

CHAPTER 25:12

NATIONAL TRUST ACT

Acts 23/1960, 24/1962(s. 2), 37/1963, 32/1964, 82/1964, 57/1972 (s.34), 37/1977 (s. 22), 41/1978 (s. 34), 12/1982; R.G.N.s 801/1963, 214/1964, 217/1970, 923/1972; 22/2001 (s. 4); S.Is 566/1979, 236/1980.

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AN ACT to establish a trust for the purpose of accepting and holding property in trust for public purposes, of acquiring and thereafter preserving and protecting for the benefit of the people of Zimbabwe land, buildings, natural resources, fauna, flora and objects of any description which have a national, archaeological, historical or aesthetic interest, and of holding and maintaining lands and buildings as places of public recreation, entertainment, resort or instruction; and to provide for various other matters connected with and incidental to the foregoing.

[Date of commencement: 26th August, 1960.]

1 Short title

This Act may be cited as the National Trust Act [*Chapter 25:12*].

2 Interpretation

In this Act—

“Council” means the council established under section *thirteen*;

“Minister” means the Minister of Environment and Tourism or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“prescribed” means prescribed by by-law;

“Trust” means the trust established under section *three*.

3 Establishment of Trust

There is hereby established a trust to be known as the National Trust of Zimbabwe which shall be a body corporate capable of suing and being sued in its corporate name and, subject to this Act, of performing all such acts as bodies corporate may by law perform.

4 Purposes of Trust

The purposes of the Trust shall be—

- (a) to accept and hold property in trust for any public purposes and to act in any trust for or as trustee of any property devoted to public purposes in accordance with the conditions of such trust;

- (b) to promote for the benefit of the people of Zimbabwe the permanent preservation and protection of—
 - (i) lands and buildings of a national, archaeological, historical or aesthetic interest;
 - (ii) natural resources, animal or bird life and trees or flora;
 - (iii) objects or collections of objects of any description having national, archaeological, historical or aesthetic interest, including furniture, works of art, flora, stamps and literature;
- (c) subject to this Act, to provide the public with access to and enjoyment of the lands, buildings, resources and objects enumerated in paragraph (b);
- (d) to maintain or manage or assist in maintaining or managing lands and buildings for the purpose of public recreation, entertainment, resort or instruction;
- (e) to publish or assist in the publication of books, journals, pamphlets or other matter whatsoever relating to Zimbabwe or any part of Zimbabwe, property held by the Trust or lands, buildings, resources or objects enumerated in paragraph (b) which the Council considers to be for the benefit of the people of Zimbabwe or to be conducive or incidental to any purposes specified in paragraphs (a) to (d).

5 Powers of Trust

In the execution of their purposes the Trust shall have power—

- (a) to acquire and to hold property of any description, whether movable or immovable, and any rights or interests therein, by purchase, lease, donation, bequest or in any other manner whatsoever;
- (b) upon or with respect to any property owned by them or in which they have any interest, to do all such things and make all such provisions as may be beneficial for the property or desirable for the comfort or convenience of persons having access to such property;
- (c) in so far as is not inconsistent with the purposes of the Trust, to exercise full powers of ownership over any property owned by them or in which they have any interest in accordance with their title or interest therein:

Provided that—

- (i) no property shall be alienated or mortgaged except by resolution at a general meeting and with the approval of the Minister;
- (ii) no funds of the Trust shall be invested except with the approval of the Minister;
- (d) to levy charges of admission to any property held by the Trust at such rates and in such manner as shall be prescribed, and to reserve the right of admission when the protection of such property so requires;
- (e) to hold property or to set apart from time to time parts of its property on which persons may play games or hold meetings or gatherings for purposes of sport and recreation;
- (f) to do all such things and take all such proceedings as may be necessary for the execution of the purposes of the Trust.

6 Membership of Trust

Membership of the Trust shall be divided into such classes and members shall be liable to pay such subscriptions as the Council may, after consultation with the Minister, determine.

7 Liability of members

No member of the Trust shall be liable for or to contribute towards the payment of the debts and liabilities of the Trust beyond the amount of the annual subscription, if any, of such member or of any contribution agreed to be given and remaining unpaid.

