

**NATIONAL CENTRE FOR ARTS AND
CULTURE ACT, 2003**

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National Centre for Arts and Culture Act, 2003



THE GAMBIA

NO. 17 OF 2003.

Assented to by The President,

this Thirty-First day of December, 2003.



YAHYA A. J. J. JAMMEH
President.

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

[31st December, 2003]

ENACTED by the President and the National Assembly.

PART I – PRELIMINARY

Short title

1. This Act may be cited as the National Centre for Arts and Culture Act, 2003.

Interpretation

2. (1) In this Act, unless the context otherwise requires –

"ancient monument" includes any 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 stop which was made for mining purposes and which has been proclaimed as such by the Centre;

"Board" means the governing Board established for the Centre under section 4;

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

"Chairperson" means the Chairperson of the Board;

"Director General" means the Director General appointed for the Centre under section 13;

"Endowment Fund" means the Endowment Fund for Arts and Culture established under section 46;

"ethnographical article" means -

- (a) any remains of early settlement, or colonization; or

(b) any work of art or craftwork, including statue, modelled clay figure, figure cast or wrought in metal, carving, house post, door, ancestral figure, religious mast, staff, drum, bowl, ornament, utensil, weapon, armour, regalia, manuscript or document, where the work of art or craftwork is of indigenous origin, and -

(i) was made or fashioned before the year 1900, or

(ii) is of historical, artistic or scientific interest and is or has been used at any time in the performance and for the purposes of any traditional ceremony;

"member" means a member of the Board;

"monument" includes -

(a) an ancient monument or antique;

(b) an area of land which is or which contains objects of archaeological or historical interest;

(c) a waterfall, cave, grotto, avenue of trees, old tree or old building; and

(d) an object, whether natural or artificially constructed, of archaeological, ethnographical, historical or other scientific interest;

"National Monument" means a monument which is proclaimed as a National Monument by the Secretary of State on the advice of the Centre;

"relic" includes –

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

"Secretary of State" means the Secretary of State responsible for arts and culture.

(2) Where a dispute arises as to whether a particular article does or does not fall within the definition of ethnographical article under subsection (1), the decision of the Secretary of State shall be final.

PART II – ESTABLISHMENT OF THE NATIONAL CENTRE FOR ARTS AND CULTURE

Establishment of the Centre

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

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

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

(4) The application of the common seal of the Centre shall be authenticated by the signature of a person authorised by the Centre to sign on its behalf and every document bearing the imprint of the seal of the Centre shall be taken to be properly sealed unless the contrary is proved.

Governing Board

4. (1) There is hereby established a governing Board for the Centre.

(2) The Board shall comprise –

- (a) a Chairperson;
- (b) the Permanent Secretary of the Department of State responsible for arts and culture;
- (c) the Permanent Secretary of the Department of State responsible for education;
- (d) the Director General of The Gambia Radio and Television Services;
- (e) three persons with experience in arts and culture to be nominated by the Secretary of State; and
- (f) the Director General of the Centre.

(3) The President shall appoint members of the Board who are not *ex-officio* members.

Tenure of office of members of the Board

5. (1) The members of the Board, other than *ex-officio* members, shall hold office for a term of three years and may be re-appointed for one further term.

(2) No person shall be qualified to be a member or to continue to be a member of the Board if -

(a) he or she is adjudged to be a person of unsound mind;

(b) he or she has been convicted of an offence involving dishonesty or fraud and has not been granted a free pardon;

(c) in the case of a person who has professional qualifications, he or she is disqualified or suspended otherwise than at his or her request, from practising his or her profession by the order of a competent body made in respect of him or her personally.

(3) A member of the Board may resign from his or her office as a member of the Board by notice in writing addressed to the Secretary of State.

General powers of the Board

6. (1) The Board shall control the management, property, business and funds of the Centre and other matters relating to the Centre.

