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SAINT LUCIA

No. 26 of 2000

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No. 26] *Cultural Development Foundation Act* [2000.]

I ASSENT

[L.S.]

PEARLETTE LOUISY,
Governor-General.

22nd November, 2000.

SAINT LUCIA

No. 26 of 2000

AN ACT to establish a Foundation for the promotion, development and management of the arts and culture.

[On Order]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Assembly and the Senate of Saint Lucia, and by the authority of the same as follows:

PART I
PRELIMINARIES

Short title and commencement

1.—(1) This Act may be cited as the Cultural Development Foundation Act.

(2) This Act shall come into force on a day to be fixed by the Minister by Order published in the *Gazette*.

Interpretation

2. In this Act —

“Board” means the Board of Directors appointed pursuant to section 8;

“Foundation” means the Cultural Development Foundation established under section 3;

“Fund” means the Reserve Fund established pursuant to section 27;

“Minister” means the Minister responsible for Culture.

Establishment of Foundation

3.—(1) There is hereby established by this Act a body corporate to be known as the Cultural Development Foundation to which section 19 of the Interpretation Act 1968, No. 18 shall apply.

(2) The Foundation shall be the principal public body responsible for execution of the national cultural activities on behalf of the Government.

Objects of Foundation

4.—(1) The Foundation shall have as its objects —

- (a) the implementation of a National Cultural Policy;
- (b) the advancement of the arts and culture in the society.

(2) For the advancement of the objects described under sub-section (1) the Foundation shall —

- (a) prepare periodic action plans using arts and culture to affirm a Saint Lucian identity within a regional and international context;

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- (b) undertake research into various aspects of the arts and culture;
- (c) ensure that training opportunities are made available in all aspects of the arts and culture;
- (d) market, promote and co-ordinate artistic and cultural activities including festivals, overseas exchanges, celebrations, products and services;
- (e) liaise with relevant Government Ministries and Departments, non-governmental organizations, community based organisations and the private sector;
- (f) make recommendations regarding policy, public funding, technical and institutional support for the promotion of the arts and culture;
- (g) establish funds to be used in pursuance of the objects of the Foundation;
- (h) mobilise public and private resources for the benefit of the sector;
- (i) develop and manage venues for artistic and cultural activities;
- (j) undertake pro-active programmes promoting indigenous cultural and artistic goods and services;
- (k) assist and support community based activities designed to promote the arts and culture;
- (l) solicit and accept financial assistance, subscriptions, donation, gifts and loans on behalf of the Foundation;
- (m) publish, produce in print, audio visual and multi-media form, material of an artistic or cultural nature;
- (n) promote any activity which will assist in the furtherance of artistic and cultural expression;
- (o) carry on any activity which appears to the Foundation to be requisite, advantageous or convenient for or in connection with the discharge of its functions under this Act.

(3) The Foundation may contract with or establish agencies to assist in carrying out its functions under this Act.

PART II
STRUCTURE

Membership

5.— (1) The Foundation shall consist of honorary, ordinary, associate and corporate membership.

(2) Ordinary membership shall be open to any individual who demonstrates an interest in or is involved in the arts and culture.

(3) Associate membership shall be open to any club, group or association which was previously registered with the Ministry of Culture or whose principal activity falls within the realm of the arts and culture.

(4) Corporate membership shall be open to corporations, firms and institutions interested in the promotion of the arts or culture.

(5) The Minister may appoint any person to be an honorary member of the Foundation.

Privileges

6.— (1) A member shall be entitled to attend general meetings of the Foundation but only ordinary and associate members shall have the right to vote at such meetings.

(2) Every member of the Foundation entitled to vote shall have one vote except in the event of an equality of votes when the Chairperson shall have a casting vote.

Subscription fee

7. The annual subscription fee shall be such as the Foundation shall determine.

PART III
MANAGEMENT

Board of Directors

8. The affairs of the Foundation shall be administered by a Board of Directors comprising nine members to be appointed as follows —

- (a) four members appointed by the Governor-General from the major art disciplines of visual arts, literature, music, and the performing arts, after consultation with the appropriate representing bodies;

(b) five members appointed by the Minister as follows :

- (i) two members representing the private sector;
- (ii) one member representing the Folk Research Centre;
- (iii) one member representing the St. Lucia National Trust;
- (iv) one member representing the Ministry responsible for Culture.

