

Version February 18, 2008

DRAFT CONSTITUTION OF ST. MAARTEN

CONSTITUTION OF ST. MAARTEN

Chapter 1 Basic rights

- 1 Right to life
- 2 Prohibition of torture
- 3 Prohibition of slavery and forced labor
- 4 Equal treatment, prohibition to discriminate
- 5 Expulsion of foreigners
- 6 Equal eligibility in public service
- 7 Right to vote
- 8 Right of petition
- 9 Freedom of religion and persuasion
- 10 Freedom of speech
- 11 Freedom of association
- 12 Freedom of assembly and right of demonstration
- 13 Privacy
- 14 Physical integrity
- 15 Freedom of movement
- 16 Right to inviolability of the home
- 17 Correspondence and telephone conversations
- 18 Expropriation
- 19 Deprivation of freedom
- 20 Fair trial
- 21 No punishment unless the act constitutes an offense and the right to defend oneself
- 22 Right to legal representation
- 23 Dignified treatment of prisoners
- 24 Protection of children
- 25 Employment
- 26 Social security
- 27 Environmental and animal welfare
- 28 Public Health
- 29 Education
- 30 Restrictions basic rights

Chapter 2 Government

- 31 Composition of Government
- 32 Appointment and dismissal of Ministers
- 33 Requirements for appointment
- 34 Suspension and dismissal of a Minister if convicted
- 35 Consanguinity
- 36 Establishment of ministries
- 37 Council of ministers
- 38 Signing of laws etc.
- 39 Taking an oath or pledge by ministers
- 40 Remuneration and pension

- 41 Incompatibilities of the minister plenipotentiary

Chapter 3 Parliament

- § 1 Organization and composition
- 42 People's Representation
- 43 Composition of Parliament
- 44 Parliamentary session time`
- 45 Election of the Members of Parliament
- 46 Exclusion from the right to vote
- 47 Requirements for Members of Parliament
- 48 Suspension and dismissal of Members of Parliament if convicted
- 49 Incompatibilities of the Members of Parliament
- 50 Prohibited Consanguinity
- 51 Credential verification
- 52 Elections
- 53 Swearing in or pledging of Members of Parliament
- 54 Chair-person, substitute and registrar
- 55 Remuneration and pension of the Members of Parliament
- 56 Dissolution of Parliament

- § 2 Working-method
- 57 Meetings of Parliament
- 58 Quorum
- 59 Right of inquiry
- 60 Provision of information by the Ministers to Parliament
- 61 Investigation right
- 62 Immunity of the Members of Parliament
- 63 Rules of Order
- 64 Advocate the interest of Sint Maarten
- 65 Investigation of petitions

Chapter 4 Advisory Council, General Audit Chamber and Permanent Advisory Boards

- 66 Hearing of the Advisory Council
- 67 Composition of the Advisory Council and its incompatibilities
- 68 Organization and competence of the Advisory Council
- 69 Taking an oath or pledge by the Members of the Advisory Council
- 70 General Audit Chamber
- 71 Composition of the General Audit Chamber
- 72 Organization and competence of the General Audit Chamber
- 73 Taking an oath or pledge by the Members of the General Audit Chamber
- 74 Permanent Advisory Boards and support
- 75 Publication of advises

Chapter 5 Legislation and administration

- §1 Laws and other regulations

76	Enactment of laws
77	Ratification of legislative proposals
78	Submitting legislative proposals
79	Right to introduce legislation
80	Right of amendment
81	Withdrawing legislative proposals
82	Procedures
83	Laws entering into effect
84	Establishing resolutions containing general measures
§2	Referendum
85	Consultative referendum
86	Referring to a referendum
87	Topics that are not to be decided by referendum
88	Consequences of a referendum
89	Statutory regulation
§3	Other stipulations
90	Establishing public authorities
91	Establishing taxes and other levies
92	Budget
93	Financial Management
94	Loans
95	Government Credit Institution
96	Monetary System
97	Codification of civil law and penal law
98	Codification of general rules for administrative law
99	General rules pertaining to complaints about government practices
100	Legal status of civil servants
101	Government Transparency
102	Public Utilities
103	Administration of public lands
104	Conscription
105	Extraordinary conscription
106	Maintaining external and inland security

Chapter 6 Judiciary system and judiciary

§1	General
107	Judiciary and Independence
108	Tasks of the Judiciary
109	Capital Punishment
110	Impartiality
111	Nomination and dismissal
112	Public Sessions
113	Clemency
114	The Supreme Court as Court of Cassation

115 Legal Review

§2 Public Prosecutor's Office
PM

Chapter 7 Final Stipulations

116 Amendment of the Constitution

117 Quote title

Additional articles

I Transition

II Extension

Preamble PM

CONSTITUTION OF SINT MAARTEN

CHAPTER 1

Basic Rights

Article 1

1. Everyone's right to life is guaranteed by law. No one may intentionally take a person's life.
2. The taking of a life is not considered to have been in conflict with this article, if it results from absolutely that was absolutely necessary:
 - a. to defend anyone against unlawful violence;
 - b. in order to perform a legal arrest or to prevent the escape of someone who is legally kept in captivity;
 - c. in order to suppress a riot or revolution via legal measures.

