CONSTITUTION
OF
COUNTRY
SINT MAARTEN
CONSTITUTION OF THE COUNTRY OF SINT MAARTEN

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1. Territory and entity

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CONSTITUTION OF THE COUNTRY OF SINT MAARTEN

PREAMBLE

WE, THE PEOPLE OF SINT MAARTEN

CONFIRMING that we recognise the guiding principles of Almighty God as the core of our values;

INSPIRED by the exercise of our universal right to self-determination as manifested in the referendum dated 23 June 2000, when we freely opted for the status of Country within the Kingdom of the Netherlands;

BEING DETERMINED to work with each other, 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 coexistence, and international solidarity;

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

BEING DETERMINED to care for the perpetual maintenance of nature and the environment;

DECLARE that we wish to create a constitutional order based on an open and approachable government;

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

CHAPTER 1

TERRITORY AND ENTITY

Article 1
1. The territory of Sint Maarten comprises that part of the island of Sint Maarten which is part of the Kingdom of the Netherlands, with the marine areas pertaining thereto.
2. The official languages are Dutch and English.
3. The flag, the coat of arms, and the national anthem of Sint Maarten shall be established by national ordinance.
CHAPTER 2

FUNDAMENTAL RIGHTS

§ 1. Freedoms

Article 2
1. Every person has a right to life. This right is protected by national ordinance. No one shall be deprived of life arbitrarily.
2. A sentence of death may not be imposed.

Article 3
No one may be subjected to torture or to cruel, inhuman or humiliating treatment or punishment.

Article 4
1. No one may be held in slavery or servitude.
2. No one may undertake hard labour or forced labour, otherwise than in the form of community service.
3. Trafficking of people is prohibited.

Article 5
1. Everyone shall have the right to respect for his personal privacy, subject to such restrictions as may be imposed under or by virtue of national ordinances.
2. Rules shall be imposed under or by virtue of national ordinances to protect personal privacy in connection with the recording and dissemination of personal information. Such information must be processed fairly, for specified purposes and with the permission of the person to whom it relates, or else on some other justified basis provided for by national ordinance.
3. Rules shall be imposed under or by virtue of national ordinances in connection with claims by individuals for disclosure of the information recorded in relation to them and the use made thereof, as well as for the correction of such information.

Article 6
Everyone shall have the right to inviolability of his person, subject to such restrictions as may be imposed under or by virtue of national ordinances.

Article 7
1. Entry into a home without the permission of the occupant shall only be authorised in such cases as are specified by national ordinance and by those designated for that purpose by national ordinance.
2. Prior identification and notice of the purpose of entry is required in order to enter a home in terms of paragraph 1, subject to the exceptions prescribed by national ordinance.
3. A written report of the entry shall be issued to the occupant within 48 hours after the entry. If the entry was effected in the interests of national security or criminal proceedings, the issue of the report may be deferred in terms of rules to be set out by national ordinance. A report need not be issued in cases, specified in terms of national ordinance, if the interests of national security would never be served by issuing the report.
Article 8
1. The confidentiality of correspondence shall not be violated except in the cases specified under national ordinance, by or with the authority of the courts.
2. The confidentiality of the telephone shall not be violated except in the cases specified under national ordinance, by or with the authority of those appointed by national ordinance for that purpose.

Article 9
1. Everyone is entitled to profess freely his religion or belief, either individually or in community with others, subject to his responsibility under national ordinance.
2. Restrictions may be imposed by national ordinance on the exercise of this right outside of buildings and enclosed spaces in order to protect health, in the interests of traffic and to combat or prevent disorder.

Article 10
1. Everyone shall have the right to publish thoughts or opinions or provide information via the printed press, without prior permission, subject to their responsibility in terms of national ordinance.
2. National ordinances may render radio and television broadcast subject to licences in the interest of responsible use of the air waves and in the interest of multiform broadcasting. There shall be no prior supervision of the content of a radio or television broadcast.
3. No one requires prior permission, in relation to content, for the publication of thoughts or opinions or for the provision of information by means other than those specified in the preceding paragraphs, subject to their responsibility in terms of national ordinance. Regulations under or by virtue of national ordinance may be imposed in relation to the holding of performances accessible to persons younger than sixteen years of age, in order to protect good morals.
4. The preceding paragraphs do not apply to commercial advertising.
5. No one requires prior permission to collect and receive information, subject to his responsibility in terms of national ordinance. National ordinance may restrict the right to collect information.

Article 11
1. The provision of education is free, subject to the supervision of the government in terms of national ordinance. Rules may be imposed under or by virtue of national ordinance to protect health and, in relation to types of education to be designated by national ordinance, in relation to the competence and moral integrity of those providing the education.
2. Every child is entitled to obtain a general and formative primary education.
3. Public education shall be regulated with due respect for everyone’s religion or belief. National ordinance shall ensure that adequate opportunities are provided for receiving public primary education and that sufficient facilities for the other types of public education are provided for by national ordinance.
4. Insofar as these comply with conditions imposed under or by virtue of national ordinance, special primary education and other types of special education designated by national ordinance shall be funded from public resources in accordance with the same standards as the corresponding public education.
5. The conditions mentioned in the preceding paragraph respect the freedom of direction, including in particular the selection of teaching resources and the appointment of those providing the education. They shall be regulated, subject to observance of the freedom of direction, in such a way as to safeguard the reliable quality of both the special education and the public education.
Article 12
The right of association is recognised. This right may be restricted under national ordinance in the interest of public order.

Article 13
1. The right to assemble and demonstrate is acknowledged, subject to everyone’s responsibility in terms of national ordinance.
2. This right may be restricted by national ordinance in order to protect health, in the interest of traffic and to combat or prevent disorder.

Article 14
1. Everyone lawfully in Sint Maarten is entitled to move freely there, to reside there and to choose his residence, subject to such restrictions as may be imposed under or by virtue of national ordinance.
2. Everyone is entitled to leave the country, except in such circumstances as are determined under national ordinance.

Article 15
1. Everyone is entitled to undisturbed enjoyment of his property, subject to such restrictions as may be imposed under or by virtue of national ordinance in the public interest.
2. No one may have his property expropriated unless and until it has been confirmed under national ordinance that the expropriation serves the public interest, and in exchange for previously enjoyed or previously assured compensation, all this being in terms of conditions to be imposed under or by virtue of national ordinance.
3. The requirement imposed in the preceding paragraph, for prior confirmation under national ordinance that the expropriation is required in the public interest, shall not arise if the expropriation is required immediately in emergency circumstances, nor shall the compensation be required to be enjoyed or assured in advance.
4. In circumstances determined under national ordinance, there shall be a right to compensation or a contribution for the loss if the competent authority, in the public interest, nullifies ownership or renders it unusable or imposes restrictions on the exercise of the rights of ownership.

§ 2. Equality

Article 16
Everyone in Sint Maarten shall be treated equally in equivalent circumstances. Discrimination on grounds of religion, belief, political persuasion, race, colour of skin, sex, language, national or social origins, membership of a national minority, wealth, birth or and any other ground whatsoever is prohibited.

Article 17
All Dutch nationals may be appointed to public service on an equal footing.

§ 3. Solidarity

Article 18
1. It shall be the constant concern of the government to focus on the protection of children and young people and to promote their right to education, welfare, cultural development, and leisure activities.
2. It shall be the constant concern of the government to focus on the protection of older people and people whose capacities are limited, and to promote their health and welfare.

**Article 19**

1. The security of the population’s continuing existence and the distribution of welfare shall be the constant concern of the government.
2. Rules shall be imposed under or by virtue of national ordinance regarding claims for social security.
3. Dutch nationals residing in Sint Maarten who are unable to provide for their own subsistence are entitled to government aid on such conditions and restrictions as may be imposed under national ordinance.

