

**35 422 Restoration of the provisions for the administration of the public body of
St Eustatius (St Eustatius Administrative Provisions (Restoration) Act)**

MEMORANDUM OF REPLY

0. Background

I have read with interest the report of the Permanent Committee on Kingdom Relations regarding the present Bill. Below I will address the questions raised in this report, wherever possible in the same order and in their mutual context.

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I. General

1. Introduction

The members of the parliamentary Green Left Alliance ask for a report not only on the progress made but, above all, on what experiences can be used more broadly in the constitutional relations with the Caribbean part of the Netherlands to improve cooperation and the quality of local governance.

The members of the Democrats 66 (D66) parliamentary party ask for the latest information about the legislative process to amend the Public Bodies (Bonaire, St Eustatius and Saba) Act (WOLBES). These members ask the government to inform the House of the structural changes required in the relationship between the Netherlands and St Eustatius, as provided for in the Bill, and of the timeline envisaged for that legislative process.

The members of the parliamentary Christian Democratic Alliance (CDA) note that the Kingdom representative is assigned a prominent role in this Bill, especially once the position of government commissioner is terminated in due course. How, they wonder, can this strong position of the Kingdom representative be reconciled with the government's response to the advisory opinion of the Council of State and the Interministerial Policy Review on Kingdom Relations (Parliamentary Paper 35 300-IV, no. 11), where it is stated that the powers of the Kingdom representative are in fact to be transferred to the governor and that consideration is being given to the idea of abolishing the position of Kingdom representative in due course?

The members of the parliamentary Labour Party (PvdA) also inquire what structural changes need to be made to relations between the Netherlands and St Eustatius once the administrative intervention ends. They also ask what timeline the government has in mind for this.

In its response to the advisory opinion of the Council of State and the Interministerial Policy Review on Kingdom Relations,¹ the government has explained how it proposes to organise the coordination of policy in The Hague and improve cooperation between the European and Caribbean parts of the Netherlands and the quality of local governance. The implementation of these

¹ Parliamentary Papers, House of Representatives, 2019/20, 35 300 IV, no. 11.

measures is being coordinated by the Ministry of the Interior and Kingdom Relations. This will require a carefully crafted approach which also takes account of possible amendments to the WOLBES. The choices made by the government in the St Eustatius Administrative Provisions (Restoration) Bill and described in the explanatory memorandum do not prejudge any future changes, for example to the WOLBES. The administrative position of St Eustatius is a special case in itself. As the overall constitutional relations with the Caribbean part of the Netherlands, including the working relationship and the quality of local governance, cover a wider range of issues than those involved in the specific case of St Eustatius, this will be addressed in a broader context.

2. Background

The members of the parliamentary People's Party for Freedom and Democracy (VVD) ask what improvements can be ascribed to the interim administration and what desired or planned measures were not successfully implemented during this period.

Since the start of the administrative intervention in St Eustatius in February 2018, the House has received periodic progress reports briefing it about the status of projects, the results achieved and any difficulties encountered in the process. For information about improvements that have been implemented and planned, reference should be made to the progress reports.² The fifth progress report will be sent to the House before 1 June 2020.

The members of the parliamentary VVD ask how it will be possible for improvements that could not be successfully introduced under Dutch supervision to be achieved once there has been a transition to the next administrative phase. What assurance, they ask, does the new form of governance give of successfully completing matters that were unsuccessful in the first phase?

The new form of governance will allow the government commissioner to continue to perform his duties, including the work on current and planned projects, even after the island council takes office, but now in collaboration with the island council and – at a later date – with the members of the island executive as well. If the conditions specified in the explanatory memorandum are fulfilled, this will provide a sound basis for the local authorities. Until a new governor is appointed in the third phase, as described in the Bill (section 16), the government commissioner will be part of the island authorities and ensure the progress of the projects. Once the normal local authorities are all in place again in the third phase, all election criteria will have been met and it will be up to the island authorities to ensure that results are achieved.

The members of the parliamentary VVD ask what advantage proceeding with the transition to the normal administrative arrangements, as provided for in this Bill, has over postponing it. They wonder whether postponement could help the future island authorities and the people of St Eustatius be better prepared for the transition.

Postponing transition would automatically leave more time for organising the elections and meeting the criteria upon which the holding of elections is conditional (i.e. preparing the electoral register, completing the reorganisation of the civil service organisation and equipping it and the clerk's office with correct procedures and work instructions, establishing a court of audit, and providing and completing a training programme for prospective politicians). These are among the 12 criteria for good governance, formulated in the second progress report of 14 November 2018.³ If elections for the island council are held this autumn, there will be sufficient time both to organise the elections and to meet these criteria. More time in the run-up to the elections would also allow progress to be made on implementing the other criteria on which the various phases of the Bill are conditional. However, this will also be possible once the Bill has become law.

The members of the D66 parliamentary party note that every effort must be made to prevent a recurrence of the pre-intervention situation once normal administrative relations are restored.

² Parliamentary Papers, House of Representatives, 2017/18, 34 775-IV, no. 41, Parliamentary Papers, House of Representatives, 2018/19, 35 000-IV, no. 29, Parliamentary Papers, House of Representatives, 2018/19, 35 000-IV, no. 57 and Parliamentary Papers, House of Representatives, 2019/20, 35 000-IV, no. 36.

³ Parliamentary Papers, House of Representatives, 2018/19, 35 000-IV, no. 29.

What options, they ask, does the Bill provide for the government to intervene if the pre-intervention situation does nonetheless recur, in other words without it having to go through the entire legislative process anew?

The members of the parliamentary PvdA do not rule out the possibility of an exceptional situation arising during the phasing out of the administrative intervention that makes it necessary to withdraw or restrict the powers conferred on the normal authorities. This might be the case, for example, if the powers are exercised in such a way that the situation in St Eustatius deteriorates, causing unrest among the population. Why, they ask, did the government not decide to provide for this possibility as an alternative to moving from one phase to another once the conditions are fulfilled, and why has it departed here from the advice given by the Council of State, which considers that this could be arranged now to avoid the necessity, in exceptional cases, of having to reintroduce temporary legislation, in all likelihood as a matter of great urgency?

The government is determined to minimise the risk of a situation occurring in which fresh intervention is required. The Bill therefore contains a number of safeguards:

- Transition to the next phase can take place only if concrete results have been achieved and the powers concerned are expected to be exercised properly in the longer term.
- Moreover, the powers of the island council and the island executive are initially limited, as the tasks involving financial management, the organisation of the clerk's office and the civil service organisation will be allocated only at a later stage.
- The government commissioner has the additional authority to approve decisions of the island council and the island executive. If the commissioner withholds approval, the decisions do not take effect. The interests of the inhabitants and good governance are included in the grounds for approval.
- After financial management has been restored, all decisions of the island council made on the basis of tasks or powers resulting from the Public Bodies (Bonaire, St Eustatius and Saba) Finances Act (FINBES) will also be subject to the approval of the government commissioner. This requirement of approval will continue to apply until the decision is taken to move on to phase 3, in which the position of governor is restored.
- The normal supervisory powers of prevention and enforcement under the WOLBES and the legislation on delegated competences in the event of neglect of duty, as well as the possibility of quashing decisions that conflict with the law or the public interest, will also apply when the Bill becomes law.
- As the government commissioner will remain in office even after the island council and the island executive have been reinstated, he will continue to have first-hand knowledge of the functioning and decisions of both bodies and be well placed to take timely action if the situation warrants it, in quick and close consultation with the Ministry of the Interior and Kingdom Relations.
- After the departure of the government commissioner, the Kingdom representative will be able to exercise intensified supervisory powers. To this end, he will gain access to all information and can attend all meetings, private and otherwise (section 12 of the Bill, amended after restoration of the position of governor).

Under the Constitution, once powers have been granted, they cannot be withdrawn without the intervention of the legislature. To prevent powers from being exercised in a way that does not benefit the island or the collective interest of its inhabitants, these safeguards ensure that tight control is kept over the administrative situation.

It is important that the safeguards are regarded as a safety net and as providing a legal basis for action if the situation so requires. Good governance is not something that can be achieved just by passing a law. What is of at least equal importance is the willingness of the future members of the island council and island executive to engage in constructive cooperation and communication with one another and with the government commissioner, and their willingness to perform their tasks and exercise their powers in the collective interest of the public body and people of St Eustatius.

