

THE NATIONAL LIBRARY OF JAMAICA
ACT, 2010
(Act 3 of 2010)

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SCHEDULE.

JAMAICA

No. 33-2010

I assent,

[L.S.]

(Sgd.) P. L. Allen
Governor-General.

30th December 2010

AN ACT to Make new provisions for the establishment and operation of the National Library of Jamaica and to provide for connected matters.

[31st December 2010]

BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the Authority of the same, as follows:—

PART I. *Preliminary*

1. This Act may be cited as the National Library of Jamaica Act, 2010. Short title.

2. In this Act— Interpretation.

“Board” means the Board of the National Library established under section 4;

“document” includes material of any kind, nature and description, published or unpublished, which is intended to store or convey information in textual, graphic, visual, auditory or other intelligible format and through any medium;

“National Information System” means the integrated network of the library networks coordinated by the National Library and comprising the sectoral library network, the networks of the Jamaica Library Service, the network of the libraries of the Mona Campus of the University of the West Indies and the Jamaica Archives and Records Department;

“National Librarian” means the person appointed under section 7 to be the National Librarian;

“National Library” means the National Library of Jamaica established under section 3;

“private library” means a library the operations of which are not funded by public moneys;

“public library” means a library established by the Jamaica Library Board pursuant to section 7 of the Jamaica Library Service Act;

“public moneys” has the meaning specified under the Financial Administration and Audit Act;

“school library” means a library attached to a pre-primary, primary or secondary school;

“tertiary education institution library” means a library operated by a tertiary level educational institution, including a university.

PART II. *The National Library of Jamaica*

Establishment of the National Library of Jamaica.

3. There is hereby established a body to be called the National Library of Jamaica which shall be a body corporate to which the provisions of section 28 of the Interpretation Act shall apply.

Establishment of the Board.

4.—(1) There shall be established a Board of the National Library which, subject to the provisions of this Act, shall be responsible for

the policy and general administration of the affairs of the National Library, including—

- (a) ensuring proper and efficient performance of the functions of the National Library;
- (b) co-ordinating development of the National Information System;
- (c) advising the Minister on the general progress and development of the National Library, including—
 - (i) the consideration of any new sources of income or funding to enable the library to meet its obligations;
 - (ii) the provision of library accommodation appropriate to its users; and
 - (iii) the development of the National Information System.

(2) The provisions of the Schedule shall have effect as to the constitution of the Board and otherwise in relation thereto. Schedule.

5.—(1) The functions of the National Library shall be to—

- (a) collect and preserve for the National Library's collection, any document published in Jamaica, any document about Jamaica and any document published by a Jamaican;
- (b) promote the use of the National Library and facilitate access to any document in its collection;
- (c) co-ordinate and facilitate the development of sectoral library networks;
- (d) provide for co-operation between public libraries, school libraries, tertiary education institution libraries, private libraries, museums and the Jamaica Archives and Records Department;
- (e) develop a National Bibliographic Database and facilitate access thereto;

Functions
of National
Library.

- (f) promote, by agreement amongst the library networks, the maintenance of the National Bibliographic Database;
- (g) publish the Jamaica National Bibliography;
- (h) develop and promote national standards for the operation of libraries and the processing and delivery of information;
- (i) compile, publish, distribute or disseminate (or assist in so doing) any book, volume or part thereof, newspaper, sheet of paper or other document, chart or plan, or any sound recording, magnetic tape or video tape, diskette, computer disc, video disc or any other medium for the dissemination of sounds or the transmission of visual images or pictures, which in the opinion of the National Library is of cultural, scientific, technological, historical, educational, or national interest;
- (j) carry out such other functions related to the proper functioning of the National Library as may be assigned to it by the Minister.

(2) For the purposes of carrying out its functions under subsection (1), the National Library shall—

- (a) operate a centre for the deposit, whether pursuant to any law or otherwise, of books, periodicals, newspapers, pamphlets, letter-press sheets, music sheets, maps, plans, charts, tablets, diskettes, computer discs or video discs of cultural, scientific, technological, historical, educational or national interest;
- (b) provide a research library and information services that promote cultural, economic, scientific, technological, educational, political and social research and development;
- (c) establish branches or satellites of the National Library as may be required;
- (d) establish and maintain a representative collection of documents from countries outside of Jamaica on subjects

including but not limited to culture, science, geography, technology or history;

- (e) establish and maintain a collection of documents relating to the Caribbean Community (CARICOM);
- (f) be custodian of all documents in the permanent collection of the National Library;
- (g) collaborate with units in the National Information System and the Institute of Jamaica;
- (h) keep abreast of advances in information science and the management of libraries;
- (i) promote the modernization of libraries within the National Information System;
- (j) provide educational, advisory and consultancy services related to the establishment and management of any library;
- (k) promote the utilization of the collection and facilities in the National Library;
- (l) make the collection and facilities of the National Library accessible to the physically challenged;
- (m) operate the International Standard Book Number agency for Jamaica;
- (n) advise the Minister on all matters relating to a national library and information service;
- (o) carry out any other functions necessary for the development, modernization and maintenance of libraries and information services; and
- (p) take such steps or enter into any arrangements that the Board considers necessary to ensure the proper carrying out of its functions under this Act.

