

RESPONSE OF SURINAME

Systems of Government Hiring

Staff Act (State Decree 1985 no. 41)

Article 3, paragraph 1

The following persons are authorized to hire (employ), promote, suspend and dismiss public servants:

- the president
- the ministers, each for the department of their concern;

paragraph 2

Public servants classified into, or in case of appointment or promotion classified into a rank associated with a fixed or minimum salary, amounting to more than half of the salary of the director of a department, shall, notwithstanding the provisions of the first paragraph, only by resolution of the President be appointed, promoted, suspended or dismissed.

Paragraph 3

The following persons are authorized to enter into national labor agreements:

- the President
- the Ministers, each for the department of their concern
- the government officials authorized for this purpose by the President or a Minister

Paragraph 5

The following persons are authorized to take decisions other than provided in the aforementioned paragraphs of this article, based on the provisions or by virtue of this Act:

- with respect to a public servant: the authority that last promoted him, or in case there has been no promotion, the authority that appointed him;
- with respect to a labor contractor: the authority with whom he last entered into a agreement.

Paragraph 6

Decrees by virtue of which a government official comes under another department, shall, notwithstanding the provisions of the first and fifth paragraph, either be taken by the relevant Ministers jointly, or pursuant to paragraph 2 or 5 a resolution of the President is required.

Paragraph 7

In case a government official is no longer hierarchical subordinate to the authority pursuant to paragraph 5 authorized to take decision to his regard, the Minister under whose department he has come shall replace that authority.

Article 4

During the execution of authorities based on the provisions or by virtue of this act, both in the interest of a proper and efficient composition and functioning of national service, and considering the personal interest of the persons subject to the authority.

Article 9, paragraph 1

There is a Board, consisting of no less than five members, with the task to upon their request or voluntarily advise the Government on personnel matters of general nature. The board is named Board for Personnel Matters.

Paragraph 2

The composition, organization and work method of the Board shall be regulated by virtue of state decree.

Article 12, paragraph 1

The appointment of a public servant pursuant to regulations by state decree, not withstanding the exceptions thereof, requires a medical examination in advance. The costs of such examination and, within the limits of the state decree, the traveling and accommodation expenses, shall be for the account of the state.

Paragraph 2

Persons shall only be eligible for appointment if:

- they are of the age of eighteen
- in case during the medical examination referred to in paragraph 1, no physical disability was discovered; and
- in case legal requirements of eligibility are met with regard to the function in which they will perform.

Paragraph 3

Appointment shall be in temporary or for an indefinite period of time.

Paragraph 4

A decree for appointment shall be given by written notification to the person in question.

Paragraph 5

An appointment shall not come into force until explicitly or tacitly agreed by the person in question. Persons, who according to civil law are not legally competent, may accept an appointment in case they are entitled by the provisions of the Civil Code of Suriname to enter into an agreement, not withstanding the conditions and limitations.

Article 13

In case the copy issued to a public servant does not state that the appointment concerns temporary employment, the appointment shall be deemed to be permanent.

Article 14, paragraph 1

Appointment for temporary employment shall only be possible:

- a. for persons based on the results of a medical examination referred to in article 12, paragraph 1, who do not immediately qualify for permanent employment;
- b. to meet the needs for staff for work activities of expiring nature;
- c. in case of preparation or implementation of the reorganization of the department of the state service in question;
- d. as a probationary period

Paragraph 2

Temporary appointment shall be for a term up to one year. In case the appointment decree does not provide otherwise, the appointment shall be deemed to be for one year.

Paragraph 3

The term of appointment in temporary service may each time be extended explicitly or tacitly, with the understanding that the temporary service in case of probation shall not be for a period exceeding two years, and in other cases no longer than three years in total. Tacit extension shall each time be deemed to be for a period of three months.

Article 15, paragraph 1

Labor agreements may only be entered into by the State:

- with persons who have not yet attained the age of twenty-one;
- With persons who have not yet attained the age of fifty;
- With persons who at the time of entering into the agreement have their permanent place of residence in Suriname;
- With persons who have not shown any physical disability during the medical examination referred to in article 12, paragraph 1, for their appointment as public servant;
- for a substitution position
- for positions that do not yield full daily, weekly or yearly work;
- for other positions provided for by virtue of state decree.