The members of the D66 parliamentary party ask what the government has done so far to inform the people of St Eustatius about the plans for extending the measures, the administrative changes

and the intention to hold island council elections in October 2020. They wish the government to indicate whether there is sufficient support for the proposed plans among the population of St Eustatius.

The members of the parliamentary Christian Union ask the government to what extent it consulted the people of St Eustatius in the course of preparing this Bill and to what extent the outcome of such consultations was taken into account when drafting it.

The people of St Eustatius have been informed several times about the plans to extend the administrative intervention by law and to hold island council elections. Both plans were mentioned in the letter to the House of 24 September 2019, an English version of which has also been made available.⁴ The islanders were briefed on the content of this letter during a town hall meeting in September 2019. Subsequently, the legislative process was initiated, during which the civil society advisory council was consulted through the intermediary of the government commissioner. Needless to say, the people of St Eustatius have differing views about the desirability of holding elections this autumn, and these views may also be influenced by recent developments, such as the disclosure of the details of the present Bill. Besides revealing differing views on the timeliness of the planned elections, consultation with the civil society advisory council showed that a majority of its members were in favour of a gradual return to normal administrative relations. The advisory council's response has been taken into account in the legislative process and included in the explanatory memorandum to the Bill. The Bill and the explanatory memorandum are also available in English.

A public information campaign has been launched in the run-up to the elections to inform the people of St Eustatius about basic election principles and the various administrative authorities and their powers. The first session took place on 20 February 2020, when the main message was that anyone with the right to vote or stand for election could exercise that right and that both existing and new political parties were encouraged to participate. Due to the COVID-19 crisis, the information campaign is now being moved online, but the aim is still to provide prospective politicians with clear information about what local politics has to offer and give them the opportunity to discuss this with experts from the Association of Netherlands Municipalities (VNG) and the Netherlands Institute for Multiparty Democracy (NIMD).

The members of the D66 parliamentary party note that, in the letter of 24 September 2019, the State Secretary expressed confidence that by the autumn of 2020 there would be sufficient institutional stability to hold elections for the island council. They ask the government to provide its assessment of the institutional stability of St Eustatius. Members of the D66 and PvdA parliamentary parties inquire whether the government still believes that elections will be held in the autumn and, if so, whether they can be organised with due care. The members of the D66 parliamentary party wish to know when the government expects, at the latest, to be able to definitively inform both the House of Representatives and the people of St Eustatius whether or not the elections can go ahead in October 2020.

The government states that it will arrange for the island council elections to be held 'as soon as possible' after the entry into force of this Bill. The members of the parliamentary Calvinist Party (SGP) appreciate that the government cannot give a specific date, but wonder if it would not be a good idea for it to indicate whether 'as soon as possible' means a date close to the aforementioned date in October or a date close to the deadline under the Temporary Act on Neglect of Duty in St Eustatius, or perhaps an even later date.

The government observes that progress is now being made on the various projects in St Eustatius. Slowly but surely, improvements are becoming visible in all areas. To avoid jeopardising this progress, the legislation provides for a gradual return to normal administrative relations. Once the Bill becomes law, it will remain possible not only to continue this upward trend, but also to maintain and even expand the institutional stability already achieved.

⁴ See <https://english.rijksdienstcn.com/documents/publications/bzk/statia/letter-of-september-2019/letter-of-24-september-2019>.

As the House has already been informed,⁵ the aim is to hold the island council elections in the autumn of 2020. In this regard, sufficient account is being taken of the fact that a timely decision on the election date is important for the organisation of the elections, the public information campaign leading up to it, the registration of appellations of political parties and the organisation of political campaigns. The public body of St Eustatius is already making preparations to hold the elections. As usual, the Ministry of the Interior and Kingdom Relations is advising the public body on these preparations.

The members of the D66 parliamentary party note that the current island authorities, and the civil servants in particular, have a heavy workload. These members wish to know when the government expects the reorganisation of the civil service, including official procedures and work instructions, to be completed. They ask whether the government can indicate how it intends to use local talent in St Eustatius in staffing the civil service and what it is doing to bring the civil servants' knowledge to the desired level.

Holding island elections is conditional upon completing the reorganisation of the civil service, including official procedures and work instructions. This reorganisation must have been completed by then. It should be noted that formal completion is what is required to meet this criterion. The culture change, which is also necessary, will take longer.

The public body is making every effort to attract as much local talent as possible for the civil service posts. In view of the small size of St Eustatius, however, this is not always possible and recruitment is also done externally, albeit in the region wherever possible. In previous progress reports, the House was informed about the multiannual training programme for civil servants. In the first quarter of 2020, this programme was expanded to include various training courses for managers, supervisors, project managers, policy advisers and secretaries.

The members of the D66 parliamentary party ask what progress has been made with cleaning up the population register so that the electoral register can be ready in time for the elections.

The survey to determine to what extent the data entered in the personal information register of St Eustatius is accurate, up-to-date and complete was recently concluded. Work on correcting the errors found in the data started last March. Various nationality investigations that may take several years are also being instituted. These measures do not affect the reliability of the electoral register, which will be ready in time for the elections.

The members of the D66 parliamentary party ask how and when the government proposes to deal with the shortage of qualified financial staff.

The public body is making every effort to attract as much local talent as possible for the civil service posts. However, in view of the small size of St Eustatius, this is not always possible and recruitment is also done externally, albeit in the region wherever possible. Financial expertise is scarce. Given how important orderly financial management is for the public body, this issue needs attention.

The members of the D66 parliamentary party ask whether the government can indicate if the House will also have access to the interim progress report prior to receipt of the draft Royal Decrees as part of the parliamentary scrutiny procedure, so that it can properly assess the feasibility of transition to the next phase of the complete restoration of normal administrative relations in St Eustatius.

The cycle of periodic progress reports started at the time of the administrative intervention will be continued. As previously indicated, the House will receive the next progress report before 1 June 2020.

The members of the parliamentary Socialist Party (SP) ask why the reconstruction work on the island is taking so long. They question whether this is mainly due to the small size and isolated location of St Eustatius, or also to the fact that this small island community in the Caribbean is

⁵ Parliamentary Papers, House of Representatives, 2019/20, 35 300-1V, no. 6.

governed from 10 ministries in The Hague. Why, they ask, has more thought not been given to the current position of the National Office for the Caribbean Netherlands, which is regarded by many as an extra and superfluous tier of government?

Completion of the reconstruction work in St Eustatius is of great importance to the people of the island and is receiving constant attention. Information about the progress of projects that are part of the reconstruction work in St Eustatius is and will continue to be provided in the progress reports. The reports also mention the difficulties encountered in the course of the reconstruction work.

The cooperation between the National Office for the Caribbean Netherlands and the public bodies and the position of the Kingdom representative are currently being studied more closely, in the context of the government's response to the advisory opinion of the Council of State and last year's Interministerial Policy Review (IBO). However, that is a different process, separate from this legislative process.

The members of the parliamentary SP wish to know why it was not decided to prosecute former members of the island executive.

The possibility of lodging a criminal complaint was examined at the time in question. A criminal investigation was instituted on the island on the instructions of the government commissioner, to whom the findings were submitted in due course. The government commissioner subsequently discussed these findings with the Public Prosecution Service. However, the latter decided not to take action on them.

The members of the parliamentary PvdA believe that it is important not only to improve the administration of the public body and the support it receives, but also to enhance the population's living environment. This includes socioeconomic conditions and infrastructure facilities. The members of the parliamentary PvdA ask what improvements have been made, what stage they have reached and what specific matters still need to be improved.

This concerns the structural improvements that have been initiated since the administrative intervention. The members of the parliamentary PvdA ask what these improvements were, what has been achieved and what stage they have now reached. In particular, these members mention the water shortage, which has still not been resolved and is a major problem at a time when frequent hand washing is one of the precautionary measures to prevent the spread of coronavirus. They ask why this problem has still not been solved and how long it will take.

Measures to improve the living environment, including socioeconomic conditions, infrastructure facilities and drinking water, are of great importance to St Eustatius and receive constant attention from the ministries involved and the government commissioner. For the latest information about these subjects, reference should be made to the progress report that will be sent to the House before 1 June 2020.

