

A° 2001



No. 18

## NATIONAL GAZETTE

**NATIONAL ORDINANCE** dated February 12, 2001 laying down regulations for the establishment of economic zones in the Netherlands Antilles (2000 National Ordinance providing for economic zones) and also to the effect of replacing the 1975 National Ordinance providing for Free Zones (National Gazette 1975, No. 211).

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IN THE NAME OF THE QUEEN!

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THE GOVERNOR of the Netherlands Antilles,

Whereas:

in order to broaden the economic basis of the Netherlands Antilles and to encourage the economic development of the Netherlands Antilles it is desirable to establish economic zones, to which certain facilities will be applicable;

the regulatory provisions with regard to the establishment of economic zones have also the effect of replacing the provisions laid down in the 1975 National Ordinance providing for Free Zones with new regulations;

Having heard the Advisory Council, has laid down, by common agreement of Parliament, the national ordinance stated below:

### CHAPTER 1

#### DEFINITIONS, ESTABLISHMENT OF THE ECONOMIC ZONE ADMISSION AND OPERATION

##### Section 1 Definitions

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For correspondence with Parliament  
see documents Session 2000-2001-2406

## Article 1

1. For the purposes of the present national ordinance and the provisions based on it, the following definitions will apply:
  - a. economic zone : a site or sites designated as such, where goods can be stored, processed, worked up, assembled, packed, displayed and cleared from bond, or can undergo other treatments, and where or from where services may be provided;
  - b. goods : movable tangible assets;
  - c. importation of goods : the release of goods into the open market;
  - d. services :
    - 1° doing maintenance and repairs in the economic zone on goods of companies conducting their business outside the Netherlands Antilles;
    - 2° doing maintenance and repairs on machinery and other equipment situated abroad with goods stored in the economic zone;
    - 3° other forms of service aimed at countries abroad, including warehousing, and new trade activities and trade support activities and other service activities to be placed in the international context that can be performed with or in behalf of electronic communication and information opportunities, insofar as these activities are not covered by articles 8A, 8B, 14 and 14A of the 1940 National Ordinance regulating profit tax (National Gazette 1965, No. 58) as they read on December 31, 1999.
2. Services as contemplated in the first paragraph, subsection d, item 3° will not include services with regard to acting as a management board for companies of which the registered office or factual management is established in the Netherlands Antilles, and other services with regard to the trust business, and also services of civil-law notaries, lawyers, public accountants, tax counsellors and related services.

## Section 2

### Establishment of the economic zone

## Article 2

1. Economic zones can be established and cancelled by order of the Island Executive Council.
2. The order to the effect of establishment will include an accurate indication and definition of the boundaries of the site or the sites where the economic zone will be established.

3. With regard to the site or the sites where the economic zone will be established, the Island Executive council will lay down regulations that should have been met in the case of transfer of ownership of the site or the establishment or transfer of a limited real right to it. The regulations will have to guarantee that the site, so long as it forms part of any economic zone, will be used exclusively in behalf of a corporate body admitted to the relevant zone.
4. By or by virtue of a national decree laying down general provisions, regulations will be laid down, with regard to the protection of an economic zone by public officers of the service in charge of import and excise duties and the expenses related with that, with regard to the demarcation and fencing off of the site or the sites pertaining to an economic zone, and also regulations providing for efficient control by the Customs Service.

Section 3  
Admission to an economic zone

Article 3

1. Only a corporate body with a capital divided into shares which will operate a business exclusively in the relevant zone, will be admitted to an economic zone. Admission will be granted by the Island Executive Council.
2. Admission will be granted if the business to be conducted by the corporate body may be expected to contribute towards the economic development of the Netherlands Antilles:
  - a. by the development of the Netherlands Antilles as an international distribution centre by trading in goods mainly with countries abroad, or by supplying, as an international service centre, services mainly to countries abroad or a company established in the economic zone; and
  - b. either by encouraging the inflow of foreign exchange into the Netherlands Antilles,
  - c. or by direct or indirect promotion of employment.
3. The admission may be made subject to regulations and restrictions.
4. The Island Executive Council may decide to have the authority to grant admission referred to in the first paragraph exercised by a body as contemplated in the second paragraph of article 5.
5. The Island Executive Council or, if admission has been granted by the body referred to in the second paragraph of article 5, such body, will inform the Directorate of Taxes to such effect within a month after admission.
6. By ministerial decree with general effect the Minister of Finance may lay down rules with regard to the administration to be kept by the corporate body admitted to an economic zone.