Term of office

9. A member of the Board shall hold office for a period of three years and shall be entitled to re-appointment.

Absent members

10.— (1) A member who cannot attend a meeting of the Board on account of illness or other temporary cause or who will be temporarily absent from the State shall inform the Chairperson.

(2) The Chairperson may grant leave of absence to a member of the Board who is ill or temporarily out of State and may request the relevant organisation to nominate a person to act temporarily in the place of that member.

(3) A member who absents himself without the leave of the Chairperson from three consecutive meetings shall cease to be a member.

Officers

11.— (1) The officers of the Board shall consist of —

- (a) a Chairperson;
- (b) a Deputy Chairperson; and
- (c) a Secretary appointed by the Board who shall also be the Treasurer.

(2) The Chairperson shall designate an employee of the Foundation to be the recording secretary to the Board.

(3) The recording secretary shall perform such duties in relation to meetings of the Board as the Chairperson determines.

Resignation of members of Board

12.— (1) A member of the Board, other than the Chairperson may resign his or her office by instrument in writing addressed to the Chairperson and from the date of the receipt of the instrument the member ceases to be a member of the Board.

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(2) The Chairperson may at any time resign his or her office by instrument in writing addressed to the Minister and from the date of the receipt of the instrument by the Minister the Chairperson ceases to be Chairperson.

Special meetings

13. The Chairperson or, in the event of the Chairperson being absent from Saint Lucia or for any reason unable to act, the Deputy Chairperson may at any time call a special meeting of the Board and shall call such meeting within seven days after receiving a request to do so by any five members of the Board.

Quorum

14. The quorum for meetings of the Board is five members.

Voting

15. Decisions of the Board are by a majority of votes and where the voting is equal the Chairperson has, in addition to his or her original vote, a casting vote.

General meetings

16.—(1) Notwithstanding section 13, the Board shall hold a minimum of four quarterly meetings each calendar year.

(2) A quarterly meeting of the Board shall be held at such place and on such day as the Board determines.

Minutes

17. Minutes of each meeting shall be duly kept by the Secretary or other person appointed by the Board for that purpose, and shall be confirmed by the Board at its next meeting and signed by the Chairperson or other person presiding at that meeting.

Disclosure

18. A member of the Board who has any interest in a contract proposed to be made with the Foundation or any matter for discussion by the Board, shall disclose the nature of his or her interest to the Board and

shall not participate in any deliberations in respect of that contract or matter and shall, in any case, be disqualified from voting on any decision on that contract or matter.

Procedures

19. Subject to the provisions of Part IV of this Act, the Board shall regulate its own proceedings.

Chairperson

20. The Chairperson shall, if present, preside at all meetings of the Board and sign all instruments which require his or her signature.

Co-opting

21. The Board may co-opt any person to act as an adviser at its meetings but no co-opted person is entitled to vote at the meeting.

Remuneration

22. A member of the Board shall be entitled to such remuneration and allowances, if any, as the Minister may determine.

PART IV STAFF

Executive Director

23.— (1) The Board shall, subject to the approval of the Minister and upon such terms and conditions as it may determine, appoint an Executive Director.

(2) The Executive Director shall be the chief executive officer of the Board and shall exercise all the functions entrusted to him by the Board.

(3) The Executive Director shall attend all meetings of the Board.

(4) The Executive Director shall have full authority to manage and direct the business and affairs of the Foundation.

Other employees

24.— (1) The Board may appoint and employ at such remuneration and on such terms and conditions as it thinks fit such officers and employees as it deems necessary for the proper carrying out of the functions of the Foundation.

(2) The persons appointed under paragraph (1) shall perform such duties as may be assigned to them by the Executive Director.

(3) The Board may engage the services of such consultants, advisers or any person as it may determine.

(4) The Board may delegate to the Executive Director the authority to appoint or dismiss any person employed with the Foundation.

PART V
FINANCIAL

Funds of the foundation

25.— (1) The funds of the Foundation shall include —

- (a) monies voted by government for that purpose;
- (b) loans granted to the Foundation;
- (c) monies accruing to the Foundation from the operations of the Foundation;
- (d) monies payable to or vested in the Foundation; and
- (e) gifts, subscriptions and donations.

(2) All monies received by the Foundation shall be paid into such banks as may be determined by the Board of Directors to the credit of the Foundation's general, current or deposit account.

Application of funds

26. The funds of the Foundation shall be applied towards —

- (a) the payment of salaries, wages, fees, allowances, pensions and gratuities of persons employed by the Foundation;
- (b) the meeting of the obligations and the discharging of the functions of the Foundation and matters incidental to such obligations and functions; and
- (c) the creation and maintenance of the Reserve Fund established under section 27.