**Article 20**

1. The provision of adequate employment shall be a matter of constant concern for the government.
2. Rules shall be imposed under or by virtue of national ordinance relating to the legal position of employees and their protection as such, as well as relating to employee organisations.
3. The right of every Dutch national to a free choice of employment is recognised, subject to restrictions imposed under or by virtue of national ordinance.

**Article 21**

1. The government shall take steps to promote public health.
2. The provision of adequate residential accommodation shall be a matter of constant concern for the government.
3. The government shall set out conditions for social and cultural development and recreational activities, as well as for the preservation of the cultural heritage.

**Article 22**

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

§ 4. *Citizenship*

**Article 23**

Every Dutch national residing in Sint Maarten has an equal right to elect the members of the general representative bodies and to be elected as a member of such bodies, subject to such exceptions as may be imposed under national ordinance.

**Article 24**

1. Everyone is entitled to submit written petitions to the competent authorities.
2. Persons who are unable to write may submit petitions with the assistance of others who are declared under national ordinance to be authorised to provide such assistance.
3. The competent authorities are obliged to respond to petitions within such time limits as may be set under national ordinance. Petitions to the Parliament shall be answered by the Parliament within such time limit as may be imposed in terms of the Parliament’s rules of order.

**Article 25**

The admission and extradition of aliens shall be regulated under or by virtue of national ordinance.
§ 5. Administration of justice

Article 26
Everyone shall be entitled to a fair and public disposal of his case in establishing his civil rights and obligations and during prosecutions for criminal offences, within a reasonable time limit and by an independent and impartial judicial body. The public nature of the disposal may be restricted under national ordinance.

Article 27
1. Every person has a right to personal freedom. No one may be deprived of his liberty except in terms of statutory regulations as defined in Articles 81.f and 81.g, in cases of:
   a. lawful detention following conviction by a competent court;
   b. lawful arrest or detention as a result of refusal to observe an order issued by a court in accordance with a statutory provision, or an order to ensure compliance with an explicit obligation prescribed by statutory regulations;
   c. lawful arrest or detention in order to be brought before the competent judicial body if there are reasonable grounds for suspicion that he has committed a criminal offence or if it is reasonably necessary to prevent him from committing a criminal offence or from absconding after having committed a criminal offence;
   d. lawful detention of a minor, with the intention of intervening in his upbringing or in the event of his lawful detention in order to bring him before a competent authority;
   e. lawful custody of persons, who have been deprived of their liberty by law, who might spread an infectious disease, of the mentally incapacitated, and of those addicted to alcohol or drugs;
   f. lawful detention of persons in order to prevent them from entering the country illegally or extending their residence illegally;
   g. lawful arrest or detention of persons if deportation or extradition proceedings are pending against them.
2. Any person who is arrested or detained in accordance with the provisions of paragraph 1.c of this article must be brought before a court immediately and is entitled to be judged within a reasonable period or be liberated pending completion of the procedure.
3. Any person who is deprived of his liberty is entitled:
   a. to apply for a decision from the court so that the latter should decide within a brief period on the lawfulness of the deprivation of his liberty and order his liberation if the deprivation of liberty was unlawful;
   b. to be informed immediately, in a language he understands, of the nature and reasons for the deprivation of his liberty, of his right to refrain from answering questions and of his entitlement to be assisted by a lawyer.
4. Any person who has been the victim of deprivation of liberty contrary to the provisions in this article is entitled to compensation.
5. Any person who has been deprived of his liberty may have the exercise of his fundamental rights restricted in so far as exercising those rights is incompatible with the deprivation of liberty.

Article 28
1. No offence shall be punishable unless it was an offence under criminal legislation at the time of its commission.
2. Any person prosecuted for a criminal offence is innocent until his guilt is proven in accordance with national ordinance.
3. No one may be prosecuted or punished a second time for a criminal offence for which he has already received an irrevocable verdict from the courts.
4. Any person prosecuted for a criminal offence has the following specific rights:
a. to be informed immediately, in detail and in a language he understands, of the nature and reasons for the charges brought against him, of his right to refrain from answering questions and of his entitlement to be assisted by a lawyer;
b. to be assisted, free of charge, by an interpreter if he does not understand or does not speak the language used at the court hearing;
c. to have adequate time and facilities to prepare his defence;
d. to conduct his own defence;
e. to interview prosecution witnesses or arrange for this to be done and to arrange for the citation and interview of defence witnesses on the same conditions as apply to prosecution witnesses.

Article 29
1. Any person may arrange representation for himself at law or on administrative appeal.
2. Rules shall be promulgated under national ordinance regarding the provision of legal aid to those of reduced means.

Article 30
1. All persons who are deprived of their liberty shall be treated humanely and with respect for the dignity inherent to human beings.
2. Suspects shall be held separately from convicted individuals, unless in exceptional circumstances, and are entitled to claim distinctive treatment in accordance with their status as unconvicted individuals.
3. Suspected youths shall be held separately from adults and brought before the courts as rapidly as possible.
4. The prison system shall provide for treatment of inmates focusing primarily on re-education and rehabilitation. Imprisoned youths shall be held separately from adults and shall be treated in accordance with their age and legal status.

§ 6. Limitations of fundamental rights

Article 31
1. Any restriction of the fundamental rights as specified 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 described as specifically as possible.
2. The Parliament may not approve a draft of a national ordinance containing restrictions of fundamental rights as specified in paragraph 1 of this article, and may not decide upon a reading of such a draft, otherwise than by an absolute majority of the votes of the sitting members.

CHAPTER 3
THE GOVERNMENT AND THE MINISTER PLENIPOTENTIARY

§ 1. The government

Article 32
1. The government is formed by the King and the ministers.
2. The King is represented by the Governor.
3. The ministers are answerable to the Parliament.
**Article 33**
1. The Prime Minister and other ministers shall be appointed and dismissed by national ordinance.
2. If a minister no longer enjoys the confidence of the Parliament, he shall surrender his office.
3. More detailed rules concerning paragraph 2 of this article may be imposed under national ordinance.
4. The Parliament may not approve such a draft national ordinance and may not decide upon a reading of such a draft except with the approval of two thirds of the votes of the sitting members.

**Article 34**
1. Dutch nationality is a prerequisite of eligibility for appointment as a minister, and candidates may not be excluded from the right to vote.
2. A minister cannot at the same time be:
   a. Governor;
   b. Deputy Governor;
   c. a member of Parliament;
   d. a member of the Council of Advice;
   e. a member of the General Audit Chamber;
   f. Ombudsman;
   g. Minister Plenipotentiary;
   h. a civil servant in active service;
   i. a member of the judiciary;
   j. Procurator General or Advocate General at the Common Court of Justice of Aruba, Curaçao, Sint Maarten and Bonaire, Sint Eustatius, and Saba.
3. Provisions may be imposed under national ordinance in relation to other public appointments, specifying that they may not be exercised at the same time as the office of minister. The Parliament may not approve such a draft national ordinance and may not decide upon a reading of such a draft except with the approval of two thirds of the votes of the sitting members.
4. Notwithstanding the provisions in paragraph 2.c, a minister who has been elected as a member of the Parliament may combine the office of minister and membership of the Parliament for a maximum of three months after his admission as a member.
5. For the purposes of this article, those employed by the government in terms of an employment contract under civil law are equivalent to "civil servants" as specified in paragraph 2.h.

