



# Parliament of Sint Maarten

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## Staten van Sint Maarten

**Parliamentary Year 2018-2019-121**

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**National Ordinance amending the National Ordinance on Pension for civil servants, amending the National Ordinance age limit civil servants, and repealing the Long-term Allowance regulation pensioners 1943 (National Ordinance revision pension civil servants)**

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**Report  
No. 9**

Parliament in its meeting of the Central Committee has exchanged views with the Government on the draft National Ordinance amending the National Ordinance on Pension for civil servants, amending the National Ordinance age limit civil servants, and repealing the Long-term Allowance regulation pensioners 1943 (National Ordinance revision pension civil servants).

It is important to note that this report is the second report made in this legislative process as during the first Public meeting on the handling of this national ordinance the Parliament decided to send this national ordinance back to the Central Committee in order for it to be further deliberated upon. Parliament now considers the present draft to be adequately prepared when the questions below are answered in time for the public meeting so that the draft can be discussed in a public meeting.

The **United Democrats-faction** has once again taken note of the draft with interest. The faction mentions that the last time the Minister was here the idea was that they were going to go back to the unions and have a discussion and make sure they can come to an agreement. Was this the case? Was this done? Is it true that an email was sent saying that the working committees no longer exist and so no discussions



would be had with some unions? Is it so that you met with other unions? When you met with them, were you able to discuss any real case scenarios to analyze if indeed this formula would be beneficial to the members? Based on your formula, it will only work if Government indeed indexes salaries. Does Government index salaries still or are we now at a place that they are giving increments based on evaluation per year? How does that fit within the formula?

The extra money given once you get to the pension age, *duurtetoeslag*, has this been taken away in this new presentation and was that okay as well with the members of the union? Is the 70% from the AOV going to be on top of what is being paid now, based on this new system?

The faction further mentions that this entire proposal for the reform of the pension system of Sint Maarten, a red thread throughout the entire proposal and the argumentation for the proposal, is the finances of Government. The faction understands the challenges that our pension fund is facing. It understands that like most other pension funds a discussion about reforming is the thing today. However the faction still believes that in the proposal a lot of attention is paid to Government's financing. In the different proposals for change to the pension system, not only are we looking at the sustainability of the pension fund itself and what we are proposing to be done with the pension fund to sustain it, but again a lot of attention is being placed on Government's finances saving Government's financial position, making sure that the premium to be paid by Government is as low as possible. With the entire reform of the system we are also seeking to make it more financially feasible for Government. If we were to step off of that particular part of this entire process, what would the picture be in terms of the sustainability, the reforms etc.? The faction would like to get a better impression if when less attention is paid to saving Government money, but looking at the sustainability of the fund, what would that picture be like? What would we then be asking our pensioners and those who would become pensioners to contribute if we take the light off of the Government's financing for a moment? Could we get a picture with less emphasis on saving Government the premiums?



What other options are there, if any, within the current law to expand the base of the entities falling under this law? Is there any more room to bring in other entities to fall under this law? The faction is of the opinion that in terms of numbers and in terms of active participants of course the larger the base can be the better it is, overall, for all participating. Has the APS/ Government considered any types of partnerships in terms of expanding the base of APS, expanding the participants in the APS and basically having a sort of a security for the pension fund? The APS, in the larger picture of things, is a small pension fund, but facing the same challenges in terms of reform and in terms of premiums like any big pension fund. Is there any possibilities for collaboration, partnerships, consolidation with other pension funds?

The faction further would like to know if it would not be prudent for the unions to hire another independent actuary who might look at giving other scenarios and where you can have a situation where the concerns and hesitations could be looked at from a different perspective, whereas it seems that from the three scenarios provided, to avoid the jamming, what we are hearing is how can the APS look at investing more in spite of what the market climate is so that you can get a higher yield on the investment so that the sustainability of the pension fund could be for a longer period, rather than by 2037 nothing is done.

The **Sint Maarten Christian Party-faction** has taken note of the draft. The faction would like to know if the 97.6% Sint Maarten funding ratio is correct. The faction further mentions that it was indicated that having a 100% funding ratio for a pension fund is basically also a negative. So basically, we are presently below that and, you can correct me if I am wrong, but that basically means that technically we are not able to pay all of the pensioners we would have to pay technically in the long run. It is clear that pension funds also take much into account as to new members coming in and it is basically the younger members who pay for the older members. Also, it was mentioned, if nothing is done the sustainability of this fund is 2037, is that what it states?

