

CHAPTER 25:07

NATIONAL ARTS COUNCIL OF ZIMBABWE ACT

Act 27/1985, 22/2001 (s. 4).

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AN ACT to provide for the establishment of the National Arts Council of Zimbabwe to foster, develop and improve the knowledge, understanding and practice of the arts in Zimbabwe; to provide for the structure and functions of the National Arts Council; to provide for a Board to manage and control the affairs of the National Arts Council; to provide for the registration and regulation of arts organisations; and to provide for matters incidental to or connected with the foregoing.

[Date of commencement: 4th December, 1987.]

PART I

PRELIMINARY

1 Short title

This Act may be cited as the National Arts Council of Zimbabwe Act [*Chapter 25:07*].

2 Interpretation

In this Act—

“arts organisation” means any group of persons associated together for the purpose of promoting the arts;

“Board” means the National Arts Board referred to in section *four*;

“District Arts Council” means a District Arts Council referred to subsection (1) of section *seventeen*;

“fixed date” means the date fixed in terms of subsection (2) of section *one* as the date of commencement of this Act;

“member” means a member of the Board and includes the chairman and vice-chairman of the Board referred to in section *nine*;

“Minister” means the Minister of Sports, Recreation and Culture or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“national arts association” means an arts organisation registered in terms of subsection (13) of section *twenty-three*;

“National Arts Council” means the National Arts Council of Zimbabwe established in terms of section *three*;

“province” means a province declared or deemed to have been declared in terms of the Provincial Councils and Administration Act [*Chapter 29:11*];

“Provincial Arts Council” means a Provincial Arts Council referred to in subsection (1) of section *nineteen*;

“register” means the register of all registered arts organisations kept by the Board;

“registered arts organisation” means an arts organisation registered in terms of this Act;

“the arts” includes—

- (a) music, dance, drama, folk art, creative writing, literature, painting, photography, filming, sculpture, crafts, graphic or plastic arts and any other art form or culture form approved by the Board; and
- (b) the presentation, performance, execution and exhibition of any arts, art form or culture form referred to in paragraph (a).

PART II

NATIONAL ARTS COUNCIL OF ZIMBABWE

3 Establishment of National Arts Council of Zimbabwe

There is hereby established a council, to be known as the National Arts Council of Zimbabwe, which shall be a body corporate capable of suing and being sued in its corporate name and, subject to this Act, of performing all such acts as bodies corporate may by law perform.

4 Establishment of National Arts Board

The affairs of the National Arts Council shall, subject to this Act, be controlled by the National Arts Board constituted in terms of section *five*.

5 Constitution of Board

(1) The Board shall consist of—

- (a) ten members appointed by the Minister of whom—
 - (i) one shall be nominated by the Minister responsible for education;
 - (ii) one shall be appointed for his ability and experience in business or administration;
 - (iii) two shall be appointed to represent such community interests in Zimbabwe as the Minister may determine;
 - (iv) two shall be appointed to represent the interests of the commercial sector of the economy of Zimbabwe;
 - (v) one shall be nominated by the Association of Urban Councils of Zimbabwe;
 - (vi) two shall be appointed to represent the Association of Rural District Councils of Zimbabwe;
 - (vii) one shall be appointed to represent the interests of culture in Zimbabwe; and
- (b) members elected by Provincial Arts Councils in terms of paragraph (a) of subsection (1) of section *twenty*.

(2) If the office of a member referred to in subparagraph (v) of paragraph (a) of subsection (1), or paragraph (b) of subsection (1) is not filled in accordance with this Act within two months of the fixed date or within two months of any vacancy occurring, the Minister may appoint a person to the office concerned and such person shall be deemed to have been appointed or elected, as the case may be, to the office in accordance with this Act.

6 Terms of office of members of Board

(1) A member appointed in terms of paragraph (a) of subsection (1) of section *five* shall hold office for such period, not exceeding three years, as the Minister may specify at the time of his appointment.

(2) An elected member referred to in paragraph (b) of subsection (1) of section *five* shall hold office for a period of three years.

(3) A member going out of office in accordance with this section shall be eligible for reappointment or re-election, as the case may be, to the Board.

