



THE GAMBIA

No. 11 OF 1989.

Assented to by The President,

this Fourth day of December, 1989.

LS

D. K. JAWARA,  
*President.*

AN ACT to establish a National Council for Arts and Culture and to make provision for other matters connected therewith.

[ 18th December, 1989. ]

ENACTED by the Parliament of The Gambia.

Enactment.

PART I—PRELIMINARY

1. THIS ACT may be cited as the National Council for Arts and Culture Act, 1989. Short title.

Inter- 2. In this Act, unless the context otherwise  
preta- requires -  
tion.

"Administrative Areas" means the existing administrative areas in The Gambia;

"Ancient Monument" includes building, ruin, remaining portion of a building or ruin, stone circle, altar, pillar, statue, tumulus, grave, cave, rock, shelter, kitchen, midden, earthwork, iron-smelting site, underground cistern, shell mound or other site or thing of a similar kind of architectural, archaeological, historical or other scientific interest;

"Ancient working" means a shaft, cutting, tunnel or stope which was made for mining purposes and which has been proclaimed as such by the Council;

"Chairman" means the Chairman of the Council, and for the purposes of Parts III and IV the Chairman includes the Chairman of the Committee, and the sub-committee;

"Committee" means the Cultural Committee established in an administrative area;

"Council" means the National Council for Arts and Culture established under section 3;

"ethnographical article" means:

- a) any remains of early settlement, or colonisation; or

- b) any work of art or craftwork including a statue, modelled clay figure, figure cast or wrought in metal, carving, houspost, door, ancestral figure, religious mast, staff, drum, bowl, ornament, utensil, weapon, armour, regalia, manuscript or document, where such work of art or craftwork is of indigenous origin, and is of historical, artistic or scientific interest;

Where a dispute arises as to whether a particular article does or does not fall within the terms of this definition the decision of the Minister shall be final;

"Executive Director" means the Executive Director of the Council appointed under section 26 (1);

Act No. 1  
of 1970

"Financial year" bears the meaning assigned to it by section 133 of the Constitution;

"Member" means a member of the Council, Committee or Sub-Committee;

"Minister" means the Minister responsible for the administration of this Act;

"Monument" includes -

- a) an ancient monument or antique
- b) an area of land which is of archaeological or historical interest or contains objects of such interest.

- b) any work of art or craftwork including a statue, modelled clay figure, figure cast or wrought in metal, carving, houspost, door, ancestral figure, religious mast, staff, drum, bowl, ornament, utensil, weapon, armour, regalia, manuscript or document, where such work of art or craftwork is of indigenous origin, and is of historical, artistic or scientific interest;

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"Minister" means the Minister responsible for the administration of this Act;

"Monument" includes -

- a) an ancient monument or antique
- b) an area of land which is of archaeological or historical interest or contains objects of such interest.

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- c) a waterfall, cave, grotto, avenue of trees, old tree or old building, and
- d) any object (whether natural or artificially constructed) of archaeological, ethnographical, historical or other scientific interests.

"National Monument" means a monument which is proclaimed as such by the Minister on the advice of the Council;

"relic" includes:

- a) a fossil of any kind;
- b) an ancient drawing, engraving or painting or stone or petroglyph;
- c) an ancient implement, article or other artefact; and
- d) an archaeological or ethnographical contents of an ancient monument or ancient working;

"Sub-Committee" means the Museums and Monuments sub-committee.

PART II - THE NATIONAL COUNCIL FOR ARTS AND CULTURE

Establishment of the Council

3 (1) There is hereby established a Council to be known as the National Council for Arts and Culture.

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(2) The Council shall be a body corporate with perpetual succession and a common seal, and may sue and be sued in its corporate name.

(3) The Council may acquire, hold, alienate, mortgage, let and hire property, moveable and immovable, and perform such acts as a body corporate may by law perform.

Composi-  
tion of  
the Council

4. The Council shall consist of:
- a) a Chairman to be appointed by the Minister;
  - b) The Permanent Secretary, Ministry of Education, Youth, Sports and Culture;
  - c) The Permanent Secretary, Ministry for Local Government and Lands;
  - d) The Director, Department of Information and Broadcasting;
  - e) The Director of Tourism ;
  - f) The Executive Secretary, Women's Bureau;
  - g) The Director, Non-Formal Education Services; and
  - h) Ten persons, two of whom shall represent religious interests, to be appointed by the Minister.