One of the leaks that was mentioned is the premium, the 25%. The faction would like to know if in the history of APS



Government has ever paid 25% premiums to APS. What presently, if any, amount of money is owed by Government to APS? You cannot expect a fund to be sustainable if the primary payee into the fund, which is Government, fall behind with its responsibility. What is the total amount of money owed by Government? The faction further would like to know when the last indexing was done by APS and Government.

The faction mentions that in this new plan a lot is being discussed on civil servants having to work longer. One of the things that has been witnessed in Government owned companies, and even in Government, many times when people reach the age to retire they pretty much don't want to retire. Many people in the Caribbean unfortunately do not prepare for retirement. Many of these individuals are now suffering the consequences of being on retirement and not being able to meet their financial responsibilities. The faction would like to know what are the possibilities by APS, on the investment side, to possibly defer the increase of the age and all of those things. Are those things really feasible at this point with APS?

The faction mentions that it understood that a piece of land and a professional park was bought a few years back, this is in the area going to Point Blanche next to Sangs supermarket, and that this land not only comprises two buildings which are being rented by APS but also has about 43000 square meters of land. The faction would like to know what are APS's plans in the future with that land. Affordable housing is definitely something that is needed in Sint Maarten and we have gotten to a point where land is so scarce so we will have to look at the possibilities of going up instead of doing single family homes, so the faction looks forward to hearing what the proposals are in the future for that piece of land. The faction further mentions that it believes that the maximum price of 250 thousand, needs explaining because it was mentioned earlier that that is not the starting price. The faction would like to know what the person is getting for 250 thousand dollars.

The faction would further like to know if in this plan civil servants are able to opt out at 62.

Additionally the faction would like to know if APS can provide a chart of exactly the makeup of Oryx, the



composition of the units and the prices attached to those units.

The **National Alliance-faction** has once again taken note of the draft with great interest. The faction is of the opinion that no attention, or not enough, is being spent on that higher rate of return. That it is underperforming, that the fund is underperforming and therefore is in trouble. What can be said about the return on investment from 2017 to now?

Finding sustainable affordable homes for civil servants, teachers and others is a great way for the fund to continue to make sustainable returns. How much exactly, once Oryx is sold, would the fund have made?

The faction mentions that the salaries on Sint Maarten are not comparable to the salaries in the Netherlands. If you are going to study and you have young children you are assisted to be able to raise yourself up. That does not exist here. We cannot afford that here. The faction doesn't understand how it is possible that we think that our civil servants can afford to continue like this. Also, not all work is the same work. The person that is working as a cleaner for Government or that is a public works worker, to tell them that they have to continue to work until their 65, is a little bit difficult to maintain. You have to decide what kind of work can actually go until this age and be sustainable.

The faction is of the opinion that we are not looking hard enough at other ways to improve the fund that do not directly affect the persons in the fund. Even if you do have to make adjustments but can show that you are also making those adjustments on the income side in terms of investments, unions and workers would be more amendable to the changes, and if not all these 3 points are brought in at once.

Do we have any statistics to prove that here on Sint Maarten that people are actually living longer? And if they are living longer, in what state of health are they? What kind of statistics do we have in terms of sick leave? How early are people showing chronic signs of sick leave within our system?



If that is happening you are ending up with an even bigger problem, because you have to hire persons to fill all those gaps as well. Is this also across the board where civil servants are concerned? It puts more funds in the pension fund for 3 more years, but some other funds, when the persons turns 60, gets extra off days because you are a little older or go to a job that is less stressful. Are any of those provisions being made for the workers within the civil service?

