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Act

No. 31 of 2024

I assent

DR. LAZARUS MCCARTHY CHAKWERA
PRESIDENT
22nd November, 2024

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An act to provide for the development and promotion of the creative and heritage industry; establishment of the National Arts and Heritage Council; registration and regulation of players in the creative and heritage industry; establishment and management of the National Arts and Heritage Promotion Fund; and for matters connected and incidental thereto

ENACTED by the Parliament of Malawi as follows—

PART I—PRELIMINARY

Short title and commencement

1. This Act may be cited as the National Arts and Heritage Act, 2024, and shall come into force on such a date as the Minister may, by notice published in the *Gazette*, appoint.

Interpretation

2. In this Act, unless the context otherwise requires—

"art" includes painting, music, film production, dramatic play, literary work, poetry, textile and fashion, sculptural work and handcraft;

"association" means—

(*a*) a group or body of artists or heritage practitioners;

(*b*) unions and cooperatives; and

(*c*) community based groups,

in the creative and heritage industry, registered under this Act;

"Chairperson" means the chairperson of the Council appointed pursuant to section 6 (1);

"community art" means an art project or initiative undertaken within a community in a specific geographical area or by a defined demographic interest group;

"creative and heritage industry" means a business whose objectives are creation, production, reproduction, promotion, commercialization, safeguard, preservation, distribution,

broadcast and consumption, of products and services derived from culture and heritage;

"culture" includes knowledge, belief, material trait, social form, and lifestyle acquired by a person as a member of community and accepted by a particular community;

"heritage" means the legacy of physical artefact and intangible attributes of a group or society, inherited from past generations, for the benefit of future generations;

"intangible cultural heritage" means non-physical representations of culture exemplified by practices, expressions of folklore, knowledge, and skills manifested in—

(*a*) instruments, objects, artefacts; and

(*b*) cultural spaces,

that communities, groups and individuals recognize as part of their cultural heritage; and

"local government authority" means a district council, town council, municipal council or city council.

PART II—NATIONAL ARTS AND HERITAGE COUNCIL

Establishment of the National Arts and Heritage Council

3.—(1) There is hereby established the National Arts and Heritage Council (in this Act referred to as the "Council").

(2)—The Council shall be—

(*a*) a body corporate with perpetual succession;

(*b*) a common seal and shall be capable, by that name, of—

(*i*) suing and being sued;

(*ii*) acquiring, hiring, holding and disposing of any moveable or immoveable property; and

(*iii*) subject to this Act, doing or performing all such acts and things bodies corporate may by law do or perform.

Functions of the Council

4.—(1) The Council shall develop and promote the creative and heritage industry in Malawi.

(2) Without derogation from the generality of subsection (1), the Council shall—

(*a*) coordinate programmes in the creative and heritage industry;

(*b*) create opportunities for networking and marketing of products and services from creative and heritage industry both for the local and international markets;

(*c*) register persons in the creative and heritage industry;

(*d*) construct, facilitate the development of, and manage, infrastructure for the creative and heritage industry;

(*e*) develop and facilitate capacity building programmes for the creative and heritage industry;

(*f*) promote research, learning and knowledge programmes for creative and heritage industry;

(*g*) manage the National Arts and Heritage Promotion Fund;

(*h*) mediate over disputes among registered members; and

(*i*) perform any other functions as are necessary or incidental to the implementation of this Act.

Powers of the Council

5. The Council shall have power to—

(*a*) give grants to players in the creative and heritage industry;

(*b*) issue certificates of registration and permits;

(*c*) enforce guidelines for standards of the creative and heritage industry;

(*d*) receive donations and grants; and

(*e*) do and perform all things or acts that are necessary or expedient for the execution of its functions, duties and powers under this Act.

Composition of the Council

6.—(1) The Council shall consist of nine members who shall be citizens of Malawi comprising—

(*a*) six members appointed by the Minister as follows—

(i) one person from musical or folkloric arts;

(ii) one person from theatrical arts or film industry;

(iii) one person from literary arts or visual arts;

(iv) one person from cultural heritage;

(v) one person who is a certified accountant and with five years' experience of which three shall be in financial investment; and

(vi) one person who is a legal practitioner; and

(*b*) the following *ex-officio* members—

(i) the Secretary responsible for culture or his or her designated representative;

(ii) the Secretary responsible for local government or his or her designated representative; and

(iii) the Secretary responsible for tourism or his or her designated representative.