Functions 5. The functions of the Council are:

of the  
Council

- a) to advise the Minister on matters of policy relating to arts and culture, and in particular on matters relating to national languages, the creative arts, monuments and relics, research and documentation, science and indigenous technology, and sports and recreation;
- b) to promote and develop Gambian Culture;
- c) to implement, monitor, co-ordinate and evaluate cultural programmes in The Gambia;
- d) to promote cultural co-operation at the regional and international levels;
- e) to encourage at the local level the emergence of groups and institutions interested in the promotion of art and Culture;
- f) to supervise the functioning of the committees that may be established under section 7(1);
- g) to investigate and report on cultural matters relating to research, information processing, storage, documentation, retrieval, and dissemination; and



- h) to perform such duties as are related to the research and development of art and culture in The Gambia.

Power to  
Establish  
ad hoc  
Committee

6.(1) For the better carrying out of its functions under section 5, the Council may, by rules made under this Act, establish such ad hoc Committees as may be necessary to carry out such functions as may be delegated to them by the Council.

(2) An ad hoc committee may with the approval of the Chairman of Council co-opt persons with such technical expertise as it may consider necessary for the purpose for which it is established.

(3) An ad hoc committee established under subsection (1) shall exist only for the purpose for which it is established.

### PART III - CULTURAL COMMITTEES

Estab-  
lish-  
ment and  
Composi-  
tion

7 (1) The Minister may, on the advice of the Council, establish a cultural committee in any of the administrative areas.

(2) A Cultural Committee in an administrative area shall comprise such number of persons as the Minister may, upon advice of the Council, determine.



(3) Where a cultural committee is established, the Commissioner of the Division shall be an honorary member of the Committee in his Division, and in the case of Banjul and Kombo St. Mary, the Mayor of Banjul City Council and the Chairman of Kanifing Urban District Council as the case may be, shall be honorary members of their respective Committees.

Functions  
of a  
Committee

8. A Committee shall promote the attainment of the Council's objectives in its administrative area, and shall ensure that the development and promotion of culture in The Gambia within the framework of the Gambia's Cultural Policy receives adequate attention.

Plan of  
Activities

9 (1) A Committee shall, in the performance of its functions, be responsible to the Council to which it shall submit for approval an annual plan of activities which it intends to embark upon.

(2) The Council shall, in considering the plan of activities submitted by a Committee, take into account such matters as the relevance of the plan to Gambian culture, its effect on society, and whether or not it conforms to the provisions of this Act, and may approve or reject any or all of the activities contained in the plan.

PART IV - ADMINISTRATION OF MUSEUMS AND MONUMENTS

Establishment  
and Composition

10. (1) The Council shall establish a sub-committee to be known as the Museums and Monuments sub-committee.

(2) The sub-committee shall comprise three members of the Council appointed by the Chairman and six other persons to be appointed by the Council, with the approval of the Minister.

(3) The Sub-Committee shall have as its Chairman a member of the Council.

Delegation of functions

11 (1) The Council may, in writing under the hand of the Chairman, delegate any of its functions or duties under sections 5 and 14 to the sub-committee.

(2) Nothing contained in sub-section (1) shall prevent the Council from performing such functions as may be delegated to the sub-committee.

Reports

12. The sub-committee shall on or before the 31st Day of March in every year furnish to the Council a report of its activities during the year which ended on the 31st December preceding, and on any other matters which it may desire to bring to the attention of the Council.

Sub-Committee to be responsible to Council

13. The sub-committee shall, in the performance of its functions, be responsible to the Council.

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Power  
and  
duties  
of  
Council

14 (1) Notwithstanding anything contained in this Part, the Council may -

- (a) make a list of all monuments whose proclamation as national monuments it considers desirable, and take necessary steps to ascertain the owner of any such monument;
- (b) acquire and maintain museums and purchase or otherwise acquire any monument, relic, ethnographical article or other articles of archaeological, ethnographical, historical or other scientific interest;
- (c) make recommendations to the Minister for a monument to be proclaimed a national monument;
- (d) assume control over any monument, relic, ethnographical article or other article of archaeological, ethnographical, historical or other scientific interest if requested by the person having the ownership or control thereof so to do;
- (e) preserve, repair, restore or insure any monument, relic, ethnographical article or other article of archaeological, ethnographical, historical or other scientific interest which is owned by it or under its control;

