

GOVERNMENT OF ZAMBIA

ACT

No. 31 of 1994

Date of Assent: 29th September, 1994

An Act to establish and define the functions and powers of the National Arts Council of Zambia; to provide for the registration of, and affiliation to, the National Arts Council of Zambia of all national arts associations; to provide for the establishment of the Arts Development Fund; and to provide for matters connected with or incidental to the foregoing.

]21st October, 1994

ENACTED by the Parliament of Zambia.

Enactment

PART I

PRELIMINARY

1. This Act may be cited as the National Arts Council of Zambia Act, 1994.

Short title

2. (1) The Societies Act shall not apply to an association or a body registered under this Act.

Application

(2) An association or a body registered under the Societies Act shall register under this Act within six months of the coming into force of this Act.

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

Interpretation

"associate body" means an associate body referred to in section *fifteen*;

"Chairperson" means the person elected as chairperson of the Council under sub-paragraph (2) of paragraph 2 of Part I of the Schedule;

"Council" means the National Arts Council of Zambia established by section *four*;

3 of paragraph 9 of Part II of the Schedule;

"Director" means the person appointed as Director of the Council in accordance with sub-paragraph (3) of paragraph 9 of Part II of the Schedule;

"member" means a member of the Council;

"registrar" means the Registrar of national arts associations appointed under section *sixteen*;

"registered body" means a national arts association registered under section *sixteen*;

"Vice-Chairperson" means the person elected as Vice-Chairperson of the Council under sub-paragraph (2) of paragraph 2 of Part I of the Schedule.

PART II

NATIONAL ARTS COUNCIL OF ZAMBIA

Establish-
ment of
Council

4. (1) There is hereby established the National Arts Council of Zambia which shall be a body corporate with perpetual succession and a common seal, capable of suing and of being sued in its corporate name, and with power, subject to the other provisions of this Act, to do all such acts and things as a body corporate may by law do or perform.

(2) The provisions of the Schedule shall apply as to the composition of the Council and otherwise in relation thereto.

Functions of
Council

5. Subject to the other provisions of this Act the functions of the Council shall be to:

- (a) keep itself fully apprised of the policy of the Government in matters concerning arts and to disseminate that policy;
- (b) serve as the supreme advisory body at national level on policy and decisions on all forms of arts in the country;
- (c) provide quality artistic leadership in performing and visual arts;
- (d) develop, promote, regulate and encourage all forms of amateur and professional arts on a national basis in conjunction with the associations and the Government;
- (e) assist the formation of associations or organisations and encourage them to register as national arts associations so as to represent different groups of associations in Zambia and to encourage the affiliation of those associations to the appropriate international organisations;
- (f) assist, financially or otherwise, any group or individual in representing Zambia in any artistic activity within or

**THE NATIONAL ARTS COUNCIL OF ZAMBIA
ACT, 1994**

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- outside Zambia;
- (g) assist, financially or otherwise, in conjunction with the Government, any citizen of Zambia in obtaining relevant training within or outside Zambia;
 - (h) raise and maintain a fund from such sources and by such means as the Minister may approve to enable the Council to carry out its functions;
 - (i) stimulate, through the registered bodies, the provision, development and maintenance of equipment, instruments and facilities for all kinds of arts and ensure their equitable distribution and proper use;
 - (j) ensure that arts groups at all levels maintain proper accounts and, where considered necessary, to supervise and direct the maintenance of these accounts;
 - (k) regulate and provide modalities for the award of national honours for artistic merit;
 - (l) exercise disciplinary powers in cases of breach of the provisions of this Act;
 - (m) regulate and monitor all national arts programmes presented in Zambia;
 - (n) promote the development and organisation of the arts; and
 - (o) do and perform such other functions as may be conducive to the development and promotion of the arts and to the enforcement of this Act.

6. Subject to the other provisions of this Act, the powers of the Council shall be:

- (a) to employ, control and direct such staff as it may consider necessary;
- (b) to investigate the accounts and affairs of a registered body; and
- (c) to make such orders as the Council considers necessary where a report on a matter relating to the affairs of the Council is made to it.

Powers of Council

7. The Council shall have power to appoint a committee to inquire into the activities of a registered body or into the conduct of an office-bearer or a member, as the case may be.

Power to appoint committee to inquire into activities of registered body

8. Where the Council has reason to believe that the activities of a registered body are prejudicial to the interests of the arts or to the public interest, the Council has power to order the suspension of the activities of that body.

