



AFKONDIGINGSBLAD VAN SINT MAARTEN

Jaargang 2018

No. 33

National Ordinance of September 6th, 2018, for the temporary establishment of the National Recovery Program Bureau and for regulating its organisation, composition, tasks and powers (Temporary National Ordinance on the National Recovery Program Bureau)

IN THE NAME OF THE KING!

The Governor of St. Maarten,

Whereas:

it is necessary to organise a National Recovery Program Bureau and to make it responsible for preparing, coordinating, implementing and evaluating projects financed from the Dutch Recovery Fund for Sint Maarten and for advising the ministries, or other organisational units that fall thereunder, on identifying and implementing additional recovery, reconstruction and resilience projects that can be financed from other resources than the Dutch Recovery Fund for Sint Maarten¹;

it is necessary due to the manner in which the Netherlands proposes to provide financial resources for the recovery of Sint Maarten following the passage of Hurricanes Irma and Maria, namely through the intermediary of the World Bank;

it is also necessary due to the fact that the aforementioned tasks cannot be implemented within the structure of the ordinary civil service;

In view of article 98 of the Constitution;

Having heard the Council of Advice and after consultation with Parliament, enacts the following national ordinance:

Disclaimer: This is a translation of the official Dutch version of the draft Temporary National Ordinance on the National Recovery Program Bureau. According to Instruction 44 of the Instruction for the Legislation of Sint Maarten, regulations should be predominantly written in the Dutch language. The use of other languages is solely possible if a word or expression has found its acceptance in Sint Maarten, and there is not a Dutch equivalent for said word or expression. The Dutch version of this draft remains leading

§1. General provisions

Article 1

For the purposes of this national ordinance, and the provisions based on it, the following definitions apply:

- a. Bureau: the National Recovery Program Bureau referred to in article 3, paragraph 1;
- b. director: the director referred to in article 5, paragraph 1;
- c. secretariat: the secretariat referred to in article 5, paragraph 1;
- d. Minister: the Prime Minister, who is also the Minister of General Affairs;
- e. public servant: a public servant as referred to in article 1, paragraph 1, of the National Ordinance on Substantive Public Service Law;
- f. selection committee: the National Recovery Program Bureau Recruitment and Selection Committee referred to in article 6, paragraph 1;
- g. working group: the Recovery and Resilience Working Group referred to in article 15, paragraph 1;
- h. organisational unit: the organisational unit referred to in article 1, paragraph 2, of the National Ordinance on National Government (Structure and Organisation);
- h. Dutch Recovery Fund: the fund established by agreement between the Netherlands and the World Bank for the recovery of Sint Maarten;
- i. Plan: the National Recovery and Resilience Plan referred to in article 2, paragraph 3.

Article 2

1. The government, on behalf of the Country, is empowered to conclude agreements with the World Bank for the implementation of the Dutch Recovery Fund.
2. The agreements will be published in the National Gazette.
3. Parliament, at the proposal of the government, will enact a National Recovery and Resilience Plan.
4. The Plan must at least list and prioritise the short-, medium- and long-term needs for the recovery of Sint Maarten and give an indication of the funds, costs and investments required to meet these needs.
5. The government, acting on the written advice of the Bureau, may make proposals to Parliament for additions to the Plan.
6. The Plan and, if applicable, any addition will be published in the National Gazette.

§2. Establishment and task

Article 3

1. There is a National Recovery Program Bureau.
2. The Bureau is an autonomous administrative authority with legal personality.
3. The Bureau is autonomous in terms of its organisation and the management of its resources and is responsible for its accounting and reporting.

Article 4

The Bureau is responsible for:

- a. preparing, coordinating, implementing and evaluating projects which can be completely or partly financed from the Dutch Recovery Fund; and,
- b. advising ministries, or other the organisational units that fall thereunder, on the identification and implementation of additional recovery, reconstruction and resilience projects, which can be completely financed from resources other than the Dutch Recovery Fund.

§3. Organisation of the Bureau and appointment requirements

Article 5

1. The Bureau is composed of a director and a secretariat.
2. The Bureau is headed by the director, who has ultimate responsibility for its day-to-day management and for its operations and results.
3. The members of staff of the secretariat are to be chosen in such a way that the secretariat has all the relevant experience, expertise and understanding of the local situation in Sint Maarten needed so that the Bureau can perform its tasks and exercise its powers.

Article 6

1. There is a National Recovery Program Bureau Recruitment and Selection Committee consisting of a minimum of four and a maximum of six members, including a chair.
2. The chair and the other members of the Selection Committee are appointed, suspended and dismissed by national decree, on the recommendation of the Minister, in accordance with the opinion of the Council of Ministers.
3. The Selection Committee determines its own procedures and is responsible for recruiting, selecting and making written recommendations for the appointment of the director and staff of the Bureau secretariat.
4. The Selection Committee must supply the Minister, on request, with all desired information.

Article 7

1. The director is appointed, suspended and dismissed by national decree, on the written recommendation of the Selection Committee.
2. The director is appointed for the term of the Bureau's activities, subject to a maximum of three years. The director may be reappointed for a maximum term of one year at a time if the activities have not been completed, or not fully completed, after the first term of office.
3. A deputy director may be appointed. Paragraphs 1 and 2 and articles 9 to 14 apply *mutatis mutandis*.
4. The deputy director, in the absence of the director, performs all tasks and exercises all powers assigned to the director by virtue of this national ordinance.

Article 8

1. The staff of the secretariat are appointed by the director on the basis of a fixed-term employment contract under civil law, on the written recommendation of the Selection Committee, for a maximum term of three years. After the Selection Committee has been heard, the employment contract may be extended for a maximum term of one year at a time if the activities have not been completed, or not fully completed, after the first term. Article 1615fa of Book 7A of the Civil Code does not apply.
2. The staff of the secretariat are under the control of and report exclusively to the director.
3. Unless specified otherwise in this national ordinance, the rules that apply to public servants govern the legal status of members of staff of the secretariat, provided always that where a power is conferred on the competent authority in these rules, this power is exercised by the director.
4. The rules referred to in paragraph 3 may be derogated from by national decree containing general provisions.