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- (f) lend or, subject to section 15, give any relic, ethnographical article or other article to any museum or public institution;
  - (g) undertake the excavation of any ancient monument or ancient working, and by writing under the hand of the Chairman authorise any act to be done which it may deem necessary for excavating, exploring or safely preserving any ancient monument or ancient working or any relic wherever situated or found irrespective of the person who owns or has control thereof; and
  - (h) take such steps as may be necessary for the erection of notices or tablets in suitable places, giving information about historical events which occurred at such places.
- (2) The Council shall -
- (a) when required by the Minister investigate and report on any matter relating to any monument, ancient working, relic, ethnographical article or other article of archaeological, ethnographical, historical or other scientific interest or believed to be of such interest, and

upon the desirability of proclaiming any monument as a national monument; and

- (b) make a register of all national monuments and ancient workings and of such relics, ethnographical articles and articles of archaeological, ethnographical, historical or other scientific interest as it may have acquired or as have been brought to its notice.

- (3) The Council shall through any of its members have reasonable access at all reasonable times to any monument, ancient working, relic, ethnographical article or other article of archaeological, ethnographical historical or other scientific interest, or believed to be of such interest.

Restriction on power to alienate, etc. 15. The Council shall not, without the prior written consent of the Minister, alienate, hypothecate or let any monument, relic, ethnographical article or article of archaeological, ethnographical, historical or other scientific interest which is owned by it or for which it is trustee for the Government.

Minister may proclaim ancient workings 16. The Minister may on the recommendation of the Council and by notice published in the Gazette, proclaim any shaft, cutting, tunnel or stope which was made for mining purposes to be an ancient working.

Minister may 17. (1) Upon the recommendation of the Council  
proclaim the Minister may by notice published in the  
national Gazette, proclaim a monument to be a national  
monuments monument.

(2) The Council shall, at least one month  
before recommending to the Minister the proclama-  
tion of a monument which does not belong to the  
state, notify the owner of that monument in writing  
that the Council proposes to make such recommenda-  
tion, and the owner may thereupon lodge with the  
Council objections in writing to the proposed  
recommendation.

(3) Where the Council makes a recommendation  
to the Minister, it shall submit to the Minister,

(a) proof that the owner of the monument  
concerned has received notice of the  
recommendation; and

(b) any objections which the owner of the  
monument concerned may have lodged  
against the recommendation.

(4) The decision of the Minister in respect  
of any objections made to the proposed recommendation  
shall be final.

Notifica- 18. (1) A person who discovers any ancient  
tion of monument, relic, ancient working, ethnographe-  
discove- cal article or monument shall, upon the dis-  
ries covery coming to his notice, notify the Council  
in writing of such discovery.



(2) Where the Council receives a notice under sub-section (1), it shall have a right of option to acquire the ownership of the ancient monument, relic, ancient working, ethnographical articles or monument so discovered upon payment to the person who makes the discovery of a sum of money to be agreed upon as fair and reasonable compensation, or failing agreement, upon payment of such sum of money as may be determined or awarded by a qualified person as the Minister may appoint in that behalf.

(3) If within six months after the receipt of a notice of discovery under Sub-section (1) the Council fails to notify the owner of such ancient monument, relic, ancient working ethnographical article or monument that it intends to exercise its option such right of option shall be deemed to have lapsed.

No excavation without consent of Council

19. (1) No person shall, without the written consent of the Council, excavate any ancient monument or ancient working or, if he receives the written consent of the Council, excavate any ancient monument or ancient working contrary to any conditions which may have been imposed in such consent or by regulation made under this Act.

(2) A person who contravenes the provisions of this section commits an offence and shall be liable, on conviction, to a fine not exceeding five thousand dalasis or in default of payment, to a term of imprisonment not exceeding two years, or to both such fine and imprisonment.



No alteration, damage or removal without consent of Council

20. (1) No person shall, without the written consent of the Council,
- (a) alter, destroy or damage; or
  - (b) remove from its original site or export from the Gambia;

a national monument, monument, relic, ancient monument, ancient working or ethnographical article or any part thereof;

(2) A person who desires to remove from its original site or to export from The Gambia any national monument, monument, relic, ancient monument or ancient working or any part thereof shall, when applying to the Council for its consent, supply the Council with a photograph or drawing of the national monument, relic, monument, ancient monument, or ancient working or part thereof in question, and shall state the exact locality in which it is situated and the place to which, and the purposes for which, he desires to remove or export it.