Article 4

1. The Island Executive Council or, if admission has been granted by the body referred to in the second paragraph of article 5, such body, may cancel the order to the effect of admission, if it is proved that by or on behalf of the interested party:
  - a. incorrect or incomplete data were supplied that were determinant for the realization of the order to the effect of granting admission;
  - b. acts have been performed in violation of the provisions of the present national ordinance or the provisions based on it;
  - c. the regulations and restrictions attached to the admission have not been observed, either in full or in part;
  - d. acts have been performed in violation of the provisions of the 1940 National Ordinance regulating profit tax (National Gazette 1965, No. 58), the 1976 National Ordinance regulating wage tax (National Gazette 1975, No. 254) or the 1908 General Ordinance regulating Importation, Exportation and Transit (National Gazette 1949, No. 62);
  - e. the operations have been discontinued.
2. The order to the effect of granting admission can also be cancelled if, in the opinion of the Island Executive Council or the body referred to in the second paragraph of article 5, the business has ceased to meet the requirements made in the second paragraph of article 3 for admission to an economic zone.
3. Cancellation on the ground of the first paragraph, subsection a may be effected with retroactive force from and including the date on which the order to the effect of admission was laid down. Cancellation on the ground of the first paragraph, subsections b, c, d or e may be effected with retroactive force from and including the date on which the act referred to in the mentioned subsections was performed.
4. Cancellation of an order to the effect of admission will not be effected without the interested party having been given an opportunity to state objections in writing to the cancellation within a period of at least two weeks.
5. The decision to the effect of cancellation will state the reasons and will be sent to the interested party by registered letter.
6. Cancellation of the order to the effect of admission will impose on the corporate body involved an obligation to remove its business from the economic zone within a period of six months at the most.
7. If the business is not removed in accordance with the sixth paragraph, the removal will be effected at the expense of the company involved.

#### Section 4 Management and operation of economic zones

##### Article 5

1. The Island Executive Council will be in charge of the management and operation of economic zones.
2. The Island Executive Council may decide to have the management and operation of economic zones conducted by an institution governed by public law or by a limited liability company.

## Article 6

By national decree, laying down general provisions, such goods will be designated as will either not be permitted to be present in the economic zone or be permitted to be in the economic zone only on the conditions laid down by such national decree.

## Section 5

### Supply of goods and services to the home market

## Article 7

1. The National Ordinance providing for promotion of the establishment of businesses and the construction of hotels (National Gazette 1953, No. 194) and the National Ordinance providing for tax facilities for industrial enterprises (National Gazette 1985, No. 146) will not be applicable to any business established in an economic zone.
2. Supply of goods present in an economic zone to the home market by a corporate body as contemplated in the first paragraph of article 3 will only be possible on the ground of a licence granted by the Island Executive Council in agreement with the Minister of Finance. The licence will be granted for a definite period of time and may be renewed each time by the Island Executive Council.
3. The licence may be made subject to regulations with regard to, among other things, the price, the quality and the distribution of goods, and also prevention of undesired disruptions in the home market. Regulations to the effect of preventing undesired disruptions in the home market will be laid down by the Island Executive Council in agreement with the Minister of Finance.
4. A licence as contemplated in the second paragraph may be denied by the Island Executive Council, if, in the opinion of such Council, that is required by the socio-economic interest of the island territory or, in the opinion of the Minister of Finance, the socio-economic interest of the Netherlands Antilles. The Island Executive Council may cancel the licence, if the regulations attached to the licence are either not or not fully observed.
5. For the application of the provisions laid down in the second paragraph, supply to the home market will not be understood to include delivery to vessels and aircraft that call at any island of the Netherlands Antilles, and also delivery to tourists who visit any island of the Netherlands Antilles, provided these deliveries or the purchases made by such tourists, as the case may be, meet the rules laid down by the Minister of Finance.
6. In agreement with the Minister of Finance, the Island Executive Council may grant a corporate body as contemplated in the first paragraph of article 3 a licence for the provision of services that can be performed by means of or in behalf of electronic communication and information facilities, to the home market. The licence may be made subject to regulations. The second sentence of the second paragraph, the second sentence of the third paragraph, and the fourth paragraph will be equally applicable.