7 Disqualifications for appointment or election as member

No person shall be appointed or elected as a member and no person shall be qualified to hold office as a member who—

- (a) has, in terms of a law in force in any country—
 - (i) been adjudged or otherwise declared insolvent or bankrupt and has not been rehabilitated or discharged; or
 - (ii) made an assignment to, or arrangement or composition with, his creditors which has not been rescinded or set aside;
- (b) has within the period of five years immediately preceding the date of his proposed appointment or election, as the case may be, been sentenced to a term of imprisonment of or exceeding six months imposed without the option of a fine and has not received a free pardon.

8 Vacation of office by member

(1) A member shall vacate his office and his office shall become vacant—

- (a) thirty days after the date upon which he gives notice in writing to the Minister of his intention to resign his office or after the expiry of such other period of notice as he and the Minister may agree; or
- (b) on the date he begins to serve a sentence of imprisonment the term of which is not less than six months, whether or not any portion has been suspended, imposed without the option of a fine in any country; or
- (c) if he becomes disqualified in terms of paragraph (a) of section *seven* to hold office as a member; or
- (d) if he is required in terms of subsection (2) to vacate his office; or
- (e) if he is absent from three consecutive meetings of the Board of which he has had notice, without the permission of the Board.

(2) The Minister may at any time require a member to vacate his office if the Minister is satisfied that the member—

- (a) has conducted himself in a manner that is unbecoming of a member or is prejudicial to the interests or reputation of the Board or the National Arts Council; or
- (b) is mentally or physically incapable of performing his duties as a member.

9 Chairman and vice-chairman of Board

(1) The Minister shall appoint one member as chairman of the Board and the members shall elect a vice-chairman of the Board from among themselves.

(2) The vice-chairman shall exercise the functions of the chairman during any period that the chairman is unable to exercise his functions.

10 Proceedings of Board

(1) The Board shall meet for the dispatch of business and adjourn, close and otherwise regulate its meetings and proceedings as it thinks fit.

(2) If at any meeting of the Board the chairman and the vice-chairman are both absent, the members present shall elect one of their number to be chairman of that meeting.

(3) The chairman of the Board or any other member presiding at any meeting of the Board shall have a deliberative as well as a casting vote.

(4) Subject to section *five*, at any meeting of the Board, nine members of whom four are members referred to in paragraph (b) of subsection (1) of section *five*, shall form a quorum.

(5) Subject to subsection (3), the decision of the majority of the members present and voting at any meeting of the Board shall be deemed to be a decision of the Board.

11 Committees of Board

(1) For the better exercise of its functions the Board may establish one or more committees in which may be vested such of the functions of the Board as the Board may direct:

Provided that the vesting in a committee of any such functions shall not divest the Board of such functions and the Board may amend or rescind any decision of any such committee in the exercise of its functions.

(2) Meetings of a committee of the Board may be convened at any time and at any place by the chairman of the Board or the chairman of that committee.

(3) The procedure of a committee of the Board shall be fixed by the Board.

(4) On the establishment of a committee of the Board in terms of subsection (1) the Board—

(a) shall appoint to that committee at least one member of the Board who shall be the chairman of that committee;

(b) may appoint as members of that committee, on such terms and conditions as the Board may fix, persons who are not members of the Board.

12 Remuneration of members of Board and of committees

Members of the Board or of any committee established in terms of section *eleven* shall be paid from the funds of the National Arts Council such allowances, if any, as the Board may fix with the approval of the Minister, to meet any reasonable expenses incurred by them in connection with the business of the Board or the committee, as the case may be.

13 Validity of decisions and acts of Board

No decision or act of the Board or act done under the authority of the Board shall be invalid by reason only of the fact that—

(a) the Board consisted of fewer than the total number of members; or

(b) a disqualified person purported to act as a member at the time the decision was taken or the act was done or authorized;

if the decision was taken or the act was done or authorized by a majority vote of the persons who at the time were entitled to act as members.

14 Execution of contracts or instruments by National Arts Council

An agreement contract or instrument approved by the Board may be entered into or executed on behalf of the National Arts Council by any person or persons generally or specifically authorized by the Board for that purpose.

PART III

FUNCTIONS OF NATIONAL ARTS COUNCIL

15 Functions of National Arts Council

(1) The functions of the National Arts Council shall be—

(a) to foster, develop and improve the knowledge, understanding and practice of the arts in Zimbabwe by encouraging the teaching and practice of the arts and their presentation, performance, execution and exhibition to the public; and

(b) to advise and co-operate with the Government, local authorities, registered arts organizations, or any other societies, organizations, associations, groups or other bodies or individuals in any matter concerned directly or indirectly with the arts and the teaching or practice thereof.