Article 9

1. The director or a member of staff of the secretariat may not hold other positions that are undesirable since they might affect the proper performance of their job or maintenance of their independence or of confidence therein.
2. The director must notify the Minister of any intention to accept an outside position other than one arising from the position of director.
3. A member of staff of the secretariat must notify the director of any intention to accept an outside position other than one arising from the position of the secretariat.
4. The Bureau must disclose the other positions of the director or a member of staff of the secretariat. Disclosure must be made at the time of the appointment and also by annual publication of a list of other positions in the National Gazette.
5. If a recommendation as referred to in article 7, paragraph 1 or article 8, paragraph 1 relates to a public servant, he or she will be granted an exemption from service by the competent authority in respect of the appointment as a public servant, without pay.

Article 10

1. The director and a member of staff of the secretariat may not be related to each other by consanguinity in the direct line or within the second degree of the collateral line, nor may they be each other's spouse, former spouse, life partner, former life partner or former foster relative.
2. In the case of a nascent relationship as referred to in paragraph 1, the person responsible for establishing this relationship must relinquish his or her position, unless the Minister decides otherwise.

Article 11

1. The director or a member of staff of the secretariat will be suspended:
 - a. if they are in provisional detention;

- b. if a preliminary judicial investigation has been instituted against them for a serious offence;
 - c. if they have been convicted of a serious offence by court judgment that has not become final and irrevocable or have been made the subject of a custodial order in such a judgment; or,
 - d. if they have been made the subject of a guardianship order, been declared bankrupt, obtained a moratorium on the payment of debts or been detained for non-payment of debts by court judgment that has not become final and irrevocable.
2. The employment of the director or a member of staff of the secretariat will be terminated:
- a. at their own request;
 - b. when they reach the age of seventy;
 - c. if they have been convicted of a serious offence by court judgment that has become final and irrevocable or have been made the subject of a custodial order in such a judgment;
 - d. if they have been made the subject of a guardianship order, been declared bankrupt, obtained a moratorium on the payment of debts or been detained for non-payment of debts by court judgment that has become final and irrevocable;
 - e. if they have become permanently incapable of performing their job owing to sickness or infirmity; or,
 - f. if they contravene the provisions of article 9, paragraphs 1 to 3.

Article 12

1. If it is proposed to suspend or dismiss the director, other than in the cases referred to in article 11, paragraph 2 (a) and (b), the director must be given the opportunity to put his or her views to the Minister.
2. Paragraph 1 applies *mutatis mutandis* to a member of staff of the secretariat, in which case the director will then take the place of the Minister.

Article 13

Before accepting his position, the director must take the following oath (make the following affirmation) in the presence of the Governor:

'I swear (declare) that I have not given or promised anything to anyone whosoever, directly or indirectly, under any name or pretext whatsoever, 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, perform my duties honestly, conscientiously and impartially and shall support the welfare of Sint Maarten to the best of my ability.

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

Article 14

The following matters must be regulated by national decree containing general measures:

- a. the structure and organisation of the Bureau, including the quantity and quality of the staff establishment of the secretariat; and
- b. the terms and conditions of employment of the director and the staff members of the secretariat.

§4. Recovery Working Group

Article 15

1. There is a Recovery Working Group.
2. The working group, which is under the direction of the director, is composed of at least seven members, in addition to the director.
3. A public servant will be designated as a member for each ministry by the minister concerned, on the written recommendation of the secretary-general concerned.
4. On the written advice of the Bureau, a member may be designated for each individual organisational unit either separately or jointly. Paragraph 3 applies *mutatis mutandis*.
5. A public servant who has been designated as a member of the working group may not be disadvantaged in any way whatever by having performed activities for the working group.
6. Activities for the working group take precedence over the activities referred to in chapter VII, part 2 of the National Ordinance on Substantive Public Service Law.
7. Each member of the working group must periodically inform the secretary-general of the ministry on whose behalf the member has been designated about his activities and the status of projects relating to that ministry.
8. A deputy member may be designated for each member of the working group. Paragraphs 3 to 7 apply *mutatis mutandis*.
9. The secretariat is responsible for assisting the working group.
10. For the purposes of this article, the term 'public servant' includes anyone who has an employment relationship with the Country by virtue of an appointment or engagement or an employment contract under civil law.

Article 16

1. The working group determines its procedures.
2. Each member of the working group serves as the Bureau's contact for the ministry or organisational unit concerned.
3. Each member of the working group must ensure that all information within his or her ministry or organisational unit, which is reasonably necessary for the performance of the Bureau's task, is obtained in a timely manner and in full. A member who discovers or suspects that it will not be possible to obtain some or all of the information referred to in the first sentence must notify the secretary-general concerned without delay.
4. All ministries, organisational units and public servants concerned must supply the member of the working group with the information requested

by virtue of paragraph 3 within such reasonable period as that member may stipulate.

5. If necessary, a member of the working group may suggest to the secretary-general of the ministry concerned that activities relating to the performance of the Bureau's task be assigned to other public servants of that ministry. Performance must take place within a reasonable period. Article 15, paragraph 6 applies.

6. Paragraphs 3 to 5 apply *mutatis mutandis* to a deputy member.

§5. Information provision, management and supervision

Article 17

1. The Bureau must draw up a half-yearly report twice a year by a date set by the Minister. The half-yearly report must describe how the task has been performed and what policy has been pursued.

2. After approval by the Minister, the half-yearly report must be presented to Parliament without delay. The approved half-yearly report must be published in the National Gazette.

Article 18

1. In performing its tasks, the Bureau must oversee:

- a. the timely preparation and implementation of projects;
- b. the quality of the procedures used in this connection; and,
- c. the functioning and activities of the working group.

2. In the half-yearly report referred to in article 17, paragraph 1, the Bureau must report on what has been done pursuant to paragraph 1.

Article 19

1. The Bureau and the working group must provide the Minister, on request, with all the information required to perform his or her duties. The Minister may ask to inspect all business-related data and documents in the possession of the Bureau and the working group if that is reasonably necessary for the performance of his or her duties.

2. In providing the information referred to in paragraph 1, the Bureau and the working group will indicate, where necessary, what information is of a confidential nature. Confidentiality may stem from the nature of the data, or from the fact that bodies have provided them to the Bureau and the working group on condition that they be treated as confidential.

3. The Minister, in accordance with the opinion of the Council of Ministers may give general or special directions on how the Bureau and the working group are to perform their duties.

Article 20

1. The Minister is responsible for supervising the efficient performance of the Bureau's tasks.

2. The Bureau meets with the Minister at least once a quarter and, furthermore, as often as the director or the Minister deems it appropriate.