(2) The Minister shall appoint the Chairperson of the Council from the members appointed under subsection (1) (*a*).

(3) The Minister shall, in making appointment under subsection (1) (*a*),—

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(*a*) ensure conformity with the Gender Equality Act; and

(*b*) have regard to the need for continuity in the membership of the Council so that at least two members of the immediately past Council is retained.

(4) The Minister shall publish, in the *Gazette*, names of all members of the Council as first constituted and every subsequent changes in the membership.

(5) Members of the Council shall elect, from the members appointed under subsection 1(*a*), a Vice-Chairperson who shall exercise the functions of the Chairperson during any period that the Chairperson is unable to exercise his or her functions.

(6) A member of the Council shall not, by reason only of the appointment as a member of the Council, be deemed to be an employee in the public service.

Eligibility for appointment as a member of the Council

7.—(1) A member of the Council, other than an *ex-officio* member, shall—

(*a*) have a minimum of five years of experience in their respective area of expertise; and

(*b*) a minimum qualification of a Malawi School Certificate of Education.

(2) A person shall not be qualified for appointment as a member if the person—

(*a*) is an undischarged bankrupt;

(*b*) holds a political office;

(*c*) is not a citizen of Malawi; or

(*d*) would, for any other reason, be disqualified by law from serving as a trustee or director of a company.

Tenure of office and vacancies

8.—(1) A member of the Council, other than an *ex-officio* member, shall hold office for three years and shall be eligible for re-appointment for a further term of three years.

(2) The office of a member, other than an *ex-officio* member, shall become vacant if the member—

(*a*) dies;

(*b*) resigns from the office in accordance with subsection (3);

(*c*) is adjudged or declared bankrupt;

(*d*) declared not capable of performing duties of the office of the member of the Council by a suitably qualified medical practitioner, by reason of illness;

(*e*) is convicted of an offence under any written law, and sentenced to a term of imprisonment without option of a fine;

(*f*) is absent, without valid reason, from three consecutive meetings of the Council of which the member has had notice;

(g) is removed from a position of trust by a court of law;

(*h*) is removed from office in accordance with subsection (4); or

(*i*) a situation arises that if the person was not appointed, would have disqualified the person from being appointed as a member of the Council.

(3) A member of the Council, other than an *ex-officio* member, may at any time resign from his or her office by giving a written notice to the Chairperson.

(4) The Minister may remove from office, a member of the Council, other than an *ex-officio* member, on any of the following grounds—

(*a*) incompetence in the execution of the functions of the office of member;

(*b*) failure to declare a conflict of interest relating to any matter under consideration by the Council;

(*c*) disclosure or publication, of any confidential information of the Council obtained in the course of duty or otherwise, without authorization;

(*d*) if compromised to the extent that his or her ability to impartially and effectively exercise the duties of his or her office is seriously in question; or

(*e*) misconduct that brings the Council into disrepute.

(5) A vacancy in membership of the Council shall be filled by the Minister, within sixty days of the occurrence of the vacancy, by the appointment of a new member in accordance with section 6 (1) (*a*).

(6) A person appointed to fill a vacancy under subsection (5) shall serve for the reminder of the term of office, but a person shall not be appointed to fill the vacancy where the remainder of the term is less than six months.

(7) The period served by a person appointed under subsection (5) shall not be regarded as a term for purposes of subsection (1), unless the remaining period served by the member is two years or more.

Meetings of the Council

9.—(1) The Council shall meet for the transaction of its business at least once in every three months.

(2) The Chairperson shall convene ordinary meetings of the Council by giving the members written notice of not less than fourteen days.

(3) The Chairperson may after consulting the Chief Executive Officer, convene an extraordinary meeting of the Council upon giving the members written notice of not less than three days.

(4) The Chairperson shall, after consulting the Chief Executive Officer, convene an extraordinary meeting within seven days of receipt of a request in writing signed by not less than four members specifying the purpose for which the meeting is to be convened.

(5) A quorum at every meeting of the Council shall be constituted by at least five members present.

