

STATEN VAN SINT MAARTEN		
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“Draft National Ordinance amending the penalty registry to implement recommendation 6 of the Financial Action Task Force to implement the restrictive measures without delay and some technical legal complications adjustments”

QUESTIONS

1. MP Perry Geerlings

The Netherlands are better equipped to implementing these laws

- Is sxm equipped to enforce the implementation of these sanctions?
- How are we going to give arms and legs to these laws/ordinance?
- How are we going to execute the EU/UN Sanctions?

2. MP George Pantophlet

Foreign Affairs is the responsibility of the Kingdom

- Who are the ones going to bare the financial consequences?
- Did Curacao also adopt/makes changes in order to sign or comply to the sanctions ?

3. MP Frans Richardson

Consequences if not adopted. Members of Parliament need to be properly advised what sxm is approving and provide the consequences.

- If not approved; then what?
- How will the cost be dealt with if certain issues arrive; Do we have special funding for this?

4. MP Claret Connor

Listed series of changes/ Process already in place. Freezing bank accounts/assets. Expedite process

- How will this new procedure improve the implementation on these measure to be taken?
- Why are amending a system that has never been used? Why are we changing something that was never used?

5. MP Tamara Leonard

Freezing of Funds

- How many in the past had assets been frozen and where is the funds transferred to?
- What happens to funds/assets of a person once proven guilty and money was gain through illegality?

6. MP Franklyn Meyers

Persons proven guilty

- What happens to persons' accounts / assets if found guilty and remains guilty ?

7. MP Chanel Brownbill

- If funds are frozen how are funds divided. If a person is convicted are the funds frozen forever?

PM Marlin Responses:

- There no major changes. What is changing is the manner in which it was done. There is nothing new in term of the legislation. It just to speed up the process
- New sanctions law funds will be made available; this is not the case.
- **MP Perry Geerlings:**
 - Page 4 - Explanatory notes; No changes will be made. The Mot and Central Bank are the main supervisors and have necessary personnel and equipment to carry out their tasks. Will publish all sanctions on their website and inform all institutions like banks and notaries on the new sanctions
 - Everything is detailed in the manual on sanctions
- **MP George Pantophlet :**
 - Mot and Central Bank are main supervisors they will inform institution san d make sure the law will be implemented. They are responsible if they would do something wrong
 - There is no need for any special funds. If funds are frozen by the bank the funds remains at the bank during the entire process form the person or intuition. There is no new keg and no cost.

- Curacao didn't put legislation in place like sxm has They have to abide with the new regulations that have been put in place
- **MP Frans Richardson :**
 - That's not a good thing to do. You do not have to adopt but sxm can become an international outcast; which will have major consequences and if we don't make changes to existing implementation then the Kingdom law can be enforced on sxm; so it's best to go along and cooperate. There is no special fund needed.
- **MP Claret Connor:**
 - It is not something complicated and the Mot and Central Bank they are both equipped to execute the tasks. No special funds is needed. No funds will be going to the island koffers are crime funding.
 - Changing the regulations to make it easier; to respond much faster
 - The system as is now if it stays in place of the old system it would take too long. We are putting in quicker respond system but not making any changes to the legislation
 - Sxm is slow in adopting and responding. There is a new instruction in place so these are changes we making just to respond faster
 - These EU and UN Sanctions are not based on a local level. It is not our local Prosecutor arresting a local citizen and assets. These are International Laws based upon if terrorists accounts have been spotted in sxm then these can be asked to be seized.
- **MP Tamara:**
 - No funds frozen and no funds going to the local criminaliteit fonds
 - If funds are frozen the funds will remain frozen until sanctions are lifted. The funds are not going to sxm treasury nor to a criminal funding.
- **MP Franklyn Meyers:**
 - If at the end of the day if funds have been determined to fund terrorist activities then the funds remain frozen
- **MP Chanel Brownbill:**
 - Funding can be confiscated by the Prosecutor and then assets can become property of the state

Draft National Ordinance amending the National Ordinance containing rules on the organized consultation material civil service law on the legal status of public servants

Vragen USP

De United Sint Maarten Party-fractie heeft kennisgenomen van het ontwerp. De fractie vraagt of een arbeidscontractant in dienst van de overheid ook onder Landsverordening materieel ambtenarenrecht (LMA) valt. Ambtenaren hebben namelijk een sterke rechtspositie en genieten veel (rechts)bescherming. Hoe zal dit ontwerp deze rechtspositie aantasten?

The United Sint Maarten Party faction has taken note of the draft. The faction asks if the National Ordinance material civil service law applies to someone who is employed by the Government on a labor contract. Civil servants have a strong legal position and enjoy a lot of (legal) protection. How will this draft affect this legal position?

Antwoord:

De rechtspositie van beide groepen overheidsdienaren wordt op zich niet gewijzigd. Voor de arbeidscontractant geldt nu ook al dat het overgrote deel van de LMA van toepassing is gemaakt op die arbeidsrelatie middels de arbeidsovereenkomst.

Wat de onderhavige Landsverordening wijzigt is dat het instemmingsrecht toekend aan de Commissie van vakorganisaties voor wijzigingen in de primaire en secundaire arbeidsvoorwaarden. Hiermee wordt het systeem vergelijkbaar met de werking van een CAO in de private sector.

The legal position of both civil servants and public servants on contracts are not being changed. Most of the LMA already applies to public servants on contract through their contracts. This ordinance doesn't change that. What it does change is that it now awards the right of assent. Where in the past the Unions had only the right of advice, now Government and Unions will have to agree on changes in the primary benefits and salaries just like a CLA in the private sector.

Vragen DP

De Democratic Party-fractie heeft met interesse kennisgenomen van het ontwerp en heeft een vraag met betrekking tot de financiering van de diverse commissies die de overheid dienen te adviseren. Is de overheid van mening dat deze commissies de kosten voor adviezen van experts zelf dienen te dragen of experts binnen de eigen gelederen dient te vinden? Onze vakbonden zitten ook in de opbouwfase net als de rest van het land. Kan de regering de kwestie van de financiering meer aandacht geven als het wellicht een probleem wordt in de toekomst?

The Democratic Party faction has taken note with interest of the draft and has a question about the financing of several committees that advise the Government. Does the Government believe that these committees should bear the costs of expert opinions or should they find experts within their own ranks? Our unions are also in the starting phase, like the rest of the country. Can the Government give more attention to the issue of funding as it might be a problem in the future?

Antwoord:

Allereerst is het belang te benadrukken dat de vakbonden hebben ingestemd met de tekst van deze Landsverordening. De praktijk tot op heden is steeds geweest dat de overheid het GOA van alle benodigde faciliteiten voorziet, zoals vergaderruimte, een secretaris enz. Tot nu toe zijn de vakbonden er altijd op eigen kracht in geslaagd om expert advies in te winnen. Wat nu is afgesproken is dat dit systeem blijft zoals het is. Dat neemt niet weg dat de overheid bereid is om de helpende hand te bieden indien er in de toekomst behoefte is aan een expert-advies of een studie welke de bonden niet zelf kunnen realiseren. We vinden het alleen nog niet nodig daar nu al een voorziening voor te creëren.

First of all, it is important to note that the Unions already have agreed to this ordinance. Up till now practice has always been that government provided all necessary funding and facilities. Up to now the Unions always have been able to find necessary expertise within their own ranks, it never has been an issue. What was agreed upon here is to keep this as such. If the need in the future should arise for expert advice or to have a study done which the Unions cannot do their selves Government can and will be of assistance. We just didn't see the need to create provisions up front.