8 Funds of Trust

The funds of the Trust shall consist of such grants, donations, bequests, fees, charges and subscriptions as may from time to time be made to it or be payable to it.

9 Application of funds

The funds of the Trust shall be applied to the purposes of the Trust and no dividend, bonus or other profit shall at any time be paid out of such funds to any member of the Trust.

10 General meetings

General meetings of members of the Trust shall be held at least once in every year at such time and place as the Council may appoint, and such general meetings shall be called and held in accordance with rules which shall be made by the Council.

11 Accounts and audit

(1) Proper accounts shall be kept of all sums of money received and expended by the Trust and of the matters in respect of which such receipt and expenditure take place and of the property, credits and liabilities of the Trust, and, subject to any reasonable restrictions as to the time and manner of inspecting the same that may be imposed by the rules for the time being of the Council, such accounts shall be open at all reasonable times to inspection by the members of the Trust.

(2) The accounts of the Trust shall be examined and audited once at least in every calendar year by a person registered as a public auditor in terms of the Public Accountants and Auditor Act [*Chapter 27:12*], who shall be elected annually at the general meeting.

12 Trust exempt from payment of transfer duty

The Trust shall be exempt from the payment of transfer duty, stamp duty, fees of office or other charges in connection with the registration of title or other rights to immovable property acquired for the purposes of the Trust.

13 Establishment of Council

The affairs of the Trust shall be administered by a council to be known as the Council of the National Trust of Zimbabwe.

14 Constitution and membership of Council

- (1) The Council shall consist of a president and not less than fifteen nor more than thirty members, of whom—
- (a) not more than twenty-eight shall be elected at the annual general meeting from among the members of the Trust;
 - (b) not more than three shall be appointed from time to time by the Minister to hold office for such periods as the Minister may determine.

(2) One-half or as near as may be of the number of members elected in terms of paragraph (a) of subsection (1) shall go out of office annually in rotation in accordance with rules which shall be made by the Council.

(3) Any member going out of office in terms of subsection (2) may be re-elected immediately or at any subsequent annual general meeting.

(4) The president of the Council shall be elected by the members of the Council from their own number.

15 No remuneration of members of Council

Members of the Council shall not be paid any remuneration but, while engaged on the business of the Council, they may be paid from the funds of the Trust reasonable travelling and subsistence expenses at a tariff which shall be prescribed.

16 Vacancies in Council

- (1) The office of a member of the Council shall become vacant— (a)
- if his estate is sequestrated or assigned; or
 - (b) if he is absent without the permission of the president from three consecutive meetings of the Council of which he has had notice; or
 - (c) if he gives one month's notice in writing to the president of his intention to resign office and the resignation is accepted by the president; or
 - (d) if he is incapacitated by mental or physical illness or is otherwise unable or unfit to discharge the functions of a member of the Council.

(2) If the office of a member of the Council becomes vacant, the vacancy shall be filled in the following manner—

- (a) where the member was appointed in terms of paragraph (b) of subsection (1) of section *fourteen*, by appointment by the Minister;
- (b) where the member was elected in terms of paragraph (a) of subsection (1) of section *fourteen*, by appointment by the president from among the members of the Trust.

17 Functions and proceedings of Council

(1) The entire business of the Trust shall be arranged and managed by the Council who may exercise all such powers of the Trust as are not exercisable only by the Trust in general meeting and no resolution passed by the Trust in general meeting shall invalidate any prior act of the Council which would have been valid if such resolution had not been passed.

(2) The Council shall have power—

- (a) to make such rules as to the procedure of the Council, including the quorum required, at their meetings and for the conduct of the business and affairs of the Trust and for the dispatch of business at meetings as the Council may consider necessary;
- (b) to employ on such terms and conditions as they think fit such persons as they consider necessary for the execution of the purposes of the Trust, and to pay their remuneration from the funds of the Trust;
- (c) to provide for employees of the Trust or their dependants, by means of insurance with an insurance company or a pension or provident fund or otherwise, pecuniary benefits upon retirement, death or termination of service or in the event of sickness or injury;
- (d) to appoint committees or persons to assist in the execution of the purposes of the Trust, and to pay them from the funds of the Trust reasonable travelling and subsistence expenses at a tariff which shall be prescribed.

