



BERMUDA

BERMUDA NATIONAL TRUST ACT 1969

1969 : 698

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	SCHEDULE

[preamble and words of enactment omitted]

Interpretation

- 1 (1) In this Act, unless the context otherwise requires—
“by-laws” means by-laws made by the Council under section 11A;

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“commencement day” means the day upon which this Act comes into operation;

“the Council” means the Council of the Trust established under section 9;

“Minister” means the Minister responsible for archives;

“the President” means the President of the Council elected under section 10;

“the Trust” means the Bermuda National Trust established under section 2;

“regulations” means regulations made by the Council under section 11.

(2) For the avoidance of doubt it is hereby declared that any reference to land in this Act shall be read and construed as including a reference to any land which may be under water and any reefs within the territorial waters of Bermuda.

[Section 1 subsection (1) definition "by-laws" inserted by 2021 : 46 s. 2 effective 14 December 2021]

Bermuda National Trust established

2 (1) There shall be established a body corporate to be known as “The Bermuda National Trust” and under that name to have perpetual succession and a common seal, and, subject to the provisions of this Act, with power to acquire, hold and dispose of moveable and immoveable property of whatever kind and to enter into contracts and to do all things necessary for the purposes of its functions.

(2) The Trust may sue and be sued in its corporate name and may for all purposes be described by that name.

(3) The seal of the Trust shall be authenticated by the signature of the President and one other member of the Council authorised to act in that behalf and shall be judicially and officially noticed.

(4) All documents, other than those required by law to be under seal, made by, and all decisions of the Trust may be signified under the hand of the President or any member or officer of the Trust authorised to act in that behalf.

Principal objects of Trust

3 The principal objects of the Trust shall be—

- (a) to promote the permanent preservation for the benefit of Bermuda of lands and buildings of beauty or historical interest and, in the case of lands, the preservation (so far as possible) of their natural aspect features and animal and plant life;
- (b) to maintain and manage lands acquired by the Trust as open spaces or places of public resort and buildings so acquired for purposes of public recreation, resort or instruction;
- (c) to promote the preservation of buildings of public interest or architectural, historic or artistic interest and places of natural interest or beauty and the protection and augmentation of the amenities of such buildings and places and their surroundings;

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- (d) to promote the preservation of furniture, pictures, documents, and chattels of any description having national or historic or artistic interest;
- (e) to promote the access to and enjoyment of such lands, buildings, places, and chattels by the public.
- (f) to develop any land, whether by the construction of buildings or otherwise:

Provided that any development involving the construction of any new building shall require the prior consent in writing of the Minister.

Specific powers of Trust

4 Without prejudice to the generality of section 2(1), the Trust shall have power—

- (a) to acquire by purchase, lease, demise, gift, exchange or otherwise, and to hold by its corporate name on trust or otherwise any land or building in Bermuda, or any object of art or handicraft;
- (b) to restore, maintain, and improve any such land, building, object of art or handicraft;
- (c) to lease, sell, mortgage or otherwise deal with any such land, building, or object of art or handicraft;
- (d) to invest funds in any land or securities in Bermuda or in securities out of Bermuda;
- (e) to borrow money either on mortgage or otherwise:

Provided that the amount of money borrowed by the Trust at any one time shall not, without the prior consent in writing of the Minister, exceed twenty-five per centum of the total value of the assets of the Trust at that time.

- (f) to form, or take part in forming, companies;
- (g) to manage, maintain, improve, mortgage, lease, sell or otherwise deal with any land developed, or any building constructed, by the Trust in pursuance of object (f) in section 3;
- (h) to act alone, or with other persons either in partnership or otherwise.

Certain property of Trust to be inalienable

5 (1) The Council may by resolution determine that any land or building vested in the Trust or such portion thereof as may be specified in such resolution is proper to be held for the benefit of Bermuda and such land or building shall thereupon be so held by the Trust and shall be inalienable.

(2) Notwithstanding anything in subsection (1), the Trust may grant any easement or right (not including a right to the exclusive possession of the surface) over or in respect of any property made inalienable by that subsection.

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Power to enter into agreements restricting development of land

5A (1) Where any person is willing to agree with the Trust that any land shall, so far as his interest in the land enables him to bind it, be made subject to any restriction on its development, being a restriction in conformity with the principal objects of the Trust, the Trust may, subject to the approval of the Minister responsible for planning, enter into an agreement with that person (“the donor”) and with that Minister (“the Minister responsible for the environment”) under this section.

(2) Every agreement under this section shall be executed by the Trust, the donor and the Minister responsible for the environment under seal, shall be recorded in a register to be maintained by the Land Title Registrar for the purpose and shall be open to inspection by the public at all reasonable times.

(3) Notwithstanding—

- (a) the absence of valuable consideration for the making of an agreement under this section affecting a donor’s interest in land; or
- (b) any other rule of law or equity to the contrary,

the Trust shall have power to enforce the agreement against the donor or any person succeeding to that interest.