Article 16, paragraph 1

The place of work and the position of the public servant shall be stipulated in a decree for appointment and in a labor agreement concluded by the state.

Paragraph 3

A public servant may be appointed in more than one function, in case the joint scope of the work activities of the functions allows one person to perform these simultaneously. In case of such appointment, the main function shall be defined; the other functions shall be deemed to be additional functions. Insofar not provided otherwise, the law shall mean only the main function of a public servant.

Paragraph 4

The rank of the public servant shall be stipulated in a decree for appointment.

Article 21, paragraph 1

The authorized body may appoint a public servant, either upon his request, or in one's official capacity, in one or more functions other than determined at the commencement of his employment. Article 16, paragraph 3 shall apply.

Paragraph 2

Officially, the appointment in another function – including additional functions- shall only be in cases where the new function is in accordance with the education and competence of the public servant, or in which he could have been involuntarily be dismissed.

Article 22, paragraph 1

A public servant may by or on behalf of the authorized body be required to act in a function;

A: For the duration of absence or inability of the person appointed in such function;

B: for the duration of one year, in case the function has become vacant and he meets the legal requirements of suitability;

C: for an indefinite period of time, in case the function has become permanently vacant and he does not meet the legal requirements of suitability.

Paragraph 2

A person who does not meet the legal requirements of suitability of a function may only be asked to act in such function in case there are no other suitable candidates available who meet the requirements.

Recruiting Public Sector Staff in Practice

Staff may be recruited through:

1. Application Notice, or
2. a voluntary application/ external

Ad 1 this kind of application usually takes place when a group of people has to be recruited.

Ad 2 In this case, the demand for staff for a certain department/function is considered.

In both cases a job description is requested at the Central Staff department, a department of the Ministry of Home Affairs.

When, based on 1 and 2 a person is recruited, the applicants are called for an interview with the Head of the Personnel Department and the relevant departmental Manager or the Assistant Manager of the ministry. When it concerns a group of applicants, the interview takes place at the (assigned) selection committee.

The selection criteria are:

- The education of the person must meet the requirements of the job description
- The skills of the person
- Flexibility
- If testing is required, (urine test, psychological test), security check (mostly for functions such as Departmental Manager or someone who will be required to work closely to the minister (e.g. secretary)
- How representative the person is
- What expectations does the person have

In case the selection is positive, the Assistant Manager or the selection committee gives recommendation to the Departmental Manager, who will forward this information to the minister. The definite decision lies with the minister.

At the moment almost everyone is hired based on the labor agreement. After 2 years, upon request of the public servant an appraisal form is filled out by the Departmental Manager, who will send it via the Assistant Manager to the Manager. When the Manager positively assesses the function, the person is sent to the examination committee/medical committee, who will send the lab results to the relevant minister.

Following this, the public servant, in case he is regarded fit for work, will come into permanent service and an order for permanent appointment or appointment resolution is made.

GOVERNMENT SYSTEMS FOR THE PROCUREMENT OF GOODS AND SERVICES

Existence of provision in the legal framework draft or other measures

Compatibility Act (Act dated 2 December 1952, amended last by State Decree 1969 no. 58).

Article 18

Performing work and conducting deliveries and transports for the benefit of the country, put out to contract by public tender.

This regulation may not be departed other than by Presidential decision in case this is in the national interest.

In that case the motivation shall be made know in the decree, in which the work or deliveries and transport shall be recommended, of which a copy of the decree shall be sent to the Parliament.

Article 19

The conditions of the public tender shall state the securities, required for the admittance of competitors.

The provisions to be complied with at registration and the performance of the work, deliveries and transports shall be laid down by state decree.

No undertakings of interests with regard to potential delays in the settlement of their claims shall be given to contractors during agreements because of work, deliveries and transports.

Compatibility Decree (State Decree 1953 no. 100, last amended by SB 2004, 116)

Article 18

Tenders for the benefit of the national services, deliveries or transports shall be held in public by or on behalf of the relevant Minister, unless the President in cooperation with the relevant Minister and the Minister of Financial Affairs, decides to deviate from this regulation, of which the decision shall state the grounds on which it is based.

The tenders concerning various departments, and those of general nature, not directly under a certain department of general administration, shall be held by or on behalf of the Minister of Financial Affairs, unless the President in cooperation with the relevant Minister and the Minister of Financial Affairs decide otherwise.

