

**TRANSLATION OF THE OFFICIAL PUBLICATION OF SINT MAARTEN (AB 2010, GT no. 17)**

**National ordinance Council of Advice<sup>1</sup>**

**Chapter 1. Structure and composition**

**Article 1**

1. The Council of Advice, hereinafter referred to as 'the Council', consists of five members, including a vice chairman and, at most, five associate members.
2. The Governor may chair the Council as often as he considers this necessary. He has an advisory vote.

**Article 2**

Members and associate members of the Council shall be appointed, suspended and dismissed by national decree. They shall be appointed for a term of seven years and may be reappointed immediately.

**Article 3**

The Council shall be heard with regard to the appointment of the vice chairman; the Council shall issue recommendations for the appointment of the other members.

**Article 4**

1. In order to qualify for appointment as a member of the Council, a person must be resident of Sint Maarten.
2. In order to qualify for appointment as an associate member of the Council, a person must hold Dutch nationality.

**Article 5**

1. Spouses and relations by blood or affinity to the second degree may not serve simultaneously as members or associate members of the Council.
2. If a marriage is not entered into until after the appointment, the youngest spouse shall resign his office.
3. In the event of forthcoming kinship following an appointment, a person whose marriage gives rise to the kinship shall resign his appointment.
4. Kinship ceases to exist through the dissolution or nullification of the marriage that gave rise to it.

**Article 6**

1. Members and associate members of the Council shall be suspended by national decree on the proposal of the Council, stating the reasons:
  - a. if they are held in pre-trial detention;
  - b. if a preliminary court investigation is opened against them in relation to a criminal offence;
  - c. if they are convicted of a criminal offence in a court decision that has not become final, or if measures are imposed on them by such a decision, leading to the deprivation of their liberty;
  - d. if they are placed in receivership, are declared bankrupt, are granted a moratorium on payments or are detained due to debts by a court decision that has not become final.
2. The members and associate members of the Council may be suspended by national decree, stating reasons, on the proposal of the Council, if there are other serious suspicions of the existence of facts or circumstances that could lead to dismissal, other than in the cases as referred to in Article 7(1)(a), 7(1)(b) and Article 9(2).
3. Positions of which the performance is undesirable in the interests of good performance of the office or the maintenance of impartiality and independence, or of confidence therein, are incompatible with the office of member of the Council of Advice.

**Article 7**

1. Members and associate members of the Council shall be dismissed by national decree, stating the reasons:

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

- a. at their own request;
  - b. on reaching the age of 70;
  - c. if they are convicted of a criminal offence by a court decision that has become final, or if a measure resulting in the deprivation of their liberty is imposed by such a decision;
  - d. if they are placed in receivership, declared bankrupt, are granted a moratorium on payments or are committed in relation to debt by a final court decision;
  - e. if they become permanently unable to perform their official duties due to illness or a disorder;
  - f. on acceptance of an office or position that is incompatible with membership of the Council pursuant to Article 6;
  - g. on the loss of domicile.
2. Members and associate members of the Electoral Council may be dismissed by national decree, stating the reasons, if they are unable to perform their official duties properly due to persistent illness or geriatric complaints.

### **Article 8**

If there is an intention to suspend or dismiss a member or associate member of the Council, other than in the cases as referred to in Article 7(sub-paragraph a) and (sub-paragraph b), the person concerned shall be given an opportunity to present his view on this.

### **Article 9**

The financial provisions for members and associate members of the Council shall be regulated by national decree, containing general measures.

### **Article 10**

If the vice-chairman is unable to attend or is absent, he shall be replaced by the longest-serving member present, in terms of order of appointment.

### **Article 11**

1. A secretariat shall be attached to the Council, headed by the secretary of the Council of Advice.
2. The secretary of the Council shall hold a relevant university degree.
3. The staff of the secretariat shall be appointed by national decree, on the nomination of the Council, and shall, the Council having been heard, be suspended and dismissed by national decree.
4. The employment conditions of the secretary of the Council and the staff of the secretariat shall be regulated by or pursuant to national ordinance.

