

**NATIONAL NATURE CONSERVATION ORDINANCE E-PUBLICATION  
OF PB2001, NO. 41 [ORIG PB1998, No. 49, AMENDED BY PB1997, No.  
237]**

**NATIONAL ORDINANCE** of February 9th, 1998 concerning regulations regarding the Conservation of Nature and the Protection of the Animal and Plant Species that Occur in Nature (National Ordinance Fundamentals Nature Conservation and Protection), P.B. 1998, 49.

As amended in accordance with Article CXV of the National Ordinance Regarding Provisions Concerning the Implementation of the New Code of Criminal Procedure (P.B. 1997, 237).

As amended in accordance with the National Ordinance of March 15<sup>th</sup>, 2001 to amend the National Ordinance Fundamentals Nature Conservation and Protection (P.B. 2001, 41).

IN NAME OF THE QUEEN!

The Governor of the Netherlands Antilles,

Having taken into consideration:

That it is desirable to establish regulations regarding the conservation and protection of indigenous fauna and flora, also in light of the Netherlands Antilles joining various conventions concerning the protection of fauna and flora, the preservation of biological diversity and the conservation and protection of ecosystems and habitats;

Has, having heard the Advisory Council, in joint consultation of the Parliament, decreed the National Ordinance below:

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**SECTION I                      GENERAL PROVISIONS**

**ARTICLE 1**

1. In this National Ordinance and the provisions that are based upon it the terms below mean as follows:

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|---------------------------|--|
| (a) The Minister:         | the Minister of Public and Environmental Health  |
| (b) Executive Committee:  | the Executive Committee of each Island Territory |
| (c) Island Council:       | the Island Council of each Island Territory      |
| (d) Committee:            | the Committee mentioned in Article 3             |
| (e) Management Authority: | the Authority meant in Article 5                 |

- (f) Scientific Authority: one or more experts or agencies as indicated by the Minister
  - (g) indigenous fauna and flora: the animals and plants that occur naturally in the Netherlands Antilles or Netherlands Antillean waters
  - (h) species: every species, sub-species or geographically isolated population of flora or fauna
  - (i) Ramsar Convention: the Convention established in Ramsar on February 2nd, 1971 regarding wetlands of international importance, in particular as a habitat for waterfowl (Trb.1975, 84)
  - (j) CITES Convention: the Convention on International Trade in Endangered Species of Wild Fauna and Flora established in Washington on March 3rd, 1973, with Annexes (Trb. 1975, 23), as well as the Resolutions of the Conferences of Parties belonging to the Convention
  - (k) Bonn Convention: The Convention on the Conservation of Migratory Species established in Bonn on June 23rd, 1979, with Annexes (Trb. 1981, 6)
  - (l) SPAW Protocol: Protocol concerning Specially Protected Areas and Wildlife signed in Kingston on January 18th, 1990, with Annexes (Trb, 1990, 115), belonging to the Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region, established in Cartagena de Indias on March 24th, 1983 (Trb. 1983, 152)
  - (m) Biodiversity Convention: The Convention on Biodiversity established on June 5th, 1992 in Rio de Janeiro (Trb. 1992, 164)
  - (n) Sea Turtle Convention: The Inter-American Convention for the Protection and Conservation of Sea Turtles, with Annexes, Caracas, December 1st, 1996 (Trb. 1999, 45)
2. The applicable text of the conventions mentioned in paragraph one, sub-paragraphs (i) up to and including (n) are available for public viewing at the Management Authority and the Committee.