(2) The Board may, in the discharge of its functions -

- (a) direct the Director General to furnish it with any information, report or document which it considers necessary for the performance of its functions;
- (b) give instructions and orders to the Director General in connection with the management and performance of the functions of the Centre; and
- (c) on the recommendation of the Director General approve such organisational structure as the Director General may consider necessary for the discharge of the functions of the Centre.

Delegation of powers
of the Board

7. For the purpose of discharging its functions under this Act, the Board may delegate to the Director General, the powers to -

- (a) sign any contract for or on behalf of the Centre;
- (b) collect monies due to the Centre, and discharge debts owed to the Centre;
- (c) sign, accept, negotiate, endorse and receive any negotiable instrument on behalf of the Centre;
- (d) acquire or authorize the acquisition of any movable or immovable property, and transfer or allocate any funds of the Centre for that purpose;
- (e) authorize the disposal of securities of any kind belonging to the Centre;

- (f) open and operate a current, deposit or credit account on behalf of the Centre at any bank or financial institution; and
- (g) negotiate and obtain loans on behalf of the Centre and determine the nature and conditions of the loans.

Meetings of the Board

8. (1) The Board shall meet for the discharge of its business at least once in every three months at such times and places as the Chairperson shall appoint.

(2) The Chairperson shall, at the written request of the Director General or not less than four members of the Board, convene a special meeting of the Board to transact any extraordinary business on a date specified in the request.

(3) A written notice of a special meeting of the Board shall -

- (a) be sent to each member not later than twenty-four hours before the meeting; and
- (b) specify the business for which the meeting is being convened.

(4) Where a request under subsection (2) is made by members, other than the Director General, the request shall be transmitted to the Director General, stating the business to be transacted, at least two working days before the date specified in the request.

(5) The quorum of the Board at any meeting shall be five, including the Chairperson or the Director General.

(6) The Board shall take decisions by a simple majority of the votes of members present and where there is an equality of votes, the person presiding shall have a casting vote.

(7) The Chairperson shall preside over every meeting of the Board at which he or she is present and in his or her absence, the members of the Board present shall appoint one of their number to preside over the meeting.

(8) The minutes of every meeting of the Board shall be recorded, and signed by the chairperson of the meeting after confirmation by the members.

(9) The Board may at any time co-opt any person to act as an adviser at any of its meetings, but no person so co-opted shall be entitled to vote at any meeting of the Board.

(10) The validity of any proceeding of the Board shall not be affected by a vacancy among its members or by a defect in the appointment of any of its members.

(11) A member of the Board who has an interest in a company or an undertaking with which the Centre proposes to enter into a contract shall –

- (a) disclose the nature of his or her interest to the Board; and

- (b) not participate in any deliberation and voting of the Board in respect of the contract.

(12) A member who contravenes the provisions of subsection (11) may be removed from the Board by the Secretary of State.

Resolution without meeting of the Board

9. A resolution is a valid resolution of the Board notwithstanding that it was not passed at a meeting of the Board, if the proposed resolution is given to each member and it is assented to by a majority of the members.

Allowances to members of the Board

10. Members of the Board and of any committee of the Board and persons co-opted to the Board shall be paid such allowances as the Secretary of State may determine.

PART III - FUNCTIONS AND POWERS

Functions of the Centre

11. (1) The functions of the Centre are to -

- (a) advise the Secretary of State on matters of policy relating to arts and culture, and in particular on matters relating to national languages, the creative and performing arts, monuments and relics, research and documentation, science and indigenous technology, and sports and recreation;

- (b) promote and develop Gambian arts and culture;
- (c) implement, monitor, co-ordinate and evaluate artistic and cultural programmes in The Gambia;
- (d) promote artistic and cultural co-operation at regional and international levels;
- (e) encourage, at the local level, the emergence of groups and institutions interested in the promotion of arts and culture;
- (f) supervise the functioning of the committees that may be established under this Act;
- (g) investigate and report on artistic and cultural matters relating to research, information processing, storage, documentation, retrieval, and dissemination;
- (h) equip, maintain and manage the National Museums;
- (i) establish, equip, maintain and manage such other museums as it thinks fit;
- (j) preserve, repair or restore any ethnographical article which it considers to be of national importance;