The faction mentions that the anti-poverty platform has been for years talking about our salaries on Sint Maarten. Can we look at the pension plan without looking at the actual salaries? The faction is of the opinion that we have to start looking at solutions that are realistic. What is the cost of living on Sint Maarten? Anybody living below 4000 guilders is considered below the poverty line, with the cost of living what it is in Sint Maarten right now. Looking at that salary is a good idea, because everything below that is poverty. So you are saying that our pensioners will be living in poverty, whether they go to 62 or 65. We do not have the subsidies, special bus passes for seniors, special discounts at supermarkets or any of those things. The faction is of the opinion that we are making beggars of our seniors. What percentage of civil servants can we say is at that rate? What percentage of the total work population are civil servants and also how many fall below that 4000 guilders, or will end around that 4000 to 5000 guilders as their highest salary? What are we setting these people up for?

Are we really and truly comparing ourselves to our kingdom partners in this respect and not all across the board? Are we being pushed around yet again? Is this the best option for Sint Maarten? And not because the Dutch kingdom says so because they are loaning us funds to be able to make it in our day to day or to be able to borrow us some money so that we can rebuild what we need to rebuild. Is this the best option for Sint Maarten?

The faction would like to know what steps APS is taking to improve the return on investment?



The faction mentions someone working as an administrative worker or a fireman, these are two different jobs when it comes to labor intensity. The faction is of the opinion that you are going to have someone working until they are 65 and between the age of 61 and 65, they are home sick on sick leave. So they will retire on sick leave. Then you have to hire someone new to fill that gap, and they are collecting the same salary. How does that make sense? Was a study done to ascertain the health of our people? We know that we spend about a tenth of the budget on SZV referrals abroad. Were these issues addressed? Can we get a draft of this comprehensive policy plan?

The faction mentions that a lot of times members of the Council of Ministers come to Parliament and compare Curaçao and Aruba and the Netherlands; they passed the law already over there so we have to do it here. The faction has a serious problem where that is concerned, because if you are trying to convince me something based on a different country, then I am going to scrutinize it even more. Our reality is not their reality, our cost of living is not their cost of living.

The Oryx project in regards to the housing. When you make these comparisons, at the end of the day 250 thousand dollars is 450 thousand guilders, and this is a problem that we face here in Sint Maarten because we depend a lot on the tourist dollar so it is quick to say it in dollars. But when you transfer it to guilders it is a lot more. So what you can get here for 250 thousand dollars you can get double or triple in Curaçao or Aruba. The faction is of the opinion that these comparisons need to stop because at the end of the day you are creating an illusion that isn't there. The faction mentions that it spoke to 8 law enforcement officers and also someone that works at tax administration that went to see if they qualify to borrow money to get one of these homes and none of them qualified. Who qualifies for these houses? They are saying that they are for medium income, yet our civil servants who work jobs as protecting us can't qualify. It supposed to be affordable. So, if a police officer along with their spouse who is maybe a new teacher cannot afford it, then my question is, who is it for? Who is this project catering to if they cannot qualify? The faction would like to know if APS realizes that a lot of our locals don't qualify, will there be any adjustments. Is



APS open to the idea of making any adjustments so that they can qualify?

The faction mentions that it was said that the price for the houses are based on the price of land. This land was given to APS by Government. So you cannot tell me that it is based on the price of land if you got the land for free. If that is not the case the faction would like some clarity on this. The faction states that if our people can't afford the houses, it doesn't know who the houses are for.


Additionally the faction would like to know when the study by the SER is expected to be finalized.

The faction would also like to know if APS can provide the status of the investments that are ongoing, the time line on how you expect the return to pan out over the years, the couple investments you are contemplating and what you are currently looking at.

The **Brisson-faction** has taken note of the draft ordinance with interest. The faction would like to know what is going on with the liquid being pumped into APS going out into investments and then coming back to say, sorry we only have a 97% coverage ratio. The faction is of the opinion that we are not given sufficient information as to what is really going on with the investments. The faction would like to know that market factor is the key factor before subjugating the people to three extra years of work, before considering taking away a benefit, which is final pay. It is a benefit to the pensioners that collect it. Is it unacceptable for a Member of Parliament to say hold before you do that I need to see what is going on with that money first? The faction is of the opinion that if you have millions of guilders coming in, the purpose is that it goes out so that you can make sufficient money to plug the hole that we have today.