Section 6  
Special regulations with regard to admission to an economic zone

Article 8

1. The Island Executive Council or the body referred to in the second paragraph of article 5, may grant a licence for the acquisition of ownership rights to land, the establishment of a real right of enjoyment to land, including the right to erect buildings, in an economic zone, or the realization of infrastructure provisions in an economic zone, including the construction of business premises.
2. The licence will be granted to corporate bodies only. They will not need admission to the economic zone in the sense of article 3.
3. The licence may be made subject to regulations.
4. The licence may be cancelled by the body that issued it. Article 4, fourth and fifth paragraphs will be applicable.
5. In case of loss or nullification of any of the real rights referred to in the first paragraph, the licence will be cancelled by operation of the law.

Section 7  
Provisions with regard to the levy of import duties, export duties,  
excise duties, turnover tax, special levies and profit tax

Article 9

1. No import duty and tax in pursuance of the 1999 National Turnover Tax Ordinance will be payable in case of:
  - a. laying-in goods that are intended for an economic zone;
  - b. removal from an economic zone of goods intended for a bonded warehouse or any other economic zone, subject to the conditions laid down in the national ordinance referred to in article 6.
2. No excise duty will be payable in case of laying in goods liable to excise duty that are intended for an economic zone, with due observance of the regulations to be laid down by the Director of Taxes.
3. No levy as contemplated in article 5, subsection b of the National Ordinance regulating Importation, Exportation and Transit (National Gazette 1968, No. 42) will be payable in case of laying in goods that are intended for an economic zone.
4. The second and third paragraphs will be applicable in case of removal of goods from an economic zone, without prejudice to the provisions made in article 146, second paragraph of the 1908 General Ordinance regulating Importation, Exportation and Transit (National Gazette 1949, No. 62).

Article 10

1. Storage in an economic zone of goods not originating directly from abroad, from a bonded warehouse, from the free trade in goods in the Netherlands Antilles or from

any other economic zone, will be considered to be exportation in the sense of the 1908 General Ordinance regulating Importation, Exportation and Transit (National Gazette 1949, No. 62).

2. In order to make the use of an economic zone easier, deviations from the regulations of a formal nature, applicable in pursuance of legal enactments with regard to importation, exportation and transit and excise duties, may be permitted by national decree laying down general provisions.
3. Without prejudice to the provisions made in article 9 and in the first and second paragraphs, the legal enactments with regard to importation, exportation and transit and excise duties will remain effective.

#### Article 11

1. Until January 1, 2026, on the profit of:
  - a. a corporate body admitted to an economic zone in pursuance of article 3;
  - b. a body as contemplated in the second paragraph of article 5;
  - c. a corporate body who has been granted a licence by the Island Executive Council or the body referred to in the second paragraph of article 5, in pursuance of article 8, insofar as such profit has been obtained by means of the development of infrastructure provisions in the economic zone, including the operation and alienation thereof;

profit tax will be levied by a rate amounting to two per cent of the realized profit, including surcharges, in deviation from the first paragraph of article 15 of the 1940 National Ordinance regulating Profit Tax (National Gazette 1965, No. 58).
2. The rate mentioned in the first paragraph will not be applicable to the profit of a corporate body as contemplated in subsection a of the first paragraph, insofar as such profit has been obtained from the supply of goods to the home market in the sense of the second paragraph of article 7, or from the provision of services to the home market in the sense of the sixth paragraph of article 7, or from the provision of services by such corporate body to a business established at home with which it is related in any form.

#### Section 8

#### Penal provisions, supervision and investigation

#### Article 12

1. He who intentionally provides incorrect or incomplete information for the purpose of a corporate body being granted admission to an economic zone, will be punished, either by a maximum of four years' imprisonment and a pecuniary penalty of one hundred thousand guilders at the most, or by one of these penalties.
2. He who is to blame for the incorrect or incomplete provision of the information referred to in the first paragraph, will be punished by a maximum of one year's imprisonment and a pecuniary penalty of fifty thousand guilders at the most, or by one of these penalties.
3. He who releases goods from an economic zone into the open market without paying

import duties, or has goods in an economic zone which, on the strength of the national ordinance laying down general provisions referred to in article 6, are not permitted to be therein, or has goods in an economic zone in violation of the conditions for having those goods in an economic zone, laid down in the national ordinance referred to, will be punished by either a maximum of twelve months' imprisonment and a pecuniary penalty of fifty thousand guilders at the most, or by one of these penalties.

