



Parliament of Sint Maarten

Staten van Sint Maarten

Parliamentary Year 2020-2021-142

Temporary National Ordinance reducing the vacation benefits and the right to vacation hours, not to grant increases in remuneration and to reduce the compensation for overtime for public servants in response to the Dutch conditions attached to the second tranche of liquidity support to combat the consequences of the Covid-19 pandemic (Temporary National Ordinance Covid-19 cuts employment conditions for civil servants)

**Report
No. 5**

Parliament, in its meeting of the Central Committee, has exchanged views with the Government on the Draft Temporary National Ordinance reducing the vacation benefits and the right to vacation hours, not to grant increases in remuneration and reducing the compensation for overtime for public servants in response to the Dutch conditions attached to the second tranche of liquidity support to combat the consequences of the Covid-19 pandemic (Temporary National Ordinance Covid-19 cuts employment conditions for civil servants).

Parliament considers the current draft to be adequately prepared when the questions below are answered in time for the public meeting so that the draft can be discussed in a public meeting.

The **United Sint Maarten Party-faction** has taken note of the draft with interest. The faction states that the CCSU and Government must agree to change the LMA as stipulated in the LMA. Was the CCSU indeed consulted, as it seems that meetings are being held with many people but it's not clear if it's the CCSU or the Unions? Please explain with whom the meetings were held and when they were held?

Did the CCSU write an objection letter to the Ombudsman, and why so? The faction believes that the unions should have filed this objection if they feel they are being obstructed to represent their members. Did the Government obstruct them at any given time because they are claiming such?

The faction would like to know if the LMA version 2017 chapter XA articles 112 A to L relevant to these timelines and agreements followed? Furthermore, the Government's overriding authority in the LMA version 2017 was used, but they should have formally informed the CCSU or the unions. Was this done? The faction mentions that they must also indicate why it was used other than the unions indicating they will not work along with Government. Why weren't the stakeholders informed of the usage of the overriding authority? If they were, can Parliament be provided with that letter and reasons used? Have the unions been formally informed what cuts have been proposed for the 12,5%? Has the Government invited the unions back in since their fall out in May of 2020? Was anything discussed about the cuts moving forward? The faction would like to see the minutes of those meetings.

The Government finds that the EVRM (European Agreement on Human Rights) wasn't unjustly infringed upon when agreeing to the salary package cuts, seeing the situation we find ourselves in. What was this based on exactly? Was it only consideration of money? Was money the only reason? How did the Government derive that "fair play" was being used by the Dutch Government tied to this treaty when the same Prime Minister was talking about how the conditions are being forced upon us and that it is not fair to the Country? Where is that fair balance found at this point in time?

Did the change of article 6 of the LMA support the CCSU as that isn't one in the general interest of the Country, but one that affects the Government workers for the rest of their lives even when the temporary law stops existing? Was the general interest truly above that of our social partners, the unions?

Is not defining a timeframe in a temporary law a normal something and considered a fair balance by the Government? Are we not intentionally hurting/punishing our people for some money?

The faction believes that if we can wait ten plus years for the dispute regulation, it is sure that Holland can wait until we have done

our review correctly of the law to decide where we are going from here. The Ombudsman and the SER are well equipped to deal with new proposed national ordinances' inconsistencies and their effects on our Country. Will the local laws be adhered to in a temporary local, national ordinance or not?

The faction mentions that the salaries will not increase with yearly increments or indexation for an undefined period. The proposed Temporary National ordinance Corona-19 cost-cutting government employees' employment conditions, as per LMA or CLA, placed an immediate stop to the pension growth and overall financial growth. The faction is of the opinion that this in itself is irresponsible to all concerned and against the LMA National Ordinance and/or ILO regulations if not mutually agreed upon. What is the Government's position regarding the ILO regulations on such?

The faction has the following questions based on the advice of the Council of Advice on this law. Are we meeting the so-called norms set because of a lack of a real financial picture? Can we get those calculations to ensure we don't have an issue later? The Council asked if a real weighing off was done to use the so-called overriding authority. How was that done other than we aren't talking to each other? Can Parliament know who the discussions were with exactly and whom they represented? Seeing the laws aren't of an urgent status anymore, will we allow the SER to review the laws? How will the input be used?

What is the legal basis, other than the Dutch Government stating that the Cft must approve the Country's cost-cutting measures when it's not part of the RFT law regulating their task? The faction mentions the retroactive aspect of the law. It is being questioned on two different points, validity and achievability. Is the Government planning to address that and not do any retroactive anymore or leave it as is?

