

Unofficial translation of 'Wet Financien openbare lichamen Bonaire, Sint Eustatius en Saba'. Only the official text in the Dutch language as published in the 'Staatsblad' (Dutch Bulletin of Acts, Orders and Decrees) is decisive. No rights can be derived from this translation.

Upper Chamber of the States General

1

Parliamentary year 2009-2010

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Rules on the financial function of the public bodies Bonaire, Sint Eustatius and Saba, their powers to levy taxes and their financial relation to the Kingdom (Act on the finances of the public bodies Bonaire, Sint Eustatius and Saba)

A

AMENDED BILL

March 9, 2010

We Beatrix, by the Grace of God, Queen of the Netherlands, Princess of Orange-Nassau, etc. etc. etc.

Greetings to all who shall see or hear this! Be it known:

Whereas We have considered that it is desirable to establish rules with regard to the financial function of the public bodies Bonaire, Sint Eustatius and Saba, their powers to levy taxes and their financial relation to the Kingdom;

We, therefore, having heard the Council of State, and in consultation with the States General, have approved and decreed as We hereby approve and decree:

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CHAPTER I DEFINITIONS

Article 1

1. In this Act and the provisions belonging to it, the following terms shall have the following meaning:
 - a. Our Minister: Our Minister of Home Affairs and Kingdom Relations;
 - b. Our Ministers: Our Ministers of Home Affairs and Kingdom Relations and of Finance;
 - c. Public body: public body Bonaire, Sint Eustatius or Saba;
 - d. State representative: State representative for the public bodies Bonaire, Sint Eustatius or Saba;
 - e. Council for Financial Supervision: The Council for financial supervision Bonaire, Sint Eustatius or Saba referred to in Article 2;
 - f. Consolidated debt: the joint debt of the collective sector of a public body in the form of loans and credits with the exception of the mutual debts within the collective sector concerned;
 - g. Interest charge: expenses in interest attributable to a budgetary year on the consolidated debt of the collective sector of a public body;
 - h. Collective sector: the collective of the legal persons that are considered belonging to the sector government based on the System of National Accounts of the United Nations;
 - i. Interest charge norm: the average interest charge permitted per budgetary year for the collective sector of a public body as percentage of the average realized income of the collective sector of the public body in the three years prior to the year in which the budget is submitted.

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2. In this Act, civil servant shall be understood to include: the person who is employed by employment contract under civil law.

CHAPTER II THE COUNCIL FOR FINANCIAL SUPERVISION BONAIRE, SINT EUSTATIUS AND SABA

Article 2

1. There shall be a Council for Financial Supervision Bonaire, Sint Eustatius and Saba.
2. The Council shall consist of a President and two other members.
3. The President and the other members, on the grounds of expertise and in accordance with the sentiments of the council of ministers, shall be appointed by royal decree on the recommendation of Our Minister based on the following procedure:
 - a. the President on recommendation of Our Prime Minister;
 - b. one member on behalf of Bonaire, Sint Eustatius and Saba together and
 - c. one member on behalf of the Netherlands.
4. The members shall be appointed for a period of three years. They shall be eligible for re-election.
5. A member shall be dismissed on his own request.
6. A member may be suspended or dismissed for unsuitability to fulfill the position or for other weighty reasons regarding his person or for accepting an office, employment or position as referred to in Article 3, paragraphs 1 and 2.
7. Suspension and dismissal shall take place by royal decree on recommendation of Our Minister.

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8. Prior to dismissal or suspension, the Council shall be heard unless the circumstances regarding the dismissal or suspension prevent this hearing.
9. Our Minister shall determine the fixed fee for the members of the Council. In this regard, the applicable salaries scale of Annex B of the Remuneration Decree for Civil Servants and the applicable part-time factor shall be indicated. Furthermore, the members shall be entitled to compensation of travel and accommodation costs in accordance with the National Traveling Decree and the International Traveling Decree. In addition, members shall be entitled to compensation of international phone calls made within the scope of their duties for the Council on a reimbursement basis.

Article 3

1. A member of the Council shall not also be:
 - a. Governor or State representative;
 - b. minister or state secretary;
 - c. a commissioner of the King or member of the provincial executive;
 - d. member of a representing authority or an authority similar to that of the Netherlands;
 - e. mayor or alderman or person in authority or island member of the provincial executive;
 - f. member of the Council of State;
 - g. member of the Chamber of Audit;
 - h. national ombudsman or substitute ombudsman as referred to in Article 9, paragraph 1 of the National Ombudsman Act;

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- i. civil servant in a ministry or an institution, service or company that comes under that ministry.
2. A member shall also not fulfill any other job or additional position that is otherwise undesirable in view of the proper fulfillment of his position or for maintaining his independence or trust therein.
3. A member shall notify Our Minister of his intention of accepting another job or additional position.
4. The Council shall publicly announce the additional positions of a member. Publication shall take place upon his appointment and, thereafter, by means of annual publication of a list of these additional positions in the Government Gazette and in the publication bulletins of the public bodies referred to in Article 142, paragraph 2 of the Act on public bodies Bonaire, Sint Eustatius and Saba.

Article 4 Duties

1. Without prejudice to the duties set forth in other articles, the duties of the Council for Financial Supervision shall be:
 - a. to advise the public bodies and Our Minister with regard to the supervision on the application of the standards set forth in this Act pertaining to the preparation, implementation and accountability of the budget by the public body as well as supervise the improvement of the financial management, organization and operation of the administrations and flow of payments;
 - b. to supervise the daily management by the administrative councils and, in this regard, test if the conditions set forth in this Act are met for the entering into credits by a public body;

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- c. to perform duties by order of Our Minister with regard to the implementation of this Act and the provisions belonging thereto.
2. Once every six months, the Council shall account for its activities in writing to Our Minister. The Council shall send a certified copy of this report to the administrative councils and island councils in question.
3. The Council, on request thereto, shall provide information on its activities to Our Minister, Our Minister of Finance and the administrative council in question.
4. Our Minister, after consultation with the administrative council in question, may establish policy rules and issue general and special instructions with regard to the exercise of the duties and powers allocated to the Council in and on the grounds of this Act and the provisions belonging thereto.

Article 5

1. The Council for Financial Supervision shall establish a management regulation setting forth, in any case, the rules regarding decision-making, work method and procedures. This regulation shall also include rules on the division of the duties in preparing the decisions of the Council.
2. Prior to the establishment of the management regulation and of amendments thereto, the Council shall consult in this matter with the administrative councils.
3. The President shall have the daily management and shall see to an efficient and practical performance of the duties of the Council.
4. If, in making decisions by the Council, there are tie votes, the President shall have a casting vote.

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5. For the management regulation and any amendment thereto the approval of Our Minister shall be required. The approval can only be withheld due to reasons of violation of the law or on the grounds that the management regulation may prevent a proper performance of duties.
6. The management regulation, after approval, shall be published in the Government Gazette and in the publication bulletins referred to in Article 142, paragraph 2 of the Act on public bodies Bonaire, Sint Eustatius and Saba.

Article 6

1. The Council for Financial Supervision shall have a secretary.
2. The secretary may be supported by assistants.
3. The secretary and the assistants shall come under the authority of the President of the Council and shall be accountable only to him.
4. Our Minister shall appoint the secretary and the assistants after consultation with the Council.
5. The secretary and the assistants shall not be members of the Council.
6. The secretary and the assistants of the Council shall be employed by Our Minister or made available to the Council on behalf of Our Minister.

Article 7

1. The remuneration of the members, the secretary and the assistants of the Council for Financial Supervision as well as the costs of the other expenses of the authority shall come at the expense of the budget of Our Minister.

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2. The expenses and income pertaining to the extension of current account credits by the Council to a public body shall come at the expense or to the credit of the budget of Our Minister.
3. The foreign exchange risks pertaining to the extension of current account credits by the Council to a public body shall come at the expense of the budget of Our Minister.

Article 8

1. If, in the opinion of Our Minister, the Council for Financial Supervision is severely failing in the performance of its duties, Our Minister may take the necessary temporary measures with regard to the Council or one or more members of the Council for Financial Supervision.
2. These measures, except for urgent cases, shall be taken only after the Council or the member have been given the opportunity to still perform their duties properly within a term to be established by Our Minister.