(2) For the better exercise of its functions the National Arts Council shall, subject to this Act, have power to do or cause to be done, either by itself or through its agents, all or any of the things specified in the Schedule either absolutely or conditionally, and either solely or jointly with others.

16 Limitation of power of National Arts Council to provide financial assistance

(1) Subject to subsection (2), the National Arts Council shall not—

- (a) make a grant-in-aid or provide any other form of financial assistance to a registered arts organization engaged in or concerned with the practice or teaching of any particular art or its presentation, performance, execution or exhibition to the public; or
- (b) incur any other expenditure in promoting the development and improvement of the knowledge, understanding or practice of any particular art;

unless a committee to advise the Board on matters pertaining to that art has been established in terms of subsection (1) of section *eleven* and has recommended that the National Arts Council make the grant or incur that other expenditure.

(2) Subsection (1) shall not apply to the making of a grant-in-aid or the incurring of other expenditure by the National Arts Council which does not exceed in the aggregate in any one year an amount fixed by the Minister from time to time.

PART IV

DISTRICT ARTS COUNCILS AND PROVINCIAL ARTS COUNCILS

17 Establishment and constitution of District Arts Councils

(1) There shall be a District Arts Council for each district, which shall be constituted in terms of subsection (2).

(2) Each District Arts Council shall consist of—

- (a) two members appointed by the Minister after consultation with the Board, one of whom the Minister shall designate as the secretary of the District Arts Council;
- (b) three members appointed by the Minister after consultation with the Board to represent the business community in the district; and
- (c) such other members, not fewer than five and not more than nine as the Minister may determine, nominated by the registered arts organizations operating in the district and appointed by the Minister on the recommendation of the Board:

Provided that the Minister shall not appoint any member referred to in this paragraph unless there are at least three registered arts organizations operating in the district concerned.

(3) The members of a District Arts Council shall elect one of their members as chairman.

18 Functions of District Arts Councils

(1) The functions of a District Arts Council shall be—

- (a) to elect from among its members a representative to the Provincial Arts Council as soon as practicable after it is constituted in terms of section *seventeen*;
- (b) to advise the Board on matters relating to the activities of arts organizations operating in the district;
- (c) to encourage arts organizations operating in the district to register in terms of this Act;
- (d) to assist, advise and supervise registered arts organizations operating in the district;
- (e) to perform any other functions which may be conferred on it in terms of this Act or any other enactment.

(2) Subject to this Act, each District Arts Council shall exercise its functions subject to the control and supervision of the Board.

19 Establishment and constitution of Provincial Arts Councils

(1) There shall be a Provincial Arts Council for every establishment and province, which shall be constituted in terms of subsection (2).

(2) Each Provincial Arts Council shall consist of one representative from each District Arts Council in the province, elected in terms of paragraph (a) of subsection (1) of section *eighteen*.

20 Functions of Provincial Arts Councils

(1) The functions of a Provincial Arts Council shall be—

- (a) to elect from among its members a representative to the Board as soon as practicable after the election of all the representatives of the District Arts Councils in the province in terms of subsection (2) of section *nineteen*;
- (b) to advise the Board on matters relating to the activities of arts organizations operating in the province;
- (c) to encourage arts organizations operating in the province to register in terms of this Act;
- (d) to assist, advise and supervise registered arts organizations operating in the province; and
- (e) to perform any other functions which may be conferred on it in terms of this Act or any other enactment.

(2) Subject to this Act, each Provincial Arts Council shall exercise its functions subject to the control and supervision of the Board.

21 Conditions of membership and procedure of District Arts Councils and Provincial Arts Councils

(1) Subsection (2) of section *five*, sections *six*, *seven*, *eight*, subsections (3) and (5) of section *ten* and sections *thirteen* and *twenty-five* shall apply, *mutatis mutandis*, to each District Arts Council and Provincial Arts Council.

(2) Section *nine* shall apply, *mutatis mutandis*, to each Provincial Arts Council.

(3) At any meeting of a District Arts Council or Provincial Arts Council, one half or such greater number of the members in office as the District Arts Council or Provincial Arts Council, as the case may be, may determine, shall form a quorum.

