



Sociaal Economische Raad
Social Economic Council

FILE COPY

LETTER OF ADVICE

The Honorable Minister of Public Health, Social Development and Labor, Mrs. P. Gordon-Carty
The Honorable Minister of General Affairs/Prime Minister, S. Jacobs
Government Administration Building
Soualiga Road no. 1
Philipsburg
Sint Maarten

Philipsburg, December 19th, 2019

Our reference: SER/19/CV/42

Re: Letter of advice concerning the draft ordinance amending the National Ordinance concerning General Old Age Insurance and the National Ordinance concerning General Widow and Orphan Insurance related to the increase in the old age pension and the retirement age to 65 years¹.

Honorable Minister Gordon-Carty,

On October 28th, 2019, the Social Economic Council (hereafter: SER) received the solicited advice request from your predecessor the former Acting Minister of Public Health, Social Development, and Labor (hereafter the Dutch abbreviation: VSA), Mrs. Leona M. Romeo-Marlin concerning the draft ordinance amending the National Ordinance Concerning General Old Age Insurance and the National Ordinance concerning Widow and Orphan insurance related to the increase in the old age pension and the pension age to 65 years (hereafter: the draft ordinance)

The draft ordinance was discussed in the board meetings of Thursday, November 14th, Thursday, December 5th and Monday, December 16th, 2019. The SER has evaluated the social, economic, and legal consequences of the advice request and came to the following conclusions:

The draft ordinance, as further outlined in Appendix 1, amends the National Ordinance Old Age Pension² and the National Ordinance Widow and Orphan Insurance³ to increase the age of retirement from 62 to 65 and to increase the pension amounts by an amount higher than the change in CPI between 2018 and 2019.⁴ The SER finds it problematic that the reasoning in the explanatory note links the increase in

¹ In Dutch: Landsverordening houdende wijziging van de Landsverordening Algemene Ouderdomsverzekering en de Landsverordening Algemene Weduwen- en Wezenverzekering in verband met de verhoging van het ouderdomspensioen en van de pensioenleeftijd tot 65 jaar.

² In Dutch: Landsverordening regelende een algemene, de gehele bevolking omvattende, verplichte verzekering tegen geldelijke gevolgen van ouderdom AB 2018, GT no. 520.

³ In Dutch: Landsverordening regelende een algemene, de gehele bevolking omvattende, verplichte weduwen- en wezenverzekering AB 2013, GT no. 522.

⁴ Landsverordening verhoging AOV-pensioen en pensioenleeftijd tot 65, memorie van toelichting, page 1.



Sociaal Economische Raad
Social Economic Council

retirement age to 65 as necessary due to the proposed increase in pension amounts. For this reason, the SER advises Government to create two separate legislations: one legislation amending the increase in retirement age to 65 and one legislation amending the increase in pension amounts.

As a result, the SER has created two advices handling each legislative change separately. The following general concerns of the SER handle the legislative change of the increase in pension amounts:

General concerns of the SER concerning the draft ordinance increasing pension amounts:

1. The SER observes that the main objective of Government in raising the pension amount is to prevent poverty among the elderly on St. Maarten.⁵ Government claims that as a result of pensioners increased access to finances, the St. Maarten economy would also in return benefit from their increased spending power.⁶ The explanatory note of the draft ordinance does not provide sufficient information for the SER to assess Government's legislative proposal. As such, the SER cannot assess the validity of the social and economic impact of the proposed pension increase.

The Department of Social Development claims in their report "AOV Pension Reform 2019: Increasing pension age & benefit" that the current reserves within the AOV fund (more than NAF 358.243.000) do not justify a raise in pension age without an increase in pension amount.⁷ Furthermore, the increase is called for given the awareness of the current financial position of the elderly who rely on their AOV benefit.⁸ The SER recognizes the need to address and alleviate poverty among the elderly of St. Maarten. However, as also highlighted in the explanatory note of the draft ordinance, Government has not set a poverty line or measure for St. Maarten, and thus the effects of the increase of NAF 125 on the elderly cannot be measured.⁹ Consequently, the SER advises against the increase in the maximum pension amount by NAF 125 due to the lack of data and information regarding the legislative change. The chosen figure of NAF 125 is presented in absence of definitive data regarding the financial status of the elderly on St. Maarten. The SER is aware of the economic difficulties currently being faced by the elderly on St. Maarten. For this reason, the SER advises Government to substantiate an adjustment in old age pension with an amount substantiated through reliable data and information.

The SER finds that current information regarding the financial position of the elderly on St. Maarten to be lacking in the explanatory note. The SER is aware of the current efforts being taken to develop an alternative index for St. Maarten following the conclusions of the Well Being Survey and the Household Survey. Without definitive data regarding poverty on the

⁵ Ibid.

⁶ Ibid.

⁷ Department of Social Development, "AOV Pension Reform 2019: Increasing pension age & benefit", April 11, 2019, page 7. Documentation provided with advice request.

⁸ Landsverordening verhoging AOV-pensioen en pensioenleeftijd tot 65, memorie van toelichting, page 2.

⁹ Ibid., page 3.