(6) The Chairperson or, in the absence of the Chairperson, the Vice-Chairperson shall preside over meetings of the Council, and, in the absence of both the Chairperson and Vice-Chairperson, the members present and forming a quorum shall elect one of their number to preside over the meeting.

(7) A decision of the Council on any question shall be by consensus but where consensus is not possible, the decision shall be determined by a majority vote of members present and voting, and where there is an equality of votes, the Chairperson or, in the absence of the Chairperson, the Vice-Chairperson or other member presiding, shall have a casting vote in addition to that person's deliberative vote.

(8) The Council may make rules to regulate its proceedings and business or the proceedings and business of any of its committees.

(9) The Chief Executive Officer, or a member of staff of the Council designated by the Chief Executive Officer, shall serve as secretary at meeting of the Council and of any of its committees and may address the meeting, but shall not vote on any matter.

(10) Where, at a meeting, the deliberations of the Council or of its committee, concerns the Chief Executive Officer or a member of staff of the Council designated to attend the meeting, the Council, or the committee, as the case may be, may exclude the Chief Executive Officer or the officer from the meeting.

Co-opted person

10.—(1) The Council may, taking into account nature of a matter to be deliberated, co-opt any person to attend a meeting of the Council or of its committee, for the purpose of assisting or advising the Council in respect of the matter under consideration by the Council.

(2) A person co-opted pursuant to subsection (1) may take part in the deliberations of the Council or of the committee but shall not be entitled to vote.

Committees of the Council

11.—(1) The Council may establish such number of committees as the Council determines necessary for the performance of its functions under this Act.

(2) The Council shall appoint a chairperson for each committee from amongst the members of the Council appointed under section 6 (1).

(3) Every committee shall act in accordance with any directions given to it, in writing, by the Council.

Personal attendance of meetings

12. A member of the Council or a committee of the Council, other than an *ex-officio* member, shall not attend any meeting of the Council or a committee of the Council by proxy and where such a member is unable to attend any meeting, the member may request that his or her apology for failure to attend the meeting be recorded.

Allowances and expenses

13.—(1) A member of the Council and a member of a committee of the Council shall be paid such allowances as the Minister shall determine, on recommendation of the Government department responsible for human resources management, and development.

(2) The Council may reimburse any reasonable expenses incurred in connection with the business of the Council by a member of the Council, a member of a committee of the Council and a person invited to attend a meeting of the Council under section 10 or a committee of the Council.

PART III—ADMINISTRATION

Secretariat

14. There is hereby established a secretariat of the Council consisting of the Chief Executive Officer who shall be the controlling officer, and other staff of the Council appointed in accordance with this Act.

Chief Executive Officer

15.—(1) The Council shall appoint the Chief Executive Officer through an open and competitive process on terms and conditions as the Council may determine, after consulting the Government department responsible for human resources management, and development.

(2) The office of Chief Executive Officer shall be a public office.

(3) A person shall not be eligible for appointment as Chief Executive Officer, unless the person—

(*a*) possesses a minimum qualification of a master's degree obtained subsequent to a bachelor's degree from a reputable education institution accredited or recognized under the National Council for Higher Education Act;

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(*b*) has demonstrable expertise and has at least five years' experience in executive management or a field relevant to the functions and responsibilities of the Council; and

(*c*) does not hold a political office.

Duties and responsibilities of the Chief Executive Officer

16. The Chief Executive Officer shall, subject to the direction of the Council, be responsible for—

(*a*) administration and management of the affairs of the Council;

(*b*) administration and implementation of this Act; and

(*c*) performance of such other functions on behalf of the Council as the Council may assign to him.

Removal of the Chief Executive Officer

17.—(1) The Council may terminate the appointment of the Chief Executive Officer if—

(*a*) the Chief Executive Officer is—

(i) incompetent in the execution of his or her functions as Chief Executive Officer;

(ii) declared not capable of performing duties of the office of the Chief Executive Officer of the Council by a suitably qualified medical practitioner, by reason of illness;

(iii) declared or adjudged bankrupt by a court of competent jurisdiction;

(iv) convicted for an offence against any written law and sentenced to any term of imprisonment without the option of a fine;

(v) found guilty of a misconduct punishable by dismissal under his or her employment contract; or

(vi) guilty of a misconduct that brings the office of Chief Executive Officer or the Council into disrepute; or

(*b*) a situation arises that if the person was not appointed, would have disqualified the person from being appointed as a Chief Executive Officer of the Council.

