

**TRANSLATION OF THE OFFICIAL PUBLICATION OF SINT MAARTEN (AB 2010, GT no. 1)**

**Constitution of Sint Maarten<sup>1</sup>**

**PREAMBLE**

WE, THE PEOPLE OF SINT MAARTEN

AFFIRM that we acknowledge the guiding principles of Almighty God as the core of our values;

INSPIRED by the exercise of our universal right to self-determination, as expressed in the referendum of 23 June 2000, with which we freely chose for the status of Country within the Kingdom of the Netherlands;

RESOLVED to work together, with our partners in the Kingdom of the Netherlands, with our neighbours in French Saint Martin and with all peoples of the world on the basis of freedom, equality, peaceful co-existence and international solidarity;

DECLARE that we are a people that believe in the principle of democracy, the rule of law, the principle of the segregation of powers, the dignity and value of the individual, the entitlement of all persons to the fundamental rights and freedoms;

RESOLVED to provide for the continuing preservation of nature and the environment;

DECLARE that we wish to establish a constitutional order based on an open and accessible government;

AND THEREFORE, in order to record these goals and convictions, the following provisions have the force of law as the Constitution of Sint Maarten.

---

<sup>1</sup> This issuance takes place on the basis of the additional Article II of the Constitution.

**CHAPTER 1**  
**TERRITORY AND UNITY**

**Article 1**

1. The territory of Sint Maarten consists of the part of the island of Sint Maarten forming part of the Kingdom of the Netherlands and its territorial waters.
2. The official languages are Dutch and English.
3. By national ordinance the national flag, the coat of arms and the national anthem of Sint Maarten shall be enacted.

**CHAPTER 2**  
**FUNDAMENTAL RIGHTS**

**§ 1. Freedoms**

**Article 2**

1. All persons have the right to life. This right is protected by national ordinance. No person shall be arbitrarily deprived of life.
2. The death penalty may not be imposed.

**Article 3**

No person shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

**Article 4**

1. No person shall be held in slavery or servitude.
2. No person shall perform forced labour or mandatory work, other than as community service.
3. Human trafficking is prohibited.

**Article 5**

1. Everyone shall have the right to respect for his privacy, without prejudice to restrictions laid down by or pursuant to national ordinance.
2. Rules to protect privacy shall be laid down by national ordinance in connection with the recording and dissemination of personal data. These data must be processed fairly, for specific purposes and with the consent of the person concerned or on the basis of another justified ground for which the national ordinance provides.
3. Rules concerning the rights of persons to be informed of data recorded concerning them and of the use that is made thereof, and to have such data corrected shall be laid down by national ordinance.

**Article 6**

Everyone shall have the right to inviolability of his person, without prejudice to restrictions laid down by or pursuant to national ordinance.

**Article 7**

1. Entry into a home without the consent of the occupant shall be permitted only in the cases laid down by national ordinance, by those designated for the purpose by national ordinance.

---

*This is an English translation of the Dutch source text.  
In the event of any discrepancy between the Dutch language version and the translation, and in case of any disputes, the Dutch version prevails. No rights can be derived from the English translation.  
October 2013*

2. Prior identification and notice of purpose shall be required in order to enter a home under the preceding paragraph, subject to the exceptions prescribed by national ordinance.
3. A written report of the entry shall be issued to the occupant within 48 hours. If the entry was made in the interests of state security or criminal proceedings, the issue of the report may be postponed under rules to be laid down by national ordinance. A report need not be issued in cases, to be determined by national ordinance, where such issue would never be in the interests of state security.

#### **Article 8**

1. The privacy of correspondence shall not be violated except in cases laid down by national ordinance, by or with the authorisation of the courts.
2. The privacy of the telephone shall not be violated except, in the cases laid down by national ordinance, by or with the authorisation of those designated for the purpose by national ordinance.

#### **Article 9**

1. Everyone shall have the right to profess freely his religion or belief, either individually or in community with others, without prejudice to his responsibility as laid down by national ordinance.
2. The exercise of this right outside buildings and enclosed places may be restricted by national ordinance for the protection of health, in the interests of traffic and to combat or prevent disorders.

#### **Article 10**

1. All persons have the right, without prior permission, to publish thoughts or opinions or to pass on information through the press, subject to all persons' responsibilities as laid down by national ordinance.
2. By national ordinance radio and television broadcasts may be made subject to licensing requirements, in the interests of responsible use of the ether or in the interests of a pluriform broadcasting system. There shall be no prior supervision of the content of radio or television broadcasts.
3. No one shall be required to submit thoughts or opinions for prior approval in order to disseminate them by means other than those mentioned in the preceding paragraphs, without prejudice to the responsibility of every person as laid down by national ordinance. By or pursuant to national ordinance the holding of performances open to persons younger than sixteen years of age may be regulated in order to protect good morals.
4. The preceding paragraphs do not apply to commercial advertising.
5. No one requires prior permission to gather and to receive information, subject to all persons' responsibilities as laid down by national ordinance. The right to gather information may be restricted by national ordinance.

#### **Article 11**

1. All persons shall be free to provide education, without prejudice to government supervision to be regulated by national ordinance. By or pursuant to national ordinance rules may be imposed to protect health and, with regard to types of education designated by national ordinance, with regard to the competence and moral integrity of those who provide education.
2. Every child has the right to receive general primary education.
3. Education provided by public authorities shall be regulated paying due respect for every person's religion or belief. By national ordinance, assurance shall be provided of sufficient opportunity to receive public primary education and of adequate provision for other types of public education as designated by national ordinance.
4. To the extent that these meet conditions to be laid down by or pursuant to national ordinance, special primary education and the other types of special education designated by

---

*This is an English translation of the Dutch source text.*

*In the event of any discrepancy between the Dutch language version and the translation, and in case of any disputes, the Dutch version prevails. No rights can be derived from the English translation.*

*October 2013*

national ordinance shall be shall be financed from public funds according to the same standards as the equivalent type of public education.

5. The conditions referred to in the preceding paragraph respect the freedom to provide education according to religious or other belief, including in particular the choice of teaching aids and the appointment of the persons that provide education. They shall be regulated to provide sufficient assurance of the standards required of both special and public education, with due regard to the freedom to provide education according to religious or other belief.

#### **Article 12**

The right of association shall be recognised. This right may be restricted by national ordinance in the interests of public order.

#### **Article 13**

1. The right of assembly and demonstration shall be recognised, without prejudice to the responsibility of everyone under the law.
2. By national ordinance this right may be restricted in order to protect health, in the interest of traffic and to combat or prevent disorders.

#### **Article 14**

1. Everyone lawfully present in Sint Maarten has the right to move freely there, to stay and to select their place of residence there, subject to restrictions to be imposed by or pursuant to national ordinance.
2. Everyone shall have the right to leave the country, except in the cases laid down by national ordinance.

#### **Article 15**

1. Everyone has the right to the peaceful enjoyment of his possessions, without prejudice to restrictions to be imposed in the general interest by or pursuant to national ordinance.
2. No person may be deprived of their possessions, other than if it is declared in a national ordinance that expropriation is required by the general interest and prior full compensation should be enjoyed or assured, in accordance with regulations to be laid down by or pursuant to national ordinance.
3. If immediate expropriation is required in an emergency, the requirement of the preceding paragraph that a national ordinance should declare in advance that expropriation is required in the general interest will lapse and likewise, prior full compensation need not be enjoyed or assured.
4. In the cases laid down by national ordinance, there shall be a right to full or partial compensation if in the public interest the competent authority destroys possessions or renders it unusable or restricts the exercise of the owner's rights to it.

### **§2. Equality**

#### **Article 16**

All persons in Sint Maarten shall be treated equally in equal circumstances. Discrimination on the grounds of religion, belief, political opinion, race, skin colour, sex, language, national or social origins, membership of a national minority, assets, birth or on any grounds whatsoever shall not be permitted.

#### **Article 17**

All Dutch nationals shall be equally eligible for appointment to public service.