**Article 35**
1. The ministers shall refrain from debating and voting on issues or appointments, including suspensions and dismissals, that personally affect them, their spouses, and their relations by blood or marriage up to and including the second degree, or in which they are involved as proxies.
2. The ministers may not fulfil any position if it is associated with any remuneration or benefit charged to the national budget.
3. The ministers may not, either directly or indirectly, possess holdings in or be a director or supervisory director of any enterprise established or operating in Sint Maarten. Holding shares in a public limited company is not regarded as possessing a holding in an enterprise unless the party concerned holds 25% of the shares in conjunction with his relations by blood or marriage up to and including the second degree.
4. The ministers may not participate in any concession in the Country either directly or indirectly.
Article 36
1. A minister who has been sentenced in terms of an irrevocable judicial verdict to:
   a. a term of imprisonment of not less than one year for the commission of an offence for which a national ordinance specifies that the court may also withdraw the right to vote as an ancillary punishment;
   b. a term of imprisonment for the commission of an offence as described in Articles 183, 184, 372(2), 372(5), 373, 374(2), 374(3), 374(4), 375 to 379 inclusive, or 381 to 393 inclusive of the Penal Code; or
   c. a term of imprisonment for the commission of an offence in connection with Article 46 of the Penal Code, shall be dismissed by operation of law from the office of minister and may not be reappointed as a minister or be re-elected for the duration of the session of the Parliament.
2. A minister is suspended by operation of law:
   a. if he is held in pre-trial detention in connection with an offence as described in paragraphs 1.a, 1.b or 1.c of this article;
   b. if he has been sentenced by judicial verdict to a term of imprisonment for the commission of an offence as specified in paragraphs 1.a, 1.b or 1.c of this article.
3. A minister who has been relieved of his position in accordance with paragraph 1 of this article shall be replaced. A minister who has been suspended in terms of paragraph 2 of this article shall have his place taken by a deputy. The minister shall continue to receive his remuneration during the suspension. Those persons taking the place of suspended ministers or replacing discharged ministers shall resign from office at the same time as the other ministers.

Article 37
Ministers may not be related by blood in a degree closer than the second degree. Spouses may not be ministers at the same time.

Article 38
Ministries shall be established by national ordinance. They shall be headed by a minister.

Article 39
1. The ministers jointly form the Council of Ministers.
2. The Council of Ministers consists of seven ministers unless a different number is specified under a national ordinance.
3. The Prime Minister chairs the Council of Ministers.
4. The Council of Ministers shall debate and determine general government policy in order to promote the cohesion of that policy.
5. If the Governor attends a meeting of the Council of Ministers, he shall do so in an advisory capacity.
6. Rules of order shall be established in terms of a national decree. The rules of order shall be published by being placed 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 in terms of which the departing Prime Minister is dismissed and his successor is appointed shall be countersigned by the successor as Prime Minister. The national decrees in terms of which other ministers are appointed or dismissed shall be countersigned by the Prime Minister.
Article 41
The ministers shall make the following oath (declaration and promise) to the Governor before accepting their appointments:
"I swear (declare) that I have neither given nor promised anything, nor shall I give or promise anything, howsoever described and under any pretext, to anyone whomsoever, either directly or indirectly, in connection with securing my appointment as minister.
I swear (promise) that I shall not accept any promise or gift, from anyone at all, either directly or indirectly, in order to do or refrain from doing anything in the course of this appointment.
I swear (promise) allegiance to the King and the Constitution of the Kingdom, that I shall always help to uphold the Constitution of Sint Maarten and that I shall champion the interests of Sint Maarten to the best of my ability.
So help me Almighty God
(And I hereby make this declaration and promise)"

Article 42
The remuneration, pension and other relevant provisions for the ministers shall be regulated by national ordinance.

§ 2. The Minister Plenipotentiary

Article 43
1. Dutch nationality is a prerequisite of eligibility for appointment as the Minister Plenipotentiary, and candidates may not be excluded from the right to vote.
2. The Minister Plenipotentiary may not at the same time be:
   a. Governor;
   b. Deputy Governor;
   c. a member of Parliament;
   d. a member of the Council of Advice;
   e. a member of the General Audit Chamber;
   f. Ombudsman;
   g. a minister;
   h. a member of the judiciary;
   i. Procurator General or Advocate General at the Common Court of Justice of Aruba, Curaçao, Sint Maarten and Bonaire, Sint Eustatius and Saba.
3. Provisions may be imposed under national ordinance in relation to other public appointments, specifying that they may not be exercised at the same time as the office of Minister Plenipotentiary. The Parliament may not approve such a draft national ordinance and may not decide upon a reading of such a draft except with the approval of two thirds of the votes of the sitting members.
4. Notwithstanding the provisions in paragraph 1.c, a Minister Plenipotentiary who has been elected as a member of the Parliament may combine the office of Minister Plenipotentiary and membership of the Parliament for a maximum of three months after his admission as a member.
5. The foregoing paragraphs also apply to any deputy for the Minister Plenipotentiary.
6. If present in Sint Maarten, the Minister Plenipotentiary shall be afforded the opportunity to attend debates of the Council of Ministers in relation to topics that fall within his purview. He shall then have an advisory function.
7. Articles 36, 37, 41 and 42 apply, mutatis mutandis, to the Minister Plenipotentiary.
CHAPTER 4

THE PARLIAMENT

§ 1. Composition

Article 44
The Parliament represents the entire population of Sint Maarten.

Article 45
1. The Parliament shall consist of 15 members if the population of Sint Maarten amounts to 60,000 or fewer, 17 members if the population is between 60,000 and a maximum of 70,000, 19 members if the population is between 70,000 and a maximum of 80,000, and 21 members if the population exceeds 80,000.
2. Any increase or reduction in the number of members of the Parliament arising from changes in the number of residents in the country shall only take effect at the next periodical election of the Parliament.

Article 46
1. The duration of the session of the Parliament is four years.
2. The session year commences on the second Tuesday of September, or on such earlier date as may be specified by national ordinance, with an explanation by or on behalf of the Governor of the policy to be pursued by the government at a meeting of the Parliament convened for that purpose.
3. The President shall open and close the session year of the Parliament. The ordinary session year commences on the second Tuesday of September.
4. An explanation of the policy to be pursued by the government shall be provided by or on behalf of the Governor at the opening of the ordinary session year of the Parliament.

Article 47
1. The members of the Parliament shall be elected on the basis of proportional representation, within the limits to be specified by means of national ordinance.
2. The election shall be free and held by secret ballot.

Article 48
1. The members of the Parliament shall be elected directly by the inhabitants of Sint Maarten who are Dutch nationals and who have attained the age of 18 years.
2. Without prejudice to the provisions in Articles 36.1 and 50.1, those who have been sentenced by an irrevocable judicial verdict to a period of imprisonment of at least one year for the commission of one of the offences designated in terms of national ordinance shall be disqualified from voting.

Article 49
1. To be eligible for membership of the Parliament, a person must be a resident of Sint Maarten and a Dutch national, must have attained the age of 18 years and must not have been disqualified from voting.
2. A member of the Parliament is entitled to resign at any time by means of written notification addressed to the President of the Parliament.
3. Membership of the Parliament shall lapse as a result of uninterrupted residence outside the country for a period exceeding eight months.
Article 50
1. A member of the Parliament who has been sentenced in terms of an irrevocable judicial verdict to:
   a. a term of imprisonment of not less than one year for the commission of an offence for which a national ordinance specifies that the court may also withdraw the right to vote as an ancillary punishment;
   b. a term of imprisonment for the commission of an offence as described in Articles 183, 184, 372(2), 372(5), 373, 374(2), 374(3), 374(4), 375 to 379 inclusive, or 381 to 393 inclusive of the Penal Code; or
   c. a term of imprisonment for the commission of an offence in connection with Article 46 of the Penal Code, shall lose membership of the Parliament by operation of law and may not be re-elected or reappointed as a minister for the duration of the session of the Parliament.
2. A member of the Parliament shall be suspended by operation of law:
   a. if he is in pre-trial detention in connection with an offence as described in paragraphs 1.a, 1.b or 1.c of this article;
   b. if he has been sentenced by judicial verdict to a term of imprisonment for the commission of an offence as specified in paragraphs 1.a, 1.b or 1.c of this article.
3. Those persons who have lost their membership of the Parliament as specified in paragraph 1 of this article shall be replaced. A member of the Parliament who has been suspended in terms of paragraph 2 of this article shall have his place taken by a deputy. The member of the Parliament shall continue to receive remuneration during his suspension. Those deputising for or replacing a suspended member of the Parliament shall resign from office at the same time as the other members of the Parliament.