## **SECTION II NATIONAL TASKS AND AUTHORITIES**

### **ARTICLE 2**

1. The Minister establishes a national nature policy plan once every five years which in part sees to the execution of relevant international obligations as taken on.
2. The Minister prepares the nature policy plan in close consultations with the Executive Committee.
3. The nature policy plan in any case includes:
  - (a) the goals that should be fulfilled regarding the nature and the landscape within the plan's duration,
  - (b) an overview of the priorities regarding the nature and the landscape that should be tackled within the plan's duration,

- (c) the principles of nature conservation that should be kept in mind in the execution of the plan,
  - (d) a list of national parks, both land and marine, that consist of nature parks created by Island Ordinance.
4. The Minister takes the islands' development plans into consideration when drafting the nature policy plan.
  5. The nature policy plan serves as a general framework for nature policy.
  6. The Minister reports to the Parliament annually before September 1<sup>st</sup> concerning where things stand with the execution of the nature policy plan. A copy of this report is also offered to the Executive Committee.

### **ARTICLE 3**

1. There is a nature conservation and protection Committee.
2. The Committee's task is to make recommendations to the Minister and the Executive Committee as requested or on its own accord regarding measures to be taken to execute this National Ordinance.
3. The Committee has five members, including the chairperson. The members of the Committee are appointed for a term of five years.
4. The Executive Committee appoints a member and a substitute member. The Executive Committee can suspend and dismiss the member and substitute member it appointed.
5. The Committee annually selects one of its members to be the chairperson.
6. The Director of the Department of Public and Environmental Health or an employee appointed by the Director is the Committee's secretary.

### **ARTICLE 4**

1. The Committee establishes a code regarding the manner in which it goes about carrying-out its task. The code requires the Minister's approval.
2. In carrying out its task, the Committee is authorized to call on experts in the understanding that the salary and expenses such will charge must first be approved by the Minister.
3. The Committee's members and substitute members receive remuneration as determined by the Minister for attending the Committee's meetings.
4. The Committee's members, substitute members and secretary are allowed to declare travel and accommodation expenses if necessary in accordance with the regulations in the Resolution of June 20, 1993, no. 700 concerning the establishment of regulations for the compensation of travel and moving expenses within the Netherlands Antilles (P.B. 1958, no. 153).
5. The costs entailed in what is provided by paragraphs two, three and four are incurred by the budget of the Netherlands Antilles.
6. The National Resolution Flight Risks 1952 (P.B. 1952, no. 10) applies to the Committee's members, substitute members and secretary.

### **ARTICLE 5**

1. The Minister appoints a Management Authority.
2. The Management Authority:
  - (a) is responsible for the tasks meant in Article III, paragraph two, sub-paragraphs (b) and (c), paragraph three, sub-paragraph (c), paragraph four, sub-paragraph (b), paragraph five, sub-paragraphs (b) and (c), Article IV, paragraph two, sub-paragraphs (b) and (c), paragraph five, sub-paragraphs (a) and (b), paragraph

- six, sub-paragraph (b), Article V, second paragraph, sub-paragraphs (a) and (b), fourth paragraph, Article VI, sixth and seventh paragraph, Article VII, second, third, fifth and sixth paragraph and Article VIII, paragraph seven of the CITES Convention in accordance with the further relevant provisions,
- (b) is authorized to issue permits and certificates pursuant to the provisions of Articles III, IV, and V of the CITES Convention, to allow the exception meant in Article VII, paragraph seven of the CITES Convention and to grant the authorization meant in that paragraph in accordance with the further relevant provisions,
  - (c) has as its task the updating of the following registers:
    - i. a register of the species in the Netherlands Antilles as designated in Annex 1 of the CITES Convention and the Bonn Convention and Annexes 1 and 2 of the SPAW Protocol,
    - ii. a register in the Netherlands Antilles in accordance with the provision meant in Article VIII, paragraph six, sub-paragraphs (a) and (b) of the CITES Convention,
    - iii. a register of the persons in the Netherlands Antilles that breed or cultivate in captivity animal or plant species included in the annexes to the CITES Convention.
3. The Management Authority provides a receipt for every registration in the registers as meant in paragraph two, sub-paragraph (c) under i.
  4. A General National Resolution establishes regulations regarding the content, form and management of the registers meant in paragraph two as well as the information and documentation that must be provided when coming forward to register.
  5. The Management Authority is authorized to charge a fee, set by means of a General Ministerial Resolution, for its tasks as meant in paragraphs two and three.