The gross neglect of duty in respect of administrative tasks, including financial management, is not expected to have ended by the election deadline currently prescribed by law. The members of the parliamentary PvdA ask how this can be reconciled with the principle that the authorities of the public body of St Eustatius should themselves be capable of properly performing their tasks in the long term. They wonder what must be done to ensure that the administrative situation in St Eustatius returns to normal.

To enable new local authorities to perform their tasks properly, the administrative structure, including the civil service and financial management, must not only be in good order but also reorganised with a view to long-term continuity. It will then be up to the island's future administrators to maintain the system and restore the local population's trust in democracy and the legal order.

The second progress report of 14 November 2018⁶ set out 12 criteria for reorganising the administrative structure with a view to long-term continuity. In the Bill, these criteria serve as conditions for completion of phases and are thus being fulfilled step by step. By the time normal administrative relations have been fully restored, the conditions for good governance will also have been met. A sound basis for good governance will then have been created and new local authorities will be expected to be able to function independently and effectively.

If, as the government writes, in the present situation in St Eustatius and given the rate at which lasting improvements are being achieved, extension of the intervention is necessary in order to sustain the improvements made to date and achieve further improvements, the members of the parliamentary PvdA wonder why it was decided to hold elections this year. The conditions set for holding the elections impose an additional burden, over and above achieving the goals previously set. These members ask what schedule has been set for achieving these results and whether it is realistic.

The members of the parliamentary Christian Union see the first signs of progress on the island and ask the government to what extent there is a real risk of a breakdown in administrative relations after the normal provisions have been restored. They wonder whether the government considered extending the measures and proposing a deadline for the elections at a later date and, if not, why not.

The government has decided to organise elections for a new island council while at the same time extending the intervention and gradually phasing out the current provisions. As a result, the government commissioner will continue to be part of the island authorities even after the elections. This will make it possible to consolidate and build on the gains achieved so far, while at the same time holding out better prospects for the people of the island and allowing them to choose their own representation. Both these aspects are regarded as of great importance. The decision to phase out the provisions gradually, as now provided for in the Bill, will ensure the continuity of projects and also provide a degree of control over the results still to be achieved and the administrative situation.

As already noted, the conditions stipulated for holding elections are part of the 12 criteria for good governance formulated in the second progress report of 14 November 2018. The projects in question thus already have a longer lead time and are a necessary, but not an extra, burden.

The members of the parliamentary SGP wish to know precisely what progress has been made in updating the ordinances and administrative systems. They also raise the issue of the training of prospective politicians and inquire whether concrete steps have already been taken in that area. The members of the D66 parliamentary party note that training programmes for prospective politicians will be provided from the first half of 2020 onwards. They ask the government to explain what these training programmes entail, how long they will last and whether they are compulsory and, if so, why.

The members of the D66 parliamentary party ask how these programmes are publicised, who runs them and whether they are already being offered to prospective politicians in view of the forthcoming elections. They also wonder whether the government would be prepared, with an eye to the future, to use talent development programmes to promote greater social and political engagement among young adults in St Eustatius.

Half of the approximately 100 ordinances have been reviewed. Under the current timetable, all non-financial ordinances are expected to have been reviewed by mid-October. Ordinances relating to financial matters are expected to have been reviewed, simplified or modernised by the start of 2021. Outside experts have been brought in to assist with this.

About half of the 17 administrative systems of the public body are operational. The rest will in any event be operational before the start of the second phase of the Act.

⁶ Parliamentary Papers, House of Representatives, 2018/19, 35 000-IV, no. 29.

In the next few months, the government, in collaboration with the VNG and the NIMD, will study how the various training programmes should take shape. Here too, account is being taken of the COVID-19 measures. The first training days to prepare prospective politicians for their role as members of the island council will be held after nomination day. These training days are being designed to meet the specific and observed needs of the persons concerned. After the elections, training days will also be arranged for the elected politicians. The needs of the participants will be examined before each training session to ensure that the training they receive equips them to improve how they perform specific aspects of their duties. The public body uses its best efforts to ensure that the programmes receive the necessary publicity.

An initial information meeting was held on 20 and 21 February 2020, at which the Electoral Council, the VNG and the NIMD gave presentations on the role of members of the island council and how to stand for election. Interested parties have also had the opportunity to discuss their political ambitions with these bodies in private. The programmes are not specifically aimed at one target group, but are instead designed to inform a wide audience about what local politics has to offer.

3. Outline of the Bill

The members of the parliamentary VVD have asked for the latest information about the electoral register. They wish the government to describe what preparations have been made for the planned elections.

The electoral register will be ready in time for the elections. The public body of St Eustatius is already making preparations to hold the elections. As usual, the Ministry of the Interior and Kingdom Relations is advising the public body on these preparations.

The members of the parliamentary VVD ask whether the extension of the Act will be arranged by Royal Decree or by introduction of a Bill.

The Act will be repealed on 1 September 2024. If a Royal Decree as referred to in section 16 (reinstatement of governor) has not been issued by that date, the operation of the Act may be extended once, before that date, by Royal Decree for a maximum of one year, if a position on the intention to extend the operation of the Act, or a Bill to that effect, has been submitted beforehand to the States General (section 21, subsection 2 of the Bill).

The members of the CDA and D66 parliamentary parties wonder whether political parties will wish to participate in the island council elections at all, given the council's limited powers. The members of the D66 parliamentary party ask whether the public information campaign launched by the government in St Eustatius – in collaboration with the Electoral Council, VNG and NIMD – has aroused interest among prospective politicians.

Although the members of the island council and island executive will initially have only a limited number of powers, these will be expanded in due course to become a complete package. For example, the island council will obtain increased powers in the second phase. Despite the initial limitations, this in no way means that the members of the island council will not have any meaningful powers. When they take office, they will have a number of scrutinising powers, the right to amend and initiate legislation and the power to adopt ordinances. The island council thus scrutinises the administrative actions of the government commissioner and can influence the administration of the island through its power to adopt ordinances.

Whether and to what extent there is any enthusiasm for participating in the island council elections will become apparent on nomination day. An indication of this can also be obtained after the closing date for registration of the appellations that political groupings wish to use on the list of candidates. In the run-up to the elections, the information campaign is targeting the general public and politicians as much as possible. The first information session about the elections (20 and 21 February 2020) generated interest among both established and prospective politicians. A training programme will be arranged for prospective politicians later this year. Whether or not the politicians of St Eustatius participate in the elections is, naturally, entirely up to them.

The members of the parliamentary CDA ask whether it is correct that political parties must re-register with the Electoral Council in order to be able to put up candidates for election to the island council, and if so, why. How, they ask, can this be reconciled with the fact that these political parties did not have to register separately for the election of the members of the electoral college for the Senate, and can the government appreciate that this provision gives the impression that it wishes to exclude the longer-established political parties in St Eustatius? They wonder whether this is really the government's intention and whether it is not up to members of the public and political movements to make their own choices.

Political parties that are already registered do not have to re-register their appellation for these island council elections. Both existing and new political parties are welcome to participate. There is no reason to assume that the existing register of appellations cannot be used for the island council elections.

Requests for registration must be received by the central electoral committee no later than the 42nd day before nomination day. Where the appellation of a political grouping has been registered for a previous island council election in St Eustatius, it will be valid for the next island council election, provided the registration has not been cancelled by the central electoral committee (section Ya 13 in conjunction with section G 3, subsection 7 of the Elections Act).

As regards the relationship with the registration for the election of the members of the electoral college for the Senate, it should be noted that, for the Caribbean part of the Netherlands, appellations registered for the election of the members of the island council remain valid for the election of the members of the electoral college for the Senate (section Ya 25, subsection 1 of the Elections Act). In other words, an appellation registered for the island council elections could also be used in the electoral college election in 2019. Incidentally, the reverse is not possible.

The members of the parliamentary CDA ask whether the island council can take office without a clerk to the council. Would it not be wise, they ask, to hire a coordinator now for this position?

Section 5 of the Bill provides that the island council must appoint a clerk as quickly as possible after the day on which its new members are appointed. Under the Temporary Act on Neglect of Duty in St Eustatius, the secretary to the island executive is currently performing the activities of the clerk to the island council. It follows that the secretary to the island executive will make the preparations needed to enable the island council to take office and may also start the procedure to select a clerk to the island council. In the run-up to the elections, it is possible that an adviser to the island executive or a coordinator will be appointed to assist the secretary to the island executive by overseeing the clerk's office. However, there is no guarantee that the new island council will actually appoint the coordinator as clerk to the council.

