

**Unofficial Translation<sup>1</sup>**

**State Ordinance Foreign Exchange Transactions**

=====  
Title : State Ordinance Foreign Exchange Transactions  
Source : AB 1990 no. GT 6, AB 1990 no. GT 6a  
Amendments : AB 1997 no. 33 and no. 34; AB 2002 no. 124; AB 2005 no. 76 (amended by: 2007 112); AB 2009 no. 75; AB 2014 no. 11 (entry into force AB 2014 no. 12); AB 2017 no. 45;  
=====

Chapter I

Definitions

Article 1

For the purposes of the provisions laid down by or pursuant to this State Ordinance, the following definitions shall apply:

- residents : a. natural persons residing in Aruba and recorded in the civil registry, or those who, as of the date of their arrival, actually reside in Aruba for more than one year, as soon as that year has lapsed;  
b. legal entities, general partnerships, limited partnerships and Aruba Exempt Corporations that have their registered office in Aruba;  
c. branches, branch offices, companies and agencies that have their registered office in Aruba, insofar not covered under b;  
d. (repealed);  
e. persons, legal entities and other institutions designated by the Central Bank of Aruba, insofar as not covered under a, b and c;
- non-residents: a. natural persons, legal entities, general partnerships, limited partnerships, branches, branch offices, companies and agencies not falling under the definition of residents;

---

<sup>1</sup> No rights can be derived from this unofficial translation.

- b. diplomatic and consular representations of foreign powers and international organizations in Aruba; and
  - c. the diplomatic, career consular and administrative officers of foreign nationality employed by the representations referred to in paragraph b, their spouses and children residing with them;
- gold : gold coins, fine gold, gold alloys (unprocessed and semi-finished products);
- precious metals : silver, platinum and platinum metals (unprocessed and semi-finished products);
- precious stones : diamonds and similar precious stones (in raw or semi-manufactured condition);
- monetary instruments : checks, bills of exchange, promissory notes and similar instruments, as well as travelers' letters of credit and credit cards, with the exception of securities;
- instruments of payment : coins (with the exception of gold coins), currency notes, banknotes and similar means of exchange;
- claims : outstanding debts expressed in money, insofar as they are not embodied in monetary instruments or securities;
- securities : a. share certificates, bonds, mortgage-backed bonds, fixed-trust share certificates, participation certificates, profit-sharing certificates, founder's shares, stock options, treasury bills, registrations in debt and share registers and similar instruments and rights;
- b. certificates of the instruments and rights referred to in paragraph a;
- c. scrips representing the instruments referred to in paragraphs a and b;
- foreign securities : securities other than those issued by or payable by public entities of Aruba, or private corporations, partnerships and limited partnerships with their registered office in Aruba;
- goods : movable property within the meaning of the Civil Code of Aruba, with the exception of gold, precious metals, precious stones, instruments of payment, monetary instruments, securities and documents representing claims;

exchange office	: a money transfer company as meant in Article 1 of the State Ordinance on the Supervision of Money Transfer Companies (AB 2003 no. 60) which carries out money transfers as referred to in sections b and c of the definition of Article 1 of said Ordinance;
foreign exchange bank	: a bank authorized to act as a foreign exchange bank pursuant to Article 12 of the Central Bank Ordinance;
foreign country	: the territory outside Aruba;
florin	: the Aruban florin;
Bank	: the Centrale Bank van Aruba.

## Chapter II

### General provisions

#### Article 2

1. The general foreign exchange policy is vested with the Government.
2. The Bank is responsible for carrying out the regulations concerning the foreign exchange transactions, for the account and risk of the Government.

#### Article 3

1. By State Decree containing General Administrative Measures, and after having heard the Bank, the value of the florin is determined, which the Bank observes when setting the exchange rates for foreign currencies.
2. The exchange rates for foreign currencies determined by the Bank are applied in payment transactions by the Bank, the foreign exchange banks and the exchange offices.