## **ARTICLE 6**

1. The Minister appoints one or more experts or agencies as Scientific Authorities.
2. The Scientific Authority has the following tasks:
  - (a) advising as meant in Article III, paragraph two, sub-paragraph (a), paragraph three, sub-paragraph (a), and paragraph five, sub-paragraph (a) as well as Article IV, paragraph two, sub-paragraph (a), paragraph six, sub-paragraph (a) of the CITES Convention,
  - (b) constantly monitoring and advising as meant in Article IV, third paragraph of the CITES Convention,
  - (c) advising as meant in Article VIII, paragraph four, sub-paragraph (c) of the CITES Convention,
  - (d) if requested to do so, advising the Minister, the Executive Committee, the Management Authority as well as the civil servants meant in Articles 16, paragraph one and 18, paragraph one about:
    - i. the identification of specimens as meant in Article 7 or species as meant in Article 8, and
    - ii. all other matters concerning nature conservation and protection that it is asked to advise on.
3. The Scientific Authority is authorized to charge a fee as determined by means of a General Ministerial Resolution for its tasks as meant in paragraph two.

## **ARTICLE 7**

In Articles 7A, 7B, 11, 15 and 35 and the provisions based thereon, the following mean:

- (a) specimen: specimen meant in Article 1, sub-paragraph (b) CITES Convention,
- (b) import: every action that apparently directly aims to realize the bringing into the territory of the Netherlands Antilles,
- (c) export: every action that apparently directly aims to realize the bringing outside of the territory of the Netherlands Antilles,
- (d) re-export: the export of that which was previously imported,
- (e) trade: the export, re-export, import and bringing-in of animals and plants coming from the sea,
- (f) introduction of animals and plants coming from the sea: transporting specimens of species mentioned in the annexes to the CITES Convention that are taken from a sea area not belonging to the Netherlands Antilles to within the borders of the Netherlands Antilles
- (g) transit: the export of every previously imported specimen that has not been freely trafficked.

#### **ARTICLE 7A**

1. Trade in specimens named in Annexes I, II or III of the CITES Convention has to be in accordance with the provisions of Articles III, IV, or V of this Convention respectively, without prejudice to the exceptions of Article VII, paragraphs two, three, five and six of the CITES Convention.
2. In the case of transit or transshipment as meant in Article VII of the CITES Convention, the specimen must have an export, re-export or introduction permit or certificate that has been issued in accordance with the provisions of Article VI of the CITES Convention.
3. Regulations regarding the execution of the CITES Convention can be established by means of a General National Resolution. Such a resolution can be established upon the request of an island territory.

#### **ARTICLE 7B**

1. For trade as meant in Article 7A, paragraph one, the issued permits and certificates based on the provisions of the Articles III, IV and V of the CITES Convention have to be in accordance with the provisions of Article VI of the CITES Convention.
2. Permits and certificates can be retracted if:
  - (a) the requirements or restrictions on the basis of which they were issued are not honored,
  - (b) the information provided to get a permit or certificate is incorrect or incomplete to such an extent that the request would have been denied or another decision would have been handed down if at the time of assessment correct or complete information had been available.
3. The model meant in Annex IV of the CITES Convention concerning permits and certificates is established by means of a General Ministerial Resolution.
4. The regulations included in the Resolutions of the CITES Convention with regard to permits and certificates meant in the articles of this Convention are applicable.

#### **ARTICLE 8**

In Articles 8A, 8B, 10 paragraph two, Articles 13 and 15 as well as the provisions based thereon, the following mean:

- (a) endangered species: species as meant in Article 1, sub-paragraph (f) of the SPAW Protocol,
- (b) threatened species: species as meant in Article 1, sub-paragraph (g) of the SPAW Protocol,
- (c) protected species: species as meant in Article 1, sub-paragraph (h) of the SPAW Protocol,
- (d) endemic species: species as meant in Article 1, sub-paragraph (i) of the SPAW Protocol
- (e) Scientific and Technical Advisory Committee: as meant in Article 20 of the SPAW Protocol.