Article 51
1. The members of the Parliament cannot at the same time be:
   a. Governor;
   b. Deputy Governor;
   c. a member of the Council of Advice;
   d. a member of the General Audit Chamber;
   e. Ombudsman;
   f. a minister;
   g. Minister Plenipotentiary;
   h. a civil servant in active service;
   i. a member of the judiciary;
   j. Procurator General or Advocate General at the Common Court of Justice of Aruba, Curaçao, Sint Maarten and Bonaire, Sint Eustatius, and Saba.
2. Provisions may be imposed under national ordinance in relation to other public appointments, specifying that they may not be exercised at the same time as being a member of the Parliament.
3. The Parliament may not approve such a draft national ordinance and may not decide upon a reading of such a draft except with the approval of two thirds of the votes of the sitting members.

Article 52
1. Members of the Parliament may not be related by blood in a degree closer than the second degree. Spouses may not be members of the Parliament at the same time.
2. If persons who are covered by the provisions specified in paragraph 1 of this article are elected at the same time, only the one obtaining the largest number of votes shall be admitted, and if the number of votes is the same, the oldest of the persons shall be admitted. If the ages are also the same in the last-mentioned case, the issue shall be decided by lot.
3. A person who, following his election, finds himself in the situation described in the second sentence of paragraph 1 of this article may not be obliged to resign before the expiry of his period of appointment.

**Article 53**

1. The members of the Parliament shall abstain from voting on issues or appointments, including suspensions and dismissals, that personally affect them, their spouses, and their relations by blood or marriage up to and including the second degree, or in which they are involved as proxies.
2. Paragraph 1 of this article does not apply to decisions on the admission of members elected after the periodical demission from office.
3. The members of the Parliament may not:
   a. work as a lawyer or counsel in legal actions in which the Country is involved;
   b. cast a vote within the Parliament on the adoption or approval of the accounts and reports of a body of which they are board members;
   c. accept a contract for work for the Country, nor stand as surety for such work or participate therein directly or indirectly;
   d. participate directly or indirectly in a private lease of property or rights belonging to the Country.
4. If deemed appropriate in the interests of the Country, the Parliament may grant a waiver of the prohibitions specified in paragraph 3 of this article in specific cases.

**Article 54**

The Parliament shall investigate the credentials of newly appointed members and determine any disputes arising from the credentials or from the elections themselves, subject to rules to be specified in terms of national ordinance.

**Article 55**

1. More detailed rules shall be specified under national ordinance in relation to the right to vote and the elections.
2. Rules shall be specified under national ordinance to promote a balanced and responsible election process.

**Article 56**

The members of the Parliament shall make the following oath (declaration and promise) to the Governor before accepting their appointments:

"I swear (declare) that I have neither given nor promised anything, nor shall I give or promise anything, howsoever described and under any pretext, to anyone whomsoever, either directly or indirectly, in connection with my election as a member of the Parliament. I swear (promise) that I shall not accept any promise or gift, from anyone at all, either directly or indirectly, in order to do or refrain from doing anything in the course of this appointment.

I swear (promise) allegiance to the King and the Constitution of the Kingdom, that I shall always help to uphold the Constitution of Sint Maarten and that I shall champion the interests of Sint Maarten to the best of my ability. So help me Almighty God

(And I hereby make this declaration and promise)"

**Article 57**

1. The Parliament shall elect a President and a Deputy President from its own numbers.
2. Until such an appointment has been made, the President or Deputy President from the previous period shall act as President if he remains a member of the new Parliament or,
in the absence of such an individual, the oldest member in terms of age of the new Parliament among those members who have sat for the longest period. If there is no such person, the oldest member in terms of age shall act as President.

3. The Parliament shall appoint, suspend, and dismiss its Clerk. The Clerk may not also be a member of the Parliament.

4. The establishment and organisation of the office of Clerk to the Parliament shall be determined under national ordinance. The Clerk’s civil servants may not also be members of the Parliament.

5. The position and remuneration of the Clerk shall be determined by national ordinance, as shall his entitlement to leave and holiday pay, retainer, and pension.

6. National ordinance shall determine the appointment, suspension, and dismissal, as well as the legal position, of the other civil servants within the Clerk’s office.

**Article 58**

The remuneration, pension, and other relevant provisions for the members of the Parliament shall be regulated by national ordinance. The Parliament may only approve a draft national ordinance on this matter by a majority of at least two thirds of the sitting members.

**Article 59**

1. The Parliament may be dissolved by national ordinance.

2. A resolution for dissolution shall also include an order for new elections for the dissolved Parliament and for the re-convention of the newly elected Parliament within three months.

3. The dissolution shall take effect on the day on which the newly elected Parliament convenes.

**§ 2. Procedure**

**Article 60**

1. The Parliament shall meet in public.

2. Meetings shall be held *in camera* if the President considers it necessary or if this is demanded by four members. The meeting is entitled to resolve, by two thirds of the votes cast, that it shall deliberate and make decisions *in camera*.

**Article 61**

1. The Parliament may only deliberate and make decisions if more than half of the number of sitting members are present at the meeting.

2. Decisions are taken by an absolute majority of the votes cast, unless otherwise specified in the Parliament’s standing orders.

3. The members shall not be bound by a mandate or instructions when casting their votes.

4. Voting on issues shall be verbal and by roll call if requested by one member.

**Article 62**

Every member of the Parliament is entitled to ask questions of the ministers. The ministers shall respond to these questions within a reasonable period, insofar as answering the questions cannot be regarded as being contrary to the interests of the Country or of the Kingdom.
Article 63
1. The ministers are entitled to attend the meetings and take part in deliberations.
2. They may be invited by the Parliament to attend meetings in order to provide the requisite explanations, provided that this cannot be regarded as contrary to the interests of the Country or of the Kingdom.
3. They may arrange to be represented at the meetings by individuals they appoint for that purpose.

Article 64
The Parliament has the right of inquiry, to be regulated by national ordinance.

Article 65
The members of the Parliament, the ministers, and other individuals partaking in the deliberations may not be prosecuted or otherwise held liable in law for anything they say during the meetings of the Parliament of its committees, or for anything they submit to them in writing.

Article 66
The Parliament shall adopt rules of order for its meetings. These shall be published in the method prescribed for the national ordinances.

Article 67
The Parliament is authorised to champion the interests of Sint Maarten with the government of the Kingdom and with the States General of the Netherlands.

Article 68
The Parliament shall investigate any petitions submitted to it.