In case the conditions of the tender are not yet stipulated in the general provisions for the execution of work, deliveries or transports, such tender shall only be held after approval of the conditions.

The contracts shall be entered into by the Ministers concerned.

No undertakings of interests with regard to potential delays in the settlement of their claims shall be given to contractors during agreements because of work, deliveries and transports

The rule of public tender may be deviated from:

1. for the ordering of goods from other countries that cannot be bought in Suriname, or only with significant disadvantage for national services or national treasury;
2. for deliveries, work and transports up to the amount of SRD 30,000.

The provisions of article 18 of the Compatibility Decree provide threshold rates which do not require public tenders for work, deliveries and transports. This article also provides that it is allowed to deviate from the rule of public tender for imports of goods that cannot be bought in Suriname, or only with significant disadvantage for national services or national treasury. Government purchases up to the amount of SRD 30,000 require at least 3 tenders.

General Provisions for the execution of the tender of work in Suriname (ABS)

The ABS dates from 1968 and is applied by all government tender services.

Paragraph 76

1. the tender specification is established by the Minister; the tender shall find place in public.
2. The tender shall be announced no less than 14 days in advance, by publication in the National Bulletin (now the Advertiser of the Republic of Suriname) and in any other additional way decided by the Minister.
3. The tender specification shall be made available for inspection at the locations mentioned in the announcement; furthermore the specification shall be available on payment, while the names of the buyers shall be registered.

The tenders shall also be published in the daily newspapers of Suriname.

Paragraph 77

1. The announcement of the tender shall provide information about the date and the place where the tender will be held and where the interested parties will receive further information.
2. Everyone who wants to register must be present or represented at the designated place.
3. The notice of information shall be made available for inspection from the 2nd Saturday at the Ministry, and sent free of charge to the registered buyers of the tender specification.

Paragraph 79

1. The tenders shall be upon registration. The registration bills must be submitted in duplicate, in a closed post paid envelope, shall be delivered at

the designated address, where they shall be put into a sealed ballot. The bills may be put into the ballot box up to the time indicated in the announcement.

Paragraph 80

2. The tender shall be held by the commissioning authority at the time and place designated in the tender announcement.
3. The opening of the ballot and the tender bills shall be in public, at the time and place designated in the announcement. The names of the tenders and the amounts stated on the bill, at which they are willing to perform the work, are read out loud.
4. A record is made from the proceedings of the tender. This record is made in accordance with a model prescribed by the Minister. It must be signed by the commissioning party.
5. Bills that do not meet all the requirements shall be deemed invalid, unless according to the commissioning party they give complete surety about the person and the intention of the tender.

Paragraph 81

1. The commissioning party shall assess the tenders. He solicits advice from a third party.
2. The commissioning party shall send written notice to the tender with the most plausible tender, notifying him that he has been selected to perform the work.

Suitability requirements

The suitability requirements are the requirements that a tender should meet at a public tender in order to qualify for the job.

These include:

1. Technical competency

Requirements regarding experience of a contractor, availability of material and his complement of staff.

Paragraph 79, section 11: the tender shall include a list of the material to be used.

Paragraph 82, section 1 sub c: the tender shall include a list of the people that will work as foremen incl. their personal information and work experience.

2. Financial-economic capacity

For support, bank statement proofing of the financial capacity, shall be presented.

Paragraph 78, section 4: at the assessment of suitability of the tender the disposal of financial means of the tender will be considered, among other things.

3. Organizational capacity

The tender must be able to prove that he is capable of completing the task by means of a work plan.

4. Social suitability

The tender must be registered at the Chamber of Commerce and dispose of a contractor's license.

Allocation criteria

If a tender wants to qualify for the job, he must meet the requirements laid down in the tender specification. The tender with the lowest rate or the highest economical profitability is allocated.

Paragraph 84, section 2 ABS: the most plausible offer qualifies.

The ORAG (The Board for Tenders and Licenses)

The missive of the Board of Ministers dated 14 October 2005 provides that the ORAG, chaired by the Vice President, consists of the Ministers of:

- Financial Affairs, acting as coordinating minister
- Justice and Police
- Public Works
- Natural Resources
- Education and Community Development
- Transport, Communication and Tourism

During a public tender, a Board Proposal is made and submitted to the ORAG. This body assesses the result of the tender held by the government agencies, and also decides by missive which applicant qualifies for the job.

