
CHAPTER 51A
NATIONAL ART GALLERY

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CHAPTER 51A

NATIONAL ART GALLERY

An Act to establish the national art gallery of The Bahamas, to provide for the acquisition, preservation, maintenance of collections, public education to foster and encourage public interest and for matters ancillary thereto. *21 of 2003*

[Assent 11th July, 2003]

[Commencement 16th July, 2003]

1. This Act may be cited as the National Art Gallery of The Bahamas Act. Short title
2. In this Act, unless the context otherwise requires — Interpretation
 - “Board” means the National Art Gallery Board of The Bahamas referred to in section 10;
 - “Chairman” means the person appointed, under paragraph 1(2) of the Schedule, as Chairman of the Board; Schedule
 - “collections” means any works of art vested in the Gallery by virtue of section 16 and any works of art acquired by the Gallery under the provisions of this Act;
 - “Deputy Chairman” means the person appointed under paragraph 1(2) of the Schedule as Deputy Chairman of the Board; Schedule
 - “Gallery” means the National Art Gallery of The Bahamas established under section 3(1);
 - “Minister” means the Minister responsible for the National Art Gallery;
 - “Secretary” means the person appointed under paragraph 1(2) of the Schedule as Secretary of the Board; Schedule
 - “works of art” includes paintings, drawings, engravings, prints, graphic art, photographic art, sculpture, statues and objects of cultural value.
3. (1) There shall be established a Gallery to be known as the “National Art Gallery”. The National Art Gallery

(2) The Gallery shall be a body corporate with perpetual succession and a common seal and with power to acquire, hold and dispose of land and other property of whatever kind, to enter into contracts, to sue and be sued in its said name and to do all things necessary for the purposes of this Act.

Seal of the
Gallery.

4. (1) The common seal of the Gallery shall be kept in the custody of the Chairman or the Secretary and shall be affixed to instruments requiring the seal in the presence of the Chairman or a member of the Board designated by the Chairman and one other member.

(2) The common seal of the Gallery shall be authenticated by the signature of the Chairman and one other member, and such seal shall be officially and judicially noticed.

(3) All documents, other than those required by law to be under seal, made by, and all decisions of, the Gallery may be signified under the hand of the Chairman of the Board or any other member of the Board designated by the Chairman.

Keeping of
collections.

5. (1) The Gallery may take steps to acquire premises in any part of The Bahamas for the purpose of maintaining its collections in those premises and holding exhibitions of its collections in those premises, or so much of those collections as from time to time it thinks fit, and, so long as those premises are held by the Gallery, the premises shall collectively be known as the National Art Gallery of The Bahamas.

(2) Subject to the provisions of this Act, it shall be the duty of the Gallery, as soon as practicable after it has acquired such premises as aforesaid, to keep the works of art comprised in its collections in one of those premises.

(3) Nothing in the foregoing provisions of this section is to be taken as precluding the Gallery from exhibiting any of the works of art comprised in its collections at any place, wherever situate, other than such premises as are mentioned in subsection (2), or from removing any of those works of art for any purpose, other than exhibition, or conservation connected with the administration of any such premises as are so mentioned or the care of its collections.

(4) Where it appears to the Gallery that any works of art comprised in its collections cannot conveniently be

kept within any such premises as are mentioned in subsection (2), the Gallery may store those works of art at such other premises, wherever situate, as appear to the Gallery to be suitable.

6. (1) Subject to the provisions of this Act, the Gallery shall have power to acquire any works of art which in its opinion it is desirable to add to its collections, or to borrow any works of art for the purpose of exhibiting such, whether those works of art are located within or outside The Bahamas.

Power of Gallery to acquire, borrow and dispose of works of art.

(2) Subject as aforesaid, the Gallery may sell, exchange, give away or otherwise dispose of any work of art vested in it and comprised in its collections if the work of art is a duplicate of another such work of art or is for any other reason not, in its opinion, required for retention in those collections.

(3) Where a work of art has become vested in the Gallery subject to any trust or condition, the powers conferred by subsection (2) shall not be exercisable as respects that work of art in a manner inconsistent with that trust or condition.