PART V

REGISTRATION

22 Registration of Arts organizations a condition for financial assistance etc.

No arts organization shall—

(a) receive financial assistance from the National Arts Council; or

(b) participate in the activities of the National Arts Council;

unless it is registered with the National Arts Council in terms of section *twenty-three*.

23 Registration

(1) For the purposes of registration, an arts organization shall lodge with the secretary of the District Arts Council in the district where it operates or, in the case of a new arts organization, in the district where it is formed, an application in the prescribed form attaching its constitution thereto.

(2) On receiving an application lodged in terms of subsection (1), the District Arts Council shall, where it is satisfied that—

(a) the objects of the arts organization are consistent with the objects of the National Arts Council; and

(b) in all other respects the applicant is fit and suitable for registration;

recommend to the Board that the arts organization concerned be registered, and the Board may direct the secretary of the District Arts Council to register the arts organization concerned in a register to be kept by him for that purpose.

(3) Subject to the approval of the Minister, and on application made to it, the Board may register an arts organization or group of arts organizations registered in terms of subsection (2) and operating in more than one province, as a national arts association on such terms and conditions as the Board may determine:

Provided that if the national arts association consists of more than one registered arts organization, each registered arts organization shall continue to be considered as an independent arts organization for the purposes of this Act.

24 Cancellation of registration

(1) If it appears to the Board that a registered arts organization has ceased to operate as an arts organization and has materially changed its objects, the Board may, subject to subsection (2)—

(a) in the case of an arts organization registered in terms of subsection (2) of section *twenty-three*, direct the District Arts Council concerned to cancel its registration;

(b) in the case of a national arts association registered in terms of subsection (3) of section *twenty-three*, cancel its registration.

(2) The Board shall not take any action under subsection (1) until—

(a) it has given notice in writing to the arts organization concerned to show cause, within ninety days of the date of such notice, why its registration should not be cancelled; and

(b) it has afforded the arts organization concerned an opportunity of making representations in the matter.

(3) An arts organization whose registration has been cancelled in terms of subsection (1) may, on compliance with the requirements of the Board, reapply for registration, and section *twenty-three* shall apply to such an application.

25 Appeals

(1) Any arts organization which is aggrieved by a decision of the Board or a District Arts Council concerning the rejection of its application for registration or cancellation of its registration may appeal to the Minister.

(2) On an appeal being lodged with him in terms of subsection (1), the Minister may, after affording the parties concerned a reasonable opportunity of making representations to him, confirm, vary or rescind the decision appealed against and the Board or District Arts Council, as the case may be, shall comply with the decision of the Minister.

PART VI
FINANCIAL PROVISIONS

26 Funds of National Arts Council

The funds of the National Arts Council shall consist of—

- (a) moneys appropriated for the purpose by Parliament; and
- (b) grants, donations or bequests received by the National Arts Council with the approval of the Minister; and
- (c) loans which have been raised with the approval of the Minister and the Minister responsible for finance; and
- (d) the income from time to time accruing from any investment of any funds of the National Arts Council; and
- (e) such other moneys or assets as may vest in or accrue to the National Arts Council, whether in the course of its operations or otherwise.

27 Accounts of National Arts Council

(1) The Board shall keep proper accounts and other records relating thereto in respect of all the operations, transactions, undertakings and property of the National Arts Council, including such particular accounts and records as the Minister may direct.

(2) The Board shall prepare a statement of accounts in respect of each financial year or such other period as the Minister may direct.

28 Audit of accounts

(1) The Board shall appoint an auditor, who may be the Comptroller and Auditor-General or, subject to the approval of the Minister, an auditor who is registered as a public auditor in terms of the Public Accountants and Auditors Act [*Chapter 27:12*], and who shall annually audit the accounts of the National Arts Council kept in terms of section *twenty-seven*.

(2) The auditor shall make a report to the Board and to the Minister on the statement of accounts prepared in terms of subsection (2) of section *twenty-seven* and such report shall state whether or not the statement of accounts gives a true and fair view of the state of the financial affairs of the National Arts Council.

(3) If in the opinion of the auditor—

- (a) he has not obtained the information and explanations he required; or
- (b) the accounts and records relating thereto have not been properly kept; or
- (c) the Board has not complied with this Act;

the auditor shall include in the report referred to in subsection (2) statements to that effect.