3. At the meetings of the Bureau, the director shall report on the implementation of the Bureau's tasks on request.

4. If the Minister considers that there has been a serious dereliction of duty by the Bureau, he or she may take whatever measures are necessary. Except where time is of the essence, no measures will be taken until the Bureau has been given the opportunity to perform its task properly within a timeframe as specified by the Minister.
5. The Minister must notify Parliament without delay of the measures referred to in paragraph 4.

§6. Provisions on finance and financial supervision

Article 21

1. Each year the Bureau must send the budget for the following year by a date to be determined by the Minister.
2. The budget must contain an estimate of charges and other expenses.
3. Each budget item must be explained separately.
4. The explanatory notes must make clear which budget items relate to the performance of the tasks entrusted to the Bureau by or pursuant to the law, and which relate to other activities.
5. Unless the activities to which the budget relates have not been performed previously, the budget must include a comparison with the budget of the current year and the last approved annual accounts.
6. The decision to enact the budget requires the approval of the Minister.
7. If significant differences arise or are likely to arise in the course of the year between the actual and the budgeted charges or expenses, the Bureau must notify the Minister without delay, stating the cause of the differences. The notification must be accompanied by a proposal to alter the budget. Paragraph 6 applies *mutatis mutandis*.

Article 22

1. The revenues of the Bureau consist of a periodic contribution from the Dutch Recovery Fund.
2. The amount of the contribution is determined in accordance with the budget referred to in article 21, paragraph 1.
3. If special circumstances so warrant, additional resources may be made available to the Bureau.

Article 23

1. The Bureau must submit annual accounts on a date to be set by the Minister.
2. The annual accounts must be accompanied by an opinion concerning their accuracy issued by the Public Audit Bureau Foundation or such other auditor as the Minister may designate for this purpose. When the auditor is designated, the Bureau must stipulate that the Minister will, on request, be provided with information about the audit work performed by the auditor.
3. The opinion referred to in paragraph 2 must also cover the lawful spending of funds by the Bureau.
4. The Public Audit Bureau Foundation or other auditor designated for this purpose must enclose with the opinion referred to in paragraph 2 a report of their findings as to whether the management and organisation of the Bureau comply with efficiency requirements.

5. The decision to enact the annual accounts requires the approval of the Minister.
6. Approval may be withheld only if the accounts are incompatible with the law or the public interest.

§7. Procedures of the Bureau and the working group

Article 24

1. When performing its task as referred to in article 4 (a), the Bureau is bound by the regulations on the preparation, coordination, implementation and evaluation of the projects as specified in agreements concluded between Sint Maarten and the World Bank.
2. When performing its task as referred to in article 4 (b), the Bureau must comply as much as possible with the regulations referred to in article 4 (b).
3. The Bureau determines its own procedures.

Article 25

1. To perform the task referred to in article 4 (a), the Bureau must draw up each year a schedule of activities, including in any event a list of the projects which are identified in the Plan or in an agreement as referred to in article 2, paragraph 1, and are capable of being prepared in that year. The scheduling of activities requires the approval of the Council of Ministers.
2. The working group takes, at the request of the Bureau, care of preparing project notes and advising the Bureau on the implementation and technical specifications.
3. The member designated for the ministry or organisational unit concerned takes, on behalf of the working group, care of performing the tasks referred to in paragraph 2.
4. The working group may be made responsible for implementing and evaluating an identified project at the request of the Bureau and with the prior approval of the minister concerned. Paragraph 3 applies *mutatis mutandis*.

Article 26

1. The Bureau must decide on the following matters on a project-by-project basis after they have been considered by the working group:
 - a. the enactment of the project notes;
 - b. implementation and technical specifications of the project;
 - c. how the project will be implemented; and,
 - d. the division of responsibilities for implementation and evaluation between the Bureau and the working group.
2. The Bureau must send the decision to the Minister for information purposes.

Article 27

1. For the purposes of the task referred to in article 4 (b), the Bureau must study whether it would be desirable to carry out additional recovery,

reconstruction and resilience projects which are not included in the Plan or in an agreement as referred to in article 2, paragraph 1.

2. The working group, at the request of the Bureau, must advise on the desirability and feasibility of the additional projects referred to in paragraph 1.

3. On the basis of a study, the Bureau must enact a written opinion, and submit it to the Minister concerned, with a copy of which to the minister concerned.

4. The minister concerned must decide, in agreement with the Minister and within such reasonable period as the Bureau may set, whether additional projects should be implemented.

5. Responsibility for implementing additional projects rests with the ministry concerned. The Bureau is empowered to support the implementation of an additional project on request.

Article 28

The Bureau may arrange, with the prior consent of the Minister, to be assisted in the course of its activities by external experts, as much as is necessary for the performance of its tasks.

Article 29

The Bureau must establish an administrative system from which at least the following information can be obtained:

- a. a statement of the Bureau's expenditure, including accounts detailing this expenditure; and
- b. a statement of identified projects as referred to in article 25 and the current situation regarding their preparation and implementation.

Article 30

1. Neither the Bureau nor the working group may disclose or provide to third parties information which has been obtained for the performance of a task or the exercise of a power by virtue of this national ordinance if such information:

- a. is covered by a statutory duty of secrecy;
- b. could harm national security or the national interest;
- c. could constitute an infringement of a person's privacy unless consent has been given by the person concerned; or,
- d. consists of commercial and manufacturing data communicated to government in confidence by natural or legal persons.

2. Anyone involved in implementing this national ordinance and thereby obtain possession of data which they know or should reasonably suspect to be of a confidential nature and who are not otherwise already bound by a duty of secrecy in respect of such data by virtue of their office or occupation or a statutory regulation are obliged to keep such data secret, except in so far as they are required to disclose the data under any statutory regulation or by virtue of their task.

§8. Transitional and final provisions

Article 31

1. This national ordinance, and the provisions based on it, will be repealed by national decree on the first day of the fourth calendar year after the date of the entry into force of this national ordinance.

2. If the activities of the Bureau are not completed, or not fully completed, within the period referred to in paragraph 1, the period may be extended for a maximum of two years at a time by national decree. The national decree will be published in the National Gazette no later than two months before the expiry of this period.

3. A proposal for a national decree as referred to in paragraphs 1 and 2 may be made no earlier than four weeks after the draft of the national decree has been presented to Parliament.

Article 32

This national ordinance may be cited as the Temporary National Ordinance on the National Recovery Program Bureau.

Article 33

This national ordinance enters into force on a date to be set by national decree.

This national ordinance, together with the explanatory memorandum, will be published in the Official Publication.

