuals to whom the choice has been limited by nomination or by a second vote, another vote will be held at the same meeting.

3. If the votes are equally divided again, the matter will be immediately decided by lot.

Section 33

1. The other votes will be taken by roll call, if the chairman or one of the members so wishes. In that case the votes will be taken by voice.

2. When voting by roll call each member present at the meeting who does not have to abstain from participation in the vote, will be under an obligation to cast his vote in favour or against.

3. If no vote is requested on a proposal, it is adopted.

4. Unless the meeting is plenary, in the event of an equality of votes, the decision-making will be postponed till another meeting at which the deliberations can be reopened.

5. If there is an equality of votes at a plenary meeting or at a meeting called anew pursuant to subsection 4, the proposal is not adopted.

6. A plenary meeting will be understood to be a meeting at which all members constituting the Island Legislative Council, cast a vote insofar as they did not have to abstain from participation in the vote.

Section 34

The documents issued by the Island Legislative Council will be signed by the Lieutenant Governor and co-signed by the island registrar. In the event the Lieutenant Governor is incapable of or prevented from attending, the documents issued by the Island Legislative Council will be signed by the person who, pursuant to Section 90, substitutes the Lieutenant Governor as chairman of the Island Legislative Council.

Section 35

1. The Island Legislative Council and each of its members will be entitled to administrative assistance.

2. The groups represented in the Island Legislative Council will be entitled to support.

3. The Island Legislative Council will adopt an island ordinance regarding the administrative assistance and the support of the groups represented in the Island Legislative Council. The island ordinance will contain rules regarding allocation and accountability regarding the support.

4. The island ordinance will require the approval of the Kingdom Representative.

PART III. The Executive Council

Section 36

1. The Lieutenant Governor and the Island Commissioners together form the Executive Council.

2. The Lieutenant Governor will be the chairman of the Executive Council.

Section 37

1. The Island Legislative Council will appoint the Island Commissioners.

2. The Lieutenant Governor will be informed of the outcome of Council negotiations. He will then be given an opportunity to present his views on proposals for the council program.

Section 38

The number of Island Commissioners will be:

- a. three in the public entity Bonaire;
- b. two in the public entities St. Eustatius and Saba.

Section 39

1. For the position of Island Commissioner, the requirements for membership of the Island Legislative Council, referred to in Section 11, will be applicable.

2. The Island Legislative Council may grant exemption from the requirement of residency for the duration of one year.

3. The same individual cannot be an Island Commissioner in more than one public entity.

Section 40

1. An Island Commissioner will not simultaneously be a:

- a. minister;
- b. secretary of state;
- c. member of the Council of State;
- d. member of the Court of Audit;

- e. national ombudsman;
- f. substitute-ombudsman as referred to in Section 9, subsection 1, of
the National Ombudsman Act;
- g. Kingdom Representative;
- h. member of the Island Legislative Council;
- i. Lieutenant Governor;
- j. member or the joint Court of Audit
- k. common ombudsman or member of the joint ombudsman committee;
- l. public official, appointed by or on behalf of the administration of the public entity or subordinated to it;
- m. public official, appointed by or on behalf of the Kingdom Government, whose duties include performing activities within the scope of supervision of the public entity;
- n. public official who, pursuant to the law or an order in council, advises the government of a public entity.

2. Notwithstanding subsection 1, opening words and under b, an Island Commissioner Council may simultaneously be a member of the Island Legislative Council of the public entity where he is an Island Commissioner during the period:

- a. commencing on the day of the vote for the election of the members of the Island Legislative Council and ending at the time when the Island Commissioners resign pursuant to Section 54, subsection 1, or
- b. commencing at the time of his appointment as Island Commissioner and ending at the time when the approval of the credentials of his successor as a member of the Island Legislative Council has become irrevocable or that the central electoral committee has decided that no successor can be appointed.

3. The Island Commissioner, referred to in Subsection 2, under b, will be expected to resign as a member of the Island Legislative Council as of the time when he accepts his appointment as an Island Commissioner. Section X 6 of the Elections Act will be equally applicable.

4. Notwithstanding subsection 1, opening words and under I, an Island Commissioner may simultaneously be a:

- a. public official of the registry of births, deaths, marriages and registered partnerships;
- b. volunteer or another person who by virtue of legal obligation not by way of profession performs emergency services;
- c. public official working for a school for public education

Section 41

1. There must not be blood relationship or affinity up to the second degree or marriage between members of the Executive Council.

2. For the purposes of subsection 1:

- a. an unmarried cohabitee will be treated as a spouse
- b. the person who lives permanently separated from his spouse will be treated as being unmarried.

3. For the purposes of subsection 2, an unmarried cohabitee will be understood to be: the unmarried person of the age of majority who runs a joint household with another person of the age of majority, with the exception of blood relatives in the first degree.

4. For the purposes of subsection 3 running a joint household will be understood to be the situation in which two individuals have their principal residence in the same home and:

- a. they give evidence that they take care of each other by contributing to the costs of the household or otherwise;
- b. they were married to each other;
- c. they were each other's registered partner;
- d. they cohabited before, while being unmarried, or

e. the man has recognized the woman's child.

Section 42

The appointment of the Island Commissioners after the election of the members of the Island Legislative Council will be made at a meeting of the Island Legislative Council in the new composition.

Section 43

In the case referred to in Section 42, the appointment of the person who has accepted his appointment as Island Commissioner, will enter into force at the time when at least half the number of Island Commissioners have accepted their appointment, or if the acceptance of the appointment takes place at a later time, at such time.

Section 44

The appointment to fill a position that becomes vacant prematurely, will be made as soon as possible.

Section 45

The appointed Island Commissioner will inform the Island Legislative Council on the tenth day after the announcement of his appointment at the latest if he accepts the appointment. If this term expires without notice being given, the appointed Island Commissioner will be considered not to accept the appointment.

Section 46

In case the appointment has not been accepted, a new appointment will be made as soon as possible.

Section 47

1. Prior to being able to perform their duties the Island Commissioners will take the following oath (affirmation and promise) at the meeting of the Island Legislative Council, before the chairman :

«Ik zweer (verklaar) dat ik, om tot eilandgedeputeerde benoemd te worden, rechtstreeks noch middellijk, onder welke naam of welk voorwendsel ook, enige gift of gunst heb gegeven of beloofd.

Ik zweer (verklaar en beloof) dat ik, om iets in dit ambt te doen of te laten, rechtstreeks noch middellijk enig geschenk of enige belofte heb aangenomen of zal aannemen.

Ik zweer (beloof) dat ik getrouw zal zijn aan de Grondwet, dat ik de wetten zal nakomen en dat ik mijn plichten als eilandgedeputeerde naar eer en geweten zal vervullen.

Zo waarlijk helpe mij God Almachtig!»

(«Dat verklaar en beloof ik!»)

2. Instead of in Dutch, the oath (affirmation and promise) may be taken in Papiamentu or English.

3. When the oath (affirmation and promise) is taken in Papiamentu, the text of the oath (affirmation and promise) reads as follows:

«Mi ta hura (deklará) ku pa mi nombramentu den e kargo o funshon di diputado, mi no a duna ni primintí, ni direkta- ni indirektamente, bou di ningun nòmber ni denominashon ni preteksto, ningun regalo ni fabor.

«Mi ta hura (deklará i primintí) ku mi no a risibí ni mi no a aseptá, ni lo mi no aseptá, ni direkta- ni indirektamente, ningun regalo ni ningun promesa di hasi algu o laga di hasi algu den e kargo o funshon en kuestion.

«Mi ta hura (primintí) ku lo mi ta fiel na Konstitushon, ku lo mi kumpli ku lei i ku lo mi kumpli ku mi obligashonnan komo diputado segun mi konsenshi i honor.

Ku Dios Todopoderoso yudami!»

(Esei mi ta deklará i primintí!»)

4. When the oath (affirmation and promise) is taken in English, the text of the oath (affirmation and promise) will read as follows:

«I swear (affirm) that I neither gave nor promised any gift or favour, either directly or indirectly, under any name or pretext whatsoever, in order to be appointed member of the island executive.

I swear (affirm and promise) that I have made no gift or promise, and shall accept no gift or promise, either directly or indirectly, in order to do or to omit to do anything in the course of my duties.

I swear (promise) that I will bear allegiance to the Constitution, that I will observe the laws and that I will perform my duties as member of the island executive in good faith.

So help me God Almighty!

(This I affirm and promise!)

Section 48

1. An Island Commissioner will not hold ancillary positions of which the exercise is undesirable in view of an adequate performance of his duties as Island Commissioner.

2. An Island Commissioner will report his intention to accept an ancillary position to the Island Legislative Council.

3. An Island Commissioner will disclose his ancillary positions. Disclosure will be made immediately after the appointment as an Island Commissioner or acceptance of an ancillary position, and will be made by a statement of the positions being deposited for inspection at the government office of the public entity.

4. An Island Commissioner will also disclose the income from ancillary positions. Disclosure will be made by the information being deposited for inspection at the

government office on the first day of April after the calendar year in which the income was received.

5. Income will be understood to be: wages in the sense of Section 6 of the BES Wage Tax Act.

Section 49

1. Within thirty days of the acceptance of his appointment and within thirty days after his resignation, the Island Commissioner will submit a written statement to the Kingdom Representative with:

- a. an accurate description of the business interests that he and his spouse have or manage;
- b. an accurate description of the immovable goods, movable goods, rights capable of being expressed in money, as well as receivables and debts of himself and his spouse;
- c. an accurate description of the nature of his ancillary positions, as well as the positions of his spouse;
- d. a statement whether income or benefits in any form whatsoever are attached to the ancillary positions and, insofar as a monetary compensation is attached to it, the amount thereof.

2. Section 41, Subsections 2 up to and including 4, will be applicable.

3. No statement will be needed of interests, goods, with the exception of immovable goods, rights, receivables and debts of which the value does not exceed USD 11,175.

4. The statement will be signed by the Island Commissioner.

5. A model for the statement will be adopted by Ministerial regulation.

Section 50

The Kingdom Representative will keep the statements referred to in Section 49, during ten years, to be counted as of the moment he received them. On the lapse of this term he will arrange for their destruction.

Section 51

The Kingdom Representative and those who act upon his instruction will be under an obligation to observe secrecy with regard to the statements received on the ground of Section 49. They will provide the statements or only make mention of them to bodies in charge of detection and prosecution of criminal acts.

Section 52

If an Island Commissioner fails to timely submit the statement referred to in Section 49 to the Kingdom Representative, the latter will inform the Island Legislative Council without delay.

Section 53

1. Section 16, subsections 1 and 2, will be equally applicable to the Island Commissioners.
2. The Island Legislative Council will establish a code of conduct for the Island Commissioners.

Section 54

1. After the election of the members of the Island Legislative Council, the Island Commissioners will resign at the moment when the Island Legislative Council has appointed at least half the number of Island Commissioners and these appointments have been accepted.
2. If so many Island Commissioners tender their resignation or are relieved that not at least half the number of Island Commissioners is in function, the Lieutenant Governor will take the place of the Executive Council until it is duly the case.

Section 55

1. An Island Commissioner may resign at any time. He will give written notice to such effect to the Island Legislative Council.

2. The resignation will enter into effect as of the day being one month after the day on which he resigned, or as much earlier as his successor has accepted the appointment.

Section 56

1. The Island Commissioners will receive a remuneration for the account of the public entity, which is regulated by or pursuant to an order in council.

2. By the order in council, referred to in subsection 1, rules may also be laid down with regard to the financial contribution towards or compensation of special expenses and with regard to other financial provisions related with the exercise of the office of Island Commissioner.

3. Apart from that which has been granted to them by or pursuant to the law, Island Commissioners will not receive income as such, in any form whatsoever, for the account of the public entity.

4. The Island Commissioners will not receive any compensations, in any form whatsoever, for activities performed in ancillary positions they hold by virtue of the office of Island Commissioner, irrespective whether those compensations are for the account of the public entity or not. If these compensations are paid, they will be deposited in the coffers of the public entity.

5. Compensations as contemplated in the fourth paragraph will include income, by any name whatsoever, from ancillary positions which the Island Commissioner will resign upon termination of the office.

6. Income other than those contemplated in the fourth paragraph will be set off against the pay in accordance

with Section 3 of the Act on Compensation of members of the Lower House, on the understanding that in that section:

- a. ancillary income will be understood to be business profits and income from work, as contemplated in Section 6 of the BES Income Tax Act;
- b. In the third paragraph of the 2001 Income Tax Act, it should read: the BES Income Tax Act.

7. By order in council regulations may be laid down with regard to the manner in which the Island Commissioner will supply data regarding the income referred to in the sixth paragraph, and the consequences of failure to supply such data.

Section 57

1. If the person whose appointment as Island Commissioner has entered into effect, holds a position as referred to in Section 40, subsection 1, and subsection 2 or 4 of that Section is not applicable, he will see to it without delay that he is relieved from office.
2. The Island Legislative Council will grant him discharge if he fails to do so.
3. The discharge will enter into effect immediately upon publication of the resolution to the effect of relief.
4. If, in the opinion of the Lieutenant Governor, the Island Legislative Council wrongfully fails to grant discharge, the Island Commissioner will be deposed from his office by the Lieutenant Governor.
5. The effect of a decision to the effect of such deposition from office, will be suspended until the appeal period has expired or, if appeal has been instituted, the appeal has been decided on. During this period the Island Commissioner will be suspended from his office.

Section 58

1. Against a decision of the Lieutenant Governor as referred to in Section 57, subsection 4, the Island Commissioner may file an appeal with the Joint Court of Justice of Curaçao, Aruba, St. Maarten and of Bonaire, St. Eustatius and Saba.

2. The BES Administrative Justice Act will be equally applicable to the extent necessary, except for sections 54 and 55 and paragraphs 1 and 3 of Chapter 6.

3. Notwithstanding Section 17, subsection 5, of the BES Administrative Justice Act, the period within which the crediting or deposit of the amount due should be made, will be two weeks. The president of the Joint Court may set a shorter term.

4. The Joint Court will consider the case, equally applying paragraph 2 of chapter 6 of the BES Administrative Justice Act. A copy of the appeal will be sent at once to the Lieutenant Governor or the party who filed for the appeal.

Section 59

1. If an Island Commissioner no longer meets the requirements for the office of Island Commissioner, referred to in Section 39, or intends to hold a position as referred to in Section 40, subsection 1, and subsection 2 or 4 of that Section are not applicable, he will immediately resign. He will give the Island Legislative Council written notice to such effect.