(3) A person who desires to export from The Gambia any ethnographical article or any part thereof shall, when applying to the Council for its consent, submit the article or part thereof in question for examination by the Council with a drawing or photograph of the ethnographical article or part thereof in question and shall state the purposes for which he desires to export it.

in question and shall state the purposes for which he desires to export it.

(4) Where a person is dissatisfied with a decision of the Council made in the exercise of its powers under this section, that person may appeal against such decision to the Supreme Court.

(5) Where an appeal is made to the Supreme Court, it shall cause the notice of the appeal to be published in the Gazette and shall hear such appeal no sooner than the expiration of one month from the notification thereof in the Gazette.

(6) At the hearing of an appeal by the Supreme Court, any person may be heard (whether in person or by Legal Practitioner) in support of or in opposition to such appeal and the decision of the Supreme Court in the matter shall be final.

(7) A person who -

(a) contravenes the provisions of this section, or

(b) in an application to the Council for the consent under this section, makes a statement which is false in a material respect or supplies therewith a drawing or photograph which is false in a material respect,

commits an offence and shall be liable, on conviction, to a fine not exceeding five thousand dalasis, and in default of payment, to a term of imprisonment not exceeding two years.

Damage to 21. (1) No person shall deface, damage or  
tablets destroy a notice or tablet erected by the  
erected Council under paragraph (g) or (h) of section  
by Council 14 (1).

(2) A person who contravenes the provisions of this section commits an offence and shall be liable, on conviction, to a fine not exceeding five thousand dalasis, and in default of payment, to a term of imprisonment not exceeding two years, or to both such fine and imprisonment.

Compensa- 22. Where a person is convicted of an offence  
tion to under this Act which has resulted in damage to,  
be paid destruction or removal of any national monument,  
for ancient monument, relic, ancient working, or any  
damage part thereof, or any tablet erected by the Sub-  
done Committee, or in damage to or destruction of any  
ethnographical article or any part thereof the  
Court may, in addition to any other penalty which  
it may impose order him to pay such sum as the  
Court may determine for the purpose of repairing  
such damage or for the value of any article or  
thing removed or destroyed.

PART V - GENERAL PROVISIONS

(1) Meetings and Proceedings

Meetings 23. (1) The Council shall, in the performance of  
its functions, meet at such times and places as  
it may deem fit, but shall in any case meet at  
least once every year.

(2) The quorum at every meeting of the Council shall be twelve members, and for any other body a simple majority of the total membership.

(3) The Committee, sub-committee and such ad hoc committee as may be established under section 6 (1) shall meet at such times as may be necessary, or whenever required to do so by the Council for the consideration of matters falling under the provisions of this Act or rules or regulations made under this Act.

(4) The Chairman shall preside at all meetings at which he is present, and where he is for any reason absent from a meeting the members present at the meeting shall elect one of their members to preside.

(5) Subject to the provisions of this Act, the Council, Committees, sub-committees and any ad hoc committee that may be established under this Act shall determine and regulate their own rules of procedure.

Tenure of Office of Members 24. (1) A Chairman and any other member appointed under this Act, other than ex-officio members, shall hold office for three years from the date of such appointment and may, at the expiration of the three years from the date of such appointment be eligible for re-appointment.

(2) Where -

- a) a member is incapable of performing his duties due to ill-health or other sufficient cause; or
- b) a member is absent from three consecutive meetings without giving satisfactory reasons to the Chairman; or
- c) the office of a member falls vacant otherwise than by the expiry of his term of office;

The Minister or other appointing authority may appoint another person to hold office for the remainder of the unexpired term of office of such person.

(3) A Chairman or a member other than an ex-officio member may, by writing under his hand addressed to the authority that appointed him, resign his office.

(ii) Staff of the Council

Council  
Secre-  
tariat

25. The Council shall establish its Secretariat at such place as may be approved by the Minister.

Appoint-  
ment of  
Executive  
Director

26. (1) The administrative head of the Secretariat shall be an Executive Director who shall be appointed by the Minister after consultations with the Council.