Done at Philipsburg, the 6th of September, 2018
Governor of Sint Maarten

The 6th of September, 2018
Minister of General Affairs

De zevende september 2018
De Minister van Algemene Zaken
Namens deze,
Hoofd Afdeling Juridische Zaken & Wetgeving

EXPLANATORY MEMORANDUM

1. Introduction

September 2017 will go down in the record books as the month in which Sint Maarten and several neighbouring islands were hit in quick succession by two devastating hurricanes, namely Hurricanes Irma and Maria. The havoc they wreaked on the island is enormous. September 2017 will also be remembered as a turning point for Sint Maarten on the path to a new and positive future for this young country, as summed up by the slogan 'building back better'.

Since the passage of these hurricanes, the Dutch government has provided financial aid for Sint Maarten's recovery and reconstruction. This aid will be made available in instalments through the Dutch Recovery Fund, which will be administered by the World Bank. The World Bank has been approached for this purpose since it is a renowned, independent international organisation, which has the knowledge and expertise to assist, advise and generally support Sint Maarten in making the choices it faces as it plans its future.

For Sint Maarten the next few years will therefore be devoted in part to recovery and reconstruction efforts. The qualification 'in part' has been added because, while the necessary recovery projects are under way, the government apparatus of Sint Maarten will have to continue performing the normal work of government. It is for this reason that the government proposes in this present draft a national ordinance to establish a separate temporary program structure to direct the preparation, coordination, implementation and evaluation of all projects that can be financed from the Dutch Recovery Fund. It is proposed that this temporary program structure should involve setting up an autonomous administrative authority known as the National Recovery Program Bureau ('the Bureau'), which is to be placed outside the ordinary government framework and under the political and administrative responsibility of the Prime Minister (who is also the Minister of General Affairs). The Bureau will work closely with the ordinary government apparatus in performing its tasks. By establishing the Bureau, the government aims to create an authority which can act as a fully fledged entity and interlocutor for all recovery and reconstruction activities.

The remainder of this explanatory memorandum will deal with the reasons for choosing a temporary program structure, what this choice is expected to achieve and why it was necessary, how the Bureau will be established and organised, its tasks, powers and procedures, how it will be embedded within the overall government framework and collaborate with other governmental bodies on Sint Maarten, how its activities will be supervised, and the financial consequences of this draft national ordinance.

Finally, it should be noted that when this national ordinance was being drafted, various parallel procedures were under way in the tripartite relationship between St Maarten, the World Bank and the Netherlands to determine how the Dutch Recovery Fund should be established and how it could and would subsequently be implemented. The outcome of these parallel procedures will be recorded in various international agreements

between Sint Maarten and the World Bank, between the Netherlands and the World Bank or between all three parties together. The aim of presenting this draft national ordinance before completion of these procedures is to ensure that as soon as the Dutch Recovery Fund becomes operational Sint Maarten can make a flying start on implementing projects that can be financed from it. If the fund is established before this draft national ordinance enters into force, the existence of a temporary program structure will mean that work can be started on projects in anticipation of the ordinance's adoption. The relationship between this draft national ordinance and the international agreements to be concluded for the establishment and implementation of the Dutch Recovery Fund for Sint Maarten is discussed in more detail in section 3 of this general part of the explanatory memorandum.

2. Main features of the draft national ordinance

The government is facing exceptional challenges. The devastation on Sint Maarten caused by the passage of Hurricanes Irma and Maria means that long-term and fundamental decisions must now be made about the country's future. Although comparisons can be made with the impact of Hurricane Luis and the subsequent recovery and reconstruction, they are only partially relevant since Sint Maarten did not then have country status within the Kingdom of the Netherlands. The government is therefore considering how the process of recovery and reconstruction can be organised as efficiently and effectively as possible, within the constitutional framework established on October 10th, 2010 to ensure that the identification, development and implementation of recovery and reconstruction projects that have become necessary can be carried out with a minimum of delay.

As noted in the introduction, Sint Maarten does not have to meet this challenge alone. The other countries within the Kingdom of the Netherlands are showing solidarity with us and have provided aid and assistance, particularly in the initial phase of the emergency relief effort following the passage of the hurricanes. The government owes them a lasting debt of gratitude. On top of this, as noted previously, will come the funds made available by the Netherlands, through the intermediary of the World Bank, for the recovery and reconstruction of St Maarten. The government of St Maarten is therefore obliged to consider how the work of recovery and reconstruction can best be organised within the framework of its government apparatus. One factor that cannot be ignored here is how badly the hurricanes have affected the country's finances. Another new factor is that, the chosen constellation in which recovery and reconstruction is to be made available, Sint Maarten will have to collaborate with a leading international organisation, namely the World Bank. Such a collaboration involves a degree of interaction at international level, which will be a new experience for the Country of Sint Maarten. It is therefore hardly surprising that additional capacity and expertise will be essential if the recovery and reconstruction projects are to be brought to a satisfactory conclusion.

The government could have decided to have the recovery and reconstruction activities carried out by the existing government apparatus and indeed examined ways of achieving this. However, it concluded that not only are the ordinary government bodies already under great pressure in performing the normal business of government but there is also no clear legal basis for

entering into international agreements for recovery and reconstruction or for implementing tasks connected with such activities. The government therefore considers that implementing the recovery and reconstruction process would not be appropriate without additional legislation and without the direct involvement of Parliament. It therefore considers it essential to propose a clear and complete statutory basis on which Parliament can express a view. This basis is provided by the present draft national ordinance.

This draft national ordinance is therefore intended to create a temporary autonomous administrative authority outside the framework of the ordinary government apparatus and make it responsible for two main tasks. First, the Bureau is to be charged with preparing, coordinating, implementing and evaluating all projects, which can be completely or partly financed from the Dutch Recovery Fund. Secondly, it is to be charged with advising the ministries, or organisational units that fall thereunder, on identifying and implementing additional recovery, reconstruction and resilience projects that can be completely financed from other resources than the Dutch Recovery Fund. The temporary nature of the Bureau is apparent from the proposed article 31, which provides the repeal of the national ordinance. The ordinance is to be repealed by national decree once the recovery and reconstruction activities have been sufficiently completed. The date for the initial assessment will be three years after the entry into force of this national ordinance. On that date it will have to be determined by national decree whether the national ordinance can be repealed or whether the Bureau should be continued for a maximum of two years at a time.

