

With interest I have taken note of the internet consultation on the SZW Laws (Amendment) Act Caribbean Netherlands 2023 (<https://www.internetconsultatie.nl/wijzigingswetszwwettencaribischnederland>).

I see that the consultation period runs from today (publication date July 25, 2022) to August 22, 2022.

I would like to provide the following input.

The following codes are cited to amend some things:

- The BES Civil Code (book 7)
- BES Holiday Act 1949
- BES General Old Age Insurance Act
- BES General Widows and Orphans Insurance Act
- BES Child Benefit Act
- BES Accident Insurance Act
- BES Health Insurance Act

These are all laws with the suffix BES.

In the Integral Assessment Framework, under "what is the problem", I read among other things that *[...] the level of provisions still lags behind that of the European Netherlands, both in terms of level of protection, as well as when it comes to the right incentives and balance of rights and obligations. A modernization of the system is necessary to make it more future proof and thus improve the livelihood security of citizens.*

Considering the fact that the Caribbean Netherlands and the European Netherlands are two parts of the same, undivided country 'the Netherlands', it seems to me fundamentally wrong to continue on this path and to maintain a *benchmark* for the social minimum in the Caribbean Netherlands.

In short, while I appreciate that efforts are being made to improve, I still see the dichotomy returning in the legislation in the social security domain between the Dutch in the European Netherlands and the Dutch in the Caribbean Netherlands.

The Constitution states rather clearly in article 132a, paragraph 4, that although for the Public Entities of Bonaire, St. Eustatius and Saba *rules (may) be established and other specific measures are taken in view of special circumstances that make these public entities substantially different from the European part of the Netherlands.* The Explanatory Memorandum of the Constitutional Amendment introducing this article indicates that, in principle, this article may never be raised to the disadvantage of the Dutch Caribbean.

The Amending Act in the making does not address these essentially distinctive circumstances. While that seems essential, in view of the 'comply or explain' principle. If in that case you come up with general statements like the *socio-economic context is different in the two Netherlands*, I have two comments:

1. what then is this socio-economic context? after all, it is no more than a catch-all term, which would have to be further specified (and each of those specifications would then have to be held up against the 'comply or explain' light);

2. if any differences are recognized at all (which of course must be *substantial* in nature), then in my view those differences are more likely to be the *result* of the different approach in the law, rather than to be seen as a *cause*.

In short, my comment concerns the approach. In my opinion it should be aimed at eliminating the differences between both parts of the same country 'the Netherlands'. In other words, the correct approach in my view should be:

- in principle, legislation and regulations as they apply in the European Netherlands also apply in the Caribbean Netherlands;
- in cases where (substantially different from the European Netherlands) circumstances are recognized that make this application lead to undesirable outcomes for the Caribbean Dutch, specific, island legislation and regulations must be designed (and submitted for consultation with the Caribbean Dutch).

Finally, I hope that you will extend the consultation period in such a way that the Second and First Houses, the National Ombudsman and the Chairman of the Social Minimum Committee can also take note of your proposal and the comments submitted (considering the recess and vacation periods respectively).

Kind regards,

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Cc: *SZW Committee, KR Committee (in the Lower and Upper Houses)*
National Ombudsman
Chairman Social Minimum Committee