

Suspending of the decree

Filing a Notice of Objection or Appeal has no suspensive force, the contested decision remains in force until a final decision is reached on the Objection, except when it concerns the Chamber's fees. According to art. 15, sub 4 of the Trade Registry Ordinance, filing a Notice of Objection does not affect the obligation to comply with the existing fee. The objection will only consider the difference between the current fee and the result of the reclassification. In order to prevent detrimental consequences by the immediate implementation of the decision - due to the lack of suspensive force in most cases - the LAR stipulates that a petition may be filed with the Court of First Instance to suspend the decision, while the Notice of Objection is being processed.

More information

Further information on the LAR-procedure can be obtained at the Secretariat of the Bezwaa radviescommissie, Vondellaan 21-a, tel, 5889176 or 5889281, fax 5889069, email: lar@aruba.gov.aw

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This flyer contains only limited information and does not cover all aspects of the subject. If you need more information, please contact Business Information & Support at the Aruba Chamber.

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National Ordinance on Administrative Justice (LAR)



**Camara di Comercio y Industria
Aruba**

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More than ten years ago, on December 1, 1997, the Ordinance on Administrative Justice, known as the LAR, was introduced in Aruba. Before the introduction of the LAR, Aruban law provided only incidental legal recourse (for example in tax cases or in cases involving civil servants) for a person who felt that his interests had been harmed by a decision of the government. With the LAR, the universal possibility to file an appeal with an independent Administrative Court was introduced to the Aruban citizen.

Before appealing to the Administrative Court, a citizen - who feels that his interests were harmed by a decision made by the government - has to file a so-called 'Notice of Objection', addressed to the government institution that made the decision, with the request to reconsider this. In order to ensure an independent and impartial procedure of reassessment of decisions, an Advisory Committee, the so-called 'Bezwaaradvies-commissie' was instituted.

Advisory committee

The Bezwaaradviescommissie consists of five members and its purpose is to provide government institutions with legal advice regarding filed objections. To guarantee independence and impartiality during the review of the case, the members of the Bezwaaradviescommissie cannot be employed by the government institution that issued the decision.

After having received the Bezwaaradviescommissie's advice regarding the Notice of Objection, the government institution itself decides whether to maintain the disputed decision or to reconsider it, in which case the complainant will receive a new decision with regard to his petition.

The objections procedure

In case the complainant does not agree with the decision made on the Notice of Objection, he has the right to file a Notice of Appeal with the Administrative Court, in Aruba's case, the Court of First Instance, and, after this, with the Appeals Court in Willemstad, Curacao.

The first point to keep in mind is that not all Government decisions are subject to the LAR, but only decisions made in individual cases. Therefore, no Notice of Objection can be filed against general rules, applicable to everyone. Also, decisions in tax matters and matters regarding civil servants in that capacity are excepted.

The decisions subject to appeal may include decisions made by "decree" at the level of ministers, but also other decisions made at the level of directors or departments heads, on any petition. Certain decisions of the Chamber of Commerce qualify as decisions of a government institution, e.g. the decision to reclassify the invested capital of a company registered in the Trade Registry.

The Notice of Objection should be addressed to the government authority that issued the decision. In most cases, the decision itself will include a notification that the Notice of Objection should be filed with a specific department or government institution.

Requirements for the Notice of Objection

An objection on a decision should include: the name, address, and signature of the complainant, a specification of the decision concerned, the reason(s) for filing the Objection, and the date of the objection. The Notice of Objection should be submitted within six weeks after the date of the decision.

Objection on a "fictitious" decision

It should be noted that even when government fails to come to a decision regarding a petition, a Notice of Objection may be filed. If a person does not receive a decision within 12 weeks after filing a petition, this is considered a refusal of the petition (a 'fictitious rejection') and a Notice of Objection can be filed within eight weeks after the end of this 12-week period.

After having received the Notice of Objection, the department concerned verifies that it complies with the abovementioned requirements, after which it is sent within two weeks to the Bezwaaradviescommissie for advice. Before issuing its advice, the Bezwaaradviescommissie invites both the complainant and (a representative of) the government authority concerned to a hearing, in order to verbally explain their position. The Bezwaaradviescommissie issues its advice within eight weeks, and after receiving the advice, the government authority has six weeks to reach a decision.