2. Sections 57, subsection 2 through 5 and Section 58 will be equally applicable.

Section 60

1. If a decision of the Island Legislative Council to the effect of accepting a vote of no-confidence in the Island Commissioner does not lead to the Island Commissioner concerned immediately resigning, the Island Legislative Council may adopt a resolution to the effect of relief.

2. Section 7, subsection 1 of the BES Administrative Justice Act will not be applicable to the resolution to the effect of relief.

Section 61

The judge will not enter into an assessment of the grounds on which the Island Legislative Council has decided to relieve the Island Commissioner.

Section 62

The Executive Council will adopt rules of order for its meetings and other activities, which will be sent to the Island Legislative Council.

Section 63

1. The Lieutenant Governor will determine, with due observance of the stipulations made by the Executive Council, the date and place of the meeting of the Executive Council and the time of opening.

2. The Lieutenant Governor will announce the date and place of public meetings to be held and the time of opening.

Section 64

1. The Lieutenant Governor will promote the unity of the policy of the Executive Council.

2. The Lieutenant Governor may add items to the agenda of a meeting of the Executive Council.

3. The Lieutenant Governor may submit a proposal of his own to the Executive Council regarding items on the agenda.

Section 65

1. The meetings of the Executive Council will be held behind closed doors, insofar as the Executive Council has not determined otherwise.

2. The rules of order for the meetings may lay down rules regarding the public nature of the meetings of the Executive Council.

Section 66

1. The Executive Council may enjoin secrecy on the ground of an interest, referred to in Section 11 of the BES Government Information Act regarding the proceedings at a closed meeting and regarding the content of the documents submitted to the Executive Council. Secrecy regarding proceedings at a closed meeting will be imposed during that proceedings and all those who have knowledge of the proceedings or the documents, until the Executive Council lifts it.

2. On the ground of an interest, referred to in Section 11 of the BES Government Information Act, secrecy can also be imposed by the Lieutenant Governor or a committee, with regard to the documents they submit to the Executive Council. This is mentioned on the documents. Secrecy will be observed until the body that enjoined the obligation or the Island Legislative Council lifts it.

3. If the Executive Council has addressed the Island Legislative Council with regard to the matter discussed for which there is an obligation of secrecy, such secrecy will be observed until the Island Legislative Council lifts it.

Section 67

1. At the Executive Council meeting it will only be possible to hold deliberations or adopt resolutions, if at least half of the number of sitting members is present.

2. If the required number is not present, the Lieutenant Governor will call another meeting, with reference to this Section.

3. Subsection 1 will not applicable to the meeting referred to in subsection 2. However, the Executive Council can deliberate and adopt resolutions on other matters than those for which the previous meeting was

called, if at least half of the number of sitting members is present.

Section 68

The members of the Executive Council and other individuals who participate in the deliberation cannot be prosecuted or otherwise be held liable in law for their statements made at the Executive Council meeting or submitted in writing to the Executive Council.

Section 69

Sections 29, subsection 1 through 3, 30 and 31 will be equally applicable to meetings of the Executive Council.

Section 70

1. If in a vote, other than on individuals to make appointments, nominations or recommendations, the votes are equally divided, a new vote will be held.
2. If the votes on the same proposal are equally divided again, the chairman will have a deciding vote.

Section 71

1. Documents issued by the Executive Council, will be signed by the Lieutenant Governor and co-signed by the Island Secretary.
2. The Executive Council may permit him to assign the signing to another member of the Executive Council, to the Island Secretary or to one or more officials of the public entity.
3. Co-signing by the Island Secretary will not be applicable if the signing of the documents issued by the Executive Council has been assigned, pursuant to subsection 2, to the Island Secretary or one or more officials of the public entity.

Section 72

1. The Island Legislative Council may regulate which decisions of the Executive Council will be given notice of to the members of the Island Legislative Council. In such connection the Island Legislative Council may determine the cases in which deposit for inspection will suffice.

2. The Executive Council will omit giving notice or submitting for inspection to the extent that it is against public interest.

3. The Island Legislative Council will disclose the list of decisions of its meetings immediately after its adoption in the manner that is customary in the public entity. The Executive Council will omit disclosure to the extent that matters are concerned regarding which, on the ground of Section 66, secrecy has been enjoined or regarding which disclosure is against public interest.

PART IV. The Lieutenant Governor

Section 73

1. The Lieutenant Governor will be appointed by Royal Decree on the nomination of Our Minister and re-appointed for a period of six years. He may be relieved at any time by Royal Decree on the nomination of Our Minister.

2. The Kingdom Representative will draw up a substantiated recommendation for every position to be filled by appointment. Prior to making his recommendation he will request the Island Legislative Council, having heard the Executive Council, to express its opinion regarding the qualifications of competence and suitability to be required from the Lieutenant Governor to be appointed.

3. The Island Legislative Council may institute a confidential advisory committee from its own numbers, charged with the assessment of the candidates selected for such purpose upon its request by the Kingdom Representative. The Island Legislative Council will give the Executive Council an opportunity to delegate an Island Commissioner who will be added to the confidential advisory committee as an advisor. The

confidential advisory committee will report confidentially on its findings to the Kingdom Representative.

4. Notwithstanding the provisions in subsections 2 and 3, detailed rules may be laid down by order in council with regard to the procedure to be followed for appointments.

5. The deliberations of the confidential advisory committee referred to in subsection 3, will be held with closed doors. A separate report will be made of these deliberations, which will not be public.

6. Obligation of secrecy will exist with regard to:

- a. the recommendation of the Kingdom Representative, referred to in subsection 2;
- b. the report of the findings of the confidential advisory committee, referred to in subsection 3;
- c. the deliberations of the confidential advisory committee and the report of the deliberations, referred to in subsection

5.

6. The Kingdom Representative will make a proposal to the effect of re-appoint. By order in council detailed rules may be laid down about the manner in which, in this connection, the Island Legislative Council may express its opinion about the performance of the Lieutenant Governor to the Kingdom Representative.

Section 74

1. The Lieutenant Governor may be suspended by Royal Decree.

2. Our Minister may determine, while awaiting a decision on the suspension, that the Lieutenant Governor should not perform his duties.

3. A decision as referred to in subsection 2 will cease to be effective, if no decision has been made regarding the suspension within one month.

Section 75

To be eligible for appointment as Lieutenant Governor, the Dutch nationality is required.

Section 76

The same individual cannot be appointed as Lieutenant Governor in more than one public entity.

Section 77

1. Prior to accepting his office, the Lieutenant Governor will take the following oath (affirmation and promise), before the Kingdom Representative:

«Ik zweer (verklaar) dat ik, om tot gezaghebber benoemd te worden, rechtstreeks noch middellijk, onder welke naam of welk voorwendsel ook, enige gift of gunst heb gegeven of beloofd.

Ik zweer (verklaar en beloof) dat ik, om iets in dit ambt te doen of te laten, rechtstreeks noch middellijk enig geschenk of enige belofte heb aangenomen of zal aannemen.

Ik zweer (beloof) dat ik getrouw zal zijn aan de Grondwet, dat ik de wetten zal nakomen en dat ik mijn plichten als gezaghebber naar eer en geweten zal vervullen.

Zo waarlijk helpe mij God Almachtig!»

(Dat verklaar en beloof ik!»)

2. Instead of in Dutch, the oath (affirmation and promise) may be taken in Papiamentu or in English.

3. When the oath (affirmation and promise) is taken in Papiamentu, the text of the oath (affirmation and promise) reads as follows:

«Mi ta hura (deklará) ku pa mi nombramentu den e kargo o funshon di gezaghebber mi no a duna ni primintí, ni direkta- ni indirektamente, bou di ningun nòmber ni denominashon ni preteksto, ningun regalo ni fabor.

Mi ta hura (deklará i primintí) ku mi no a risibí ni mi no a aseptá, ni lo mi no aseptá, ni direkta- ni indirektamente, ningun regalo ni ningun promesa di hasi algu o laga di hasi algu den e kargo o funshon en kuestion.

Mi ta hura (primintí) ku lo mi ta fiel na Konstitushon, ku lo mi kumpli ku lei i ku lo mi kumpli ku mi obligashonnan komo gezaghebber segun mi konsenshi i honor.

Ku Dios Todopoderoso yudami!»

(Esei mi ta deklará i primintí!»)

4. When the oath (affirmation and promise) is taken in English, the text of the oath (affirmation and promise) reads as follows:

«I swear (affirm) that I neither gave nor promised any gift or favour, either directly or indirectly, under any name or pretext whatsoever, in order to be appointed Island Governor.

I swear (affirm and promise) that I have made no gift or promise, and shall accept no gift or promise, either directly or indirectly, in order to do or to omit to do anything in the course of my duties.

I swear (promise) that I will bear allegiance to the Constitution, that I will observe the laws and that I will perform my duties as Island Governor in good faith.

So help me God Almighty!

(This I affirm and promise!)

Section 78

1. The Lieutenant Governor will receive a remuneration for the account of the public entity, which is regulated by or pursuant to an order in council.

2. By the order in council, referred to in subsection 1, rules may also be laid down regarding the financial contribution towards or compensation of special costs and regarding other financial provisions related to the exercise of the office of Lieutenant Governor.

3. Apart from that which has been granted to him by or pursuant to the law, the Lieutenant Governor does not receive income as such, in any form whatsoever, for the account of the public entity.

4. The Lieutenant Governor will not receive compensations, in any form whatsoever, for activities performed in ancillary positions he holds by virtue of his office of Lieutenant Governor, irrespective whether these compensations are or are not for the account of the public entity. If these compensations are paid, they will be deposited in the coffers of the public entity.

5. Compensations as contemplated in subsection 4 will be understood to include income, by any name whatsoever, from ancillary positions from which the Lieutenant will resign upon termination of the office.

6. Income other than as referred to in subsection 4 will be set off against the pay in accordance with section 3 of the Act on compensation of members of the Lower Chamber, on the understanding that in such section:

- a. ancillary income will be understood to mean: revenue from business and labor, referred to in Section 6 of the BES Income Tax Act;
- b. in subsection 3, instead of the 2001 Income Tax Act, it should read: the BES Income Tax Act.

7. By order in council rules will be laid down with regard to the manner in which the Lieutenant Governor will provide information regarding the income referred to in subsection 6, and the consequences of failure to provide such information.

Section 79

1. The Lieutenant Governor will not hold ancillary positions of which the exercise is undesirable in view of proper performance of his duties as Lieutenant Governor or maintaining his impartiality and independence or of the confidence therein.

2. The Lieutenant Governor, will report his intention to accept an ancillary position, other than by virtue of his office of Lieutenant Governor, to the Island Legislative Council.

3. The Lieutenant Governor will disclose ancillary positions other than on the ground of his office of Lieutenant Governor. The disclosure will take place immediately after the appointment as Lieutenant Governor or upon acceptance of an ancillary position and will be made by filing a statement of the positions for public inspection at the Government Office of the public entity.

income from the disclosure will be on April 1 at was received.

4. The Lieutenant Governor will disclose also the ancillary positions referred to in subsection 3. The made by deposit for inspection at the government office the latest after the calendar year in which the income

of section 6 of

5. Income will be understood to be: wages in the sense the BES Wage Tax Act.

Section 80

1. The Lieutenant Governor will not simultaneously be:

- a. Minister;
- b. Secretary of State;
- c. Member of the Council of State;
- d. Member of the Court of Audit;
- e. National ombudsman;

- f. Substitute-ombudsman as referred to in Section 9, subsection 1, of
the National ombudsman Act;
- g. Kingdom Representative;
- h. Member of an Island Legislative Council;
- i. Island Commissioner;
- j. Member of the Joint Court of Audit
- k. common ombudsman or member of the joint
ombudsman
committee;
- l. public official, appointed by or on behalf of the
administration of the
public entity or subordinated to it;
- m. public official, appointed by or on behalf of the
National
Government, whose duties include performing
activities in the context of supervision of the public entity;
- n. officer who pursuant to the law or an order in council
advises the government of the public entity.

2. Notwithstanding subsection 1, opening words and under l, a Lieutenant Governor may also be a public official of the registry of birth, deaths, marriages and registered partnerships.

Section 81

- 1. Blood relationship or affinity up to the second degree or marriage cannot exist between the Lieutenant Governor and another member of the Executive Council.
- 2. Section 41, subsection 2 through 4, will be applicable.

Section 82

- 1. Section 16, subsection 1 and 2, will be equally applicable to the Lieutenant Governor.
- 2. The Island Legislative Council will lay down a code of conduct for the Lieutenant Governor.

Section 83

Sections 49 through 52 will be equally applicable to the Lieutenant Governor, on the understanding that in Section 49, the indication «resignation respectively expiration of term of appointment» should be substituted for «resignation», and that in Section 52, «Our Minister» should be substituted for «Island Legislative Council».

Section 84

The office of Lieutenant Governor will grant relief from all obligations imposed by or pursuant to the law, to perform personal services.

Section 85

1. The Lieutenant Governor will have his actual residence in the public entity.
2. The Kingdom Representative can grant exemption from the requirement to have the actual residence in the public entity for up to three months.

Section 86

1. If the Lieutenant Governor wishes to stay outside the public entity for longer than six weeks, he will require the permission of the Kingdom Representative to that end. The permission may only be granted if it is not against the interest of the public entity to do so.
2. The General Extension of Time Limits Act will not be applicable to the term, referred to in subsection 1.

Section 87

1. To the extent that it has not been done by law, rules will be laid down by or pursuant to an order in council with regard to the Lieutenant Governor, concerning:
 - a. appointment, suspension, temporarily not performing his duties and removal;
 - b. the investigation into suitability and competence;
 - c. severance pay;
 - d. claims in the event of illness;
 - e. protection at work;

f. other matters, regarding his legal status, that require regulation.

2. With the rules regarding the matters referred to in subsection 1, financial provisions may be made that are for the account of the public entity.

Section 88

1. All documents addressed to the Island Legislative Council or Executive Council, will be opened by or on behalf of the Lieutenant Governor.

2. At the next-following meeting of the Island Legislative Council he will give notice of the receipt of documents addressed to the Island Legislative Council that are not discussed immediately at the Island Legislative Council meeting.

Section 89

By Royal Decree it will be determined which the distinctive signs of the Lieutenant Governor are and on what occasions he will wear them.