6. The Minister may, after consultation with the chairman of the Board, give to the National Library such general directions as to the policy to be adhered to by the National Library in the performance of Ministerial directions.

its functions as appear to the Minister to be necessary in the public interest, and the National Library shall give effect thereto.

PART III. *Administration*

Appoint-
ment of
National
Librarian.

7.—(1) Subject to section 8, the Board shall appoint and employ a person who is a professionally qualified librarian to be the National Librarian, at such remuneration and on such terms and conditions as it thinks fit.

(2) The National Librarian shall, by virtue of his appointment, be the chief executive officer of the National Library and shall carry out such duties as may be imposed upon him by this Act or any other enactment or as may be assigned to him by the Board.

Employment
of officers,
salary rates,
etc.

8.—(1) The Board may appoint and employ at such remuneration and on such terms and conditions as it thinks fit, such other officers, employees and agents as it thinks necessary for the proper discharge of its functions under this Act:

Provided that—

- (a) no salary in excess of the prescribed rate shall be assigned to any post (including that of National Librarian) without the prior approval of the Minister;
- (b) no appointment shall be made to any post to which salary in excess of the prescribed rate is assigned without the prior approval of the Minister.

(2) For the purpose of this section the “prescribed rate” means such rate as the Minister may, by order, prescribe.

(3) The Governor-General may, subject to such conditions as he may impose, approve the appointment of any officer in the service of the Government to any office in the National Library and any officer so appointed shall, in relation to pension, gratuity, or other allowance, and to other rights as a public officer, be treated as continuing in the service of the Government.

Pensions,
gratuities and
other retiring
benefits.

9. The Board may, with the approval of the Minister, enter into arrangements and make regulations for medical benefits, pensions, gratuities and other retiring benefits or disability or death benefits, relating to employees of the National Library, and such arrangements or

regulations may include provisions for the grant of benefits to the dependants and the legal personal representatives of such employees.

PART IV. Financial Provisions, Accounts and Reports

10.—(1) The funds and resources of the National Library shall consist of — Funds of the National Library.

- (a) sums which may, from time to time, be placed at the disposal of the National Library by Parliament;
- (b) all other moneys payable to, and other property vested in, the National Library in respect of any matter incidental to its functions.

(2) The expenses of the National Library, including the remuneration of officers, employees, agents and members of the Board, shall be paid out of the funds of the National Library.

11. All moneys of the National Library not immediately required to be expended for the purpose of meeting any obligations or discharging any of the functions of the National Library may be invested in such securities as may be approved specifically by the Minister, and the National Library may, with the approval of the Minister, sell all or any of such securities. Power to invest.

12. The National Library shall, within four months of the end of each financial year, and in such form as the Minister may require, cause to be prepared and submit to the Minister for approval, estimates of income and expenditure for the forthcoming financial year. Estimates of expenditure.

13.—(1) The National Library shall keep proper accounts and other records in relation to its business and shall prepare annually a statement of accounts in a form satisfactory to the Minister. Accounts and audit.

(2) The accounts of the National Library shall be audited annually by the Auditor-General.

(3) The National Library shall, within four months after the end of each financial year or within such further period as may be allowed by the Minister, submit the statement of its accounts referred to in subsection (1) to the Minister, together with a copy of any report made

by the Auditor-General on that statement or on the accounts of the National Library.

(4) The Minister shall cause a copy of the annual statement of accounts and the Auditor-General's report thereon to be laid on the Table of the House of Representatives and of the Senate.

Borrowing
powers.

14.—(1) Subject to the provisions of subsection (2), and the approval of the Board, the National Library may borrow such sums as may be required by it for meeting any of its obligations or for discharging any of its functions.

(2) The power of the National Library to borrow shall, as to the amount, as to the source of borrowing, and as to the terms on which the borrowing may be effected, be exercisable only with the approval of the Minister responsible for finance after consultation with the Minister responsible for the National Library, and any such approval may be limited to a particular loan and may be subject to such conditions as the Minister may specify.