#### Article 4

1. If the interests of the national economy, the interests of the international legal system, the implementation of an international agreement or an obligation so requires, regulations may be issued by State Decree containing General Administrative Measures with regard to financial transactions with designated countries or with regard to designated goods.
2. The regulations referred to in the first paragraph shall contain general guidelines to be observed by the Bank in the exercise of the powers conferred to it by or pursuant to this State Ordinance.

## Article 5

The conditions, regulations and provisions issued under or pursuant to this State Ordinance do not apply to the Bank, insofar as they are related to assets held by the Bank at its own expense or which it has in custody for account of the Government.

## Article 6

1. The activities of the foreign exchange banks are subject to the supervision of the Bank in accordance with the conditions, regulations and provisions given by or by virtue of this State Ordinance.

2. The Bank is authorized to issue instructions to the foreign exchange banks with regard to their activities as referred to in the first paragraph; these instructions form part of the conditions under which authorization has been granted to the bank to operate as a foreign exchange bank.

## Article 7

Exchange offices must take into account the instructions referred to in Article 6, in the performance of their duties where they apply to their activities.

## Article 8

1. Everyone is obliged to provide the Bank, at its request, with all information and data, which are of importance for the compilation of the balance of payments.

2. The Bank is authorized to issue administrative regulations to obtain the information and data referred to in the first paragraph.

## Chapter III

### Payment transactions

## Article 9

1. Payment transactions with foreign countries, referred to in the second paragraph of this Article, are in principle free; this freedom may be restricted by conditions, regulations or provisions given by or pursuant to this State Ordinance.

2. Payment transactions with foreign countries, referred to in the first paragraph, consist of payments and receipts to and from, respectively, non-residents in connection with:

- a. the import and export of goods and ancillary costs related therewith;
- b. transit transactions;

- c. freight and insurance costs for international transport;
- d. passage costs;
- e. travel and accommodation expenses;
- f. interests and dividends;
- g. profit transfers;
- h. rentals;
- i. repayment instalments on loans;
- j. depreciations on investments;
- k. short-term bank credits and similar short-term bank facilities;
- l. performing work and providing services;
- m. office and administrative expenses;
- n. wages and pensions;
- o. insurance premiums;
- p. alimony and study allowances;
- q. other transactions which in the Bank's opinion are equivalent to these.

3. If the Bank is of the opinion that, as a consequence of the payment transactions with foreign countries, the foreign exchange reserves position of the Country is seriously affected, or that such a development threatens to occur, the Bank may issue regulations with regard to the payments and receipts referred to in the second paragraph; these regulations may contain a prohibition to make or receive payments designated therein without a license.

#### Article 10

1. With the exception of the payment transactions referred to in Article 9, all other payment transactions with foreign countries, including capital transactions, are prohibited other than pursuant to a license.

2. Residents are not allowed to perform or cooperate in acts relating to or leading to payment and capital transactions referred to in the first paragraph, nor are they allowed to provide security, to grant suretyship and to provide other guarantees to perform or to cooperate in these acts, other than by virtue of a license.

#### Article 11

Unless an exemption has been granted, payments to non-residents in whatever foreign currency must be made either from an account in the name of the Bank or in the name of a foreign exchange bank denominated in that currency, or into an account in the name of the non-resident in the books of the Bank or of a foreign exchange bank, denominated in that currency.

## Article 12

1. If residents did not sell the foreign monetary instruments or foreign claims belonging to them or issued them for collection and transferred them to a foreign exchange bank, they are obligated to promptly proceed to collection of the foreign monetary instruments or foreign claims belonging to them, as soon as the monetary instruments is payable or claim is demandable.

2. The collection, referred to in the first paragraph, must be effected either by arranging for the amount to be claimed to be deposited in an account abroad in the Bank's name, or in the name of a foreign exchange bank or by arranging for the amount to be claimed to be paid from a non-resident's credit balance with the Bank or with the foreign exchange bank.