### **§ 3. Solidarity**

---

*This is an English translation of the Dutch source text.*

*In the event of any discrepancy between the Dutch language version and the translation, and in case of any disputes, the Dutch version prevails. No rights can be derived from the English translation.*

*October 2013*

#### **Article 18**

1. The government's constant concern is directed at the protection of children and young people and the promotion of their right to education, welfare, cultural development and leisure activities.
2. The government's constant concern is directed at the protection of elderly and persons with a disability and at the promotion of their health and welfare.

#### **Article 19**

1. It shall be the government's constant concern to secure the means of subsistence of the population and to achieve the distribution of wealth.
2. Rules concerning entitlements to social security benefits shall be laid down by or pursuant to national ordinance.
3. Dutch nationals residing in Sint Maarten who are unable to provide for themselves shall have a right, to be laid down by national ordinance, to aid from the government

#### **Article 20**

1. It shall be the government's constant concern to promote the provision of sufficient employment.
2. Rules on the legal status and of employees and their protection in that regard, and concerning co-determination, shall be laid down by or pursuant to national ordinance.
3. The right of every Dutch national to a free choice of work shall be recognised, without prejudice to the restrictions laid down by or pursuant to national ordinance.

#### **Article 21**

1. The government shall take steps to promote the health of the population.
2. It shall be the constant concern of the authorities to provide sufficient living accommodation.
3. The government shall create conditions for social and cultural development and leisure activities and for the preservation of cultural heritage.

#### **Article 22**

It shall be the government's constant concern to keep the country habitable and to protect and improve the environment and of the living environment and welfare of animals.

### **§ 4. Citizenship**

#### **Article 23**

Every Dutch national residing in Sint Maarten shall have equal rights to elect the members of general representative bodies and to stand for election as a member of those bodies, subject to exceptions laid down by national ordinance.

#### **Article 24**

1. Everyone shall have the right to submit petitions in writing to the competent authorities.
2. Persons who are unable to write may submit petitions through the intermediary of other persons who are declared competent for that purpose by national ordinance.
3. The competent authority is required to respond to petitions within the term to be regulated by national ordinance. Parliament shall respond to petitions to Parliament within a term to be fixed in accordance with the Parliamentary Rules of Order.

#### **Article 25**

The admission and expulsion of aliens shall be regulated by or pursuant to national ordinance.

## **§ 5. Administration of justice**

### **Article 26**

In the establishment of their civil rights and obligations and on prosecution for a criminal offence, all persons have the right to fair and public handling of their case, within a reasonable time, by an independent and impartial judicial institution. The public nature of the handling of the case may be restricted by national ordinance.

### **Article 27**

1. All persons have the right to personal liberty. No person may be deprived of his liberty other than under rules to be imposed by a legal regulation as referred to in Article 81(f) and 81(g), in the event of:
  - a. lawful detention following a conviction by a competent court;
  - b. lawful arrest or detention due to refusal to follow a court order in accordance with a legal regulation or in order to ensure compliance with an explicit obligation prescribed by a legal regulation;
  - c. lawful arrest or detention effected for the purpose of bringing him before the competent legal authority if there are reasonable grounds to suspect him of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;
  - d. lawful detention of a minor for the purpose of educational supervision or in the event of lawful detention, for the purpose of bringing him before the competent authority;
  - e. lawful custody of persons lawfully deprived of their liberty who could spread an infectious disease, of persons of unsound mind or alcoholics or drug addicts;
  - f. lawful detention of person in order to prevent them from effecting an unauthorised entry into the country or from extending their stay without authorisation;
  - g. lawful arrest or detention of persons against whom action is being taken with a view to deportation or extradition.
2. All persons who are arrested or detained in accordance with paragraph 1© of this Article must be brought before a court promptly and shall be entitled to trial within a reasonable time or to release pending trial.
3. Everyone who is deprived of his liberty shall be entitled:
  - a. to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful;
  - b. to be informed promptly, in a language which he understands, of the nature and reason for his deprivation of liberty, of his right to remain silent and his right to support from an attorney.
4. Everyone who has been the victim of a deprivation of liberty in contravention of the provisions of this Article shall have an enforceable right to compensation.
5. A person who has been lawfully deprived of his liberty may be restricted in the exercise of fundamental rights in so far as the exercise of such rights is not compatible with the deprivation of liberty.

### **Article 28**

1. No offence shall be punishable unless it was an offence under the law at the time it was committed.
2. All persons prosecuted for a criminal offence shall be presumed innocent until proved guilty pursuant to a national ordinance.
3. No person may be prosecuted or penalised twice for a criminal offence on which a court has issued a final decision.
4. Everyone prosecuted for criminal offences has the following minimum rights:
  - a. to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusations against him, of their right to remain silent and their right to support from an attorney;

---

*This is an English translation of the Dutch source text.*

*In the event of any discrepancy between the Dutch language version and the translation, and in case of any disputes, the Dutch version prevails. No rights can be derived from the English translation.*

*October 2013*

- b. to have the free assistance of an interpreter if he cannot understand or speak the language used in court;
- c. to have adequate time and facilities for the preparation of his defence;
- d. to defend themselves;
- e. to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him. to question or to provide for the questioning of witnesses for the prosecution and to call and question witnesses for the defence on the same conditions as those applying for the witnesses for the prosecution.

**Article 29**

- 1. Everyone may be legally represented in legal and administrative proceedings.
- 2. Rules concerning the granting of legal aid to persons of limited means shall be laid down by national ordinance.

**Article 30**

- 1. All persons who are deprived of their freedom shall be treated humanely and with respect for the dignity inherent to the human person.
- 2. Barring exceptional circumstances, suspects shall be kept separate from convicted offenders and may claim separate treatment in accordance with their status as a non-convicted person.
- 3. Young suspects must be detained separately from adults and must be brought before a court at the earliest opportunity.
- 4. The prison system shall provide for handling of prisoners aimed in the first place at re-education and rehabilitation. Young prisoners shall be kept separately from adults and shall be treated in accordance with their age and legal status.

**§ 6. Restrictions of fundamental rights**

**Article 31**

- 1. A restriction of the fundamental rights, referred in Articles 5(1), 6, 7, 8, 9, 10(1), 10(2), 10(3), 10(5), 12, 13, 14, 15(1), 20(3), 23 and 26 shall be necessary and proportional and shall be described as specifically as possible.
- 2. Parliament may not approve a draft national ordinance containing restrictions of the fundamental rights as referred to in paragraph 1 or resolve to propose such a draft for endorsement without an absolute majority of the votes cast by the serving members.

**CHAPTER 3**

**THE GOVERNMENT AND THE MINISTER PLENIPOTENTIARY**

**§ 1. The government**

**Article 32**

- 1. The government shall comprise the King and the ministers.
- 2. The King is represented by the Governor.
- 3. The ministers are shall be responsible for acts to Parliament.

**Article 33**

- 1. The prime minister and the other ministers shall be appointed and dismissed by national decree.
- 2. If a minister no longer has the confidence of Parliament, he shall resign.
- 3. By national ordinance further rules may be enacted on paragraph 2.

4. Parliament may not approve or resolve to propose such a draft national ordinance for endorsement without a majority of at least two thirds of the votes cast by the serving members.

#### **Article 34**

1. For appointment as a minister, a candidate must hold Dutch nationality and must not be excluded from voting.
2. A minister may not simultaneously serve as:
  - a. Governor;
  - b. acting Governor;
  - c. Member of Parliament (MP);
  - d. member of the Council of Advice;
  - e. member of the General Audit Chamber;
  - f. Ombudsman;
  - g. minister plenipotentiary;
  - h. serving civil-servant;
  - i. member of the judiciary;
  - j. Attorney-General or Solicitor-General at the Common Court of Justice of Aruba, Curaçao, Sint Maarten and of Bonaire, Sint Eustatius and Saba.
3. By national ordinance prohibition may be laid down of simultaneously serving as a minister and holding other public offices. Parliament may not approve or resolve to propose such a draft national ordinance for endorsement without a majority of at least two thirds of the votes cast by the serving members.
4. By way of departure from the provisions of paragraph 2(c), a minister elected as a Member of Parliament may combine the office of minister with membership of Parliament for a maximum of three months following his admission to Parliament.
5. For the purposes of this Article, a 'civil servant', as referred to in paragraph 2(h), is equated with persons employed in the service of the national administration under a civil-law contract.