As already noted, the decision to allocate these tasks to the Bureau rather than to the existing government apparatus has been taken in part because the latter is already under great pressure in performing the normal business of government in the aftermath of Hurricanes Irma and Maria. Rather than increasing this pressure further by requiring these government bodies to perform new and additional tasks involving implementation of recovery and reconstruction projects, for which they would need additional expertise and capacity, the government has decided to propose a clear system and straightforward procedure to guarantee that these projects can be implemented with maximum efficiency and effectiveness. The government believes that it has proposed a successful formula, which will make it possible to comply with the World Bank's quality guidelines. Moreover, the proposed embedding of the Bureau will help to relieve some of the burden on the ministries and at the same time allow them access to the Bureau's expertise and capacity needed for the implementation of recovery and reconstruction projects.

Under the proposal, the Bureau is to be established as an autonomous administrative authority within the meaning of article 98 of the Constitution, which will be headed by a director and have a secretariat. This relatively small and flat organisational structure has been deliberately chosen. The Bureau will be staffed by people who have the expertise necessary to carry out its work and are familiar with collaborating with international organisations such as the World Bank. Sint Maarten is currently in talks about this with the World Bank with a view to preparing job profiles for both the director and the staff of the secretariat, thereby ensuring that the Bureau

has all the expertise it needs. It has been proposed that these profiles should be adopted by national decree containing general provisions.

Candidates for the positions of director, deputy director and member of staff of the secretariat will be identified and recruited by a Recruitment and Selection Committee for the National Recovery Program Bureau, as proposed in article 6 of the draft national ordinance. This selection committee is to be responsible for advising and making written recommendations to the Minister on candidates for the positions of director and deputy director and for advising and making written recommendations to the director on candidates for the positions of member of staff of the secretariat. This distinction is a consequence of the proposal that the director and eventually the deputy director should be appointed by national decree, whereas the staff of the secretariat should be appointed by means of a fixed-term employment contract under civil law. It has been decided that the appointment should initially be for a term of not more than three years, with the possibility of an extension if the work of the Bureau has not yet been completed. In this way the government wishes to ensure that those who are taken on by the Bureau do not end up in the employment of the Country on an open-ended basis. The aim is to avoid any further increase in the number of civil service staff in permanent employment and hence in staff costs. This arrangement will also make it possible to appoint staff to the Bureau for specific projects for less than the three-year period.

The Bureau is not intended to operate alone and autonomously, without collaborating with the ordinary government apparatus. That is why this draft national ordinance contains a proposal to establish a Recovery and Resilience Working Group ('the working group'). The members of this interministerial working group will be designated by the various ministers. If necessary, more than one member may be designated for each ministry. For example, the Ministry of Public Housing, Spatial Development, Environment and Infrastructure could be represented by two members, one for the policymaking department and one for the policy-implementing units of that ministry. It is important for the working group to have all the knowledge necessary to implement the recovery and reconstruction projects or in any event for its members to be able to obtain the required information as efficiently as possible.

The working group will function as the body which implements the Bureau's decisions in practice. If the Bureau, in the course of its initial task, has identified a project that can be financed from the Dutch Recovery Fund, the director will submit the project to the working group for the actual preparations to be made. The working group is responsible for drawing up the draft project notes and making proposals for implementation. It also advises on the technical specifications of the project and its proposed manner of implementation. The member of the working group representing the ministry with policy responsibility for the project acts as the working group's primary contact in dealings with the Bureau. This 'focal point' has a coordinating role and arranges for the collection of all information that is available within the ministry concerned and considered necessary for the project's implementation. The ministries have a duty to cooperate and must supply the requested information within a reasonable period. If a ministry is unable to supply the information in timely manner or in full, the member

concerned has a duty to notify the secretary-general of the ministry concerned. The secretary-general can then take whatever measures are available within the ordinary government apparatus to arrange for the requested information to be supplied. It goes without saying that the member concerned will notify the Bureau of this through the working group.

When identifying projects which can be completely or partly financed from the Dutch Recovery Fund, the Bureau will also be guided by the National Recovery and Resilience Plan ('the Plan'), which will be adopted by Parliament at the government's proposal. Under the proposed article 2, paragraph 4 of the draft ordinance, the Plan must at least list and prioritise the short-, medium- and long-term needs for the recovery and reconstruction of St Maarten and give an indication of the funds, costs and investments required to meet these needs. Legally, the Plan constitutes a decision of Parliament, and not a legislative product. A proposal can therefore be submitted directly by the Council of Ministers to Parliament through the intermediary of the Governor for a decision.

When performing its second task, namely advising the ministries, or the organisational units that fall thereunder, on the identification and implementation of additional recovery, reconstruction and resilience projects which can be completely financed from resources other than the Dutch Recovery Fund, the Bureau may – but need not – use the members of the working group. However, such use is regarded by the government as desirable and logical since it is reasonable to expect that the persons who represent policymaking ministries as a member of the working group will also be involved in implementing other projects. After all, the ministries responsible for policymaking are also those responsible for implementing projects resulting from performance of the second task. Here, the Bureau's role is confined to providing assistance on request.

Responsibility for supervising the performance of the Bureau's tasks rests with the Prime Minister (who is also the Minister of General Affairs). In the event of a serious dereliction of duty, the Minister can intervene and take whatever measures are needed to ensure proper performance of the task. It follows that political responsibility for the functioning of this body also rests with the Minister. Under the proposed article 19, paragraph 3, the Minister, in keeping with the opinion of the Council of Ministers, may also give general or special directions to improve the functioning of the Bureau. This enables the Minister to take corrective action in a timely manner if the task is not being performed in accordance with the political wishes on this point. Finally, the Minister has the authority to ask to inspect all information possessed by the Bureau for the discharge of its tasks if this is necessary for the proper performance of ministerial duties.

3. Relationship to national and international legislation

As noted in the introduction, at the time of drafting this national ordinance, St Maarten, the World Bank and the Netherlands are in talks to determine how the Dutch Recovery Fund will be established and how it can and will then be implemented.

The outcome of these talks will, in part, be recorded in an administrative agreement between the Netherlands and the World Bank. This agreement will provide for the establishment of the Dutch Recovery Fund and contain guidelines on how its resources are to be spent. Under the administrative agreement, the World Bank and Sint Maarten will then conclude one or more grant agreements. Such agreements will contain provisions on the rules governing the preparation, coordination, implementation and evaluation of projects that can be financed completely or partly from the Dutch Recovery Fund. This is partly in order to be able to comply with the World Bank's quality standards for project implementation.