Power of the
Minister of
Finance to
guarantee
loans.

15.—(1) The Minister responsible for finance may, with the approval of the House of Representatives, signified by resolution, guarantee in such manner and on such conditions as he thinks fit, the repayment of the principal and the payment of interest and charges on any authorized borrowing of the National Library.

(2) Where the Minister responsible for finance is satisfied that there has been a default in the payment of any principal moneys guaranteed under the provisions of this section or in the payment of interest or charges so guaranteed, he shall direct the repayment or, as the case may be, the payment out of the Consolidated Fund of the amount in respect of which there has been such default and any such repayment or payment shall be a charge on the Consolidated Fund.

(3) The National Library shall make to the Accountant-General, at such times and in such manner as the Minister responsible for finance may direct, payments of such amounts as may be directed in repayment of any sums issued in fulfilment of any guarantee under this section, and payments of interest on the outstanding amounts at such rate as the Minister may direct.

16. The National Library shall, in each financial year, before a date specified by the Minister, submit to the Minister for his approval an operating plan for that year as to the activities to be carried out by the National Library, the operational framework within which it shall carry out its functions and such other matters as the Minister may require.

Operating
plan.

PART V. General

17. The Board may, with the approval of the Minister, make regulations for the better carrying out of the purposes of this Act and without prejudice to the generality of the foregoing, may make regulations—

Regulations.

- (a) for securing—
 - (i) the full and effective performance of any duty imposed and exercise of any power conferred upon the Board under this Act;
 - (ii) the proper, efficient and economic maintenance, management, organization, administration and operation of the National Library;
 - (iii) the proper, efficient and economic maintenance, management, administration, organization and use of any facilities or services of any description provided by or at the expense of the Board;
- (b) for regulating the hours during which, the means whereby, the purposes for which and the conditions under which members of the public may have access to any premises vested in or occupied by the National Library or any portion of such premises;
- (c) for the determination and imposition of any charges, fees or administrative penalties associated with the use of the National Library;
- (d) for the preservation and proper and economic use of all property vested in the National Library.

18.—(1) The National Library shall succeed to all the rights, privileges, obligations and liabilities of the body previously known as

Transitional.

the National Library of Jamaica established under the Institute of Jamaica Act, hereinafter referred to as “the former library” and accordingly—

- (a) any legal proceedings that may have been continued or commenced by or against the former library may be continued or commenced by or against the National Library established under this Act;
- (b) all persons who, at the coming into operation of this Act held offices under the former library shall, from that date, hold under the National Library the like respective offices or employment upon the same terms as they held those offices under the former library; and
- (c) all assets and liabilities vested in the former library or held upon trust or as an endowment shall, by virtue of this section, be transferred to and be vested in the National Library without conveyance or assignment.

(2) In relation to any period commencing on or after the date of commencement of this Act, every reference in any instrument having the force of law, to the former library shall be deemed to be a reference to the National Library established under this Act.

Amendment
to Institute
of Jamaica
Act

19. The Institute of Jamaica Act is amended—

- (a) by deleting from the heading to Part II the words “and the National Library”;
- (b) by deleting section 4(2)(a);
- (c) by repealing section 5;
- (d) by deleting from section 18(e) the words “the National Library of Jamaica.”

SCHEDULE

(Section 4)

The Board of the National Library of Jamaica

- 1.—(1) The Board shall consist of such number of persons not being less than eleven nor more than thirteen as the Minister may, from time to time, appoint by instrument in writing. Constitution of Board.
- (2) The National Librarian shall be a member *ex-officio* of the Board.
- (3) The other members of the Board shall be—
- (a) the Executive Director of the Institute of Jamaica or his nominee;
 - (b) the nominee of the staff of the National Library other than the National Librarian;
 - (c) the nominee of the Library and Information Association of Jamaica; and
 - (d) such number of persons, not being less than seven nor more than nine, who are qualified in the disciplines of the natural sciences, the social sciences, technology, education, culture, the humanities, library science, publishing, communication or any other relevant discipline.
2. A member other than the National Librarian, shall, subject to the provisions of this Schedule, hold office for such period not exceeding three years, as the Minister may specify in the instrument of appointment and each member shall be eligible for reappointment. Tenure of office.
3. The Minister shall appoint a chairman and a deputy chairman from among the members of the Board referred to in paragraph 1(3). Appointment of chairman and deputy chairman.
4. In the case of the absence or the inability to act of the chairman, the deputy chairman shall perform the functions of the chairman. Deputy chairman to act.
5. In the case of the absence or inability to act of both the chairman and the deputy chairman, the Minister may appoint any other member of the Board to perform the functions of the chairman, or, as the case may be, the deputy chairman during such absence or inability. Temporary appointment
- 6.—(1) Any member, other than the chairman or the *ex-officio* member, may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the chairman, and from the date of the receipt by the Minister of that instrument, that member shall cease to be a member of the Board. Resignation.
- (2) The chairman may, at any time, resign his office by instrument in writing addressed to the Minister, and such resignation shall take effect as from the date on which the Minister receives that instrument.