#### **ARTICLE 8A**

1. It is forbidden to commit acts or activities as meant in Article 11, paragraph one, sub-paragraph (a) of the SPAW Protocol with regards to the plant species included in Annex I of that protocol and with regards to seeds, parts or products of these plant species.
2. It is forbidden to commit acts or activities as meant in Article 11, paragraph one, sub-paragraph (b) of the SPAW Protocol with regards to the animal species included in Annex II of that protocol and with regards to eggs, parts or products of these animal species.
3. By means of a General National Resolution regulations can be established regarding:
  - (a) the plant or animal species included in Annex III of the SPAW Protocol, observing the provision in Article 11 sub-paragraph (c) of that Protocol, and
  - (b) other matters concerning the execution of the SPAW Protocol, without prejudice to the provision of Article 13, paragraph one in conjunction with Article 15, paragraph three of this National Ordinance.

#### **ARTICLE 8B**

Exemptions from prohibitions as meant in Article 11, paragraph one of the SPAW Protocol can be granted as meant in Article 11, paragraph two and Article 14 of that Protocol by means of a General Ministerial Resolution after the Scientific and Technical Advisory Committee also mentioned in Article 11, paragraph two has positively assessed the reasons for the granting of exemption.

#### **ARTICLE 8C**

1. Without prejudice to the provision of Article 15, paragraph three of this National Ordinance, regulations can be established by General National Resolution for the execution of the Ramsar Convention, the Bonn Convention, the Biodiversity Convention and the Sea Turtle Convention.
2. The General National Resolution mentioned in paragraph one can provide that the Island Council is responsible for matters mentioned in the Conventions listed in the first paragraph, including a provision like the one in Article 15, paragraph three of this National Ordinance.

### **SECTION III      TASKS AND AUTHORITIES OF THE ISLAND TERRITORIES**

#### **ARTICLE 9**

1. The Executive Committee establishes an island nature plan once every five years.
2. The nature plan must have the Island Council's approval.
3. The nature plan in any case includes:
  - a. the island nature policy's points of departure for the period of the plan, in compliance with the obligations that arise from international conventions on nature conservation and protection as well as from the nature policy plan meant in Article 2, paragraph one,
  - b. an overview of items that will be realized within the plan's duration as well as the period of time within which this will occur
4. The Executive Committee reports annually before June 1<sup>st</sup> to the Island Council and to the Minister about the state of affairs with regards to the execution of the nature plan.
5. In drafting the nature plan the Executive Committee ensures that it is in keeping with the nature policy plan.

#### **ARTICLE 10**

1. The Island Council in as far as possible establishes nature parks.
2. In as far as these nature parks are parks as meant in the Ramsar Convention, the SPAW Protocol or the Biodiversity Convention, the requirements that these conventions set regarding such parks apply.
3. The Island Council that has established such a nature park informs the Minister accordingly, making mention relevant information.
4. The Minister submits the nature parks to the respective offices that have been set-up by the conventions for their execution, with the request that they be included in the list of protected areas accompanying the convention.

#### **ARTICLE 11**

1. The Island Council is responsible for the conservation measures for and the protection of the species that are mentioned in the annexes to the Sea Turtle Convention.
2. The requirements that apply pursuant to the convention named in the first paragraph are applicable.

#### **ARTICLE 12**

1. The Island Council is responsible for the protection of and the conservation measures for the species that are mentioned in the annexes to the Bonn Convention.
2. The requirements that apply pursuant to the convention named in the first paragraph are applicable.

#### **ARTICLE 13**

1. The Island Council is responsible for the protection of and the conservation measures for the species that are mentioned in the annexes to the SPAW Protocol.
2. The requirements that apply pursuant to the convention named in the first paragraph are applicable.