Although the exact content of the agreements between St Maarten and the World Bank has not yet been settled, it is already clear to the government that their provisions will be binding on the Country and hence on the Bureau too. Article 24, paragraph 1, of this draft national ordinance emphasises that the Bureau is bound by these agreements in relation to the preparation, coordination, implementation and evaluation of projects which can be wholly or partly funded from the Dutch Recovery Fund.

In addition, article 24, paragraph 2, provides that when the Bureau is advising ministries, or organisational units that fall thereunder, on the identification and implementation of additional projects that can be financed wholly from other resources, the regulations included in the agreements with the World Bank must be complied with as far as possible. The Bureau is not obliged to adopt these regulations in full for such projects. Nonetheless, the government considers it desirable, especially from the perspective of uniformity and effectiveness, for the Bureau to comply with these regulations as far as possible when advising on additional recovery, reconstruction and resilience projects.

The agreements with the World Bank referred to above can be concluded independently both by the Netherlands and by Sint Maarten.² As such, agreements do not constitute treaties; they do not qualify as foreign relations for the purposes of article 3 of the Charter for the Kingdom of the Netherlands. Other provisions of the Charter, notably articles 24 to 28, also refer to the manner in which 'agreements with other powers and with international organisations' can be concluded. This terminology corresponds with the term 'treaty' as was used at that time in the relevant constitutional provisions, which have since been replaced. Based on the literature,³ it can therefore be concluded from the above that these provisions mean that the Caribbean Countries themselves can decide on their treaty relations and may conclude international agreements independently in fields that fall within the scope of the autonomy of the Country concerned, including therefore agreements with the World Bank on recovery and reconstruction.⁴

² Second Chamber documents 2017/18, 34 773, no. 10, p. 3 and 4.

³ Charter for the Kingdom of the Netherlands, C. Borman, Kluwer 2012, 3rd impression, chapter 7, section 7.2, p. 139.

⁴ On equal grounds, the Dutch government concluded an agreement with the World Bank on April 16th, 2018 without mediation of the Government of the kingdom. The agreement explicitly states that this agreement is not considered to be a treaty and will not be registered as a treaty under Article 102 of the Charter of the United Nations, which, inter alia, stipulates that each treaty signed by a member of the United Nations be

In accordance with the Charter and the Constitution, article 2, paragraph 1, of the draft ordinance stipulates that the government may conclude agreements on the Country's behalf with the World Bank for the implementation of the Dutch Recovery Fund. This article also explicitly gives Parliament the power, at the proposal of the government, to adopt a National Recovery and Resilience Plan.

4. Financial section

In accordance with the proposed article 22, the Bureau will be financed as much as possible from the Dutch Recovery Fund for the duration of its activities. A periodic contribution determined on the basis of a budget drawn up for this purpose, which requires the approval of the Minister, will be paid from the Fund.

The possibility of financing from the Dutch Recovery Fund is one of the additional reasons why it was decided to establish the Bureau outside the framework of the ordinary government apparatus. The aim is to avoid putting extra pressure on the Country's precarious finances. The Bureau can be financed from the Dutch Recovery Fund only if it is staffed by persons who are not in active duty of the Country and therefore not remunerated through its national budget. The strict conditions applied by the World Bank on this point are fulfilled by the present draft ordinance. For example, article 9, paragraph 5, of the draft regulates the situation where candidates for the position of director or staff member are public servants before being appointed to the Bureau. In such cases, the persons concerned are automatically exempted from service by the competent authority for the term of their appointment to the Bureau. When the appointment ends, the exemption from service lapses and the persons concerned resume their positions in the civil service.

This is also why division 6 of the draft ordinance contains rules on finance and financial supervision. It has been decided that these rules should be explicitly included in the draft ordinance rather than relying solely on the National Ordinance on Government Accounts, which applies to the ordinary government apparatus. The criteria applied by the World Bank for financing such a body are the reason why it is necessary to have these different rules. Moreover, the draft ordinance allows for some flexibility regarding the date by which budgets must be drawn up and adopted as well as the date for submitting financial statements. This flexibility is necessary in order to be able to record such dates in the agreements to be concluded with the World Bank. In accordance with articles 21 and 23 of the draft ordinance, the Minister is then empowered, as agreed with the World Bank, to set the dates by which a draft budget and draft annual report should be submitted for adoption.

registered with, and published by the United Nations Secretariat. A similar provision will be included in the agreements with the World Bank on the implementation of the Reconstruction fund referred to in article 2 (1) of this draft national ordinance.

When this national ordinance was drafted, it was still not possible to give an indication of the expected costs of establishing and running the Bureau. As noted previously in this explanatory memorandum, the job profiles for the director and staff of the secretariat are under discussion between the government and the World Bank. However, given the proposed embedding of the Bureau, the government has already ensured that no unnecessary costs will be incurred. After all, it has proposed a flat organisation which will be staffed solely by persons possessing the expertise necessary to properly carry out activities for the implementation of projects that can be financed from the Dutch Recovery Fund.

Individual articles

Article 1

This article contains various definitions intended to ensure that the draft national ordinance is readable and comprehensible. Some of the definitions are merely an abbreviated version of the names of new bodies established in the ordinance. For example, as a result of its inclusion in the definitions the National Recovery Program Bureau is abbreviated to 'the Bureau' in the remainder of the ordinance. The same is true of the terms 'selection committee' and 'working group'.

A second category of definitions has been introduced to avoid the necessity of cross-references wherever possible. For example, the introduction of definitions for such terms as 'director' and 'secretariat' precludes the need to keep referring back to the article in which the positions or institutions are established.

A third category of definitions contains references to comparable terms in other national ordinances that are in force. For example, the term 'public servant' is defined by reference to the National Ordinance on Substantive Public Service Law and 'organisational unit' by reference to the National Ordinance on National Government (Structure and Organisation).

Finally, the draft ordinance proposes a fourth category of definitions, containing terms exclusively applicable to this national ordinance. For example, the definition of 'Minister' contains a reference to the minister responsible for implementing and applying this national ordinance and the definition of 'Dutch Recovery Fund' contains a reference to the agreement establishing the Dutch Recovery Fund for Sint Maarten.

Article 2

This article contains the proposal to authorise the government to conclude agreements with the World Bank for the implementation of the Dutch Recovery Fund for St Maarten. As indicated in the general part of this explanatory memorandum, the conclusion of international agreements of this kind (non-conventions) comes within the autonomous powers of the Country and is not a Kingdom affair within the scope of the Charter, which needs to be approved or dealt with by the Council of Ministers of the Kingdom. In this proposed article, the government establishes a solid basis

for vigorous negotiations with the World Bank on implementing the Dutch Recovery Fund.

