

## **Summary of the Council of State's advisory opinion on the Temporary Act on Neglect of Duty in St Eustatius**

The Advisory Division of the Council of State has issued an opinion on the proposed Temporary Act on Neglect of Duty in St Eustatius. The bill was submitted to the House of Representatives on 5 February 2018, whereby the Council of State's advisory opinion was also made public.

### **Content of the bill**

The government is introducing the bill to bring the Statian authorities' gross neglect of duty to an end. To achieve its aim, it will appoint a government commissioner who will temporarily replace the administrative bodies in St Eustatius. This state of affairs will continue until the administrative bodies on the island are again capable of performing their duties properly. Elections for the island council will be held by 2021 at the latest.

### **Proportionality of the intervention**

Like the Dutch government, the Advisory Division recognises the seriousness of the administrative situation in St Eustatius. It bases its view in part on the report on this matter issued by the Committee of Wise Persons in January 2018. The Advisory Division therefore agrees with the proposed measures. However, because it is so far-reaching, the intervention in tasks and responsibilities should be ended as soon as possible. The explanatory memorandum to the bill should therefore provide greater clarity as to the criteria for deciding when that point has been reached. The government should also shed more light on the measures that will be taken in St Eustatius and in the Netherlands to improve the administrative situation on the island. The Advisory Division considers that the coordinating position of the Ministry of the Interior and Kingdom Relations should be anchored in the bill.

### **Return to the normal state of affairs**

The bill's provisions cease to apply on the day the new island council convenes. However, it might be desirable to return to a normal situation more gradually. This would enable a phased introduction of the new Statian administration and could provide more institutional stability. In addition, the government should describe in more detail how the Kingdom representative and the Financial Supervision Authority will be involved in the recovery period.

### **Appointment of the clerk to the island executive**

The bill provides that the clerk to the island executive will be appointed by the Minister of

the Interior and Kingdom Relations. But since the government commissioner will assume all the normal tasks and responsibilities of the island council, the island executive and the governor, it would be logical for the government commissioner, rather than the Minister, to appoint the clerk to the island executive.