CHAPTER III FINANCIAL FUNCTION

SECTION 1 DECISIONS WITH FINANCIAL CONSEQUENCES

Article 9

1. In this Article, participation in a private legal person shall be understood to mean: holding shares in or being part of the management of that legal person.
2. The island administration shall make a decision for incorporating or participating in a private legal person or partnership only if this is especially allocated for performing the intended activity or for the benefit of alienating property of the public body. The administrative

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council shall make a decision as referred to in the first sentence only after the island council has been sent a draft decree and given the opportunity to bring its wishes and concerns to the knowledge of the administrative council.

3. A decision to incorporate or participate in a private legal person or partnership shall require the approval of Our Minister.
4. The approval may be withheld due to reasons of violation of the law or if it is not likely that the condition mentioned in the first sentence of paragraph 2 has been sufficiently met.
5. Civil servants appointed by or on behalf of the public body or subject thereto, and political office holders of the public body shall have no seat in the management of a private legal person in which the public body participates.
6. Decisions to appoint and reappoint representatives of an administrative council or a public body in a private legal person shall be made only after receipt of a certificate of Our Minister that he has no objection to that appointment or reappointment.
7. Our Minister may refuse the certificate referred to in paragraph 6 due to reasons of violation of paragraph 5 or if, in his opinion, the intended representative in question does not possess sufficient expertise or does otherwise not meet the requirements arising from the principles of proper corporate governance.
8. Our Minister, on the grounds of considerations of sound management, may issue instructions to the representative of an administrative council or public body in a private legal person in view of the position in the shareholders or administrative meeting in the field of dividend policy, the appointment, the dismissal and the remunerations of the managers. The representative shall, in any

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case, take the position that investments and disinvestments by the legal person must be submitted for approval to the general meeting of shareholders or the administration respectively.

9. The administrative council, within six months after the lapse of the financial year, shall make available to the Council for Financial Supervision the annual accounts of the private legal person in which the council or public body participates.

Article 10

1. Alienation of property of a public body in whatever manner shall take place on market terms.
2. Decisions for alienation of real estate, shares, securities and concessions, and moveable goods shall require the approval of Our Minister.
3. The approval may be withheld for reasons of violation of the law or conflict of financial interest of the public body.
4. Our Minister, with regard to the types of decisions to be indicated by him, may indicate that the approval referred to in paragraph 2 is not required.

Article 11

1. Money loans shall not be entered into, guaranteed or extended in the name of or at the expense of a public body.
2. The interest charge norm for the collective sector of a public body shall be an average of 0% per budgetary year.
3. If the interest charge norm is at risk of being exceeded due to developments in expenditure and income in the collective sector, not being a public body, Our Minister may issue instructions to one

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or more legal persons within the collective sector for the control of the interest charges of the collective sector.

4. For the assessment of this development of expenditure and income, the Council for Financial Supervision, in cooperation with the Central Bureau of Statistics, shall report to Our Minister and, at the same time, forward the annual accounts of the public bodies referred to in Article 31, paragraph 1, on the preliminary expenditure, income, deficits and debts of the collective sector of the public bodies. In this regard, the definitions of the System of National Accounts shall be the guiding principle.

Article 12

1. The public body shall have a current account at the Council for Financial Supervision.
2. Liquidity deficits as a result of deviations in the realized expenditure and income of the regular service, after approval of the Council for Financial Supervision, shall be settled by permitting a deficit on the current account.
3. Every month, quarterly or every six months, the Council for Financial Supervision shall establish a maximum of the deficit on a current account or the minimum of the credit in a current account, such that the permitted current account credit does not lead to excess of the valid interest charge norms in the budgetary year.
4. A public body shall not be authorized to withdraw credits other than from the Council for Financial Supervision.

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SECTION 2 THE BUDGET AND THE ANNUAL ACCOUNTS

§ 1 General provisions

Article 13

1. The budget, the adjustments of the budget, the annual accounts and the annual report shall be designed based on a system of income and expenditure in accordance with further rules to be issued by or pursuant to a general administrative measure.
2. In the estimate of income and expenditure, per budget item, the realized amount of the budgetary year prior to the previous budgetary year shall be entered, the estimated amount of the previous budgetary year after adjustment and the estimated amount of the budgetary year.
3. The budget shall further include, in any case:
 - a. an item contingencies;
 - b. a multi-year estimate with explanatory note for at least three years following the budgetary year;
 - c. a paragraph resilience.

Article 14

Expenses can only be imposed on public bodies by or pursuant to the law.

§ 2 The budget

Article 15

1. Annually, the island council, for all tasks and activities, shall enter all amounts that it makes available therefore in the budget as well as the financial means that it expects to be able to use.
2. The budget shall be balanced.

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3. The budgetary year shall be equal to the calendar year.
4. The service of the calendar year shall be closed on December 31 of that calendar year.

Article 16

Obligatory expenses of the public body shall be:

- a. Due debts;
- b. The expenses imposed on the public body by or pursuant to the law;
- c. The expenses arising from the cooperation demanded from the public body for the implementation of laws and general administrative measures insofar as those expenses have not been charged to others.

Article 17

1. Annually, the administrative council, before a date to be determined by the Council for Financial Supervision, shall submit to the Council the draft budget for the upcoming year.
2. The Council for Financial Supervision shall test the draft budget against the criteria mentioned in Article 19, paragraph 2.
3. The Council for Financial Supervision, within two weeks after the receipt of the draft budget, shall send to the administrative council a recommendation containing its findings with regard to the test conducted and any recommendations with regard to the adjustment of the draft budget.
4. Annually, not later than on September 1 of the year prior to the budgetary year, the administrative council shall submit the draft budget to the island council and indicate in what manner the

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findings and recommendations of the Council for Financial Supervision have been taken into account.

5. The draft budget and the other documents referred to in paragraphs 1 and 3, as soon as they have been submitted to the island council, shall be available for perusal by anyone and shall be generally available. Perusal and availability shall be publicly announced.

Article 18

1. The island council shall consult on the draft budget not earlier than two weeks after the public announcement referred to in Article 17, paragraph 5.
2. Proposals for adjustment of the draft budget shall be decided on only after the Council for Financial Supervision has been given the opportunity to provide recommendations regarding those proposals. In this regard, the administrative council shall send proposals for adjustment of the draft budget to the Council for Financial Supervision immediately after these have been submitted. The Council for Financial Supervision shall provide a recommendation as referred to in Article 17, paragraph 3, within three days after receipt.
3. The island council shall adopt the budget in the year prior to the budgetary year.

Article 19

1. The budget shall require the approval of Our Minister. The approval may be granted partly.
2. Our Minister shall test the budget, in any case, against the following criteria:

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- a. the budget shall be in accordance with Article 11, paragraph 2, Articles 13 and 15 and the provisions belonging to them;
 - b. the budget shall be permissible from a position of a legitimate, efficient and verifiable financial management;
 - c. the expenditure and income entered into the budget shall be in accordance with the best possible estimate of financial obligations already entered into and of external developments to be expected;
 - d. the financial obligations and expenditure entered in the budget shall not involve unacceptable risks for future budgetary years;
 - e. the budget shall otherwise meet the valid rules and regulations.
3. Approval may only be withheld due to reasons of violation of the law or conflict of financial interest of the public body.
 4. The administrative council shall send the budget adopted by the island council to Our Minister through the Council for Financial Supervision within two weeks after adoption but, in any case, before November 15 of the year prior the year to which the budget pertains.
 5. Our Minister shall notify the island council that adopted the budget regarding the decision for approval, within two weeks after receipt of the adopted budget,.
 6. The decision for approval may be delayed once for a period not exceeding two weeks.
 7. A decision for approval shall be considered to have been made if, within the period mentioned in paragraph 5, no decision for approval or no decision for delay has been made or, within the

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period in which the decision has been delayed, no notification has been made to the island council that adopted the budget regarding approval.

8. If Our Minister withholds full or partial approval on the budget, as soon as possible after receipt of that decision, the administrative council shall draw up a new draft budget taking into account the decision of Our Minister.
9. Paragraphs 1 and 2 as well as Article 17, paragraphs 2 and 4, and Article 18 shall apply *mutatis mutandis*.

Article 20

1. If the Council for Financial Supervision has not yet received a budget for approval on the date mentioned in Article 19, paragraph 4, it shall notify Our Minister in this regard. This notification shall contain a draft budget for the following budgetary year drawn up by the Council as this should be adopted in the opinion of the Council.
2. If, a week after the date mentioned in Article 19, paragraph 4, Our Minister has not yet received a budget for approval, he himself shall draw up the budget for the public body in question for the following budgetary year.