### **Article 12**

Before accepting their appointment, staff of the secretariat shall take the following oath of office (declaration or pledge) before the Governor:

‘I swear (declare) that I have not given or promised anything of any description or under any pretext whatsoever, to any person whatsoever, directly or indirectly, in order to be appointed to my position. I swear (pledge) 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, that I shall always uphold and enforce the Constitution of Sint Maarten and shall represent my office in good faith, with all due diligence, honesty and impartiality.  
So help me God Almighty.’  
(‘This I declare and pledge’)!’

### **Article 12a**

The structure and organisation of the secretariat of the Council shall be enacted by national decree, containing general measures.

## **Chapter 2. Tasks, powers and working method**

### **Article 13**

The Council shall be consulted regarding:

- a. all draft national ordinances and national decrees containing, general measures;

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- b. proposals for approval as referred to in Article 24(2) of the Charter for the Kingdom of the Netherlands, of treaties affecting Sint Maarten;
- c. draft Kingdom Acts and Orders in Council for the Kingdom.

#### **Article 14**

1. The Council of Advice is authorised to issue advice to Parliament on request, if it considers this necessary in the interest of the country or the Kingdom.
2. The Council of Advice is authorised to issue advice to the government or Parliament at its own initiative if it considers this necessary in the interests of the country or the Kingdom.

#### **Article 15**

1. The ministers shall provide the information to the Council that the Council regards as necessary in connection with the matters to be considered.
2. The Council is authorised to call on experts to provide the Council with advice and information.

#### **Article 16**

The Council shall consult with the relevant minister if the Council or the minister so require.

#### **Article 17**

1. The presence of at least three members or associate members is required for the adoption of an advisory report or for the Council to issue an order.
2. The advisory report shall be adopted or the order shall be carried by a majority of votes.
3. If votes are tied, the vice chairman of the meeting has the casting vote. That circumstance shall be recorded in the advisory report.

#### **Article 18**

1. The Council shall state the reasons for its recommendations.
2. Parties that have expressed an opinion at the meeting that differs from that of the majority, may reserve the power to issue a separate advisory report, which will be attached to the advisory report of the Council.

#### **Article 19**

The vice chairman of the Council may assign the handling of simple matters to a single section, consisting of a member that he appoints. This member is authorised to refer the case back to the meeting at all times if, in his view, the interests of the case call for this.

#### **Article 20**

The Council shall be notified of orders issued in cases on which the Council has issued advice.

#### **Article 21**

Members and associate members of the Council shall refrain from voting in cases that personally concern them, their spouses or their relations by blood or affinity to the second degree and if they are involved in the case as authorised representatives. Further, they shall not take part of the work of the Council in that case.

#### **Article 22**

Members and associate members of the Council may not be prosecuted in law, nor may a legal claim be instituted against them for what they have said in Council or have submitted to the Council in writing.

#### **Article 23**

Members and associate members of the Council shall preserve confidentiality.

#### **Article 24**

The Council shall draw up rules of order. These rules shall be announced in the Official Publication.

#### **Article 25**

1. The work of associate members of the Council shall comprise the issue of preliminary advice to the Council and alternating for members.

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2. Associate members of the Council shall attend the meetings of the Council held while they are serving as an alternate member.
3. The member for Sint Maarten of the Council of State of the Kingdom is an associate member of the Council and may attend the meetings of the Council.

### **Chapter 3. Management**

#### **Article 26**

1. By agreement with the Council and the relevant minister, Parliament shall provide the Council with all facilities for proper and independent performance of its tasks.
2. The vice chairman shall manage the budget.

### **Chapter 4. Final and transitional provisions**

#### **Article 27**

The first appointment of members and associate members and of the secretary and staff of the Council of Advice shall take place in accordance with the provisions of Article 2 of the Island Ordinance regarding the enactment of the draft national ordinance Council of Advice (National ordinance Council of Advice).

#### **Article 28**

This national ordinance shall be referred to as the National ordinance Council of Advice.

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