Power to order suspension of activities of registered body

9. Where the Council has reason to believe that any office-bearer or a member of a registered body is or has been acting in a

Power to
order
suspension
of office-
bearer

manner, or his further continuance as an office-bearer or member is, likely to be prejudicial to the interests of the arts or the public interest, the Council has power to order the suspension of that office-bearer or member.

Provincial
arts advisory
committees

10. (1) The Council shall appoint a provincial arts advisory committee in each province to advise and assist the Council in matters concerning the promotion, development and organisation of the arts within the province.

(2) Each committee shall consist of a chairperson elected by the committee and not more than one member from each registered body.

District arts
advisory
committees

11. (1) The provincial arts advisory committee in each province shall appoint members of district arts advisory committees which shall consist of a chairperson and not more than one member from each registered body.

(2) The functions of a district arts advisory committee shall be to advise the provincial arts advisory committee on matters concerning the promotion, development and organisation of the arts within the district.

12. The Council shall determine, with the prior approval of the Minister—

Conditions
applicable to
members of
committees

(a) the tenure of office of the members of a committee of the Council, a provincial arts advisory committee and a district arts advisory committee;

(b) the allowances payable, and other terms and conditions applicable, to committee members; and

(c) the frequency of meetings of provincial arts advisory committees and district arts advisory committees, their procedure and all other matters affecting or incidental to the functioning of those committees.

Prohibition
of publica-
tion or
disclosure of
information
to
unauthorised
persons

13. (1) A person shall not, without the consent in writing given by or on behalf of, the Council, publish or disclose to any other person, otherwise than in the course of that person's duties, the contents of any document, communication or information whatsoever, which relates to, and which has come to that person's knowledge in the course of, that person's duties under this Act.

(2) A person who knowingly contravenes subsection (1) shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding thirty thousand penalty units or to imprisonment for a term not exceeding three years, or to both.

(3) If any person having information which to that person's knowledge has been published in contravention of subsection (1)

unlawfully publishes or communicates the information to any other person, that person shall be guilty of an offence and shall be liable, upon conviction, to a fine not exceeding thirty thousand penalty units or to imprisonment for a term not exceeding three years, or to both.

14. The Council shall, with the approval of the Minister, determine—

(a) the tenure of office of the members of a provincial arts advisory committee, a district arts advisory committee and a committee that may be appointed under paragraph 8 of Part I of the Schedule;

General matters relating to committees

(b) the allowances payable to the members of the committees;

(c) the conditions applicable to the committees;

(d) the procedure at a meeting of a committee; and

(e) all other matters affecting the committees.

15. The following shall be associate bodies of the Council:

(a) all institutional arts associations; and

(b) all provincial arts advisory committees.

Associate bodies

PART III

REGISTRATION OF NATIONAL ARTS ASSOCIATIONS

16. There shall be a Registrar of National Arts Associations who shall be a public officer and appointed by the Minister.

Registrar

17. (1) The Registrar shall establish and maintain in the prescribed form a register where he shall register an association or organisation as a national arts association.

Registration of national arts associations

(2) An association or organisation shall be registered as a national arts association under this section within thirty days of its formation.

18. (1) An association or organisation which is not registered under section *seventeen* shall not be recognised as a national arts association.

Effect of non-registration

19. (1) An application for registration as a national arts association shall be submitted to the Registrar in the prescribed form.

Application for registration

(2) On receipt of an application under subsection (1), the Registrar may, within thirty days, carry out any investigation, or require any further information to be submitted to him, as he considers necessary.

(3) An application for registration as a national arts association shall be accompanied by—

- (a) a registration fee;
- (b) a copy of the constitution of the association or organisation which shall contain among other particulars—
 - (i) the objectives and functions of the association or organisation;
 - (ii) the names and addresses of its office-bearers;
 - (iii) the funds available to it and its sources of revenue; and
 - (iv) its principal and other places of operation.

(4) Upon registration, the Registrar shall issue an association or organisation with a certificate of registration.

20. (1) The Registrar shall refuse to register any association or organisation as a national arts association if he is satisfied—

Grounds for
refusing to
register
national arts
association

- (a) that the association or organisation does not exist;
- (b) that the registration of the association or organisation would be against the public interest;
- (c) that the name under which the association or organisation wishes to be registered is identical, or similar, to the name of any existing national arts association or any society or body registered, or exempted from registration, under the Societies Act; or
- (d) the constitution or rules of the association or organisation are in his opinion repugnant to, or inconsistent with, the provisions of any law for the time being in force in Zambia.