(4) Notwithstanding anything in the Development and Planning Act 1974 , no person shall be entitled to any compensation in respect of any decision of the Development Applications Board refusing planning permission for development if—

- (a) the development would be contrary to the terms of an agreement under this section; and
- (b) the Trust could enforce the agreement against him under subsection (3).

(5) For the purposes of this section “development” has the meaning assigned to it in section 14 of the Development and Planning Act 1974, except that it includes the making of any material alteration to the external appearance of a building, whether the building is or is not a listed building within the meaning of that Act.

[Section 5A subsections (1) and (2) amended by BR 5/2011 para. 5 effective 25 February 2011; subsection (2) amended by 2017 : 9 s. 11 effective 20 February 2017]

Membership of Trust

6 (1) The members of the Trust shall be divided into—

- (a) ordinary subscribing members who shall subscribe annually to the Trust such sum as the Council may from time to time prescribe;
- (b) life members who shall pay such lump sum to the Trust as the Council may from time to time prescribe;
- (c) society members who shall be clubs, societies or other associations of persons who shall pay such annual subscription as the Council may specify in relation to that club, society or association of persons;

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- (d) honorary members who shall be persons who shall give to the Trust any property which, in the opinion of the Council, is proper to be preserved for the benefit of Bermuda or who shall give to the Trust such sum or other property or services as shall appear to the Council to entitle such persons to be distinguished as honorary members;
- (e) junior members who shall be persons under the age of sixteen years who shall subscribe annually to the Trust such sum as the Council may from time to time prescribe.

(2) Every ordinary subscribing member, every society member and every junior member shall be liable for the amount of his subscription and the subscription shall be payable on the first day of April of each year:

Provided that any such member may at any time prior to the thirty-first day of March in any year resign his membership and cease to be a member by sending his resignation in writing to the Secretary of the Trust and thereupon that person shall cease to be liable for the amount of the subscription on the ensuing thirty-first day of March and thereafter.

Liabilities of members of Trust

7 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 of such member or of any contribution agreed to be given and remaining unpaid.

General meetings of Trust

8 (1) The first general meeting of the Trust shall be held within six months after the passing of this Act and general meetings shall be held thereafter at least once every year at such time and place as the Council shall appoint.

(2) General meetings shall be called and held in accordance with the procedure set out in the Schedule and, to the extent the by-laws do not conflict with the provisions of the Schedule, the by-laws.

[Section 8 subsection (2) amended by 2021 : 46 s. 3 effective 14 December 2021]

Council of Trust

9 (1) There shall be a Council of the Trust which shall consist of not more than thirteen members of whom—

- (a) three shall be appointed by the Governor acting on the advice of the Minister; and
- (b) not more than ten and not fewer than six shall be elected annually from among the members at the annual general meeting of the trust.

(2) *[Repealed by 2021 : 46 s. 4]*

(3) The Council shall be deemed fully constituted and all acts and proceedings of the Council shall be deemed valid in all respects notwithstanding a vacancy in the membership or a defect in the appointment or election of a member thereto.

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(3A) The quorum for any meeting of the Council shall be one half of the number of the members of the Council for the time being.

(4) If any elected member of the Council dies or resigns the Council may appoint in his place another member of the Trust to be a member of the Council and any member so appointed shall continue in office until the next annual general meeting after his appointment.

(5) No member of the Council shall be entitled to any remuneration for his services as a member thereof.

(6) Only members specified in section 6(1)(a), (b) and (d) shall qualify for election or appointment to the Council.

[Section 9 amended by 2021 : 46 s. 4 effective 14 December 2021]

Powers of Council

10 (1) The Council shall have the charge and management of the business of the Trust and may exercise all the powers of the Trust other than those exercisable by the Trust in general meeting and no by-law made or resolution passed by the Trust in general meeting shall invalidate any prior act of the Council which would have been valid if such by-law or resolution had not been made or passed.

(2) The Council shall elect a President from their number for such period as may be by by-law from time to time prescribed and may elect any number of honorary vice-presidents:

Provided that the persons elected as honorary vice-presidents shall not by virtue of such election be members of the Council.

(3) The Council may exercise its powers other than the power of electing a president, through any committee, including an executive committee, of the Council as the Council may prescribe.

(4) The Council may appoint such officers and servants as they may from time to time consider desirable and fix their salaries and conditions of service.

[Section 10 amended by 2021 : 46 s. 5 effective 14 December 2021]

Council may make regulations

11 (1) The Council may make regulations—

(a) *[Repealed by 2021 : 46 s. 6]*

(b) *[Repealed by 2021 : 46 s. 6]*

(c) for regulating the conduct of persons on or about the property of the Trust for the protection of that property, the prevention of nuisances and preservation of order upon any such property;

(d) for authorizing an officer of the Trust after due warning to remove or exclude from any property of the Trust any person who in the opinion of that officer has caused or is likely to cause injury or damage to that

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property or whose presence or continued presence is likely to be detrimental to the preservation of order on the property of the Trust:

(e) for prohibiting the hindrance or obstruction of an officer of the Trust in the exercise of his powers or duties under this Act or under any regulations made hereunder;

(f) generally for the better carrying out of the provisions of this Act.