ARTICLE VI

Acts of Corruption

A. Article 427 Criminal Code

A prison sentence up to 4 years will be given to the public servant who:

1. accepts a gift or promise, knowing that such gift or promise may induce him to, in breach of his duty, in his function do or not do something;
2. accepts a gift, knowing that such gift results from or is due to something he did or did not do in breach of his duty, in his function.

B. Article 229 Criminal Code

A prison sentence up to two years or a fine up to three hundred guilders will be given to him who:

1. gives a public servant a gift or promise with the aim of having him do or not do something in breach of his duty;
2. gives a public servant a gift as a result of or due to something he did or did not do in breach of his duty;

C. Article 423 Criminal Code

The public servant or any other person with a public function, engaged full-time or part-time, who intentionally embezzles or allows others to embezzle, or acts as accomplice to the person who embezzles money, gold bullion or monetary instruments, that he has under his administration, shall be liable to imprisonment for a term up to six years.

Article 424 Criminal Code

The public servant or any other person with a public function, engaged full-time or part-time, who intentionally fraudulently keeps or falsifies books or registers, exclusively intended for the management of the administration, shall be liable to imprisonment for a term up to three years.

Article 425 Criminal Code

The public servant or any other person with a public function, engaged full-time or part-time, who intentionally embezzles, destroys, damages or inactivates or allows others to embezzle, destroy, damage or inactivate matters intended to serve as proof or a means of conviction, deeds, documents or registers under his administration, or acts as accomplice to such person, shall be liable to imprisonment for a term up to four years and six months.

Article 429

The public servant who by misusing his authority, forces someone to do or not do, or allow, shall be liable to imprisonment for a term up to two years.

Article 430

The public servant who in the performance of his function claims or receives payments to himself, another public servant or any public fund, or upon payment holds back any amount of which he knows to be not receivable, in case he is found guilty of extortion by a public servant, shall be liable to imprisonment for a term up to six years.

Article 386

A person who, with the intention to benefit himself or others unlawfully, either by assuming a false name or in a false capacity, or by cunning devices, or by a tissue of lies, induce a person to issue any good or assume a loan or cancel an outstanding debt, shall in case he is found guilty of fraud, be liable to imprisonment for a term up to three years.

Article 381

A person, who intentionally encroaches a possession that entirely or partially belongs to another person, and that he misappropriated in other ways than through a crime, in case he is found guilty of embezzlement, be liable to imprisonment for a term up to three years or a fine up to sixty guilders.

Article 370

A person who appropriates property that entirely or partially belongs to another, with the intention to misappropriate such property, shall in case he is found guilty of fraud, be liable to imprisonment for a term up to four years, or a fine up to sixty guilders.

Article 69

1. In case a public servant due to commission of an offence, breaches a special civil duty, or during the commissioning of the offense uses power, opportunity or means to his disposal due to his function, and in case an offence is committed as a result of which a public servant obtains help during actions in breach of his special official duty or the misuse of power, opportunity or means to his disposal due to his function, the punishment may be increased by a third.

2. In the events referred to in paragraph 1, the person sentenced may in addition to the punishment be ordered to pay to the State an amount of entire or partial deprivation of the estimated illegally obtained profits. Profit shall include the saving of costs.

3. A person who commits an offence as a result of which a public servant obtains help during acts in breach of his special official duty or misuse of power, opportunity or means, to his disposal due to his function, may in addition to the punishment, and also in addition to the obligation referred to in paragraph 2, be ordered by judicial decision to do that what was unlawfully not done and to perform action to compensate the consequences of one thing and another, all this at the cost of the convicted person, if not decided otherwise by the judge.

D. Article 1

Guilty of intentional money laundering, thus liable to imprisonment for a term up to fifteen years and a fine up to five hundred million guilders in Surinamese currency:

a. the person who hides or conceals the actual nature, the origin, the alienation of an object, or who hides or conceals the person who has the title to such object or person who has such object in his possession knowing that the object – directly or indirectly- originates from a criminal offence;

b. the person who acquires an object, has it in his possession, transfers or makes use of an object, knowing that the object – directly or indirectly- originates from a criminal offence.