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21. (1) Where the Registrar refuses to register an association or organisation as a national arts association the Registrar shall make and furnish to the association or organisation concerned a notice giving the reasons for such refusal.

Notification
of grounds

22. Subject to section *twenty-three* the Registrar may, at any time, cancel the registration of any registered body if the Registrar is satisfied that it is expedient to do so on the ground that—

Cancellation
of registra-
tion

- (a) the constitution or rules of the registered body are, in the opinion of the Registrar repugnant to, or inconsistent with, the provisions of any law for the time being in force in Zambia;
- (b) the registered body is operating in a manner contrary to the public interest;
- (c) the Registrar has reason to believe that the registered body has ceased to exist as a national arts association; or
- (d) the registered body has changed its name and the new name it has adopted—

- (i) is identical to that of any other existing national arts association;
- (ii) so nearly resembles the name of a registered body as, in the opinion of the Registrar, is likely to deceive the public or the members of either association; or
- (iii) is, in the opinion of the Registrar, repugnant to, or inconsistent with, the provisions of any law in force in Zambia or is otherwise undesirable.

23. (1) Before the Registrar cancels the registration of a registered body, the Registrar shall make and furnish the registered body concerned with a notice giving reasons for the intended cancellation and require the association to show cause as to why the registration should not be cancelled.

Notification
of intended
cancellation

(2) If the Registrar is not satisfied with the explanation given by the affected registered body he shall cancel the registration.

24. (1) An association or organisation which has been served with the notice referred to in section *twenty-one* or a registered body whose registration is cancelled under section *twenty-two* may appeal to the Minister within thirty days of the receipt of the notice against the refusal or cancellation, and the Minister shall hear the appeal within thirty days.

Appeal
against
refusal to
register
association
or cancella-
tion of
registration

(2) Where an appeal is made under subsection (1), the Minister may give such directions to the Registrar as the Minister considers necessary to enable him to determine the appeal.

(3) Where an appeal is made under subsection (1), the Minister may confirm, set aside or vary the decision of the Registrar.

(4) Any association or organisation which is aggrieved by the decision of the Minister may appeal to the High Court.

25. (1) A registered body may be affiliated to the Council through such procedure as may be prescribed by the Council.

(2) A registered body may form subsidiary bodies in provinces and these bodies shall be affiliated to the Council by virtue of the affiliation of the registered body.

Affiliation to
Council of
registered
body

PART IV

GENERAL PROVISIONS

Independence
of registered
and associate
bodies

26. Except as provided in this Act, the Council shall not interfere with the day-to-day administration or internal affairs of a registered body or an associate body.

Appeals to
Minister

27. (1) A registered body or any person aggrieved by a decision of the Council may, not later than thirty days from the receipt of that decision, appeal to the Minister.

(2) Where a registered body or a person appeals to the Minister under subsection (1), the Minister may confirm, reverse or vary the decision, or make such other order as the Minister considers fit, and the Minister shall decide within thirty days.

Directions
by the
Minister

28. Subject to the other provisions of this Act, the Minister may give directions to the Council in matters of policy to be followed in pursuance of its objects and the performance of its functions.

Dissolution
of registered
body

29. (1) In order to allow orderly dissolution, a registered body shall not dissolve itself except with the written approval of the Registrar.

(2) A registered body shall apply to the Registrar for approval to dissolve the association and shall—

(a) state in the application the reason for the proposed dissolution; and

(b) submit to the Council the application together with the agenda and minutes of the meeting of the body at which the decision to dissolve the body was taken.

(3) Where a registered body is dissolved, the assets and liabilities of the body shall be disposed of in accordance with the direction of the Council.

Rules

30. The Council may after the approval of the Minister, and in consultation with the relevant registered body, make rules concerning—

(a) the activities of the registered bodies;

(b) the conduct of the members and office bearers of the registered bodies;

(c) the maintenance of proper accounts and records by the registered bodies;

(d) the annual subscription fees to be paid to the Council by the registered bodies;

(e) the standards to be attained and the method and procedure to be followed by a body of persons desirous of entering a competition in Zambia; or

(f) the procedure to be followed by a registered body or individual from outside Zambia for entering a competition or undertaking any artistic activity in Zambia.