Article 2

No one may be subjected to torture, brutal, inhumane or humiliating treatment or punishment.

Article 3

1. No one may be held in slavery or servitude.
2. No one may be forced to perform penal servitude or forced labor.
3. This article does not consider the following to be forced labor:
 - a. labor that is normally required from someone who is held in captivity as per the stipulations of article 19, or during his conditional release;
 - b. any service of military nature;
 - c. any service which may be demanded during an emergency or a calamity that threatens the life or welfare of the community;
 - d. any work or any service, which forms part of the normal civic duties.

Article 4

All persons on Sint Maarten, will be treated equally in similar cases. Discrimination due to religion, belief, political conviction, race, complexion, gender, language, national or social origin, being a member of a national minority group, fortune, birth, or whatever ground, is not allowed.

Article 5

The admittance and expulsion of foreigners is regulated by law.

Article 6

All Dutch citizens may be appointed on equal terms in public service.

Article 7

Subject to the exceptions stipulated by law, any Dutch citizen residing on Sint Maarten has the same right to elect members of general representative organizations, and also to be elected as a member of such organizations.

Article 8

1. Every one has the right to submit written petitions to the competent authority.
2. Persons who can not write, may submit petitions with the help those legally appointed to do so.
3. The competent authority must reply to petitions within a period designated by law.

Article 9

1. Everyone has the right to practice his religion or belief freely, individually or in community with others, in accordance with their legal responsibility.
2. The law may limit the execution of this right outside of buildings and private places for health reasons, in the interest of traffic and to combat or prevent disorder.

Article 10

1. In accordance with everyone's legal responsibility, each person has the right to express his ideas or feelings or to request information, without prior permission.
2. In the interest of a responsible use of the ether, or in the interest of diversification, radio and television broadcasts may be subject to a license for operation. The contents of radio and television broadcasts are not screened.
3. There is no prior permission necessary for the publication of ideas or opinions or the gathering of information, by other means than those indicated above. Performances admitting persons under the age of sixteen, may be regulated by law in order to protect the good morals.
4. The above sections do not apply to commercial advertising.
5. Subject to everyone's legal responsibility, prior permission is not required for gathering and receiving information. The right to gather information may be restricted by law.

Article 11

The right to freedom of association is acknowledged by law. In the interest of public order this right may be restricted by law.

Article 12

1. Freedom of assembly and demonstration is acknowledged by law in accordance with individual legal responsibility.
2. The right to gather information may be restricted by law, in order to protect public health, in the interest of traffic and to combat or prevent disorder.

Article 13

1. Subject to, and by virtue of restrictions to be established by law, every one has the right to privacy.
2. The law establishes rules for the protection of personal privacy with regard to the recording and providing personal information.
3. The law establishes rules pertaining to the rights of persons to be able to see data recorded on them, how said data is used and how to upgrade said information.

Article 14

Subject to, and by virtue of restrictions to be established by law, every one has the right to inviolability of one's body.

Article 15

1. Subject to, and by virtue of restrictions to be established by law, every one who is legally in Sint Maarten has the right to free movement, to stay and to choose one's residence.
2. Subject to those instances stipulated by law, everyone has the right to leave the country.

Article 16

1. Entering a home without the permission of its inhabitant is only allowed in cases established by law and by those lawfully appointed to do so.
2. Subject to exceptions stipulated by law, entering a home, according to section one, requires prior legitimization and information regarding the reason for entering.
3. The inhabitant is given a report of the entering as soon as possible. If the home was entered into in the interest of national security or prosecution, the presentation of the report may be postponed by regulations to be established by law. In cases to be established by law the report may be withheld in the interest of national security.

Article 17

1. The privacy of correspondence is an inviolable right, except in cases established by law, by or with the authorization of a judge.
2. The right to the privacy of telephone conversations is inviolable, except in cases established by law, by or with the authorization by the legal competent authorities.

Article 18

1. Everyone has a right to the undisturbed enjoyment of their property, except in cases where this is legally restricted in the general interest.
2. One's property can not be confiscated, except in cases where the law has established that such is necessary for public use. This takes place by prior agreement and against prior indemnification.
3. When in an emergency, immediate expropriation is necessary, the requirement in the previous section, stating that the law should state that expropriation is necessary in the public interest becomes null and void. In that

case it is also not necessary that there should be prior indemnification guarantee or payment..

4. In the cases stipulated by the law, one is only entitled to indemnification or compensation for the damage, if in the general interest, property is destroyed or rendered useless by the competent authority or if the exercising of one's ownership is restricted.