CHAPTER 5

COUNCIL OF ADVICE, GENERAL AUDIT CHAMBER, OMBUDSMAN, AND STANDING ADVISORY COMMITTEES

§ 1. Council of Advice

Article 69
1. There shall be a Council of Advice, hereinafter referred to as the Council.
2. The government shall hear the Council on:
   a. all the subject matter of national ordinances and national decrees, including administrative orders;
   b. proposals for approval, as defined in Article 24.2 of the Charter for the Kingdom of the Netherlands, of treaties affecting Sint Maarten;
   c. proposals for Kingdom laws laws and drafts of Kingdom administrative orders.
3. The Parliament shall hear the Council on draft national ordinances brought before the Parliament by one or more members.
4. The Council is authorised to provide advice to the government if the Council considers this necessary.
5. The Council shall be heard in such cases as are prescribed by national ordinance, in all extraordinary 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-president. A maximum of five extraordinary members may be appointed.
2. The Governor may act as president of the Council as often as he considers this necessary. He shall have an advisory function.
3. The vice-president, the remaining members and extraordinary members shall be appointed by national decree for a period of seven years. They shall immediately be eligible for reappointment.
4. They may be suspended or dismissed in circumstances defined by national ordinance. The legal position of the members and extraordinary members of the Council shall also be regulated under or by virtue of national ordinance.
5. A member or extraordinary member of the Council may not at the same time be:
   a. a member of the Parliament;
   b. a member of the General Audit Chamber;
   c. Ombudsman;
   d. a minister:
      e. Minister Plenipotentiary;
      f. a civil servant in active service;
      g. a member of the judiciary;
   h. Procurator General or Advocate General at the Common Court of Justice of Aruba, Curaçao, Sint Maarten and Bonaire, Sint Eustatius, and Saba.
6. For the purposes of this article, those employed by the national administration in terms of an employment contract under civil law are regarded as "civil servants", as specified in paragraph 5.f of this article.
7. Provisions may be imposed under national ordinance in relation to other public appointments, specifying that they may not be exercised at the same time as being a member of the Council.
8. The Parliament may not approve such a draft national ordinance and may not decide upon a reading of such a draft except with the approval of two thirds of the votes of the sitting members.

Article 71
1. The establishment and powers of the Council of Advice shall be regulated by national ordinance.
2. Duties other than those mentioned in this Chapter may also be assigned to the Council of Advice in terms of national ordinance.

Article 72
The members or extraordinary members of the Council of Advice shall make the following oath (declaration and promise) to the Governor before accepting their appointments:
"I swear (declare) that I shall not accept any promise or gift, from anyone at all, either directly or indirectly, in order to do or refrain from doing anything in the course of this appointment.
I swear (promise) allegiance to the King and the Constitution of the Kingdom, that I shall always help to uphold the Constitution of Sint Maarten and that I shall champion the interests of Sint Maarten to the best of my ability.
So help me Almighty God
(And I hereby make this declaration and promise)"

Article 73
The Council of Advice shall adopt rules of order, which shall be published in the Official Publication.
§ 2. General Audit Chamber

Article 74
1. There shall be a General Audit Chamber.
2. The General Audit Chamber is charged with investigating the effectiveness and lawfulness of the Country’s income and expenditure.

Article 75
1. The General Audit Chamber shall consist of three members including the president.
2. The president and the other members shall be appointed by national decree for a period of seven years from a short list of at least two individuals, prepared by the Parliament. The short list may only be adopted by at least two thirds of the votes of the sitting members. They shall immediately be eligible for reappointment.
3. They shall be dismissed either at their own request or when they attain such age as may be determined by national ordinance.
4. They may be suspended or dismissed by the Common Court of Justice of Aruba, Curaçao, Sint Maarten and Bonaire, Sint Eustatius, and Saba, in circumstances specified by national ordinance.
5. National ordinance shall also regulate the legal position of the members of the General Audit Chamber.
6. The provisions in paragraphs 5, 6, 7, and 8 of Article 70 shall also apply, mutatis mutandis, to the members of the General Audit Chamber.

Article 76
1. The establishment and powers of the General Audit Chamber shall be regulated by national ordinance.
2. Duties other than those specified in Article 74 may also be assigned to the General Audit Chamber in terms of national ordinance.

Article 77
The members of the General Audit Chamber shall make the following oath (declaration and promise) to the Governor before accepting their appointments:
"I swear (declare) that I shall not accept any promise or gift, from anyone at all, either directly or indirectly, in order to do or refrain from doing anything in the course of this appointment.
I swear (promise) allegiance to the King and the Constitution of the Kingdom, that I shall always help to uphold the Constitution of Sint Maarten and that I shall champion the interests of Sint Maarten to the best of my ability.
So help me Almighty God
(And I hereby make this declaration and promise)"

§ 3. Ombudsman

Article 78
1. There shall be an Ombudsman.
2. The Ombudsman shall undertake investigations, if requested to do so or on his own initiative, into the conduct of administrative bodies of the Country and of other administrative bodies designated by national ordinance.
3. The Ombudsman shall be appointed by the Parliament for a period of seven years and shall be eligible for reappointment on one occasion. He shall resign either at his own request or when he attains such age as may be determined by national ordinance.
4. He may be suspended or dismissed by the Parliament in circumstances specified by national ordinance. His legal position shall be otherwise regulated by national ordinance.
5. The powers and procedure of the Ombudsman shall be regulated by national ordinance.
6. Other duties may also be assigned to the Ombudsman in terms of national ordinance.

§ 4. Other provisions

Article 79
1. Other standing advisory committees for matters of legislation and administration shall be established by national ordinance.
2. The establishment, composition, and powers of these committees shall be regulated by national ordinance.
3. Other duties may also be assigned to these committees in terms of national ordinance.

Article 80
1. The opinions of the committees specified in this Chapter shall be published in the manner specified by national ordinance.
2. Opinions issued in relation to draft national ordinances submitted by the government shall be transmitted to the Parliament, subject to such exceptions as may be specified in national ordinance.

CHAPTER 6

LEGISLATION AND GOVERNMENT

§ 1. General provisions on statutory regulations

Article 81
The valid statutory regulations in Sint Maarten are:
a. the Charter for the Kingdom of the Netherlands;
b. agreements with other powers and with international law organisations insofar as they have been ratified for Sint Maarten;
c. Kingdom laws and Kingdom administrative orders that are binding in terms of the Charter for Sint Maarten;
d. this Constitution;
e. mutual regulations as specified in Article 38.1 of the Charter in so far as they have been given statutory authority by a competent body of Sint Maarten;
f. mutual regulations as specified in Article 38.2 of the Charter;
g. national ordinances, including the unified national ordinances;
h. national decrees incorporating administrative orders;
i. ministerial regulations;
j. ordinances by public bodies as defined in Article 97.2 and independent administrative bodies as defined in Article 98.2.
§ 2. National ordinances, unified national ordinances, national decrees incorporating general measures and ministerial regulations

Article 82
National ordinances shall be adopted by the government and by the Parliament jointly.

Article 83
Draft national ordinances shall be ratified by the government after approval by the Parliament. In this way, they acquire the force of national ordinances.

Article 84
1. The government shall submit drafts of national ordinances to the Parliament for approval.
2. Before making such a submission, the government shall offer a draft of a national ordinance to the Council of Advice.

Article 85
1. The Parliament is entitled to submit draft national ordinances to the government for ratification.
2. Draft national ordinances to be proposed by the Parliament for ratification shall be brought before the Parliament by one or more members.
3. The Parliament shall offer a draft of a national ordinance to the Council of Advice before proceeding to consider it.

Article 86
1. A draft national ordinance submitted by the government and not yet approved by the Parliament may be amended by the Parliament on the proposal of one or more members, or by the government.
2. Until the Parliament has decided to propose a draft national ordinance for ratification, it may be amended by the Parliament on the proposal of one or more members, or by the member or members who brought the draft before the Parliament.

Article 87
1. A draft national ordinance that has been submitted by the government but not yet approved by the Parliament may be withdrawn by the government.
2. Until the Parliament decides to propose ratification of a draft national ordinance, it may be withdrawn by the member or members who brought the draft before the Parliament.

Article 88
1. The government and the Parliament shall notify each other of their decisions on any draft national ordinance. The Parliament shall notify the government of their decision to submit a draft national ordinance to a referendum as specified in Article 92.
2. The submission and withdrawal of draft national ordinances by the government shall be effected through the offices of the Governor.

Article 89
The publication and commencement date of national ordinances shall be regulated by national ordinance. They shall not take effect until they have been published.
Article 90
1. For mutual regulations with one or more countries within the Kingdom, the procedure for the creation of uniform national ordinances may be applied, in which case the provisions in this section may be departed from.
2. Any such mutual regulation shall not come into effect until it has been approved under national ordinance.