- (k) when required by the Secretary of State, investigate and report on any matter relating to any ethnographical article;
- (l) keep a register of all ethnographical articles which it acquires or which are brought to its notice;
- (m) list all monuments whose proclamation as National Monuments it considers desirable, ascertain their owners, before recommending to the Secretary of State to proclaim them as National Monuments;
- (n) perform such functions as may be conferred on it under any law on copyright ;
- (o) perform such duties as are related to the research and development of arts and culture in The Gambia.

(2) The Centre has power to –

- (a) purchase or otherwise acquire by agreement any ethnographical article;
- (b) assume control over any ethnographical article with the consent of the owner or person who has control of it;
- (c) insure any ethnographical article owned by or under its control;

- (d) lend or, subject to section 12, give any ethnographical article to a museum or other public institution;
- (e) with the prior permission in writing of the owner or person who has control of the site of any ethnographical article undertake the excavation of the site and authorise any act to be done which it considers necessary for that purpose and for preserving any ethnographical article discovered during excavation;
- (f) with the prior permission of the owner or person who has control of the property concerned, erect notices or tablets in suitable places to provide information about historic events which have occurred in those places;
- (g) through any of its members or employees, have reasonable access at all reasonable times to any ethnographical article, site of historic or archaeological interest;
- (h) prepare and issue publications on ethnographical articles;
- (i) arrange exhibitions of ethnographical articles in The Gambia;
- (j) grant such sums of money or give such other assistance as it may deem necessary to any external museum;

- (k) acquire and maintain museums and purchase or otherwise acquire any monuments, relic, ethnographical article or other articles of archaeological ethnographical, historical or other scientific interest;
- (l) make recommendations to the Secretary of State for a monument to be proclaimed a National Monument;
- (m) assume control over any monument, relic, ethnographical article or other article of archaeological, ethnographical, historical or other scientific interest if requested to do so by the owner or person who has control over it;
- (n) 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;
- (o) lend or, subject to section 12, give any relic, ethnographical article or other article to any museum or public institution;
- (p) undertake the excavation of any ancient monument or ancient working, and by writing under the hand of the Director General, authorize 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 of it;

- (q) 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;
- (r) establish such committees and sub-committees as it deems necessary for the purposes of its functions;
- (s) do such things as may be required to perform any functions conferred on it under any law on copyright; and
- (t) do such other things as will enable it to perform its functions under this Act.

(3) The Centre shall –

- (a) when required by the Secretary of State investigate and report on –
 - (i) 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
 - (ii) the desirability of proclaiming any monument as a National Monument;

- (b) keep 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.

(4) The Centre 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

12. (1) The Centre shall not, without the prior written consent of the Secretary of State, 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.

(2) The Centre may dispose of any ethnographical article owned or controlled by it by way of exchange where the Director General certifies in writing that the exchange is desirable in the interests of the National Museums.

PART IV – MANAGEMENT AND STAFF

Director General

13. (1) There shall be for the Centre a Director General who shall be appointed by the President.

(2) The Director General shall -

(a) be the Chief Executive of the Centre;

(b) be responsible for the execution and implementation of the policy of the Board and the transaction of the day-to-day business of the Centre; and

(c) exercise supervision and control over the acts of all employees of the Centre.

(3) The Board may delegate to the Director General such of its functions as are necessary to enable him or her to transact efficiently the day-to-day business of the Centre and for that purpose, the Board may, from time to time, issue written instructions.

Other staff

14. (1) The Board shall appoint for the Centre such employees as it may think necessary for the due discharge of the functions of the Centre, on such terms as to remuneration or otherwise as it may determine.

(2) The Board shall be responsible for the discipline and removal of employees of the Centre.

(3) The Board shall adopt suitable policies in respect of conditions of service of staff, in accordance with approved Government policy.