Article 19

1. Everyone is entitled to personal freedom. Subject to, or by virtue of regulations to be established by law, there may be no freedom deprivation except in cases of:
 - a. legal detention after a conviction by a competent judge;
 - b. legal arrest or detention due to refusal to comply with an order issued by a judge in accordance with a legal regulation or in order to secure the adherence to an obligation explicitly prescribed by legal regulation.
 - c. legal arrest or detention in order to appear before the competent judicial instance if there are reasonable grounds to presume, that a person has committed an offense or if there are reasonable grounds to assume, that it is necessary to prevent him from:
 - committing an offense;
 - escaping after he has committed an offense;
 - endangering a criminal investigation;
 - d. legal detention of a minor in order to intervene in his education or in case of his legal detention in order to appear before the competent authority;
 - e. legal detention of persons, who may spread a contagious disease, persons with a mental disturbance of persons addicted to alcohol or drugs;
 - f. legal detention of persons, in order to prevent them from entering the country illegally;
 - g. legal detention of persons, faced with a pending extradition or expulsion procedure.
2. Anyone arrested or detained, in accordance with section 1 sub c, of this article, must be promptly brought before a judge, and is entitled to be sentenced within a reasonable time or they must be released pending the court case.
3. Anyone deprived of their freedom, is entitled:
 - a. to submit a petition to a judge so that a resolution is adopted pertaining to the legality of his detention and to order his release, if the detention is unlawful;
 - b. to be immediately informed, in a language that he understands, of the nature and reason of the detention, of his right to refrain from answering and of his right to legal council.
4. Any one who has been the victim of a detention contrary to the stipulations of this article, is entitled to indemnification.
5. A person who has been legally deprived of their freedom, may be restricted from exercising his constitutional rights, in as far as these are not compatible with the detention.

Article 20

When establishing ones civic rights and obligations and in case of prosecution due to an offense, everyone is entitled to fair and public treatment of their case, within a reasonable period of time and by an independent and impartial institution established by law.

Article 21

1. No act is punishable unless this is stipulated by a previously established penal law.
2. Anyone being prosecuted for criminal offence is considered innocent until legally proven guilty.
3. A person may not be prosecuted or sentenced twice for the same crime, if they have been irrevocably sentenced by a judge.
4. Anyone being prosecuted for an offense, is especially entitled to the following rights:
 - a. the right to be informed immediately, in a language he understands, of the nature and reason of the detention, of his right to refrain from answering and of his right to legal representation.
 - b. he right to be assisted free of charge by a translator, if they not understand or speak the language spoken at the court session;
 - c. the right to have sufficient time and means to prepare a defense;
 - d. the right to defend himself;
 - e. the right to interrogate witnesses for the prosecution or have them interrogated and to have witnesses for the defense summonsed and interrogated in the same manner as the witnesses for the prosecution.

Article 22

1. Everyone is entitled to representation in a legal action and in administrative appeal.
2. The law establishes rules for the legal representation of the less fortunate.

Article 23

1. Anyone deprived of their freedom, must be treated with dignity and respect inherent to their nature as a human being.
2. Subject to exceptional circumstances, suspects must be held separately from convicted persons and they must be able to claim separate treatment pertaining to their status of non-convicted persons.
3. Juvenile suspects must be held separately from adults and they must appear before the Judge as soon as possible.
4. The prison institute must treat prisoners in a way primarily geared towards re-educations and rehabilitation. Juvenile prisoners must be held separate from adults and they must be treated according to their age and legal status.

Article 24

Every child is entitled to protective measures from Government, regardless of race, the colour of his skin, gender, language, religion, national or social background, title or birth.

Article 25

1. Promoting sufficient employment has the constant attention of Government.
2. The law establishes regulations pertaining to the legal status of the working population and their protection as such, including their active participation.
3. Subject to, and by virtue of, restrictions to be established by law, every Dutch citizen has free choice of employment.

Article 26

1. Social security and the spreading of prosperity have the constant attention of Government.
2. The law establishes regulations pertaining to the rights to social security.
3. By virtue of regulations to be established by law, Dutch citizens in this country, who can not support themselves, are entitled to social welfare, to be regulated by law.

Article 27

The Government provides for the habitability of the country and the protection and improvement of the living environment and the welfare of animals.

Article 28

1. The Government establishes measures for the improvement of public health.
2. Promotion of sufficient housing is a constant attention of Government.
3. Government creates conditions for social and cultural development and recreation.

Article 29

1. Teaching is free, except for supervision by Government to be established by law. The law may establish conditions for the protection of health and, regarding the types of education established by law, the qualifications and morality of educators.
2. The law regulates public education and respects all religions and convictions. The law ensures that there is an adequate opportunity for receiving public basic education and that the need for other by law indicated types of public education is adequately provided.
3. As far as these requirements meet conditions established by law or by virtue of the law, the costs for special basic education and other types of special education stipulated by law, just like those for public education are covered by Government.
4. The conditions indicated in the previous section, respect the freedom of educational type, which includes the choice of educational materials and the appointment of educators. These are subject to regulations in such a way that, taking into consideration the freedom of educational type, private education as well as public education is adequately guaranteed.

Article 30

Subject to an absolute majority of the votes of the number of members, Parliament may not approve a proposal to adopt or amend laws or present such draft for adoption, as

referred to in articles 7, 9, 10 section two and five; 11, 12, section two; 13, section one, 14, 15 , 16, 17, 18, section one, 29, section one.

CHAPTER 2

Government

Article 31

1. Government is formed by the King and the ministers.
2. The Governor represents the King.
3. The ministers are accountable to Parliament.