Reserve funds

27.— (1) The Foundation may, out of its funds, establish a fund to be known as the Reserve Fund.

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(2) Subject to subsection (3) and section 23 (2) the Foundation shall —

- (a) be responsible for the management of the Fund;
- (b) determine what amounts shall be credited to the Fund; and
- (c) determine the purpose for which the Fund may be applied.

(3) The Fund may only be applied for the purposes of the Foundation.

Account

28. The Foundation shall keep proper books of account of all sums of money received and expended by the Foundation and of the matters in respect of which such receipts and expenditure take place and the property, assets and liabilities of the Foundation.

Audit

29.— (1) The accounts of the Foundation shall be examined and audited at least once a year by a qualified auditor appointed by the Board of Directors.

(2) The Minister may require the Auditor-General to carry out, at any time, an investigation into or a special audit of the accounts of the Foundation.

Right of Access

30. The members, officers and servants of the Foundation shall allow the auditor appointed under section 29 (1) or the Auditor-General, full access to all books and documents relating to accounts and all cash and securities of the Foundation and, on request, supply to the auditor or the Auditor-General all information within their knowledge that relates to the operation of the Foundation.

Reports

31.— (1) The Foundation shall as soon as possible after the expiration of each financial year and in any case not later than 30th September in each year, submit to the Minister a report containing —

- (a) a detailed account of its activities for the preceding financial year; and
- (b) a statement of its audited financial statement and the auditors report thereon.

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(2) The Minister shall cause a copy of the reports referred to in subsection (1) to be laid in Parliament and published in the *Official Gazette*.

(3) The financial year of the Foundation shall coincide with the financial year of the Government of Saint Lucia.

PART VI
MISCELLANEOUS

Directions

32.— (1) The Minister may give directions of a general nature respecting cultural and artistic policy which appear to the Minister to be in the public interest.

(2) The Foundation shall not, without the prior approval of the Minister, dispose of any assets or property vested in it by the Government.

Offences

33.— (1) A person shall not —

- (a) wilfully disrupt any activity sponsored by the Foundation or any of its agencies;
- (b) assault any officer or servant of the Foundation in the execution of his or her duty;
- (c) enter or attempt to enter any building or premises or to make use of any facilities under the control of the Foundation by any means other than that provided.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding two thousand five hundred dollars or to a term of imprisonment for twelve months or to both.

Tax exemption

34. Notwithstanding any law to the contrary, the Foundation shall not be subject to the payment of —

- (a) taxes on any property owned, occupied or held in trust for the Foundation; or
- (b) taxes payable under any enactment.

Transitional

35.—(1) After the commencement of this Act, all functions performed by the Department of Culture shall be performed by the Foundation in accordance with this Act.

(2) As from the date of the establishment of the Foundation —

(a) a person who was employed on the staff of the Department of Culture may, with his or her consent, be transferred from the service of the Department of Culture to the service of the Foundation;

(b) a person transferred under paragraph (a) shall —

(i) be treated as if that person's employment in the service of the Department of Culture was employment in the service of the Foundation; and

(ii) upon that person's transfer to the service of the Foundation be employed under terms and conditions no less favourable than when they were employed in the service of the Department of Culture.

(3) For the purposes of paragraphs (a) and (b) of subsection (2), service of the person referred to in those paragraphs shall be aggregated with that person's service with the Foundation for the purpose of computing a pension or other retiring allowance to which that person may be entitled.

Regulations

36. The Minister may, after consultation with the Board, make Regulations relating to —

(a) the maintenance of order on premises under the control of the Foundation;

(b) the conditions under which premises under the control of the Foundation are let or used;

(c) the powers and duties of officers appointed by the Foundation to assist in carrying out its functions as provided for under this Act and the Regulations;

(d) the management of the funds of the Foundation and in what manner they may be invested;

(e) the appointment and functions of the employees of the Foundation;

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- (f) the custody and safe keeping of the property of the Foundation;
- (g) the salary and service conditions of persons employed by the Foundation;
- (h) the doing of any act which the Minister considers to be in the interest of the Foundation;
- (i) for the purpose of giving effect to the provision of this Act.

Passed in the House of Assembly this 26th day of September, 2000.

FERGUSON JOHN,
Deputy Speaker of the House of Assembly.

Passed in the Senate this 17th day of November, 2000.

HILFORD DETERVILLE,
President of the Senate.