We are looking at the budget's presentation on overtime. why wasn't the Government allowed to use vacation days to the tune of 4% instead of only 1,2%? 1,2% is valued at Nafl. 1.3 million, so we can state that 4% would have valued of about Nafl. 4.3 million. Why was this denied? From where is overtime being taken?

The faction would like to know, seeing all the cuts being pushed in a specific direction by the Cft and the soon coming new higher taxes and fewer working hours. Does the Government believe we should continue going for all of this, seeing that they are sending us down the poverty line?

The faction has the following questions based on the explanatory notes. Regarding the consultation on government employees' legal position, article 112f was used to hold a meeting with the WICLU where two unions agreed to the vacation cuts. Who were those unions, and can we get those documents for review? Who agreed? Who were the chairperson and deputy chairperson of CCSU during these discussions as we now have a new chairperson? Why were they removed? Why haven't any meetings been held with the unions since May 2020 to find common ground?

The faction mentions that article 6 in the explanatory notes doesn't indicate when it ends as it is not tied to the temporary law's end date. Why is that? Article 9 was to be adjusted, but it's not stated in the explanatory notes as added or changed. Can we get some clarity?

The **United Democrats-faction** has taken note of the draft with interest and would like to know what the thinking of the Government is in terms of nullifying these measures if we compare it with the fact that right now, for the 3rd tranche, the Government has agreed to do a review of exactly what has been done and come to further cost-cutting in the civil service. Can the Government explain how the Government will be in charge and remain in charge, not only in charge but also in doing what is necessary based on the agreement signed between the Prime Minister and State Secretary Knops on December 22, 2020?

The faction would like the Government to explain a little more in detail what type of circumstances, what kind of economic recovery will make it possible for the Government to cancel out this law. Is it indeed only if things get better for Government, a better economy, better Government income? Or is it until Government has to execute what they have agreed to in the Country package of Sint Maarten?

The faction mentions the 12,5% cut of the total employment package. This went into effect on July 1, 2020. The Government explained how this cut could not be retroactive for the increments to salaries because those increments had already taken place in a lot of the cases. The faction would like to know if the same cannot be said for the vacation days? What if civil servants have already taken up the vacation days? Does that mean that if they took up their vacation days, which by this law is also being reduced? If they took up more days than they would have with this reduced to, the next year that has to come off of the reduced amount of vacation days. To which civil servants will this apply? Does not the same go for overtime? Suppose overtime was done and paid for after July 1, 2020, based on the current tariffs. Could that have happened? Was the overtime already adjusted in the second part of 2020 according to what this law will now legislate? Or were the changes executed or put in place without the law being put in place? What about those matters that are regulated by this law but were not changed retroactively yet?

Furthermore, the faction would like to know if it has been established for 2020 what amount the budget deficit can be. What kind of deficit are we allowed to have given the exemption granted for article 25?

The faction states that with Budget 2020, a list was received of service level agreements. Within that list, the Government included school boards. Given that it is difficult to decipher, who does Government consider consultants or consultancy? In the vision of Government, what falls under the Jacobs-norm? If there are no policies/guidelines for consultants, except for the pending "Jacobs" norm, how are consultants remunerated? And given the list of service level agreements received, who of these "dienstverleners" does Government consider consultants and what is the price tag for that category?

What is the reason for abandoning the Government's initial position of partially excluding article 26 of the LMA from the law's temporary nature? Namely, the part regarding improving article 26. Is the Government going to put forward a separate law amendment to change article 26 of the LMA to the way Government would like to see it changed? Is that to come separately?

The Government has chosen to nullify the application of this ordinance by national decree. Please explain what the Government has in mind when it says that it would like to nullify this law when appropriate? What would Government consider appropriate circumstances to nullify these laws? How long will temporary be? And does it tie into the bigger work that Government envisioned where the civil service is concerned based on the Country package? Does the Government not think that it is misleading to state that improved economic conditions could trigger the annulment of these temporary measures. When the soon to be implemented Country package speaks of further “versoberingen” and cuts in salaries and benefits under chapter B of the Country package?

What is the current public wage bill/ the personnel cost of the Government versus our GDP? Additionally, the procurement to pay is an internal document. Has it been given any other status?

The Emmanuel-faction has taken note of the draft with interest and wants the Government to list all parties to whom this law would apply. Please indicate which, if any, entities/functions paid from, or partly by, the budget of Country Sint Maarten are exempt from the workings of this law. Can the Government list the total labor benefits that each party enjoys? What benefits will remain, should the 12,5% cut be applied?

