



REPUBLIC OF SAN MARINO

QUALIFIED LAW no. 184 of 15 December 2005

QUALIFIED LAW ON THE CONGRESS OF STATE

**We the Captains Regent
of the Most Serene Republic of San Marino**

*Hereby promulgate and order the publication of the following Qualified Law,
approved by the Great and General Council during its sitting of 15 December 2005.*

TITLE I APPOINTMENT AND OPERATION

Art. 1 (Appointment)

1. The Congress of State shall be composed of Ministers, not exceeding ten in number, appointed by the Great and General Council, normally from among its members.
2. Citizens who are not members of the Great and General Council and who meet the requirements to be elected members of the Great and General Council may also be appointed as Ministers, by means of a two-thirds majority vote of the members of the Great and General Council. This is possible for no more than one third of the members of the Congress of State.
3. The Great and General Council, following the vote by which it approves, by absolute majority, the government programme, shall appoint by open ballot by roll-call and by a single overall vote by absolute majority and by a two-thirds majority of the members of the Great and General Council for the appointments referred to in paragraph 2 above, the Ministers. The Great and General Council shall also indicate the department to which each of the Ministers shall be assigned according to the allocation set forth in Article 2 below.
4. After the appointment, the Ministers shall immediately take the oath before the Captains Regent according to the traditional formulas laid down in Law no. 115 of 29 October 1993.
5. By taking the oath, the appointed Congress of State shall acquire his/her full powers.
6. The mandate of Minister cannot exceed a maximum of ten consecutive years and re-appointment cannot take place before five years have elapsed from the conclusion of the last mandate.

Art. 2
(Ministries)

1. The Ministries referred to in Article 1, paragraph 3 shall be the following:
 - Foreign Affairs
 - Internal Affairs
 - Finance and Budget
 - Education and Culture
 - Health and Social Security
 - Territory and Environment
 - Labour
 - Industry, Handicraft and Trade
 - Justice
 - Tourism
2. In order to achieve the objectives set out in the government programme, the programme may indicate specific areas of intervention and sectors of activity for which the relevant functions shall be assigned at the same time as the allocation of Ministries referred to in paragraph 3 of Article 1 above.

Art. 3
(Replacement of the Ministers)

1. In the event of resignation, removal or death of a member of the Congress of State or in any case of substitution of a Minister, his/her functions shall be temporarily taken over by another Minister appointed by the Congress of State by means of a specific decision until the appointment of his/her successor or the end of the cause that led to his substitution.
2. Resignation shall be presented to the Captains Regent and shall take effect from the date of its acceptance by the Congress of State or, if it is rejected, from the date of acknowledgement of its confirmation by the Congress of State.
3. The Captains Regent shall convene the Great and General Council to acknowledge the resignation and replace the resigning Minister.
4. From the time the resignation is presented and until it is acknowledged by the Great and General Council, the functions of the resigning Minister may be delegated by the Congress of State to another Minister.
5. The successor to the resigned, removed or deceased Minister shall be elected by the Great and General Council by open ballot by roll-call. Immediately after the appointment vote, the Ministers shall immediately take the oath before the Captains Regent. By taking the oath, the appointed Minister shall acquire his/her full powers.
6. The functions of the Minister who is absent for the performance of affairs of State shall be temporarily taken over, for ordinary matters, by another Minister designated by the Congress of State.
7. The substitution of a Minister may not exceed three months from the date of resignation, removal from office or death.

Art. 4
(Removal from office)

1. The Minister shall be removed from office as a member of the Congress of State if for any reason he loses the requirements for appointment, or if he finds himself in any of the situations of incompatibility which, by express provision of law, constitute grounds for removal from office as Minister.
2. Removal from office shall take effect upon acknowledgement by the Great and General Council that the requirements for appointment are no longer met, or upon declaration by the Great and General Council that removal from office has occurred due to the arising of one of the causes of incompatibility with the office of Minister provided for by law. The decisions of the Great and General Council shall be communicated by the Captains Regent to the Congress of State for their acknowledgement.
3. The Great and General Council shall appoint the successor to the Minister who has been removed from office in accordance with Article 3, paragraph 5.

