

Answering the 7 questions from the Integral Consideration Framework for Policy and Regulation (IAK) in the bill to amend various laws in connection with the introduction of the citizen service number and the facilities of the digital government on Bonaire, Sint Eustatius and Saba (Law on the introduction of BSN and digital government facilities BES)

1. What's the reason?

Digital services are now a normality in the European part of our country. From applying for state pension and making a tax return to filing health care claims: it can be from home; from the computer or smartphone. This is easier, saves citizens a lot of time and makes public services better and more efficient. In order to serve citizens at a distance, electronic, good service, a reliable login tool and a unique identifying number are required. Therefore, since 2007 all residents of the European Netherlands have a citizen service number (hereinafter: BSN) and have access to the login tool such as DigiD.

The situation in the Caribbean part of our country, the public entities Bonaire, St Eustatius and Saba, (hereinafter: The Caribbean Netherlands) is different. Communication between citizens and the government take place mostly via paper or at the front desk, digital services are less obvious. This existing form of service (physically and on paper) is not in itself wrong and will continue to exist for anyone who prefers it. At the same time, it is desirable to make the benefits of digital services *possible* in the Caribbean Netherlands. So that citizens and companies can also use DigiD and eHerkenning to do business with the European Dutch and Caribbean Dutch government. With the motion of MP Bromet et al. of 14 October 2021, the government was asked to complete the investigation into the introduction of the BSN in the Caribbean Netherlands as soon as possible and if this investigation does not reveal insurmountable contraindications, to bring the necessary legislative amendments to the Chamber.¹

2. Who's involved?

- Residents in the Caribbean Netherlands in connection with the conversion of their ID-numbers into BSN;
- Board Colleges BES in connection with the registration of the BSN in the PIVA (population registration, abbreviation for Personal Information Supply of the Netherlands Antilles and Aruba), in particular Civil Affairs Divisions Caribbean Netherlands in connection with the maintenance of the PIVA.
- Rijksdienst Caribbean Netherlands in connection with informing citizens (hereinafter: RvIG)
- Governmental entities in the Caribbean Netherlands in connection with the use of the BSN.
- ICT suppliers (such as Logius).
- Ministry of BZK.

3. What's the problem?

A number of laws and regulations still stand in the way that all 29.418 inhabitants² of the Caribbean Netherlands can receive a BSN and that the digital facilities, such as DigiD and eHerkenning, become available for them. This is because, when Bonaire, St Eustatius and Saba became part of the country of the Netherlands in 2010, not all European Dutch laws and regulations became applicable there. For example, it was ensured at the time that the constitutional transition would not bring too many (hardly manageable) changes for the islands in one go. In the meantime, this principle of restraint in the field of legislation and regulations has been abandoned. The new starting point is that in the Caribbean Netherlands as much as possible, the same rules apply as in the European Netherlands, unless there is a specific reason to deviate. In short: comply or explain.³

¹ *Parliamentary documents II 2021/22, 35925 IV, No 19.*

² Source: CBS, reference date 1 January 2023.

³ After a period of so-called 'legislative restraint' from 10 October 2010, the starting point of legislative restraint was abandoned in October 2019 (see *Parliamentary Papers II 2019/20, 35300-IV, No 11, p. 3-4*). Instead, the principle of application applies or explains.

4. What's the goal?

With this bill, several existing laws will be amended to bring the digital services of the (semi) government in the Caribbean Netherlands to an equivalent level as in the European Netherlands. The proposal for Caribbean Netherlands achieves that: registered residents get a BSN, residents and companies have access to digital login tools such as DigiD and eHerkenning and authorities, such as the Caribbean Netherlands Tax Authority, are allowed to use (and process) the BSN in their services. To that end, the following Acts are amended: the Basic Registration of Persons Act (BRP Act), the Basic Administrations of Personal Data Act (Bap BES Act), the General Provisions Act on Social Security Number (Wabb), the Digital Government Act (WDO) and the Identification Cards Act BES (WIDk BES).⁴ It thus implements the above motion of MP Bromet et al of 14 October 2021.

This bill extends the territorial scope of the Wabb and WDO to the Caribbean Netherlands. In addition, the relevant BES legislation is amended in order to be able to include the BSN in its own population administration and on the BES identity cards (hereinafter: ID cards BES). The BRP Act is amended in order to include the BSN of CN residents in the BRP. The latter is necessary for the functioning of the digital government facilities connected to the Basic register of persons such as DigiD. With this bill, it is realised that:

- (1) all registered residents of the Caribbean Netherlands have a BSN (amending the BRP Act);
- (2) in addition to the BRP, the BSN is included in the personal registration of the public entity, the basic administration of personal data BES, hereinafter: Bap BES⁵ (amending the Bap BES Act);
- (3) government entities and other users in the Caribbean Netherlands are entitled to process the BSN (amending the Wabb);
- (4) citizens and businesses can log in safely and reliably with the (semi-) government (amending the WDO);
- (5) the BSN is visible on newly issued ID cards BES (amending the WIDk BES).