Were the CFT and Dutch representatives informed that the implementation of these cuts would result in employees possibly being stripped of most of their benefits? Did the Council of Ministers deem this acceptable when they agreed to implement these cuts?

The faction mentions that it is often stated that the majority of Government departments are understaffed. This would imply that most staff may have to carry a heavier workload to ensure that their department functions adequately. Does the Government deem it proper to subject these workers to more workdays by reducing their vacation days until further notice, meaning with no end in sight?

Teachers generally cut their vacations short to prepare for the return of their students to classes. This draft law proposes to further reduce their vacation by 24 hours, which equates to 3 working days. The faction would like to know from which vacation period will these

days be deducted and what the teachers are expected to do during these days when the students will be on vacation themselves.

Can the Minister explain how the Government can withhold vacation pay from their employees that should have been paid to them in June of 2020 via this draft law that is proposed to take effect retroactively as of July 2020? So, in other words, this law, if passed, would take effect after the vacation pay should have already been paid. Can the Minister explain why the law proposes to reduce the vacation pay retroactively by 2.08%, whereas the Government withheld 50%? The faction would like to know if it is to understand that the entire 50% withholding remains an illegal act? Would the Government agree with that? Is this Council of Ministers telling the people of Sint Maarten that this Country's laws do not apply to them?

Does the Government deem it proper to remove a benefit retroactively? Many civil servants and their union representatives have indicated that money is used to pay for insurance on their homes, school fees, assist their children studying abroad, and many more critical needs? What is meant by until further notice?

The faction mentions that article 6 indicates that civil servants' salaries cannot be increased in any fashion as of 2021. I understand this to mean that the Government has decided to freeze civil servants' incomes while the cost of living has been steadily increasing. Can the Minister list what this means exactly? What types of increases will civil servants no longer be entitled to, as the explanatory notes only refer to the granting of increments? The article also states that the salaries will no longer be indexed as of 2021. Can the Minister indicate when the salaries of civil servants were last indexed? Can the Minister indicate, based on the Statistics Department's official data, how much the cost of living has increased for each year that the salaries were not indexed? Can the faction conclude that civil servants would still be eligible to receive the cost of living indexation to their salaries for the period before 2021, seeing as this law only speaks of the period as of 2021?

Did the Council of Ministers take into consideration that with the implementation of a 12.5% cut, along with several years of no cost of living indexation amounting to nothing, and a freeze on salaries of civil servants, that the Government is committing a tortious act towards its employees and their families? The spending power will

decrease dramatically? Does the Minister realize that this law's approval would impact the pensions of most civil servants, as they would not even be eligible to receive a minor yearly incremental increase, based on a good performance, which would have positively contributed to their pension?


Can the Minister explain what the meaning of temporary is? Can the Minister explain how and when the police employees will receive their due compensation if article 6 of this law is implemented? Article 7 speaks of the possibility to grant an employee gratification as a form of overtime compensation. Will employees be entitled to receive gratifications and allowances? If yes, what kind?

Can the Minister explain why persons working at the ambulance department, CPS, the police force, prison, immigration, and any other vital services, may be required to work extra hours? But be compensation is less, especially during this pandemic. Has the Council of Ministers considered the impact this will have on, for example, the Ministry of VROMI during the hurricane period? Does the Minister realize that the implementation of this law would be detrimental to civil servants and their families?

The faction would like to know if the Minister agrees that a law that negatively impacts citizens of this island should never be implemented by this Country's leaders and especially not for an indefinite period.

The faction mentions that the Prime Minister indicated in a previous meeting that Government still has to hire personnel to execute the measures agreed to with the Dutch Government. How does the Prime Minister justify cutting the benefits of civil servants currently employed and using that money to hire other individuals? Can the Minister explain how civil servants will prepare for a cut in their benefits that they depend on, whereas their obligations remain intact? Was a survey done to determine the percentage of civil servants who agreed to the cuts? If yes, when and can that be shared with Parliament?

What are the actual amounts in monetary value that will be saved and cut? What determining factors correlated to the 12,5% figure instead of, say, 15%? Why are the measures spoken about in terms of percentages instead of money?



The faction states that the Dutch also says that civil servants' quality of work is inadequate and mentions low tax compliance and licensing issues as examples. The faction would like to know if the Dutch are telling us that civil servants' salaries and benefits deserve to be cut because, in their opinion, tax compliance is low? What is this so-called "robust tax system" that the Dutch keep saying will be implemented on Sint Maarten? What are the details of this tax system? What happened to the projects by Government to improve compliance and to speed up licensing issues? Were these not presented to the Dutch? So, because their opinion of our people's work is low, we had to cut their salaries and benefits as a condition?