Article 32

1. The prime-minister and other ministers are appointed and dismissed by resolution.
2. If a minister no longer has the support of Parliament, he will resign.
3. Further rules regulating this matter may be established by law.

Article 33

1. The ministers must have the Dutch nationality and must have the right to vote.
2. A minister can not at the same time be:
 - a. Governor;
 - b. substitute of the Governor;
 - c. member of the Advisory Council;
 - d. member of the General Audit Chamber;
 - e. the minister plenipotentiary;
 - f. an active civil servant;
 - g. member of Parliament;
 - h. member of the Judiciary;
 - i. prosecutor-general or attorney-general of the Joint Court of Appeal;
 - j. ombudsman.
3. With regard to other positions, the law may stipulate that they are not compatible with that of a minister.
4. Without prejudice to the stipulation of section two, sub g, a minister who has been appointed as member of Parliament, can unite the position of minister and his membership in Parliament, for up to a maximum of three months after his appointment as minister.
5. In application of this article workmen, and those employed by the Government under a civil rights labour agreement, are also considered to be civil servants as per section 2, sub f.

Article 34

1. Any minister who has been irrevocably convicted by a judge for having committed a criminal offence, indicated by law, will be legally discharged

from his position and will be excluded from being eligible for a period of time to be established by law.

2. For as long as the conviction, referred to in section 1, is not irrevocable, the minister will be suspended from exercising his function.
3. The minister concerned is replaced. The law further regulates the suspension and replacement.

Article 35

Blood relationship, up to and including the second descending line, may not exist between ministers. Spouses cannot both be ministers at the same time.

Article 36

The ministries are established by law. These are under supervision of a minister.

Article 37

1. Together the ministers form the council of ministers.
2. The council of ministers consists of seven ministers.
3. The prime-minister is the president of the council of ministers
4. The council of ministers meets and decides on general government policies in order to promote the uniformity of these policies.
5. When the Governor attends a meeting of the council of ministers, he has an advisory vote.
6. The Rules of Order of the council of ministers are established by resolution.

Article 38

1. Laws and resolutions are signed by the Governor and by one or more ministers.
2. The resolution whereby the resigning prime-minister is dismissed, and his successor is appointed, is co-signed by the latter. The resolutions whereby the other ministers are appointed or dismissed, are co-signed by the prime-minister.

Article 39

Before accepting their assignment, the ministers must take the following oath (declaration and pledge) before the Governor:

“I swear, (declare) that in connection with my appointment as a minister, I have neither directly or indirectly given, promised to give or will give anything to any one whomsoever this may be, under whichever name or pretext.

I swear (pledge) that in order to do or refrain from doing anything in this position, I will neither directly nor indirectly accept any promises or gifts from anyone.

I swear (pledge) allegiance to the King and to the Kingdom Charter, that I will always help uphold the Constitution of Sint Maarten, and the welfare of Sint Maarten to the best of my ability. So help me God Almighty (This I swear and promise)!”

Article 40

The remuneration, pension and other monetary benefits of the ministers and the minister plenipotentiary are regulated by law.

Article 41

1. The minister plenipotentiary must have the Dutch nationality and must not be excluded from voting.
2. The minister plenipotentiary may not occupy the following positions at the same time:
 - a. Governor;
 - b. substitute of the Governor;
 - c. member of the Advisory Council;
 - d. member of the General Audit Chamber;
 - e. active civil servant;
 - f. member of Parliament;
 - g. member of the Judiciary;
 - h. prosecutor-general or attorney-general of the Joint Court of Appeal;
 - i. minister;
 - j. ombudsman.
3. With regard to other positions, the law may stipulate that they are not compatible with that of a minister plenipotentiary
4. Subject to the stipulation of section two, sub f, a minister plenipotentiary who has been appointed as a member of Parliament, can combine the position of minister and the membership in Parliament, up to a maximum of three months after his appointment as minister.
5. The previous sections also apply to the substitute of the minister plenipotentiary.
6. When on Sint Maarten, the minister plenipotentiary will have the opportunity to attend deliberations in the council of ministers pertaining to subjects that concerns his competence. He will then have an advisory vote.

CHAPTER 3

Parliament

§1. Composition

Article 42

The Parliament represents the entire population of Sint Maarten.

Article 43

The Parliament consists of fifteen members.

Article 44

1. The Parliament is constituted for a period of four years.

2. This term starts on the second Tuesday of September or on an earlier date to be stipulated by law, with a statement in a Parliamentary meeting by or on behalf of the Governor, elucidating the envisioned government policies.

Article 45

1. The members of Parliament are elected based upon proportionate representation, within the limitations to be established by law.
2. The elections are free and the ballots are secret.

Article 46

1. The members of Parliament are directly chosen by the inhabitants of Sint Maarten, who have the Dutch nationality and who have reached the age of eighteen years.
2. Excluded from voting are:
 - a. those who have been deprived of their right to vote by an irrevocable judicial sentence;
 - b. those who have been declared in a irrevocable court decision incompetent to perform legal actions in an, due to a mental disorder.
 - c. those who are according to article 34 or 48 excluded of the right to be elected.