Art. 5
(Congress of State meetings)

1. The meetings of the Congress of State, including the inaugural meeting, shall be convened by the Captains Regent, who shall set the agenda on the basis of proposals from the Ministers.
2. Meetings shall be valid if at least half of the members of the Congress of State are present.
3. Secretariat functions shall be performed by the Minister of Internal Affairs, who shall normally draw up the minutes of the meetings. The Executive Secretariat of the Congress of State shall be responsible, for each session, for keeping records of the topics dealt with and for drafting and distributing the Congress of State decisions supervised by the Minister of Internal Affairs.
4. Congress of State decisions shall be collected in registers consisting of numbered sheets bearing the stamp of the Ministry of Internal Affairs. Every decision shall be signed at the end by the Minister of Internal Affairs.
5. In case of absence or temporary impediment of the Minister of Internal Affairs, he/she shall be replaced by another Minister specifically appointed by the Congress of State.

Art. 6
(Conduct of the meetings and agenda)

1. The Captains Regent shall coordinate the works of the Congress of State.
2. At the beginning of each meeting, the Minister of Internal Affairs shall make the relevant announcements and report on the resolutions adopted at the previous meeting.

Art. 7
(Representation of the Congress of State)

1. Representation of the Congress of State shall be decided upon from time to time by the Congress of State, which shall appoint one or more Ministers as representatives.

Art. 8

(Congress of State Regulation)

1. Without prejudice to the provisions of law, the Congress of State shall govern with its own regulation the modalities for convening meetings and for including in the agenda proposals for legislative initiatives and proposals relating to the regulatory activities of the Congress of State, the procedures and timeframes for communicating the agenda to the members of the Congress , as well as the documents related to the topics to be dealt with. The Regulation shall also establish the modalities for recording and disseminating information on the decisions made, for conserving material relating to the works of the Congress of State and for providing information on its works.
2. The Congress of State Regulation, to be enacted within six months of the entry into force of this Law, shall be published according to law and included in the Official Bulletin of Laws and Decrees of the Republic.
3. Amendments to the Congress of State Regulation shall be decided, published and printed by the Congress of State, pursuant to the preceding paragraph.

TITLE II
INCOMPATIBILITY

Art. 9

(Incompatibility of the members of the Congress of State)

1. With regard to incompatibilities, the Ministers cannot hold any office in Trade Unions or in professional, industrial, craft or commercial associations.
2. The members of the Congress of State can neither be independent professionals, carry out business activities in industry, handicraft or trade, nor hold any operating licence. They can neither hold any position nor perform the duties of president, legal representative, director, member of the Board of Directors, liquidator, auditor, director general, legal or administrative consultant in any company or association carrying out business activities in industry, handicraft or trade. In any case, they cannot establish any kind of business relationship, even on an occasional basis, with the Public Administration, also through persons associated in professional, commercial, craft and industrial business activities.
3. The members of the Congress of State being independent professionals or carrying out business activities in industry, handicraft or trade when they are appointed shall be required to suspend the exercise of such activities within 30 days after taking the oath, otherwise they shall be removed from office. If they hold one of the above-mentioned positions (indicated in paragraphs 1 and 2) when appointed, they must resign within 5 days after taking the oath, otherwise they shall be removed from office.
4. Any Ministers infringing the prohibitions referred to in this Article shall be immediately removed from office.

Art. 10

(Referral)

1. All incompatibilities concerning the office of member of the Great and General Council shall also apply to the members of the Congress of State.

TITLE III
POWERS AND REGULATORY ACTS

Art. 11
(Delegated Decrees)

1. The text of the Delegated Decrees adopted by the Congress of State under art. 3 bis, paragraph 5 of the Declaration on the Citizens' Rights, shall be transmitted by the Congress of State to the Captains Regent for its promulgation at least 20 days before the time limit indicated in the delegating law for the adoption of the Decree, with reference to the relevant decision by the Congress of State.
2. If the delegating law covers various issues to be regulated separately, the Congress of State may adopt a series of acts each referring to the single issue to be regulated. In this case, the Congress of State shall periodically inform the Great and General Council of the criteria applied in the exercise of the delegation.