Article 21

1. A decision for adjustment of the budget shall require the approval of Our Minister.
2. Articles 17, 18 and 19 shall apply *mutatis mutandis*. In the assessment, Our Minister shall take into account the development of the balance in the current account referred to in Article 12, paragraph 1.

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3. If this is required with regard to the restoration of damage caused by unusual events, including natural disasters, Our Minister, after consultation with the administrative council in question, may permit a deficit in the budget or an excess of the interest charge norm.
4. If, on the day on which a decision for adjustment of the budget is submitted for approval to Our Minister, the budget has not yet been approved, the period referred to in Article 19, paragraph 5, shall become applicable from the day of the approval of the budget.

Article 22

1. Not later than three weeks after every quarter, the administrative council shall send implementation reports to Our Minister through the Council for Financial Supervision.
2. If so required, the implementation reports shall be accompanied by drafts of budget adjustments as referred to in Article 21. Drafts of budget adjustments shall, in any case, be submitted with regard to:
 - a. adjustments in the estimates of the obligations, income and expenditure of the current year;
 - b. intentions for new policy;
 - c. compensation of deficits on the regular service or the capital service or an excess of the interest charge norm that in the meantime have become evident in the accounts of the previous budgetary year.

Article 23

1. Subject to Articles 24 and 26, expenses for the account of the public body cannot be made that have not been estimated in an approved

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budget or an approved budget adjustment or in a budget adopted by Our Minister in accordance with Article 20.

2. The administrative council shall submit the intention for entering into a financial obligation for approval to the head of Finance of the public body or, in his absence, to his first or second replacement. A positive recommendation shall be given if the expenditure that is involved in the financial obligation has been provided for in an approved budget or approved decision for adjustment of the budget or in a budget adopted by Our Minister in accordance with Article 20.
3. If the intended financial obligation has not been provided for in an approved budget or approved decision for adjustment of the budget or in a budget adopted by Our Minister in accordance with Article 20, the administrative council shall submit as soon as possible to the island council a proposal for adjustment of the budget.

Article 24

1. For entering into obligations that have not been provided for in an approved budget or approved decision for adjustment of the budget or in a budget adopted by Our Minister in accordance with Article 20, the public body shall require the permission of Our Minister.
2. A request for application of paragraph 1 may only be rejected by Our Minister due to reasons of violation of the law or conflict of financial interest.
3. Our Minister shall decide on the request within two weeks after the request referred to in paragraph 2 has been made. The permission shall be deemed to have been given if, within this period, no decision has been sent to the public body.

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4. Our Minister may attach rules to the permission.
5. Our Minister may determine for which items and up to what amount the public body does not require the permission referred to in paragraph 1.

Article 25

1. In cases of urgency, if the island council decides thereto, an obligation may be entered into before the budget or budget adjustment in question has been approved. The decision shall be sent to Our Minister through the Council for Financial Supervision. If the obligation entered into is estimated in a budget adjustment that has not yet been submitted for approval, this budget adjustment shall be sent together with the decision.
2. With regard to the decision referred to in paragraph 1, the island council shall decide by individual summons.

Article 26

1. If an island council applied Article 25 and Our Minister withholds his approval of the budget or budget adjustment in question, within a month after his decision has become irrevocable, he may hold the members of the island council who have voted in favor of the decision referred to in Article 25 personally liable for this obligation before the public body, each for an equal portion.
2. The effect of the decision for liability shall be suspended until the period of appeal has lapsed or, if an appeal has been filed, until a ruling has been made on the appeal.

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3. If so required, the State Representative, on behalf and for the account of the public body, may file a legal claim for payment of the monies due pursuant to the decision for liability.

Article 27

1. Depreciation and transfer on items of the budget shall only be permitted insofar as authorization thereto has been granted in the budget itself or by separate decision of the island council.
2. Orders for depreciation and transfers for which authorization has been granted in the budget shall require the approval of the island council.
3. By general administrative measure, conditions may be attached to the authorization for transfers.
4. A separate decision as referred to in paragraph 1 shall require the approval of Our Minister. Article 19 paragraphs 2, 3, and 5 up to and including 7 shall apply mutatis mutandis.

§ 3 The annual accounts

Article 28

1. The administrative council shall give account to the island council for their administration in each budgetary year under submission of the annual accounts and the annual report.
2. The annual accounts, the annual report and the documents referred to in Article 38, paragraphs 4 and 5 shall, as soon as they have been submitted to the island council, be available for perusal and shall be generally available. Perusal and availability shall be publicly announced.

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3. The island council shall consult on the documents referred to in paragraphs 1 and 2 not earlier than two weeks after the public announcement referred to in paragraph 2.

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Article 29

1. The island council shall adopt the annual accounts and the annual report in the year following the budgetary year. The annual accounts shall pertain to all income and expenditure of the public body.
2. If the island council takes the position that the income, expenditure or balance mutations entered in the annual accounts that have not been realized legitimately prevent the adoption of the annual accounts, it shall notify the administrative council hereof immediately stating its concerns.
3. Within two months after receipt of the position referred to in paragraph 2, the administrative council shall send the island council a proposal for an indemnity decision accompanied by a response to the concerns of the island council.
4. If the administrative council has submitted a proposal for an indemnity decision, the island council shall adopt the annual accounts only after it has made a decision regarding the proposal.

Article 30

Subject to subsequently arisen irregularities in legal proceedings, the adoption of the annual accounts shall relieve the members of the administrative council of the financial management accounted for therein.

Article 31

1. Two weeks after adoption but in any case before July 15 of the year following the budgetary year, the administrative council shall send the adopted annual accounts and the annual report, together with the other documents referred to in Article 28, to Our Minister

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through the Council for Financial Supervision. The administrative council, if applicable, shall include the decision of the island council regarding the proposal for an indemnity decision with the response referred to in Article 29, paragraph 3.

2. The Council for Financial Supervision may have an accountant as referred to in Article 393, paragraph 1 of Book 2 of the Civil Code conduct an audit as to the legitimacy and efficiency of the management.
3. If, from the annual accounts, it is apparent that there is a deficit in the regular service or in the capital service or an excess of the interest charge norm, the Council for Financial Supervision shall provide the administrative council with a recommendation for adjustment of the budget of the current year and for the budget of the upcoming year. The administrative council shall take this recommendation into consideration in the next implementation report referred to in Article 22.

Article 32

If the island council does not or does not properly adopt the annual accounts or an indemnity decision, the administrative council shall submit the annual accounts, together with the other documents referred to in Article 28, or the indemnity decision, for adoption to Our Minister through the Council for Financial Supervision. Our Minister shall, in that case, adopt the annual accounts and, as the case may be, the indemnity decision.

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SECTION 3 THE FINANCIAL MANAGEMENT AND THE SUPERVISION

Article 33

1. Policy measures that have consequences for the income or expenditure in the budget shall be implemented by the administrative council and the island council by means of an appropriate provision for that purpose.
2. If the administrative council does not establish, implement or execute the provision referred to in paragraph 1 in time and, as a result, puts the feasibility of the expenditure and income estimates at risk, the Council for Financial Supervision shall bring this to the attention of the administrative council. The report may contain recommendations as to the provisions to be made.
3. The administrative council, within fourteen days, shall notify the Council for Financial Supervision in what way the report referred to in paragraph 2 has been taken into consideration and, if relevant, stating the periods of time that shall be observed in this regard.
4. The Council for Financial Supervision shall report to Our Minister if it is evident from the notification of the administrative council referred to in paragraph 3 that the administrative council or island council does not make a provision as referred to in paragraph 1 or does this at such a time that the feasibility of the expenditure and income estimates is put at risk.
5. The Council for Financial Supervision shall send the administrative council in question and the island council in question a certified copy of the report.
6. Our Minister, in anticipation of the establishment or implementation of said provision, may decide to charge the Council for Financial

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Supervision with the establishment of special measures and the independent execution thereof.

Article 34

1. The island council shall establish the points of departure for the financial management and for the design of the financial organization by island ordinance. This island ordinance shall guarantee that the requirements of legitimacy, efficiency, accountability and supervision are met.
2. The island ordinance shall be sent to the Council for Financial Supervision after adoption.
3. The Council for Financial Supervision may, at all times, conduct an investigation into the management and design of the financial organization referred to in paragraph 1.
4. The Council for Financial Supervision may make arrangements with an administrative council for the improvement of the financial management, the material management and the administrations to be maintained in that regard.
5. Our Minister may issue general and special instructions to the administrative council with regard to the subjects mentioned in paragraph 4.
6. Our Minister shall issue these instructions in the field of the financial management with due regard for the findings of the accountant referred to in Article 38, paragraph 3, and Article 31, paragraph 2.
7. The administrative council shall observe the instructions referred to in paragraphs 5 and 6.
8. For the arrangements regarding the improvements in the financial management the Council for Financial Supervision shall make use of

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the findings of the accountant referred to in Article 38, paragraph 3, and Article 31, paragraph 2.