4. The goods referred to in the third paragraph will be declared forfeited.
5. The acts made punishable in this article are criminal offences, with the exception of the punishable act referred to in the second paragraph, which is a misdemeanour.

### Article 13

1. The public officers of the service in charge of import and excise duties, and also the public officers of the Tax Service designated for such purpose by national ordinance, will be in charge of the supervision of the enforcement of the provisions laid down by or in virtue of the present national ordinance. Such designation will be announced in *De Curaçaosche Courant*, i.e. the National Gazette.
2. The persons designated in or by virtue of the first paragraph, will be competent, exclusively insofar as such is in reason required for the performance of their duties:
  - a. to ask for all information;
  - b. to require access to all books, records and other data carriers and to make copies of them or to remove them temporarily for such purpose;
  - c. to subject goods to a survey and inspection, to remove them temporarily for such purpose and to take samples of them;
  - d. to enter upon all places in and outside an economic zone, except for residences without the express permission of the occupant, accompanied by persons designated by them;
  - e. to inspect vessels, stationary vehicles, aircraft and their cargo;
  - f. to enter upon residences or parts of vessels used for residential purposes without the express permission of the occupant.
3. If necessary, access to a place as contemplated in item d of the second paragraph will be gained by force.
4. Upon entering upon residences or parts of vessels used for residential purposes as contemplated in item f of the second paragraph, Title X of the Third Book of the Code of Criminal Procedure will be equally applicable, with the exception of articles 155, fourth paragraph, 156, second paragraph, 157, second and third paragraphs, 158, first paragraph, last passage, and 160, first paragraph, and on the understanding that the warrant should be granted by the Public Prosecutor.
5. Regulations with regard to the manner in which the persons designated in or by virtue of the first paragraph will perform their duties, may be laid down by national decree laying down general provisions.
6. Everybody will be under an obligation to give the persons designated in or by virtue of the first paragraph any co-operation required on the ground of the second paragraph.

## Article 14

1. In addition to the persons referred to in article 184 of the Code of Criminal Procedure, the public officers of the service in charge of import and excise duties, and also the public officers of the Tax Service designated for such purpose by national ordinance, will be in charge of the investigation of the acts made punishable by the present national ordinance. Such designation will be announced in De Curaçaosche Courant, i.e. the National Gazette.
2. Regulations with regard to the requirements to be met by the public officers referred to in the first paragraph, may be laid down by national decree, laying down general provisions.

CHAPTER 2  
AMENDMENTS IN VARIOUS NATIONAL ORDINANCES

Section 1  
Amendment of the 1999 National Turnover Tax Ordinance

## Article 15

A twenty-first, a twenty-second and a twenty-third paragraph will be added to article 7 of the 1999 National Turnover Tax Ordinance (National Gazette 1999, No. 43), reading:

21. services provided by an entrepreneur established in the area of levy to an entrepreneur established in an economic zone, will be exempt from tax.
22. transfers and rent of immovable property situated in an economic zone will be exempt from tax, on the understanding that insofar as transfers of immovable property are concerned, the exemption will only be applicable if transfer tax is levied in respect of such transfers.
23. lease of digital information and telecommunications equipment by an entrepreneur established in the area of levy to an entrepreneur established in an economic zone, will be exempt from tax.

Section 2  
Amendment of the National Ordinance on taxation of business turnover

## Article 16

A twentieth paragraph will be added to article 8 of the 1997 National Ordinance providing for taxation of business turnover (National Gazette 1996, No. 210), reading:

20. Subject to regulations to be laid down by ministerial decree with general effect, exemption from tax will be granted for such part of the business turnover of

which an entrepreneur established in an economic zone as contemplated in article 1 of the 2000 National Ordinance on economic zones can prove that it has been realized by the supply of goods that are transported to a destination outside the area of levy or by the performance of services as contemplated in article 1 of the national ordinance referred to.