Section 90

1. In case the Lieutenant Governor is prevented from or incapable of acting as such, he will be deputized for in his office by an Island Commissioner to be designated by the Executive Council. In such case the chair of the Island Legislative Council will be deputized for by the longest sitting member of the Island Legislative Council. If more members of the Island Legislative Council have been holding their seats for an equal amount of time, such deputizing will be done by the oldest of them in years. The Island Legislative Council may entrust another member of the Island Legislative Council with the deputizing.

2. In case all the Island Commissioners are prevented from or incapable of acting as such, they will be deputized for in their office by the longest sitting member of the Island Legislative Council. If more members of the Island Legislative Council have been holding their seats for an equal amount of time, such deputizing will be

done by the oldest of them in years. The Island Legislative Council may entrust another member of the Island Legislative Council with the deputizing.

Section 91

1. If the Kingdom Representative deems it necessary in the interest of the public entity, he will provide, contrary to Section 90, for a deputizing appointment. Prior to doing so, he will hear the Island Legislative Council, unless serious reasons prevent this.

2. He who has been entrusted with deputizing the office of Lieutenant Governor by the Kingdom Representative, will take an oath (affirmation and promise) in accordance with Section 77 before the Kingdom Representative.

Section 92

The granting of a compensation for the account of the public entity to the person who has been entrusted with deputizing the office of the Lieutenant Governor will be regulated by or pursuant to an order in council.

Section 93

Sections 80 through 82 will be equally applicable to the person entrusted with deputizing the office of Lieutenant Governor.

Section 94

1. The Island Legislative Council may regulate which decisions of the Lieutenant Governor will be given notice of to the members of the Island Legislative Council. In that connection the Island Legislative Council may determine the cases in which submission for inspection will suffice.

2. The Lieutenant Governor will omit to give such notice or make such submission for inspection to the extent that it is against the public interest.

PART V. THE JOINT COURT OF AUDIT

Section 95

The Island Legislative Councils will jointly institute a joint Court of Audit by island ordinance.

Section 96

1. The joint Court of Audit will consist of three members.
2. Each Island Legislative Council will appoint one member of the joint Court of Audit for a period of six years.
3. The Island Legislative Council may appoint a deputy member for the member it has appointed. This part will be equally applicable to the deputy members.
4. The Island Legislative Council can re-appoint a member.
5. Prior to the appointments, referred to in subsections 2 through 4, the Island Legislative Council will consult with the joint Court of Audit.
6. A member of the joint Court of Audit will be removed by the Island Legislative Council that appointed him:
 - a. at his own request;
 - b. in the event of acceptance of a position that is not compatible with membership;
 - c. if, on account of a criminal offence, he has been sentenced by court judgment that has become final and conclusive, or a measure has been imposed on him by such judgment to the effect of deprivation of freedom;
 - d. if he has been placed under guardianship by court judgment that has become final and conclusive, has been declared bankrupt, has obtained suspension of payment or has been committed to prison

for debt.

7. A member of the joint Court of Audit can be dismissed by the Island

Legislative Council that has appointed him:

a. if, due to illness or disability, he is permanently incapacitated to

perform his duties;

b. if he acts in contravention of Section 101.

Section 97

1. The Island Legislative Council puts a member it has appointed to the joint Court of Audit on non-active duty if:

a. he is in temporary custody;

b. he has a criminal conviction by a court order that has not become final and conclusive yet or that by such an order a measure has been imposed with a custodial result;

c. he has been placed under guardianship, has been declared bankrupt, has obtained suspension of payment or has been committed to prison for debt pursuant to a court order that has not yet become final and conclusive.

2. The Island Legislative Council may suspend a member it has appointed to the joint Court of Audit, if a judicial investigation is instituted against that member with regard to a crime or if there is another serious suspicion of the existence of facts and circumstances that could lead to dismissal, other than on grounds, referred to in Section 96, subsection 6, under a, and subsection 7, under a.

3. The Island Legislative Council will end the suspension as soon as the ground for the measure has ceased to exist, on the understanding that in a case as referred to in subsection 2, the suspension will end in any case after six months. In that case the Island Legislative Council can extend the measure each time by up to three months.

Section 98

Section 13 will be equally applicable to the members of the joint Court of Audit.

Section 99

1. A member of the joint Court of Audit will not simultaneously be:

- a. Minister;
- b. Secretary of State;
- c. Member of the Council of State;
- d. Member of the Court of Audit;
- e. National ombudsman;
- f. Substitute-ombudsman as referred to in Section 9, subsection 1, of the National ombudsman Act;
- g. Kingdom Representative;
- h. Member of the Island Legislative Council;
- i. Lieutenant Governor;
- j. Island Commissioner;
- k. common ombudsman or member of the joint ombudsman committee;
- l. member of a committee as referred to in Sections 117 and 118;
- m. public official, appointed by or on behalf of the administration of the public entity or subordinated to it
- n. public official, appointed by or on behalf of to the Government of the Kingdom, whose duties include performing activities in the scope of supervision of the public entity;
- o. officer who pursuant to the law or an order in council advises the government of a public entity.

2. Notwithstanding subsection 1, opening words and under m, a member of the joint Court of Audit may simultaneously be:

- a. a public official of the registry of births, deaths, marriages and registered partnerships;
- b. a volunteer or other individual who by virtue of a legal obligation, not by profession, performs emergency services;
- c. a public official working for a school for public education.

Section 100

1. Prior to being able to perform his duties, a member of the joint Court of Audit, before the chairman, at the meeting of the Island Legislative Council that has appointed him, will take the following oath (affirmation and promise) :

«Ik zweer (verklaar) dat ik, om tot lid van de gezamenlijke rekenkamer benoemd te worden, rechtstreeks noch middellijk, onder welke naam of welk voorwendsel ook, enige gift of gunst heb gegeven of beloofd.

Ik zweer (verklaar en beloof) dat ik, om iets in dit ambt te doen of te laten, rechtstreeks noch middellijk enig geschenk of enige belofte heb aangenomen of zal aannemen.

Ik zweer (beloof) dat ik getrouw zal zijn aan de Grondwet, dat ik de wetten zal nakomen en dat ik mijn plichten als lid van de gezamenlijke rekenkamer naar eer en geweten zal vervullen.

Zo waarlijk helpe mij God Almachtig!»

(«Dat verklaar en beloof ik!»)

2. Instead of in Dutch, the oath (affirmation and promise) may be taken in Papiamentu or English.

3. When the oath (affirmation and promise) is taken in Papiamentu, the text of the oath (affirmation and promise) will read as follows:

«Mi ta hura (deklará) ku pa mi nombramentu den e kargo o funshon di kontraloria general mi no a duna ni primintí, ni direkta- ni indirektamente, bou di ningun nòmber ni denominashon ni preteksto, ningun regalo ni fabor.

Mi ta hura (deklará i primintí) ku mi no a risibí ni mi no a aseptá, ni lo mi no aseptá, ni direkta- ni indirektamente, ningun regalo ni ningun promesa di

hasi algu o laga di hasi algu den e kargo o funshon en kuestion.

Mi ta hura (primintí) ku lo mi ta fiel na Konstitushon, ku lo mi kumpli ku lei i ku lo mi kumpli ku mi obligashonnan komo kontraloria general segun mi konsenshi i honor. Ku Dios Todopoderoso yudami!»

(Esei mi ta deklará i primintí!»)

4. When the oath (affirmation and promise) is taken in English, the text of the oath (affirmation and promise) will read as follows:

«I swear (affirm) that I neither gave nor promised any gift or favour, either directly or indirectly, under any name or pretext whatsoever, in order to be appointed Member of the Court of Audit.

I swear (affirm and promise) that I have made no gift or promise, and shall accept no gift or promise, either directly or indirectly, in order to do or to omit to do anything in the course of my duties.

I swear (promise) that I will bear allegiance to the Constitution, that I will observe the laws and that I will perform my duties as Member of the Court of Audit in good faith.

So help me God Almighty!

(This I affirm and promise!)

Section 101

Section 16, subsections 1 and 2, will be equally applicable to the members of the joint Court of Audit.

Section 102

1. The joint Court of Audit will adopt rules of order for its activities and its meetings.

2. The joint Court of Audit will send the rules to the Island Legislative Councils for their attention and will

publish them by placement in the Official Bulletins of the public entities.

Section 103

After consultation with the joint Court of Audit, the Island Legislative Councils will make the necessary means available to the joint Court of Audit for adequate performance of its duties.

Section 104

1. Individuals who work for the joint Court of Audit will be accountable to the joint Court of Audit exclusively, with regard to those activities.

2. Public officials who work for a body of the public entity cannot work for the joint Court of Audit as well.

Section 105

1. In the island ordinance in which the joint Court of Audit is instituted, rules will be laid down regarding at least:

- a. the chair of the joint Court of Audit;
- b. the compensation that the members of the joint Court of Audit will receive for their work and the contribution towards the costs;
- c. the support of the joint Court of Audit.

2. The island ordinance will require the approval of the Kingdom Representative.

PART VI. THE OMBUDS POSITION

§ 1 General provisions

Section 106

Title 9.2 of the General Administrative Law Act, with the exception of Section 9:21, will be equally applicable to written requests to conduct an investigation into the manner in which an administrative body of the public

entity has proceeded in a certain matter, on the understanding that in Section 9:36, subsection 1, the indication Section 11 of the BES Government Information Act will be substituted for «Section 10 of the Government Information Act».

Section 107

1. The Island Legislative Councils may institute a common ombudsman or a joint ombudsman committee for the handling of requests as referred to in Section 9:18, subsection 1, of the General Administrative Law Act.

2. A common ombudsman or joint ombudsman committee can only be instituted as of January 1 of any year. If the Island Legislative Councils make a decision to such effect, they will send the decision to the effect of institution to the National ombudsman before July 1 of the year prior to the year the institution enters into effect.

3. The institution of a common ombudsman or a joint ombudsman committee can only be terminated as of January 1 of any year. If the Island Legislative Councils make decision to such effect, they will send the decision to terminate the institution to the National ombudsman before July 1 of the year prior to the year in which the institution ends.

Section 108

If the Island Legislative Councils institute a common ombudsman or a joint ombudsman committee with application of the Joint Regulations Act, the provisions included in that Act regarding common bodies will only be applicable to the extent that the nature of the duties assigned to the common ombudsman or joint ombudsman committee are not opposed to it.

§ 2 The common ombudsman

Section 109

1. If the Island Legislative Councils decide to institute a common ombudsman, they will appoint him for the duration of six years

2. The Island Legislative Councils will appoint a substitute common ombudsman. This paragraph will be equally applicable to the substitute common ombudsman.

3. The common ombudsman will be removed by the Island Legislative Councils:

- a. at his own request;
- b. if, due to illness or disability, he is permanently incapacitated to perform his duties;
- c. in the event of acceptance of a position as referred to in Section 110, subsection 1;
- d. if, on account of a criminal offence, he has been sentenced by court judgment that has become final and conclusive, or a measure has been imposed on him by such judgment to the effect of deprivation of freedom;
- e. if he has been placed under guardianship by a court order that has become final and conclusive, has been declared bankrupt, has obtained suspension of payment or has been committed to prison for debt;
- f. if, in the opinion of the Island Legislative Councils, he causes severe detriment to the confidence placed in him.

4. The Island Legislative Councils will suspend the common ombudsman if:

- a. he is in temporary custody;
- b. he has a criminal conviction by a court order that has not become final and conclusive yet or that by such an order a measure has

been imposed upon him with a custodial result;
c. he has been placed under guardianship, has been declared bankrupt, has obtained suspension of payment or has been committed to prison for debt pursuant to a court order that has not become final and conclusive yet.

Section 110

1. The common ombudsman will not hold positions of which the exercise is undesirable in view of proper performance of his duty or of maintaining his impartiality and independence or the trust therein.

2. Section 13 will be equally applicable to the common ombudsman.

Section 111

1. Prior to being able to perform his duties, the common ombudsman will take the following oath at the meeting of an Island Legislative Council to be designated by his appointment, before the chairman:

«Ik zweer (verklaar) dat ik, om tot ombudsman benoemd te worden, rechtstreeks noch middellijk, onder welke naam of welk voorwendsel ook, enige gift of gunst heb gegeven of beloofd.

Ik zweer (verklaar en beloof) dat ik, om iets in dit ambt te doen of te laten, rechtstreeks noch middellijk enig geschenk of enige belofte heb aangenomen of zal aannemen.

Ik zweer (verklaar en beloof) dat ik getrouw zal zijn aan de Grondwet, dat ik de wetten zal nakomen en dat ik mijn plichten als ombudsman naar eer en geweten zal vervullen.

Zo waarlijk helpe mij God almachtig!»

(«Dat verklaar en beloof ik!»)

2. Instead of in Dutch, the oath (affirmation and promise) may be taken in Papiamentu or English.

3. When the oath (affirmation and promise) is taken in Papiamentu, the text of the oath (affirmation and promise) will read as follows:

«Mi ta hura (deklará) ku pa mi nombramentu den e kargo o funshon di ombudsman mi no a duna ni primintí, ni direkta- ni indirektamente, bou di ningun nòmber ni denominashon ni preteksto, ningun regalo ni fabor.

Mi ta hura (deklará i primintí) ku mi no a risibí ni mi no a aseptá, ni lo mi no aseptá, ni direkta- ni indirektamente, ningun regalo ni ningun promesa di hasi algu o laga di hasi algu den e kargo o funshon en kuestion.

Mi ta hura (primintí) ku lo mi ta fiel na Konstitushon, ku lo mi kumpli ku lei i ku lo mi kumpli ku mi obligashonnan komo ombudsman segun mi konsenshi i honor.

Ku Dios Todopoderoso yudami!»(Esei mi ta deklará i primintí!»)

4. When the oath (affirmation and promise) is taken in English, the text of the oath (affirmation and promise) will read as follows:

«I swear (affirm) that I neither gave nor promised any gift or favour, either directly or indirectly, under any name or pretext whatsoever, in order to be appointed ombudsman.

I swear (affirm and promise) that I have made no gift or promise, and shall accept no gift or promise, either directly or indirectly, in order to do or to omit to do anything in the course of my duties.

I swear (promise) that I will bear allegiance to the Constitution, that I will observe the laws and that I will perform my duties as ombudsman in good faith.

So help me God Almighty!