While the members of the parliamentary CDA welcome the decision to provide training programmes for prospective politicians, they wonder whether the element of compulsion is democratic. They ask whether the government can give an example of an instance in the European part of the Netherlands where prospective members of legislative bodies have to meet training requirements. They wonder whether this is not a responsibility of political parties themselves and whether it would not be wiser to present it as an offer rather than an obligation.

Prospective politicians and members of the island council and island executive are under no obligation to participate in or complete the training programmes. Nor is this altered by the fact that the completion of the programmes has been stipulated as a condition for the transition to phase 2.1 of the Bill, which provides for restoration of the tasks and powers of the island council and the island executive in relation to the civil service organisation and decisions affecting the legal status of civil servants. The aim of providing the training programmes is to safeguard the principles of good governance and democracy as effectively as possible. Prospective politicians and members of the island council and island executive can make whatever use they wish of these programmes.

The members of the parliamentary CDA ask the government to indicate what tasks and powers the newly established citizen participation council will have, especially in relation to the island council. They wonder whether there is room for both a citizen participation council and an island council in such a small community as St Eustatius.

Once the island council has been reinstated, the government commissioner will be able to gauge the level of public support for his actions from the reaction of the island council, which can in turn scrutinise the actions of the government commissioner by exercising its right to ask questions and call for an emergency debate. In addition, the citizen participation council can be of particular value in shedding light on what exercises the residents of the island, for example what they consider important and what they expect of the island authorities. As it would not be desirable to have a second council with statutory status, besides the island council, the existence of the citizen participation council will not be guaranteed by law. This is unlike the current civil society advisory council, which was established under the Temporary Act on Neglect of Duty in St Eustatius.

The function of the citizen participation council is to strengthen local democracy by providing the island authorities with advice, both solicited and unsolicited. The input of its members can help the public body to provide strong government that is capable of making a real contribution to solving social problems. As such, the citizen participation council plays the role of sounding board. The members of the citizen participation council have no decision-making power or the right to have all their questions answered. The advice given by the citizen participation council is not binding.

The members of the D66 parliamentary party ask about the composition of the citizen participation council. How, they ask, is the proper representation of the local population in the council guaranteed?

The government commissioner ensures that the members of the citizen participation council are representative of the various groups and strata of St. Eustatian society. They include people of different ages and occupations, for example from business, education, the church and healthcare.

The members of the D66 parliamentary party note that where a prospective decision may be contrary to the law or the public interest, the government commissioner, as chair of the island council, has the opportunity to raise the matter with the members of the island council before the motion is put on the agenda. Why, they ask, is consultation of this kind not mandatory in such cases?

The government commissioner consults with the island council when he considers it necessary. Consultation therefore takes place at the discretion of the government commissioner and does not need to be made compulsory, whether by law or otherwise. There are also sufficient safeguards to ensure that decisions are not detrimental to the interests of the island. For example, the government commissioner's power of approval is intended as a safety net that can legally safeguard the progress and positive developments on the island.

The members of the D66 parliamentary party note that decisions on the appointment, suspension and dismissal of civil servants are to continue to be made by the government commissioner until the political office holders and civil servants have completed the training programme and the personnel policy is in order. These members wonder why completion of the training programme for political office holders is necessary in this context, given that in this phase the island council will also have appointed a clerk to arrange matters relating to the civil service organisation.

The separate arrangement for the restoration of tasks and powers relating to decisions on the appointment, suspension and dismissal of civil servants will give the government commissioner the opportunity to continue his work to improve the civil service organisation on a lasting basis even after the island council takes office. Moreover, decisions on the appointment, suspension and dismissal of civil servants can have a major impact on the civil service organisation. These powers are therefore to be restored in the second phase of the Bill. As the role of the clerk to the island council is to assist the council, the council has a real say in the appointment. However, the decision to appoint a clerk is subject to the approval of the government commissioner. During the second phase of the Bill, the government expects more of the conditions for good governance such

as training and a sound personnel policy to be met, and the tasks and powers relating to decisions about the appointment, suspension and dismissal of civil servants to be used in the interests of a well-functioning civil service organisation.

The members of the parliamentary Green Left Alliance ask the government to clarify the relationship between the separate powers of the island council, the island executive and the governor on the one hand and those of the government commissioner on the other. They ask exactly what powers are involved, whether they can conflict with one another and, if so, how these conflicts will be resolved.

In general, it should be noted that the government commissioner always tries to carry out his duties transparently and in close consultation with future officials, residents and civil society organisations and to work with them to achieve good governance in St Eustatius.

Any consideration of the exact division of tasks and the relationship between the island officials on the one hand and the government commissioner on the other must take account of the various phases in which powers are to be restored.

The first phase involves the reinstatement of the island council by means of elections. Sections 74 (suspension of the governor), 75 (appointment of the governor), 77 to 80, 82 to 87 and 89 (provisions on the legal status of the governor) of the WOLBES apply to the government commissioner and his deputy. Decisions concerning the appointment, promotion, suspension or dismissal of the clerk to the island council require the approval of the government commissioner. Moreover, in this phase the government commissioner has all powers that would 'normally' have been vested in the island executive or the governor. The tasks and powers relating to the clerk's office, the civil service organisation and the finances have also been assigned to the government commissioner. Moreover, island ordinances, with the exception of those introduced under the FINBES, require the approval of the government commissioner.

When the island executive and its members are reinstated in the second phase, their tasks and powers under the WOLBES will cease to be performed by the government commissioner. The supervision by the government commissioner will also change. In this phase, the approval of the government commissioner will be required in the cases referred to in section 35, subsection 4, section 105, subsection 2, section 123, subsection 2 and section 168, subsection 3 (approval of island ordinances) of the WOLBES. Moreover, decisions of the island executive, with the exception of the proposed section 5, subsection 2, section 7 and section 8 will require the approval of the government commissioner.

Once the island council and the island executive have resumed their tasks, the government commissioner will no longer have a role in relation to the clerk's office and the civil service organisation. This also applies to the financial tasks and powers. As soon as the governor has resumed his tasks, the position of government commissioner will no longer be necessary and his appointment will be terminated.

The government commissioner is always accountable to the Minister of the Interior and Kingdom Relations. In the event of mutually conflicting powers, the Minister of the Interior and Kingdom Relations will act as intermediary.

The members of the parliamentary Green Left Alliance ask how exactly the government commissioner's performance of his tasks is to be supervised and what will be done to ensure that the functioning of the island council is not unduly hampered. Finally, these members ask how differences of opinion between the island council and the government commissioner about what exactly is in the interests of the island and its inhabitants are to be resolved.

First and foremost, the government commissioner acts on behalf of the government and is accountable to the Minister of the Interior and Kingdom Relations. This means that he follows the Minister's directions and provides information at the Minister's request. Despite being accountable to the minister, the government commissioner is still obliged, once the island council has taken office, to answer the questions of its members and provide them with information about his policy,

within the limits set by the WOLBES. This enables the island council to inform the government commissioner what policy proposals are desirable and what support exists for his actions. An effective professional relationship of this kind is deemed desirable from the moment the members of the island council take office.

The only restriction on the actions of the island council, other than the statutory restrictions, is if the government commissioner does not approve a decision it has made. Approval may not be withheld arbitrarily, but only on the grounds set out in the Bill (see section 10).

It should be noted here that, if a prospective decision may be contrary to the law or the public interest, the government commissioner, as chair of the island council, has the opportunity to raise the matter with the members of the island council before the motion is put on the agenda. The power of approval is intended to act as a safety net that can legally safeguard the progress and positive developments on the island. Such decisions are made by the government commissioner. It follows that any differences of opinion between the island council and the government commissioner about what exactly is in the interests of the island and its inhabitants should first and foremost be resolved through cooperation and consultation. If this fails, the government commissioner has the final say.

The members of the parliamentary SP ask why it was not decided to hold elections in the autumn of 2020 for an advisory council that would be better able to 'advise' the government commissioner and could gradually acquire more powers in accordance with the chosen growth model.