#### **Article 35**

1. Ministers shall refrain from debating and voting on issues, including appointments, suspensions and dismissals, that personally concern them, their spouses or relations by blood or affinity to the second degree, or in which they are involved as mandatories.
2. Ministers may not hold any office with which any remuneration or benefits charged to the budget of the Country are associated.
3. Ministers may not participate, directly or indirectly, in, or serve as managers or supervisory directors of any business registered or operating in Sint Maarten. Holding shares in a public limited liability company is not regarded as participation in a business unless the person concerned holds twenty-five per cent of the shares together with his relations by blood or affinity to the second degree.
4. Ministers may not participate directly or indirectly in a concession in the Country.

#### **Article 36**

1. A minister who is sentenced, in a final decision of a court ordering:
  - a. a custodial sentence of at least one year for committing a criminal offence regarding which a national ordinance provides that the court may disenfranchise that person as an additional penalty;
  - b. a custodial sentence for committing a criminal offence as described in Articles 183, 184, 372bis, 372quinquies, 373, 374, 374bis, 374ter, 374quater, 375 up to and including 379 and 381 up to and including 393 of the Criminal Code; or
  - c. a custodial sentence for committing a criminal offence in connection with Article 46 of the Criminal Code; is dismissed from the office of minister by law and may not be reappointed as a minister or elected during the current parliamentary term.
2. A minister is suspended by law:

---

*This is an English translation of the Dutch source text.*

*In the event of any discrepancy between the Dutch language version and the translation, and in case of any disputes, the Dutch version prevails. No rights can be derived from the English translation.*

*October 2013*



- a. if he is being detained pending a trial in connection with a criminal offence as referred to in paragraph 1(a), 1(b) and 1(c);
  - b. if he is given a custodial sentence by a court for committing a criminal offence as referred to in paragraph 1(a), 1(b) and 1(c).
3. A minister dismissed from office as referred to in paragraph 1, shall be replaced. A minister who is suspended, within the meaning of paragraph 2, shall be replaced by a deputy. During the suspension, the minister shall enjoy his remuneration. The person who deputises or replaces for a minister who is dismissed or suspended shall step down at the same time as the other ministers.

#### **Article 37**

Relations by blood or affinity between ministers, to the second degree, are not permitted. Spouses may not serve as ministers at the same time.

#### **Article 38**

Ministries shall be instituted by national ordinance. They are managed by a minister.

#### **Article 39**

1. The ministers shall together constitute the Council of Ministers.
2. The Council of Ministers consists of seven ministers, unless a different number is fixed by national ordinance.
3. The Prime Minister shall chair the Council of Ministers.
4. The Council of Ministers shall consider and decide upon overall government policy in order to promote the coherence thereof.
5. If the Governor attends a meeting of the Council of Ministers, he then has an advisory vote.
6. By national decree rules of Order shall be enacted. The Rules of Order shall be announced through recording in the Official Publication.

#### **Article 40**

1. National ordinances and national decrees shall be signed by the Governor and by one or more ministers.
2. The national decree dismissing the outgoing prime minister and appointing his successor shall be countersigned by the latter. National decrees appointing or dismissing other ministers shall be countersigned by the prime minister.

#### **Article 41**

On accepting appointment, ministers take the following oath of office (declaration and affirmation) before the Governor:

'I swear (declare) that I have not given or promised anything to anyone whatsoever, directly or indirectly, under any name or pretext whatsoever, in connection with obtaining my appointment as minister, nor shall I do so.

I swear (affirm), that I shall not accept any pledge or gift of any description from any person whatsoever, directly or indirectly, in order to take or refrain from any action of any description in this position.

I swear (affirm) my loyalty to the King and the Charter for the Kingdom, that I shall always help to uphold the Constitution of Sint Maarten and shall support the welfare of Sint Maarten to the best of my ability.

So help me God

(This I declare and affirm)!'

#### **Article 42**

The remuneration, pension and other financial provisions for ministers shall be regulated by national ordinance.

---

*This is an English translation of the Dutch source text.*

*In the event of any discrepancy between the Dutch language version and the translation, and in case of any disputes, the Dutch version prevails. No rights can be derived from the English translation.*

*October 2013*

## **§ 2. The minister plenipotentiary**

### **Article 43**

1. For appointment as the minister plenipotentiary, a candidate must hold Dutch nationality and must not be excluded from voting.
2. The minister plenipotentiary may not simultaneously serve as:
  - a. Governor;
  - b. acting Governor;
  - c. Member of Parliament;
  - d. member of the Council of Advice;
  - e. member of the General Audit Chamber;
  - f. Ombudsman;
  - g. Minister;
  - h. member of the judiciary;
  - j. Attorney-General or Solicitor-General at the Common Court of Justice of Aruba, Curaçao, Sint Maarten and of Bonaire, Sint Eustatius and Saba.
3. By national ordinance prohibition may be laid down of simultaneously serving as the minister plenipotentiary and holding other public offices. Parliament may not approve or resolve to propose such a draft national ordinance for endorsement without a majority of at least two thirds of the votes cast by the serving members.
4. By way of departure from the provisions of paragraph 1(c), a minister plenipotentiary elected as a Member of Parliament may combine the office of minister plenipotentiary with membership of Parliament for a maximum of three months following his admission to Parliament.
5. The previous paragraphs also apply to the deputy minister plenipotentiary.
6. If the minister plenipotentiary is in Sint Maarten, he is given an opportunity to attend meetings of the Council of Ministers regarding matters that concern him. He then has an advisory vote.
7. Articles 36, 37, 41, and 42 are likewise applicable to the minister plenipotentiary.

## **CHAPTER 4**

### **PARLIAMENT**

#### **§ 1. Composition**

### **Article 44**

Parliament shall represent the entire people of Sint Maarten.

### **Article 45**

1. Parliament shall consist of fifteen members if the population of Sint Maarten is 60,000 or less, seventeen members if the population amounts to more than 60,000 and no more than 70,000, nineteen members if the population amounts to more than 70,000 and no more than 80,000 and twenty-one members if the population amounts to more than 80,000.
2. An increase or reduction in the number of Members of Parliament arising from a change in the population of the country first takes effect on the next regular election of Parliament.

### **Article 46**

1. The duration of Parliament shall be four years.
2. Sessions commence on the second Tuesday of September or at an earlier date to be laid down by national ordinance, with an explanation, by or on behalf of the Governor, of the policy to be pursued by the government, in a meeting of Parliament held for that purpose.

---

*This is an English translation of the Dutch source text.*

*In the event of any discrepancy between the Dutch language version and the translation, and in case of any disputes, the Dutch version prevails. No rights can be derived from the English translation.*

*October 2013*

3. The Parliamentary session is opened and closed by the President. The ordinary session commence on the second Tuesday of the month of September.
4. At the opening of the ordinary Parliamentary session, an explanation of the policy to be pursued by the Government is given by or on behalf of the Governor.

#### **Article 47**

1. The Members of Parliament shall be elected by proportional representation within the limits to be laid down by national ordinance.
2. Elections shall be free and shall be conducted by secret ballot.

#### **Article 48**

1. The Members of Parliament shall be elected directly by the residents of Sint Maarten who are Dutch nationals and have attained the age of eighteen.
2. Without prejudice to the provisions of Articles 36(1), and 50(1), persons who have been given custodial sentences of at least one year in a final decision of a court for committing an offence designated as such by national ordinance and have at the same time been disenfranchised.

#### **Article 49**

1. To be eligible for membership of Parliament, a person must be a resident of Sint Maarten, a Dutch national, have attained the age of eighteen years and must not have been disqualified from voting.
2. A Member of Parliament may resign at any time through written notification of the president of Parliament.
3. Membership of Parliament lapses through an uninterrupted stay outside the country of more than eight months.