Article 47

1. In order to be a member of Parliament one must be residing on Sint Maarten and possess the Dutch nationality, be at least eighteen years of age and not excluded from right to vote.
2. A member of Parliament can tender his resignation at any time by means of a written notice to the chairperson of Parliament.
3. In any case, parliamentary membership expires after a stay of more than eight months outside of the country.

Article 48

1. Any member of Parliament who has been irrevocably convicted by a judge for having committed a criminal offence, indicated by law, will be legally discharged from his position and will be excluded from being eligible for a period of time to be established by law.
2. For as long as the conviction, referred to in section 1, is not irrevocable, the member of Parliament will be suspended from exercising his function.
3. The member of Parliament concerned is replaced. The law regulates his suspension and replacement.

Article 49

1. Members of Parliament cannot be at the same time:
 - a. Governor;
 - b. substitute of the Governor;
 - c. member of the Advisory Council;
 - d. member of the General Audit Chamber;

- e. minister;
 - f. minister plenipotentiary;
 - g. active civil servant;
 - h. member of the Judiciary;
 - i. prosecutor-general or attorney-general of the Joint Court of Appeal;
 - j. ombudsman.
2. For other public functions the law may stipulate that these are not compatible with the membership of Parliament.
 3. Parliament may only accept such a draft law or decide to put forward such a draft law if such is decided with two thirds of the votes cast.

Article 50

1. Blood relationships up to and including the second degree may not exist between members of Parliament. Spouses may not be members of Parliament at the same time.
2. Should persons who are related in the manner referred to by section one, be elected at the same time, the person receiving the most votes will be admitted, and if the ballots tie, the oldest of the two will become a member.
If both parties are of the same age, fate will decide.
3. Anyone who finds himself in a situation as mentioned in the second line of section one, after being elected, cannot be forced to resign before the end of the Parliamentary term.

Article 51

The Parliament reviews the credentials of its newly appointed members, and taking into consideration rules to be established by the law, resolves any disputes pertaining to the credentials or the elections itself.

Article 52

1. The law establishes further rules and regulations regarding the right to vote and the elections.
2. The law establishes rules to promote a balanced and responsible election procedure.

Article 53

Before accepting their position, the members of Parliament have to take the following oath (statement and pledge) before the Governor:

“I swear, (declare) that in connection with my election as a member of Parliament, I have neither directly nor indirectly given or promised to give, or will give any one whomsoever anything under whichever name or pretext.

I swear (pledge) that in order to accomplish anything or to refrain from doing anything in this position, I will neither directly nor indirectly accept any promises or gifts from anyone.

I swear (pledge) allegiance to the King and to the Kingdom Charter, that I will always help support the Constitution of Sint Maarten, and that I will advocate the welfare of Sint Maarten to the best of my ability. So help me God Almighty.

(This I swear and promise)!”

Article 54

1. The members of Parliament choose a chairperson and a substitute chairperson from among themselves.
2. For as long as this election has not taken place, the chairperson appointed for the previous term will function as chairperson, if he is a member of the new Parliament, or in the absence of such a person, the member of the new Parliament, who among the new members has served the longest time in Parliament and who is the oldest among them. In the event there is also no such person, then the member with the most years will function as chair person of Parliament.
3. Parliament appoints, suspends and dismisses its registrar. The parliamentary registrar may not be a member of Parliament.
4. The required number of civil servants are appointed to the registrar in the required ranks. They may not be member of Parliament at the same time.
5. The position and remuneration of the Parliamentary registrar are regulated by law, including vacation and vacation allowance, retaining pay and pension.
6. The appointment, suspension and dismissal, including the legal status of the other civil servants to the registrar are regulated by law.

Article 55

The remuneration, pension, and other monetary benefits of the members of Parliament are regulated by law. Parliament can only adopt a draft on this matter with a two thirds majority of the votes cast.

Article 56

1. Parliament may be dissolved by a resolution.
2. The resolution for dissolution also entails the obligation for new elections for the dissolved Parliament and for the meeting of the newly elected Parliament within three months.
3. The dissolution takes effect on the day the new Parliament assembles.

§2. Working-method

Article 57

1. Parliamentary debates are public.
2.
 - a. Closed meetings are held if the chair person finds such necessary or if such is requested by four members.
 - b. Subsequently only with a two thirds majority of the votes cast at the meeting may the decision be taken to meet and make decisions behind closed doors.

Article 58

1. Parliament may not deliberate nor decide if no more than half of the sitting members are present at the meeting.

- 2 Unless otherwise stipulated in the Constitution, resolutions are taken by an absolute majority of the votes cast.
- 3 The members are not bound by mandate or instructions when casting their votes.
- 4 Matters are voted upon orally and by roll call, if so desired by a member.

Article 59

Each member of Parliament has the right to pose questions to the ministers. The ministers will answer these questions within a reasonable time, as long as the answers to said questions are not considered in conflict with the interest of the Country or the Kingdom.