Sociaal Economische Raad
Social Economic Council

island, efforts being taken towards alleviating poverty are not currently measurable for effectiveness. Consequently, the SER advises to accelerate the decision-making process on the index so that data can be collected to understand the living situation of the elderly on St. Maarten. In addition, the SER requests Government to collect information regarding the elderly's current economic status which should be geared towards creating a holistic package of targeted measures which can properly address their financial situation. In this way, the socioeconomic effects impact of Government introduced packages and programs can be quantified and understood in relation to poverty alleviation.

2. The SER finds that the current legislative proposal is lacking in terms of providing an adequate background regarding the issue highlighted by government in the explanatory note: alleviating poverty among the elderly. The SER is aware that the Department of Social Development currently uses a working definition of poverty.¹⁰ The SER finds that Government should outline its definition of poverty within the explanatory note. In general, the introduction of a standard definition of poverty would allow for proper assessment and measurement of any program or legislative changes proposed to address poverty alleviation, be it for the elderly or another vulnerable group. The SER lacks both the definition and the foundational data to assess poverty alleviation measures.

Currently, the explanatory note of the draft legislation includes information on the expected economic impact of the increase in pension amounts: an estimated NAf 13.5 million extra within the economy of St. Maarten.¹¹ The SER finds this calculated economic impact to be inaccurate and incomplete for, among other reasons, the entire group of 8,000 pensioners do not live in St. Maarten¹². While also verifying the included data, the SER requests Government to include data regarding the effects of the pension increase in relation to its definition of poverty or measure of poverty.

In order to properly assess the social and economic impact of the proposed legislation, the SER views it necessary to include these points in combination with the requested data in general concern point 1. Furthermore, the information should be included within the explanatory note of the legislation.

¹⁰ Interview with the Department of Social Development, December 5, 2019.

¹¹ Landsverordening verhoging AOV-pensioen en pensioenleeftijd tot 65, memorie van toelichting, page 3.

¹² Part of the group of pensioners are individuals who accumulated AOV benefits while living in St. Maarten who now have registered abroad. In addition, individuals may remain registered in St. Maarten yet living abroad, and thus are also entitled to AOV pension as it is based on registration.



Sociaal Economische Raad
Social Economic Council

3. The SER recognizes that poverty is a multifaceted issue. However, the current proposal of government aims to alleviate poverty felt by the elderly solely through increasing the maximum pension amount. Within the explanatory note, the increase in funds is highlighted as “part of a policy to combat poverty”.¹³ The SER notes that there is no additional information regarding the policy to combat poverty in the explanatory notes. Addressing the multifaceted nature of poverty, the SER advises Government to research and create policy regarding additional targeted measures to fully address the issue of poverty among the elderly, such as for example the subsidizing of groceries, health care costs, utilities, elderly reductions (in Dutch: ouderenkorting), etc. The SER views the increasing of the pension amount as an inefficient solution to address the alleviation of poverty among the elderly.
4. The SER has learnt that Government is currently analyzing the research regarding a mandatory second tier pension system for St. Maarten.¹⁴ As the timeline for implementation remains undefined, the SER advises Government to pursue education and information initiatives regarding second tier systems for the general public. While the current elderly remain out of the scope of second tier implementation, younger generations within the workforce still have the time to make the necessary commitments to their retirement. Acknowledging that AOV is insufficient on its own to cover the expenses of the elderly, the SER views it a necessary step to educate current young workers on the available options to mitigate the risk of financial setbacks after retirement. For these reasons, the SER advises Government to research mechanisms and fiscal incentives to encourage individuals to make the necessary financial provisions for their retirement.
5. The SER is aware that Government is currently pursuing a variety of social measures at the national level which are dependent on premiums. In order to properly advise on measures involving payment of premiums, the SER views it necessary to receive information regarding these other social measures in tandem with the proposed legislation. The SER can only properly advise Government on its standpoint in the presence of all necessary information. Advising Government on the pension benefits and premiums in the absence of information regarding future premiums to be paid does not allow for an accurate measure of economic and social effects of the draft ordinance in question.

¹³ Landsverordening verhoging AOV-pensioen en pensioenleeftijd tot 65, memorie van toelichting, page 1.

¹⁴ Interview with the Department of Social Affairs, December 06, 2019.



Sociaal Economische Raad
Social Economic Council

Advice:

The SER unanimously advises the Government of Sint Maarten the following:

1. Not to increase the pension amounts and the premium limits for the AOV and AWW based on the concerns outlined.
2. To split the legislative proposals to address the increase in pension age and the increase in pension amounts in separate legislations.
3. To include within the explanatory note of the draft ordinance explicit information on how the increase in pension amount will specifically alleviate poverty among the elderly.
4. To include within the explanatory note of the draft ordinance explicit information with regards to the total economic effect of proposed legislative changes.
5. To accelerate the establishment of an index that allows for the measurement and understanding of poverty as it relates to the St. Maarten context.
6. To research the financial and social condition experienced by the elderly, once advice point 3 is established, in order to implement alternative measures to bolster Government's efforts to alleviate poverty among the elderly.
7. To propose legislation or policy that tackles the multi-faceted nature of poverty as it applies to the elderly based on the data collected as advised in points 5 and 6.
8. To resend the legislative proposal to the SER once the advised changes have been made.