(4) The Board shall, with the approval of the Secretary of State, make regulations establishing schemes for pensions, gratuities and other retirement benefits in respect of employees of the Centre.

(5) The Board shall, for the purpose of achieving maximum efficiency in the discharge of its functions, institute schemes for the training of its employees in administrative, artistic, cultural, archaeological, ethnographical, managerial and in other capacities with a view to securing the benefit of their knowledge, experience and expertise in the conduct of the operations of the Centre.

PART V – FINANCIAL PROVISIONS

Fund of the
Centre

15. The Centre shall maintain a fund into which shall be paid -

- (a) the monies appropriated to it by the National Assembly;
- (b) monies received from the Endowment Fund;
- (c) gifts, grants and donations, provided that the terms and conditions attached to them are not inconsistent with the functions of the Centre;
- (d) fees and charges collected in respect of services rendered by the Centre; and
- (e) such other sums as may accrue to the Centre from any other source.

Estimates, accounts
and audit

16. (1) The Centre shall, within three months before the end of each financial year, make and submit to the Secretary of State for approval, estimates of the income and expenditure of the Centre for the ensuing year.

(2) The Centre shall keep proper records and accounts of its incomes and expenditure.

(3) The Centre shall prepare a statement of accounts in respect of each financial year.

(4) The Centre shall, within three months of the end of each financial year, submit to the Auditor General for auditing, its statement of accounts for the preceding year.

(5) The audited accounts of the Centre and the Auditor General's report on those accounts shall form part of the Auditor General's overall annual report to the National Assembly.

Annual report

17. (1) The Board shall, not later than three months after the end of each financial year, submit to the Secretary of State in respect of the financial year an annual report on the activities of the Centre.

(2) The report under subsection (1) shall include -

- (a) information with regard to the proceedings and policy of the Centre;
- (b) a copy of the audited accounts of the Centre in respect of that year together with the Auditor General's report on the accounts; and
- (c) such other information as the Secretary of State may request in writing.

(3) The Secretary of State shall, as soon as possible after receiving the annual report, cause it to be laid before the National Assembly.

(4) The Director General shall also, from time to time, provide the Secretary of State with such information relating to the affairs of the Centre as the Secretary of State may request in writing.

Exemption
from duties and taxes

18. The Centre shall be exempted from such duties as the Secretary of State responsible for finance may determine and from such taxes as he or she may, with the approval of the President, determine.

PART VI - LEGAL PROCEEDINGS

Notice of
action

19. (1) No action shall be brought against the Centre unless at least one month's written notice of the intention to bring the action has been served on the Centre by the intending plaintiff or his or her agent.

(2) The notice shall state the cause of action, the name and place of abode of the intending plaintiff and the relief that he or she claims.

Service

20. The notice referred to in section 19 and any summons, notice or other document required or authorized to be served on the Centre in connection with a suit by or against the Centre may be served by delivering it to or sending it by registered post addressed to the Director General of the Centre.

Execution of
judgment

21. In any action or suit against the Centre, no -

- (a) execution or attachment or process in the nature thereof shall be issued against the Centre; or
- (b) sums of money which may by judgment of the court be awarded against the Centre be paid by the Centre from its funds,

before the expiration of at least three months from the date of the judgment of the court.

Representation

22. The Centre may, in any suit pending before the court, be represented in court at any stage of the proceedings by any officer or other employee of the Centre duly authorized in writing by the Centre in that behalf.

Indemnity of officers

23. No officer or employee of the Centre or any person acting on the direction of the Centre shall be liable in respect of any matter or thing done by him or her for the purposes of this Act.

PART VII - PROCLAMATION, DISCOVERIES, EXCAVATION AND ALTERATION OF MONUMENTS AND WORKINGS, ETC.**Secretary of State may proclaim ancient workings**

24. The Secretary of State may, on the recommendation of the Centre and by notice published in the *Gazette*, proclaim any shaft, cutting, tunnel or stops, which was made for mining purposes to be an ancient working.