#### **Article 50**

1. A Member of Parliament who is sentenced, in a final decision of a court ordering:
  - a. a custodial sentence of at least one year for committing a criminal offence regarding which a national ordinance provides that the court may disenfranchise that person as an additional penalty;
  - b. a custodial sentence for committing a criminal offence as described in Articles 183, 184, 372bis, 372quinquies, 373, 374, 374bis, 374ter, 374quater, 375 up to and including 379 and 381 up to and including 393 of the Criminal Code; or
  - c. a custodial sentence for committing a criminal offence in connection with Article 46 of the Criminal Code;loses his seat in Parliament by law and may not be elected as a Member of Parliament or appointed as a minister during the current Parliamentary term.
2. A Member of Parliament is suspended by law:
  - a. if he is being detained pending trial in connection with a criminal offence as referred to in paragraph 1(a), 1(b) and 1(c);
  - b. if he is given a custodial sentence by a court for committing a criminal offence as referred to in paragraph 1(a), 1(b) and 1(c).
3. A person who loses membership of Parliament as referred to in paragraph 1, shall be replaced. A Member of Parliament who is suspended as referred to in paragraph 2, shall be replaced by a deputy. During the suspension, the Member of Parliament shall enjoy his remuneration. The person who deputises for a Member of Parliament who has been suspended or the person who replaces a Member of Parliament who has lost membership shall step down at the same time as the other Members of Parliament.

#### **Article 51**

1. Members of Parliament may not simultaneously serve as:
  - a. Governor;

- b. acting Governor;
  - c. member of the Council of Advice;
  - d. member of the General Audit Chamber;
  - e. Ombudsman;
  - f. minister;
  - g. minister plenipotentiary;
  - h. serving civil servant;
  - i. member of the judiciary;
  - j. Attorney-General or Solicitor-General at the Common Court of Justice of Aruba, Curaçao, Sint Maarten and of Bonaire, Sint Eustatius and Saba.
2. By national ordinance, simultaneous service as a Member of Parliament and holding other public offices may be prohibited.
  3. Parliament may not approve or resolve to propose such a draft national ordinance for endorsement without a majority of at least two thirds of the votes cast by the serving members.

#### **Article 52**

1. Blood relations to the second degree may not exist between Members of Parliament. Spouses may not serve simultaneously as Members of Parliament.
2. If persons in one of the situations referred to in the first paragraph are elected at the same time, only the person with the highest number of votes shall be admitted to Parliament, and if the votes were tied, the oldest person. If, in the latter cases, the ages are also the same, the decision shall be made by lot.
3. A person who falls into the situation referred to in the second sentence of paragraph 1 after his election cannot be obliged to resign before the end of his term of office on those grounds.

#### **Article 53**

1. Members of Parliament shall refrain from debating and voting on issues, including appointments, suspensions and dismissals, that personally concern them, their spouses or relations by blood or affinity to the second degree, or in which they are involved as mandatories.
2. The first paragraph does not apply to decision on the admission of the newly elected Members of Parliament following the regular dissolution of Parliament.
3. Members of Parliament may not:
  - a. work as attorneys or local counsel in legal cases in which the Country is involved;
  - b. vote in Parliament on the enactment or approval of the accounts of a body in which they hold a seat on the managing board;
  - c. accept work for the Country, stand surety for this or participate in this, directly or indirectly;
  - d. participate directly or indirectly in private pledges of goods or rights of the Country.
4. If so required in the interest of the Country, Parliament may grant dispensation in certain cases from the prohibitions referred to in paragraph 3.

#### **Article 54**

Parliament shall examine the credentials of newly elected Members of Parliament and shall decide with due reference to rules to be established by national ordinance on any disputes arising in connection with the credentials or the election.

#### **Article 55**

1. Further rules regarding the right to vote and elections shall be enacted by national ordinance.
2. By national ordinance rules shall be laid down to promote balanced and responsible course of elections.

## **Article 56**

On accepting their appointment Members of Parliament take the following oath (declaration and affirmation) before the Governor:

'I swear (declare) that I have not given or promised anything to anyone whatsoever, directly or indirectly, under any name or pretext whatsoever, in connection with my election as a Member of Parliament, nor shall I do so.

I swear (affirm), that I shall not accept any pledge or gift of any description from any person whatsoever, directly or indirectly, in order to take or refrain from any action of any description in this position.

I swear (affirm) my loyalty to the King and the Charter for the Kingdom, that I shall always help to uphold the Constitution of Sint Maarten and shall support the welfare of Sint Maarten to the best of my ability.

So help me God

(This I declare and affirm)!'

## **Article 57**

1. Parliament shall appoint a president and Deputy president from among its members.
2. Until such an appointment has taken place, the president or Deputy president appointed for the preceding term shall act as the president if that person is a member of the new Parliament, or, in the absence of such a person, the member of the new Parliament that among the Members of Parliament having served the longest in Parliament is the oldest member in years, shall act as the president. If there is no such person, the oldest member in years shall serve as the president.
3. Parliament shall appoint, suspend and dismiss its clerk. The clerk may not simultaneously serve as a Member of Parliament.
4. By national ordinance the structure and organisation of the Department of the clerk to the Parliament shall be regulated. The officials of the department of the clerk to the Parliament may not simultaneously serve as Members of Parliament.
5. The position and remuneration of the clerk to the Parliament shall be regulated by national ordinance, as shall his entitlements to leave, holiday pay, retainer fees and pension.
6. The appointment, suspension and dismissal of the other officials of the Department of the clerk to the Parliament, as well as their legal status, shall be regulated by national ordinance.

## **Article 58**

The remuneration, pension and other financial provisions for Members of Parliament shall be regulated by national ordinance. Parliament may approve a draft national ordinance to that effect only by a majority of at least two thirds of the votes cast by the serving members.

## **Article 59**

1. Parliament may be dissolved by national decree.
2. An order for dissolution shall also require new elections to be held for Parliament which has been dissolved and the newly elected Parliament to meet within three months.
3. The dissolution shall take effect on the day on which the newly elected Parliament meets.

## **§ 2. Working method**

## **Article 60**

1. Parliamentary sittings are open to the public.
2. The doors shall be closed if the president considers this necessary or four Members of Parliament require this. The meeting may resolve, by a two thirds majority of the votes cast, that debates and decision-making shall take place behind closed doors.

---

*This is an English translation of the Dutch source text.*

*In the event of any discrepancy between the Dutch language version and the translation, and in case of any disputes, the Dutch version prevails. No rights can be derived from the English translation.*

*October 2013*

## **Article 61**

1. Parliament may deliberate or take decisions, only if more than half of the serving members at the meeting.
2. Resolutions are carried by an absolute majority of the votes cast unless this Constitution provides otherwise.
3. The members shall not be bound by a mandate or instructions when casting their votes.
4. Voting on items of business not relating to individuals shall be oral and by roll call if requested by one member.

## **Article 62**

Every Member of Parliament has the right to put questions to ministers. The ministers shall answer such questions within a reasonable term, to the extent that the answering thereof cannot be deemed to conflict with the interests of the Country or of the Kingdom.

## **Article 63**

1. The ministers shall have the right to attend meetings and may take part in the deliberations.
2. They may be invited by Parliament to be present at meetings in order to provide the required information, to the extent that providing this cannot be deemed to conflict with the interests of the Country or of the Kingdom.
3. They may be assisted at the meetings by persons nominated by them for that purpose.

## **Article 64**

Parliament has a right of inquiry, to be regulated by national ordinance.

## **Article 65**

Members of Parliament, ministers and other persons taking part in deliberations may not be prosecuted or otherwise held liable in law for anything they say during the meetings of Parliament or of its committees or for anything they submit to them in writing.

## **Article 66**

Parliament shall adopt rules of order for its meetings. These shall be made public in the manner prescribed for national ordinances.

## **Article 67**

Parliament is authorised to represent the interests of Sint Maarten to the government of the Kingdom and to the States General of the Netherlands.

## **Article 68**

Parliament shall investigate petitions addressed to it.