Article 91
1. The government is entitled to adopt national decrees incorporating general measures.
2. These shall only include conditions enforceable by penalties if this is set forth in a national ordinance. The penalties to be imposed shall be specified by national ordinance.
3. The government shall submit the draft of a national decree incorporating general measures to the Council of Advice before it is ratified.
4. Article 89 shall apply, mutatis mutandis, to national decrees incorporating general measures.
5. A national ordinance or national decree incorporating general measures may grant a minister the power to adopt ministerial regulations. Article 89 and paragraph 2 of this article shall apply, mutatis mutandis, to ministerial regulations.

§ 3. Consultative referendum

Article 92
The Parliament may take the initiative to proceed with a consultative referendum.

Article 93
1. A referendum may relate to a draft national ordinance approved by the Parliament or proposed to them for ratification, or to a topic of major social interest in relation to which the government or the Parliament has taken a decision, and which is not excluded from a referendum under Article 94.
2. A draft national ordinance approved by the Parliament or proposed by it for ratification, which is then made the topic of a referendum, may not yet be ratified.

Article 94
1. The following may not under any circumstances be the topic of a referendum:
   a. proposals for Kingdom legislation;
   b. draft national ordinances in relation to the budget;
   c. draft national ordinances that partly relate to the implementation of treaties or decisions by international law organisations;
   d. draft national ordinances in relation to taxation;
   e. draft uniform national ordinances.
2. Other topics may be excluded from a referendum in terms of national ordinance.

Article 95
1. The consequences of a referendum shall always be determined by national ordinance.
2. The national ordinance specified in paragraph 1 of this article may determine that, if the majority has voted against the draft national ordinance and that majority comprises a proportion to be determined by national ordinance of those who were entitled to participate in the referendum, the draft national ordinance shall lapse by operation of law.
Article 96
Everything else concerning the referendum shall be regulated under or by virtue of national ordinance.

§ 4. Other provisions

Article 97
1. Public bodies designed to champion specific interests may be established and abolished in terms of national ordinance.
2. The national ordinance shall regulate the duties and establishment of such public bodies, the composition and powers of their management boards, and also whether or not their meetings shall be held in public. Powers to produce regulations may be granted to their management boards under national ordinance.
3. Supervision over these management boards shall be regulated under national ordinance. Decisions by these management boards may only be quashed if they are in conflict with the law or the general public interest.

Article 98
1. Independent administrative bodies may be established and abolished under national ordinance.
2. The national ordinance shall regulate the establishment, composition, duties, and powers of independent administrative bodies and also whether or not their meetings are held in public. Powers to produce regulations may be granted to the independent administrative bodies under national ordinance. Regulations made by an independent administrative body shall be published by being placed in the Official Publication, with a note of the date of issue.
3. Supervision over independent administrative bodies shall be regulated under national ordinance.
4. Annulment by the government or the withholding of approval by the body designated for that purpose by national ordinance may only occur in the event of a conflict with the law.
5. A decision for an annulment or withholding of approval shall be furnished with reasons and shall specify the consequences thereof. The Council of Advice shall be heard in relation to any decision for annulment.

Article 99
1. Taxes shall be levied by virtue of national ordinance.
2. The Parliament may not approve such a draft national ordinance and may not decide upon a reading of such a draft except with the approval of an absolute majority of the votes of the sitting members.
3. Government levies shall be regulated in terms of national ordinance.

Article 100
1. The budget of the Country’s income and expenditure shall be adopted under national ordinance.
2. The annual budget and the long-term budget shall be balanced. The provisions in the first sentence may be departed from if this is necessary in connection with the restoration of the damage caused by extraordinary events, including natural disaster, in accordance with rules issued under or by virtue of Kingdom law or national ordinance.
3. The government shall submit the budget to the Parliament in one or more drafts not later than on 1 September.
4. Reports on the Country’s income and expenditure shall be submitted to the Parliament in accordance with the national ordinance. The accounts as investigated by the General Audit Chamber shall be submitted to the Parliament each year.

5. Rules in relation to the management of the Country's finances shall be specified by national ordinance.

Article 101
1. Rules shall be imposed under national ordinance in order to assure the legality and integrity of the management and administrative actions, as well as the soundness of financial management.
2. Reports and accounts shall be submitted each year.

Article 102
1. Monetary loans taken in the name of or given by the Country shall only be entered into or guaranteed by virtue of a national ordinance.
2. The interest charges associated with the monetary loans entered into or guaranteed may not exceed a percentage fixed by national ordinance of the average income in the collective sector during the three years preceding the budget year.
3. More detailed rules shall be promulgated in terms of national ordinance concerning the entry into, guarantee or provision of a monetary loan.

Article 103
1. There shall be a central bank. The central bank shall supervise the monetary system. Other duties may be assigned to the central bank in terms of national ordinance.
2. The monetary system shall be regulated under or by virtue of national ordinance.

Article 104
The civil law and the criminal law shall be regulated in general codes, subject to the power to regulate specific topics in separate national ordinances.

Article 105
General administrative rules shall be adopted by means of national ordinance.

Article 106
The legal position of government civil servants shall be regulated under national ordinance. The national ordinance shall also set out rules on their protection during employment and on employee associations.

Article 107
The government shall observe openness in implementing its duties insofar as this is not regarded as being in conflict with the interests of the Country or the Kingdom, or with other interests that justify refraining from openness. More detailed rules in this regard shall be promulgated by means of national ordinance.

Article 108
National ordinance may impose rules to be followed for national decrees to grant licences for mining companies, public utility companies, telecommunications and for the construction of works for such enterprises.

Article 109
The management of domanial territory and other domanial rights shall be regulated under national ordinance.
Article 110
1. Persons resident in Sint Maarten may only be obliged to undertake military service or civilian reserve service by means of national ordinance.
2. Those undertaking civilian reserve service and serving with the army may not be sent elsewhere without their permission unless in terms of national ordinance.

Article 111
In the event of extraordinary circumstances, a national decree may determine that civilian reservists residing in Sint Maarten may be obliged or called upon to undertake active service. A draft national ordinance shall then immediately be submitted to the Parliament in order to determine, insofar as necessary, how long civilian reservists must remain in active service.

Article 112
1. A national ordinance shall specify the circumstances in which a state of emergency, to be designated as such in terms of a national ordinance, can be announced by national decree, with a view to enforcing external and internal security and public order; it shall also regulate the consequences.
2. In such circumstances, the following provisions may be departed from: Article 2.1 in the event of death as a result of lawful acts of war; Article 7.1 as regards the requirement for a special written authorisation from the courts; Articles 7.2, 8, 9 insofar as this relates to exercising the right described in that article outside buildings and enclosed spaces, 10, 12, 13, 14.1 and 15.1.
3. Immediately following the announcement of a state of emergency and thereafter for as long as this has not been cancelled in terms of a national decree, the Parliament shall determine how long the state of emergency shall continue whenever they regard this as necessary.

CHAPTER 7

ADMINISTRATION OF JUSTICE, PUBLIC PROSECUTION SERVICE, AND POLICE

§ 1. Judiciary

Article 113
1. Rules may be imposed in relation to the organisation of the judiciary in terms of common regulations with one or more countries in the Kingdom. A common regulation as defined in the preceding sentence shall be adopted by Kingdom law as defined in Article 38.2 of the Charter for the Kingdom. The government shall observe the provisions of the Constitution when making such regulations.
2. No intervention in legal actions is permitted.