The faction would like to know what are the investment strategies. What is this recovery plan? What is the investment policy? The faction mentions that it was made to understand that the Oryx properties is affordable housing. The faction finds this is a good project. The faction would like confirmation on how much APS got the Oryx land for? The






faction mentions that if land is given for free and you are building a one bedroom apartment, and let us say you have astronomical quotes at 200 thousand dollars, and you are selling it for 250 thousand dollars, how is your return on investment still below 105%? And then on top of that you are saying that Rainforest is an 8% return, our second highest. So you are showing that we are making some great investments and that market forces don't have anything to do with it. If the market is so bad, why do I have here from the APS, Oryx residences, the first housing project of the General Pension Fund has seen an overwhelming number of pension fund members and others from the general community sign up for 62 units set to come available in the coming weeks. More than 500 persons have put their names down for consideration of a unit. The faction is of the opinion that that doesn't sound like a bad market. That sounds like an amazing great market. Let us sell, start building some more. If that is the direction we are going, why are we so focused on again, the final pay, the need to work longer? If you are getting these type of deals and after all of this you still cannot have a healthy fund, then the faction is of the opinion that it needs a closer look. We need to understand what is really happening on that part of the equation.

The faction mentions the final pay and the average pay. The faction further mentions that one of the problems it has noticed is that legislation is treated by the previous Government in terms of extremes. It always seems to be that you go to the extreme measure. Look at the FATF laws, where FATF for example just says that you have to have certain provisions at the Chamber of Commerce. What does the Minister of Justice do: Anybody who is suspected of a financial transaction is going to be removed. The faction is of the opinion that all of that is not necessary. Similarly with this situation with the final pay. If you have to make changes to the final pay, why does it have to be that it is completely moving to an average pay system? The faction mentions that the Canadian Government's system is a hybrid average pay. In other words, the first few years you take the average of that, you take the median of the persons, you take an average of that and then you take an average of the final years. Thirty





years from now, if I am just a scale 4 civil servant and you are taking an average of that from the first 10 years of my salary, what does that really do for me back then? By the time I have hopefully evolved within the civil service, I've been promoted, I've worked to get where I have to go but you are treating the first four, five, ten years, the same you are treating the last years of the highest level of service that I have given to my country as a civil servant. The faction is of the opinion that that doesn't make any sense. Why was a weighted system of averages not used instead? This more adequately handles the issue that you have with final pay, but then more fairly reflects the evolution of a person's career. A person should not have to be punished for having stuck loyalty within an organization, worked their way up and then finally at the end be told: well actually you took too long to reach here, so sorry we are going to look at your first and earliest salary just as much as we look at your last salary. The faction is of the opinion that that isn't the right approach to take and it does understand the unsustainability of the final pay, but no discussion about a weighted average as oppose to an extreme average is a bit irresponsible in the faction's opinion.

The faction mentions that it understands the need to look at other countries, but when you look at the Netherlands, let us understand that you are talking about a different society in terms of what is being offered. I too would take less a pension if my hospital was up to par where it should be, if my healthcare system was where it should be, if the benefits I get for disability or for anything are also in tack. But what we do here is that you actually don't have all these things at the same level of the Netherlands, but the one thing we want to take from the Netherlands is their pension system. Are we also going to take their housing system? Are we going to offer huurtoeslag? Are we going to offer someone that no longer can walk at the age of 70 the disability insurance that the Netherlands have? That is the unfair comparison that we make when we are talking about APS and pensions, where you are saying yes Holland raised the age, what happened to Sint Maarten. We consistently do that, we look at everything compared to Holland, but we don't look at the rest that Holland provides to their people. So when we start to provide




to the people of Sint Maarten all of those things, then you can look more stringently and make a fair comparison but right now it is apples and oranges. Our healthcare and social systems are nowhere near the Netherlands, unfortunately. The faction is of the opinion that this is because the same Netherlands have not allowed us, through the CFT, to invest properly in these things.

The faction predicts that this system will serve as a model for the rest of pensions in Sint Maarten as well. The faction believes that the AOV is absurd. What are we going to do now with the AOV? Are we also going to find ways to increase that because it is unsustainable? This law, sure it affects civil servants, but what will come from it is going to serve as a model for now saying, look the pension age has gone up there let us do it here too.

With regards to the Emilio Wilson investment. The faction would like to know based on how much we are receiving as a return on investment, how does that compare to what we are paying on interest on an annual basis? What is APS's position on the most recent document from the Audit Chamber? Did APS together with the Minister's team review this and can the faction get some feedback on what that document had?