9. The Council for Financial Supervision shall supervise the design of that supervision that shall take place within the scope of the implementation of the budget.

Article 35

1. Only the head of Finance of the public body or his first or second replacement may be given a mandate on behalf of the public body to perform private legal acts that arise from a decision to conclude a financial obligation and on which a positive recommendation has been given as referred to in Article 23, paragraph 2.
2. If the administrative council, without a positive recommendation referred to in paragraph 1, nonetheless orders the officers referred to in that paragraph to conclude a financial obligation or perform the private legal acts pertaining thereto, the officer in question shall notify Our Minister in this regard through the Council for Financial Supervision.
3. Our Minister, with regard to the matters put before him by the officer in question, shall issue an instruction. The administrative council and the officer in question shall observe this instruction.
4. The administrative council shall file the names and positions of the persons referred to in paragraph 1 with the Council for Financial Supervision. The Council for Financial Supervision shall maintain a register for this purpose and publish this register, after adoption thereof, after every adjustment, but in any case, every six months.

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5. Our Minister may select budgets or budget items at the expense of which no financial obligations may be entered into before he has given his permission thereto.
6. The content of the selected budgets or budget items referred to in paragraph 5, as long as they are selected, shall be included in the register referred to in paragraph 4.
7. Private legal acts concerning the entering into of financial obligations as referred to in this Article shall be null and void if:
 - a. the rules in this decree regarding the power of the persons performing these acts have not been observed, or
 - b. if these acts pertain to budgets or budget items that have been included pursuant to paragraph 6 in the register referred to in paragraph 4.
8. In case of entering into financial obligations and performing private legal acts to which the island council has decided, this Article shall apply mutatis mutandis.

Article 36

1. On behalf of the public body, only the head of Finance of the public body or, in his absence, his first or second replacement, shall be authorized to make payments arising from a financial obligation entered into by an administrative organ. They can authorize the collector of the public body to perform said payments.
2. Article 35, paragraphs 2 and 3, shall apply mutatis mutandis to orders of the administrative council to make payments referred to in paragraph 1.
3. In deviation of paragraph 1, payments may be made by officers other than the officers mentioned in that paragraph insofar as they

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pay cash or use a bank card or credit card subject to the provisions of paragraph 8.

4. Payments made on behalf of the public body, both to one another and to third parties, shall exclusively take place by payment transactions via the banks subject to the provisions of paragraph 3.
5. With the written permission of the Council for Financial Supervision on conditions to be set forth by it, paragraph 4 may be deviated from.
6. The administrative council shall encourage that third parties make their payments to the public body to the credit of the income account of the public body concerned.
7. Cash and checks received shall be deposited in the income account of the public body on the day of receipt.
8. Making cash payments, using bank cards, credit cards, chip cards and other electronic payment methods without the prior written approval of the Council for Financial Supervision shall be prohibited. In consultation with the administrative council, the Council for Financial Supervision may establish a limit on the spendings via credit card.
9. Payments on behalf of the public body shall take place against proper receipt.
10. Receiving non-monetary matters as monetary payment shall be prohibited. This may be deviated from with the written approval of the Council for Financial Supervision.
11. Issuing to third parties and receiving from third parties of negotiable securities in the form of shares and securities shall take place against proper receipt.

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12. Extending advances on payments to be made by third parties shall take place with due regard for the rules on the extension of advances to be established by the Council for Financial Supervision after consultation with the administrative council.

Article 37

1. As per the date to be established by the Council for Financial Supervision, the administrative council, in consultation with the Council for Financial Supervision, shall see to it that:
 - a. for making payments and collecting income separate bank accounts shall be opened at one or more banks as is required for efficiency purposes;
 - b. the credit balance in the bank accounts shall be transferred daily at the end of the day to the bank account of the Council for Financial Supervision;
 - c. the Council for Financial Supervision receives daily bank statements of the mutations in the bank accounts.
2. The Council for Financial Supervision shall see to it that the debit balance in the bank accounts is settled daily at the end of the day.
3. The mutations in the bank account referred to in paragraph 1 under b shall be maintained by the Council for Financial Supervision for each of the public bodies in the current account referred to in Article 12, paragraph 1.
4. The Council for Financial Supervision shall pay a credit interest on credit balances on the current account and shall charge a debit interest on a debit balance. The percentage of the credit interest and the debit interest shall be equal to one another and equal to the Euro Overnight Index Average.

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5. By regulation of Our Minister of Finance, further rules may be issued with regard to the provisions in this Article.

Article 38

1. The island council shall issue rules for the supervision on the financial management and the design of the financial organization by island ordinance. This island ordinance shall guarantee that the legitimacy of the financial management and the design of the financial organization are tested.
2. The island ordinance shall be sent to the Council for Financial Supervision after adoption.
3. The island council shall appoint one or more accountants as referred to in Article 393, paragraph 1 of Book 2 of the Civil Code, charged with the audit of the annual accounts referred to in Article 28 and the submission of an auditor's certificate as well as a report on their findings.
4. The auditor's certificate, on the grounds of the audit, shall indicate if:
 - a. the annual accounts are a faithful representation of the income and expenditure as well as of the amount and composition of the assets;
 - b. the profits, losses and balance sheet mutations have been realized legitimately;
 - c. the annual accounts have been drawn up according to the rules to be issued by or pursuant to a general administrative measure referred to in Article 13.
5. The report on the findings shall contain, in any case, findings regarding:

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- a. the question if the design of the financial management and the financial organization enable faithful and legitimate accountability, and
 - b. illegalities in the annual accounts.
6. The accountant shall send the auditor's certificate and the report with his findings to the island council and a certified copy thereof to the administrative council.
 7. By general administrative measure, further rules may be issued with regard to the scope of and the report on the audit referred to in paragraph 3.
 8. Accountants as referred to in paragraph 3 may be employed by the public body and, in that case, appointed, suspended and dismissed by the island council.
 9. If the island council, on the grounds of paragraph 3, has selected accountants that have been employed by the public body:
 - a. the provisions by and pursuant to Articles 25, 25a and 27 of the Accountants Organizations Supervision Act shall apply mutatis mutandis to these accountants;
 - b. the provisions by and pursuant to Articles 14, 18, 19, 20 and 21 of the Accountants Organizations Supervision Act shall apply mutatis mutandis to the public body, and
 - c. the provisions by and pursuant to Articles 15 and 16 of the Accountants Organizations Supervision Act shall apply mutatis mutandis to the persons that have the daily management over the section of the public body where the accountants referred to in the introduction are employed.
 10. If a public body is appointed as organization of public interest as referred to in Article 1, paragraph 1, section h of the Accountants

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Organizations Supervision Act, Articles 22 up to and including 24 of that Act shall apply mutatis mutandis to this public body.

11. The joint auditor's office shall be charged with the supervision on the compliance with paragraph 9.

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Article 39

1. The administrative council shall provide Our Minister and the Council for Financial Supervision with all the information that they require for the performance of their duties.
2. The administrative council shall, at all times, permit Our Minister and the Council for Financial Supervision or the representatives appointed by them for that purpose access to or perusal of all goods, administrations, documents and other information carriers.
3. Our Minister may issue instructions on the provision of information by the collective sector, not being a public body.

CHAPTER IV THE TAXES

§ 1 General provisions

Article 40

The island council shall decide on the introduction, adjustment or lifting of island tax by establishing a tax ordinance.

Article 41

A tax ordinance shall state, in cases leading thereto, the tax payer, the object of the tax, the taxable event, the tax standard, the rate, the effective time of the levy, the time of termination of the levy, and all that is otherwise of importance for the levy and collection.

Article 42

1. Except for the island tax of which the levy shall take place pursuant to Acts other than this one, no other island taxes shall be levied than those referred to in paragraphs 2 and 3 of this Chapter.

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2. Subject to the provisions of Acts other than this one and paragraphs 2 and 3 of this Chapter, island taxes may be levied in accordance with the standards of levy to be established in the tax ordinance on the understanding that the amount of an island tax may not be made dependent on the income, the profit or the assets.