## **CHAPTER 5**

### **COUNCIL OF ADVICE, GENERAL AUDIT CHAMBER, OMBUDSMAN AND PERMANENT BODIES TO ADVISE**

#### **§ 1. Council of Advice**

## **Article 69**

1. There shall be a Council of Advice, hereinafter referred to as 'the Council'.

---

*This is an English translation of the Dutch source text.  
In the event of any discrepancy between the Dutch language version and the translation, and in case of any disputes, the Dutch version prevails. No rights can be derived from the English translation.  
October 2013*

2. The government shall consult the Council on:
  - a. all draft national ordinances and national decrees, containing general measures;
  - b. proposals for approval as referred to in Article 24(2), of the Charter for the Kingdom of the Netherlands, of treaties that affect Sint Maarten;
  - c. bills for Kingdom Acts and draft orders in council for the Kingdom.
3. Parliament shall consult the Council on draft national ordinances submitted to Parliament by one or more Members of Parliament.
4. The Council is authorised to provide the government with advice if it considers this necessary.
5. The Council shall be consulted in cases where the national ordinance requires this, in all exceptional cases of a serious nature and in all other cases where the government considers this necessary.

#### **Article 70**

1. The Council shall consist of five members, including a Vice Chairman. A maximum of five associate members may be appointed.
2. The Governor may serve as the Chairman of the Council as often as he considers this necessary. He has an advisory vote.
3. The Vice Chairman, the other members and the associate members shall be appointed by national decree for a term of seven years. They may be re-elected immediately.
4. In the cases specified by national ordinance, they may be suspended or dismissed. The legal status of the members and associate members of the Council shall be further regulated by or pursuant to a national ordinance.
5. A member or associate member of the Council may not simultaneously serve as:
  - a. Member of Parliament;
  - b. member of the General Audit Chamber;
  - c. Ombudsman;
  - d. minister;
  - e. minister plenipotentiary;
  - f. serving civil servant;
  - g. member of the judiciary;
  - h. Attorney-General or Solicitor-General at the Common Court of Justice of Aruba, Curaçao, Sint Maarten and of Bonaire, Sint Eustatius and Saba.
6. For the purposes of this Article, a 'civil servant', referred to in paragraph 5(f), is equated with persons employed in the service of the national administration under a civil-law contract.
7. By national ordinance it may be provided with regard to other offices, that these cannot be held simultaneously with membership of the Council.
8. Parliament may not approve or resolve to propose such a draft national ordinance for endorsement without a majority of at least two thirds of the votes cast by the serving members.

#### **Article 71**

1. The structure and powers of the Council of Advice shall be regulated by national ordinance.
2. By national ordinance the Council of Advice may also be assigned duties other than those referred to in this chapter,.

#### **Article 72**

On accepting appointment, members or associate members of the Council of Advice take the following oath of office (declaration and affirmation) before the Governor:

'I swear (affirm), that I shall not accept any pledge or gift of any description from any person whatsoever, directly or indirectly, in order to take or refrain from any action of any description in this position.

I swear (affirm) my loyalty to the King and the Charter for the Kingdom, that I shall always help to uphold the Constitution of Sint Maarten and shall support the welfare of Sint Maarten to the best of my ability.

---

*This is an English translation of the Dutch source text.*

*In the event of any discrepancy between the Dutch language version and the translation, and in case of any disputes, the Dutch version prevails. No rights can be derived from the English translation.*

*October 2013*

So help me God  
(This I declare and affirm)!

### **Article 73**

The Council of Advice shall adopt Rules of Order that shall be announced in the Official Publication.

## **§ 2. General Audit Chamber**

### **Article 74**

1. There shall be a General Audit Chamber.
2. The General Audit Chamber shall be responsible for examining the effectiveness and legitimacy of the Country's revenues and expenditures.

### **Article 75**

1. The General Audit Chamber shall consist of three members, including the chairman.
2. The chairman and the other members shall be appointed by national decree for a term of seven years, from nominations of at least two persons, drawn up by Parliament. The nominations may be enacted only by a majority of at least two thirds of the votes cast by the serving members. Members may be reappointed immediately.
3. They shall cease to be members on resignation or on attaining an age to be determined by national ordinance.
4. They may be suspended or dismissed from membership by the Common Court of Justice of Aruba, Curaçao and Sint Maarten and of Bonaire, Sint Eustatius and Saba in the cases to be determined by national ordinance.
5. In other respects, the legal status of the members of the General Audit Chamber shall be regulated by national ordinance.
6. The provisions of paragraphs 5, 6, 7 and 8 of Article 70 are likewise applicable to members of the General Audit Chamber.

### **Article 76**

1. The structure and powers of the General Audit Chamber shall be regulated by national ordinance.
2. Tasks other than those described in Article 74 may also be assigned to the General Audit Chamber by national ordinance.

### **Article 77**

On accepting appointment, members of the General Audit Chamber take the following oath of office (declaration and affirmation) before the Governor:

'I swear (affirm), that I shall not accept any pledge or gift of any description from any person whatsoever, directly or indirectly, in order to take or refrain from any action of any description in this position.

I swear (affirm) my loyalty to the King and the Charter for the Kingdom, that I shall always help to uphold the Constitution of Sint Maarten and shall support the welfare of Sint Maarten to the best of my ability.

So help me God  
(This I declare and affirm)!

## **§ 3. Ombudsman**

### **Article 78**

1. There shall be an Ombudsman.

---

*This is an English translation of the Dutch source text.*

*In the event of any discrepancy between the Dutch language version and the translation, and in case of any disputes, the Dutch version prevails. No rights can be derived from the English translation.*

*October 2013*



2. The Ombudsman shall investigate, on request or of his own accord, actions taken by administrative authorities of the Country and other administrative authorities designated by national ordinance.
3. The Ombudsman shall be appointed by Parliament for a term of seven years and may be reappointed on one occasion only. He may resign or retire on attaining an age to be determined by national ordinance.
4. In the cases designated by national ordinance, he may be suspended or dismissed by Parliament. In other respects, his legal status shall be regulated by national ordinance.
5. The powers and working method of the Ombudsman shall be regulated by national ordinance.
6. Other tasks may also be assigned to the Ombudsman by national ordinance.

#### **§ 4. Other provisions**

##### **Article 79**

1. Other permanent bodies to advise on matters of legislation and administration shall be established by national ordinance.
2. The structure, composition and powers of these boards shall be regulated by national ordinance.
3. Tasks other than advisory tasks may also be assigned to such bodies by national ordinance.

##### **Article 80**

1. The recommendations made by the bodies referred to in the present chapter shall be made public according to rules to be laid down by national ordinance.
2. Advisory reports issued in relation to draft national ordinances introduced by the government shall be presented to Parliament, subject to exceptions to be laid down by national ordinance.

### **CHAPTER 6**

#### **LEGISLATION AND ADMINISTRATION**

##### **§ 1. General provisions on legal regulations**

##### **Article 81**

The legal regulations in Sint Maarten are:

- a. the Charter for the Kingdom of the Netherlands;
- b. agreements with other powers and international law organisations, to the extent that they have been ratified for Sint Maarten;
- c. Kingdom Acts and Orders in Council for the Kingdom that are binding for Sint Maarten according to the Charter;
- d. this Constitution;
- e. mutual arrangements as referred to in Article 38(1) of the Charter for the Kingdom, to the extent that they have been assigned force of law by a competent body of Sint Maarten;
- f. mutual arrangements as referred to in Article 38(2) of the Charter for the Kingdom;
- g. national ordinances, including the uniform national ordinances;
- h. national decrees, containing general measures;
- i. ministerial regulations;
- j. ordinances of public administrative bodies as referred to in Article 97(2), and independent administrative bodies, as referred to in Article 98(2).

##### **§ 2. National ordinances, uniform national ordinances, national decrees, containing general measures and ministerial regulations**

---

*This is an English translation of the Dutch source text.*

*In the event of any discrepancy between the Dutch language version and the translation, and in case of any disputes, the Dutch version prevails. No rights can be derived from the English translation.*

*October 2013*

## **Article 82**

National ordinances shall be enacted jointly by the government and Parliament.