7. The functions of the Gallery shall be —

- (a) to secure the due administration and preservation of the collections of the Gallery;
- (b) to acquire and maintain outstanding examples of Bahamian works of art, and to maintain and exhibit such through the Gallery and other buildings serving the purpose of art;
- (c) to educate the public on various types of works of art;
- (d) to ensure the efficient operation of the Gallery;
- (e) to cooperate and assist in collating a collection of high quality works of art;
- (f) to establish a policy on the categories of works of art to be preserved in the Gallery;
- (g) to care for, preserve and add to the works of art in the collections of the Gallery;
- (h) to maintain a record relating to the collections of the Gallery;
- (i) to interact with national and international organizations concerned with setting high standards in the operation of a national art Gallery;

Functions of Gallery.

- (j) to foster and encourage public interest in works of art through exhibitions, educational programmes, and liaison with all sections of the art community; and
- (k) to do all such things as are incidental to the aforesaid functions or as the Gallery may think conducive to the attainment of those functions or to the management of the affairs of the Gallery.

General powers
of National Art
Gallery

- 8.** The Gallery shall have power —
- (a) to open bank accounts in its name, and to prepare budgets;
 - (b) to raise funds and invite and receive contributions and gifts from any person by way of donation or otherwise for the enrichment and development of culture in The Bahamas;
 - (c) to launch appeals to the public for financial or other support for the Gallery; and
 - (d) to operate or lease out a Gallery shop promoting works of art, books or other cultural artifacts.

Power of Gallery
to lend works of
art

9. (1) Any work of art vested in the Gallery may be lent by it, subject to the provisions of this section, on such terms and conditions as the Gallery thinks fit, to any institution whether in The Bahamas or elsewhere.

(2) In exercising the power conferred by subsection (1) in the case of any work of art, the Gallery shall have regard to the interests of students and other persons visiting the collections vested in the Gallery, to the physical condition and degree of rarity of the work of art, and to any risks to which the work of art is likely to be exposed.

Establishment of
the Board

10. (1) There shall be established a board to be known as the “National Art Gallery Board”.

(2) The management, control and administration of the National Art Gallery shall be vested in the Board.

(3) Without prejudice to the generality of subsection (2) the Board shall have power —

- (a) to control and superintend the property and policies of the National Art Gallery;
- (b) to appoint on such terms and conditions as it thinks fit a Director who shall be the managing director of the Gallery and responsible for the day to day administration of the Gallery;

- (c) to appoint on such terms and conditions as it thinks fit a curator who shall be responsible for preserving and exhibiting the collections of the Gallery;
 - (d) to appoint such other professional, technical, administrative and other staff as appear to the Board to be necessary, on such terms and conditions (including salaries, allowances and other remuneration and disciplinary control as the Board may determine); and
 - (e) to receive on behalf of the National Art Gallery gifts, grants or other moneys.
- (4) The Schedule shall have effect without respect to the constitution, proceedings and staff of the Board and otherwise in relation thereto.

11. The Board shall be responsible for the general direction and control of the Gallery but, in the exercise of the functions of the Board, the Board shall —

Relations between Minister and Board.

- (a) give effect to any direction which the Minister may, after consultation with the Board, give to the Board under his hand in relation to any matter that appears to him to affect the public interest, on the policy to be followed by the Board or any action to be taken on the discharge of its functions; and
- (b) afford to the Minister facilities for obtaining information with respect to the property and activity of the Gallery, furnish the Minister with accounts and other information with respect thereto and afford him facilities for the verification of any information furnished, in such manner and at such times as the Minister may require.

12. (1) Where any public officer holding a pensionable office under the Government ceases to be the holder of such office by reason of his transfer with his consent to the service of the Gallery and such person subsequently retires from the service of the Gallery in such circumstances that, had he remained a public officer, he would have been eligible for pension under the provisions of the Pensions Act, then in any such case the provisions of subsections (2) and (3) shall have effect.

Pensions of persons transferred from the public service to the Gallery.

Ch. 43.

(2) Any pension payable to any such person as is mentioned in subsection (1) by the Gallery to whose

service he has been transferred shall be calculated and granted to him in respect of his total service under the Government and with the Gallery taken together and such service shall be reckoned as continuous for pension purposes.

(3) There shall be payable out of the Consolidated Fund upon the warrant of the Minister of Finance to the Gallery as contribution to every pension paid in accordance with subsection (2), such amounts as would have been payable to the person concerned by way of pension under the Pensions Act, if any such person had retired from the public service and if he had been granted a pension under the Pensions Act upon the date of his ceasing to be a public officer.