3. If collection of foreign monetary instruments or a foreign claim is effected in the manner referred to in the second paragraph, it is permitted to credit the amount in question to an account denominated in foreign currency in the name of the resident with the Bank or with a foreign exchange bank.

4. Exemption from the provisions of this Article may be granted.

## Article 13

Otherwise than pursuant to a license, residents are not allowed to keep in their books, under whatever name, a credit balance denominated in florin in the name of or on behalf of a non-resident, if this credit balance is or has been created by transfer from a foreign country or by payment of florin or foreign currencies by or on the instructions of non-residents.

## Article 14

1. Except for travel purposes, no one is allowed to export instruments of payments otherwise than pursuant to a license.

2. Unless exempted, residents are obliged either to sell to a foreign exchange bank or exchange office, against florin, foreign instruments of payments belonging to them within a period of eight workdays after the day of receipt or to deposit them into an account in a foreign currency with the Bank of a foreign exchange bank in the name of a resident.

## Article 15

1. Residents are prohibited, other than pursuant to a license, to import or export precious metals, gold, precious stones, securities and similar valuables.

2. Unless exempted, residents are obligated to deposit the foreign securities belonging to them in safe custody:

- a. in Aruba: with the Bank or a foreign exchange bank;
- b. abroad : with a non-resident as an addition to a securities deposit in

the name of the Bank or in the name of a foreign exchange bank.

3. With regard to securities to be deposited for safe custody, which are provided with coupon or dividend sheets, it is sufficient to deposit these coupon or dividend sheets in the manner referred to in the second paragraph.

## Chapter IV

### Licenses

#### Article 16

1. If a license or an exemption is required for the performance of or the cooperation in acts by or pursuant to this State Ordinance, the Bank is authorized to grant the license or exemption.

2. If certain acts for which a license or exemption is required by or pursuant to this State Ordinance tend to be performed recurrently, the Bank may grant a general license or exemption to perform or cooperate in such acts.

3. A license or exemption may be granted subject to conditions; if a condition is not fulfilled, the license or exemption will be considered not to have been granted.

4. A license or an exemption may be made subject to obligations.

#### Article 17

If the Bank is of the opinion that there are special circumstances, the Bank may retrospectively grant a license or an exemption for the performance of or cooperation in an act; such a license or exemption shall be deemed to have been granted at the time of the performing or cooperating in said act.

#### Article 18

Licenses or exemptions required by or pursuant to this State Ordinance for the performance of or the cooperation in an act may be applied for by and granted to anyone who is a party to or cooperates in such an act. If the license is granted, it applies to all those who are parties to or cooperate in the act.

## Chapter V

### Classification as a non-resident

#### Article 19

1. If the Bank grants an enterprise an exemption from the conditions, regulations and provisions laid down by or pursuant to Articles 9, 10, 11, 12, 13, 14 and 15, the Bank may declare that the enterprise is classified as a non-resident with regard to payment transactions.

2. Aruba Exempt Corporations established before January 1, 2006 will be exempted by operation of law from the conditions, regulations and provisions laid down by or pursuant to Articles 9, 10, 11, 12, 13, 14 and 15. With regard to payment transactions, the companies will be classified as non-resident by operation of law. The Aruba Exempt Corporation is obliged to notify the Bank if there has been any change in the activities since January 1, 2006. In that case, the Bank may withdraw the exemption mentioned in this paragraph and declare that the company will be classified as resident with effect from a date to be determined by the Bank.

#### Article 20

1. If the Bank has granted an exemption and a declaration as referred to in Article 19, the enterprise in question is not subject to the provisions of Article 26, unless the Bank reasonably suspects that the conditions under which the exemption referred to in Article 19 was granted are violated.

2. If the Bank establishes, based on the investigation in accordance with the provisions of Article 26, that one or more conditions of the exemption referred to in Article 19 has/have been violated, the Bank may withdraw the exemption at least three months after the Bank has notified the board of the enterprise in question of its intention to do so by certified letter.