The idea behind the St Eustatius Administrative Provisions (Restoration) Bill is that normal administrative relations will be restored step by step whilst at the same time the intervention is extended. Every effort will be made to ensure that the local authorities can function independently again as quickly as possible, once the conditions for good governance are fulfilled, thereby restoring local democracy. For the population, the right to choose their own representation and stand for election is essential. These democratic rights must therefore be restored as quickly as possible.

In view of the administrative situation before the intervention, every effort is now being made to prevent any recurrence after the restoration of normal administrative relations. The improvements made hitherto and the results still to be achieved must also be sustained. The gradual phasing out of the intervention gives both new and established political players the opportunity to be part of the island executive and, in due course, to develop into independent administrators. This investment in the people's representatives will enable them to take responsibility for the island's administration after the intervention ends.

The members of the parliamentary PvdA ask whether the clean-up of the population register has been completed. They wish to know what view is taken of the management of administrative systems such as the tax records and land registry, what phase the amendment of inaccurate and outdated ordinances has reached, whether the reorganisation of the civil service organisation has been adjusted and the correct procedures and work instructions provided, whether the policy frameworks of the public body have been defined, whether the supervisory and enforcement instruments are in order, what the situation is regarding the digitalisation and centralisation of financial processes, what has been done to set up the planning and control cycle in accordance with the FINBES, whether the activities set out in the financial management action plan have been completed and what progress has been made with setting up a court of audit function. The members of the parliamentary PvdA also ask what specific objectives have been set to determine whether each separate criterion has been met and what progress has been made in achieving these objectives. And they ask about the situation regarding each of the objectives both at the start of the intervention and at present, and what measurable and – from the population's perspective – tangible results the improvement process has yielded to date.

The current state of play is summarised below. More information on the projects concerned will be given in the next progress report, which will be sent to the House before 1 June 2020.

The survey to determine to what extent the data entered in the personal information register of St Eustatius is accurate, up-to-date and complete was recently concluded. Work on correcting the errors found in the data started last March. Various nationality investigations that may take several years are also being started. These measures do not detract from the reliability of the electoral register. The register will be ready in time for the elections.

Administrative systems of the public body: about half of the 17 administrative systems are operational. The rest will in any event be operational before the start of the second phase of the Bill.

Ordinances: half of the approximately 100 ordinances have been reviewed. According to the current timetable, all non-financial ordinances are expected to have been reviewed by mid-October. Ordinances relating to financial matters are expected to have been reviewed, simplified or modernised by the start of 2021. Outside experts have been brought in to assist with this.

Reorganisation of the civil service organisation, including procedures and work instructions: following implementation of the reorganisation on 1 September 2019, the procedure for internal candidates to apply for step-up vacancies has been completed. The public body is currently working to fill a number of the remaining vacancies, including some key positions. Some advisory posts are expected to be filled before the summer, thereby ensuring that the process of putting the civil service organisation on a professional footing can move to the next phase. A change manager has been appointed to supervise the further implementation of the reorganisation in a structured manner. The description of procedures and work instructions will be completed before the elections.

Policy frameworks of the public body: a list has been drawn up of the missing policy frameworks. Policy frameworks have been drawn up for the two largest departments: social affairs and infrastructure. Other departments will follow. To complete the work, a master plan is being drafted to view the different policy frameworks in their overall context.

Supervisory and enforcement instruments and measures to equip the public body: waste supervisors were appointed in the first quarter of 2020. For the inspection of hotels, restaurants and supermarkets, inspectors trained as special investigating officers (BAV Pol) are receiving assistance and training from the Dutch Caribbean Police Force.

Multiannual training programme for civil servants and politicians: the programme for civil servants has been set up on a multiannual basis. This programme was expanded in the first quarter of 2020 to include various training courses for managers, supervisors, project managers, policy advisers and secretaries. The training courses were discontinued or postponed in the second quarter on account of the measures taken in response to the COVID-19 outbreak. Preparations are currently being made to continue them online wherever possible.

In the next few months, the government, in collaboration with the VNG and the NIMD, will study what form the various training programmes should take. The first training days to prepare prospective politicians for their role as members of the island council will be held after nomination day. These training days are being designed to meet the specific and observed needs of the persons concerned. After the elections, training days will also be arranged for the elected politicians. The needs of the participants will be examined before each training session to ensure that the training they receive equips them to improve how they perform specific aspects of their duties.

Digitalisation and centralisation of financial processes, establishment of the planning and control cycle in accordance with the FINBES and implementation of the financial management action plan: the digitalisation of the financial records system was completed on 1 April 2020. Other change management will take place in accordance with a standard procedure. IT management is being organised and an audit of the design and management of access to the financial records system is being prepared by the Central Government Audit Service.

The public body's 2020 budget was submitted and approved in December 2019. The first 2020 implementation report was adopted by the island executive on 28 April 2020. This means that reporting is now in accordance with the regular planning and control cycle as prescribed in the FINBES. This represents a major step forward, especially in conjunction with the 2020 investment budget and the completion of the digitalisation of the financial records system on 1 April.

Court of audit function: the Court of Audit (St Eustatius Public Body) Ordinance was adopted on 14 April 2020. This provides the legal basis for the Court of Audit and means that it can now be established. The St Eustatius Court of Audit is initially being set up and staffed by experts from the Rotterdam Court of Audit for a maximum of two years. These temporary members of the Court of Audit were sworn in by the government commissioner on 14 May 2020. On account of the COVID-19 crisis, they will initially work remotely in setting up the Court of Audit and an initial audit programme. At the same time, members of the Court of Audit will be recruited on the island or in the region and trained by experts from the Rotterdam Court of Audit.

The members of the parliamentary PvdA ask whether the perspective and special position of the islanders have been sufficiently taken into account during the process intended to lead to the restoration of tasks and democracy. And, if so, how this has been done.

Just as the administrative intervention was carried out in the interests of the inhabitants of St Eustatius, this process has also been designed with the same interests in mind. Preventing a recurrence of the pre-intervention situation once normal administrative relations are restored is absolutely essential. The Bill therefore contains a good many safeguards designed to minimise the risk of relapse.

It also provides that decisions of the authorities must be taken in the general interests of the island and its inhabitants. In this context, the government commissioner has the power to withhold approval from decisions of the island council and the members of the island executive, but only in accordance with the statutory framework designed to ensure that decisions are made exclusively for the benefit and in the interests of the island. Members of the public can also make their voices heard through the citizen participation council and the 'Central Dialogue'. The public interest and progress on the island are thus monitored by both the government commissioner and the people themselves.

Given the need to prevent a recurrence of the pre-intervention situation once normal administrative relations are restored, the members of the parliamentary PvdA wonder whether it is not important to ensure first of all that the 12 criteria have either been met or are at least close to being met.

To enable new local authorities to perform their tasks properly, the administrative structure, including the civil service organisation and financial management, must not only be in good order but also have been reorganised with a view to long-term continuity. It will then be up to the island's future administrators to maintain the system and restore the local population's trust in democracy and the legal order.

The 12 criteria that must be fulfilled in order to meet the conditions for good governance are attached as conditions to the different phases of the Bill. As various criteria must be fulfilled whenever progressing to the next phase, all 12 criteria will have been fulfilled by the time the governor takes office and the position of government commissioner has become redundant. The gross neglect of duty will therefore have ended in all these areas. At that juncture, normal administrative relations will have been restored and only the Kingdom representative will still be able to exercise intensified supervisory powers.

The members of the parliamentary PvdA ask how the possible application of sections 223 and 231 of the WOLBES could affect the restoration of local democracy. The island council elected at the next elections will not yet be given all the powers normally vested in an elected representative body. To what extent, they ask, has the government examined whether political parties or organisations wish to participate in those elections in these circumstances?

How much enthusiasm there is for participating in the island council elections will become apparent on nomination day. An indication of this can also be obtained after the closing date for registration of the appellations that political groupings wish to use on the list of candidates. The information campaign is targeting the general public and politicians as much as possible in the run-up to the elections. The first information session about the elections (on 20 and 21 February 2020) generated interest among both established and prospective politicians. A training programme for prospective politicians will be arranged later this year. Whether or not the politicians of St Eustatius participate in the elections is, naturally, entirely up to them.