Art. 12
(Emergency decrees)

1. Decrees referred to in art. 2, paragraph 2, letter b) of Constitutional Law n. 183 of 15 December 2005 (Constitutional Law on the Congress of State) shall be submitted to the Captains Regent for promulgation with the title of "decree-law" and shall indicate, in the preamble, the extraordinary circumstances determining the need and urgency of their adoption, as well as the relevant decision by the Congress of State.

Art. 13
(Regulations)

1. The regulations referred to in Article 2, paragraph 2, point h) of Constitutional Law no. 183 of 15 December 2005 (Constitutional Law on the Congress of State) shall be submitted by the Congress of State to the Captains Regent for promulgation and shall indicate in the preamble the relevant decision by the Congress of State and the relevant reference legislation.
2. The provisions in force for the publication of laws and decrees shall apply also to the publication of Regulations.

TITLE IV
FORM OF THE MEASURES

Art. 14
(Form of the measures of the Congress of State)

1. The measures falling within the competence of the Congress of State shall be enacted in the form of Congress of State decisions.

2. All the measures referred to in paragraph 1 shall be drawn up in writing and shall contain in their preamble an indication of the rules in implementation of which these are enacted and other rules relating to their purpose, as well as an indication of the factual circumstances relevant to their enactment.

3. When a measure is enacted following proceedings, the preamble shall contain a reference to all intermediate acts preparatory to the enactment of the measure.

4. All the measures referred to in paragraph 1, falling within the competence of the Congress of State, shall be signed by the Minister of Internal Affairs.

Art. 15

(Congress of State decisions)

1. The Congress of State decisions shall be collected chronologically and numbered consecutively by meeting.

2. The decisions, with the exception of those referred to in paragraph 4 below, shall be sent to the Captains Regent, to the Ministers and the offices responsible for their implementation, as well as to the private individuals directly concerned.

3. The register of decisions, with the exception of those referred to in paragraph 4 below, shall be public and may be consulted by all citizens at the Executive Secretariat of the Congress of State in accordance with the procedures established by the Congress of State and which shall in any case be indicated in the regulation referred to in Article 8 above. Copies of the decisions may be given to those who request it, in accordance with the procedures set out in the aforementioned regulation.

4. Decisions expressly declared confidential by the Congress of State shall be kept in a special archive at the Executive Secretariat of the Congress of State and may be consulted only by the Captains Regent and the Ministers in office, who shall be bound to secrecy. Decisions on matters of state security and international relations may be declared confidential.

TITLE V

RELATIONS WITH THE PUBLIC ADMINISTRATION

Art. 16

1. The Public Administration bodies shall be responsible for organising and managing administrative activity to implement the programmes and directives adopted by the Congress of State and to achieve the objectives established therein, on the basis of the principles of operational autonomy and management responsibility.

2. The Congress of State shall direct administrative policies by identifying the objectives and programmes to be implemented and by adopting other acts pertaining to the fulfilment of these functions. Moreover, it shall verify that the results of administrative activities and management correspond to policy directions. In particular, it shall be responsible for:

a) decisions on regulatory acts and the adoption of the relevant guidelines on interpretation and application;

b) the definition of objectives, priorities, plans, programmes and the issuance of the relevant general directives for administrative action and management;

c) the identification of human, material and economic-financial resources to be allocated to the various purposes and their allocation among the departments and offices of the State.

3. The Congress of State shall adopt directives to guarantee the impartiality, good functioning and efficiency of public offices and promote the necessary verifications; it shall also adopt directives to ensure that public corporations and bodies carry out their activities according to the objectives indicated in the laws establishing their autonomy and consistently with the consequent Government's directions.

Art. 17

1. With reference to point b) of paragraph 1 of Article 2 of Constitutional Law no. 183 of 15 December 2005 (Constitutional Law on the Congress of State), in order to concretely implement the principle of separation between political direction and verification of results and implementation and administrative management, the Congress of State shall not be responsible for adopting acts or measures concerning the employees of the Overall Public Sector, with the exception of management roles, in relation to classifications, recruitment, transfers, mobility, replacements and substitutions, appointments, career progression and retirement.

2. The transfer of responsibilities shall be defined within sixty days from the entry into force of this law through appropriate regulatory measures.