Ch 43

Ch 43

Financial provisions

13. The funds and resources of the Gallery shall consist of —

- (a) such moneys as may be provided by Parliament;
- (b) such moneys as may from time to time accrue to the Board from the operation of the Gallery; and
- (c) such other moneys and property as may in any manner be lawfully paid to or vested in the Gallery whether or not in respect of any matter incidental to its functions.

Exemption from the payment of customs duties, stamp duties and real property tax

Ch 295

14. (1) The Gallery shall be exempt from the payment of any duty of customs under the Tariff Act in respect of —

- (a) works of art acquired by the Gallery under the provisions of this Act and being imported into The Bahamas for the purpose of being kept in the Gallery;
- (b) works of art vested in the Gallery and being re-imported into The Bahamas after having been exported temporarily from The Bahamas for exhibition outside The Bahamas; and
- (c) works of art borrowed by the Gallery and imported temporarily into The Bahamas for exhibition in The Bahamas.

Ch 370

(2) The Gallery shall be exempt from the payment of any duty under the Stamp Act in respect of —

- (a) import entries of works of art acquired by the Board under the provisions of this Act and being imported into The Bahamas for the purpose of being kept in the Gallery;

- (b) export entries of works of art vested in the Board and being exported temporarily from The Bahamas for exhibition outside The Bahamas and the import entries relating to their re-importation; and
- (c) import entries of works of art borrowed by the Board and imported temporarily into The Bahamas for exhibition in The Bahamas and the export entries relating to their re-exportation.

(3) The Gallery shall be exempt from the payment of any taxes under the Real Property Tax Act.

Ch 375

15. (1) The Gallery shall keep proper accounts and other records in relation thereto, and shall prepare in respect of each financial year a statement of accounts.

Accounts and
audit

(2) The accounts of the Gallery for each financial year shall in the year following be audited by a public accountant licensed under the Public Accountants Act, to be appointed by the Minister.

Ch 364

(3) Not less than three months after the end of each financial year the Board shall submit a copy of the audited accounts to the Minister together with a copy of any report made by the auditor.

(4) The Minister shall lay a copy of such audited accounts before each House of Parliament, together with a copy of any report made by the auditor on the accounts.

16. (1) The movable and immovable property and undertakings owned by the Government and used by it for the operation of the Gallery immediately before the date of commencement of this Act shall by virtue of this Act be transferred to and vested in the Gallery for the same purpose as they were held by the Government immediately before the said date.

Transfer of assets
to Gallery

(2) The transfer and vesting aforesaid shall extend to the whole of such movable and immovable property and undertakings and shall include works of art, assets, powers, rights, and privileges and all things necessary or ancillary thereto which are held or enjoyed in connection therewith or appertaining thereto, as well as all obligations affecting or relating to any of the aforesaid movable and immovable property or undertakings or their things included therein as aforesaid.

Construction of laws and contracts relating to transferred assets.

17. Subject to the provisions of this Act, all laws, rules, regulations, orders, judgments, decrees, awards, deeds, bonds, contracts, agreements, instruments, documents, warrants and other arrangements subsisting immediately before the date of commencement of this Act affecting or relating to any of the movable or immovable properties or undertakings transferred to the Gallery by or under this Act shall have full force and effect against or in favour of the Gallery and shall be enforceable fully and effectually, as if instead of the Government the Gallery had been named therein or had been a party thereto, and otherwise in substitution of the Government.

By-laws.

18. (1) The Minister after consultation with the Board may make by-laws providing for —

- (a) the management of its affairs;
- (b) the appointment and duties of the officers and employees of the Board;
- (c) the custody of the property of the Gallery;
- (d) the making of appeals to the public for financial or other support for the Gallery; and
- (e) generally, for the better carrying into effect of the purposes of this Act and the furtherance of the functions of the Gallery.

Ch. 2.

(2) Sections 30 and 31 of the Interpretation and General Clauses Act shall not apply to by-laws made under this section nor shall the by-laws require publication in the Gazette but a copy of them shall be forwarded to the Minister.

Transitional provisions.

19. (1) Where anything has been commenced by or under the authority of the Government prior to the date of commencement of this Act and such thing relates to any of the movable or immovable properties or undertakings or any right or liability transferred to the Gallery by or under this Act, such thing may be carried on and completed by or as authorized, by the Board.

(2) Where immediately before the date of commencement of this Act, any legal proceedings are pending to which the Government is or is entitled to be a party, and such proceedings are related to any of the movable or immovable properties or undertakings, or any right or liability transferred by or under this Act, the Board shall, as from that date, be substituted in such proceedings for the Government or shall be made a party thereto in such proceedings for the Government or shall be made a party

thereto in like manner as the Government could have become, and such proceedings shall not abate by reason of the substitution.