31. The Minister may, by statutory instrument, and in consultation with the Council, make Regulations for the better carrying into effect of the provisions of this Act, and, in particular and without prejudice to the generality of the foregoing power, such Regulations may—

- (a) prescribe the fees, allowances or remuneration to be paid under any provision of this Act;
- (b) prescribe the role of cultural officers and the relationship between those officers and the Director;
- (c) provide for the management of the affairs of a registered body when it is under suspension;
- (d) prescribe the forms to be used for the purpose of this Act;
- (e) prescribe the books, registers, accounts and other documents to be kept by a registered body, and provide for the inspection of the books, registers, accounts and other documents;
- (f) prescribe the particulars to be included in the contracts of service of professional artists;
- (g) provide for the status of national and representative groups;
- (h) prescribe the manner and form in which application for the award of national artistic honours shall be made; and
- (i) provide for the procedure for becoming an associate body of the Council.

SCHEDULE
(Section 4 (2))

PART I

THE COUNCIL

1. (1) The seal of the Council shall be such device as may be determined by the Council and shall be kept by the Registrar.

(2) The affixing of the seal shall be authenticated by the Chairperson or the Vice-Chairperson and one other person authorised in that behalf by the Council.

(3) Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not be required to be under seal may be entered into or executed without seal on behalf of the Council by the Registrar or any other person authorised in that behalf by the Council.

(4) Any document purporting to be a document under the seal of the Council or issued on behalf of the Council shall be received in evidence and shall be deemed to be a document so executed or

Seal of
Council

issued, as the case may be, without further proof, unless the contrary is proved.

2. (1) The Council shall consist of—

Composition
of Council

- (a) two members appointed by the Minister;
- (b) the Director of Cultural Services;
- (c) one member to be appointed by each registered body; and
- (d) one member appointed by the Ministry responsible for—
 - (i) education;
 - (ii) information and broadcasting;
 - (iii) science, technology and vocational training; and
 - (iv) tourism.

(2) The Chairperson and the Vice-Chairperson shall be elected by members of the Council from amongst themselves, subject to ratification by the Minister.

3. (1) A member shall hold the office of member for a period of four years from the date of appointment, but shall be eligible for re-appointment.

Tenure of
office and
vacancies

(2) Notwithstanding subsection (1) the office of member shall become vacant—

- (a) upon the death of a member;
- (b) if a member is adjudged or otherwise declared to be of unsound mind;
- (c) if a member is adjudged or otherwise declared bankrupt;
- (d) if a member is lawfully detained or the member's freedom of movement is restricted under any law in force in Zambia;
- (e) if a member is sentenced to a term of imprisonment exceeding six months;
- (f) if a member is absent from three consecutive meetings of the Council without reasonable cause; or
- (g) upon the expiry of not less than one month's notice in writing of that member's intention to resign given by the member to the Chairman.

(3) Notwithstanding subsection (1) the Minister may, at any time, remove a person from the office of member if the Minister is satisfied that the continuance of that person in the office of member will be prejudicial to the interests of the arts.

4. (1) Subject to subsection (2), whenever the office of a member becomes vacant before the expiry of the term of office specified in paragraph 3, the Minister, or, if the member who vacated the office

was appointed by any of the bodies referred to in paragraph 2, that body, may appoint another person to be a member in place of the member who vacates the office.

Filling of
casual
vacancy

(2) The person appointed under subsection (1) shall hold office only for the unexpired term of office of the person who vacated that office.

5. (1) Subject to the other provisions of this Act, the Council may regulate its own procedure.

(2) The Council shall, for the transaction of business, meet at least twice in every calendar year at such places and times as the Chairperson may determine.

Proceedings
of Council

(3) One half of the total number of members shall constitute a quorum at any meeting of the Council.

(4) Subject to paragraph 5 the Chairperson shall, upon giving notice of not less than fourteen days, call a special meeting of the Council if not less than five members so request in writing.

(5) If the urgency of any particular matter does not permit the giving of the notice referred to in sub-paragraph (4), a special meeting may be called upon giving shorter notice.

(6) There shall preside at a meeting of the Council the Chairperson or, in the absence of the Chairperson, the Vice-Chairperson or, in the absence of both the Chairperson and the Vice-Chairperson, such member as the members present may elect for the purpose of that meeting.

(7) A decision of the Council on any question shall be by a majority of the members present and voting at the meeting and in the event of an equality of votes the person presiding at the meeting shall have a casting vote in addition to that person's deliberative vote.