Art.18

1. The Public Administration shall be structured and organised into the following Departments:

- Department of Institutional Affairs, Internal Affairs and Justice;
- Department of Foreign Affairs;
- Department of Economy and Finance;
- Department of Health and Social Security;
- Department of Territory, Environment and Agriculture;
- Department of Education, University, Culture and Sport;
- Department of Production Activities (Industry, Handicraft, Trade);
- Department of Labour and Cooperation;
- Department of Communications and Information
- Department of Tourism and Services.

2. Each department shall be made up of the offices and services of the Public Administration, the autonomous sectors as well as the Autonomous State Corporations with similar institutional functions, objectives and activities.

3. The departments shall be assigned tasks concerning broad areas of comparable matters and related tasks, including direction and coordination of the management units into which the departments are divided and organisation and management of the instrumental, financial and human resources assigned to them.

4. The identification of the departments thus defined shall be independent of the assignment of areas of competence resulting from the government formation.

Art.19

1. The Congress of State shall be responsible for decisions relating to the allocation of resources provided for in the budget for areas of competence on the basis of programmes to be implemented and projects to be carried out and to guarantee the services for which State offices are responsible.

2. The Coordinators and Directors of the offices shall be responsible for the management of the financial resources allocated at the beginning of each year by special provision of the Congress of State for the implementation of the programmes indicated by the Congress, as well as for the activities for which the office is responsible by law.
3. The authorisation of expenses that fall within the management of the resources allocated to each office shall be the responsibility of the Coordinators and Directors.
4. Within sixty days from the entry into force of this law, the legislation connected to the current provisions on State's General Accounting shall be adopted.

Art. 20

1. The Congress of State may not revoke, reform, reserve or take over or otherwise adopt measures or acts within the competence of the Managers, Coordinators and the Head of Personnel.
2. Any act carried out by the Congress of State in violation of the provision of the preceding paragraph shall be null and void.

TITLE VI ORDINARY ADMINISTRATION

Art.21

(Ordinary administration)

1. The Congress of State shall enter into a regime of ordinary administration following the dissolution of the Great and General Council for one of the reasons expressly provided for by law, and following the acknowledgement of the resignation of the Congress of State by the Great and General Council, starting from that date.
2. Under the regime of ordinary administration, the Congress of State and the Commissions appointed by it may only deal with ordinary matters. Acts exceeding the scope of ordinary administration shall be null and void.
3. Ordinary administration shall consist in the management of day-to-day matters only, and shall not include decisions relating to:
 - purchase, sale or exchange of real estate;
 - purchase, sale or exchange of movable goods of significant value;
 - adoption and approval of detailed plans, signing of agreements provided for in town planning instruments;
 - appointment of professionals, consultants, collaborators;
 - donations and contributions of any nature to natural and legal persons, associations and entities.
4. No regulatory acts may be issued.

Art.22

(Derogation)

1. By means of a motivated decision, derogation from the provisions of the preceding Article shall be allowed in exceptional cases where the performance of acts exceeding the scope of ordinary administration is necessary or urgent in the interest of the Republic or is mandatory and time bound by law.

TITLE VII
FINAL PROVISIONS

Art. 23

(Participation of the Ministers in the works of the Great and General Council)

1. The Ministers shall have the right to attend the sittings of the Great and General Council, without the right to vote but with the right to speak whenever they deem it appropriate.
2. The Captains Regent shall grant the Ministers the right to speak, upon request, as soon as the Council's agenda so permits.
3. The Ministers shall be obliged to attend the sittings of the Great and General Council whenever the Council requests it. In case of impediment, they may delegate another Minister.

Art. 24

(Repeal)

1. Articles 2, 4, 5, 6, 7, 8, 9, 10, 14, 15 and 16 of Law no. 97 of 5 September 1997 and all other rules in contrast with this law shall be repealed.

Art. 25

(Entry into force)

1. This Law shall enter into force together with Constitutional Law no. 183 of 15 December 2005 (Constitutional Law on the Congress of State) and in any case it shall apply from the 26th legislature, with the exception of the provisions of Titles V and VI, which shall apply from the entry into force of this Law.

Done at Our Residence, on 29 December 2005/1705 since the Foundation of the Republic.

THE CAPTAINS REGENT
Claudio Muccioli – Antonello Bacciocchi

For the MINISTER OF
INTERNAL AFFAIRS
Minister Pier Marino Mularoni