The members of the parliamentary PvdA ask whether enough has been done to engage young people in politics. They inquire whether there has been sufficient investment in training politicians, especially new politicians, and, if so, what the results have been. The members of the parliamentary PvdA also ask whether any new parties have signalled their intention to participate in the elections and, if so, whether they have sufficient time to prepare. To what extent, they ask, can there be said to be a transitional period when the island council that takes office will lack the powers actually needed to govern the island, and do the proposals not simply amount to a de facto extension of the status quo?

The public information campaign for the elections is aimed at a wide audience and not at a particular target group such as young people. Its purpose is to broadly inform the population about what local politics has to offer.

When it takes office, the island council will have a number of scrutinising powers, the right to amend and initiate legislation and the power to adopt ordinances. The island council can thus scrutinise the administrative acts of the government commissioner and, by exercising its power to adopt ordinances, take decisions that impact the island. As these are significant powers that enable the island council to pursue a policy in collaboration with the government commissioner, this clearly does not simply amount to an extension of the status quo. However, it is certainly correct to talk of a transitional period, since the proposals entail a step-by-step progression to the point where the local authorities are deemed able to function independently and are allocated more and more powers.

The members of the parliamentary PvdA ask why the civil society advisory council is to be abolished once the island council takes office. Why, they ask, has a different kind of advisory body been chosen, what will be its formal powers, will its recommendations be made public, will its composition reflect that of the population as a whole, what proportion of its members will be young people and women, and will it include representatives of the business community, particularly small businesses?

The members of the parliamentary PvdA also ask whether initially maintaining the civil society advisory council would not provide a firmer basis for gradually phasing out the administrative intervention and thus help to maximise support for this among the general public. Or is the intention to have this role played by a different kind of civil society advisory body and if so, how?

The civil society advisory council was established at the start of the administrative intervention to provide the government commissioner with solicited and unsolicited advice and has a statutory basis in the Temporary Act on Neglect of Duty in St Eustatius. This was a way of ensuring that the government commissioner, in the absence of an island council, could be informed about the views of the local community on matters relating to the administration of the island.

Once the island council has been reinstated, the civil society advisory council will no longer be needed to advise the government commissioner and ensure that his actions have public support. The government commissioner will instead be able to gauge the level of public support from the reaction of the island council, and the latter can take a position on the actions of the government commissioner by exercising its right to ask questions and call for an emergency debate.

In order to maintain his dialogue with the local population and civil society, as well as with the island council, the government commissioner is setting up a citizen participation council to replace the current civil society advisory council when the new island council takes office. As the island

council is being reinstated, the citizen participation council, unlike the civil society advisory council, will not have a statutory basis. The citizen participation council can be of particular value in ensuring that the public body is aware of what issues exercise the residents of St Eustatius. The composition of the citizen participation council is to be representative of the various groups and strata of Stian society. It will thus include people of different ages and occupations, for example from business, education, the church and healthcare.

The members of the parliamentary Christian Union ask the government to respond to the concerns expressed by the inhabitants that the island council will not have the full powers it had before the administrative intervention and that this will tend to discourage people from standing for election. Why, they ask, has the government adopted the limited powers variant and what is its advantage in terms of democratic control over the decisions to be taken?

When the island council and, in due course, the island executive take office, their tasks and powers will be limited. For example, the tasks and powers relating to financial management and the organisation of the clerk's office and the civil service will be restored separately, namely in the second phase of the Bill. As achieving a lasting improvement in financial management and the civil service organisation is expected to take more time, this arrangement will firstly enable the government commissioner to continue carrying out his activities in these fields even after the island council takes office. Second, the performance of these tasks and the exercise of these powers can have a major impact on the civil service and administrative organisation. As the intervention is being phased out gradually and the island authorities are moving step by step towards functioning independently, the decision to restore at a later date the tasks and powers having the most far-reaching effects is justified. The statutory safeguards explained previously make it possible to control the administrative situation, and the decisions of the island council and the island executive are subject to the approval of the government commissioner. Nonetheless, the risk of possible harm caused by the incorrect exercise of powers must be limited in advance as much as possible. This should, as far as possible, exclude the possibility of any recurrence of the pre-intervention situation.

As noted previously, how much enthusiasm there is for participating in the island council elections will become apparent on nomination day. An indication of this can also be obtained after the closing date for registration of the appellations that political groupings wish to use on the list of candidates. The information campaign is targeting the general public and politicians as much as possible in the run-up to the elections.

The members of the parliamentary SGP note that section 10 of the Temporary Act on Neglect of Duty in St Eustatius contains a provision preventing the destruction of documents. The government states in the explanatory memorandum to the Bill that a comparable arrangement is not currently necessary. These members wonder why not. Until the situation has returned to normal, is it not necessary, they ask, to ensure that documents are kept and/or filed or to have other arrangements in place to prevent destruction? The members of the parliamentary SGP ask what safeguards exist to ensure that documents of the new island authorities are kept.

Section 10 of the Temporary Act on Neglect of Duty in St Eustatius was included because of the exceptional nature of the administrative intervention. Its aim was to prevent local administrators or civil servants from destroying paper documents and digital records after the Temporary Act became public knowledge. Now, however, the situation has ceased to be exceptional. This means that it is no longer necessary to empower an official, in this case the government commissioner, to take all measures needed to prevent the destruction of documents in the possession of the island authorities.

Given the present instability and possible mistrust, the members of the parliamentary SGP wonder whether the need for a structured form of consultation between civil society organisations or the public at large and, for example, the government commissioner is not more necessary now than ever. As there have been complaints about how the civil society advisory council has functioned in the initial period of the measures to combat neglect of duty, does the government not believe that it would be a good idea to allow it to continue in existence, at least for now? If not, is it not necessary to make explicit provision for the citizen participation council in the Bill?

The reason why the citizen participation council is being set up is to continue to provide a structured form of consultation between the island authorities on the one hand and civil society organisations and/or the general public on the other. This will replace the current civil society advisory council when it is abolished upon the entry into force of the Act. As the island council will be reinstated at that point, it would not be desirable to provide a statutory basis for the citizen participation council as well.

Moreover, a body known as the 'Central Dialogue Statia' (Central Dialogue) has been set up in addition to the citizen participation council. This provides a forum for structured consultation between the local authorities, the Chamber of Commerce and representatives of employers and employees, and will focus in particular on socioeconomic issues that play a role on the island. The Central Dialogue can also provide advice to central government, for example when draft legislation is submitted for consultation.

The members of the parliamentary SGP note that the government has not heeded the advice of the Advisory Division of the Council of State to make provision for dealing with neglect of duty. They therefore wonder exactly what action can be taken if one of the administrative authorities fails to function properly. Will it still be possible to respond quickly and adequately? Is the approval provision a sufficient safeguard, they ask, since it is quite possible that an island ordinance may not be defective in itself, but may have been adopted incorrectly by the authorities?

As already noted in response to the questions of the members of the D66 parliamentary party, the Bill contains a good many safeguards designed to ensure that the exercise of the restored powers does not have a detrimental effect on St Eustatius and its inhabitants or jeopardise the progress that has been made. The government commissioner is able to deal with all relevant eventualities by virtue of his authority to grant or withhold approval of decisions of the administrative authorities.

If an island ordinance nevertheless enters into force but is later found to be contrary to the law or the public interest, the government commissioner may, as a last resort, submit it for annulment under section 223 of the WOLBES. If the island council fails to perform tasks resulting from the legislation on delegated competences, or fails to perform them properly, the government commissioner may, in the course of discharging the tasks of the island executive, also act in place of the island council pursuant to section 230 of the WOLBES.

The government states that the island council can itself make provision for motions. The members of the parliamentary SGP wonder to what extent such motions could also contain statements about financial policy or the functioning of the clerk's office, in so far as this concerns the advice provided to the government commissioner on these matters.

The government commissioner will continue to perform the tasks of the island executive and the governor during the phase in which only the tasks and powers of the island council have been restored. The government commissioner is obliged, once the island council has taken office, to answer the questions of its members and provide them with information about his policy, within the limits set by the WOLBES. This will enable the island council to inform the government commissioner what policy proposals are desirable and what support exists for his actions.

The members of the parliamentary SGP note that the powers relating to the clerk's office can lapse only in their entirety. They wonder whether it would not be desirable to leave open the possibility of these tasks being transferred only partially at first.