(2) The Council shall notify the Minister in writing of its decision to terminate the appointment of the Chief Executive Officer under subsection (1) and the reason for the termination.

(3) The Chief Executive Officer shall not be removed from office under subsection (1), unless he or she is given an opportunity to be heard.

Other staff of the Council

18.—(1) The Council shall employ such other staff, subordinate to the Chief Executive Officer, as the Council considers necessary for the efficient discharge of its duties and functions.

(2) The Council may, by directions in writing, delegate to the Chief Executive Officer, the appointment, discipline and dismissal of members of staff in specified junior ranks and the Chief Executive Officer shall report to the Council, at its next meeting, every appointment, disciplinary decision or dismissal made pursuant to this subsection.

(3) Members of staff of the Council referred to in subsection (1) shall be appointed on such terms and conditions as the Council shall determine after consulting the Government department responsible for human resources management, and development.

(4) Section 17 shall apply, with the necessary modifications, to dismissal of members of staff employed under this section.

Part IV—Registration and Regulation

Registration of association or enterprise in the creative and heritage industry

19.—(1) An association or an enterprise shall not operate in the creative and heritage industry unless that association or an enterprise is registered by the Council.

(2) An association or an enterprise in the creative and heritage industry shall apply to the Council for registration.

(3) An application for registration of an association or enterprise shall be in a prescribed form and shall be accompanied by a prescribed fee.

(4) The Council shall, within thirty days of receipt of the application under subsection (3), if satisfied that the applicant has—

(*a*) met the prescribed criteria for registration, register the association or enterprise and issue a registration certificate in the prescribed form; or

(*b*) not met the prescribed criteria for registration, reject the application and give reasons for the decision.

(5) A registration under subsection (4) (*a*) shall be valid for a period of one year.

(6) An association or enterprise whose registration has expired may apply for renewal on such terms as the Council may determine.

(7) The Council shall maintain a register for associations and enterprises registered under this Act.

(8) An association or enterprise that operate without registration commits an offence and shall, upon conviction, be liable to a fine of K10,000,000.

Registration of persons in creative and heritage industry

20.—(1) A person who is an artist, heritage practitioner or any other operator in the creative and heritage industry may apply to the Council for registration.

(2) An application for registration shall be in the prescribed form and shall be accompanied by the prescribed fee.

(3) The Council shall within thirty days of receipt of the application under subsection (2), if satisfied that the applicant has—

(*a*) met the prescribed criteria for registration, register and issue to the applicant a registration certificate in the prescribed form; or

(*b*) not met the prescribed criteria for registration, reject the application and give reasons for the decision.

(4) A registration under subsection (3)(*a*) shall be valid for a period of one year.

(5) A person whose registration has expired may apply for renewal on such terms as the Council may determine.

(6) The Council shall maintain a register of players in the creative and heritage industry.

Regulation of event organisers in the creative and heritage industry

21.—(1) A person shall not organize or assist in organizing a cultural or artistic event, unless that person has a permit issued by the Council.

(2) An application for a permit to organize a cultural or artistic event shall be made to the Council at least sixty days for international artists before the date of the event and the application shall be in a prescribed form and shall be accompanied by a prescribed fee.

(3) The Council shall, within thirty days of receipt of the application under subsection (2), if satisfied that the applicant has—

(*a*) met the prescribed criteria for a permit to organize the event, issue to the applicant a permit in a prescribed form in respect of that specific event for which the applicant has applied for; or

(*b*) not met the prescribed criteria for a permit to organize the event, reject the application and give reasons for the decision.

(4) The Council may suspend or revoke a permit issued under subsection (3) (*a*) if the registration was obtained by misrepresentation of a material fact.

(5) A decision to revoke or suspend a permit shall be in writing and contain reasons for the revocation or suspension and shall be delivered to the person within fourteen days of the decision.