(2) Subject to any directions of the Council, the Executive Director shall be responsible for the day-to-day administration of the Secretariat and may issue such directions as may be necessary for the effective administration of the Secretariat.

(3) The Executive Director may be removed from office on grounds of inefficiency, misbehaviour or any other good cause after being given adequate opportunity to be heard in his own defence.

Appoint-  
ment and  
Dismissal  
of other  
staff

27. (1) The Council shall employ such other staff as may be necessary to enable it to carry out its functions, and pay their remuneration from its funds.

(2) Subject to sub-section (3), the staff of the Secretariat shall be employed on such terms and conditions as may be determined by the Council.

(3) No senior staff of the Secretariat may be dismissed by the Council without the approval of the Minister.

(4) For the purposes of this section:

"senior staff" means a senior staff so designated under regulations made under this Act.



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Secondment of public Officers 28. (1) The Public Service Commission may, upon request by the Council, second public officers to the Secretariat on such terms as may be agreed with the Council.

(2) A public officer seconded to the Secretariat shall be subject to the control of the Council and to such rules and regulations as may be in force in respect of such seconded officers.

(iii) Financial Provisions

Funds of the Council 29. The funds of the Council shall:

- a) consist of Government subventions, monies raised from implementation of cultural programmes, and such grants, donations, fees and subscriptions as may be made to it or be payable to it; and
- b) be kept in such bank as may be appointed by the Council.

Funds of Committees and Sub-Committee 30. Every Committee and sub-committee shall:

- a) generate its own funds through cultural activities and receive such sums of money as may be appointed to it by the Council; and
- b) keep its funds in such bank as may be approved by the Council.



Annual  
Accounts  
and  
Audit

31. (1) Every Committee and Sub-Committee shall, in each year, provide the Council with an audited statement of account and a progress report on its activities.

(2) The accounts of the Council shall be audited annually by the Auditor General.

(3) The Council shall, within three months of the end of the Financial Year, provide the Minister with the audited statement of account and a progress report on its activities.

(4) The Minister shall as soon as practicable, bring before the House of Representatives the audited statement of account together with the progress report on the Council's activities.

Remunera-  
tion

32. The Minister may direct that members of the Council, Committee, Sub-Committee and ad hoc committee established under this Act be paid such sitting allowances as may be reasonable.

#### PART VI - MISCELLANEOUS

Regula-  
tions

33. The Minister may make regulations generally for the better carrying into effect of the provisions of this Act, and in particular for prescribing -

- a) the penalty to be imposed on a person for the contravention of the provisions of any rule made under this Act;

*National Council for Arts and Culture Act, 1989.*

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- b) the posts of the senior staff of the Secretariat; and
- c) anything that may be prescribed under the provisions of this Act.

**Rules**

34. The Council may, with the approval of the Minister, make rules:

- a) regulating policies and procedures for the preservation, promotion and development of Gambian culture;
- b) prescribing the manner in which a Committee, Sub-Committee or ad hoc Committee shall function;
- c) prescribing the measures and the manner in which ancient monuments, relics, ancient workings, ethnographical articles and monuments shall be acquired, safeguarded and administered;
- d) monitoring the implementation of programmes with respect to the protection and standardization of the national languages, the creative arts, indigenous technology, and sports and recreation; and
- e) facilitating the conduct of its business.

Repeal and Savings 35. (1) The Monuments and Relics Act, 1974 (No. 8 of 1974) is hereby repealed.

(2) Notwithstanding sub-section (1) all lists, purchases or acquisitions in respect of the monuments and Relics Act, 1974 and in operation before the coming into force of this Act, shall be deemed to have been listed, purchased, acquired or done under this Act and shall continue to have effect accordingly.

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PASSED in the House of Representatives this Ninth day of October  
in the year of Our Lord One Thousand Nine Hundred and Eighty-Nine.

E. O. BRIGHT,  
*Clerk of the House of Representatives.*

THIS PRINTED IMPRESSION has been carefully compared by me with the  
Bill which has passed the House of Representatives and found by me to be  
a true and correct copy of the said Bill.

E. O. BRIGHT,  
*Clerk of the House of Representatives.*

## THE NATIONAL COUNCIL FOR ARTS AND CULTURE

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6. Power to establish ad hoc Committees

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