(2) Regulations made under subsection (1) shall be—

(a) approved by the Trust at general meeting; and

(b) approved by the Minister,

before they come into operation.

(3) Regulations made under this section may provide that any contravention of the provisions of the regulations shall be an offence against the regulations and any such offence shall be punishable on summary conviction by a fine not exceeding two hundred and fifty dollars.

(4) The negative resolution procedure shall apply to regulations made under subsection (1).

[Section 11 amended by 2021 : 46 s. 6 effective 14 December 2021]

Council may make by-laws

11A (1) Subject to this Act and any regulations made under it, the Council may make by-laws—

(a) as to its own rules of procedure;

(b) as to the conduct of the business and affairs of the Trust.

(2) By-laws made under subsection (1) shall be approved by the Trust at a general meeting before they come into operation.

(3) For the avoidance of doubt—

(a) by-laws made under subsection (1) are not statutory instruments, and the Statutory Instruments Act 1977 shall not apply to such by-laws;

(b) if by-laws made under subsection (1) conflict with this Act or any regulations made under it, the provisions of this Act, or (as the case may be) the regulations, shall prevail.

[Section 11A inserted by 2021 : 46 s. 7 effective 14 December 2021]

Accounts of Trust

12 (1) 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

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time and manner of inspecting the same that may be imposed by regulation such accounts shall be open at all reasonable times to the inspection of members of the Trust.

(2) Accounts kept pursuant to this section shall be audited each year by an auditor having professional qualifications in accountancy appointed by the Council.

[Section 12 subsection (2) amended by 2021 : 46 s. 8 effective 14 December 2021]

Tax exemptions

13 The Trust shall be exempt from all present and future municipal assessments, rates and taxes and from any tax payable under the Land Valuation and Tax Act 1967 [*title 14 item 31*], or any statutory provision replacing that Act in respect of any property owned by or vested in the Trust.

Consequential and transitional

14 *[omitted]*

References to Bermuda Historical Monuments Trust

15 *[omitted]*

Commencement

16 *[omitted]*

SCHEDULE

REGULATIONS GOVERNING THE CALLING AND HOLDING OF GENERAL MEETINGS OF THE TRUST

- 1 The annual general meetings shall be called ordinary meetings and all other general meetings shall be called extraordinary meetings.
- 2 The Council at each ordinary meeting shall lay before the meeting a report of the work done in the preceding year.
- 3 The Council may whenever they think fit and the Council shall upon a requisition made in writing and signed by not less than ten per centum of the total membership of the Trust convene an extraordinary meeting.
- 4 Any requisition made by the members shall express the object of the meeting proposed to be called and shall be left with the secretary of the Trust or in the event that there is no secretary with the President of the Council.
- 5 Upon the receipt of such requisition the Council shall forthwith proceed to convene a general meeting and if the Council does not convene the same within fourteen days from the date of the receipt of such requisition the requisitionists may themselves convene a meeting.
- 6 A notice of every general meeting and of the agenda shall be given to the members at such time and in such form and manner as the Council may from time to time prescribe.
- 7 Notice of any motion proposed to be made at a general meeting by any person not being a member of the Council shall be sent to the secretary of the Trust fourteen days before the general meeting. Such notice shall be signed by the proposer and two seconders being members of the Trust and no motion made by any member other than a member of the Council shall be entertained by a general meeting unless notice thereof has been given as aforesaid.
- 8 The non-receipt of a notice by any member shall not invalidate the proceedings of any general meeting.
- 9 Twenty members shall form a quorum for a general meeting.
- 10 If within an hour from the time appointed for a meeting convened upon the requisition of members a quorum be not present the meeting shall be dissolved. In any other case the meeting may transact such business as they think necessary notwithstanding the absence of a quorum.

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11 At every general meeting all matters which come up for the decision of such meeting shall be decided by a majority of votes of the members personally present and voting by show of hands.

12 The President of the Council shall take the chair at a general meeting.

13 If the President is not present the meeting shall elect a Chairman. The Chairman shall in case the votes at any general meeting are equally divided have as well as his own vote a second or casting vote. The Chairman may with the consent of the meeting adjourn any meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting other than the business left undisposed of at a meeting at which the adjournment took place unless in pursuance of a notice and agenda given to the members as hereinbefore prescribed.

14 Subject to paragraphs 15 and 16, every member shall have one vote save that the Chairman shall also have a casting vote as specified in paragraph 13.

15 A society member of a club, society or other association of persons shall have one vote to be exercised by the person elected, nominated or appointed for that purpose by that club, society or association.

16 No junior member shall have a vote.

[Assent Date: 22 December 1969]

[this Act was brought into operation on 2 April 1970]

Amended by

1970 385
1971 116
1977 35
1982 61
1984 37
BR 5 / 1984
BR 5 / 2011
2017 9
2021 46]