Article 60

1. The ministers can attend meetings and participate in the deliberations.
2. Parliament can invite them to be present at the meeting in order to provide the required information, as long as providing said information is not considered in conflict with the interest of the Country or the Kingdom.
3. During meetings the ministers may be assisted by persons accompanying them who are pointed out by them.

Article 61

Parliament has the right of investigation, to be established by law.

Article 62

The members of Parliament, the ministers and other persons participating in a parliamentary debate can not be prosecuted or held liable for statements made during parliamentary meetings or to committees thereof, neither for written documents submitted by them.

Article 63

Parliament establishes the Rules of Order for their meetings. These are published in the way laws are published.

Article 64

Parliament has the authority to stand up for the interests of Sint Maarten before the Kingdom Government and the States General.

Article 65

Parliament reviews petitions submitted to parliament.

CHAPTER 4

The Advisory Council, General Audit Chamber and Permanent Advisory Boards

Article 66

1. The Advisory Council is consulted on:

- a. all draft laws and draft resolutions containing general measures;
 - b. drafts presented to Parliament by one or more members, before they are being handled in Parliament;
 - c. proposals presented for approval, of treaties as referred to in section two of article 24 of the Kingdom Charter that affect Sint Maarten;
 - d. drafts of Kingdom laws and drafts of general acts of the Kingdom Government.
2. Without prejudice to the provisions in the previous section, the consultation of the Advisory Council can be omitted in cases to be established by law.

Article 67

1. The Advisory Council, hereafter to be referred to as the Council, consists of five members, included a substitute chairperson.
2. As often he may deem it necessary the Governor may preside over the Council. He then has an advisory vote.
3. The substitute chairperson and the other members are appointed, suspended and dismissed by a resolution. They are appointed for a period of seven years and they may be re-elected immediately.
4. The legal status of the members of the Advisory Council is regulated by law.
5. A member of the Advisory Council can not be at the same time:
 - a. member of the General Audit Chamber;
 - b. minister;
 - c. minister plenipotentiary;
 - d. active civil servant;
 - e. member of the Judiciary;
 - f. prosecutor-general or attorney-general of the Joint Court of Appeal;
 - g. member of Parliament
 - h. ombudsman.
6. In application of this article, civil servants as per section two, sub d, are also considered those appointed as workmen, and those employed by Government under a civil labor agreement.
7. The law may stipulate that other functions and positions are not compatible with membership of the Advisory Council.

Article 68

1. The organization and competence of the Advisory Council is regulated by law.
2. The law may also assign other tasks to the Advisory Council than those indicated in this chapter.

Article 69

Prior to accepting their assignment, the members of the Advisory Council must take the following oath (declaration and pledge) before the Governor:

“I swear, (declare) that in connection with my appointment to this function, I have neither directly nor indirectly given or promised or given anything to anyone whomsoever, under whichever name or pretext, anything.

I swear (pledge) that in order to accomplish anything or to refrain from doing anything in this position, I will neither directly nor indirectly accept any promises or gifts from anyone.

I swear (pledge) allegiance to the King and to the Kingdom Charter, that I will always help support the Constitution of Sint Maarten, and that I will advocate the welfare of Sint Maarten to the best of my ability. So help me God Almighty. (This I swear and promise)!”

Article 70

The General Audit Chamber has the task of reviewing the efficiency and legality of the revenues and expenditures of the Country.

Article 71

1. The General Audit Chamber consists of three members, including its chairperson.
2. The chairperson and other members are appointed for life by resolution from a list of at least two persons, proposed by Parliament. The nomination can be approved only with at least two thirds of the number of votes cast.
3. Upon their own request or upon reaching an age to be established by law, they are dismissed.
4. In cases established by law they are suspended and dismissed by resolution.
5. The legal status of the members of the General Audit Chamber is regulated by law.
6. The stipulations in the fourth, fifth, sixth and seventh section of article 67 also applies to the members of the General Audit Chamber.

Article 72

1. The organization and competence of the General Audit Chamber is regulated by law.
2. The law may also assign other tasks to the General Audit Chamber than those indicated in article 70.

Article 73

Prior to accepting their assignment, the members of the General Audit Chamber have to take the following oath (declaration and pledge) before the Governor:

“I swear, (declare) that in connection with my appointment in this position, I have neither directly nor indirectly given or promised or will I give, any one whomsoever anything, under whichever name or pretext.

I swear (pledge) that in order to accomplish anything or to refrain from doing anything in this position, I will neither directly nor indirectly accept any promises or gifts from anyone.

I swear (pledge) allegiance to the King and to the Kingdom Charter, that I will always uphold the Constitution of Sint Maarten, and that I will advocate the welfare of Sint Maarten to the best of my ability. So help me God Almighty.
(This I swear and promise)!”

Article 74

1. Permanent Advisory Boards for legal and administrative affairs are instituted by law.
2. The law regulates the organization, composition and competence of these Boards.
3. Besides advisory tasks, according to or by virtue of the law, other tasks may also be assigned to these Boards.

Article 75

1. The advices of the Boards mentioned in this chapter are transparent in as far as they are not in conflict with the interests of the Country or the Kingdom.
2. The law may stipulate that other interests than those of the Country or the Kingdom may hinder the publication of the recommendations referred to in the previous section.
3. Advices pertaining to draft laws submitted by Government, are presented to Parliament, as long as this presentation as such is not in conflict with the interest of the Country, the Kingdom or other interests to be stipulated by law.