Article 114
1. The courts forming part of the judiciary are:
   a. the Court at First Instance;
   b. the Common Court of Justice of Aruba, Curaçao, Sint Maarten and Bonaire, Sint Eustatius, and Saba.
2. The jurisdiction of the Supreme Court of the Netherlands in relation to legal cases in Sint Maarten shall be regulated by Kingdom law.
Article 115
1. The responsibilities of the judiciary are:
   a. the adjudication of disputes on civil matters;
   b. the trial of criminal offences.
2. The responsibilities of the judiciary also include the adjudication of disputes on
   administrative law matters, unless the adjudication thereof has been assigned in terms
   of national ordinance to special legal bodies, whose membership may include one or
   more members of the Court of Justice.
3. The remaining aspects of the establishment, composition and powers of the judiciary
   shall be determined by national ordinance, unless these aspects have already been
   provided for in a common regulation as defined in Article 113.1.

Article 116
1. The members and deputy members of the judiciary charged with the adjudication of
   cases shall be appointed for life in terms of a Royal Decree.
2. The members and deputy members of the judiciary charged with the adjudication of
   cases shall be dismissed by a Royal Decree at their own request and on attainment of
   such age as may be specified in a national ordinance, unless these aspects have already
   been provided for in a common regulation as defined in Article 113.1.
3. In the circumstances specified under national ordinance, they may be suspended or
   dismissed by a court forming part of the judiciary, designated for that purpose by
   national ordinance, unless this matter has already been provided for in a common
   regulation as defined in Article 113.1.
4. Their legal position shall be regulated under national ordinance, unless this matter has
   already been provided for in a common regulation as defined in Article 113.1.

Article 117
1. Except in such cases as are specified under national ordinance, sessions of the court shall
   be heard in public, on pain of nullity. Verdicts shall contain the reasons on which they are
   based. Verdicts shall be pronounced in open court.
2. The investigation of the case at the hearing may be held entirely or partially in camera if
   there are weighty reasons for doing so. The reasons shall be reported in the official
   record of the hearing.

Article 118
Clemency shall be granted under a national ordinance after an opinion has been obtained
from the judge who issued the verdict, subject to such conditions as may be imposed under
or by virtue of national ordinance.

Article 119
1. The judge has authority to assess the compatibility of any effective statutory regulations
   as defined in Article 81.g (except for uniform national ordinances), 81.h, 81.i, and 81.j
   with the Constitution. The judge may refrain from testing the statutory regulation as
   defined in the preceding sentence against the Constitution if there is no sufficient interest
   for doing so, or if the contents of the provision in the Constitution do not lend
   themselves to being tested. Nor may a judge test the process of enactment of effective
   statutory regulations, as defined in the first sentence of this paragraph, against the
   Constitution.
2. The judge is entitled to declare that an effective statutory regulation, as defined in the
   first sentence of paragraph 1 of this article, is fully or partially inapplicable. In so doing,
   the judge may specify that the consequences of the statutory provision that has been
   declared fully or partially inapplicable shall remain in effect, fully or partially.
§ 2. Public Prosecution Service

Article 120
1. There shall be a public prosecution service.
2. The public prosecution service consists of:
   a. the office of the Procurator General;
   b. the prosecution at first instance.
3. The head of the public prosecution service is the Procurator General.
4. Rules may be imposed in relation to the organisation of the public prosecution service in terms of common regulations with one or more countries in the Kingdom. A common regulation as defined in the preceding sentence shall be adopted by Kingdom law as defined in Article 38.2 of the Charter for the Kingdom. The government shall observe the provisions of the Constitution when making such regulations.

Article 121
1. The Procurator General is in charge of the office of the Procurator General.
2. A principal public prosecutor shall be in charge of the prosecution service at the Court of First Instance, and shall be appointed as the head of the prosecution service at first instance. The principal public prosecutors shall be subordinate to the Procurator General in office.

Article 122
1. The public prosecution service is charged with the criminal enforcement of the legal system and other duties assigned to it in terms of national ordinance.
2. In particular, the public prosecution service is charged with:
   a. the enforcement of statutory regulations;
   b. the investigation and prosecution of criminal offences;
   c. arranging for the execution of verdicts and decisions in criminal cases;
   d. supervising compliance with judicial decisions in disciplinary cases.
3. The duties and powers of the public prosecution service shall be exercised by the members of the public prosecution service in the manner specified under national ordinance.
4. The remaining aspects of establishment, composition, and powers of the public prosecution service shall be determined by national ordinance, unless these aspects have already been provided for in a common regulation as defined in Article 120.4.

Article 123
1. The Procurator General, or such other member of the public prosecution service as he may appoint, shall prosecute a minister or a member of the Parliament for the commission of any offence, having received an order to do so from the Common Court of Justice of Aruba, Curaçao, Sint Maarten and Bonaire, Sint Eustatius, and Saba in response to a petition by the Procurator General.
2. The procedure shall be regulated under national ordinance. The Parliament may not approve such a draft national ordinance and may not decide upon a reading of such a draft except with the approval of two thirds of the votes of the sitting members.

§ 3. Police

Article 124
1. There shall be a police force.
2. Rules may be imposed in relation to the organisation of the police force in terms of common regulations with one or more countries in the Kingdom. A common regulation as
defined in the preceding sentence shall be adopted by Kingdom law as defined in Article 38.2 of the Charter for the Kingdom. The government shall observe the provisions of the Constitution when making such regulations.

**Article 125**

1. The duty of the police force, in subordination to the competent authorities and in accordance with the applicable rules of law, is to arrange for the actual enforcement of the legal system and the provision of assistance to those who require it.
2. The remaining aspects of the establishment, composition and powers of the police force shall be determined by national ordinance, unless these aspects have already been provided for in a common regulation as defined in Article 124.2.

**Article 126**

A police officer is authorised, in the lawful performance of his duties, to use force against persons and property if the purpose intended to be accomplished by this is justified, bearing in mind the risks associated with the use of violence, and if that purpose cannot be achieved in any other way. Any use of force shall be preceded by a warning, insofar as possible. More detailed rules concerning the use of force may be imposed under or by virtue of national ordinance, unless these aspects have already been provided for in a common regulation as defined in Article 124.2.

**CHAPTER 8**

**Constitutional Court**

**Article 127**

1. There shall be a Constitutional Court.
2. The duty of the Court is to assess the compatibility of any applicable statutory regulations as defined in Article 81.g (except for uniform national ordinances) 81.h, 81.i, and 81.j, which have been ratified but have not yet come into effect, with the Constitution. No assessment shall be made if the provision in the Constitution does not lend itself to such assessment.
3. A case may only be raised before the Court by means of a written petition by the Ombudsman pleading incompatibility with the Constitution, submitted within six weeks after ratification of the statutory regulation specified in paragraph 2 of this article, unless the circumstances are urgent. If the circumstances are urgent, a petition by the Ombudsman shall be inadmissible. More detailed rules concerning urgent circumstances shall be promulgated under or by virtue of national ordinance. The Parliament may not approve such a draft national ordinance and may not decide upon a reading of such a draft except with the approval of two thirds of the votes of the sitting members.
4. A statutory regulation as defined in paragraph 2 of this article shall not come into effect until six weeks have passed since its ratification, unless there are urgent circumstances as defined in paragraph 3. If the Ombudsman raises an action within this period, the effective date shall be suspended until two weeks after the Court has issued its decision.
5. If the Court finds that a statutory regulation as defined in paragraph 2 of this article is incompatible with the Constitution, the Court may quash the statutory regulation in question. The statutory regulation shall not then come into effect.
6. Other duties may also be assigned to the Court in terms of national ordinance.
Article 128
1. The Constitutional Court consists of three members, including a president and a vice-president, and three substitute members.
2. The members and substitute members of the Court shall be appointed for a period of 10 years under national decree. They shall be eligible for reappointment on one occasion only. One member and one substitute member shall be appointed on the proposal of the Council of State of the Kingdom and from its numbers. One member and one substitute member shall be appointed on the proposal of the Common Court of Justice of Aruba, Curaçao, Sint Maarten and Bonaire, Sint Eustatius, and Saba, and from its numbers. One member and one substitute member shall be appointed following consultation with the Constitutional Court.
3. The requirements for appointment of members and substitute members shall be established under or by virtue of national ordinance. The Parliament may not approve such a draft national ordinance and may not decide upon a reading of such a draft except with the approval of two thirds of the votes of the sitting members.
4. The proposals mentioned in paragraph 2 of this article shall contain the names of two individuals if possible.
5. The president and vice-president of the Constitutional Court shall be appointed in terms of a national decree from members of the Court, on a proposal by the Constitutional 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, Sint Maarten and Bonaire, Sint Eustatius, and Saba shall result, by operation of law, in suspension or dismissal as a member or substitute member of the Constitutional Court.
7. The members and substitute members of the Constitutional Court shall be dismissed in terms of a national decree, either at their own request or having attained such age as may be specified by national ordinance. They may be suspended or dismissed by the Common Court of Justice of Aruba, Curaçao, Sint Maarten and Bonaire, Sint Eustatius, and Saba, meeting in chambers, in circumstances specified by national ordinance, in response to a petition by the Procurator General. The Parliament may not approve a draft national ordinance as specified in the first and second sentences of this paragraph and may not decide upon a reading of such a draft except with the approval of two thirds of the votes of the sitting members.
8. The remaining aspects of the composition, establishment, working procedures, and the issue of decisions of the Constitutional Court, as well as the legal position of the members and substitute members and the Clerk of the Court shall be specified under national ordinance. The Parliament may not approve such a draft national ordinance and may not decide upon a reading of such a draft except with the approval of two thirds of the votes of the sitting members.