(6) The Council shall not revoke or suspend a permit under subsection (4), unless the person is given an opportunity to show cause why the permit should not be revoked or suspended.

(7) A person who contravenes subsection (1) commits an offence and shall, upon conviction, be liable to—

(*a*) in case of a natural person, a fine of K5,000,000 and imprisonment for two years; and

(*b*) in case of a legal person a fine of K10,000,000.

(8) For purposes of this section, "an artistic or cultural event" means—

(*a*) arts and cultural festivals;

(*b*) beauty pageants;

(*c*) awards for the creative and heritage industry;

(*d*) public performances such as drama, music shows, folk dance performances, performance poetry, recitals and readings; or

(*e*) exhibitions such as fine arts and crafts exhibitions, book fairs, films, fashion and traditional cuisine.

Non-transferability of certificate of registration and permit

22. A certificate of registration, or permit issued under this Act shall not be transferable.

Part V—Arts and Heritage Committees

Arts and heritage committees

23.—(1)The Council may establish arts and heritage committee in each local government authority.

(2) The arts and heritage committee established under subsection (1) may, subject to the provisions of this Act and any guidelines issued by the Council, establish its own rules and procedures.

(3) The Council may, for promotion of the creative and heritage industry, allocate funds to any arts and heritage committee established under subsection (1).

Community arts and heritage committees

24.—(1) A local government authority may establish community arts and heritage committees.

(2) A community arts and heritage committee established under subsection (1) may, subject to the provisions of this Act any guidelines issued by the Council, establish its own rules and procedures.

PART VI—PRINCIPLES AND INCENTIVES FOR THE DEVELOPMENT OF CREATIVE AND HERITAGE INDUSTRY

Principles to guide programs of registered associations for creative and heritage industry

25. An arts and heritage association registered under this Act shall be guided by the following principles—

(*a*) equity and equal opportunities tailored to encourage the participation of women, the elderly, physically challenged, the youth and rural communities in the creative and heritage industry; and

(*b*) non-discrimination in terms of race, colour, sex, language, religion, political or other opinion, ethnic or social origin, geographic location, disability, birth or other status or condition.

Incentives for registered players

26. The Council may grant incentives to a person in the creative and heritage industry registered under this Act.

Promotion of visual arts and cultural products

27.—(1) A developer of a construction project to be used by the public, including tourism units, shall commit up to one per cent of the construction cost for commissioning of visual arts and cultural products as interior decorations within premises.

(2) The visual art and cultural product under subsection (1) shall be sourced from Malawian artists and artisans.

(3) The Minister shall, by notice published in the *Gazette*, prescribe scale of percentage of the construction cost committed to visual arts and cultural products under subsection (1).

Development of infrastructure for the creative and heritage industry

28. A local government authority shall, in its land development plan, designate land within its jurisdiction for development of infrastructure for the creative and heritage industry.

Standards for the cultural and creative products

29.—(1) The Council shall develop a scheme of standards for cultural and creative products.

(2) A producer of a cultural and creative product may, subscribe to the standards of cultural and creative products provided under subsection (1).

(3) For purpose of this section, "standards" means—

(*a*) a set of guidelines, systems, methods, requirements, and specifications, to be followed by makers of cultural and creative products; and

(*b*) materials and processes to be used in the production of cultural and creative products,

to ensure consistent product quality that meets export requirements.

Part VII—Financial Provisions

Funds of the Council

30.—(1) The funds of the Council shall consist of—

(*a*) such sums as may be payable to the Council from moneys appropriated by the National Assembly;

(*b*) such sums of moneys or other property, real or personal, as may be acquired, purchased or received by or transferred to the Council, whether by way of donation, grant, devise, bequest, purchase or otherwise;

(*c*) such sums of moneys or other property, real or personal, as may accrue to the Council in the exercise of its power or the performance of its functions under this Act;

(*d*) such sums of money or other property, real or personal, as may be donated or granted to the Authority by a foreign Government, international agency, other external body of persons or individual; and

(*e*) proceeds from the sale of creative and heritage products at international markets by the Council.

(2) The Council shall, at all times, comply with the provisions of the Public Audit Act, the Public Finance Management Act and the Public Procurement and Disposal of Public Assets Act.