CHAPTER 5

Legislation and administration

§1. Laws and other regulations

Article 76

Laws are established by Government and Parliament together.

Article 77

The ratification of draft laws is done by Government after approval has been obtained or upon recommendation by Parliament. Through ratification they get force of law.

Article 78

The Government submits draft laws to Parliament for approval.

Article 79

1. Parliament has the right to propose draft laws to Government.
2. Draft laws to be proposed by Parliament are proposed by one or more members.
3. Prior to establishment by Parliament, a draft law is presented to the Advisory Council by the Governor.

Article 80

1. As long as a draft law that is submitted by the Government has not been approved by Parliament, the draft can be amended on proposal made by one or more members, or by Government.

2. As long as Parliament has not decided to propose a draft law it may be amended by Parliament, by recommendation of one or more members and by the member or members who prepared the draft.

Article 81

1. As long as a draft law submitted by the Government has not been approved by Parliament, the draft can be revoked by the Government.
2. As long as Parliament has not decided to propose a draft law, it can be revoked by the member or members who prepared the draft.

Article 82

1. The Government and Parliament notify each other of their decision on any draft law or draft Kingdom law.
2. Submission, revocation or ratification of draft laws by Government occur through the Governor.

Article 83

The law regulates the publication and enactment of laws. They only get into effect after publication.

Article 84

1. The Government can establish resolutions, containing general measures.
2. Regulations that hold penalties are only issued by virtue of the law. The law stipulates the punishment to be imposed.
3. Article 83 also applies to resolutions containing general measures.
4. Section two and three also apply to ministerial decrees.

§2. Referendum

Article 85

Consultative referenda are held on an initiative by Parliament.

Article 86

1. A referendum can concern a draft law approved by Parliament that is not excluded from a referendum by virtue of article 87.
2. A draft law that has been approved by Parliament and that is subjected to a referendum will not be ratified.

Article 87

1. Not subjected to a referendum are:
 - a. draft Kingdom laws;
 - b. draft laws pertaining to the budget;
 - c. draft laws to execute treaties or resolutions of international organizations;
 - d. draft laws pertaining to tax legislation.
2. By law other topics may be excluded from a referendum.

Article 88

1. The law establishes the consequences of a referendum.
2. The law may stipulate that should a majority oppose a draft law and this majority consist of a proportion stipulated by law, of those entitled to participate in the referendum, the legislative proposal will be legally cancelled.

Article 89

Everything that concerns the referendum is regulated by law.

§3. Other stipulations

Article 90

1. Public entities to promote certain interests may be instituted or discontinued by law.
2. The law establishes the tasks and organization of these public entities, their composition, the competence of their governments and the publicity of the meetings. The law may grant regulatory powers to the governments.
3. The supervision of these governments is regulated by law. Cancellation of resolutions from these governments can only occur if they are in conflict with the law or the general interest.

Article 91

1. Taxes are levied by virtue of a law.
2. Approval of any such draft law or the submission of said drafts can only be done by an absolute majority of votes cast by the sitting members of Parliament.
3. Other levies are regulated by law.

Article 92

1. The budget of the revenues and expenditures of the Country are established by law.
2. The annual and multi-annual budgets are balanced, taking into consideration the internationally accepted principles, especially those according to the system for the national accounts. The balance of the advance payments account may not exceed ten percent of the current revenues.
3. The annual budget is presented in one or more drafts by the Government to Parliament no later than on September first.
4. The law may establish that the budget is approved for a period longer than one year. This period may not exceed two years.
5. The accounts of receipt and expenditures of the Country are presented to Parliament in accordance with the financial principles outlined in this chapter and the legal stipulations. The account audited by the General Audit Chamber is presented to Parliament annually.
6. The law establishes rules for the financial management of the Country.

Article 93

1. The law establishes rules in order to secure the legality and integrity of the administration and the validity of the financial management.
2. Account is given annually.

Article 94

1. Lending or guaranteeing loans in the name or on behalf of the Country and only done to cover the capital expenditures of the Country will take place exclusively by law.
2. Parliament may only approve or decide to submit such a draft law with two thirds of the votes cast by the sitting members of Parliament.
3. The interest of loans obtained or guaranteed may not exceed five percent of the average income of the collective sector of the three previous financial years.
4. Additional regulations for obtaining and guaranteeing loans are established by law.

Article 95

1. Loans obtained or guaranteed in name or on behalf of the Country as mentioned in article 94 may only be granted by the Government Credit Bank.
2. The Government Credit Bank supervises the financial principles indicated in this chapter and the adherence to the legal norms pertaining to the financial management of the Country.

Article 96

1. The monetary system is regulated by law.
2. The Parliament may approve or decide to submit such a draft law only by two thirds of the votes cast by the members of Parliament.

Article 97

Subject to the competence to regulate certain subjects in separate laws, the civil law, penal law, the law of civil procedure and the law of criminal procedure are established in general codes.