#### **ARTICLE 14**

1. The Island Council is responsible for the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources.
2. The requirements that apply pursuant to the Biodiversity Convention named in the first paragraph are applicable.

#### **ARTICLE 15**

1. At the latest two years after this National Ordinance comes into effect, the Island Council establishes regulations for the execution of the island territories' obligations that arise from this National Ordinance.
2. On request of the Executive Committee the Minister can provide in whole or in part the facilities, means and support that are necessary for the execution of this National Ordinance and the regulations arising from it in the respective island territories.
3. In as far as the Island Council fails to establish the regulations mentioned in paragraph one within the period of time mentioned, this is seen to by means of a General National Resolution, having heard the Executive Committee, within a maximum of two years after completion of that period of time.

### **SECTION IV MONITORING AND TRACING / TRACKING**

#### **ARTICLE 16**

1. Civil servants or other persons as appointed by a National Resolution are responsible for monitoring the compliance with the provisions of or pursuant to this National Ordinance. Such an appointment will be made known by publication in the Curaçao Courant.
2. In as far as the monitoring meant in the first paragraph concerns compliance with the provisions established by the island territories for the execution of this National Ordinance, this monitoring is also carried-out by civil servants or persons appointed to do so by the Executive Committee. Such an appointment will be made known in the publication used by that island territory for official announcements.
3. Those appointed on the basis of paragraphs one and two are – only in as far as is reasonably necessary for the fulfillment of their tasks – authorized:
  - (a) to want information from any person,
  - (b) to want to inspect all books, documents and other data carriers and to take these with them temporarily or take copies with them,
  - (c) to record and investigate goods, take these with them temporarily for this purpose and take samples from them,
  - (d) to enter any place, with the exception of residences without the resident's express permission, accompanied by persons as indicated by them,
  - (e) to investigate vessels, stationary vehicles and their cargo,
  - (f) to enter residences or areas in vessels used as residences without the resident's express permission.
4. If necessary they can gain entry to a place meant in paragraph three, subparagraph (d), with the police's help.
5. Title X of the Third Book of the Code of Criminal Procedure applies to the entry of residences or areas in vessels used as residences as meant in the third paragraph, subparagraph (f), with the exception of Articles 155, paragraph four, 156, paragraph two,

157, paragraphs two and three, 158, paragraph one, last phrase and 160, first paragraph and in the understanding that the authorization – if it concerns persons appointed pursuant to the first paragraph – is granted by the Attorney General and – if it concerns persons appointed pursuant to the second paragraph – the Lieutenant Governor. By means of a General National Resolution regulations can be established with regards to the manner in which the persons appointed pursuant to paragraphs one and two carry-out their tasks.

#### **ARTICLE 17**

1. Everyone is obliged to cooperate fully with the persons responsible for monitoring compliance to the extent they can reasonably in the execution of their tasks want such cooperation.
2. Those who are held to confidentiality on the basis of their office, their profession or a statutory provision can refuse to cooperate in so far as their obligation to confidentiality so requires.

#### **ARTICLE 18**

1. Besides the persons meant in Article 184 of the Code of Criminal Procedure, the persons responsible for tracing and tracking acts that are criminal pursuant to this National Ordinance are those civil servants and others so appointed by General National Resolution. Such an appointment will be made known by publication in the Curaçao Courant.
2. In as far as the tracing and tracking meant in the first paragraph concerns acts that are established as criminal by the island territories for the execution of the provisions of this National Ordinance, this tracing and tracking is also carried-out by civil servants or persons appointed to do so by the Executive Committee. Such an appointment will be made known in the publication used by that island territory for official announcements.

#### **ARTICLE 19**

Any person involved in the execution of this National Ordinance and in doing so has access to information that he knows or reasonably should suspect to be confidential, and for whom a legal obligation of confidentiality on the basis of their office, their position or a statutory provision does not exist, is held to confidentiality except for so far as a statutory provision obliges him to make it known or his task in the execution of this National Ordinance makes it necessary to make it known.