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Cap. 37:03

Books, Accounts and Auditing
No. 4 of 2022

31.—(1) The Council shall keep proper books and records of accounts of the income, expenditure and assets of the Council in accordance with the Public Finance Management Act.

(2) The accounts of the Council shall be audited annually by the Auditor General, or by independent professional auditors appointed by the Council after consulting the Auditor General, and the expenses of the audit shall be paid out of the funds of the Council.

Financial year

32.—(1) The financial year of the Council shall be a period of twelve months in line with the Government financial year.

(2) The first financial year of the Council may be such shorter or longer period than twelve months as the Council shall determine but shall not be less than six months and not more than eighteen months.

Financial statement

33.—(1) The Council shall prepare and submit to the Minister, within three months after the end of each financial year, a financial statement on the general conduct of the affairs of the Council and the activities carried out during that financial year.

(2) The financial statement submitted under subsection (1) shall be in the format prescribed by the Minister, and there shall be appended to the financial statement—

(*a*) an audited statement of financial position;

(*b*) an audited statement of income and expenditure; and

(*c*) such other information as the Minister may consider appropriate.

(3) The Minister responsible for finance shall, as soon as practicable, but not later than six months after the end of the financial year, lay before Parliament a copy of the financial statement.

Investment of moneys by the Council
No. 4 of 2022

34.—(1) Subject to Public Finance Management Act, the Council may invest all or a portion of its moneys.

(2) Subject to the special or general directions of the Minister, moneys received by the Council, shall be paid into a licensed bank in Malawi and shall be credited to the accounts of the Council.

Part VIII—National Arts and Heritage Promotion Fund

National Arts and Heritage Promotion Fund

35.—(1) There is hereby established a Fund to be known as the National Arts and Heritage Promotion Fund (in this Act otherwise referred as the "Fund"), which shall be administered by the Council.

(2) The object of the Fund shall be to support the promotion and development of the creative and heritage industry in Malawi.

(3) Without derogating from generality of subsection (2), the Fund shall be used for—

(*a*) providing incentives to stimulate the creative and heritage markets;

(*b*) promoting creativity in the creative and heritage industry through, among other things, provision of grants to paid up members of the Council;

(*c*) developing skills in the creative and heritage industry; and

(*d*) promoting the preservation of works which depict the cultural heritage of Malawi.

Vesting of the Fund
No. 4 of 2022

36. The Fund shall vest in the Council and shall, subject to this Act and the Public Finance Management Act, be administered in accordance with the written directions of the Council.

Sources of funds of the Fund

37. The Fund shall consist of—

(*a*) such sums as may be payable to the Fund from moneys appropriated by the National Assembly;

(*b*) such sums from levies on selected products and services, as may be administered under this Act;

(*c*) grants, donations or contributions from individuals or institutions within the country; and

(*d*) grants, donations or contributions from foreign governments international agencies, development partners, external bodies of persons or individuals.

Holding of the Fund

38.—(1) All sums received for the purposes of the Fund shall be paid into a bank account and no amount shall be withdrawn there from, except in accordance with the Public Finance Management Act.

(2) Subject to the Public Finance Management Act, any part of the Fund not immediately required for the purposes of the Fund may, on the recommendation of the Council, be invested in a manner the Council determines appropriate.

Part IX—Miscellaneous

Protection from liability

39.—(1) No action or proceedings shall be brought personally against any member of the Council or a committee of the Council or member of staff of the Council in respect of any act or omission done in good faith in the course of carrying out the provisions of this Act.

(2) Where, in any proceeding, a question arises on whether or not an act or omission was done in good faith in the course of carrying out the provisions of this Act, the burden of proving that the act or omission was not done in good faith in the course of carrying out the

provisions of this Act shall be on the person alleging that it was not so done.

Disclosure of interest

40.—(1) A member of the Council or committee of the Council, a person invited to attend a meeting of the Council or any of its committees or a member of staff of the Council who has a direct or indirect interest in any matter before the Council or any committee of the Council, as the case may be, shall disclose the interest as soon as is practicable before or soon after the commencement of the meeting and shall not take part in any consideration or discussion of, or vote on, any question on such matter at that meeting or any subsequent meeting.

(2) A disclosure of interest made under subsection (1) shall be recorded in the minutes of the meeting at which it is made.