§ 2 Special provisions on land tax and the surcharge on real estate tax

Article 43

1. With regard to the real estate established within the public body:
 - a. under the designation land tax, island tax may be levied on the party who, at the start of the calendar year, has the enjoyment pursuant to ownership, possession or limited right of:
 - 1^o. a property that, for the purpose of Article 16, paragraph 1, section h of the Income Tax Act BES, is considered a private residence that is available as main accommodation to the enjoying party;
 - 2^o. a property belonging to the assets of a company and with regard to which the profits on the grounds of Article 3, paragraph 4 of the Income Tax Act BES, are taxable as income of the company, and
 - b. surcharge may be levied on the principal of the property tax referred to in Article 4.1 of the Tax Act BES.
2. For the purpose of paragraph 1, introduction and under a, the enjoying party pursuant to ownership, possession or limited right shall be considered the party who, at the start of the calendar year, is registered as such in the land registry, unless it is evident that, at that time, another is the enjoying party pursuant to ownership, possession or limited right.

Article 44

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1. The land tax shall be levied by means of an assessment.
2. An assessment shall, in any case, include:
 - a. the name, address and place of residence or registered seat of the party on whom the assessment is imposed;
 - b. a description of the property;
 - c. the standard of levy;
 - d. the value reference date;
 - e. the calendar year to which the assessment pertains;
 - f. the tax amount payable.
3. Non-compliance with the rules of paragraph 2 shall not result in nullification of the assessment.

Article 44a

1. Decisions to introduce, adjust or lift the surcharge on the principle of property tax shall become effective as per January 1 of any year. Such a decision shall be brought to the knowledge of Our Minister of Finance by certified copy before October 1 of the previous year.
2. A decision referred to in paragraph 1 shall have no consequences for the surcharge that is paid over a period of time that has started before the effective date of that decision.

Article 45

For the purpose of this Chapter, a single property shall be understood to mean:

- a. a constructed property;
- b. an unconstructed property;
- c. part of a property referred to in section a or section b that, as is evident from its division, is intended for use as a separate whole;

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- d. a body of two or more of the properties referred to in section a or section b or parts thereof referred to in section c that are in use by the same tax payer and that, considering the circumstances, belong together.

Article 46

1. The standard of levy for the land tax shall be the value that must be allocated to the property if the full and unencumbered ownership thereof could be transferred and the obtaining party could use the property immediately and fully in its current state.
2. In deviation insofar of paragraph 1 the value of the property shall be determined based on the replacement value if this leads to a higher value than the value pursuant to paragraph 1. In the calculation of the replacement value, the following shall be taken into consideration:
 - a. the nature and purpose of the property;
 - b. the technical and functional wear and tear that have occurred since the establishment of the property, whereby the influence of later adjustments is taken into consideration.

Article 47

1. The value of real estate with regard to which the land tax is levied shall be determined by the island official referred to in Article 67, paragraph 2, section b.
2. The value shall be determined based on the value of that property on the value reference date in the state of the property on that date.

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3. The value reference date shall be one year before the start of the period for which this value is determined.
4. The value shall be valid for a period of five consecutive years.

Article 48

If a property, in the year prior to the period or during the period, changes as a result of construction, renovation, improvements, demolition or destruction, in deviation of Article 47, the value shall be determined based on the state of the property at the start of the calendar year following the year in which said change occurred.

Article 49

1. In deviation of Article 46, in the determination of the standard of levy for the land tax, the value of the following shall be disregarded:
 - a. minerals in the soil and the natural fertilizers present in or above ground;
 - b. real estate that is mainly intended for public worship with the exception of parts of such real estate that serve as residence;
 - c. natural land that is understood to include dunes, moors, drifting sands, swamps and lakes that are managed by legal persons with full legal authority who have as their exclusive or almost exclusive objective the preservation of the natural beauty;
 - d. public roads and waterways;
 - e. water protection and water management works that are managed by organs, institutions or services of legal persons under public law, with the exception of the parts of such works that serve as residence;

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- f. works that are intended for the supply of water, the collection and purification of sewage and waste water, or the supply of electricity, and that are managed by organs, institutions or services of legal persons under public law, with the exception of the parts of such works that serve as residence;
- g. machines that may be separated from a property without damage of any substance being done to those machines and which cannot be considered constructed property in themselves.

Article 50

- 1. The land tax shall be a percentage of the taxable basis.
- 2. The surcharge referred to in Article 43, paragraph 1, section b, shall be expressed in terms of a percentage of the principle sum of the property tax.
- 3. The rate of the taxes referred to in Article 43, paragraph 1, shall be evenly determined for:
 - a. the land tax, insofar as it concerns property as referred to in Article 43, paragraph 1, section a, under 1^o;
 - b. the land tax, insofar as it concerns property as referred to in Article 43, paragraph 1, section a, under 2^o;
 - c. the surcharge on the property tax referred to in Article 43, paragraph 1, section b.

Article 51

- 1. The tax ordinance may stipulate that no land tax shall be levied if the standard of levy remains below an amount of \$12,000.00 or a lower amount to be set forth in the tax ordinance.
- 2. The tax ordinance may stipulate tax amounts up to a maximum \$10.00 on which no collection shall take place. For the purpose of

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the previous sentence, the tax ordinance may stipulate that the total of amounts payable joined on one tax assessment notice or notification shall be considered one tax amount.

Article 52

In case of full or partial destruction of buildings by unforeseen disasters, on request, the tax payer shall be granted a reduction or return of land tax proportionate to the remaining part of the taxable year to which the land tax pertains and to the decrease in value.

§ 3 Special provisions on several taxes other than land tax

Article 53

1. Under the designation tourist tax, an island tax may be levied on the stay of non-residents of the public body in the territory of the public body.
2. Insofar as an island tax is levied on the party offering accommodations, he shall be authorized to levy the tax as such on the party with regard to whose stay the tax is payable.
3. For the purpose of this Article, as party offering accommodations shall, in any case, be considered:
 - a. the owner of a property where a non-resident stays if this property is exploited by the owner himself;

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- b. the proprietor of a property where a non-resident stays;
- c. the shipmaster or captain who is responsible for a vessel, or the manager or user of the vessel.

Article 54

1. Under the designation car lease tax, island tax may be levied on the use of leased cars on the party leasing the cars.
2. The tax may be levied as such on the party with regard to whose use the tax is payable.

Article 55

1. With regard to a motor vehicle being a private car, motorcycle, bus, truck or delivery van that, by its nature, is intended for use on the public road and is used within or in the territory of the public body in accordance with this purpose, under the designation of road tax, an island tax may be levied on the party who holds the motor vehicle at the start of a period.
2. The rate of the road tax may be made dependent on
 - a. the mass in kilograms of the motor vehicle,
 - b. the nature of the fuel of the motor vehicle as well as
 - c. the type of motor vehicle.
3. The period referred to in paragraph 1 shall be three months, whereby the first period in a calendar year shall start on January 1 of that calendar year.

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Article 56

1. With regard to the parking regulation, the following taxes may be levied:
 - a. a tax with regard to parking a vehicle in a place, at a time and in a manner to be determined by the administrative council in the cases stipulated in the tax ordinance or pursuant to the tax ordinance;
 - b. a tax regarding a license granted on behalf of the public body for parking a vehicle in the place and manner as set forth in the license.
2. For the purpose of paragraph 1, parking shall be understood to mean to leave a vehicle for a consecutive period of time other than during the time that is needed and used for persons to get in or out or for the immediate loading or unloading of goods, on an open property or part of the road intended for public traffic located within the public body, and of which this leaving of the vehicle is not prohibited by a statutory regulation.
3. The tax referred to in paragraph 1, section a, shall be levied on the party who has parked the vehicle.
4. As party who has parked the vehicle is also considered the party who pays the tax or who indicates or has indicated that he is willing to pay the tax.
5. As long as payment of the tax referred to in paragraph 1, section a, has not taken place, the holder of the vehicle shall be considered the party who has parked the vehicle. With regard to a motor vehicle with regard to which road tax as referred to in Article 55 is levied, the holder shall be considered the party who is the tax payer for the road tax regarding that motor vehicle. The second sentence shall not apply if a lease entered into for at least three months is submitted from which it is evident who, at the time of parking, was the lessee of the vehicle in which case the lessee shall be considered the party who has parked the vehicle.