(This I affirm and promise!)

Section 112

1. Upon nomination of the common ombudsman, the Executive Councils will appoint the staff of the common ombudsman that is necessary for adequate performance of the duties.

2. The joint ombudsman will not receive, neither in general, nor in a specific case, any instructions regarding the performance of his duties.

3. The staff of the common ombudsman will not perform duties for an administrative body into the conduct of which the common ombudsman may conduct an investigation.

4. The staff of the common ombudsman is solely accountable to him with respect to the duties performed for the common ombudsman.

Section 113

Annually, the common ombudsman will send a report of his activities to the Island Legislative Councils.

Section 114

The common ombudsman will receive a compensation determined by island ordinance of the Island Legislative Councils, for his activities, and a financial contribution towards the costs.

§ 3 The joint ombudsman committee.

Section 115

1. If the Island Legislative Councils decide to institute a joint ombudsman committee, they will determine the number of members of the joint ombudsman committee.

2. The Island Legislative Councils will appoint the members of the joint ombudsman committee for the duration of six years.

3. The Island Legislative Councils will appoint, from among the members, the chairman and the substitute chairman of the joint ombudsman committee.

Section 116

1. Annually, the joint ombudsman committee will send a report of its activities to the Island Legislative Councils.

2. Section 109, subsections 3 and 4, sections 110, 111, 112 and 114 will be equally applicable to the joint ombudsman committee and to each member separately.

PART VII. The committees

Section 117

1. The Island Legislative Council can institute Island Legislative Council committees that can prepare decision-making of the Island Legislative Council and can consult with the Executive Council or the Lieutenant Governor. In that connection it will regulate the tasks, the powers, the composition and the procedure, including the manner in which the members of the Island Legislative Council inspect the documents for which secrecy has been enjoined by an Island Legislative Council Committee. Such inspection can only be denied to the extent that it is in contravention of the public interest.

2. The Lieutenant Governor and the Island Commissioners will not be members of an Island Legislative Council Committee.

3. When composing an Island Legislative Council Committee, the Island Legislative Council will ensure balanced representation of the groups represented in the Island Legislative Council to the extent that this concerns the appointment of Island Legislative Council members.

4. A member of the Island Legislative Council will be the chairperson of an Island Legislative Council Committee.

5. Sections 20 and 22 through 24 will be equally applicable to a meeting of an Island Legislative Council Committee, on the understanding that in section 20 the indication «chairman of an Island Legislative Council Committee» should be substituted for «Lieutenant Governor», and in Section 24, subsection 6, «Section 119» should be substituted for «Section 26».

Section 118

1. The Island Legislative Council, the Executive Council or the Lieutenant Governor may institute other committees than the committees referred to in Section 117, subsection 1.

2. The Lieutenant Governor and Island Commissioners will not be members of another committee instituted by the Island Legislative Council. Members of the Island Legislative Council will not be members of a committee instituted by the Executive Council or the Lieutenant Governor.

3. Subsection 2 will not be applicable to the committees that have been instituted to advise on the decision on objections submitted and committees entrusted with the handling of and advising on complaints.

4. The Island Legislative Council, the Executive Council, respectively the Lieutenant Governor, will regulate the public access to the meeting of another committee instituted by him.

5. Sections 129, subsection 2, 143 and 144 will be equally applicable to a decision to institute another committee.

Section 119

1. At a closed meeting, a committee may enjoin secrecy on the ground of an interest, referred to in Section 11 of the BES Government Information Act, regarding the matters discussed at that meeting behind closed doors and regarding the content of the documents that are submitted to the committee. Absolute secrecy about matters discussed at a closed meeting will be imposed during that meeting. Secrecy will be observed by those who were present at the discussion and all those who have knowledge of the matters discussed or the documents, until the committee lifts it.

2. On the ground of an interest, referred to in Section 11 of the BES Government Information Act, secrecy may also be enjoined by the chairman of a committee, the Executive Council and the Lieutenant Governor, each regarding documents such body submits to a committee. This is mentioned on the documents. Secrecy will be observed until the body that imposed the obligation or the Island Legislative Council lifts it.

3. If a committee has addressed the Island Legislative Council with respect to the matter discussed regarding which an obligation of secrecy is applicable, such secrecy will be observed until the Island Legislative Council lifts it.

Part VIII. Financial provisions for the members of the Island Legislative Council and the committees

Section 120

1. The members of the Island Legislative Council and the members of the Island Legislative Council who, pursuant to Section Ya 13, in conjunction with Section X 10 of the Elections Act, have been given discharge due to pregnancy and childbirth or illness will receive a

compensation for their activities and a financial contribution towards the costs, to be determined by island ordinance.

2. The Island Legislative Council may lay down rules by island ordinance about the financial contribution towards or the compensation of special costs and about other financial provisions related to fulfillment of membership of the Island Legislative Council.

3. Subsections 1 and 2 will not be applicable to a member of the Island Legislative Council that, taking Section 14, subsection 2 into account, is also an Island Commissioner.

4. The island ordinances, referred to in subsections 1 and 2, will be adopted in accordance with or pursuant to rules to be laid down by order in council.

Section 121

1. The members of a committee instituted by the Island Legislative Council, the Executive Council or the Lieutenant Governor will receive, insofar as they are not members of the Island Legislative Council or the Executive Council, a compensation determined by the Island Legislative Council by island ordinance:

- a. for attending meetings of a committee and
- b. for travel and accommodation costs in connection with travelling
within the public entity.

2. In special cases the Island Legislative Council may determine by island ordinance that the members of the executive of a committee as referred to in Section 118, will receive a fixed payment for their work and a financial contribution towards the costs.

3. Regarding the compensation, referred to in subsection 1, under a, detailed rules will be laid down by or pursuant to an order in council. Regarding the remaining compensations referred to in this Section, detailed rules may be laid down by or pursuant to an order in council.

Section 122

Compensation of travel and accommodation expenses, incurred in connection with travelling outside the territory of the public entity for the implementation of a decision of the island government, to the members of the Island Legislative Council and the individuals, referred to in Section 121, subsection 1, will only take place in accordance with rules laid down by the Island Legislative Council by island ordinance.

Section 122a

The island ordinances, referred to in the Sections 120 through 122, will be sent to the Kingdom Representative.

Section 123

1. Apart from what they have been granted by or pursuant to the law, the members of the Island Legislative Council and those of a committee instituted by the Island Legislative Council, the Executive Council or the Lieutenant Governor, will receive, as such, no other compensations and financial contributions for the account of the public entity.

2. They will receive benefits for the account of the public entity, otherwise than in the form of compensations and financial contributions towards costs, only insofar as that has been laid down by island ordinance by the Island Legislative Council. The island ordinance will require the approval of the Kingdom Representative.

Part IX. The Island Secretary and the Island Registrar

§ 1 General provisions

Section 124

1. In every public entity there will be an Island Secretary and an Island Registrar.

2. An Island Secretary will not be an Island Registrar simultaneously.

Section 125

Section 16, subsections 1 and 2, will be equally applicable to the Island Secretary and the Island Registrar.

§ 2 The Island Secretary

Section 126

1. The Executive Council will appoint the Island Secretary. It will also be authorized to suspend and remove the Island Secretary.

2. A resolution to the effect of appointing, promoting, suspending or removing the Island Secretary will require the approval of the Kingdom Representative. The approval can only be withheld on account of contravention of the law or the public interest.

Section 127

1. The Island Secretary will assist the Executive Council, the Lieutenant Governor and the committees instituted by them in the performance of their duties.

2. The Executive Council will set detailed rules in an instruction on the task and the powers of the Island Secretary.

Section 128

The Island Secretary will be present at the meeting of the Executive Council.

Section 129

1. The Executive Council will lay down regulations for the substitution of the Island Secretary.

2. Sections 124, subsection 2, and 125 through 128 will be equally applicable to the person acting as the substitute of the Island Secretary.

§ 3 The Island Registrar

Section 130

The Island Legislative Council will appoint the Island Registrar. It will also be authorized to suspend and remove the Island Registrar.

Section 131

1. The Island Registrar will assist the Island Legislative Council and the committees instituted by the Island Legislative Council in the performance of their duties.

2. The Island Legislative Council will set detailed rules in an instruction about the task and the powers of the Island Registrar.

Section 132

The Island Registrar will be present at the meeting of the Island Legislative Council.

Section 133

1. The Island Legislative Council will lay down regulations for the substitution of the Island Registrar.

2. Sections 124, subsection 2, 125, 130 through 132 and 135 will be equally applicable to the person acting as the substitute of the Island Registrar.

Section 134

1. The Island Legislative Council may set rules about the organization of the Registrar's Office.

2. The Island Legislative Council will be authorized to appoint, suspend and dismiss the public officials working at the Registrar's Office.

Section 135

A resolution to the effect of appointing, promoting, suspending or removing the Island Registrar and the public officials working at the Registry will require the approval of the Kingdom Representative. The approval can only be withheld on account of contravention of the law or the public interest.

Chapter IV. The authority of the island government

Part I. General provisions

§ 1 Preliminary provisions

Section 136

1. The authority to provide for regulation and management with regard to the household of the public entity will be entrusted to the island government.

2. Regulation and administration may be required of the island government by or pursuant to another act than the present one, or the Finances of the public entities Bonaire, St. Eustatius and Saba Act to ensure implementation thereof, on the understanding that giving instructions to the island government and imposing on the island government, or adopting decisions in *its stead*, can only *be done* if the authority to do so has been granted by law.

3. Notwithstanding Sections 138, subsection 5, and 213, subsection 4, the expenses, related with the implementation of subsection 2, to the extent that they remain for the account of the public entities concerned, will be reimbursed to them by the Kingdom.

Section 137

By or pursuant to the law, distinctions may be made among the public entities, if necessary.

Section 138

1. For the purposes of this Section the following definitions will be applicable:

a. *plan*: a decision that includes a coherent set of coordinated choices regarding decisions to be made or other acts to be performed by the island government, in order to reach one or more objectives;

b. *policy report*: a report in writing regarding the policy pursued by the island government in one or more areas of policy or on elements thereof and the coherence within or among them.

2. Adopting a plan or a policy report and following a prescribed procedure to prepare it can only be required of the island government on behalf of the Kingdom in cases to be determined by law.

3. An obligation as referred to in subsection 2 will be applicable for four years at the most, unless otherwise provided by law.

4. Adopting a plan or a policy report and following a prescribed procedure for the preparation thereof may be requested of the island government on behalf of the Kingdom, in cases other than determined by law, for a term of four years at the most as part of the regulation of a temporary special benefit as referred to in Section 92, subsection 3, of the Finances of the public entities Bonaire, St. Eustatius and Saba Act.

5. Adopting a plan or a policy report and following a prescribed procedure for the preparation thereof will not be required nor requested from an island government, before it has been indicated how the financial consequences thereof for the public entity will be compensated.

6. This Section will not be applicable to the budget and the annual accounts and the annual report referred to in Section 17, respectively Section 28 of the Finances of the public entities Bonaire, St. Eustatius and Saba Act.

Section 139

1. Adopting a plan or a policy report as referred to in Section 138 and following a prescribed procedure for the preparation thereof, will only be required if:

- a. it is necessary in terms of coordination between the policy of the public entity and the policy of the Kingdom, or
- b. the development of policy in a new area of policy makes it necessary.

2. Adopting a plan or a policy report as referred to in Section 138 and following a prescribed procedure for the preparation thereof, will not be required if:

- a. as a result the island government will be limited in an impermissible manner in its substantive or financial policy scope;
- b. the administrative burdens are not in reasonable proportion to the benefits to be expected or make significant demands on the resources available for the area of policy concerned;
- c. integration with an existing plan or an existing policy report or the budget or the financial statement and the annual report, referred to in Section 17, respectively Section 28 of the Finances of the public entities Bonaire, St. Eustatius and Saba Act is possible;
- d. promoting coherence in policy in the public entities by mutual coordination of elements thereof becomes impossible;
- e. it solely serves the purpose of obtaining information.

3. If in a legislative proposal to introduce or amend provisions by which establishing a plan or a policy report as referred to in Section 138 and following a prescribed procedure for the preparation thereof is required, any deviation is made from the provisions made by or pursuant to Section 138 and this Section, such deviation will be motivated in the explanatory note accompanying the proposal.

§ 2 Administrative coercion

Section 140

1. The island government is authorized to impose an order subject to administrative coercion.

2. The authority to impose an order subject to administrative coercion will be exercised by the Executive Council, if the order serves to enforce rules executed by the island government.

3. The authority to impose an order subject to administrative coercion will be performed by the Lieutenant Governor, if the order serves to enforce rules executed by him.

4. Sections 1:1, subsection 4, 4:116, 5:1 through 5:10 and Title 5.3 of the General Administrative Law Act will be applicable on the understanding that in Section 4:116 «the BES Code of Civil Procedure» is read for: the Code of Civil Procedure.

5. Titles X and XI of the BES Code of Criminal Procedure will be equally applicable, on the understanding that:

a. the warrant, referred to in Section 155 of the BES Code of Criminal Procedure, will be granted by:

1° the Executive Council in the cases, referred to in subsection 2;

2° the Lieutenant Governor in the cases, referred to in subsection 3;

b. the proof of identification, referred to in Section 162 of the BES Code of Criminal Procedure, will be issued by the Lieutenant Governor;

c. the written report regarding entry, referred to in Section 163 of the BES Code of Criminal Procedure, will be sent to

1° the Executive Council in the cases, referred to in subsection 2; 2° The Lieutenant Governor in the

cases, referred to in subsection 3.

Section 141

1. In case of application of section 231, the Kingdom Representative may impose an order subject to

administrative coercion on behalf of the island government and for the account of the public entity. Section 140, subsections 4 and 5, will then be equally applicable, on the understanding that the warrant, referred to in subsection 5, under a, will be granted by the Kingdom Representative, the proof of identity, referred to in subsection 5, under b, will be issued by the Kingdom Representative and that the written report, referred to in subsection 5, under c, will be sent to the Kingdom Representative.

2. In that case the public entity will have a right of recourse against the offender to the amount of the costs charged at its expense.

3. Sections 1:1, subsection 4, 4:116 and 5:10 of the General Administrative Law Act will then be applicable.

§ 3. Promulgation and entry into force of decisions implying generally binding regulations

Section 142

1. Decisions of the island government implying generally binding regulations, will not be binding before they have been promulgated.