## **Article 83**

The ratification of draft national ordinances takes place by the government following their approval by Parliament. This gives them the force of a national ordinance.

## **Article 84**

1. The government introduces draft national ordinances to Parliament for approval.
2. Before introducing a draft national ordinance, the government presents it to the Council of Advice.

## **Article 85**

1. Parliament has the right to propose draft national ordinances to the government for ratification.
2. Draft national ordinances to be presented by Parliament for ratification shall be introduced by one or more members.
3. Parliament presents draft national ordinances to the Council of Advice before they are debated.

## **Article 86**

1. While a draft national ordinance introduced by the government has still to be approved by Parliament, it may be changed by Parliament on the proposal of one or more Members of Parliament, or by the government.
2. While Parliament has yet to resolve to propose a draft national ordinance for ratification, it may be amended by Parliament, on the proposal of one or more Members of Parliament, or by the Member or Members of Parliament by whom it was introduced.

## **Article 87**

1. While a draft national ordinance introduced by the government has still to be approved by Parliament, it may be withdrawn by the government.
2. While Parliament has yet to resolve to propose a draft national ordinance for ratification, it may be withdrawn by the Member of Parliament or Members of Parliament who introduced it.

## **Article 88**

1. The government and Parliament shall notify each other of their orders on any draft national ordinance. Parliament shall notify the government of its order to subject a draft national ordinance to a referendum, referred to in Article 92.
2. Introduction and withdrawal of draft national ordinances by the government takes place through the intermediary of the Governor.

## **Article 89**

The publication and entry into force of national ordinances shall be regulated by national ordinance. They shall not enter into force they have been published..

## **Article 90**

1. The procedure for the realisation of uniform national ordinances may be regulated through mutual arrangements with one or more countries within the Kingdom, possibly departing from the provisions of this chapter.
2. Such a mutual regulation shall not take effect until it has been approved by national ordinance.

#### **Article 91**

1. The government may enact national decrees, containing general measures.
2. Any regulations to which penalties are attached shall be embodied in such orders only in accordance with a national ordinance. The penalties to be imposed shall be determined by national ordinance.
3. Before ratifying a national decree, containing general measures, the government presents the draft national decree to the Council of Advice.
4. Article 89 applies likewise to national decrees, containing general measures.
5. A national ordinance or national decree, containing general measures, may assign powers to the minister to enact a ministerial regulation. Article 89 and paragraph 2 are likewise applicable to ministerial regulations.

### **§ 3. Consultative referendum**

#### **Article 92**

Consultative referendums are conducted at the initiative of Parliament.

#### **Article 93**

1. A referendum may relate to a draft national ordinance approved by Parliament or proposed for ratification, or to a matter of great social interest on which the government or Parliament have taken a decision and regarding which a referendum is not excluded pursuant to Article 94.
2. A draft national ordinance approved by Parliament or submitted for ratification is not yet ratified if it is subject to a referendum.

#### **Article 94**

1. In no case may the following be subjected to a referendum:
  - a. draft Kingdom legislation;
  - b. draft national ordinances concerning the budget;
  - c. draft national ordinances that serve partly for the implementation of treaties or orders of international law organisations;
  - d. draft national ordinances concerning taxation;
  - e. draft uniform national ordinances.
2. By national ordinance other matters may be excluded from a referendum.

#### **Article 95**

1. By national ordinance the consequence of a referendum is always laid down.
2. The national ordinance, referred to in paragraph 1 may provide that, if a majority opposes the draft national ordinance and that majority includes a section, to be laid down by national ordinance, of persons who were entitled to participate in the referendum, the draft national ordinance lapses by law.

#### **Article 96**

All other matters concerning the referendum shall be regulated by or pursuant to a national ordinance.

---

*This is an English translation of the Dutch source text.*

*In the event of any discrepancy between the Dutch language version and the translation, and in case of any disputes, the Dutch version prevails. No rights can be derived from the English translation.*

*October 2013*

## **§ 4. Other provisions**

### **Article 97**

1. By national ordinance public bodies may be established and dissolved for the protection of certain interests.
2. The national ordinance shall regulate the duties and the structure of these public bodies, the composition and the powers of their managing boards and the public access to their meetings. By national ordinance regulatory powers may be granted to their managing boards.
3. Supervision of these managing boards shall be regulated by national ordinance. Orders of these managing boards may be overturned only for reasons of conflict with the law or the general interest.

### **Article 98**

1. By national ordinance independent administrative bodies may be established and dissolved.
2. The national ordinance shall regulate the structure, composition, duties and powers of the independent administrative bodies, as well as public access to their meetings. By national ordinance regulatory powers may be granted to independent administrative bodies. The publication of regulations of an independent administrative body shall take place by recording in the Official Publication, stating the date of issue.
3. The supervision of independent administrative bodies shall be regulated by national ordinance.
4. Overturning by the government, or withholding endorsement of by the body designated by national ordinance, is only possible on the grounds of conflict with the law.
5. An order to overturn or withhold endorsement shall state the reasons and determine the consequences of this. The Council of Advice shall be consulted on an order to overturn a national ordinance.

### **Article 99**

1. Taxes shall be levied pursuant to a national ordinance.
2. Parliament may not approve such a draft national ordinance or resolve to propose it for approval without an absolute majority of the votes cast by the serving members.
3. Fees shall be regulated by national ordinance.

### **Article 100**

1. The budget for the Country's revenues and expenditure shall be enacted by national ordinance.
2. The annual budget and the long-term budget shall be balanced. If necessary in connection with the recovery of damages caused by exceptional events, including natural disasters, departures from the first sentence are possible, in accordance with rules issued by or pursuant to a Kingdom Act or national ordinance.
3. The government shall submit one or more drafts of the budget to Parliament each year, no later than 1 September.
4. Account for the revenues and expenditure of the Country shall be rendered to Parliament in accordance with the national ordinance. The accounts examined by the General Audit Chamber shall be submitted to Parliament each year.
5. By national ordinance rules shall be laid down concerning the management of the Country's finances.

### **Article 101**

1. By national ordinance rules shall be laid down in order to secure the lawfulness and integrity of the administration and administrative action and the soundness of the financial management.

---

*This is an English translation of the Dutch source text.*

*In the event of any discrepancy between the Dutch language version and the translation, and in case of any disputes, the Dutch version prevails. No rights can be derived from the English translation.*

*October 2013*

2. Account shall be rendered annually.

#### **Article 102**

1. Contracting or guaranteeing loans in the name of or at the expense of the Country shall take place pursuant to national ordinance only.
2. The interest charges associated with the contracted loans may not exceed a percentage of the average income of the public sector in the three years prior to the budget year, as enacted by national ordinance.
3. by national ordinance further rules shall be laid down on the contracting, guaranteeing or provision of a loan.

#### **Article 103**

1. There shall be a central bank. The central bank supervises the financial system. By national ordinance other tasks may be assigned to the central bank.
2. By or pursuant to national ordinance the financial system shall be regulated.

#### **Article 104**

By national ordinance civil law and criminal law shall be regulated in general legal codes, without prejudice to the power to regulate certain matters in separate national ordinances.

#### **Article 105**

By national ordinance general rules of administrative law shall be enacted.

#### **Article 106**

The legal status of civil servants shall be regulated by national ordinance. The national ordinance shall also lay down rules on their employment protection and co-determination.

#### **Article 107**

The government aims for openness in the performance of its tasks, to the extent that this cannot be regarded as contrary to the interests of the Country and those of the Kingdom, or to other interests that justify the omission of disclosure. By national ordinance further rules on this shall be laid down.

#### **Article 108**

By national decree licences can be granted in accordance with rules to be laid down by national ordinance, for mining companies, public utility companies, telecommunication companies and for the construction of works for such companies.

#### **Article 109**

By national ordinance the management of state land and other state rights shall be regulated.

#### **Article 110**

1. Persons residing in Sint Maarten may not, other than by national ordinance, be conscripted to serve in the armed forces or in national service.
2. Conscripts serving in the army may be deployed elsewhere without their consent by national ordinance only.