In the second phase of the Bill, once the specified conditions have been fulfilled and the work of the government commissioner in this area has been completed, the tasks and powers of the island council and island executive relating to the setting of rules for the clerk's office and the civil service organisation as a whole and decisions on the appointment, suspension and dismissal of civil servants will be restored. At that point, it may be assumed that the local office holders will be in a position to perform these tasks and exercise these powers. This is why a partial transfer would not be preferable.

The members of the parliamentary SGP wonder whether separate provision should not be made for the transfer of financial powers to enable the government commissioner to complete any outstanding matters such as current reports or closing a financial year. Surely, they ask, the proposed provision would otherwise mean that the island council and island executive immediately become responsible for implementing decisions over which they themselves had no say?

The gradual phasing out of the intervention necessarily means that local authorities will take over the tasks and powers of the government commissioner at the time of transfer. It follows automatically that the island authorities will gain control over matters in which they have not been involved since the start of the intervention. This is inherent in an administrative intervention and its termination. No separate provisions are therefore needed for the transfer of tasks and powers, even those relating to financial management.

Under the present Bill, the reinstatement of the position of governor will conclude the restoration of administrative relations. At that juncture, the statutory provisions for other domains will also lapse. The members of the parliamentary SGP ask whether a situation is conceivable in which the governor is reinstated despite insufficient progress on financial management. They wonder whether provision should not be made for such an eventuality.

In accordance with the phasing provided for in the Bill, the governor will not take office until all aspects of the gross neglect of duty have ended and there has been full restoration of normal administrative relations. All supporting measures in the areas of financial management, the administrative structure and the civil service organisation will by then have been fully implemented. Before the governor is appointed, it must also be apparent that the island executive is functioning properly and in accordance with the WOLBES and FINBES, and it must be expected that the governor too will be able to perform his tasks and exercise his powers properly. Only then is transition to this phase deemed a responsible course of action. This means that by then financial management must in any event have been brought up to the required level and will not saddle the island authorities with undue risks. This will enable the island authorities to perform their tasks themselves.

Section 3.2.6 mentions that the first regular elections will be held in 2023. The members of the parliamentary SGP ask what the significance is of the 18-month period after the first regular elections if they do not take place until 2027. They wonder whether, in such a case, the government commissioner should also stay on until after that period.

The regular island council elections of March 2023 will be skipped in St Eustatius if the new members are admitted to the island council less than two years before those elections (see section 4, subsection 2 of the Bill). The next regular island council elections will then take place in 2027.

The 18-month period referred to in section 3.2.6 is the period from the next regular island council elections in March 2023 until the repeal of the new Act. The intensified powers of the Kingdom representative will therefore also lapse on that date. The 18-month period is unrelated to the 2027 elections. The government commissioner will stay on for as long as necessary, but until no later than a governor takes office. With the exception of the date on which the Act is repealed and the possibility of extension for a year, there is no time limit for the government commissioner to leave office.

4. Relationship to higher law and other national legislation

The answers to the questions raised by the D66 parliamentary party have been included in section 1, under 'Introduction'.

5. Consequences

The members of the parliamentary Green Left Alliance wonder how much longer the administrative intervention will last.

No timeline has been set for the gradual phasing out of the administrative intervention. The phases succeed each other when the specified conditions have been met. To avoid the extra pressure of deadlines, the intervention will be phased out on the basis of the progress made. The focus will therefore be on meeting the conditions for good governance and not on speed.

Despite the absence of deadlines, section 21 of the Bill provides that the legislation will be repealed on 1 September 2024, although it may, if necessary, be extended for a maximum of one year.

The members of the parliamentary SP ask what steps have been taken to implement the motion submitted by MPs Ronald van Raak and André Bosman (Parliamentary Paper 2018/19, 35 000-IV, no. 19) about the celebration of the First Salute on 16 November 2026.

Six months ago, the matter was discussed by the deputy head of mission of the US embassy with officials of the Ministries of Foreign Affairs and the Interior & Kingdom Relations. This involved an initial exploration of the possibilities. The results were relayed to Washington to decide what ideas are feasible and command support on both sides of the ocean. The idea of a joint celebration has been greeted with enthusiasm. Follow-up talks have yet to take place. It would not therefore be appropriate to speculate on the outcome of such talks, but the exchange of views will certainly continue.

The members of the parliamentary PvdA note that the Bill takes no account of the developments resulting from the COVID-19 crisis, nor of the delay that may be caused by measures to combat the virus now and in the future. To what extent, they ask, should this be taken into account? And how would it affect the Bill? How big is the risk, they ask, that the local population are now mainly focused not on elections but simply on getting through the crisis and the accompanying measures, with the attendant loss or imminent loss of income and/or jobs?

The consequences of the COVID-19 crisis impose an extra burden on St Eustatius. Just as in the Netherlands and the other parts of the Kingdom, the focus in recent months has tended to be on adjusting healthcare provision and minimising the risks of the virus to society. The public body formed a task force in early March and scaled up the crisis to level 3 on 13 March, using the hurricane crisis response plan as a template. In cooperation with the other two BES islands (Bonaire and Saba) and the countries forming the Kingdom of the Netherlands, the government commissioner introduced measures restricting economic and social life, such as the issuing and enforcement of emergency ordinances. Following their submission of a number of requests for assistance, the island authorities have now received the requisite help from the government, such as the temporary deployment of a crisis coordinator and the mobilisation of a hospitainer rapid deployment field hospital with six isolation beds. The measures taken will be discussed in detail in the next progress report, which will be sent to the House before 1 June 2020.

As stated previously, the measures to contain the virus are affecting the public information campaign and the training programme. The public body has also devoted a lot of time and energy to tackling the crisis, and as this time and energy could not therefore be spent on the current processes, progress may be affected. However, there is no reason at present to believe that the elections cannot take place this autumn or that the conditions for holding elections cannot be met.

The Ministry of the Interior and Kingdom Relations is explicitly monitoring the possible impact of the COVID-19 crisis on the organisation of the elections. The most desirable outcome would be that the elections can be held without restrictions. However, the government and the public body will assess how the elections would be affected if restrictions are still in place and social distancing (1.5m) has to be observed. This assessment will be made in the next few weeks.

The members of the parliamentary Christian Union ask the government to explain how it views the prospects of St Eustatius in approximately five years' time. How, they ask, does the government envisage the administrative, financial, social and physical situation of the island and what will it take to achieve that?

The guiding principle is still that the administrative intervention should be as short as possible, but as long as necessary. In the new phase which this Bill introduces, the aim is to gradually scale back the intervention and fulfil the conditions for good governance. The new authorities will then be able to function without the existing risks and take decisions in the interests of the island and its inhabitants, within the legal frameworks that apply to the Caribbean part of the Netherlands. Although the exact duration of this phase cannot be predicted, this will be the aim of the government's efforts in the period ahead.

As noted previously, in its response to the information provided by the Council of State and the Interministerial Policy Review on Kingdom Relations,⁷ the government has explained how it proposes to organise the coordination of policy in The Hague and improve cooperation between the European and Caribbean parts of the Netherlands and the quality of local governance. The implementation of these measures is being coordinated by the Ministry of the Interior and Kingdom Relations. This will require a carefully crafted approach, which also takes account of possible amendments to the WOLBES.

The members of the parliamentary Christian Union ask the government to explain what effects of the coronavirus crisis are already perceptible on the island, for what scenarios preparations have been made and whether the administrative authorities have the capability to deal with the effects. They also ask whether preparing for and holding the island council elections is feasible in the current circumstances, and whether the island's authorities are capable of handling the situation.

COVID-19 is currently hitting St Eustatius hard. The tough measures taken by the island authorities to tackle the crisis are being well received by the people of St Eustatius, and the government commissioner is also ensuring that the Ministry of the Interior and Kingdom Relations and the general public are kept constantly informed. As indicated previously, all the measures taken will be discussed in more detail in the next progress report.

6. Advice and consultation

The members of the parliamentary CDA note that, according to the explanatory memorandum, the transition from one phase of the restoration of the administrative and democratic situation in St Eustatius to the next will take place as soon as this is warranted by the fulfilment of the predetermined criteria. In other words, the transition from one phase to another is based on the fulfilment of criteria, not on a timeline. Nonetheless, the Bill does stipulate an end date for all the phases, namely 1 September 2024, although this can be extended until 1 September 2025 at the latest. How, they ask, will the government ensure that the various phases are completed by that end date, has it already drawn up a schedule, and what role will the island council have in implementing the schedule and deciding whether a phase has been completed?