2. Promulgation will take place through placement in a generally accessible manner in the issued Official Bulletin of the public entity.

3. The Official Bulletin may be issued electronically. After the issuance the Official Bulletin will remain electronically available in a generally accessible manner. If electronic issue is partially or entirely impossible, the island government provides for a **substituting** issue.

Detailed rules regarding the provisions in the first and second sentence will be laid down by or pursuant to an order in council.

4. When promulgating a decision that is subject to approval, the date will be mentioned of the decision by which approval was granted, or notice will be given of

the circumstance that in accordance with Section 10:31, subsection 4, of the General Administrative Law Act a decision to approve is deemed to have been taken.

Section 143

1. The texts of the decisions of the island government that include generally binding regulations, will be available to everyone in a consolidated form through a generally accessible electronic medium designated by order in council.

2. A consolidated text of a decision that has been made available on the basis of subsection 1, will remain available if the decision has been amended or revoked after having been made available.

3. Our Minister may lay down rules about the manner in which the texts referred to in subsection 1 are made available.

4. By or pursuant to order in council, categories of decisions may be designated to which subsection 1 will not be applicable.

Section 144

Upon request, anyone may obtain a hard copy of the decisions of the island government that include generally binding regulations. The copy will be provided at no more than the cost of making the copy.

Section 145

The promulgated decisions will enter into force as of the eighth day after the date of promulgation, unless another time has been designated for such purpose in these decisions.

Section 146

A decision as referred to in Section 142 of which violation is punishable by law, will be communicated to ***the prosecution in first instance*** after the publication.

Section 147

With regard to revocation of the decisions that include generally binding regulations, Sections 142, 145 and 146 will be equally applicable, on the understanding that the notice *to the prosecution in first instance* occurs within one week.

§ 4 Time limits

Section 148

Sections 1 through 4 of the General Extension of *Time Limits* Act will be equally applicable to *time limits* set in an island ordinance, unless otherwise provided in the island ordinance.

PART II. The jurisdiction of the Island Legislative Council

Section 149

1. Island ordinances will be adopted by the Island Legislative Council insofar as the authority has not been granted to the Executive Council or the Lieutenant Governor, by law or by the Island Legislative Council pursuant to the law.

2. The other powers, referred to in Section 136, subsection 1, will be vested in the Island Legislative Council.

3. The other powers, referred to in Section 136, subsection 2, are vested in the Executive Council, insofar as they have not been granted to the Island Legislative Council or the Lieutenant Governor by or pursuant to the law.

Section 150

1. A member of the Island Legislative Council can submit a proposal for an island ordinance or another proposal to be considered by the Island Legislative Council.

2. The Island Legislative Council regulates in what manner and under what conditions a proposal for an island ordinance is submitted and considered.

3. The Island Legislative Council regulates in what manner and under what conditions another proposal is submitted and considered.

Section 151

1. A member of the Island Legislative Council may submit a proposal to amend a draft island ordinance or draft island decision scheduled for the Island Legislative Council meeting.

2. Section 150, subsection 2, is equally applicable.

Section 152

The Island Legislative Council will enact the island ordinances it deems necessary in the interest of the public entity.

Section 153

If the supervision of compliance with or detection of violation of a regulation of an island ordinance, that serves to enforce public order or safety or the protection of the lives and health of individuals, requires the individuals entrusted with the supervision of such compliance or detection to be authorized to enter upon a dwelling without the consent of the occupant, the Island Legislative Council may grant such authority by island ordinance.

Section 154

The Island Legislative Council will adopt an island ordinance, laying down rules regarding the manner in which residents and interested parties will be involved in the preparation of the policy in the public entity.

Section 155

1. By island ordinance, the Island Legislative Council may grant the Lieutenant Governor authority, in case of a break of the public order caused by the presence of weapons, or in case of serious fears for a break of the public order to be caused, to designate an area, including the buildings located in it and pertaining premises, open to the public, as a security risk area. In a security risk area the public prosecutor may apply the powers referred to in Sections 50, subsection 3, Section 51, subsection 3, and Section 52, subsection 3, of the Weapons and Ammunition Act. For the adoption of the island ordinance by vote, the absolute majority of the number of sitting members will be required.

2. The Lieutenant Governor will not proceed to the designation as security risk area without consultation with the public prosecutor.

3. The designation as security risk area will be issued for a certain duration that is not longer than, and for an area that is not larger than strictly necessary to maintain public order.

4. The decision to designate an area will be laid down in writing and will include a description of the area to which it is applicable, as well as the period of validity. If the situation is of such urgency that the Lieutenant Governor cannot put the decision to designate an area into writing beforehand, he will still arrange as soon as possible for its being laid down in writing and its being published.

5. The Lieutenant Governor will make the designation of an area known to the Island Legislative Council and to the public prosecutor, referred to in subsection 2 as soon as possible.

6. As soon as the disturbance of the public order due to the presence of weapons, or serious fears for a break of the public order to be caused, referred to in subsection 1, has ceased, the Lieutenant Governor will revoke the designation of the area. Subsection 5 will be equally applicable.

Section 156

1. By island ordinance, the Island Legislative Council may grant the Lieutenant Governor authority, if necessary in the interest of maintaining public order, to decide to install fixed cameras for a certain period of time for the monitoring of a public place as referred to in Section 1 of the Public Assemblies Act and other places, to be designated by island ordinance, accessible to everyone. The Lieutenant Governor will determine the duration of the placement and will designate the public place or places, with due observance of the relevant provisions in the island ordinance. For the adoption of the island ordinance by vote, the absolute majority of the number of sitting members will be required.

2. After consultation with the Public Prosecutor, the Lieutenant Governor will determine the period in which, in the interest of maintaining public order, the cameras will be actually made use of, and the images captured by the cameras will be directly watched in any case.

3. In the implementation of the decision referred to in subsection 1, the Lieutenant Governor will employ the police under his authority.

4. The presence of cameras as referred to in subsection 1 will be clearly known to anyone entering the public place concerned.

5. Only images of a public place as referred to in Section 1 of the Public Assemblies Act and other places to be designated by island ordinance that are accessible to everyone, will be taken with the cameras.

6. The images captured with the cameras will be allowed to be recorded in the interest of maintaining the public order.

7. The processing of the data referred to in subsection 6, will be a processing as referred to in the Police Data Act, on the understanding that, notwithstanding the provision in section 8 of that Act, the recorded images will be destroyed after a maximum of four weeks, and the data referred to in subsection 6, if there is a specific reason to suspect that those data are necessary for the

detection of a criminal offense, may be processed for the detection of that criminal offense.

8. Rules may be laid down, by or pursuant to an order in council, to ensure proper implementation of the supervision, referred to in subsection 1, on:

- a. the fixed cameras and other technical devices required for the supervision, referred to in subsection 1 and the manner in which these devices are installed;
- b. the individuals entrusted with, or otherwise directly involved in, the implementation of the supervision; and
- c. the locations in which the monitoring or processing of the recorded images captured by the supervision, takes place.

Section 157

1. The Island Legislative Council may impose punishment upon violation of its island ordinances and of the Executive Council to which ruling power has been delegated in accordance with Section 166, but no other or severer than imprisonment of up to three months or a monetary fine of the second category, with or without publication of the court order.

2. If a violation of regulations with regard to placing or leaving behind motor vehicles on parking lots or parts of the road, made punishable pursuant to subsection 1, referred to in Section 56 of the Public Entities Bonaire, St. Eustatius and Saba Finance Act, is committed by a driver of a motor vehicle remaining unknown at the time of discovery of the offence, the punishments on the offence may be imposed on the owner or the keeper of that motor vehicle, insofar as the latter is not already liable for that offence, in addition to the driver.

3. Subsection 2 will not applicable if the owner or keeper:

- a. has revealed the name and the full address of the driver;
- b. was not able to determine who the driver was and he cannot reasonably be blamed for that.

4. The punishable acts referred to in subsection 1, are minor offences.

Section 158

1. By island ordinance, the Island Legislative Council may grant the Lieutenant Governor power to have groups of people indicated by the Lieutenant Governor temporarily detained at a location indicated by the Lieutenant Governor. The detention may also imply, if necessary, transfer to that location. For the adoption of the island ordinance by vote, the absolute majority of the number of sitting members will be required.

2. The Lieutenant Governor will exercise the authority referred to in subsection 1, only:

- a. with regard to individuals who, in groups, fail to comply with a specific regulation laid down and designated for such purpose by the Council by island ordinance, to the effect of maintaining the public order or limiting risks under circumstances as referred to in Section 178, and
- b. if detention is necessary to avoid continuation or repetition of non-compliance and compliance cannot be reasonably ensured in any another suitable manner.

3. The decision to the effect of detention will be laid down in writing. The decision in writing will be an order. If the situation is of such urgency that the Lieutenant Governor cannot put the decision to the effect of detention into writing beforehand, he will still arrange for its being laid down in writing and its being published as soon as possible.

4. The order will state which regulation is not observed.

5. The Lieutenant Governor will not permit proceeding to detention as referred to in subsection 1 before the individuals from the group referred to in subsection 1 have been given an opportunity to prevent the execution of the official decision, by still complying with the regulation, referred to in subsection 4.

6. The Lieutenant Governor will ensure that a report is drawn up of the findings regarding the execution of the detention as soon as possible.

7. The detention must not last longer than the time required to prevent continuation or repetition of such non-compliance, with a maximum of twelve hours.

8. The location of the detention should be suitable for the accommodation of the persons to be detained. Detailed rules in this regard may be laid down by order in council.

9. The Lieutenant Governor will ensure as much as possible that the detained individuals are given an opportunity to have their data recorded by a public official appointed to that end by him, in proof of their detention.

10. Sections 54 and 55 of the BES Administrative Justice Act will not be applicable to the order to the effect of detention.

11. If a request for a provisional relief, as referred to in Section 85 of the BES Administrative Justice Act, is submitted against the order to the effect of detention:

a. notwithstanding Section 86 of the BES Administrative Justice Act, the requesting party who has been detained, is heard by the court in interlocutory proceedings, if possible, as early as during his detention;

b. the provisional judge, immediately after hearing the parties, will deliver judgment, notwithstanding Section 86 of the BES Administrative Justice Act, and

c. notwithstanding Section 17 and Section 81 of the BES Administrative Justice Act, no court fee is charged.

12. In the assessment of the request, the provisional judge will include the legitimacy of the execution of the order to the effect of detention, towards the requesting party.

13. If the provisional judge grants one or more requests on the ground that the order to the effect of

detention, in his preliminary judgment, is unlawful, he may determine that all individuals that have been detained on the basis of the order concerned, should be released immediately.

14. Subsection 12 will be equally applicable to the assessment of an appeal against the order to the effect of detention as referred to in Section 7 of the BES Administrative Justice Act.

Section 159

1. A member or the Island Legislative Council may ask questions to the Executive Council or Lieutenant Governor, verbally or in writing.

2. A member of the Island Legislative Council may request the Island Legislative Council for leave to hold an interpellation about a subject that is not mentioned on the agenda referred to in Section 20, subsection 2, to ask the Executive Council for information about this. The Island Legislative Council will lay down detailed rules about this.

Section 160

1. Upon the proposal of one or more of its members, the Island Legislative Council may institute an inquiry into the administration conducted by the Executive Council or the Lieutenant Governor.

2. The decision to institute an inquiry will **include** a description of the subject of the inquiry as well as an explanation. This description may be changed by the Island Legislative Council pending the investigation.

3. The inquiry will be conducted by a committee of inquiry to be instituted by the Island Legislative Council. The committee will have at least three members and will consist exclusively of members of the Island Legislative Council.

4. Sections 23, 117, subsection 3, and 119, subsection, will be equally applicable to the committee of inquiry.

5. The committee of inquiry may exclusively exercise the powers granted to it by this law, if at least three of its members are present.

6. The powers and activities of a committee of inquiry will not be suspended by the resignation of the Island Legislative Council.

7. Sections 142, subsection 2, 143 and 144 will be equally applicable to the decision to institute an inquiry and to institute a committee of inquiry, as well as to the decision to modify the description of the subject of the inquiry.

8. Before the Island Legislative Council decides to have an investigation made, it will lay down further regulations regarding these investigations by island ordinance. In any case rules will be included about the manner in which official assistance is provided to the committee.

Section 161

1. Members and former members of the Island Legislative Council, the Lieutenant Governor and former Lieutenant Governors, Island Commissioners and former Island Commissioners, members and former members of the joint Court of Audit, members and former members of a committee instituted by the Island Legislative Council, the Executive Council or the Lieutenant Governor, public officials and former public officials, appointed by or on behalf of the island government or subordinated to it, will be required to comply with a demand of an committee of inquiry to allow inspection of, to take copies of or to otherwise have all documents examined that they have at their disposal and of which, to the reasonable judgment of the committee of inquiry, inspection, copying or examination is otherwise required for the conduct of an inquiry as referred to in Section 160.

2. If a demand as referred to in subsection 1, regards documents that originate from an institution of the European Union or the Kingdom Government and

examination of those documents by the committee of inquiry may be detrimental to the interests of the European Union or the State, the demand will not be complied with otherwise than with the consent of Our Minister.

3. Public officials, appointed by or on behalf of the island government or subordinated to it, will be required to give full cooperation, as demanded by the committee of investigation, to an investigation as referred to in Section 160.

Section 162

1. Individuals referred to in Section 161 will be required to comply with a summons of the committee of inquiry to be heard as a witness or expert.

2. A witness or expert heard by the committee of inquiry will not simultaneously be a member of the committee of inquiry.

3. The witnesses will be under an obligation to testify.

4. The experts will be required to render their services impartially and to the best of their abilities as such.

5. The committee of inquiry may decide that witnesses will only be heard after taking an oath or promise. Then, at the meeting of the committee of inquiry, before the chairman, they will take the oath or promise that they will say the whole truth and nothing but the truth.

6. The witnesses and experts will be heard in a public session of the committee of inquiry. Place and time of the public hearing will be publicly announced by the chairman in a timely manner.

7. The committee of inquiry may decide, on weighty grounds, not to hold a session or part of it in public. The members and substitute members of the committee will observe secrecy with regard to what comes to their knowledge during a closed session.

8. A witness will be entitled to be assisted during the interrogation. On weighty grounds the committee may decide that a witness will be heard without assistance.

9. Statements made before the committee of inquiry cannot be upheld as evidence in court, except in the case of criminal proceedings about perjury.