(3) Where a person mentioned under subsection (1) fails to disclose the interest and the Council or committee of the Council makes a decision which benefits that person, a close relative, professional or business partner of that person, the decision shall, to the extent that it benefits that person, the close relative, professional or business partner, be null and void.

(4) For purposes of this section, "close relative" includes spouse of the person mentioned in subsection (1) or anyone related to the person or to the spouse of the person, by blood.

Confidentiality

41.—(1) Subject to any written law or a court order, the Council shall treat information provided by an applicant for registration or any other information considered exclusive to a person and provided in compliance with this Act as confidential information.

(2) Where the Council releases information under a law or a court order, the Council shall release only such information as it is required to release by the court order or under the law and shall as soon as practically possibly notify the person who provided the information to the Council.

Oath of secrecy

42. Every—

(*a*) member of the Council;

(*b*) member of a committee of the Council;

(*c*) member of staff of the Council; or

(*d*) person co-opted to attend a meeting of the Council pursuant to section 10,

shall, upon assumption of his or her office or before attending the first meeting, take an oath or affirmation of secrecy in the form set out in the *Schedule*.

Common seal and execution of documents

43.—(1) The common seal of the Council shall be kept by the Chief Executive Officer and shall not be used except in the manner authorized.

(2) A deed, instrument, contract and other document shall be considered to be duly executed by or on behalf of the Council—

(*a*) where the document is required to be under seal, if sealed with the common seal and authenticated by the Chairperson or any other member nominated in that behalf by the Council and the Chief Executive Officer, or any other officer authorized by the Council; or

(*b*) where the document is not required to be under seal, if executed in that behalf by a member or officer authorized by the Council for that purpose.

(3) A deed, instrument, contract or any other document executed in accordance with subsection (2) shall, in law, bind the Council, its assignees and its successors and may be varied or discharged in the same manner that it was executed.

(4) A court and other person acting in a judicial capacity shall take judicial notice of the common seal of the Council affixed to any document and shall presume, unless otherwise proven, that it was duly affixed.

Mediation of issues

44.—(1) A person may , in case of a dispute between registered person or a holder of a permit on a matter regulated by this Act, lodge a complaint with the Council.

(2) The Council shall, within thirty days of receipt of the application made under subsection (1), resolve the matter through mediation.

(3) The Council shall, for purposes of implementing this section, develop its own rules.

Appeals

45.—(1) A person aggrieved by a decision of the Council under this Act, may, within thirty days of receipt of the decision, appeal to the Minister, in writing, for review of the decision.

(2) The Minister shall make a determination on the appeal and serve his or her decision on the appellant within sixty days from the date he or she receives the appeal.

(3) A person aggrieved by the decision of the Minister may, within thirty days of the decision, apply to the High Court for judicial review of the decision of the Minister.

Regulations, rules, guidelines etc.

46.—(1) The Minister may, on recommendation of the Council, make regulations for the purpose of giving full effect to this Act.

(2) Without prejudice to the generality of subsection (1), the regulations may make provision for—

(*a*) forms required under this Act;

(*b*) procedure and requirements for registration;

(*c*) procedure and requirements for awarding of grants;

(*d*) administration of the National Arts and Heritage Promotion Fund;

(*e*) quality standards for players; and

(*f*) any matter relating to levies, fees or subscriptions.

(3) The Council may make rules, guidelines and codes of conduct for matters required or permitted by this Act to be prescribed for better carrying out of the functions of the Council.

SCHEDULE (s. 42)

OATH/AFFIRMATION OF SECRECY

I,……., being a member of the Council/member of a committee of the Council/member of staff of the Council/ having been co-opted to attend a meeting of the Council, do hereby swear/affirm that I will freely without fear or favour, affection, or ill-will, discharge the functions of a member/member of staff /invitee of the Council and that I will not directly, or indirectly reveal any matter related to such functions to any unauthorized person or otherwise than in the course of duty. So, help me God/Allah.

sworn at …… this … day of ……, 20….

Signature……

Before me:

……
Commissioner for Oaths

Passed in Parliament this thirteenth day of September, two thousand and twenty four.

FIONA KALEMBA
Clerk of Parliament

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