Section 3  
Amendment of the 1908 National Ground Tax Ordinance

Article 17

In article 2 of the 1908 National Ground Tax Ordinance (National Gazette 1908, No. 27) a new subsection i will be added, following subsection h, reading:

- i. immovable property owned by either a corporate body who has been admitted to an economic zone in pursuance of article 3 of the 2000 National Ordinance providing for economic zones, or a body as contemplated in the second paragraph of article 5 of the national ordinance referred to, or a corporate body to whom the Island Executive Council or the body referred to in the second paragraph of article 5, has granted a licence in pursuance of article 8 of the national ordinance referred to, for the realization of infrastructure provisions in an economic zone, provided the immovable property is situated in the relevant economic zone, for the duration of a period ending on January 2026 or as much earlier as the admission has ceased to be effective, the designation for the purpose of management or operation has been cancelled, or the licence has been cancelled.

Section 4  
Amendment of the 1908 Occupancy Tax Ordinance

Article 18

Article 4 of the 1908 Occupancy Tax Ordinance (National Gazette 1908, No. 45) will be amended as follows:

While subsection h is re-lettered to subsection i, a new subsection h is inserted, reading:

- h. to business premises by a corporate body who has been admitted to an economic zone in pursuance of article 3 of the 2000 National Ordinance providing for economic zones, or by a body as contemplated in the second paragraph of article 5 of the national ordinance referred to, or is owned by a corporate body to whom the Island Executive Council or the body referred to in the second paragraph of article 5, has granted a licence in pursuance of article 8 of the national ordinance referred to, for the realization of infrastructure provisions in an economic zone, provided the business premises are situated in the relevant economic zone, for the duration of a period ending on January 1, 2026 or as much earlier as the admission has ceased to be effective, the designation for the purpose of management or operation has been cancelled, or the licence has been cancelled.

CHAPTER 3  
TRANSITIONAL AND FINAL PROVISIONS

Article 19

As from the date of commencement of the present national ordinance, the free zones established in pursuance of article 3 of the 1975 National Ordinance providing for Free Zones will be considered to be economic zones in the sense of article 1.

Article 20

1. Admission of a business to a free zone in pursuance of article 4 of the 1975 National Ordinance providing for Free Zones will remain effective after the time of commencement of the present national ordinance.
2. Cancellation of an admission as contemplated in the first paragraph will be effected with due observance of the provisions laid down in article 4 of the present national ordinance.

Article 21

After the time of commencement of the present national ordinance, licences granted on the ground of the second paragraph of article 7 of the 1975 National Ordinance providing for Free Zones will be considered to have been granted on the ground of the second paragraph of article 7. On renewal of these licences the provision made in article 7 will be duly observed.

Article 22

With effect from the time of commencement of the present national ordinance, the body who is in charge of management and operation of free zones in an island territory in pursuance of article 6 of the 1975 National Ordinance providing for Free Zones, will be designated as the body contemplated in the second paragraph of article 5 of the present national ordinance.

Article 23

The legal regulations laid down for the enforcement of the 1975 National Ordinance providing for Free Zones will remain effective until the time when they will have been replaced with other regulations laid down for the enforcement of the present national ordinance.

Article 24

1. The present national ordinance will be cited as the 2000 National Ordinance providing for economic zones.
2. It will commence with effect on the day following the day of issue of the National Gazette in which the promulgation has been made.

3. With effect as from the time referred to in the second paragraph the 1975 National Ordinance providing for Free Zones will be cancelled.
4. With effect as from the time referred to in the second paragraph the names “1975 National Ordinance providing for Free Zones (National Gazette 1975, No. 211)”, “Free Zones”, “free zones” and “free zone” in existing national ordinances and provisions based on them will be replaced with “2000 National Ordinance providing for economic zones”, “Economic zones”, “economic zones” and “economic zone”, as the case may be.

Given in Curaçao, February 12, 2001  
J.M. SALEH

The Minister of National Recovery  
and Economic Affairs,  
S.F.C. CAMELIA-RÖMER

The Minister of Finance,  
W.R. VOGES

The Minister of Justice,  
R.S.J. MARTHA

Issued on March 2, 2001  
The Minister of General Affairs  
M.A. POURIER