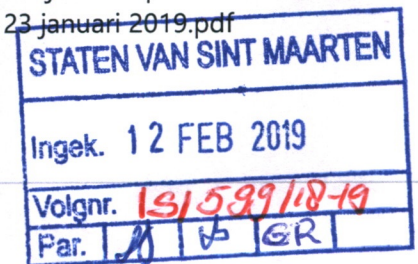


Garrick Richardson

Subject: FW: Nota n.a.v. verslag CC van 23-01-2019 over Wijz. Lvo op het notarisambt
Attachments: 20190208 Getkende Nota n.a.v. verslag CC van 23 januari 2019.pdf



From: Ann A. Groen-Gumbs
Sent: Tuesday, February 12, 2019 12:41 PM
To: Garrick Richardson <Garrick.Richardson@sxmparliament.org>
Cc: Linette A. Gibbs <Linette.Gibs@sxmparliament.org>; Valerie Brazier <Valerie.Brazier@sxmparliament.org>; Nancy R. Guishard-Joubert <nancy.joubert@sxmparliament.org>
Subject: Fwd: Nota n.a.v. verslag CC van 23-01-2019 over Wijz. Lvo op het notarisambt

----- Doorgestuurd bericht ----- Van: Vidjai Jusia vidjai.jusia@justice.gov.sx Aan: Mw. mr. Nancy R. Guishard-Joubert nancy.joubert@sxmparliament.org Cc: "Pieters, Marilyn" Marilyn.Pieters@sintmaartengov.org Datum: dinsdag, 12 februari 2019, 11:50a.m. -03:00 Onderwerp: Nota n.a.v. verslag CC van 23-01-2019 over Wijz. Lvo op het notarisambt

Besten,

Bijgaand de Nota n.a.v. het verslag van de Centrale Commissie van 23 jan. jl. over de Ontwerp-Landsverordening tot wijziging van de Landsverordening op het notarisambt ten behoeve van de uitoefening van notariële bevoegdheden op Saba en Sint Eustatius door het notariaat van Sint Maarten.

Ik hoop dat het ontwerp op zo kort mogelijke termijn ter goedkeuring kan worden geagendeerd voor een algemene vergadering van de Staten. Niet alleen de SXM notarissen en BES autoriteiten, maar ook het GHvJ wachten met smart op deze goedkeuring.

Vriendelijke groet / Kind Regards
Vidjai Jusia



Dhr. mr. drs. V.K. (Vidjai) Jusia, LL.M
Hoofd afdeling Justitiële Zaken | Head of Judicial Affairs
Ministerie van Justitie | Ministry of Justice Sint Maarten
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Email 1; Vidjai.jusia@Justice.gov.sx 2; Vidjai.jusia@sintmaartengov.org

To:
The President of the Parliament of St. Maarten

Philipsburg, February 8, 2019

Your ref.: UV/184/2018-2019

Our ref. : 033--19B/JUS

Re: Draft National Ordinance to amend the Notaries Ordinance

Government hereby sends Parliament its response to the report of the Central Committee meeting of January 23, 2019 on the Draft National Ordinance to amend the Notaries Ordinance (*'Landsverordening tot wijziging van de Landsverordening op het notarisambt ten behoeve van de uitoefening van notariële bevoegdheden op Saba en Sint Eustatius door het notariaat van Sint Maarten'*), hereafter mentioned as: Draft Ordinance.

Government has taken note of the questions of the faction members of the National Alliance Party and the United St. Maarten Party and in the following shall give a reaction to these questions. It is Government's hope that Parliament will soon thereafter approve the Draft Ordinance, which approval is long and eagerly awaited by not only the Sint Maarten notaries but also, and perhaps even more, by the authorities and communities of Saba and Sint Eustatius ('Statia') and by the president of the Joint Court of Justice of Aruba, Curacao, Sint Maarten and of Bonaire, Sint Eustatius and Saba. In this regard Government would like to point out that Saba and Statia (and Bonaire), though being special municipalities ('openbare lichamen') of the Netherlands, share the same legal system (based on and consisted of former Netherlands Antilles' legislation) and court system as Sint Maarten (and Curacao and Aruba).

Questions

The National Alliance Party-faction has asked if the Draft Ordinance also regards, or should regard, Sint Maarten attorneys-at-law who also handle cases in Saba and Sint Eustatius, or if other laws are already in place for this group of lawyers.