The faction mentions that in the responses it was mentioned that the potential of a hybrid system does exist, but that it cost less than the final system but gives more than the average system. The faction would like to know if it is possible to see what that scenario would look like and what it would do for the fund if we were to use such an approach. What would a hybrid system look like and what would that do for the coverage ratio? The faction would really like to look at every option before we simply abolish the final pay system all together. What is the split between international and local investments, the ratio for that? Can we also get the investment policy?






The **Mercelina-faction** has taken note of the draft national ordinance with interest. We saw that in the oude regeling, when we went from the oude regeling to the middelloop regeling we had a problem with the switch. The faction would like to know what we are going to do with the AOV. In the oude regeling it used to be added to your pension and when we went to the middelloop regeling all of a sudden it was included in the uitkering. Going now from the middelloop regeling to the new system that we are working on, what is going to happen with the AOV? Is it going to be added? The AOV actually is a sociale uitkering. And the other side, if you look at the pension, it is a bedrijfspensioen. What are you going to do with the AOV sec, when you are paying this out to those that have the right to get it?

The faction mentions that we are talking about pension being a eigendomsrecht. When we approve the new pension regeling, is it only that we are going to start as of day one with the new comers falling in the new system or all those that are now in the middelloop regeling, are they going to loose their rights and just jump over to the new approved law for the pension? The faction would like an explanation on what is going to happen with the eigendomsrecht of the ambtenaren that are now in service looking forward to get their pension in the deal that they had as of the beginning when they made the deal for their pension. What is happening with their eigendomsrecht?

The faction is of the opinion that we are making a fundamental mistake that we are comparing western worlds, being for example Holland with developing countries, being for example Sint Maarten. The faction mentions that it is very unfair to talk about a pensioenregeling for the same formula but it is not applicable to the same type of community. We are talking about rich countries like Holland, and we are going to use the same concept to try to convince us that we need their system to survive our pension plan for our country. The faction is of the opinion that it is very unrealistic and unfair to put that with a developing small country as Sint Maarten.





The faction mentions that our budget expense to the civil servant in Sint Maarten is 51%. That means that 51 cents of each guilder is going to the civil servant, while in a rich country like Holland it is between 34 and 37%. That is a big difference. But that is not because we have a different system, it is because we do not have a social system with a lot of social benefits as Holland is offering their citizens. That means that in my Government apparatus I am going to admit more people to work for me, because if I don't give them a job in country Sint Maarten they are going to be unemployed. So to control the unemployment a little my amount of civil servants is going to be more than in Holland, because if I don't take him as a civil servant he is going to be unemployed. While in Holland they will not take them but will tell them they have a sociale uitkering for them. So in that way we are going to do some damage control for those. But in Sint Maarten we do not have a sociale uitkeringsstelsel, that we can say we are going to reduce our ambtelijk apparaat because it is taking 51 cent of each Antillian guilder that we spend in this community. The faction thinks it is the reality that because we do not have a social stelsel, means that we have to do something with those people living in this country and then we give them a job for us to control a little the poverty in this country. The faction does not think we should use that example because it is much higher in Sint Maarten than in Holland if you look at the amount of money that we spend on civil servants.

The faction mentions that it has to have a good reason to convince its people for them to work 30 years and then to tell them they have to go an extra 3 years for us to give you 138 dollars more.

The faction would like APS to explain their vision for investment of the new hospital. The faction would like an explanation on, without having a reform plan in effect, that APS already approved the financing for the construction of the new hospital. The faction would like to know on what basis APS decided to think that it is very lucrative to finance a public national hospital that is not a private hospital and how they think, without that reform in place, they are going to make money with a public hospital with a high percentage of illegals



and uninsured in the community that are going to fall from the roofs in construction and will be brought to the hospital for treatment. The faction doesn't understand the vision for approval of a mega project like that with money from the APS without realizing how you approved this as a great investment for your investment plan for your company. The faction does not understand on what it is based that APS is going to make money with this hospital.

This report is to be considered the Final Report.

It is stipulated in the meeting of the Central Committee of November 8, 2019.

The Reporter,

W.V. Marlin