Section 163

1. Witnesses and experts will be summoned in writing. The letter containing the summons will be sent by registered mail or against dated proof of delivery.

2. The committee of inquiry may order that witnesses and experts who, although summoned in accordance with subsection 1, did not appear, be brought before them by the public authorities, to meet their obligation. The committee of inquiry will inform the witness or expert accordingly in writing, in the manner referred to in subsection 1. In the decision a time limit will be set within which the interested party can prevent the execution by still complying with his obligation.

3. Section 55 of the BES Administrative Justice Act will not be applicable to a decision as referred to in subsection 1 and 2.

Section 164

1. No one can be forced to disclose secrets to the committee of inquiry, to the extent that it could cause disproportionate damage to the interest of exercising his profession, or the interest of his enterprise or the enterprise by which he is or was employed.

2. Those who by virtue of their office, profession or position are obliged to maintain secrecy may claim exemption from giving evidence, yet only regarding that of which such knowledge was entrusted to them as such. They may otherwise deny access, copy or inspection of documents or parts thereof to which their obligation to secrecy extends.

3. The Lieutenant Governor and former Lieutenant Governors, Island Commissioners and former Island Commissioners, members and former members of a committee instituted by the Executive Council or Lieutenant Governor, public officials and former public officials, appointed by or on behalf of the Executive Council or subordinated to it, will not be required to comply with Section 161 and Section 162, if providing the information is in contravention of the public interest.

4. The committee of inquiry may demand that an appeal as referred to in subsection 3 is confirmed to be in contravention of the public interest by the Executive Council, or by the Lieutenant Governor, insofar as the information concerns the administration conducted by the Lieutenant Governor.

Section 165

The Executive Council will include the costs estimated by the Executive Council for an investigation in a certain year in the draft budget.

Section 166

1. The Island Legislative Council may transfer powers to the Executive Council, unless that is opposed by the nature of such power.

2. In any case the Island Legislative Council cannot transfer the power to:

- a. institute the joint Court of Audit;
- b. institute an inquiry, as referred to in Section 160, subsection 1;
- c. adopt or amend the budget, as referred to in Section 15 of the Finances of the public entities Bonaire, St. Eustatius and Saba Act;
- d. adopt the financial statement, referred to in Section 29 of the Finances of the public entities Bonaire, St. Eustatius and Saba Act;
- e. institute punishment on violation of island ordinances;
- f. adopt the island ordinances, referred to in Sections 34, subsection 1 and 38, subsection 1 of the Finances

of the public entities of Bonaire, St. Eustatius and Saba Act;

g. appoint one or more accountants, referred to in Section 38, subsection 3, of the Finances of the public entities Bonaire, St. Eustatius and Saba Act;

h. levy taxes other than the municipal tax on encroachments in, on or above public land, referred to in Section 60 of the Finances of the public entities Bonaire, St. Eustatius and Saba Act, the rights, mentioned in Section 62 of the Finances of the public entities Bonaire, St. Eustatius and Saba Act and the rights of which the levy is effected in pursuance of laws other than the Finances of the public entities Bonaire, St. Eustatius and Saba Act.

3. The power to adopt island ordinances, to be enforced by penalty provision or administrative coercion, can be transferred by the Island Legislative Council only to the extent it concerns the adoption of detailed rules regarding certain subjects, designated by it in its island ordinances.

4. Sections 142, subsection 2, 143 and 144 will be equally applicable to a decision that is taken on the ground of subsection 1.

Section 167

1. The regulations regarding the power of the Island Legislative Council, its exercise and its supervision will be equally applicable to the powers transferred in pursuance of Section 166.

2. The regulations referred to in subsection 1 will not include those regarding meetings.

Part III. The powers of the Executive Council

Section 168

1. The Island Legislative Council will in any case be authorized:

- a. to conduct the day-to-day administration of the public entity, insofar as it has not been entrusted to the Island Legislative Council or the Lieutenant Governor by or pursuant to the law;
- b. to prepare and execute decisions of the Island Legislative Council, unless such preparation and execution have been entrusted to the Lieutenant Governor by or pursuant to the law;
- c. to establish rules with regard to the administrative organization of the public entity, with the exception of the Registry;
- d. to appoint, promote, suspend and dismiss public officials, not being the Island Registrar and the public officials working at the Registry;
- e. to decide on legal acts of private law of the public entity;
- f. to decide, on behalf of the public entity, the Executive Council or the Island Legislative Council, to conduct lawsuits, objection procedures or administrative appeal procedures or perform acts in preparation thereof, unless the Island Legislative Council, to the extent it concerns the Island Legislative Council, decides otherwise in common cases;
- g. with regard to the preparation of the civil defence;
- h. to institute, cancel or change annual markets or regular market days.

2. Decisions as referred to in subsection 1, under d, will be taken on the basis of rules laid down by the Island Legislative Council regarding the appointment, promotion, suspension and dismissal of public officials. These rules will contain in any case the grounds for these decisions.

3. Decisions as referred to in subsection 1, under d, will require the approval of the Kingdome Representative. The approval can only be withheld due to contravention of the law or on a ground that is laid down in the rules, referred to in subsection 2.

4. The Executive Council will take, also before it is decided to conduct a lawsuit, all conservatory measures and will do what it takes to prevent completion of the limitation period or loss of rights or property.

Section 169

The Executive Council may authorize a police official serving in the public entity to take decisions on its behalf or perform other acts on its behalf.

Section 170

1. The Executive Council may authorize one or more members of the Executive Council to exercise one or more of its powers, unless it is opposed by the regulation on which such power is based.

2. A power exercised pursuant to an authorization will be exercised on behalf and under responsibility of the Executive Council.

3. The Executive Council may provide any indication it deems necessary in such respect.

Section 171

1. The Executive Council and each of its members separately will be accountable to the Island Legislative Council for the administration conducted by the Executive Council.

2. They will provide the Island Legislative Council with any information the Island Legislative Council needs for the performance of its duty.

3. They will give the Island Legislative Council, either verbally or in writing, the information requested by one or more members, unless such provision is in contravention of the public interest.

4. They will give the Island Legislative Council information in advance about the exercise of the powers, referred to in Section 168, subsection 1, under e, f, g and h, if the Island Legislative Council so requests or if the exercise may have drastic consequences for the public entity. In the latter case the Executive Council will only take a decision after the Island Legislative Council has been given an

opportunity to inform the Executive Council of its wishes and concerns.

5. If the exercise of the power, referred to in Section 168, subsection 1, under f, does not admit of delay, they will provide the Island Legislative Council, notwithstanding subsection 4, with the information on the exercise of this power and the decision taken about it, as soon as possible.

Part IV. The powers of the Lieutenant Governor

Section 172

1. The Lieutenant Governor will see to:

- a. timely preparation, adoption and implementation of the policy of the public entity and of the resulting decisions, as well as proper attuning between those involved in such preparation, adoption and implementation;
- b. proper cooperation of the public entity with the other public entities and other governments;
- c. the quality of procedures in the area of citizen participation;
- d. careful handling of notices of objection;
- e. careful handling of complaints by the island government.

2. The Lieutenant Governor will otherwise promote proper attendance to the affairs of the public entity.

Section 173

1. The Lieutenant Governor will represent the public entity in and out of court.

2. The Lieutenant Governor may delegate the representation to a person appointed by him.

Section 174

1. The Lieutenant Governor will be entrusted with maintaining public order.

2. The Lieutenant Governor will be authorized to prevent or terminate violations of statutory regulations concerning public order. In doing so, he will make use of the police under his authority.

3. In the event of disturbance of public order or serious fear of its occurrence, the Lieutenant Governor will be authorized to give such orders as are deemed to be necessary to maintain public order.

Section 175

1. The Lieutenant Governor will have the supreme command in case of fire as well as in case of accidents other than of fire to the extent the fire department has any duty in that connection.

2. The Lieutenant Governor will be authorized, in case of fire and accidents, as referred to in subsection 1, to give such orders as are necessary with a view to preventing, limiting and controlling risks.

Section 176

1. The Lieutenant Governor will be in charge of the supervision of public gatherings and amusements as well as buildings open to the public and the premises belonging to them.

2. The Lieutenant Governor will be authorized, in the exercise of the supervision referred to in subsection 1, to give such orders as are necessary with a view to protecting safety and health.

3. The Lieutenant Governor will be in charge of the execution of island ordinances insofar as they concern the supervision referred to in subsection 1.

Section 177

1. The Lieutenant Governor may decide to close a residence, a room not open to the public or premises belonging to that residence or room, if, due to actions in that residence or room or on the premises, the public

order around the residence, the room or the premises is disturbed.

2. The Lieutenant Governor will also have the authority referred to in subsection 1, in case of serious fear or disturbance of public order on the ground that the person entitled to the residence, the room or the premises previously used, or caused the use of, a residence, a room open to the public, or premises belonging to that residence or room, in such a manner that such residence, that room or those premises were closed on the ground of subsection 1 and that there are indications that the party involved will use, or cause the use of, the residence, the room or the premises to which he is entitled, in such a manner as well.

3. The Lieutenant Governor will determine the duration of the closure in the decision. In case of serious fear for repetition of disturbance of the public order he may decide to extend the duration of the closure to a time to be determined by him.

4. Upon publication of the decisions, interested parties will be given an opportunity to take measures within a limit of time to be laid down, so that the disturbance of public order is terminated. The first sentence will not be applicable, if prior publication is not possible in urgent cases.

5. Sections 1:1, subsection 4, 4:116, 5:10 and 5:25 through 5:28 of the General Administrative Law Act will be equally applicable.

Section 178

1. In case of insurrectionary movement, or of other serious disorders or disasters or serious accidents, or serious fear for the occurrence thereof, the Lieutenant Governor will be authorized to give all orders he deems necessary to maintain public order or to limit danger. In that connection, deviations from regulations other than those laid down by the Constitution will be possible.

2. The Lieutenant Governor will only give permission to proceed to violent measures after due warning.

Section 179

1. When a circumstance as referred to in Section 178, subsection 1 presents itself, the Lieutenant Governor may issue generally binding regulations that are necessary to maintain public order or reduce danger. In that connection, deviations from regulations other than those laid down by the Constitution will be possible. He will announce these regulations in a manner to be determined by him.

2. The Lieutenant Governor will inform the Island Legislative Council, the Kingdom Representative and the Public Prosecutor and the head of the Public Prosecutor's office in the first instance as soon as possible of these regulations.

3. The regulations will cease to have effect, if they are not ratified by the Island Legislative Council at its next-following meeting, which, as evidenced by the attendance list, is attended by more than half the number of sitting members.

4. If the Island Legislative Council does not ratify the regulations, the Lieutenant Governor may institute an administrative appeal within twenty-four hours with the Kingdom Representative. The latter will decide within two days. During the appeal period and the consideration of the administrative appeal the regulations will remain in effect.

5. The Kingdom Representative may suspend the effect of the regulations as long as they have not been ratified. The suspension will immediately stop the effect of the regulations.

6. As soon as a circumstance as referred to in Section 178, subsection 1, no longer exists, the Lieutenant Governor will revoke the regulations. Subsection 2 will be equally applicable.

Section 180

1. The Lieutenant Governor will be authorized to have groups of people indicated by him temporarily detained at a location indicated by him. The detention may also include, if necessary, transfer to that place.

2. The Lieutenant Governor will exercise the power, referred to in subsection 1, only:

a. towards individuals who, groupwise, do not comply with specific elements of an order as referred to in Section 178 or of a generally binding regulation as referred to in Section 179 designated by him to that end, and

b. if the detention is necessary to prevent continuation or repetition of non-compliance and compliance cannot reasonably be ensured in any other suitable manner.

3. Section 158, subsection 3 through 14 will be equally applicable.

Section 181

1. The Lieutenant Governor may grant authorization to a police official serving in the public entity to take decisions and perform other acts in his name.

2. No authorization will be granted to take decisions pursuant to Sections 155, 158, 174, 175, 176, subsection 2, 177, 178, 179 and 180 and to execute decisions of the Island Legislative Council.

Section 182

1. The Lieutenant Governor will be accountable to the Island Legislative Council for the administration conducted by him.

2. He will give the Island Legislative Council all information the Island Legislative Council needs for the performance of its duty.

3. He will provide the Island Legislative Council, either verbally or in writing, with the information requested by one or more of its members, unless such provision is in contravention of the public interest.

Part V. The powers of the joint court of audit

Section 183

1. The joint Court of Audit will examine the efficiency, effectiveness and lawfulness of the administration conducted by the island governments. An inquiry instituted by the joint Court of Audit into the lawfulness of the administration conducted by the island governments will not include an audit of the financial statement referred to in Section 38, subsection 3, of the Finances of the public entities Bonaire, St. Eustatius and Saba Act.

2. At the request of one or more Island Legislative Councils, the joint Court of Audit may institute an inquiry.

Section 184

1. The joint Court of Audit will be authorized to examine all documents that are in the custody of the island governments to the extent that it deems it necessary for the performance of its duty.

2. Upon request, the island government will provide all information the joint Court of Audit deems necessary for the performance of its duty.

3. If the care for an administration has been outsourced to a third party, subsection 1 will be equally applicable to the administration of the third party involved or of the person who keeps the records on the instructions of that third party.

Section 185

1. The joint Court of Audit will have the powers mentioned in the following subsections regarding the following institutions and for the following period:

a. cooperative bodies and common bodies instituted pursuant to the Joint Regulations Act, in which the public entities participate, for the years that the public entities participate in the scheme;

b. public limited liability companies and private limited liability companies of which a public entity holds more than fifty percent of the issued share capital, for the years that the respective public entity holds more than fifty percent of the issued share capital;

c. other private legal entities to which a public entity or a third party, for account and risk of the public entity, has directly or indirectly granted a subsidy, loan or guarantee to the amount of at least fifty percent of the proceeds of this institution, for the years to which such subsidy, loan or guarantee relates.

2. The joint Court of Audit will be authorized to make additional inquiries with the institution involved about the financial statements, related reports of those who have reviewed these financial statements and other documents related to that institution that are held by the island government. If one or more documents are missing, the joint Court of Audit can demand their submission by the institution concerned.

3. The joint Court of Audit may, if the documents referred to in subsection 2, give cause to do so, institute an investigation at the institution concerned or at the third party who keeps the records on the instructions of the institutions. The joint Court of Audit will inform the Island Legislative Council and the Executive Council of the respective public entity of such intended investigation.