#### Article 21 (repealed)

## Chapter VI

### Special provisions

#### Article 22

All documents drawn up in connection with the application and fulfillment of the provisions laid down by or pursuant to this State Ordinance are exempt from stamp duty and from the formality of registration.



## Article 23

1. Unless otherwise provided in this State Ordinance, no compensation will be paid for damage arising from the conditions, regulations and provisions laid down by or pursuant to this State Ordinance.

2. If an act for which a license or an exemption is required has been performed without a license or exemption, the parties involved in the act may not invoke the absence of the license or exemption against each other.

## Article 24

1. All persons involved in the implementation of the conditions, regulations and provisions laid down by or pursuant to this State Ordinance by virtue of their office or profession are obliged to observe the confidentiality of all that comes to their attention in their capacity, unless they are required by virtue of their office or profession to disclose same.

2. The obligation referred to in the first paragraph also applies to experts who are consulted in connection with the implementation of the conditions, regulations and provisions laid down by or pursuant to this State Ordinance, or who are entrusted with any other activity.

## Article 25

A resident is prohibited to cooperate in an agreement or an act of which he knows or should reasonably know that, to enter into it or perform it, a license or an exemption is required based on the conditions, regulations and provisions laid down by or pursuant to this State Ordinance, unless he has ascertained in advance that the required license or exemption has been obtained.

## Chapter VII

### Supervision

## Article 26

1. The persons designated for this purpose by State Decree in agreement with the President of the Bank and the customs officers shall be entrusted with the supervision on the compliance with the provisions laid down by or pursuant to this State Ordinance. Such a State Decree shall be published in the Government Gazette of Aruba.

2. The designated civil servants and persons referred to in the first paragraph shall be authorized to the extent reasonably required for the performance of their duties:

a. to request all information;

- b. to demand inspection of all business records, documents and other data carriers and to make copies thereof or to temporarily take them along for this purpose;
- c. to examine and inspect goods and to temporarily take them along for this purpose;
- d. to enter all places, except for houses without the express permission of the occupant, accompanied by persons designated by them.

3. If, as a result of the supervision exercised, it is established that one or more violations of the conditions, regulations and provisions laid down by or pursuant to this State Ordinance has/have been committed, the Bank may charge the costs of such supervision to the person who or for whose benefit the violation has been committed, and may give instructions as to the manner in which and the condition under which the violations must be remedied.

4. If necessary, access to a place as referred to in the second paragraph, subparagraph d, shall be gained with the aid of the strong arm of the law.

5. By State Decree containing General Administrative Measures, regulations shall be laid down regarding the way in which the civil servants and designated persons referred to in the first paragraph perform their duties.

6. Each and anyone is obligated to give the civil servants and designated persons referred to in the first paragraph all the cooperation required pursuant to the second paragraph.

## Chapter VIII

### Appeal

#### Article 27 (repealed)

## Chapter IX

### Penal provisions

#### Article 28

1. He who intentionally violates the conditions, regulations, provisions and obligations laid down by or pursuant to this State Ordinance will be punished with imprisonment not exceeding two years or a fine of the fourth category.

2. He who violates the conditions, regulations, provisions and obligations laid down by or pursuant to this State Ordinance shall be punished with imprisonment not exceeding six months or a fine of the third category.

3. The acts made punishable in the first paragraph shall constitute serious offenses; the acts made punishable in the second paragraph shall constitute minor offenses.

Articles 29 and 30  
(repealed)

Chapter X

Transitional and concluding provisions

Article 31

Licenses, dispensations or exemptions and the conditions and obligations attached to same, granted pursuant to the State Foreign Exchange Ordinance 1940 (Deviezenlandsverordening 1940) are deemed to have been granted pursuant to this State Ordinance, provided they have not lost their validity and have not been established contrary to the provisions laid down by or pursuant to this State Ordinance.

Article 32

This State Ordinance may be cited as the State Ordinance Foreign Exchange Transactions.