### **SECTION VI            SANCTIONS**

#### **1.        *Administrative Duress***

#### **ARTICLE 20**

The Minister and the Executive Committee, in as far as is concerns violation of island provisions, are authorized to have taken away, evicted, prevented, returned into the previous condition or done that which is done, kept or omitted in violation with the obligations arising from and pursuant to this National Ordinance.

## **ARTICLE 21**

1. A decision to apply administrative duress is in writing and qualifies as an order.
2. It is made known to the offender and possibly to other interested parties.
3. The order states a period of time within which interested parties can prevent its execution by taking measures themselves. The measures to be taken are mentioned in the order.
4. No period of time has to be granted if the necessary urgency opposes such.
5. If the situation is that urgent that the Minister or the Executive Committee can not put the order to use administrative duress in writing beforehand, they see to it that the writing and making known of the order happen as quickly as possible.

## **ARTICLE 22**

1. The offender must pay the costs related to the use of administrative duress unless these costs should not reasonably in whole or in part be for his account.
2. The order mentions that the costs for the use of administrative duress are for the offender's account.
3. If the costs in whole or in part will not be for the offender's account, the order will state so.
4. The costs as meant in paragraph one include the costs related to the preparations for administrative duress in as far as these costs are made after the period of time meant in Article 21, paragraph three has expired.
5. The costs are also due if administrative duress is not used or not used in full due to the discontinuance of the illegal situation.

## **ARTICLE 23**

1. The Minister or the Executive Committee, in as far as it concerns violation of island provisions, can by means of an enforcement order demand payment by the offender of the costs due, increased with collection costs.
2. The enforcement order is served by bailiff's writ at the offender's expense and is an enforceable title as meant in the Second Book of the Code of Civil Procedure of the Netherlands Antilles.
3. During the six weeks following the day of the serving opposition to the enforcement order can be lodged by summoning the public legal person of the Netherlands Antilles or the appropriate island territory.
4. The opposition suspends the execution. Upon the public legal person of the Netherlands Antilles' or the appropriate island territory's request the Court in First Instance can lift the suspension of the execution.

## **ARTICLE 24**

The costs related to the use of administrative duress are privileged with regards to the items for which they are incurred and are paid with the proceeds from the items after the costs meant in Article 1165 sub-paragraph (4) of the Code of Civil Procedure of the Netherlands Antilles are satisfied.

## **ARTICLE 25**

In order to execute a decision to use administrative duress, Article 16, paragraph three up to and including five and Article 17 apply to the persons appointed by the Minister or the Executive Committee, in as far as it concerns violation of island provisions.

## **ARTICLE 26**

The Minister or the Executive Committee, in as far as it concerns violation of island provisions, are authorized to seal buildings, terrains and that which is on it.

#### **ARTICLE 27**

1. Included in the authority to use administrative duress is the taking and storing of items that can be taken and stored in as far as this is necessary for the use of administrative duress.
2. If property is taken and stored, the Minister or the appropriate Executive Committee make an official report of that, a copy of which is given to the interested party.
3. The Minister and the appropriate Executive Committee are responsible for the upkeep of the stored items and return these to the entitled person.
4. The Minister and the appropriate Executive Committee are authorized to postpone returning items until the costs due are paid. If the entitled person is not the offender, the Minister and the appropriate Executive Committee are authorized to postpone returning items until the costs of upkeep are paid.

#### **ARTICLE 28**

1. The Minister and the Executive Committee, if it concerns the violation of island provisions, are authorized, if a stored item can not be returned after three months of storage, to sell it or, if sale in their opinion is not possible, give the ownership of the item to a third party free of charge or have it destroyed.
2. The Minister and the appropriate Executive Committee have the same authority during that period of time as soon as the costs related to the use of administrative duress, increased with the estimated costs of the sale, transfer of ownership free of charge or destruction become disproportionately high with regards to the value of the items.
3. Sale, transfer of ownership free of charge or destruction do not occur until two weeks have passed since a copy of the official report regarding the taking and storing was given unless it concerns dangerous substances or items that contain substances that will spoil sooner than that.
4. For a period of three years after the time of sale the person who was the owner at that time is entitled to the proceeds of that item, with a deduction of the costs of the sale by the use of administrative duress.