Secretary of State may proclaim National Monument

25. (1) The Secretary of State may, on the recommendation of the Centre by notice published in the *Gazette*, proclaim a monument to be a National Monument.

(2) Where the monument the Centre proposes to recommend for proclamation does not belong to the State, it shall, not later than thirty days before making the recommendation, notify the owner in writing of its proposed recommendation.

(3) The owner of the monument may, on receiving the notice, lodge with the Centre in writing an objection he or she has to the proposed

(4) Where the Centre makes a recommendation to the Secretary of State, it shall submit to the Secretary of State -

- (a) proof that the owner of the monument concerned has received notice of the recommendation; and
- (b) any objection which the owner of the monument concerned may have lodged against the recommendation.

(5) The decision of the Secretary of State in respect of any objection made to a proposed recommendation shall be final.

Notification of discoveries

26. (1) A person who discovers any ancient monument, relic, ancient working, ethnographical article or monument shall notify the Centre in writing of the discovery.

(2) The Centre, on receiving a notice under subsection (1), has a right to acquire the ownership of the ancient monument, relic ancient, working, ethnographical article or monument so discovered -

- (a) on payment to the person who made the discovery of a sum of money to be agreed on as fair and reasonable compensation; or
- (b) failing agreement, on payment of such sum of money as may be determined or

awarded by a qualified person as the Secretary of State may appoint for that purpose.

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

No excavation without consent of Centre

27. (1) A person shall not, without the written consent of the Centre, excavate an ancient monument or ancient working.

(2) A person who has the written consent of the Centre shall not excavate an ancient monument or ancient working contrary to any conditions that may have been imposed in the consent or by regulations made under this Act.

(3) A person who contravenes the provisions of this section commits an offence and is liable on conviction to a fine of not less than twenty-five thousand dalasis, and in default of payment to imprisonment for a term not exceeding two years, or to both the fine and imprisonment.

No alteration, damage or removal without consent of Centre

28. (1) No person shall, without the written consent of the Centre -

- (a) alter, destroy or damage; or
- (b) remove from its original site,

any monument, relic, ancient monument, ancient working or ethnographical article or any part of them.

(2) A person who desires to remove from its original site any national monument, monument, relic, ancient monument or ancient working or any part thereof shall, when applying to the Centre for its consent -

- (a) supply the Centre with a photograph or drawing of the national monument, relic, monument, ancient monument, or ancient working or part thereof in question; and
- (b) state the exact locality in which it is situated and the place to which, and the purposes for which, he or she desires to remove or export it.

(3) A person who -

- (a) contravenes the provisions of this section; or
- (b) in an application to the Centre for the consent under this section, makes a statement which is false in a material respect or supplies a drawing or photograph which is false in a material respect,

commits an offence and is liable on conviction to a fine of not less than twenty-five thousand dalasis, and in default of payment, to imprisonment for a term not exceeding two years, or to both such fine and imprisonment.

Damage to notices or
tablets erected by
Centre

29. (1) No person shall deface, damage or destroy a notice or tablet erected by the Centre under section 11(2) (q).

(2) A person who contravenes the provisions of subsection (1) commits an offence and is liable on conviction to a fine of not less than twenty thousand dalasis, and in default of payment, to imprisonment for a term not exceeding two years, or to both such fine and imprisonment.

Compensation to be
paid for damage done

30. Where a person is convicted of an offence under this Act which has resulted –

- (a) in damage to, destruction or removal of any national monument, ancient monument, relic, ancient working or any part of it or any tablet erected by the Centre; or
- (b) in damage to or destruction of any ethnographical article or any part of it,

the Court may, in addition to any other penalty which it may impose, order him or her to pay such sum as the Court may determine for the purpose of repairing the damage or for the value of any article or thing removed or destroyed.

PART VIII - LICENCES AND PERMITS

Licences and permits
required for certain
activities

31 (1) As from the commencement of this Act, no person shall –

- (a) organise, for any commercial purpose, a performance featuring a non-resident artiste;

- (b) keep or manage a private, community or specialised museum or art gallery,

unless he or she holds a licence issued under or pursuant to this Act for that purpose.