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6. The tax shall not be levied on the party who, pursuant to paragraph 5, is considered the party who has parked the vehicle if he makes it plausible that, at the time of parking, another has used his vehicle against his will and that he could not have reasonably prevented this use.
7. The tax referred to in paragraph 1, section b, shall be levied on the party who applied for the license.
8. The rate of the tax referred to in paragraph 1 may be made dependent on the duration of parking, the time of parking, the occupied surface area and the location of the properties or parts of the road.

Article 57

[null and void]

Article 58

1. With regard to holding a dog, the owner may be subjected to a dog tax.
2. The tax shall be levied based on the number of dogs that are kept.
3. For the purpose of paragraph 1, holding a dog by a member of a household may be considered holding a dog by a member of that household to be designated by the public official of the public body referred to in Article 67, paragraph 2, section b.

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Article 59

With regard to a public notification visible from the public road, an advertising tax may be levied.

Article 60

With regard to having objects under, on or above land of the public body intended for public service, a charge may be levied locally on projections over public land.

Article 61

Under the designation harbor tax, a tax may be levied on the party who, as shipmaster or captain, is responsible for the vessel, or on the operator or user of the vessel with regard to:

- a. anchoring or mooring vessels in harbors or at wharfs and properties that are owned or managed and maintained by the public body, and
- b. dropping anchor in the territorial waters as referred to in the Kingdom Act on the expansion of the territorial sea of the Kingdom in the Netherlands Antilles insofar as these waters border on the public body.

Article 62

1. Duties may be levied on:

- a. the use in accordance with the purpose of property of the public body intended for public service or of works or installations of the public body intended for public service that are managed and maintained by the public body;
- b. the enjoyment of services rendered by or on behalf of the public body.

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2. For the purpose of this Chapter, the duties referred to in paragraph 1 shall be considered island taxes.

Article 63

The duties referred to in Article 62 may be levied by the public body that permits the use of the property, works or installations or that renders the services, regardless whether or not the taxable event occurs within or outside of the territory of the public body.

Article 64

1. In tax ordinances on the grounds of which duties as referred to in Article 62 are levied, the rates are determined in such a manner that the estimated income from the duties does not exceed the estimated expenses in that regard.
2. The expenses referred to in paragraph 1 shall be understood to include contributions to appropriated reserves and provisions for the necessary replacement of the assets concerned.

Article 65

By or pursuant to a general administrative measure, with regard to the island taxes referred to in the second and third paragraph of this Chapter, further rules may be issued.

§ 4 Levy and collection

Article 66

In this paragraph, levy in a different manner shall be understood to mean levy in a manner other than by means of an assessment or by means of payment on the tax return.

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Article 67

1. Without prejudice to the provisions elsewhere in this paragraph, the levy and collection of island taxes other than the ones referred to in Article 43, paragraph 1, section b, under application of Chapters I and VIII of the Tax Act BES, shall take place as if those taxes were BES taxes.
2. Without prejudice to the provisions elsewhere in this paragraph, the powers and obligations of the officials mentioned hereinafter and in the Tax Act BES shall be valid with regard to the island taxes for the councils or officials stated thereafter:
 - a. Our Minister of Finance and the Permanent Secretary: the administrative council;
 - b. the inspector: the island official charged with the levy of the island taxes;
 - c. the collector or a collector authorized pursuant to BES taxes: the island official charged with the collection of island taxes;
 - d. the officials of the national tax office: the island officials charged with the levy or collection of island taxes;
 - e. the tax bailiff: the island official appointed for that purpose.
3. Without prejudice to the provisions elsewhere in this paragraph, with regard to island taxes in the Tax Act BES, "general administrative measure" and "ministerial regulation" shall be read as: decision of the administrative council.

Article 68

1. The administrative council may determine that, for sending or issuing tax assessments notices pursuant to Article 8.2, paragraph 1

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- of the Tax Act BES, another island official may take the place of the official referred to in Article 67, paragraph 2, section c.
2. The councils of two or more public bodies, with regard to one or more island taxes, may determine that officials of one of those public bodies are appointed:
 - a. the official referred to in Article 67, paragraph 2, section b of those public bodies for the implementation of any statutory provision regarding the levy of island taxes;
 - b. the official referred to in Article 67, paragraph 2, section c of those public bodies for the implementation of any statutory provision regarding the collection of island taxes;
 - c. the officials referred to in Article 67, paragraph 2, section d of those public bodies for the implementation of any statutory provision regarding the levy or collection of island taxes;
 - d. the official referred to in Article 67, paragraph 2, section e of those public bodies for the implementation of any statutory provision regarding the collection of island taxes.
 3. Paragraph 1 shall apply mutatis mutandis to the administrative council of the public body of which the official charged with the collection of island taxes on the grounds of paragraph 2, section b, is appointed.
 4. If, for the levy or collection of island taxes, a joint scheme has been established and a public body set up for that purpose, by or pursuant to that scheme, it may be stipulated that an official of the public body appointed for that purpose, is appointed:
 - a. the official of the public body referred to in Article 67, paragraph 2, section b, that transferred the duties in question for

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the implementation of any statutory provision regarding the levy of island taxes;

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- b. the official of the public body referred to in Article 67, paragraph 2, section c, that transferred the duties in question for the implementation of any statutory provision regarding the collection of island taxes;
 - c. the officials of the public body referred to in Article 67, paragraph 2, section d, that transferred the duties in question for the implementation of any statutory provision regarding the levy or collection of island taxes;
 - d. the official of the public body referred to in Article 67, paragraph 2, section e, that transferred the duties in question for the implementation of any statutory provision regarding the collection of island taxes.
5. Paragraph 1 shall apply mutatis mutandis with regard to the daily administration of the public body that is established on the grounds of the Common Rules Act of which an official on the grounds of paragraph 4, section b, is appointed.

Article 69

Island taxes may be levied by means of an assessment, by means of payment on the tax return or in a different manner, however, not by means of payment on a self-assessment tax return.

Article 70

1. If the island taxes are levied in a different manner, the tax ordinance shall stipulate in what manner these shall be levied and the manner in which the tax payer shall be notified of his tax debt. The tax ordinance shall stipulate that the administrative council issues further rules concerning the implementation of all this.

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2. The taxes levied in a different manner, for the purpose of the Tax Act BES, shall be considered taxes levied by means of assessment on the understanding that the following terms shall have the following meaning:
 - a. the assessment, the estimated tax assessment and the additional tax assessment: the amount payable, the estimated amount payable, and the additional amount payable respectively;
 - b. the tax assessment notice: the notification of the amount referred to in section a;
 - c. the date of the tax assessment notice: the date of the written notification of the amount referred to in section a or, in the absence of a written notification, the date on which the tax payer has been notified in a different manner about the amount.

Article 71

1. The tax referred to in Article 56, paragraph 1 under a, shall be levied by means of payment on the tax return or in a different manner.
2. As payment on the tax return is exclusively considered putting into operation a parking meter or parking lot ticket machine upon or at the start of parking in the manner intended for that purpose and with due regard for the rules established by the administrative council.
3. In deviation of Article 8.92, paragraph 1 of the Tax Act BES, no notice of objection may be filed with regard to the amount that has been paid on the tax return in accordance with paragraph 2, section a.

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4. In case an additional tax assessment is imposed, this shall be calculated based on a parking duration of one hour, unless it is plausible that the vehicle has been parked longer than one hour without payment.
5. Article 8.22, paragraphs 2 and 3, Articles 8.23 and 8.26 of the Tax Act BES shall not apply.
6. With regard to imposing an additional tax assessment, costs shall be charged. These costs shall be part of the additional tax assessment and shall be stated separately on the tax assessment notice. With regard to the same vehicle, per consecutive period, the costs shall not be charged more often than once per calendar day.
7. By general administrative measure, rules may be established with regard to the manner of calculation and the maximum amount of the costs referred to in paragraph 6. The tax ordinance shall stipulate the amount of the costs to be charged.
8. If it is not possible to issue the tax assessment notice immediately to the tax payer, it shall be sufficient to attach the tax assessment notice to the vehicle. In that case, the tax assessment notice shall not state the name of the tax payer but the license number of the vehicle. In the absence of a license number, the tax assessment notice shall state one or more details that are characteristic of the parked vehicle.
9. The additional tax assessment shall be immediately due and payable.