(3) The Council shall appoint from their own number an executive committee and may add to such committee from time to time, with such powers of voting or otherwise as the Council may think fit, any member of the Trust or other person whose aid they judge useful to further the purposes of the Trust.

(4) Subject to any limitations or conditions which may be imposed by the Council, the executive committee shall exercise and enjoy all the powers conferred upon the Council by this Act except the power of electing a president.

(5) The executive committee may appoint a chairman to hold office for such periods as the committee may determine and may make such rules as to the procedure of the committee as the Council is empowered to make as to the procedure of the Council.

(6) The Council, the executive committee and any committee appointed in terms of paragraph (d) of subsection (2) shall cause to be kept minutes of all proceedings at any meeting thereof, respectively, and the Council shall at all times cause to be kept minutes of the meetings of the Trust and a register of the names and addresses of the members of the Trust.

18 By-laws

(1) The Council may make by-laws—

(a) prescribing any matter which in terms of this Act shall be prescribed;

(b) in respect of any property owned, held or controlled by the Trust—

(i) prohibiting or regulating the digging, cutting, injury or removal of turf, gravel, stone, sand, clay or other substance and the cutting, felling, injury or removal of timber, trees or vegetation; (ii) prohibiting or regulating the lighting of fires;

(iii) prohibiting nuisances;

(iv) prohibiting or regulating the posting of bills or notices;

(v) prohibiting the injury, displacement, defacement or removal of buildings, structures or other things upon such property or of seats, fences, notice-boards or other things put up or maintained by the Trust;

(vi) prohibiting or regulating the entry of persons into such property and the use of any road in the property;

(vii) regulating the use or enjoyment of such property by the public, including the manner and means of recreation thereon;

(viii) generally, prohibiting or regulating any act or thing tending, in the opinion of the Council, to injure or disfigure such property or part of such property or to interfere with the use and enjoyment thereof by the public;

(c) authorizing officers or servants of the Trust to exclude or remove from any property owned, held or controlled by the Trust any persons contravening any by-laws made in terms of this Act and generally to enforce such by-laws;

(d) prohibiting the hindrance or obstruction of officers or servants of the Trust in the execution of their duties under this Act or any by-laws made thereunder;

(e) generally, for the better fulfilment of the purposes of the Trust:

Provided that no such by-law shall be contrary to this Act or any other enactment.

(2) Such by-laws may prescribe different fees for different persons or classes of persons and in respect of different days or periods and in so doing may exempt any particular person or class of persons from payment of such fees.

(3) By-laws made in terms of this section may prescribe penalties for any contravention thereof not exceeding a fine of level four or imprisonment for a period of three months or both such fine and such imprisonment.

[Subsection as amended by section 4 of Act No. 22 of 2001]

(4) No by-law shall take effect until it has been approved by the Minister and published in the *Gazette*, whereupon such by-law shall have the force of law.

(5) Any by-laws made in terms of this section shall be laid before Parliament as soon as may be after they are made, and if a resolution is passed within the next subsequent twenty-eight days on which Parliament has sat next after any such by-law is laid before it that the by-law shall be annulled, it shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder or to the making of any new by-law.

19 Mining prohibited on Trust property

(1) Subject to any mining rights lawfully acquired in any area by any person before the date when such area becomes owned, held or controlled by the Trust, the acquisition and working of mining locations in terms of the Mines and Minerals Act [*Chapter 21:05*] shall be prohibited within any area owned, held or controlled by the Trust, except with the written permission of the Council.

(2) Any person who is aggrieved by the refusal of the Council to give such permission may within sixty days of such refusal appeal in writing to the Minister.

(3) The Minister may, after due inquiry, make such order in the matter as he may think fit, and the Council shall comply with any such order.

20 Cap. 25:11 not to apply to Trust property

Notwithstanding the National Museums and Monuments Act [*Chapter 25:11*], no property owned, held or controlled by the Trust shall be liable to be proclaimed to be a national monument or acquired by the Trustees of the National Museums and Monuments in terms of that Act except with the written permission of the Council and with the approval of the Minister.