Secondly, this article provides a formal basis for adoption of the National Recovery and Resilience Plan. The aim of the Plan is to list all projects that have become necessary in the context of recovery and reconstruction, and give an indication of the funds, costs and investments required. The government considers it desirable for the National Recovery and Resilience Plan to have formal legal status under this national ordinance to ensure, among other things, that the Bureau adheres closely to the Plan when performing its tasks.

Since this Plan concerns a decision that should be made public given the national interest involved, the proposed paragraph 6 provides for the Plan's publication in the National Gazette.

If the Bureau discovers omissions in the Plan when carrying out its tasks, it is authorised to submit a written advice on this to the government. Based on such advice, the government may then make proposals to Parliament for additions to the Plan.

Articles 3 and 4

These articles contain the proposals for the actual establishment of the National Recovery Program Bureau as an autonomous administrative authority with legal personality and for allocation of the proposed tasks to it. Both the reason for the establishment of the Bureau as an autonomous administrative authority and the reason for and scope of the tasks assigned to it have already been explained in the general part of this explanatory memorandum, to which reference is made here for the sake of brevity. Finally, article 3, paragraph 3, contains a provision guaranteeing the autonomy of the Bureau in terms of its resources and organisation. Reference is made here to the relevant articles on funding, reporting and administrative obligations.

Articles 5 and 14

These articles set out the proposals for the structure and organisation of the Bureau. The Bureau will consist of a director (plus, if necessary, a deputy director) and a secretariat. The director will be responsible for the day-to-day management of the Bureau and for its operations and results. This does not detract from the administrative and political responsibility of the Prime Minister (who is also the Minister of General Affairs) for the Bureau.

It is proposed that the quantity and quality of the staff establishment of the secretariat be regulated by national decree containing general measures. This also applies to the terms and conditions of employment of the director, the deputy director and the staff of the secretariat. In addition, article 5, paragraph 3, provides that the staff of the secretariat must be chosen in such a way that the secretariat has all the relevant experience, expertise and understanding of the local situation in Sint Maarten so that the Bureau can perform its tasks and exercise its powers.

As already indicated in the general part of the explanatory memorandum, the government is currently taking preparatory steps, in cooperation with the World Bank, to draw up profiles for the various positions in the secretariat that are of importance to the performance of the Bureau's activities.

Article 6

This article contains a proposal to establish a National Recovery Program Bureau Recruitment and Selection Committee, to be responsible for recruiting and selecting candidates for the various positions within the Bureau. The government's aim in establishing the selection committee is to obtain objective assistance with the selection of suitable candidates for the various positions. This is because it is reasonable to expect that once the procedure for setting up the Bureau has progressed beyond the initial stage, the selection committee will lead a largely dormant existence. After the Bureau has been set up and organised and the selection committee has actively advised on the various appointments, all positions will have been filled. From then on, the selection committee need only take action if one of the positions falls vacant, for example if an appointment or contract is not extended or an official is suspended or dismissed. However, the establishment of the selection committee is considered to be of importance in making the process of appointing candidates to the various positions in the Bureau as objective and transparent as possible. Moreover, the staff of the secretariat are to be appointed by the director on the basis of a fixed-term employment contract under civil law. At that stage, the selection committee plays an important role in ensuring that the correct expertise is brought together in the Bureau and that the director has sufficient assistance with the selection process to ensure that the secretariat is properly staffed.

Article 7

The director and, if desirable, the deputy director are to be appointed, suspended and dismissed by national decree, on the written recommendation of the selection committee. These appointments are, in principle, of a temporary nature, with the first appointment being for a maximum of three years. This term is based on the expected duration of the Bureau's activities. Accordingly, the date of repeal of the present proposal for a national ordinance is also set at three years in article 31. If the Bureau's activities have not been completed or not fully completed when this period expires, the validity of the national ordinance may be extended by national decree. This is also possible for the term of the appointment of the director or deputy director. The appointment of this official can then be extended by national decree for a maximum of a year at a time.

Article 8

This article regulates the manner in which members of staff of the secretariat are to be appointed. This is to be done on the written recommendation of the selection committee and on the basis of a fixed-term employment contract under civil law for a maximum term of three

years, after which the contract may be extended. Notwithstanding article 1615fa of Book 7A of the Civil Code, such employment contracts remain of a temporary nature and are not automatically succeeded by open-ended employment contracts. This is because the Bureau itself is established for a fixed period and it is not intended that the staff of its secretariat should subsequently remain in the Country's permanent employment.

This article proposes that the staff of the secretariat should in other respects have the same rights and obligations as public servants. The rights and obligations applicable to public servants under the National Ordinance on Substantive Public Service Law therefore applies in full to members of the staff of the secretariat in so far as not expressly provided otherwise in this draft national ordinance, including the method of appointment.

Articles 9 to 13

These articles contain proposals for standard provisions on incompatibilities, the suspension and dismissal procedure and the oath or affirmation on taking up an appointment. The provisions are based on comparable provisions for High Councils of State and other autonomous administrative authorities established by national ordinance. The rules on incompatibilities are limited. The draft ordinance merely provides that when the director or a member of staff of the secretariat is also a public servant, that they will be granted exemption from service for the term of the appointment to the Bureau. The government has made this proposal because it wishes to ensure that decisions on appointments are taken solely on the basis of the qualities needed for the performance of the work.

Where the director or staff of the secretariat accept outside positions, the ordinance provides that if this is undesirable the persons concerned may be dismissed by virtue of the proposed article 11, paragraph 2 (f).

Articles 15 and 16

These articles provide the establishment of a recovery working group and proposals for its establishment and procedures. The working group will function as the Bureau's contact and will perform work for the Bureau, including gathering information necessary for the establishment and implementation of projects. The working group also takes, at the request of the Bureau, care of preparing project notes and advising the Bureau on implementation and technical specifications. This procedure is proposed in division 7 of the draft national ordinance.