#### **2. *Penalty***

#### **ARTICLE 29**

1. The Minister and the Executive Committee, if it concerns the violation of island provisions, can, instead of using administrative duress, place a penalty on the offender by means of an order. If the interest that the violated provision aims to protect opposes such, an order with a penalty is not chosen instead of using administrative duress.
2. The Minister or the appropriate Executive Committee determine the amount of the penalty either as one amount to be paid once or as an amount per period of time that the order is not executed or as an amount per violation of the order. They also determine an amount above which no more penalties will be forfeited. The amount determined should be proportionate to the severity of the violated interests and the effect that the placement of the penalty aims to have.

3. In the order to place a penalty that sees to undoing or ending a violation, a period of time is given during which the offender can execute the order without forfeiting the penalty.

#### **ARTICLE 30**

1. Forfeited penalties are for the public legal person of the Netherlands Antilles or the appropriate island territory.
5. The Minister and the appropriate Executive Committee can by means of an enforcement order demand payment by the offender of the amount due, increased with collection costs. Article 22, second, third and fourth paragraphs apply.

#### **ARTICLE 31**

1. The Minister or the appropriate Executive Committee can upon the offender's request lift the penalty or suspend its application for a certain term in the event of permanent or temporary impossibility on the part of the offender to fulfill his obligations.
2. The Minister or appropriate Executive Committee can upon the offender's request lift the penalty if the order has been effective for a year without the penalty being forfeited.

#### **ARTICLE 32**

1. The authority to collect forfeited penalties becomes barred by limitation with the passing of a year after the date that they are forfeited.
2. The barring by limitation is suspended by bankruptcy and every statutory impediment regarding collection of the penalty.

### **3. *Criminal Provisions***

#### **ARTICLE 33**

1. Violation of the provisions of or pursuant to Articles 7A, 7B, 8A, 8B and 8C or pursuant to Article 15 and violation of the prohibitions in or pursuant to Articles 7A, 7B, 8A, 8B and 8C or pursuant to Article 15 is – in as far as they are committed intentionally – punished with either a maximum prison sentence of four years or a maximum monetary fine of ANG 1,000,000, or both.
2. Violation of the provisions of or pursuant to Articles 7A, 7B, 8A, 8B and 8C or pursuant to Article 15 and violation of the prohibitions in or pursuant to Articles 7A, 7B, 8A, 8B and 8C or pursuant to Article 15 is – in as far as they are not committed intentionally - punished with either a maximum prison sentence of one year or a maximum monetary fine of ANG 100,000, or both.
3. Violation of the provisions of Article 17, paragraph one and Article 19 is punished with either a maximum prison sentence of six months or a maximum monetary fine of ANG 25,000, or both.

#### **ARTICLE 34**

The criminal acts in Article 33, paragraph one are felonies; the other criminal acts in the second paragraph misdemeanors.