The SER looks forward to receiving the revised legislation in order to provide an in-depth analysis of the current pension system. At this point the SER finds the information insufficient to provide a more comprehensive advice.

We trust to have informed you sufficiently herewith.

Should you require any additional information after reading the above, please feel free to contact us at your earliest convenience.

Respectfully,

Ir. Damien D.E. Richardson
Chairman

Gerard M.C. Richardson
Secretary-General



Sociaal Economische Raad
Social Economic Council

Appendix 1:

Overview of legislative proposal:

The draft ordinance increasing AOV-pension and retirement age to 65 concerns changes to two national ordinances: the National Ordinance regulating General Old Age Insurance¹⁵ (hereafter the Dutch abbreviation: AOV) and the National Ordinance regulating General Widow and Orphan Insurance¹⁶ (hereafter the Dutch abbreviation: AWW). The AOV establishes the legal parameters to individuals' rights to general old age pension once they reach the pensionable age. The National Ordinance regulating General Widow and Orphan Insurance establishes the legal parameters to individuals' rights to insurance in the case of being widowed or orphaned. As outlined in the draft ordinance and in the explanatory note, the two main legislative changes of the draft ordinance are to raise the maximum pension amounts and to raise the retirement pension age to 65. The explanatory note states the objective of government in raising the pension amounts is to alleviate poverty amongst the elderly and in doing so stimulating the economy by increasing the spending power of the elderly.¹⁷ The raise in pension age addresses the sustainability of the AOV fund in creating financial support for the rise in pension amounts.¹⁸

Article 1 of the draft ordinance addresses the changes to the AOV. The changes to the legislation are as follows: the increasing of the pension age from 62 to 65¹⁹; the increasing of the maximum monthly pension amount from NAF 1.000,- to NAF 1.240,-²⁰; the increasing of the maximum monthly pension amount for individuals with a partner younger than 65 to NAF 850,- when their combined income is not higher than NAF 16.120,-; the maximum annual income to which the premium can be levied from is increased to NAF 117.091,61; the minimum annual income to which the premium can be levied is increased to NAF 9.633,62 for individuals who are unemployed or partly employed for the year; the premium is levied in part to individuals who are unemployed for an entire year or part of a year if their income falls between the amounts of NAF 9.633,62 and NAF 78.201,06.

¹⁵ In Dutch: Landsverordening regelende een algemene, de gehele bevolking omvattende, verplichte verzekering tegen geldelijke gevolgen van ouderdom AB 2018, GT no. 520.

¹⁶ In Dutch: Landsverordening regelende een algemene, de gehele bevolking omvattende, verplichte weduwen- en wezenverzekering AB 2018, GT no. 522.

¹⁷ Landsverordening verhoging AOV-pensioen en pensioenleeftijd tot 65, memorie van toelichting, page 1.

¹⁸ Ibid., page 4.

¹⁹ As explained in the explanatory note, the law has an implementation period. Ibid., page 5.

²⁰ Currently, the last increase to the pension placed into law was made in the Landsverordening van de 23ste November 2015 houdende wijziging van de Landsverordening Algemene Ouderdomsverzekering en de Landsverordening Algemene Weduwen- en Wezenverzekering in verband met de verhoging van het ouderdomspensioen en van de pensioenleeftijd AB 2015, no. 31. However, it should be noted that the amount NAF 1000,-, was for the year 2013. Nevertheless, the indexation of general old age pension is carried out in practice by Social & Health Insurances; for the year 2019, the maximum general old age pension is NAF 1.115,- (Social & Health Insurances, "2019 Wage Limits & Premiums", <https://www.szv.sx/publicfiles/868/documents/2019%20Wage%20Limits%20%20Premiums%204x34%20%20CB-OBG%20Feb%202019.pdf>). Consequently, the pension amount between 2019 and 2020 would increase the maximum pension amount from NAF 1.115,- to NAF 1.240,-.



Sociaal Economische Raad
Social Economic Council

Article 2 of the draft ordinance addresses the changes to the AWW. The changes to the legislation are as follows: the increasing of the maximum pension age for widows from 62 years to 65 years; the increasing of the monthly pension amount for widows based on their age brackets:

- younger than 45 years: NAf 572,- per month
- from 45 to 50 years: NAf 752,- per month
- from 51 to 59 years: NAf 940,- per month
- from 60 to 65 years: NAf 1.240,- per month.

The increasing of the monthly pension amount for widows who are disabled or have one or more dependents who are entitled to orphan insurance to NAf 1.240,-; the increasing of the monthly pension for orphans younger than 10 years to NAf 416,-; the increasing of the monthly pension for orphans from 10 to 15 years to NAf 454,-; the maximum annual income to which the premium can be levied from is increased to NAf 117.091,61; the minimum annual income to which the premium can be levied is increased to NAf 9.633,62 for individuals who are unemployed or partly employed for the year; the premium is levied in part to individuals who are unemployed for an entire year or part of a year if their income falls between the amounts of NAf 9.633,62 and NAf 78.201,06.