Termination
of appoint-
ment.

7. The Minister may terminate the appointment of any member other than the *ex-officio* member if such member—

- (a) becomes of unsound mind or becomes permanently unable to perform his functions by reason of ill health;
- (b) is convicted and sentenced to a term of imprisonment;
- (c) fails without reasonable excuse to carry out any of the functions conferred or imposed on him under this Act;
- (d) fails to attend three consecutive meetings of the Board without reasonable excuse or leave; or
- (e) engages in such activities as are reasonably considered prejudicial to the interest of the Board.

Gazetting of
membership.

8. The names of all members of the Board as first constituted and every change of membership shall be published in the *Gazette*.

Leave of
absence.

9. The Minister may, on the application of any member other than the *ex-officio* member, grant leave of absence to the member.

Remunera-
tion.

10. There shall be paid to the members of the Board, other than the *ex-officio* member, such remuneration (whether by way of honorarium, salary or fees) and such other allowances in accordance with current rates prescribed by the Government and as may be approved by the Minister.

Authentica-
tion of seal
and
documents.

11.—(1) The seal of the Board shall be kept in the custody of the National Librarian and shall be affixed to instruments pursuant to a resolution of the Board, in the presence of the National Librarian and any other member of the Board.

(2) The seal of the Board shall be authenticated by the signature of the chairman or any member of the Board authorized to act in that behalf, or any officer of the National Library so authorized and shall be judicially and officially noticed.

(3) All documents other than those required by law to be under seal, made by, and all decisions of the Board, may be signified under the hand of the chairman or any other member of the Board authorized to act in that behalf.

Meeting.

12.—(1) The Board shall meet as often as may be necessary or expedient for the transaction of its business and such meetings shall be held at such places and times and on such days as the Board may determine.

(2) The chairman may, at any time, call a special meeting of the Board; and shall call a special meeting to be held within seven days of receipt of a written request for that purpose addressed to him by any two members of the Board.

(3) The chairman shall preside at all meetings of the Board, and if the chairman is absent the deputy chairman shall preside and in the absence of both the chairman and deputy chairman from a meeting the members present and constituting a quorum shall elect one of their number to preside at the meeting.

(4) The quorum of the Board shall be five.

(5) The decisions of the Board shall be by a majority of votes, and in addition to an original vote the chairman or other person presiding at the meeting shall have a casting vote in any case in which the voting is equal.

(6) Minutes in proper form of each meeting of the Board shall be kept and shall be confirmed as soon as practicable thereafter at a subsequent meeting.

(7) Subject to the provisions of this Schedule the Board may regulate its own proceedings.

13. A member who is directly or indirectly interested in any matter which is being dealt with by the Board—

Disclosure.

(a) shall disclose the nature of his interest at a meeting of the Board; and

(b) shall not take part in any deliberation or decision of the Board with respect to that matter.

14. The validity of the proceedings of a meeting of the Board shall not be affected by any vacancy among the membership thereof or by any defect in the appointment of a member thereof.

Validity of proceedings.

15.—(1) No action, suit or other proceedings shall be brought or instituted personally against any member in respect of any act done *bona fide* in the course of carrying out the provisions of this Act.

Protection of members.

(2) Where any member is exempt from liability by reason only of the provisions of this paragraph, the Board shall be liable to the extent that it would be if that member were an employee or agent of the Board.

16. The office of member of the Board, other than the *ex-officio* member, shall not be a public office for the purposes of Chapter V of the Constitution of Jamaica.

Office of member not public office.

Passed in the House of Representatives this 9th day of November, 2010 with three (3) amendments.

DELROY H. CHUCK
Speaker.

Passed in the Senate this 17th day of December, 2010 with one (1) amendment.

OSWALD G. HARDING, OJ, CD, QC
President.

On the 21st day of December, 2010, the House of Representatives agreed to the amendment⁹ made by the Senate.

DELROY H. CHUCK
Speaker.

This printed impression has been carefully compared by me with the authenticated impression of the foregoing Act, and has been found by me to be a true and correct printed copy of the said Act.

Clerk to the Houses of Parliament.