Article 98

General rules for administrative law are established by law.

Article 99

The law establishes rules for the institution, competence and the working method of one or more general, independent entities for investigating complaints pertaining to governmental acts.

Article 100

The legal status of civil servants and government laborers is established by law. The law also regulates their protection under employment and their participation in decision-making.

Article 101

In the execution of its tasks, the Government strives for transparency, in as far as such is not in conflict with the interest of the Country or Kingdom or other interests that justify the lack of publicity. The law establishes additional regulations in this matter.

Article 102

Licenses for mining companies, public utility companies and for constructions related to these companies, are established by resolution and in accordance with requirements to be established by law.

Article 103

The administration of domain lands and other government properties will be established by law.

Article 104

1. Persons residing on Sint Maarten, may be required to perform military service or civil service only by law.
2. Other than by law, conscripts in the military service of the Country may not be transferred elsewhere without their permission.

Article 105

In a state of emergency it may be decided by resolution to have conscripts residing on Sint Maarten called to arms or remain in service extraordinarily. In that case a draft law is presented immediately to Parliament in order to regulate, as much as possible, the staying of the conscripts in actual military service.

Article 106

1. The law establishes under which extraordinary circumstances a resolution may be used to declare a state of emergency in order to maintain internal or external security and public order. It regulates the consequences.
2. Here one may deviate from the stipulations of article 9, in as far as the right mentioned therein is done outside of buildings or enclosed areas, articles 10, 11, 12 and 15, 16, first section in as far as this requires a special mandate from the judge, 16, second section, 17 and 18, first section.
3. Immediately after declaring a state of emergency and further, as long as such is not lifted by resolution, Parliament decides on the duration of said state of emergency every time they deem such necessary.

CHAPTER 6

The judiciary system and judiciary

§1. General

Article 107

1. The Courts pertaining to the Judiciary are:
 - a. The Court in the First Instance
 - b. The Joint Court of Appeal as per article 14 section one of the draft Kingdom law on the Joint Court of Appeal.
2. All interference in court cases is forbidden.

Article 108

1. The tasks of the judiciary are:
 - a. the judgment of disputes in civil cases;
 - b. the judgment of criminal offences.
2. The judiciary further judges the disputes regarding administrative cases, unless a special court of justice is charged by law with the judgment of administrative cases. Members of these special courts of justice will include one or more members of the Joint Court of Appeals.

Article 109

Capital punishment may not be imposed.

Article 110

No judge or judge in training may in any way consort with parties, their lawyers or legal representatives, members of the Public Prosecutor's Office and suspects concerning cases that have been presented before them or cases of which they know or assume that these will be presented before them.

Article 111

1. The members and substitute members of the Joint Court of Appeal are appointed for life by Kingdom resolution.
2. A member or substitute member of the Joint Court of Appeal can resign by Kingdom resolution.
3. Under circumstances established by Kingdom law, they can be suspended or dismissed.

Article 112

1. Unless otherwise stipulated by law, and subject to annulment, all court sessions are public.
2. For serious reasons, an investigation at the hearing may be held entirely or partially behind closed doors.
3. Subject to annulment, judgments and the grounds therefore are pronounced publicly.
4. Subject to annulment, judgments are pronounced by the number of judges established by law.
5. Should the law stipulate that others than judges also participate in a multiple person court trial, the decisions of that court trial are legally null and void, if

these decisions were not taken with the inclusion of the persons established by law, who are not judges.

Article 113

Subject to or by virtue of conditions established by law, clemency of sentence is granted by resolution, having heard the judge who handed down the verdict.

Article 114

Regarding civil cases and criminal cases on Sint Maarten, the Supreme Court of the Netherlands has jurisdiction over appeals to the court of cassation submitted either by parties or, in the interest of the law, by the Prosecutor-General at the Supreme Court.

Article 115

The judge is competent to test the compatibility of this Constitution with:

- a. laws established by the Government or Parliament in accordance with the stipulations of this Constitution;
- b. resolutions containing general measures established by the Government in accordance with the stipulations of this Constitution;
- c. ministerial decrees established by one or more ministers within the limits of the powers conferred on them;
- d. other regulations as referred to in the second paragraph, section one of article 14 of the Kingdom Charter.

§2. Public Prosecutor's Office

PM

CHAPTER 7

Final Stipulations

Article 116

1. Amendments to this Constitution may be established by law. Any draft or recommendation for amendment of the Constitution explicitly stipulates the corresponding amendment.
2. Any such draft or decision to recommend such a draft is subject to two thirds of the votes of the members of Parliament.

Article 117

This law is referred to as: The Constitution of Sint Maarten.

ADDITIONAL ARTICLES

Article I

The law establishes provisions pertaining to the applicability of Federal Ordinances as regulations on Sint Maarten at the moment of the enactment of this Constitution and other regulations and resolutions of the Netherlands Antilles, including other Islandordinances and regulations and resolutions of the Island Territory of Sint Maarten, pertaining to the continuation of the active public entities on Sint Maarten.

Article II

Article 13, second and third paragraph, takes into effect after five years or sooner, to be stipulated by law.