In order to serve citizens more quickly and to reduce the implementation burden for organisations in the Caribbean Netherlands, this proposal connects as much as possible to existing (technical) facilities and processes. This is primarily about the already existing facilities in the European Netherlands for the award and use of the BSN and digital login tools, which are also used with this proposal for (services in) the Caribbean Netherlands. This includes the BRP, the management facility BSN, DigiD and eHerkenning. In addition, the BSN is incorporated into the existing facilities and processes in the Caribbean Netherlands; the Bap BES and the ID card BES.

5. What Justifies Public Intervention?

The issuance of a personal identification number (BSN) and the setting of rules on the digital government is exclusively reserved to the government.

6. What is the best instrument?

Legislation.

Bonaire, Sint Eustatius and Saba have their own legal system on the basis of Article 2 of the Act of public entities Bonaire, Sint Eustatius and Saba, which consists largely of adopted Dutch-Antillean regulations or regulations specifically created for those islands. Only a limited number of schemes currently apply in both the European part of the Netherlands and the Caribbean Netherlands. Another important difference with the European part of the Netherlands is that Bonaire, St. Eustatius and Saba have the status of overseas countries and territories (OCTs) vis-à-vis the European Union, so that EU regulation does not in principle apply to the Caribbean Netherlands. A regulation only applies there if this is provided for by a statutory regulation or otherwise clearly

⁴ This bill also contains a legislative amendment to Article 24 of the Personal Data Protection Act BES, see article-by-article explanation of Article V.

⁵ The term 'PIVA' is also used in this context; the personal information provided by the Netherlands Antilles and Aruba. In this explanatory memorandum, the formal designation Bap BES is retained, meaning the Bap BES of the public sector bodies.

follows from a statutory provision. If nothing is provided for in a Dutch legislation and its applicability in the Caribbean Netherlands does not follow from any other statutory provision, that scheme only applies to the European part of the Netherlands.

The regulations on the BSN and the facilities of the digital government therefore only apply to the European Netherlands. It is not legally possible under the Wabb and the Bap BES Act to obtain a BSN in the Caribbean Netherlands and to have it registered in its own population administration. In order to obtain a BSN, it is now necessary to travel to a registration facility in the European Netherlands for registration as a non-resident. If someone already has a BSN due to such a registration or because of previous stay in the European Netherlands, it is now not allowed for government organisations in the Caribbean Netherlands to process that BSN. There is no legal basis for this in the Wabb. Finally, the WDO is currently preventing government entities in the Caribbean Netherlands from using DigiD in their services, this is because the application of that law is territorially limited to the European Netherlands.

7. What are the (next) consequences for citizens, businesses, government and the environment?

- **Citizens (residents of CN) and companies:**

The registration of the BSN and its inclusion on the ID card BES (amending the BRP Act, bap BES Act and WIDk BES) does not affect the regulatory burden on citizens. The citizen does not have to carry out any additional actions in order to obtain the BSN; this is regulated by the government when registering a person. Also, the person concerned does not have to apply for a new ID card BES; the ID cards retain their validity period.

The use of the BSN and login tools (amendment of Wabb and WDO) in digital services to citizens and businesses is expected to reduce the regulatory burden. The extent of that reduction in regulatory burden depends on the precise organisation of that service, by the service provider itself.

Moreover, the bill does not contain any obligation to use the login tools under the WDO. Citizens may, if they so wish, purchase public services by paper means unless otherwise provided for in sectoral legislation.

This bill has implications for the privacy of the residents of the Caribbean Netherlands: persons who are or are registered in the basic personal data administration. There is an extension of the registration of data by registering a new group of persons in the BRP and by incorporating a new data. There is also an extension of the provision of data to administrative colleges and the Minister of BZK, necessary for the award and registration of the BSN. Finally, the introduction of the WDO (facilities), the use of the BSN by organisations in the Caribbean Netherlands and the inclusion of the BSN on the ID card BES, has implications for the privacy of data subjects. Chapter 3 of the Explanatory Memorandum addresses the privacy aspects of the bill

- **Government:** The bill is expected to lead to a structural burden on the part of RvIG, Logius and the Board Colleges BES when it comes to realising and then managing the technical provisions. Logius will have to provide for process adjustments to facilitate DigiD on Bonaire, St. Eustatius and Saba.
- **Environment:** The bill has no impact on the environment.