(2) No person who is not a citizen of The Gambia shall carry out research relating to arts or culture unless he or she holds a permit issued by the Centre.

(3) A person who contravenes the provisions of this section commits an offence and is liable on conviction to a fine of not less than twenty-five thousand dalasis, and in default of payment, to imprisonment for a term not exceeding two years, or to both such fine and imprisonment.

Application for
licence or permit

32. (1) A person who wishes to obtain a licence or permit under this Part shall apply to the Centre in such form as the Centre shall prescribe.

(2) On receipt of an application under this section, the Centre may make such investigations or require such information as may be necessary, for the consideration of the application.

Issuance or refusal of
licence or permit

33. (1) After due consideration of an application, the Centre may -

- (a) issue to the applicant the licence or permit applied for, with such conditions as it may deem fit; or
- (b) refuse to issue the licence or permit, giving reasons for the refusal.

(2) Unless earlier cancelled or revoked, a licence or permit issued under this Act shall remain valid until the thirty-first day of December next following the date of issue and may, thereafter, be renewed from year to year or for such further period or periods as may be specified.

(3) An application for the renewal of a licence or permit shall be made not later than such period as may be prescribed by the Centre before the expiration of the existing licence or permit.

(4) A licence or permit may be renewed, subject to such conditions, as the Centre may deem necessary.

False declaration or representation

34. A person who, for the purpose of obtaining a licence or permit under this Part, makes a declaration that is false commits an offence and is liable on conviction to a fine of not less than fifteen thousand dalasis, and in default of payment, to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

Suspension and revocation of licence or permit

35. (1) The Centre may suspend or cancel a licence or permit if the holder of the licence or permit contravenes a provision of this Act or of a condition attached to the licence or permit.

(2) Where the Centre suspends or cancels a licence or permit under subsection (1), it shall notify the holder of the licence or permit accordingly, and he or she shall cease to carry out the activity authorised by the licence or permit immediately on being notified.

(3) A licence or permit that is suspended or cancelled shall be returned to the Centre.

Appeals to Secretary of State

36. (1) A person who is aggrieved by –

- (a) the refusal of the Centre to issue or renew a licence or permit; or
- (b) the suspension or cancellation of a licence or permit,

may, within fourteen days of receipt of the notification of the action complained of, appeal to the Secretary of State.

(2) The appeal shall be in writing stating the grounds of appeal and be accompanied by such other written statements or document as the appellant may wish to submit in support of the appeal.

(3) The Secretary of State shall, within thirty days of receiving the appeal, take a decision, which shall be communicated to the appellant.

PART IX - EXPORT AND OTHER CONTROL OF ETHNOGRAPHICAL ARTICLES

Interpretation of this Part

37. In this Part, unless the context otherwise requires –

“ethnographical article” means –

- (a) any remains of early settlement, or colonization; or

(b) any work of art or craftwork, including statue, modelled clay figure, figure cast or wrought in metal, carving, house post, door, ancestral figure, religious mast, staff, drum, bowl, ornament, utensil, weapon, armour, regalia, manuscript or document, where the work of art or craftwork is of indigenous origin, and -

(i) was made or fashioned before the year 1900, or

(ii) is prescribed by regulations made under this Act, as requiring a permit for its exportation.

Permit to export

38. (1) No person shall export an ethnographical article except in accordance with an export permit issued by the Centre.

(2) An application for export permit shall be made to the Centre at least two weeks before the proposed date of export, unless the Centre in its discretion accepts a shorter period.

(3) An application shall contain the name of the ethnographical article, its function, a full description, including its dimensions, its local cost or an estimate of its value, and the date when, the place where, and the person from whom it was obtained.

(4) A person who desires to export from The Gambia an ethnographical article or any part of it shall, when applying to the Centre for permit -

- (a) submit the ethnographical article or the part in question for examination by the Centre, with a drawing or photograph of the ethnographical article or part in question; and
- (b) state the purposes for which he or she desires to export it.