Until all the conditions for good governance have been met, the local authorities cannot be assumed to be capable of functioning independently and properly. The government's efforts are designed to meet these conditions as soon as reasonably possible and end the intervention. It is important for the conditions to remain in place in the long term and for the improvements to be sustained.

The criteria formulated in the second progress report of 14 November 2018⁸ have been attached as conditions to the phases in the Bill. That allocation of the criteria was made on the basis of the size and possible duration of the underlying projects. The main determinants remain the interests of the island's population and achieving the requisite results. The government commissioner will also endeavour to establish a good working relationship with the new island council. The input of the island authorities is of value in determining whether a phase has been completed. In view of existing administrative relations, both generally and under the legislation, the decision on whether to move from one phase to the next lies with the government.

As noted previously, no timeline has been set for the gradual phasing out of the administrative intervention. The phases succeed each other when the specified conditions have been met. To

⁷ Parliamentary Papers, House of Representatives, 2019/20, 35 300-IV, no. 11.

⁸ Parliamentary Papers, House of Representatives, 2018/19, 35 000-IV, no. 29.

avoid putting extra time pressure on future results, the intervention will be phased out on the basis of the progress made. The phasing out therefore focuses on meeting the conditions for ensuring good governance and not on speed.

Despite the absence of deadlines, section 21 of the Bill provides that the legislation will be repealed on 1 September 2024, although it may, if necessary, be extended for a maximum of one year.

The members of the parliamentary CDA note that not all the island's inhabitants agree that progress has been made towards meeting the 12 improvement criteria. What, these members ask, is the government's analysis of the causes of the lack of progress in St Eustatius, what role has the Netherlands played in this, would not greater involvement of the island's inhabitants, especially of the island council, help to promote a sense of responsibility and speed up the process, and what role will the island council have in assessing whether sufficient progress has been made to warrant moving to the next phase, as described in the Bill?

The progress reports sent to the House every six months discuss the developments on the island and the attendant difficulties. As these reports already noted, the backlogs on the island are greater than initially thought. Efforts to reduce these backlogs are still in progress, but place a heavy burden on those involved.

Although its powers will initially be limited, the island council's involvement in the administration of the island is expected to engender an appropriate sense of responsibility and ownership.

The members of the D66 parliamentary party note that the civil society advisory council has commented on the Bill. For example, it questioned the planned timeline, since it provides for the phases to follow each other when certain criteria have been met rather than when a deadline is reached. It argues that the transition from one phase to another should take place by reference to clear milestones in time. These members also note that, according to the civil society advisory council, it should be clear in advance how and by whom the criteria will be – objectively – assessed. The majority of the members of this council have expressed the view that the plan to hold island council elections in the autumn of 2020 is overly ambitious. Starting training for prospective politicians in the near future is therefore seen as a necessary step. They have also indicated that some groups in the community feel robbed of their right to vote. The members of the D66 parliamentary party ask the government for its response to these comments.

These members of the parliamentary Green Left Alliance understand the wish of the civil society advisory council to formulate milestones in time and the relevant criteria as definitely as possible. They accordingly ask the government to do this wherever possible.

First of all, the elections this autumn are a milestone in time. Depending on the outcome, the next step towards termination of the intervention will be taken. As regards the objective assessment of whether or not a criterion is met, the position is that the government commissioner is responsible for the progress of the projects concerned. Ultimately, however, deciding whether sufficient progress has been made is a matter for the government.

As regards the decision to hold elections this autumn, there is no reason at present to believe that this aim is unrealistic. In the run-up to the elections, a training programme will be provided for prospective politicians, in addition to the information campaign for all interested parties.

The members of the parliamentary Green Left Alliance ask what exactly should be understood by 'sufficient institutional stability' and what will determine the decision on whether island council elections can be held in the autumn of 2020. Will it be determined, they ask, by reference to the phasing-out table contained in the explanatory memorandum (section 3.2.8) or will other conditions also apply?

The institutional stability required in St Eustatius to render the administrative intervention unnecessary is developing gradually. The above-mentioned letter to the House of 24 September 2019 expressed confidence that by the autumn of 2020 there would be sufficient institutional stability to hold elections for the island council. The criteria attached as conditions to the different

phases are conducive to this. If the conditions for holding elections in 2020 are met, the government is convinced that elections can be held. The table setting out the phasing-out conditions in section 3.2.8 of the explanatory memorandum can serve as a guideline in this connection.

The members of the parliamentary PvdA are convinced that the local population will have to be involved in the proposed changes if a truly lasting solution is to be achieved. To what extent, they ask, has the population been involved in the present Bill and how? Has this only been through the civil society advisory council, is its composition representative of the population, and how has it functioned?

In view of the Temporary Act on Neglect of Duty in St Eustatius, the composition of the civil society advisory council can be regarded as representative of the island. The council functions in accordance with the letter of that Act. For further information about the functioning of the civil society advisory council in the recent past, reference should be made to the periodic progress reports sent to the House.⁹

As noted previously, the government commissioner is setting up a citizen participation council to maintain a dialogue with residents and civil society and involve them directly in policy. This will replace the current civil society advisory council when the latter is abolished upon the entry into force of the Act. The composition of the citizen participation council too will reflect the various groups and strata of Statian society.

II. Notes on individual sections

Sections 3 and 4

The members of the parliamentary CDA ask the government to explain how it came to mention the date of 21 October 2020 as a possible election day. How, they ask, does this date relate to the provisions of section 4, subsection 2 of the present Bill, when will the next island council elections be held in Bonaire and Saba and, in view of the current restrictions on social life introduced to prevent the spread of coronavirus, is 21 October 2020 still a feasible date?

The aim is to hold the island council elections this autumn. 21 October 2020 was mentioned as the target date in the letter to the House of 24 September 2019 and was chosen because it was thought that the specified conditions could be met by that date.

Although the COVID-19 crisis places an additional burden on St Eustatius, there is as yet no reason to assume that the elections cannot take place this autumn or that the conditions for holding elections cannot be met. More information will be given in the next progress report, which will be sent to the House before 1 June 2020.

As regards section 3, the members of the parliamentary SGP ask whether it is logical to have the credentials examined by the members elected to the island council. Would it not make sense, they ask, to invest this authority in the government commissioner or another body to avoid a situation in which appointees advise on their own credentials?

The examination of credentials is about more than assessing whether the appointees, if they have accepted their appointment, are admissible as members of the representative body. Under section V 4, subsections 1 and 3 of the Elections Act, it also includes reviewing the conduct of the election and settling any disputes which may arise in connection with the credentials or the election itself. In the Netherlands, the final decision on this matter is always given by elected representatives of the people.

Credentials are generally examined by the sitting members of the representative body for which the election has been held. This is not possible in this particular case as there is no island council

⁹ Parliamentary Papers, House of Representatives, 2017/18, 34 775-IV, no. 41, Parliamentary Papers, House of Representatives, 2018/19, 35 000-IV, no. 29, Parliamentary Papers, House of Representatives, 2018/19, 35 000-IV, no. 57 and Parliamentary Papers, House of Representatives, 2019/20, 35 300-IV, no. 36.

at present. In keeping with the Temporary Act on Neglect of Duty in St Eustatius, it has been decided to invest the authority to examine credentials in the appointed members of the island council. Although the solution that has been chosen does indeed result in the appointees partly deciding on their own admissibility, the same situation occurs when a sitting member of a representative body stands for election for a new term of office.

Section 5

As regards section 5, the members of the parliamentary SGP ask whether this provision also applies in full to the appointment of a new clerk to the island council.

Yes, the provision also applies in full to the appointment of a new clerk to the island council.

Section 15

The new section 10a, referred to in section 15, talks about the approval of decisions having financial consequences. The members of the parliamentary SGP wonder whether this is sufficiently clear. Do not virtually all decisions, they ask, have financial consequences in one way or another?

The phrase 'decisions having financial consequences' is based on and refers to chapter III, part 1 of the FINBES, where it also appears in the heading of that part.

R.W. Knops
State Secretary for the Interior and Kingdom Relations