#### **ARTICLE 35**

1. Without prejudice to what is prescribed in Articles 35, 36 and Articles 38b up to and including 38d of the Criminal Code of the Netherlands Antilles, all specimens that are found to be present illegally, no matter where, will be seized or confiscated.
2. Seized or confiscated specimens will be – in accordance with regulations established by the Minister – placed under the supervision of a person or agency.
3. Seized or confiscated live specimens will be – in accordance with regulations established by the Minister – returned to nature.
4. Seized or confiscated live specimens that originate from a Contracting State will, at the owner's expense or that of the transporter, importer or his representative, either be returned to that State or sent to another Contracting State if that State in the Minister's opinion ensures a more suitable environment for the specimen.
5. Seized or confiscated live specimens that originate from a non - Contracting State will, at the owner's expense or that of the transporter, importer or his representative, be placed in a suitable environment in the Netherlands Antilles as determined by the Minister or sent to a Contracting State where in the Minister's opinion a more suitable environment is ensured.
6. In an extreme instance, the Minister can order that the seized or confiscated live specimens, at the owner's expense or that of the transporter, importer or his representative, be destroyed in accordance with rules to be established by the Minister.
7. Seized or confiscated dead specimens are destroyed at the owner's expense or that of the transporter, importer or his representative. In special instances the Minister can diverge from what is prescribed in the first sentence, if it is ensured that that the relevant item can never be placed on the economic market.
8. Articles 22 and 23 apply to what is owed on the basis of provisions of paragraphs five, six or seven.

## **SECTION VII                    APPEAL**

### **ARTICLE 36**

The Court of First Instance of the Netherlands Antilles will rule in cases that arise from this National Ordinance and Island Ordinances based on it.

### **ARTICLE 37**

An appeal against a ruling of the Court of First Instance of the Netherlands Antilles as meant in Article 36 is lodged with the Joint Court of Appeals of the Netherlands Antilles and Aruba within thirty days.

## **SECTION VIII                    TRANSITIONAL          AND          CONCLUDING PROVISIONS**

### **ARTICLE 38**

1. The national nature policy plan as meant in Article 2, paragraph one will at the latest be established for the first time within a year of this National Ordinance coming into effect.

2. The island nature plan meant in Article 9, paragraph one will at the latest be established for the first time two years after this National Ordinance comes into effect.
3. If the Executive Committee fails to establish the island nature plan within the period of time mentioned in paragraph two then the Lieutenant Governor establishes it, either with or without first receiving an instruction from the Governor as meant in Article 68, paragraph one of the Islands Regulation Netherlands Antilles.

#### **ARTICLE 39**

1. The following are retracted:
  - (a) the National Ordinance of April 11th, 1942 concerning the prohibition to export aloe plants (P.B. 1942, no. 84),
  - (b) the National Ordinance of July 19th, 1976 for the protection of marine areas (P.B. 1976, no. 157),
  - (c) the National Resolution prohibition import and export endangered animals and plants (P.B. 1992, no. 1).
2. Article 1, sub-paragraph (b) of the General National Resolution March 3rd, 1960 (P.B. 1960, no. 25) for the execution of Articles 1 and 6 of the Export Prohibition Ordinance 1944 (P.B. 1944, no. 117) is canceled.
3. The National Ordinance July 20th, 1926 for the protection of animal species that are useful for agriculture or that are slowly disappearing and whose existence is desired (P.B. 1926, no. 60), is retracted for the relevant island territory as per the date that for that island territory the Island Ordinance meant in Article 17 of this National Ordinance comes into effect.

#### **ARTICLE 40**

1. The prohibitions in Article 8A, paragraphs one and two or those pursuant to the third paragraph, sub-paragraph (a) do not apply to the specimens of a species included in Annexes I and II of the SPAW Protocol that one has at the time that this National Ordinance comes into effect.
2. Without prejudice the provision of the first paragraph, every person that has a species included in Annex I of the CITES Convention and in Annexes I and II of the SPAW Protocol must register or have these registered in the register meant in Article 5, second paragraph, sub-paragraph (c) first part within six months of this National Ordinance coming into effect.

#### **ARTICLE 41**

This National Ordinance comes into effect on a date to be determined by means of National Resolution.

#### **ARTICLE 42**

This National Ordinance can be cited as: "National Nature Conservation Ordinance".

As presented on Curaçao, February 9, 1998  
J.M. SALEH

The Minister of Public and Environmental Health,

B.J. DORAN-SCOOP

The Minister of Justice,  
P.J. ATACHO

The Finance Minister,  
H. HERNRIQUEZ

Issued on April 3, 1998

The Minister of General Affairs,  
M.A. POURIER