Section 186

1. The joint Court of Audit, will record its findings and its opinion in reports, on the understanding that such reports will not include data and findings of a confidential nature.

2. The joint Court of Audit will inform the Island Legislative Council and the Executive Council of the public entity concerned and, if applicable, the institution concerned, of the comments and concerns it deems important on the ground of its findings. It may make proposals to the Island Legislative Council or Executive Council in this respect.

3. Each year before April 1st, the joint Court of Audit will draw up a report of its activities over the previous year. The joint Court of Audit will send the report to the Island Legislative Councils and Executive Councils of the public entities.

4. The joint Court of Audit will send a copy of its reports to the Island Legislative Council and the Executive Council of the public entity concerned. If it instituted an investigation, applying Section 38, subsection 11, of the Finances of the public entities Bonaire, St. Eustatius and Saba Act, the joint Court of Audit will also send a copy of the report to the institution concerned.

5. The reports and accounts of the joint Court of Audit will be public.

Chapter V Relation to the Kingdom

Part I. The Kingdom Representative for the public entities of Bonaire, St. Eustatius and Saba

§ 1 General provisions

Section 187

1. There will be a Kingdom Representative for the public entities of Bonaire, St. Eustatius and Saba.

2. The Kingdom Representative will have his seat in a public entity to be determined by Royal decree.

Section 188

1. The Kingdom Representative will be appointed by Royal decree for a period of six years, on the nomination of Our Minister.

2. The Kingdom Representative may be re-appointed by Royal decree for the period of six years, on the nomination of Our Minister.

3. Before making a nomination as referred to in subsections 1 and 2, he will enquire after the opinion of the Executive Councils of the public entities about the person to be nominated.

Section 189

The Kingdom Representative may be removed at any time by Royal decree, on the recommendation of Our Minister.

Section 190

1. The Kingdom Representative may be suspended by Royal decree, on the recommendation of Our Minister.

2. Our Minister may determine, pending the decree regarding suspension, that the Kingdom Representative will not perform his function.

3. A decree as referred to in subsection 2 will cease to have effect, if no decision regarding the suspension is taken within a month.

Section 191

To be eligible for appointment as Kingdom Representative the Dutch nationality will be required.

Section 192

1. Before accepting his office, the Kingdom Representative will take the following oath (affirmation and promise) before of the King:

«Ik zweer (verklaar) dat ik, om tot Rijksvertegenwoordiger voor de openbare lichamen Bonaire, Sint Eustatius en Saba benoemd te worden, rechtstreeks noch middellijk, onder welke naam of welk voorwendsel ook, enige gift of gunst heb gegeven of beloofd.

Ik zweer (verklaar en beloof) dat ik, om iets in dit ambt te doen of te laten, rechtstreeks noch middellijk enig

geschenk of enige belofte heb aangenomen of zal aannemen.

Ik zweer (beloof) dat ik getrouw zal zijn aan de Grondwet, dat ik de wetten zal nakomen en dat ik mijn plichten als Rijksvertegenwoordiger voor de openbare lichamen Bonaire, Sint Eustatius en Saba naar eer en geweten zal vervullen.

Zo waarlijk helpe mij God Almachtig!»(Dat verklaar en beloof ik!»)

2. In case of re-appointment the oath (affirmation and promise) is taken before the King or before Our Minister, authorized for that purpose by the King.

Section 193

1. The Kingdom Representative will receive a remuneration that is regulated by or pursuant to an order in council. The remuneration will be for the account of the budget of Our Minister.

2. The order in council may also lay down rules regarding the compensation of or financial contribution towards special costs and regarding other financial provisions related to the performance of the office of Kingdom Representative.

3. An order in council adopted pursuant to subsection 1, will not enter into effect before two months after the date of issue of the Bulletin of Acts and Decrees of the Kingdom of the Netherlands in which it was placed. The publication will be reported immediately to both Houses of the States General.

4. Apart from that which will be granted to him by or pursuant to the law, the Kingdom Representative as such will not receive income in any form whatsoever for the account of the Kingdom.

5. The Kingdom Representative will not receive compensations, in any form whatsoever, for work performed in ancillary positions he holds by virtue of his office of Kingdom Representative. If these

compensations are paid they will be deposited in the coffers of the Kingdom.

6. Compensations as referred to in subsection 5, by whatever name, will include income from ancillary positions which the Kingdom Representative will resign upon termination of the post.

7. Income other than as referred to in subsection 5 will be set off against the remuneration in accordance with article 3 of the Act on compensations of members of the Lower Chamber of Parliament.

8. Rules will be laid down by order in council regarding the manner in which the Kingdom Representative will provide information about the income referred to in subsection 7, and the consequence of failure to provide such information.

Section 194

1. The Kingdom Representative will not hold any ancillary positions of which the exercise is undesirable in view of adequate performance of his office of Kingdom Representative or of maintaining his impartiality and independence or confidence therein.

2. The Kingdom Representative will report his intention to accept an ancillary position, otherwise than by virtue of his office of Kingdom Representative, to Our Minister.

3. The Kingdom Representative will disclose which ancillary positions he holds, other than by virtue of his office of Kingdom Representative. The disclosure will be made immediately after the appointment as Kingdom Representative or after acceptance of an ancillary position and will be effected by filing a statement of the positions for public inspection at the Office of the Kingdom Representative, referred to in section 202, subsection 1.

4. The Kingdom Representative will also disclose the income from the ancillary positions referred to in subsection 3. Disclosure will be made by deposit for

inspection at the Office of the Kingdom Representative on April 1 following the calendar year in which the income was received, at the latest.

5. Income will be understood to be: wages in the sense of Section 9 of the 1964 Wage Tax Act, deducting the final levy components referred to in section 11 of such Act.

Section 195

The Kingdom Representative will not simultaneously be a:

- a. a Minister;
- b. a Secretary of State;
- c. a member of the Council of State;
- d. a member of the General Court of Audit;
- e. National ombudsman;
- f. a substitute ombudsman as referred to in section 9, subsection 1, of the National ombudsman Act;
- g. a member of an Island Legislative Council;
- h. Lieutenant Governor;
- i. an Island Commissioner;
- j. a member of the joint Court of Audit;
- k. common ombudsman or a member of the joint ombudsman committee;
- l. a public official, appointed by or on behalf of the government of a public entity or subordinated to it;
- m. an officer who, pursuant to the law or an order in council, advises the government of a public entity.
- n. a member of the Provincial Council;
- o. a Queen's Commissioner;
- p. a member of a provincial executive;
- q. a member of a municipal council;
- r. mayor;
- s. alderman;
- t. a member of a submunicipal council of a municipality;
- u. a member of the executive of a submunicipality.

Section 196

The Kingdom Representative will not be permitted to:

a. act in disputes as an attorney, prosecutor or advisor for a public entity or an island government or for the opposing party of a public entity or an island government;

b. act in disputes as an authorized representative for the opposing party of a public entity or an island government;

c. act as a representative or advisor on behalf of third parties to the effect of entering, with a public entity, into:

1°. agreements as referred to in subsection d;

2°. agreements for the transfer of real property to a public entity;

d. enter, directly or indirectly, into an agreement regarding:

1°. contracting for work on behalf of a public entity;

2°. performing work, outside the scope of employment, for a public entity, against payment;

3°. to transfer movable goods to a public entity otherwise than for no consideration;

4°. to rent out movable goods to a public entity;

5°. to acquire disputed debts for the account of a public entity;

6°. to privately acquire real property or limited rights to which such property is subject, from a public entity;

7°. to privately rent or lease from a public entity.

Section 197

The office of Kingdom Representative will grant exemption from all obligations to perform personal services, imposed by or pursuant to the law.

Section 198

1. The Kingdom Representative will have his actual residence in one of the public entities.

2. Our Minister may grant exemption from the requirement to have the actual residence in one of the public entities, for up to one year.

Section 199

1. If the Kingdom Representative should wish to stay outside the public entities for longer than six weeks, he will require permission of Our Minister to that end.

2. The Kingdom Representative who is staying outside the public entities may be called back in by Our Minister due to urgent reasons of interest to the service.

3. The General Extension of Time Limits Act will not be applicable to the term, referred to in subsection 1.

Section 200

1. In case the Kingdom Representative should be prevented from or incapable of acting as such, the office of Kingdom Representative will be deputized by the deputy Kingdom Representative.

2. The deputy Kingdom Representative will be appointed by Royal Decree for a period of six years, upon nomination by Our Minister.

3. Sections 188, subsection 2 and 3, 189 through 192, 194 through 196, 198 and 199 will be equally applicable to the deputy Kingdom Representative.

Section 201

Granting compensation to the deputy Kingdom Representative will regulated by or pursuant to an order in council.

Section 202

1. For his support, the Kingdom Representative will have a Bureau at his disposal, which will assist him in the performance of his duties.

2. The remuneration of the staff of the Bureau, as well as the funding of other administrative expenses of the Bureau will be for the account of the budget of Our Minister.

3. The staff of the Bureau will be appointed, promoted, suspended and removed by the Kingdom Representative.

Section 203

Insofar as it has not been provided for by law, rules will be laid down by or pursuant to an order in council with regard to the Kingdom Representative and the deputy Kingdom Representative, regarding:

- a. appointment, reappointment, suspension, temporary non-performance of his duties and removal;
- b. investigation into the suitability and competence;
- c. claims in the event of illness;
- d. protection at work;
- e. other matters regarding his legal status that require regulation.

§ 2 The powers of the Kingdom Representative

Section 204

1. In any case the Kingdom Representative will be in charge of:

- a. reporting to Our Minister involved on affairs or special findings that concern the public entities;
- b. approving decisions to the effect of appointment, promotion, suspension and dismissal of island public officials;
- c. making a recommendation to appoint and a proposal to re-appoint the Lieutenant Governor;
- d. approving the island ordinances referred to in Sections 14, subsection 5, 35, subsection 4, 105, subsection 2, and 123, subsection 2;
- e. granting exemptions as referred to in Sections 16, subsection 2, and 85, subsection 2;
- f. promoting the cooperation among the Kingdom public officials working in the public entities and with the island governments;
- g. submitting to Our Minister involved decisions and non-written decisions aimed at any legal effect of the

island governments which, in his opinion, qualifies for annulment;

h. seeing to the Lieutenant Governor being deputized for, if he deems that necessary in the interest of the public entity;

i. all other matters to promote good governance in the public entities.

2. By law the Kingdom Representative may be entrusted with duties other than those mentioned in subsection 1.

3. By order in council detailed rules may be laid down with regard to the execution of duties, referred to in subsections 1 and 2.

Section 205

1. The Kingdom Representative will be accountable to Our Minister concerned.

2. Our Minister concerned may give the Kingdom Representative the necessary general and special instructions regarding the responsibilities and powers granted to him. Before giving an instruction Our Minister concerned will consult with Our Minister.

3. Upon request, the Kingdom Representative will provide Our Minister concerned with information on his activities.

Section 206

At the request of the Kingdom Representative, the island governments as well as the departments and public officials coming under them, will give the Kingdom Representative their cooperation in the performance of the duties assigned to him.

Part II. Relation to the Kingdom

Section 207

If requested, Our Minister concerned and the Kingdom Representative will inform the Executive

Council of their views and intentions regarding matters that are important to the public entity, unless that is opposed to the public interest.

Section 208

If requested, Our Minister concerned and the Kingdom Representative will give the Executive Council an opportunity to consult regarding the matters that are important to the public entity, unless that is opposed to the public interest.

Section 209

1. Our Minister concerned will give the Executive Councils concerned or a body that can be considered representative of them, if necessary within a limit to be set, an opportunity to give their opinions on legislative proposals, drafts of orders in council or drafts of ministerial regulation in which:

- a. regulation or administration is demanded from the public entities;
- b. to a significant extent, changes are introduced in the duties and powers of the island government.

2. Proposals as referred to in subsection 1 will include in the accompanying explanatory note, a representation of the consequences for the setup and operation of the public entities and a representation of the opinions referred to in subsection 1 of the Executive Councils or representative body involved.

3. Notwithstanding subsection 1 and 2, Our Minister concerned will give the Executive Councils involved or a body that can be considered representative for them, if necessary within a time limit to be set, an opportunity in advance to give their opinion on:

- a. drastic policy intentions that have a bearing on the public entities exclusively;
- b. policy intentions regarding the public entities to deviate in a drastic manner from regulations applicable in the European part of the Netherlands.

4. Our Minister concerned will not be under an obligation to seek in advance the opinion referred to in subsection 1 and 3, if such is not possible in consequence of urgent circumstances. In that case the opinion will be sought as soon as possible, and made public.

Section 210

1. A law demanding regulation or administration from the island governments or in which, to a significant extent, changes are introduced in the duties and powers of the island governments, will not deviate from the provisions of this law, unless that should be deemed particularly appropriate for the promotion of the public interest thus to be served.

2. The proposal for a law as referred to in subsection 1 will contain the grounds for the proposed deviation in the accompanying explanatory notes.

Section 211

1. Our Minister will be entrusted with the coordination of the Kingdom policy that affects the public entities. Furthermore, he will promote the freedom of policy of the island government.

2. As regards actions and intended actions that are relevant to the Kingdom policy regarding the public entities, Our Ministers under whose responsibility those actions and intended actions are realized, will consult with Our Minister at an early stage.

3. Our Minister will express objections against an action or intended action to the extent that such action or intended action does not seem permissible to him, considering the decentralization policy pursued by the government.

Section 212

1. Our Minister will promote decentralization in behalf of the public entities.

2. Proposals for actions in which connection certain matters are considered to belong to Kingdom policy, will only be made if the subject matter of concern cannot be promoted in an efficient and effective manner by the island governments.

Section 213

With regard to anything that concerns the public entity, the Executive Council, upon request, should inform and advise Our Ministers and the Kingdom Representative, unless it is expressly required from the Lieutenant Governor.

Section 214

1. By or pursuant to the law by order in council the cases the cases will be regulated in which the Executive Council is required to provide systematic information to Our Minister concerned. In that connection it may be determined that by ministerial regulation further regulations will be given for the application of the law or the order in council.

2. By order in council, upon the recommendation of Our Minister of Economic Affairs, after consultation with Our Minister, it may be determined that data to be described in that order are provided to the Central Bureau of Statistics for statistical purposes.

3. Detailed rules will be laid down by order in council with regard to the provision and gathering of information referred to in subsections 1 and 2.