SCHEDULE

(sections 2 and 10(4))

1. (1) The Board shall consist of twelve members of whom — Constitution of Board.
- (a) one shall be the Director of the National Museum *ex officio*;
 - (b) one shall be the Director of the National Art Gallery *ex officio*;
 - (c) one shall be the Director of Archives;
 - (d) one shall be the President or his representative of the College of The Bahamas;
 - (e) one shall be the Director-General of Tourism;
 - (f) one shall be the Director of Culture;
 - (g) one shall be a member of The Bahamas Historical Society appointed by the Minister; and
 - (h) five shall be appointed by the Minister after consultation with the Director and such economic or social bodies or associations from which the Minister considers that such members shall be selected:

Provided that the first Board consisting of seventeen members and constituted before the date of commencement of this Act shall continue as members for a period of one year commencing from the date of the coming into force of this Act and such members shall be eligible for re-appointment.

(2) The Minister shall appoint three members to be respectively Chairman, Deputy Chairman and Secretary of the Board.

2. Subject to paragraph 1(1), a member of the Board shall hold office for such period, not exceeding three years, as the Minister may direct in the instrument appointing such member, but such member shall be eligible for re-appointment. Tenure of office.

3. Any member of the Board may at any time resign his office by instrument in writing addressed to the Minister and from the date of receipt by the Minister of such instrument, such member shall cease to be a member of the Board. Resignation.

4. (1) The Minister, by instrument in writing, may at any time revoke the appointment of a member of the Board, appointed under paragraph 1(1), if he thinks it expedient so to do. Removal.

(2) The Minister, by instrument in writing, may at any time revoke the appointment of the Chairman, the Deputy Chairman, the Secretary or any member of the Board, appointed under paragraph 2, if he thinks it expedient so to do.

Publication **5.** The appointment, removal, death or resignation of any member of the Board shall be notified in the Gazette.

Remuneration **6.** There shall be paid from the funds of the Gallery to the officers, servants or agents of the Board such remuneration, if any, whether by way of honorarium, salary or fees and such allowances, if any, as the Minister may determine on the advice of the Board.

Pensions, etc **7.** (1) Except as provided in any contract of employment with the Gallery, the Minister may grant to any employee of the Gallery, in respect of his service with the Gallery pensions, gratuities or other allowances at the rate prescribed by and in accordance with the provision of the Pensions Act as if reference in that Act to the Governor-General, the public service and a public office were reference to the Gallery acting with the approval of the Minister, service with the Gallery and such employee respectively.

(2) For the purposes of subparagraph (1) reference to the service of an employee of the gallery includes any continuous period of service of that employee with an approved authority immediately prior to his service with the Gallery.

Ch 43 (3) In this paragraph the expression “approved authority” has the meaning assigned to it in the Pensions Act.

(4) The pensions, gratuities or other like allowances which are payable under subparagraph (1) shall be charged on and paid out of the Consolidated Fund.

Meetings **8.** (1) The Board shall meet not less than three times in each year, at such times as may be necessary or expedient for the transaction of business, and such meetings shall be held at such places and times and on such days as the Chairman may determine.

(2) The Chairman, or in his absence the Deputy Chairman, shall preside at all meetings of the Board.

(3) Subject to subparagraph (4), the Chairman, or in his absence the Deputy Chairman, and four other members of the Board shall form a quorum.

(4) In relation to any meeting of the first Board constituted after the date of commencement of this Act, nine members of the first Board shall form a quorum.

(5) The decisions of the Board are by a majority of votes and in addition to an original vote, in any case in which the voting is equal, the Chairman or the Deputy Chairman presiding at the meeting has a casting vote.

(6) Minutes of each meeting in proper form are to be kept by the Secretary or any officer the Board may appoint for that purpose, and confirmed by the Board at the next meeting and signed by the Chairman or a member of the Board designated by the Chairman as the case may be.

(7) The Board may co-opt any one or more persons to attend any particular meeting of the Board for the purpose of assisting or advising the Board in any matter with which the Board is dealing, but no co-opted person has the right to vote.

(8) Provided a quorum is present, the validity of any proceeding of the Board shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of a member thereof.

9. Subject to the provisions of this Act, the Board has the power to regulate its own proceedings.

Board to regulate
own proceedings.