The Draft Ordinance amends the Notaries Ordinance (*Landsverordening op het notarisambt: AB 2013, GT no. 793*), and as such regards only the notarial profession.

The attorneys profession is regulated by the Attorneys Ordinance (*Advocatenlandsverordening: AB 2013, GT no. 792*). There is no need for supplementary rules or legislation for the Sint Maarten law firms to handle and try cases in the BES. It follows from the Attorneys Ordinance¹ and also from BES legislation² that Sint Maarten attorneys may represent clients in the BES in administrative law and civil law cases resp. in criminal law cases.

The United St. Maarten Party-faction wants to know if Saba and Statia are planning to set up a notary office of their own. One of the concerns of the faction is that Sint Maarten, with this Draft Ordinance, should not be an impediment to these plans or intentions.

¹ Article 5.

² Article 52 Advocatenwet BES and Article 57 Wetboek van Strafvordering BES.

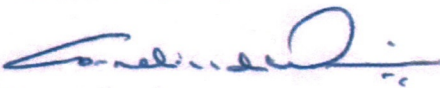
Government does not have knowledge of any concrete interest or plans of Saba and Statia to set up a notary office. Notary services are an issue for Saba and Statia since 10-10-'10 and it is understandable that they would like to have their own notary. Their law, the Notaries Act BES³, allow Saba and Statia to choose from a very broad range of qualified persons: not only qualified persons with the Dutch nationality, but also persons with a recognized law degree from and the nationality of one of the EU-countries are eligible to be appointed as a notary for Saba and Statia. Fact of the matter is, that due to the small populations of Saba and Statia there just is not enough work for a notary to set up and sustain a full time notary office for these two islands. The BES authorities are well aware of this and that is why it is stipulated in the Notaries Act BES, for years already, that Sint Maarten notaries may hold office in Saba and Statia until a notary has been appointed for these two island.⁴

Government would like to point out that the Draft Ordinance, which links to the Notaries Act BES, is set up on the request of and in close cooperation with both the BES-authorities and the Sint Maarten notaries and that it does not conflict with legislation and privileges of the Bes authorities.

The United St. Maarten Party-faction also asked which laws are applicable or would prevail in the event of a dispute between a Sint Maarten notary and persons in Saba or Statia, and if Sint Maarten notaries are able to cope with changes in the BES-laws.

If a person has a dispute with a Sint Maarten notary, he or she may file a complaint with the notary's Chamber of Supervision (Kamer van Toezicht) and/or may sue the notary in court. Sint Maarten (with consent of their notaries) and the BES share the same Chamber of Supervision. They also share the same court system: i.e. the Joint Court of Justice. The Chamber of Supervision or the judges will handle a complaint or legal dispute according to their respective procedural rules and regulations and the judges will have to decide on a case-by-case basis which laws to apply to the specific case. On a final note, Government wants to point out that the Sint Maarten notaries - for years already - have proven to be able to work in Saba and Statia and cope with BES-legislation, which, by the way, most often is the same as or similar to that of Sint Maarten and, in practice, does not change that often. Government, therefore, is confident that the Sint Maarten notaries are able to continue to provide their notarial services in a consistent and qualitative good manner to the people of Saba and Statia.

Yours Sincerely,
Minister of Justice



V.H. Cornelius de Weever


³ Wet op het notarisambt BES.

⁴ In Article 79, par. 2, Wet op het notarisambt BES, the following is written:

"In afwijking van artikel 4, eerste lid, zijn de notarissen met als standplaats Sint Maarten bevoegd hun ambt tevens in de openbare lichamen Saba en Sint Eustatius uit te oefenen, zolang nog niet een notaris is benoemd in wiens benoemingsbesluit deze openbare lichamen als standplaats zijn aangewezen."

MEMO

Aan: de Minister van Justitie

Van: hoofd Justitiële Zaken 

D.t.v.: (wnd.) SG Justitie

Datum: 8 februari 2019

Betreft: Landsverordening tot wijziging van de Landsverordening op het notarisambt ten behoeve van de uitoefening van notariële bevoegdheden op Saba en Sint Eustatius door het notariaat van Sint Maarten

Geachte minister,

Bijgaand ontvangt u de reactie op het verslag van het debat van 23 januari jl. met de Centrale Commissie van de Staten over bovengemeld wijzigingswetsontwerp.

U wordt verzocht het stuk, indien akkoord, te ondertekenen.