(5) A person who -

- (a) contravenes the provisions of this section; or
- (b) in an application to the Centre for the consent under this section, makes a statement which is false in a material respect or supplies a drawing or photograph which is false in a material respect,

commits an offence and is liable on conviction to a fine of not less than twenty-five thousand dalasis, and in default of payment, to imprisonment for a term not exceeding two years, or to both such fine and imprisonment.

Inspection

39. (1) Unless the ethnographical article is delivered to the Director General, and left in his or her charge, the applicant shall state its location and, if it is to be moved, its expected location during the period before the date of the proposed export.

(2) The applicant shall permit and facilitate such access to, and inspection of, the ethnographical article as the Director General may require and shall permit to be affixed or applied to the ethnographical article any seal or identification mark of the Centre.

Prohibition of export
and exemption

40. (1) The Director General may, with the prior approval of the Board, prohibit the export of an ethnographical article if he or she considers that the export would not be in the public interest.

(2) The Director General shall give a certificate that an object does not require an export permit if in his or her judgment the object is not an ethnographical article within the meaning of this Part.

Terms of export permit

41. (1) An export permit shall be in the prescribed form and be to such terms and conditions as may be prescribed.

(2) No permit shall authorise the removal from The Gambia of any ethnographical article except through a recognised customs port or airport.

(3) A person who is refused an export licence under this Part has a right to appeal to the Secretary of State under section 36.

Permit to be
surrendered

42. No customs officer shall allow the export of an ethnographical article until the export permit in respect of the ethnographical article has been surrendered to him or her.

Compulsory purchase
of ethnographical
article

43. (1) Where the Director General is of the opinion that an ethnographical article is likely or intended to be exported, whether lawfully or otherwise, or where an application for an export permit has been made and refused, the Director General may –

- (a) require the owner of the ethnographical article or the person who has possession or custody of the ethnographical article to surrender it to the Centre; and
- (b) pay for the ethnographical article a price which is assessed by the Board and which is, in the opinion of the Board, the fair market price of the ethnographical article in The Gambia.

(2) The payment for an ethnographical article under this section shall be made to the person who is, in the opinion of the Board, the owner or person otherwise lawfully entitled to receive the payment .

(3) A person required to surrender an ethnographical article under this section who fails to do so commits an offence and is liable on conviction to a fine of not less than twenty-five thousand dalasis , and in default of two years, or to both such fine and imprisonment.

PART X – REGISTRATION OF ARTISTES AND GROUPS OF ARTISTES

Registration of artistes
and groups of artistes

44. (1) An artiste or group of artistes may register with the Centre in accordance with this section.

(2) An application for registration shall be made to the Centre in such form as may be prescribed.

(3) The Centre shall issue a certificate of registration to an artiste or group of artistes registered under this section.

(4) The registration of an artiste or group of artistes shall be valid for two years and may be renewed for further periods of two years at a time.

Hotels and restaurants to engage only registered artistes

45. (1) No hotel or restaurant shall engage an artiste or group of artistes unless the artiste or group of artistes is registered under this Act.

(2) A hotel or restaurant which contravenes the provisions of subsection (1) commits an offence and is liable on conviction to a fine of not less than fifty thousand dalasis.

PART XI - ENDOWMENT FUND FOR ARTS AND CULTURE

Establishment of the Endowment Fund for Arts and Culture

46. There is hereby established a fund to be known as the Endowment Fund for Arts and Culture, the management and control of which shall, subject to the provisions of this Act, vest in the Centre.

Resources of the Endowment Fund

47. The Endowment Fund shall consist of -

- (a) moneys appropriated by the National Assembly;
- (b) five *per cent* levy on all audio and video tapes and discs, recorded or blank, imported into The Gambia;
- (c) gifts, donations and grants received by the Centre for the Endowment Fund;

- (d) income from investments of the Endowment Fund;
- (e) moneys borrowed on behalf of the Endowment Fund in accordance with section 48; and
- (f) other moneys which may vest in or accrue to the Endowment Fund under this Act or otherwise.