Article 2

The person, who makes a habit of money laundering, is liable to imprisonment for a term up to twenty years and a fine up to seven hundred and fifty million guilders in Surinamese currency.

Article 3

Guilty of intentional money laundering, thus liable to imprisonment or detention for a term up to six years or a fine up to three hundred million guilders in Surinamese currency:

a. the person who hides or conceals the actual nature, the origin, the alienation of an object, or who hides or conceals the person who has the title to such object or person who has such object in his possession, while he should have reasonable suspicion that the object – directly or indirectly- originates from a criminal offence;

b. the person who acquires an object, has it in his possession, transfers or makes use of an object, while he should have reasonable suspicion that the object – directly or indirectly- originates from a criminal offence.

E. Article 72 Criminal Code

The following persons shall be punished for an offence:

1. the person who commits, have others commit or who is a co-perpetrator;

2. the person who through gifts, promises, misuse of authority, violence, threat or deception, or by giving the opportunity, means or information to intentionally incite a criminal offence.

With regard to the last mentioned, only the acts intentionally incited shall be considered, together with the associated consequences.

Article 73 Criminal Code

The following persons shall be punished for accessory to a criminal offence:

1. intentional aiding and abetting
2. intentionally offer opportunity, means or information for the commission of a criminal offence.

Article 106 Criminal Code

A criminal offence in general or any criminal offence in particular shall mean accessory to and attempt to such criminal offence, if not provided otherwise.

Article 188 Civil Code

The person who takes part in an organization of which he knows or has serious suspicions that the purpose of such organization is to commit criminal offences, the offender shall be liable to imprisonment of a term up to twenty years and a fine up to seven hundred and fifty million guilders.

Systems for protecting public servants and private citizens who, in good faith, report acts of corruption (Art 111 (8) of the Convention).

There is no specific legislation with regard to the above.

The public servants and private citizens may be heard as threatened witnesses by the Examining Judge, in which case their identity shall not be revealed in the court documents, all this in accordance with the Law on protection of threatened witnesses.

A number of provisions of the law:

Article 206a

1. the Examining Judge orders either by official service, or the claim of the public prosecutor or upon request of the suspect or his counselor, or of the witness, that on the occasion of the witness, the identity of such witness shall not be revealed if:
 - a. the witness or any other person, in view of the statement to be made by the witness, feels threatened to such degree that there is fear of disruption of the life, the health or the safety of the family life or the socio-economic existence of such witness or of another person, and
 - b. the witness indicates that as a result of this threat he does not wish to make a statement; in the other case he shall dismiss the claim or the request.

Article 206 c

1. Prior to the hearing of a threatened witness, the Examining Judge informs himself of the his identity and makes mention of having done so.
2. the witness shall in accordance with the provisions of article 196 be put on oath or be summoned.
3. the Examining Judge shall hear the threatened witness in such way that his identity remains concealed.

Article 206 d

1. In case the importance of the concealed identity of the threatened witness so dictates, the Examining Judge may decide not to allow the presence of the suspect or his counselor during the hearing of the threatened witness; in the latter case, the public prosecutor shall not be allowed to be present either.
2. The Examining Judge shall inform the public prosecutor, the suspect or his counselor, in case he did not attend the hearing of the witness, of the content of the statement made by the witness, giving him the opportunity to present written questions that he wishes to be asked during the hearing; unless the importance of the investigation does not allow for any postponement of the hearing, the questions may be presented prior to the hearing.
3. in case the Examining Judge prevents that answers given by the threatened witness come to the knowledge of the public prosecutor, the suspect or his counselor, the Examining Judge shall in the report note that the question was answered by the threatened witness.

Article 206 e

During the hearing, the Examining Judge shall test the reliability of the threatened witness and in the report account on the matter.

Article 206 f

1. The Examining Judge shall, following consultation with the Public Prosecutor, take all measures that are reasonably necessary to conceal the identity of the threatened witness and the witness with regard to the request or claim referred to in article 206 A, paragraph 1, as long as no final and conclusive decision is given on the matter.
2. For that purpose he shall be authorized to not include information about the identity of the witness in the court documents, or to 'anonymize' the court documents.
3. The 'anonymization' shall be signed or authenticated by the Examining Judge and the Registrar.