CHAPTER 9

CONCLUDING PROVISIONS

Article 129
1. Amendments to the provisions of this Constitution may be introduced by national ordinance. Every draft national ordinance for amendment of the Constitution shall explicitly state the nature of the amendment in question.
2. The Parliament may only approve a draft national ordinance on such a matter by a majority of at least two thirds of the sitting members.
3. A national ordinance amending this Constitution in relation to:
   a. the articles relating to the fundamental rights;
   b. the provisions relating to the powers of the Governor;
   c. the articles relating to the powers of the Parliament; and
   d. the articles relating to the judiciary, shall be submitted to the government of the Kingdom. They shall not come into effect until the government of the Kingdom has declared its approval thereof.

4. A draft national ordinance relating to the provisions specified in paragraph 3 of this article shall not be tendered to the Parliament nor proposed by the Parliament for ratification 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 comes into operation with effect from the date on which Articles I and II of the Kingdom law for amendment of the Charter in connection with the abolition of the Netherlands Antilles come into effect.

ADDITIONAL ARTICLES

Article I
1. The national ordinances, national decrees incorporating general measures and other decisions of a legislative nature of the Netherlands Antilles, together with Island Ordinances and Island Decisions incorporating general measures of the Island Territory of Sint Maarten, applicable at the time when this Constitution comes into effect, shall remain in force until they are amended or withdrawn pursuant to the provisions of the Constitution.

2. Measures shall be adopted by means of national ordinance relating to the further application, as regulations of Sint Maarten, of the regulations specified in paragraph 1 of this article, as well as the maintenance of public administration bodies in Sint Maarten that are in existence at that time.

Article II
The national ordinances, which shall be elevated to national ordinances of Sint Maarten under the Kingdom law for amendment of the Charter in connection with the abolition of the Netherlands Antilles, shall come into effect on the date on which Articles I and II of the Kingdom law for amendment of the Charter in connection with the abolition of the Netherlands Antilles come into effect. They shall be included in the Official Publication as quickly as possible, and if possible in the sequence followed by this Constitution.

Article III
1. The sitting members of the Island Council on the date when this Constitution comes into effect shall have the capacity of members of the Parliament with effect from that date.

2. If the Parliament consists of 11 members on the date when this Constitution comes into effect, then the Parliament shall be dissolved in accordance with Article 59.2 and elections shall be called. The dissolution shall take effect on the day on which the newly elected Parliament convenes.

3. In the period between the date when this Constitution comes into effect and the swearing in of the Parliament consisting of 15 members, no draft national ordinances as defined in Article 31.1 or Article 129 shall be approved or proposed for ratification.
Article IV
1. On a proposal by the government, the Parliament may deliberate upon a draft national ordinance that had been raised by the government of the Netherlands Antilles with the Parliament of the Netherlands Antilles before this Constitution came into effect. They shall take up the deliberation of the draft in question from the point the draft had reached at the relevant time.
2. The Parliament may decide to deliberate upon a draft national ordinance that had been raised by a member of the Parliament of the Netherlands Antilles with the Parliament of the Netherlands Antilles before this Constitution came into effect. They shall take up the deliberation of the draft in question from the point the draft had reached at the relevant time.
3. This article shall lapse one year after this Constitution comes into effect.

Article V
1. The first appointment of members and substitute members of the Constitutional Court, as defined in Article 128, shall be made by the Island Council on the proposal of the Executive Council for the Island Territory of Sint Maarten.
2. The first appointment of the Clerk to the Constitutional Court, as defined in Article 15 of the draft national ordinance for the Constitutional Court, shall be made by the Executive Council for the Island Territory of Sint Maarten.

Article VI
The government shall be authorised to adjust the numbering of the references to the Penal Code in Articles 36.1 and 50.1 in connection with the draft national ordinance to adopt a new Penal Code, pending before the Parliament of the Netherlands Antilles. The text shall be submitted in advance to the Parliament.

Thurso, 20 August 2010:

This is the Constitution of the Country of Sint Maarten, consisting of this and the thirty-four (34) preceding pages, referred to in my Affidavit of today’s date.

Bruce Louden Clark Gordon, Translator ..........................................................

Ewan John Thoms, Notary Public .................................................................
into effect. They shall take up the deliberation of the draft in question from the point the draft had reached at the relevant time.
2. The States may decide to deliberate upon a draft national ordinance that had been raised by a member of the States of the Netherlands Antilles with the States of the Netherlands Antilles before this Constitution came into effect. They shall take up the deliberation of the draft in question from the point the draft had reached at the relevant time.
3. This article shall lapse one year after this Constitution comes into effect.

Article V
1. The first appointment of members and substitute members of the Constitutional Court, as defined in Article 128, shall be made by the Island Council on the proposal of the Administration for the Island Territory of Sint Maarten.
2. The first appointment of the Clerk to the Constitutional Court, as defined in Article 15 of the draft national ordinance for the Constitutional Court, shall be made by the Administration for the Island Territory of Sint Maarten.

Article VI
The government shall be authorised to adjust the numbering of the references to the Penal Code in Articles 36.1 and 50.1 in connection with the draft national ordinance to adopt a new Penal Code, pending before the States of the Netherlands Antilles. The text shall be submitted in advance to the States.

Thurso, 19 August 2010,

This is the Constitution of the Country of Sint Maarten, consisting of this and the thirty-five (35) preceding pages, referred to in my Affidavit of today’s date.

Bruce Louden Clark Gordon, Translator

Ewan John Thoms, Notary Public

EWAN J THOMS
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AFFIDAVIT

I, Bruce Louden Clark Gordon, 26 Grove Lane, Thurso, Caithness, UK, hereby solemnly affirm that I have translated the document attached hereto, entitled “Constitution of the Country of Sint Maarten” and comprising thirty-six (36) pages, and that my translation is an accurate and complete translation into English of the original document in Dutch.

This I do in the presence of Ewan John Thoms, Solicitor and Notary Public, of Messrs. Young Robertson & Co., Solicitors, 29 Traill Street, Thurso.

Signed in Thurso on Thursday 19 August 2010

Bruce Louden Clark Gordon

Ewan John Thoms

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