At least one member and, if desired, a deputy member are designated for each ministry to serve as a focal point for activities performed for the benefit of the Bureau. These activities take priority over their ordinary duties. With regards to the designation of persons for membership of the working group, the government considers it important to note that they should be familiar with the workings of their ministry and have held their position for long enough to know who can be contacted within the ministry to obtain the information needed by the Bureau or the working group for the proper performance of its tasks. The members of the working group

are also made responsible for periodically briefing the secretary-general of each ministry about the progress of the recovery and reconstruction projects being carried out under the responsibility of that ministry and for notifying the secretary-general in a timely manner of any problems that occur in collecting information. Finally, the ministries or organisational units falling thereunder have a duty to cooperate in providing information requested for the benefit of the working group. These entities are obliged to ensure that all information requested for the activities of the Bureau is supplied within a reasonable period. For the record, reference should be made here to the proposals for duties of secrecy of the Bureau and the working group, as proposed in article 30 of the draft ordinance.

Articles 17 and 18

The Bureau will draw up a half-yearly report which requires the Minister's approval. This half-yearly report will then be published in the National Gazette. The matters that must in any event be covered in the half-yearly report are set out in the proposed article 18, paragraph 1. The government's aim in making this proposal is to provide due transparency about how the Bureau performs its tasks. This will allow the results to be checked and verified and, where necessary, adjustments made. As regards records of data, reference should also be made to the proposed provisions of article 29.

Articles 19 and 20

As already noted in the general part of this explanatory memorandum, the Prime Minister (who is also the Minister of General Affairs) is responsible for overseeing the Bureau. The proposed relationship between the Minister and the Bureau is described in articles 19 and 20. First of all, the draft provides that both the Bureau and the working group should have an obligation to provide the Minister with information. In addition, the Bureau and the working group are obliged to indicate what information should be treated confidentially. An example would be sensitive business information obtained for a particular project for which a public procurement procedure has been instituted.

Article 19, paragraph 3, provides that the Minister should have the authority, in keeping with the opinion of the Council of Ministers, to give general or special directions on how the Bureau is to perform its tasks. General directions may relate, for example, to a procedure which the government wishes the Bureau to adopt and has been put in place by the Bureau in accordance with article 24, paragraph 3. Special directions may relate, for example, to the manner in which a specifically identified project is implemented.

Article 20 contains a proposal to make the Minister responsible for intervening if there has been a serious dereliction of duty by the Bureau. If measures are taken in connection with a serious dereliction of duty the Minister must notify Parliament. Under the National Ordinance of the General Audit Chamber, including article 31, Parliament may then request the assistance of the General Audit Chamber to conduct certain investigations.

In accordance with article 98, paragraph 2, of the Constitution and instruction 99, paragraph a, of the Instruction for the Legislation of Sint Maarten, article 20 also contains a provision for the public nature of meetings of the Bureau. These meetings will take place at least once a quarter with the Minister.

Articles 21 to 23

For the sake of brevity, reference is made to the financial section of the general part of this explanatory memorandum.

Articles 24 to 27

These articles contain a few procedural rules for the performance of tasks by the Bureau and by the working group.

First, article 24 ensures that in performing its tasks the Bureau is bound by the National Recovery and Resilience Plan and by any regulations adopted under international agreements with the World Bank and the Netherlands. As regards the background to the conclusion of such agreements, reference is made to the general part of this explanatory memorandum.

Under the proposed article 25, paragraph 1, the Bureau must draw up a schedule of activities each year, which requires the approval of the Council of Ministers. In the schedule, the Bureau must also at least provide a list of the projects identified in the Plan, which are capable of being prepared in that year.

Articles 25 and 26 contain proposals governing the relationship and division of responsibilities between the Bureau and the working group. As explained in the general part of this explanatory memorandum, the working group serves as the body responsible for implementing the decisions of the Bureau and performs on behalf of the Bureau the activities necessary for each identified project. A summary of these activities is given in the articles concerned.

Finally, article 27 contains some procedural rules for the performance of the Bureau's advisory role in relation to projects that will not be financed from the Dutch Recovery Fund. The decision on whether or not to implement such a project is taken by the minister who has responsibility for the policy on it. This minister is also responsible for obtaining the financing needed for the project. On request, the Bureau's expertise, knowledge and experience can be used for the implementation of such projects.

Article 28

As the draft ordinance envisages the Bureau as a flat organisation with limited capacity and personnel, situations may arise in which expertise not available in the Bureau is required for a specific project. This article provides that in such cases the Bureau may arrange to be assisted by external experts, with the prior approval of the Minister. It should also be

noted here that the requisite expertise could be obtained by appointing new staff to the secretariat for a short period.

Article 29

This article contains a proposal for the operation of an administrative system by the Bureau. The system is connected both with the half-yearly reports to be drawn up by the Bureau, and with the financial accounts. One of the aims of the system is to facilitate the auditor's work in performing the audit referred to in article 23 and to provide information about the work carried out by the Bureau.

Article 30

Under this article, the Bureau and the working group are bound by certain necessary duties of secrecy. As explained previously, in performing its tasks the Bureau may sometimes possess sensitive business information, for example where a public procurement procedure is instituted in order to award a contract for an identified project. Companies that tender for a contract must have the assurance that their sensitive business information will be treated with due care.

Article 31

This article provides for this national ordinance, and the provisions based on it, to be repealed by national decree on the first day of the fourth calendar year after its entry into force. The Bureau's activities are intended to be of a temporary nature, namely for the duration of the Dutch Recovery Fund. This is why the government has proposed the inclusion of this 'sunset clause' from the moment the ordinance enters into force. The legislative methodology behind this arrangement is derived from article 42 of the Regulation of Cooperation Guarantee Plans of Action National Tasks Curaçao and Sint Maarten. If the government finds that the Bureau's activities have not yet been completed (or not fully completed) on the first day of the fourth calendar year, the period in which the national ordinance is in force can be extended by national decree for a maximum of two years at a time. This flexibility is desirable in order to ensure that the Bureau does not cease to exist before its activities have been completed. Finally, mention should be made here of the appointment of the staff of the Bureau. The terms of appointment are connected with any decisions to extend or repeal this national ordinance.

Article 32

This article specifies the short title by which this national ordinance may be cited. In accordance with instruction 138 of the Legislative Drafting Instructions, the temporary nature of this legislation is expressed both in the heading of this draft national ordinance and its abbreviation.

Article 33

To ensure that the entry into force of this draft national ordinance coincides with that of the implementing legislation under article 14 of the

draft, and, if desired, the implementing legislation under article 8, paragraph 4, of the draft, it is proposed that this national ordinance should enter into force on a date to be set by national decree. Naturally, this proposal is without prejudice to the power of the "Ombudsman" to apply, if desired, to the Constitutional Court under article 127 of the Constitution.

Minister of General Affairs