The faction would like to know what kind of quick fiscal relief are these cuts bringing in terms of figures? What kind of legal assurances are in place to ensure that the cuts are temporary? How will the savings from these cuts be spent? Will a periodic evaluation take place to assess the Government's financial standing? If so, who would be performing the evaluation?

The faction states that it stands to reason that all entities that fall under the draft national ordinances and whose salary is paid from Government's coffers should be treated equally based on the principle of equality. Is the Governor, Dutch representative, getting cut as well? If not, why not? If they are exempted from the cuts, kindly elucidate as to the reason they are.

What is the total budget amount that is paid by Government monthly? Kindly submit the budget of every employee of the Public prosecutor's office, the Court, and the Governor's cabinet. Will there be additional austerity measures put in place if it is determined that the 12,5% is not sufficient for the Government to fulfill its obligations? If so, will this be done retroactively as well? Does the Government have an exit strategy?

When will we be able to stand on our own again, according to the Prime Minister? Who determines this? What is the benchmark or the measuring stick? When will we know that we can stand on our own? Is that when the Dutch say so?

The faction mentions that Government was desirous of omitting the Ombudsman's constitutional control on the draft national ordinances because of the Dutch Government's tight deadline. What exactly is this tight deadline? What is the date of the deadline agreed to by the Council of Ministers and the Dutch Government?

The faction refers to the advice of the Council of Advice and has the following questions. Can the Minister explain why the Council of Ministers chose to avoid seeking advice from the Social Economic Council on these cuts that have a clear social and economic impact? In contrast, advice could have been sought while the discussions were ongoing for several months? Is the Minister of the opinion that the Council of Ministers in this fashion adheres to the basic principles to seek advice from our High Councils of State in such crucial matters?

Can the Minister provide documentation from the Cft, whereby it indicates its agreement with the cuts being proposed in this draft law? The faction further mentions that the Council of Advice questioned the legality of a retroactive implementation of cuts. How does the Government deem it justifiable to wait more than six months to submit this law to Parliament, which goes retroactively into force as of July 1, 2020?

Please indicate when civil servants were informed of all measures mentioned in this draft law and therefore could expect that the cuts would be implemented. If this was done by way of a presentation and some other form of communication, please provide such to Parliament.

The Prime Minister indicated that civil servants showed understanding for the need to make these cuts and that they were somehow in agreement. Can the Minister explain when and how this understanding and agreement was indicated and by exactly how many civil servants?

The Government indicated in its response to the Council of Advice that promotions based on internal recruitment will still be possible. Can the Government explain what will happen in a case when that equates to an increase in salary? How would the Government justify such an increase, whereas an employee cannot receive an increment or promotion based on a good performance for the job they are already doing?

Furthermore, the faction would like to know if all civil servants who attended the presentations agreed with the measures or understood the need for the cuts. Can the Minister indicate how the employees voiced their opinions? Can the Minister also provide some form of documentation on this approval/ understanding?

Several justice employees stated that they were unable to attend both presentations. Is the Minister aware of this, and were efforts made to ensure they were informed in another setting? Would all civil servants receive new decrees or contracts, considering they were appointed under certain conditions? Will any incentives be given to encourage/motivate civil servants to continue working diligently under these conditions? This is particularly civil servants who are being requested to work in offices that are severely understaffed or civil servants who deserve a promotion and will not be compensated immediately nor retroactively.

Which internal departments and or experts in the civil service supported these cuts? Did the personnel department and the finance department sanction these cuts, and can we see their advice?

The faction mentions that the chairman of CCSU, Mr. R. Boasman, is also a WICSU PSU union member. The faction would like to know if, based on the Prime Minister's logic, isn't that a conflict of interest? The unions, i.e., the WICLU, sent a letter to the Prime Minister for a meeting in September 2020 around the border protest. The purpose of the meeting was to discuss and hopefully agree on a memorandum of understanding. Did the Prime Minister honor that meeting? If no, why not? When was the last time that the Prime Minister met with the WITU? The Prime Minister sent a letter on June 11, 2020, whereby she informed the members of the CCSU that their proposal would lead to additional conditions. Can the Prime Minister indicate what those other conditions are/were?

This report is to be considered as Final Report.

It was stipulated in the meeting of the Central Committee on
January 27, 2021.

The Reporter,

A handwritten signature in blue ink, consisting of a vertical line that loops around itself and extends horizontally to the right.

R. Brison