Borrowing of money 48. The Centre may borrow money for the Endowment Fund, on such terms and conditions as the Board may approve, or as may be prescribed by law.

Application of the Endowment Fund 49. The Endowment Fund shall, subject to the provisions of this Act, be applied to the promotion, development and support of arts and culture.

Expenditure from the Endowment Fund 50. No expenditure shall be made from the Endowment Fund unless the Board approves it.

Special report 51. A report of the Centre's exercise of its power under this Part shall be included in the annual report, which the Centre is required to submit to the Secretary of State.

Accounts and audit 52. (1) The Centre shall cause proper books of accounts and other records to be kept in connection with the Endowment Fund.

(2) The Auditor General shall audit the accounts of the Endowment Fund annually.

Investment of money 53. The Centre may -

(a) invest any money in the Endowment Fund; and

(b) vary and diversify the investments, in such manner as the Board may determine.

PART XII – MISCELLANEOUS PROVISIONS

Offences by bodies of persons

54. (1) Where an offence is committed by a body of persons under this Act -

(a) in the case of a body corporate, other than a partner, every director or secretary of the body corporate shall also be deemed to have committed the offence; and

(b) in the case of a partnership, every partner shall also be deemed to have committed the offence.

(2) A person shall only commit an offence under this section if it is proved that the offence of which he or she is charged was committed with his or her consent or connivance and that he or she did not exercise such diligence to prevent the commission of the offence as he or she ought to have exercised having regard to the circumstances.

General penalty

55. A person who contravenes a provision of this Act commits an offence and, where not otherwise provided in this Act, is liable on conviction to a fine of not less than twenty-five thousand dalasis or imprisonment for a term not exceeding two years or to both such fine and imprisonment.

Environmental impact
assessment

56. A project that is likely to affect an archaeological resource shall be considered for environmental impact assessment under the National Environment Management Act, 1994.

Act No. 13 of 1994

Airing of Gambian
music

57. Television and radio services shall promote Gambian arts and culture through their programmes and, accordingly, shall apportion not less than seventy *per cent* of the total time allocated to music programmes to advancing Gambian music.

Regulations

58. The Secretary of State may make regulations generally for the better carrying into effect of the provisions of this Act, and in particular for –

- (a) regulating policies and procedures for the preservation, promotion and development of Gambian culture;
- (b) prescribing the manner in which committees and sub-Committees established by the Board 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; and
- (d) monitoring the implementation of programmes with respect to the protection and standardization of the national languages, the creative arts and indigenous technology, sports and recreation;

(e) facilitating the conduct of its business

Repeal of Act No.
11 of 1991

59. (1) The National Council for Arts and Culture Act, 1991 is hereby repealed, and the Council established under it is hereby dissolved.

(2) Notwithstanding the provisions of subsection (1) all the list of purchases and acquisitions made under the repealed enactment is deemed to have been made under this Act.

(3) As from the commencement of this Act, all the rights, assets, liabilities and obligations of the dissolved Council existing immediately before the commencement of this Act shall be transferred to the Centre established under this Act.

(4) Any action or proceeding in any court, or any judgment, decision or order that was enforceable by or against the dissolved Council immediately before the commencement of this Act may be continued and enforced by or against the Centre established under this Act.

(5) A licence, permit or any other authorisation issued under the repealed enactment shall be deemed to be issued under this Act for the duration of its validity, provided that no licence, permit or authorisation shall be valid under this subsection for more than six months after the commencement of this Act unless it is renewed in accordance with the provisions of this Act.

PASSED in the National Assembly this Tenth day of December,
in the year of Our Lord Two Thousand and Three

M. S. JALLOW

Clerk of the National Assembly.

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill
which was passed in the National Assembly, and found by me to be a true and correct copy
of the said Bill.

M. S. JALLOW

Clerk of the National Assembly.

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