(8) Where any member referred to in paragraph (a) to (d) of paragraph 2 is unable to attend any meeting of the Council, the Ministry or organisation, as the case may be, which that member represents may, in writing, nominate another person to attend that meeting in that member's stead and that person shall be deemed to be a member for the purpose of that meeting.

(9) The Council may invite any person whose presence is in its opinion desirable, to attend and to participate in the deliberations of a meeting of the Council, but such a person shall have no vote.

(10) The validity of any proceedings, act or decision of the Council shall not be affected by any vacancy in the membership of the Council or by any defect in the appointment of any member.

(11) The Council shall cause minutes to be kept of the proceedings of every meeting of the Council and of every meeting of any committee established by the Council.

6. The Council may appoint such committees as it may consider necessary for the performance of its functions.

Committees
of Council

Disclosure
of interest

7. (1) If any person is present at a meeting of the Council at which any matter in which that person or that person's spouse is directly or indirectly interested in a private capacity is the subject of consideration, he shall, as soon as practicable after the commencement of the meeting, disclose that interest and shall not, unless the Council otherwise directs, take part in any consideration or discussion of, or vote on, any question touching that matter.

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

Immunity of
members
and staff

8. An action or other proceeding shall not lie or be instituted against any member, member of a committee of the Council or of the Board or member of staff of the Council for, or in respect of, any act or thing done or omitted to be done in good faith in the exercise or purported exercise of his duties under this Act.

PART II

ADMINISTRATION

Director and
Deputy
Director

9. (1) There shall be a Director of the Council who shall be appointed by the Council after the approval of the Minister.

(2) The Director shall be the Chief Executive Officer of the Council and shall be responsible for the administration of the affairs of the Council.

(3) The Council may appoint a Deputy Director to assist the Director.

(4) The Director may, by directions in writing and subject to such terms and conditions as the Director thinks fit, delegate to the Deputy Director any of the functions of the Director under this Act.

(5) The Director, or in his absence the Deputy Director, shall attend meetings of the Council and the Board and may address such meetings, but shall not vote on any matter:

Provided that the person presiding at any meeting of the Council may, for good cause, require the Director or Deputy Director, as the case may be, to withdraw from the meeting.

10. The Council may appoint, on such terms and conditions as it may determine, such other staff and agents as it considers necessary for the performance of the functions of the Council.

PART III

Staff

FINANCIAL AND OTHER PROVISIONS

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

- (a) such sums as may be appropriated by Parliament for the purpose of the Council;
- (b) such sums as may be paid to the Council as donations, contributions, subscriptions, fees or gifts, but the Council shall not raise money from outside Zambia without the prior approval of the Minister; or
- (c) such other moneys or assets as may accrue to, or vest in, the Council as a result of the investments made, or transactions entered into, in the course of its operations.

Funds of
Council

(2) The Council—

- (a) shall cause to be kept full and correct books of account of all moneys received and expended by it;
- (b) may invest its funds in such manner and to such extent as the Council may consider fit;
- (c) shall after the approval of the Minister and subject to such conditions as the Minister may impose, borrow money from any source within Zambia.

12. The Council shall establish and administer a fund to be known as the Arts Development Fund from which it may lend funds to any registered body.

13. The financial year of the Council shall be the period of twelve months ending on 31st December in each year.

Arts
development
fund

14. The Council shall cause to be kept proper books of account and other records relating to its accounts.

Financial
year

15. (1) The Council may, at any time, by notice of the Director, order a registered body to submit to the Council, within such time as the Council may specify in the order, duly audited accounts of the body.

Accounts

(2) The notice referred to in subsection (1) shall be for a period of not less than thirty days from the date on which the notice is served on the registered body.

Power to call
for accounts

(3) Where a registered body fails to comply with the notice referred to in subsection (1), or the Council discovers any irregularities in the accounts of the body, the Council may take such action

against the body as the Council may consider fit.

Annual
report

16. (1) The Council shall, after 31st December in each year, but not later than six months from that date, submit to the Minister a report of its activities during the previous year and containing such other information as the Minister may direct.

(2) The annual report of the Council shall, among other things, include a report on the financial affairs of the Council.

(3) There shall be appended to the report referred to in subsection (2)—

(a) an audited balance sheet;

(b) an audited statement of income and expenditure during the year; and

(c) a report of the auditors on the accounts.

(4) The Minister shall, not later than seven days after the first sitting of the National Assembly next after the receipt of the report referred to in subsection (1), lay it before the National Assembly.