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Article 72

1. After the lapse of a period to be stipulated by the tax ordinance that shall be at least 24 hours after the tax assessment notice has been issued to the tax payer or after the tax assessment notice has been attached to the vehicle in accordance with Article 71, paragraph 8, the island official referred to in Article 67, paragraph 2, section c, shall be authorized to have the vehicle transferred to a location to be selected by him and have it put in custody. With regard to the transfer and custody referred to in the first sentence, an official report shall be drawn up and costs shall be charged.
2. The island official referred to in Article 67, paragraph 2, section c, shall see to it that, in a register held for that purpose, a note is made of the cases in which the power referred to in paragraph 1 is exercised.
3. The island official referred to in Article 67, paragraph 2, section c, shall see to the custody of the vehicles put in custody pursuant to paragraph 1.
4. The island official referred to in Article 67, paragraph 2, section c, shall return the vehicle to the rightful claimant after the additional tax assessment and the costs of transfer and custody have been paid.
5. When the vehicle has not been collected 48 hours after it has been put in custody, the island official referred to in Article 67, paragraph 2, section c shall give notice, if possible within seven days of the transfer and custody:
 - a. in case the vehicle is a motor vehicle with regard to which road tax is levied, shall notify the party who is the tax payer for the road tax with regard to the motor vehicle;

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- b. if it becomes evident that the vehicle has been reported missing, shall notify the party who filed the report;
 - c. in cases to be further specified by Our Minister, shall make a notification in the manner specified.
6. The costs of tracing the party to whom the notification must be sent and the costs of issuing that notification, for the purpose of this Article, shall be included in the costs of transfer and custody.
7. When the vehicle has not been collected within three months after it has been put in custody, the island official referred to in Article 7, paragraph 2, section c, shall be authorized to sell it or, if sale is not possible in his opinion, to transfer the vehicle into ownership of a third party for no consideration, or to have it destroyed. Equal power is allocated to the island official referred to in Article 67, paragraph 2, section c, within that period of time, as soon as the total amount of the additional tax assessment and the costs of transfer and custody increased with the estimated costs of sale, transfer into ownership for no consideration or destruction would, in his opinion, become disproportionately high compared to the value of the vehicle. Sale, transfer into ownership for no consideration or destruction shall not take place within two weeks after the notification referred to in paragraph 5 has been issued. For the purpose of the following paragraphs, the costs of sale, transfer into ownership for no consideration or destruction shall be included in the costs of transfer and custody.
8. For a period of three years after the time of sale the party who

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was the owner at that time shall have a right to the proceeds from the sale of the vehicle on the understanding that, first, the costs of custody of the vehicle and, then, the additional tax assessment are settled against the proceeds. After the lapse of that period, any credit balance shall fall to the public body.

9. The tax ordinance shall stipulate up to what amounts the costs of transfer and custody of the vehicle may be charged. By general administrative measure, rules may be established with regard to the manner of calculation of the costs.
10. The island official referred to in Article 67, paragraph 2, section c, shall determine the amount of the costs to be charged by order subject to appeal.
11. By or pursuant to a general administrative measure, rules may be established regarding the transfer, custody, sale, transfer into ownership for no consideration and destruction, the organization and maintenance of the register referred to in paragraph 2 as well as regarding that which is further desirable for the implementation of this Article.
12. If it can be shown that, during the transfer and custody, the vehicle was damaged, the public body shall be obligated to pay damages.

Article 73

1. In the levy and collection of island taxes, Articles 8.1, 8.55, 8.77, paragraph 2, 8.79, paragraphs 2 and 3, 8.80, paragraphs 2 up to and including 4, 8.81, 8.83, paragraphs 2 up to and including 5, 8.86, 8.87, 8.91 and 8 120 up to and including 8 129 of the Tax Act BES shall not apply. In the levy of island taxes that are levied in a

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different manner, Articles 8.2, paragraph 1, 8.3, 8.4, 8.7, paragraph 1, and 8.9 shall not apply.

2. By general administrative measure, the costs of proceedings may be determined as referred to in Article 8.39, paragraph 2 of the Tax Act BES.

Article 74

1. Without prejudice to Article 8.3, paragraph 6 of the Tax Act BES, in deviation of Article 8.3, paragraphs 1 and 4 of the Tax Act BES, the island official referred to in Article 67, paragraph 2, section b, may demand that an obligation for filing a tax return or for submitting a request for the issue of a tax assessment notice be observed by filing the tax return orally. In this regard:
 - a. the documents requested by the island official referred to in Article 67, paragraph 2, section b, shall be submitted;
 - b. the island official referred to in Article 67, paragraph 2, section b, may demand that an account of a tax return filed orally is signed by the tax payer, failure of which shall render the tax return to be considered not filed.
2. If paragraph 1 applies, the island official referred to in Article 67, paragraph 2, section b, may establish shorter periods for the periods mentioned in Article 8.5, paragraph 2, and Article 8.11, paragraphs 1 and 4 of the Tax Act BES, or for the periods referred to in Article 75, paragraphs 2 and 3, and Article 8.9 of the Tax Act BES shall not apply.

Article 75

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1. With regard to the island taxes levied by means of an assessment or by means of payment on the tax return, the tax assessment notice must be filed with the island official referred to in Article 67, paragraph 2, section b, within a term determined by him.
2. The tax ordinance shall stipulate the minimum length for the term referred to in paragraph 1.
3. If the tax ordinance does not stipulate a minimum length for the term referred to in paragraph 1, that minimum shall be two months.
4. With regard to the island taxes levied by means of payment on the tax return, the tax ordinance shall stipulate the term within which the tax must be paid.
5. Insofar as the tax ordinance does not stipulate a term as referred to in paragraph 4, the terms set forth in Article 8.11 of the Tax Act BES shall apply.

Article 76

1. The island official referred to in Article 67, paragraph 2, section b, shall be authorized to join on one tax assessment notice intended for one tax payer, tax assessments of the same type that may pertain to different taxes.
2. The first paragraph shall apply in case the tax is levied in a different manner.

Article 77

1. The person who, pursuant to the tax ordinance, is entitled to full or partial exemption, deduction, release or refund, within six weeks after the circumstance that gave rise to this entitlement occurred or, insofar as it concerns a tax that is levied by means of an

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assessment and no tax assessment notice has been issued or sent at that time, within six weeks after the date of the tax assessment notice, may file a request for exemption, deduction, release or refund with the island official referred to in Article 67, paragraph 2, section b.

2. Paragraph 1 shall apply mutatis mutandis in case the tax is levied in a different manner.
3. The island official referred to in Article 67, paragraph 2, section b, shall decide on the request by order subject to appeal.

Article 78

In the cases in which international law or, in the opinion of Our Minister and Our Minister of Finance, international custom makes it necessary, exemption of island taxes shall be granted. Our Ministers mentioned may jointly establish further rules in this regard.

Article 79

In addition to a reduction, exemption or refund provided for in the tax ordinance, the island official referred to in Article 67, paragraph 2, section b, may also officially grant an exemption provided for in the tax ordinance.

Article 80

1. With regard to the island taxes, by general administrative measure:
 - a. rules may be established whereby Articles 8.83, paragraphs 2 up to and including 5, 8.86 up to and including 8.88 and 8.91 of the Tax Act BES are declared fully or partially effective, or
 - b. rules may be established that are in accordance with those set forth in the Articles mentioned in section a.

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2. The rules referred to in paragraph 1 shall, in any case, contain a description of the person on whom the obligation rests as well as of the island tax to which the obligation applies. Furthermore, these rules shall provide, depending on the nature of the obligation, a description of the nature of the data and information to be submitted, the nature of the data that must be evident from the administration, or the objective for which making information carriers available for perusal may take place.

Article 81

1. The tax ordinance shall determine within which terms a tax assessment is collectable. Insofar as the tax ordinance does not stipulate any terms as referred to in the previous sentence, Article 8.43 of the Tax Act BES shall apply.
2. The tax ordinance may stipulate that the amount payable must be paid at the same time and in the same manner as the payment of another claim to the creditor of that other claim.
3. Paragraphs 1 and 2 shall apply mutatis mutandis in case the tax is levied in a different manner.

Article 82

The settlement of the amounts to be paid to the tax payer and the amounts to be collected from him with regard to island taxes based on Article 8.59 of the Tax Act BES, shall also be possible if the term set forth in Article 8.43 of the Tax Act BES or the term pursuant to Article 81, paragraph 1, has not yet lapsed.