#### **Article 111**

In the event of exceptional circumstances, it may be laid down by national decree that reserve conscripts residing in Sint Maarten will be kept in or called up for actual service. In that case a

draft national ordinance will be introduced to Parliament without delay in order to regulate the retaining of conscripts in actual service as far as necessary.

#### **Article 112**

1. The cases in which a state of emergency, as defined by national ordinance, may be declared by national decree in order to maintain internal or external security and public order shall be specified by national ordinance; the consequences of such a declaration shall be governed by national ordinance.
2. Such a declaration may depart from the provisions of Articles 2(1), in the event of decess as a result of lawful acts of war, 7(1), to the extent that this concerns the requirement of special written authorisation from a court, 7(2), 8 and 9, to the extent that this concerns the exercise of the rights described in this Article outside buildings and enclosed spaces, and 10, 12, 13, 14(1), and 15(1).
3. Immediately after the declaration of a state of emergency and whenever it considers it necessary, until such time as the state of emergency is terminated by national decree, Parliament shall decide the duration of the state of emergency.

### **CHAPTER 7**

#### **ADMINISTRATION OF JUSTICE, DEPARTMENT OF PUBLIC PROSECUTIONS AND POLICE**

##### **§ 1. Administration of justice**

#### **Article 113**

1. By mutual arrangements rules concerning the judiciary may be laid down with one or more countries of the Kingdom. A mutual arrangement as referred to in the first sentence, is enacted by Kingdom Act as referred to in Article 38(2) of the Charter for the Kingdom. The government observes the provisions of the Constitution in this regard here.
2. All intervention in legal cases is prohibited.

#### **Article 114**

1. The courts forming part of the judiciary are:
  - a. the Court of first instance;
  - b. the Common Court of Justice of Aruba, Curaçao, Sint Maarten and of Bonaire, Sint Eustatius and Saba.
2. The jurisdiction of the Supreme Court of the Netherlands concerning legal cases in Sint Maarten is regulated by Kingdom Act.

#### **Article 115**

1. The judiciary is responsible for:
  - a. the adjudication of disputes in civil cases;
  - b. the trial of criminal offences.
2. The judiciary is also responsible for the adjudication of disputes in administrative law cases, unless special courts, in which one or more members of the Court of Justice sit, are assigned by national ordinance to hear these cases.
3. In other respects, the structure, composition and powers of the judiciary are regulated by national ordinance, unless a mutual arrangement as referred to in Article 113(1), that provides for this has been realised.

#### **Article 116**

1. The members and deputy members of the judiciary responsible for the administration of justice shall be appointed for life by Royal Decree.

---

*This is an English translation of the Dutch source text.*

*In the event of any discrepancy between the Dutch language version and the translation, and in case of any disputes, the Dutch version prevails. No rights can be derived from the English translation.*

*October 2013*

2. The members and deputy members of the judiciary responsible for the administration of justice shall be dismissed by Royal Decree at their own request or on reaching an age to be laid down by national ordinance, unless a mutual arrangement within the meaning of Article 113(1), that provides for this has been realised.
3. In the cases laid down by national ordinance, they may be suspended or dismissed by a court designated by national ordinance that is part of the judiciary, unless a mutual arrangement as referred to in Article 113(1), that provides for this has been realised.
4. Their legal status shall be regulated by national ordinance, unless a mutual arrangement as referred to in Article 113(1), that provides for this has been realised.

#### **Article 117**

1. With the exception of cases laid down by national ordinance, hearings shall be conducted in public, on pain of nullity. Judgments shall specify the grounds on which they are based. Decisions shall be pronounced in public.
2. For serious reasons, the examination at the hearing may take place in chambers, partially or in full. The procès-verbal of the hearing shall state the reasons for this.

#### **Article 118**

Pardons shall be granted by national decree after obtaining the recommendation of the court that pronounced the judgement, in observance of regulations to be laid down by or pursuant to a national ordinance.

#### **Article 119**

1. The court is competent to assess the compatibility of legal regulations in effect as referred to in Article 81(g), with the exception of uniform national ordinances, Article 81(h), 81(i) and 81(j), with the Constitution. Assessment by the court of a legal regulation, as referred to in the first sentence, in relation to the Constitution is omitted if a sufficient interest is lacking or the content of the provision of the Constitution does not lend itself to assessment. Equally, the court cannot assess the realisation of legal regulations in effect, as referred to in the first sentence, in terms of the Constitution.
2. The court can declare a legal regulation in effect as referred to in the first sentence, to be partially or fully inapplicable. The court may rule here that the consequences of the legal regulation declared partially or fully inapplicable shall remain in effect, partially or in full.

### **§ 2. Department of Public Prosecutions**

#### **Article 120**

1. There shall be a Department of Public Prosecutions.
2. The Department of Public Prosecutions consists of:
  - a. the Attorney-General's office;
  - b. the public prosecutor's offices at the court of first instance.
3. The Department of Public Prosecutions is headed by the Attorney-General.
4. Rules on the Department of Public Prosecutions may be imposed by mutual arrangement with one or more countries of the Kingdom. A mutual arrangement as referred to in the first sentence, is enacted by Kingdom Act as referred to in Article 38(2) of the Charter for the Kingdom. The government observes the provisions of the Constitution in this regard here.

#### **Article 121**

1. The Attorney-General is in charge of the Attorney-General's office.
2. The Department of Public Prosecutions at the court of first instance is led by a chief public prosecutor who is appointed as the head of the Attorney-General's Office at the Court of first instance. The chief public prosecutors are subordinate in official rank to the Attorney-General.

---

*This is an English translation of the Dutch source text.*

*In the event of any discrepancy between the Dutch language version and the translation, and in case of any disputes, the Dutch version prevails. No rights can be derived from the English translation.*

October 2013

## **Article 122**

1. The Department of Public Prosecutions is responsible for the enforcement of the rule of criminal law and for other tasks assigned by national ordinance.
2. In particular, the Department of Public Prosecutions is responsible for:
  - a. enforcement of legal regulations;
  - b. detection and prosecution of criminal offences;
  - c. provision for the execution of court orders and administrative decisions in criminal cases;
  - d. supervision of compliance with court decisions in disciplinary cases.
3. The tasks and powers of the Department of Public Prosecutions shall be executed by the members of the Department of Public Prosecutions, in the manner laid down by national ordinance.
4. In other respects, the structure, composition and powers of the Department of Public Prosecutions shall be regulated by national ordinance, unless a mutual arrangement as referred to in Article 120(4), that provides for this has been realised.

## **Article 123**

1. Prosecution of a minister or Member of Parliament for committing a criminal offence shall take place by the Attorney-General or another member of the Department of Public Prosecutions designated by the Attorney-General, following an order of the Common Court of Justice of Aruba, Curaçao and Sint Maarten and of Bonaire, Sint Eustatius and Saba, in response to a requisition the Attorney-General.
2. By national ordinance the procedure shall be regulated. Parliament may not approve such a draft national ordinance or propose it for approval without a majority of at least two thirds of the votes cast by the serving members.

## **§ 3. Police**

## **Article 124**

1. There shall be a police force.
2. Rules concerning the police may be imposed by mutual arrangements with one or more countries in the Kingdom. A mutual arrangement as referred to in the first sentence of shall be enacted by Kingdom Act as referred to in Article 38(2) of the Charter for the Kingdom. The government shall observe the provisions of the Constitution in this regard here.

## **Article 125**

1. The task of the police is providing for the actual enforcement of the legal order and to provide assistance to those in need of this, in subordination to the competent authority and in accordance with the applicable legislation.
2. In other respects, the structure, composition and powers of the police force shall be regulated by or pursuant to national ordinance, unless a mutual arrangement as referred to in Article 124(2), that provides for this has been realised.

## **Article 126**

A police officer appointed to execute the tasks of the police is authorised to use force against persons and goods in the lawful performance of his duties if the envisaged objective justifies this, partly in view of the risks involved in the use of force, and that objective cannot be attained in any other way. As far as possible, the use of force shall be preceded by a warning. By or pursuant to a national ordinance further rules on the use of force shall be laid down, unless a mutual arrangement as referred to in Article 124(2), that provides for this has been realised.