4. Regarding the provision and gathering of information referred to in subsections 1 and 2, as well as regarding the provision and gathering of incidental information, it will be indicated, insofar as it is not done by law, by order in council how the financial consequences of the requirement to provide information are compensated.

5. The recommendations for the orders in council, referred to in subsections 3 and 4, will be made by Our Minister.

Section 215

The power to enact island ordinances will be maintained with regard to the subject provided for by laws or orders in council, to the extent that the island ordinances are not in contravention of those laws and orders in council.

Section 216

The provisions of island ordinances of which the subject is provided for by a law or an order in council have ceased by operation of law.

Part III. Monitoring of the island government

§ 1 Approval

Section 217

1. Decisions of island governments may only be subjected to approval in cases determined by law.
2. Part 10.2.1. of the General Administrative Law Act will be equally applicable to the approval of decisions of island governments.

Section 218

1. A decision that is subject to approval by Royal Decree will be sent to Our Minister concerned.
2. A recommendation to the effect of withholding approval will be made by or also by Our Minister.
3. Approval will not be withheld before the Council of State has been heard. Section 10:30, subsection 1, of the General Administrative Law Act will in that case be applied before the draft decree is submitted to the Council of State for consideration. Section 18a of the Council of State Act will be equally applicable.

§ 2 Suspension and annulment

Section 219

Parts 10.2.2 and 10.2.3. of the General Administrative Law Act will be equally applicable to suspension and annulment of decisions of island governments.

Section 220

A decree or a non-written decision aimed at any legal consequence of the island government may be annulled by Royal Decree.

Section 221

The Lieutenant Governor will send each island decision of general implications that has not been published in the official bulletin of the public entity, to the Kingdom Representative within two days after its publication.

Section 222

1. If a decision qualifies for reversal, in the opinion of the Kingdom Representative, the latter will inform Our Minister concerned accordingly within two days after publication of the decision or, if decision is involved as referred to in section 221, within two days after it has come to his knowledge. He will simultaneously inform the body that took the decision and, if necessary, the body charged with the implementation of the decision.

2. The decision to which subsection 1 has been applied, will not be implemented, or further implemented, before notice has been received from Our Minister concerned, that there are no grounds for suspension or annulment. If the decision has not been suspended or annulled within four weeks after the date of the notice of the Kingdom Representative, it will be implemented.

Section 223

1. If, in the opinion of the Lieutenant Governor, a decision qualifies for annulment, he will inform Our

Minister concerned, to such effect, through the intervention of the Kingdom Representative, within two days after it has come to his knowledge. At the same time he will notify the body that took the decision and, if necessary, the body charged with the implementation of the decision.

2. The Kingdom Representative will send the documents, accompanied by his recommendation, to Our Minister concerned, within one week after the date of the notice of the Lieutenant Governor.

3. Section 221, subsection 1, will be equally applicable.

Section 224

1. A recommendation to the effect of suspension will be made by Our Minister concerned.

2. Our Minister concerned will consult about the recommendation with Our Minister, unless suspension must take place immediately.

Reasons for omission of consultation will be stated in the recommendation.

Section 225

If a published decision is not annulled within the time it was suspended for, relevant public notice will be given by the island government.

Section 226

1. The recommendation to the effect of annulment will be made by or also by Our Minister.

2. Section 15, subsection 3, of the Council of State Act will not be applicable.

Section 227

The Royal Decree to suspend, lift or extend the suspension or to annul it will be placed in the Bulletin of Acts and Decrees of the Kingdom of the Netherlands.

Section 228

The island government will take another decision with regard to the subject of the annulled decision, in which connection the Royal decree will be taken into account.

Section 229

1. Notwithstanding Section 3, subsection 1, under a and subsection 2 of the Act to the effect of implementing the public entities of Bonaire, St. Eustatius and Saba, an interested party may file an appeal with the Administrative Jurisdiction Department of the Council of State, against a Royal Decree as referred to in Section 220 within six weeks after the decree has been published.

2. No appeal may be filed against the refusal to promote annulment and against the failure to take a decision to the effect of annulment in a timely manner.

§ 3 Special provisions

Section 230

In case the Island Legislative Council, by or pursuant to any law other than the present law or the Finances of the public entities Bonaire, St. Eustatius and Saba Act, should fail to take, or duly take, demanded decisions, the Executive Council will provide for that.

Section 231

1. In case the Executive Council or Lieutenant Governor, by or pursuant to any law other than the present law or the Finances of the public entities Bonaire, St. Eustatius and Saba Act, should fail to take, or duly take, demanded decisions, the Kingdom Representative will provide for that on behalf of the Executive Council or the Lieutenant Governor and for the account of the public entity.

2. Exception in urgent cases, subsection 1 will only apply after the Executive Council, respectively the Lieutenant Governor, has been given an opportunity, within a time limit set by the Kingdom Representative, to still take the demanded decisions by or pursuant to a law other than the present law or the Finances of the public entities Bonaire, St. Eustatius and Saba Act.

Section 232

By law provisions can be made, in deviation from Sections 5 and 149, in case the government of a public entity should grossly neglect its duties.

Chapter VI Transitional and final provisions

Section 233

1. The Island Legislative Councils acting as Island Legislative Councils of the Island Territories of Bonaire, St. Eustatius and Saba on the day before the entry into force of this Act, will be considered to be the Island Legislative Council of the public entity Bonaire, the public entity St. Eustatius, respectively the public entity Saba.

2. The members of the Island Legislative Councils, referred to in subsection 1, will be considered to have been elected members of the Island Legislative Council of the public entity Bonaire, the public entity St. Eustatius, respectively the public entity Saba. They will resign, except in the case of premature resignation or death, as of the day on which the members of the Provincial Council, who hold seats on the day before the entry into force of this Act, in accordance with Section C 4, subsection 2, of the Elections Act, resign.

3. Up to the moment of resignation, referred to in subsection 2:

a. Section 14 will only be applicable to the extent that the Island Regulation of the Netherlands Antilles, as it read on the day before the entry into force of this Act, also implied a prohibition in such connection;

b. the compensation, financial contribution towards the costs and other financial provisions, referred to in Section 120, subsection 1 and 2, will be adopted by order in council instead of by island ordinance.

Section 234

1. The Commissioners who, on the date before the entry into force of this Act, act as Commissioners of the Island Territories of Bonaire, St. Eustatius and Saba, will be considered to have been appointed by the Island Legislative Council of the public entity Bonaire, the public entity St. Eustatius, respectively the public entity Saba, for the remainder of the term of their appointment, as Island Commissioners of the public entity Bonaire, the public entity St. Eustatius, respectively the public entity Saba.

2. Up to the moment when the Island Commissioners have resigned, on the ground of Section 154, for the first time after the entry into force of this Act the number of Island Commissioners will be:

- a. four in the public entity Bonaire;
- b. two in the public entities St. Eustatius and Saba.

3. Up to the moment of resignation, referred to in subsection 2:

- a. Section 40 will only be applicable to the extent that the Island Regulation of the Netherlands Antilles, as it read on the day before the entry into force of this Act, also implied a prohibition in such connection;
- b. Section 56, subsection 3 through 7, will not be applicable.

4. Section 49 will not be applicable to the Island Commissioners, referred to in subsection 1.

Section 235

1. The Lieutenant Governors who, on the day before the entry into force of this Act, act as Lieutenant Governors of the Island Territories of Bonaire, St.

Eustatius and Saba, will be considered to have been appointed as Lieutenant Governors of the public entity Bonaire, the public entity St. Eustatius and respectively the public entity Saba, for the remainder of the term of their appointment.

2. Regarding the Lieutenant Governors, referred to in subsection 1, during the remaining time of their appointment:

a. Section 78, subsections 4 through 7, will not be applicable;

b. Section 80 will only be applicable to the extent that the Island Regulation of the Netherlands Antilles as it read on the day before the entry into force of this law, also implied a prohibition in this connection.

3. Section 83 will not be applicable to the Lieutenant Governors, referred to in subsection 1.

Section 236

The joint Court of Audit will be instituted within two years after the entry into force of this Act.

Section 237

1. The Island Registrar will be appointed within one year after the entry into force of this Act.

2. Up to the date on which the Island Registrar is appointed, the Island Secretary will assist the Island Legislative Council and the committees instituted by it in the performance of their duties.

3. Up to the date on which the Island Registrar is appointed, co-signing of the documents issued by the Island Legislative Council, referred to in Section 34, will be omitted.

Section 238

The island ordinances, referred to in Sections 35, subsection 3 and 154, as well as the Codes of Conduct, referred to in Sections 16, subsection 3, 53, subsection

2 and 82, subsection 2, will be adopted within one year after the day of entry into force of this Act.

Section 239

Our Minister will send, within six years after the entry into force of this Act, a report on the effectiveness and the effects of this Act in practice, to both Houses of the States General.

Section 240

This Act will enter into force at time to be determined by Royal Decree.

Section 240a

If the legislative proposal to the effect of amending the Provinces Act and the Municipalities Act regarding the disclosure of ancillary positions and income from ancillary positions, submitted by Royal Message of January 3, 2006, is passed into law, and section V of that Act enters into force, this Act will be amended as follows:

A

Section 48 will be amended as follows:

a. Subsection 3 will read:

3. An Island Commissioner will disclose his ancillary positions. The disclosure will take place immediately after appointment as Island Commissioner or acceptance of an ancillary position and will take place by depositing a statement of the positions for public inspection at the administrative office of the public entity.

b. Two subsections will be added, reading:

4. An Island Commissioner will also disclose the income from ancillary positions. Disclosure will take place by deposit for public inspection at the administrative office, on April 1st after the calendar year in which the income was received, at the latest.

5. Income is defined as: wages for the purposes of Section 6 of the BES Income Tax Act.

B

Section 56 will be amended as follows:

a. Subsection 5 is deleted.
b. After subsection 4, three subsections are added, reading:

5. Compensations as referred to in subsection 4, include income, under whatever name, from ancillary positions which the Island Commissioner will resign upon termination of his office.

6. Other income than those referred to in subsection 4 will be settled with the remuneration in accordance with Section 3 of the Act on Compensation of Members of the Lower House, on the understanding that in that Section:

a. ancillary income is defined as: revenue from business and labour, referred to in Section 6 of the BES Income Tax Act;
b. in subsection 3 «the Income Tax Act 2011» is read: the BES Income Tax Act.

7. By order in council rules will be laid down regarding the manner in which the Island Commissioner provides data about the income, referred to in subsection 6, and the consequences of failure to provide such data.

C.

In Section 78, after subsection 4, three subsections are added, reading:

5. Compensations referred to in subsection 4, include income, by whatever name, from ancillary positions which the Lieutenant Governor will resign upon termination of office.

6. Other income than as referred to in subsection 4 will be settled with the remuneration in accordance with Section 3 of the Act on Compensation of the Members of the Lower House, on the understanding that in that Section:

a. ancillary income is defined as: revenue from business and labour, referred to in Section 6 of the BES Income Tax Act;

b. in subsection 3 for «the Income Tax Act 2001» is read: the BES Income Tax Act.

7. By order in council rules will be laid down regarding the manner in which the Lieutenant Governor provides the data about the income, referred to in subsection 6, and the consequences of failure to provide such data.

D

Section 79 is amended as follows:

a. Subsection 3 will read:

3. The Lieutenant Governor will disclose ancillary positions other than by virtue of his office. Disclosure will take place immediately after the appointment as Lieutenant Governor or acceptance of an ancillary position and will take place by deposit for public inspection of a list of the positions at the administrative office of the public entity.

b. Two subsections are added, reading:

4. The Lieutenant Governor will also disclose the income from ancillary positions, referred to in subsection 3. Disclosure will take place by deposit for public inspection at the administrative office on April 1st of the calendar year in which the income was received, at the latest.

5. Income is defined as: wages for the purposes of Section 6 of the BES Income Tax Act.

Da

In Section 193, three subsections are added after subsection 5, reading:

6. Compensations as referred to in subsection 5, will include income, under whatever name, from ancillary positions which the Kingdom Representative will resign upon termination of office.

7. Other income than those referred to in subsection 5 will be settled with the remuneration in accordance with Section 3 of the Act on Compensation of Members of the Lower House, on the understanding that in that Section:

a. ancillary income is defined as: revenue from business and labour, referred to in Section 6 of the BES Income Tax Act;

b. in subsection 3 for «the Income Tax Act 2001» is read: the BES Income Tax Act.

8. By order in council, rules will be laid down regarding the manner in which the Kingdom Representative will provide data about the income, referred to in subsection 7, and the consequences of failure to provide such data.

Db

Section 194 is amended as follows:

1. Subsection 3 will read:

3. The Kingdom Representative will disclose ancillary positions, other than those by virtue of his office of Kingdom Representative. Disclosure will take place immediately after appointment as Kingdom Representative or acceptance of an ancillary position and will take place by deposit for public inspection of a list of the positions at the Bureau of the Kingdom Representative, referred to in Section 202, subsection 1.

2. Subsection 4 will read:

4. The Kingdom Representative will also disclose the income from ancillary positions, referred to in subsection 3. Disclosure will take place by deposit for public inspection at the Bureau of the Kingdom Representative on April 1st after the calendar year in which the income was received, at the latest.

3. After subsection 4, a subsection is added, reading:
5. Income is defined as: wages for the purposes of Section 6 of the BES Income Tax Act.

Dc

In section 204, subsection 1, under e, is deleted: , 56, subsection 5.

E

In Section 234, subsection 3, under b, «Section 56, subsection 3 and 4» is replaced by: Section 56, subsection 3 through 7.

F

Section 235, subsection 2, will read:

2. Regarding the Lieutenant Governors, referred to in subsection 1, during the remaining time of their appointment:

a. Section 78, subsection 4 through 7, will not be applicable;

b. Section 80 will only be applicable to the extent that the Island Regulation of the Netherlands Antilles, as it read on the day of entry into force of this Act, also included a prohibition in such connection.

Section 241

This Act is cited as: Public Entities Bonaire, St. Eustatius and Saba Act.

We order and command that this Act shall be published in the Bulletin of Acts and Decrees and that all ministerial departments, authorities, bodies and officials whom it may concern shall diligently implement it.

Done at The Hague, May 17, 2010
Beatrix

The Secretary of State of the Interior and Kingdom Relations, A. Th. B. Bijleveld-Schouten

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