Article 83

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1. If, with regard to the same object of the tax or the same taxable event, two or more persons are tax payers, the tax assessment may be filed in the name of one of them.
2. If the liability to pay tax referred to in paragraph 1 arises from the enjoyment of a property pursuant to ownership, possession or limited right and the assessment is filed in the name of one of the tax payers, the island official charged with the collection of island taxes may recover the tax assessment from the entire property in the name of the person in whose name the assessment is filed without taking into consideration the rights of the other tax payers.
3. The tax payer who has paid the tax assessment may recover that which he has paid in excess of what is in accordance with his liability to pay tax from the other tax payers proportionate to the liability to pay tax of each.
4. Against a tax assessment determined with the application of paragraph 1, an objection and appeal as referred to in Title 8 of Chapter VIII of the Tax Act BES may be filed by the tax payer whose name is not mentioned on the tax assessment notice.
5. Paragraph 3 may be deviated from in consultation.

Article 84

1. The waiver referred to in Article 8.58 of the Tax Act BES, with regard to the island taxes, shall be granted by the island official referred to in Article 67, paragraph 2, section c.
2. The island council shall determine that full or partial waiver shall be granted.
3. The administrative council may declare the tax fully or partially irrecoverable. The order to this effect shall release the island official

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charged with the collection of island taxes from the obligation to make further efforts for collection.

Article 85

If, with regard to an island tax, a bailiff's notice must be delivered, a notice for prosecution served, or a writ of execution enforced in a municipality or in a public body other than the one to which the tax is owed, in addition to the tax bailiff of the latter public body, the tax bailiff of said municipality and of the other public body shall be authorized and, on request, obligated thereto.

Article 86

By or pursuant to a general administrative measure, with regard to all island taxes within the scope of this paragraph, further appropriate rules may be issued to supplement the subjects provided for in this paragraph.

CHAPTER V THE FINANCIAL RELATION

§ 1 General provisions

Article 87

1. If policy intentions of the Kingdom lead to a change in the performance of duties or activities by the public bodies, in a separate section of the explanation belonging thereto, the financial consequences for the public bodies shall be indicated stating the reasons and quantitative data.
2. The explanation shall also indicate the system of financing through which the financial consequences for the public bodies can be cushioned.

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3. With regard to the application of paragraphs 2 and 3, timely consultation with Our Ministers shall take place.

§ 2 Free disbursement

Article 88

1. The budget of the Ministry of Home Affairs and Kingdom Relations shall state for each of the public bodies the amount that shall be obligatory for free disbursement.
2. For the year of disbursement, a public body shall be entitled to free disbursement in the amount that has been entered in the budget of the Ministry of Home Affairs and Kingdom Relations for that purpose.
3. The free disbursement shall benefit the general resources of the public body.

Article 89

1. Our Minister in charge shall extend an interest-free loan to a public body to benefit investments for the performance of its public duty.
2. A request for the extension of a loan as referred to in paragraph 1 shall be submitted by the island council of the public body to Our Minister in charge through the Council for Financial Supervision. The Council for Financial Supervision shall provide a recommendation with the request.
3. With regard to the application of paragraphs 2 and 3, timely consultation with Our Ministers shall take place.
4. Annually, with regard to each of the public bodies, Our Ministers shall determine what amount is payable in the repayment of the interest-free loans.

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Article 90

1. Our Minister shall make payments to the public body with regard to the free disbursement by means of an advance payment on the current budgetary year, as much as possible, in twelve equal monthly portions.

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2. If, in any year of disbursement, payments made to a public body are higher or lower than the disbursement established for that public body for that year, the difference shall be reclaimed or paid.
3. In making payments, settlement may take place with regard to other obligations as referred to in this Chapter.

§ 3 Special disbursement

Article 91

1. A special disbursement is a contribution from the Treasury of the Kingdom that is made on certain conditions by Our Minister in charge to benefit a certain public duty.
2. Special disbursements shall be determined in US dollars and may be extended to a public body for the control of costs of the collectors stated in the disbursement provision.
3. With regard to a proposal to provide for a special disbursement, timely consultation with Our Ministers shall take place.

Article 92

1. Special disbursements shall be provided for by or pursuant to the law.
2. Paragraph 1 shall not apply
 - a. pending the establishment of a statutory regulation during a period not exceeding one year or until a bill, submitted within that year, to the States General has been rejected, or passed and has become effective;
 - b. if the disbursement is made directly on the grounds of a program established jointly by the Council of the European Union,

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the European Parliament and the Council or by the Commission of the European Communities;

- c. if the budget states the receiver of the disbursement and the maximum amount of the disbursement, or
 - d. in incidental cases, provided that the disbursement is paid for a period not exceeding four years.
3. Temporary special disbursements may be provided for by general administrative measure. Pursuant to the measure, the division of the disbursement may be further determined.
 4. A general administrative measure as referred to in paragraph 3 shall become null and void four years after it has become effective, unless before that time a bill has been submitted to the States General that provides for the special disbursement.
 5. Once-only special disbursements may be provided for by ministerial regulation.

Article 93

Article 214 of the Act on public bodies Bonaire, Sint Eustatius and Saba shall not apply to the regulation on the supply of information with regard to a special disbursement as referred to in Article 92, paragraphs 3 and 5.

Article 94

Annually, not later than on the third Wednesday of May, Our Ministers shall publish an overview of the special disbursements with the amounts available for that purpose in the current budget.

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§ 4 Other provisions

Article 95

By or pursuant to the general administrative measure, further rules may be issued regarding:

- a. the application of the terms used in this Chapter;
- b. the procedure for determining and extending disbursements as referred to in this Chapter;
- c. the collection and determination of information for the benefit of the disbursements;
- d. the issue of notifications and the supply of information with regard to the determination and extension of disbursements.

Article 96

On a disbursement as referred to in this Chapter no attachment can be made against the State.

CHAPTER VI AMENDMENTS TO OTHER ACTS

Article 97

Article 232f of the Provinces Act shall read as follows:

Article 232f

If, with regard to a provincial tax, a bailiff's notice must be delivered, a notice for prosecution served, or a writ of execution enforced in one of the public bodies Bonaire, Sint Eustatius or Saba, or in a province other than the one to which the tax is owed, in addition to the tax bailiff of the latter province, the tax bailiff of the former province or of the public body in question, shall be authorized and, on request, obligated thereto.

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Article 98

Article 256 of the Municipalities Acts shall read as follows:

Article 256

If, with regard to a municipal tax, a bailiff's notice must be delivered, a notice for prosecution served, or a writ of execution enforced in one of the public bodies Bonaire, Sint Eustatius or Saba, or in a municipality other than the one to which the tax is owed, in addition to the tax bailiff of the latter municipality, the tax bailiff of the former municipality or of the public body in question, shall be authorized and, on request, obligated thereto.

CHAPTER VII TRANSITIONAL AND FINAL PROVISIONS

Article 99

1. The rules for the organization of the budget, the budget adjustments, the annual accounts and the annual report, set forth in and pursuant to Article 13, shall be applied for the first time for the budgetary year 2012.
2. To the organization of the budget, the budget adjustments, the annual accounts and the annual report for the budgetary years up to and including 2011, the rules as they applied on the day before the effective date of this Act, shall remain in full force.
3. To decisions that have been submitted for assessment before the Council for Financial Supervision on the grounds of the Decree on Temporary Financial Supervision BES, but with regard to which the Council has not yet announced its decision, the rules of this Act shall apply. Insofar as terms apply within which a decision must

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have been made or announced, these terms shall commence on the effective date of this Act.

Article 100

After the effective date of this Act, the Current Account and Loan Management Regulations shall also be founded on Article 37, paragraph 5 of this Act.

Article 101

Notification to Our Minister of Finance by the administrative council of an island territory, for the time of transition for the benefit of a public body, of a decision to introduce, adjust or lift surcharges on the principal sum of the property tax, as per the date of transition, shall be considered notification to Our Minister of Finance by the administrative council of the public body in question of said decision.

Article 102

Within six years after the effective date of this Act, Our Minister shall send to both Chambers of the States General a report on the practical efficiency and effects of this Act.

Article 103

If the Decree on Temporary Financial Supervision BES has become null and void, it shall remain applicable to the budgetary years to which it pertained.

Article 104

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The articles of this Act shall become effective at a time to be determined by royal decree, which may be different for the various articles or sections thereof.

Article 105

This Act shall be referred to as: Act on the finances of the public bodies Bonaire, Sint Eustatius and Saba.

Ordain and declare that this shall be published in the Bulletin of Acts, Orders and Decrees, and that all ministries, authorities, councils and civil servants whom it may concern observe the exact execution thereof.

Drawn up

The State Secretary of Home Affairs and Kingdom Relations,

The Minister of Finance,