29 Powers of auditors

(1) Without derogation from subsection (6) of section 9 of the Audit and Exchequer Act [*Chapter 22:03*], the auditor appointed in terms of section *twenty-eight* shall be entitled at all reasonable times to require to be produced to him all such accounts and other records relating thereto and to require from any member or person employed by the National Arts Council such information and explanations as in the opinion of the auditor are necessary for the purpose of his audit.

(2) Any member or person employed by the National Arts Council who fails without just cause to comply with a requirement of the auditor in terms of subsection (1) shall be guilty of an offence and liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

[Subsection as inserted by section 4 of Act No. 22 of 2001]

30 Annual report of National Arts Council

(1) The Board shall, as soon as possible and in any case not later than six months after the end of the financial year, submit to the Minister a report in regard to the affairs of the National Arts Council during that financial year in such form as the Minister may determine.

(2) A report submitted in terms of subsection (1) shall include a copy of—

- (a) the balance sheet; and
- (b) the income and expenditure account; and
- (c) the report referred to in subsection (2) of section *twenty-eight* of the National Arts Council.

(3) The Minister shall lay a report submitted to him by the Board in terms of subsection (1) before the House of Assembly.

PART VII

GENERAL

31 Special reports

In addition to the report required to be submitted by the Board in terms of subsection (1) of section *thirty*, the Board—

- (a) may submit to the Minister such other reports as the Board considers advisable;
- (b) shall submit to the Minister such other reports as the Minister may require; in regard to the affairs of the National Arts Council.

32 Arts organizations to keep proper accounts

(1) Any registered arts organization which receives financial assistance from the National Arts Council shall ensure keep proper accounts. that the accounts and other records relating thereto are kept to the satisfaction of the Board and shall, within the prescribed period, furnish to the secretary of the Board any reports and returns and such additional information as the Board may require.

(2) The accounts of any registered arts organization referred to in subsection (1) shall be audited by a person who is not a member of its management committee or governing body and who is in no way responsible for the keeping of the accounts or the making of financial arrangements of the registered arts organization:

Provided that the secretary of the Board may require that the accounts be audited by an auditor registered as a public auditor in terms of the Public Accountants and Auditors Act [*Chapter 27:12*].

33 Members not personally liable

No member of the Board or member of a committee Members not personally established in terms of section *eleven* shall be personally liable for any *bona fide* action he may take in such capacity.

34 Regulations

The Minister may make regulations providing for all matters which by this Act are required or permitted to be prescribed or which, in his opinion, are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

SCHEDULE (Section 15 (2))

POWERS OF NATIONAL ARTS COUNCIL

1. With the approval of the Minister, the Minister responsible for finance and the Public Service Commission, to employ staff on such terms and conditions as it considers fit and to suspend or dismiss staff.
2. To provide, subject to the approval of the Minister, for employees of the National Arts Council or their dependants, by means of insurance with an insurer registered in terms of the law relating to insurance business or a pension or provident fund or otherwise, pecuniary benefits upon leave, retirement, death or termination of service or in the event of distress, sickness or injury and to insure the members of the Board against injury or death.
3. With the approval of the Minister and the Minister responsible for finance, to borrow or otherwise raise money for carrying out the functions of the National Arts Council in such manner and upon such terms and conditions as the Board may think fit and, in particular, by the issue of debentures or debenture stock or stock certificates, perpetual or otherwise.
4. To purchase or otherwise acquire any property, movable or immovable, and to take, accept and hold any such property which may become vested in it by virtue of any such purchase or by any exchange, hire, donation, gift, grant, lease, testamentary disposition or otherwise.
5. To enter into contracts in connection with the exercise of its functions or the performance of its duties and to modify or rescind such contracts.
6. To sell, exchange, lease, donate, dispose of, turn to account or otherwise deal with any of its assets in such manner as it thinks fit.
7. To make grants-in-aid or provide any other form of assistance which it considers appropriate to any registered arts organization engaged in or concerned with the practice or teaching of the arts or their presentation, performance, execution and exhibition to the public.
8. With the approval of the Minister and the Minister responsible for finance, to invest any funds of the National Arts Council not immediately required for other purposes.
9. To do all such things as may be necessary, conducive or incidental to the performance of the functions imposed on the National Arts Council by or under the provisions of this Act.