## **CHAPTER 8**



## Constitutional Court

### Article 127

1. There shall be a Constitutional Court.
2. The task of the Court is to assess the compatibility of a legal regulation that has been ratified but has not taken effect as referred to in Article 81(g), with the exception of uniform national ordinances, 81(h), 81(i) and 81(j), with the Constitution. Assessment shall not take place if the provision of the Constitution does not lend itself for assessment.
3. Legal proceedings may be instituted only through a written request from the Ombudsman on the grounds of incompatibility with the Constitution, filed within six weeks of the ratification of the legal regulation, referred to in paragraph 2, except in the case of an urgent interest. In the event of an urgent interest, the Ombudsman is not admissible. By or pursuant to national ordinance further rules shall be laid down on urgent interests. Parliament may not approve such a draft national ordinance, or resolve to propose it for endorsement, without a majority of at least two thirds of the votes cast by the serving members.
4. A legal regulation, referred to in paragraph 2 shall not take effect until at least six weeks after its ratification, unless there is an urgent interest, as referred to in paragraph 3. If the Ombudsman has instituted proceedings within this term, the regulation shall not come into force until two weeks after the decision of the Court.
5. If the Court finds that a legal regulation, referred to in paragraph 2 is not consistent with the Constitution, it may overturn the legal regulation. As a result, the legal regulation shall not take effect.
6. By national ordinance other tasks may be assigned to the Court.

### Article 128

1. The Constitutional Court shall consist of three members, including a president and a vice president, and three deputy members.
2. The members and deputy members of the Court shall be appointed by national decree for a term of ten years. They may be re-elected once only. One member and one deputy member shall be appointed on the nomination of the Council of State of the Kingdom, from among its members. One member and one deputy member shall be appointed on the nomination of the Common Court of Justice of Aruba, Curaçao and Sint Maarten and of Bonaire, Sint Eustatius and Saba, from among its members. One member and one deputy member shall be appointed following consultation of the Constitutional Court.
3. The appointment requirements for members and deputy members shall be enacted by or pursuant to national ordinance. Parliament may not approve such a draft national ordinance or resolve to propose it for endorsement without a majority of at least two thirds of the votes cast by the serving members.
4. The nominations referred to in paragraph 2 shall contain the names of two persons where possible.
5. The president and vice president of the Constitutional Court shall be appointed by national decree from among members of the Constitutional Court, on nominations by the Court.
6. Suspension or dismissal as a member of the Council of State of the Kingdom or as a member of the Common Court of Justice of Aruba, Curaçao and Sint Maarten and of Bonaire, Sint Eustatius and Saba entails suspension or dismissal as a member or deputy member of the Constitutional Court, by law.
7. Members or deputy members of the Constitutional Hof shall be dismissed by national decree, at their own request or on reaching an age to be laid down by national ordinance. In cases laid down by national ordinance, they may be dismissed by the Common Court of Justice of Aruba, Curaçao and Sint Maarten and of Bonaire, Sint Eustatius and Saba, in chambers, on the application of the Attorney-General. Parliament may not approve a draft national ordinance as referred to in the first and second sentence, or resolve to propose it for endorsement, without a majority of at least two thirds of the votes cast by the serving members.
8. The composition, structure, working methods and realisation of decisions of the Constitutional Court, as well as the legal status of the members, deputy members and the

---

*This is an English translation of the Dutch source text.*

*In the event of any discrepancy between the Dutch language version and the translation, and in case of any disputes, the Dutch version prevails. No rights can be derived from the English translation.*

*October 2013*

clerk of the Court shall be laid down by national ordinance. Parliament may not approve such a draft national ordinance or resolve to propose it for endorsement without a majority of at least two thirds of the votes cast by the serving members.

## **CHAPTER 9**

### **FINAL PROVISIONS**

#### **Article 129**

1. Alterations may be made in the provisions of this Constitution by national ordinance. Every draft national ordinance to alter the Constitution shall explicitly refer to the relevant alteration.
2. Parliament may not approve a draft national ordinance or resolve to propose it for endorsement without a majority of at least two thirds of the votes cast by the serving members.
3. A national ordinance to alter the Constitution with regard to:
  - a. the Articles concerning fundamental rights;
  - b. the provisions concerning the powers of the Governor;
  - c. the Articles concerning the powers of Parliament;
  - d. the Articles concerning the administration of justice, shall be submitted to the government of the Kingdom. They shall not take effect until the government of the Kingdom has expressed its consent to this.
4. A draft national ordinance concerning the provisions referred to in paragraph 3 shall not be presented to Parliament, nor shall it be submitted for ratification by Parliament until the views of the government of the Kingdom have been obtained.

#### **Article 130**

This national ordinance shall be referred to as 'the Constitution'.

#### **Article 131**

This national ordinance shall take effect from the date on which Articles I and II of the Kingdom Act altering the Charter for the Kingdom in connection with the dissolution of the Netherlands Antilles take effect.

### **ADDITIONAL ARTICLES**

#### **Article I**

1. The national ordinances, national decrees, containing general measures, and other decrees of a regulatory nature of the Netherlands Antilles that are in effect on the date when this Constitution takes effect, as well as island ordinances and island decrees, containing general measures, of the island territory of Sint Maarten shall remain in effect until they are altered or repealed, in observance of the Constitution.
2. By national ordinance provisions shall be made concerning the further application of the regulations, referred to in the first paragraph as regulations of Sint Maarten, and concerning the preservation of public administrative bodies existing at that time in Sint Maarten.

#### **Article II**

The national ordinances that are elevated to national ordinances of Sint Maarten in the Kingdom Act altering the Charter for the Kingdom in connection with the dissolution of the Netherlands Antilles shall take effect from the date on which Articles I and II of the Kingdom Act altering the Charter for the Kingdom in connection with the dissolution of the Netherlands Antilles take effect. They shall be recorded in the Official Publication as soon as possible, in the sequence arising from this Constitution.

---

*This is an English translation of the Dutch source text.*

*In the event of any discrepancy between the Dutch language version and the translation, and in case of any disputes, the Dutch version prevails. No rights can be derived from the English translation.*

*October 2013*

### **Article III**

1. The members of the Island Council in office on the date on which this Constitution takes effect shall be assigned the capacity of Members of Parliament from that date.
2. If Parliament consists of eleven Members of Parliament on the date on which this Constitution takes effect, Parliament shall be dissolved in accordance with Article 59(2) and elections shall be held. The dissolution takes effect on the date on which the newly elected Parliament convenes.
3. In the period between the date on which this Constitution takes effect and the date on which a Parliament consisting of fifteen members is sworn in, no draft national ordinances as referred to in Article 31(1) or Article 129 shall be approved or submitted for ratification.

### **Article IV**

1. In response to a government proposal, Parliament may resolve to process a draft national ordinance that was presented to the Parliament of the Netherlands Antilles by the government of the Netherlands Antilles before the date on which this Constitution took effect. It shall take over the processing of the relevant draft in the status of that processing at the aforementioned time.
2. Parliament may resolve to process a draft national ordinance that was presented to the Parliament of the Netherlands Antilles by a member of that Parliament before the date on which this Constitution took effect. It shall take over the processing of the relevant draft in the status of that processing at the aforementioned time.
3. This Article shall lapse one year after this Constitution takes effect.

### **Article V**

1. The first appointment of the members and deputy members of the Constitutional Court as referred to in Article 128 shall take place by the Island Council on the nomination of the Administrative Board of the Sint Maarten Island Region.
2. The first appointment of the clerk of the Constitutional Court, referred to in Article 15 of the draft national ordinance on the Constitutional Court shall take place by the Administrative Board of the Sint Maarten Island Region.

### **Article VI**

The government shall be granted authorisation to adjust the numbering of the references to the Criminal Code in Article 36(1), and Article 50(1), in connection with the draft national ordinance concerning the establishment of a new Criminal Code currently before the Parliament of the Netherlands Antilles. The text shall be presented to Parliament in advance.

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